

Euler, Gordon



From: Andy Lane <alane@cairncross.com>
Sent: Monday, April 25, 2016 8:40 AM
To: Orjako, Oliver, Euler, Gordon
Cc: Cook, Christine
Subject: RE: Comments on the proposed Industrial Land Bank, proposed Ord No 2016-04-03

Gordy and Oliver,

Hopefully, Chris can join the BOCC meeting tomorrow night. But if not, here's a simplified explanation if this question comes up.

- The comment period ended when the public hearing closed April 5, so the comment letter is untimely. But even if it was timely, it doesn't change anything.
- We looked at this issue at the very beginning of the process and confirmed the deadline for RILB adoption is June 2016. Here's why -
- 2004 was the first deadline for the periodic Comp Plan updates (this is section (4) of 130); the next update is 2016 (this is section (5) of 130).
- The Legislature amended 367 to move the RILB deadline 4 times since 367 was adopted; 3 of those times extended the deadline beyond 2004.
- The only reasonable way to read the RILB deadline is June 2016.

Please let me know if any questions.

Andy

CH&

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From: Cook, Christine [Christine.Cook@clark.wa.gov]

Sent: Friday, April 22, 2016 4:53 PM

To: Andy Lane; Orjiako, Oliver; Euler, Gordon
Subject: RE. Comments on the proposed Industrial Land Bank, proposed Ord. No. 2016-04-03

Hi Andy,

Thanks for the info. It's surprising that Tim is advancing that argument.

I am not certain whether I will be permitted to represent the BOCC and the Planning Dept on April 26. That development is only about an hour old. Typically, the process for approving an adoption ordinance on consent is not extensive. One hopes that will be the case here.

Have a good weekend!

Chris

Christine M Cook
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From: Andy Lane [mailto:alane@cairncross.com]
Sent: Friday, April 22, 2016 4:47 PM
To: Cook, Christine
Cc: Euler, Gordon; Orjiako, Oliver, Lisa Grueter (lisag@berkconsulting.com)
Subject: FW: Comments on the proposed Industrial Land Bank, proposed Ord. No. 2016-04-03

Hi Chris,

I assume you'll be representing the planning department at the April 26 BOCC meeting. See the attached comment letter from Futurewise regarding the RILB ordinance. Tim asserts the deadline for adopting the RILB was 2004. This is not correct. Here's my analysis.

Futurewise's reading is based on RCW 36.70A.367(6)'s reference to the timing of periodic review listed in RCW 36.70A.130(4). Section 130(4) is the first date of the required updates - which for Clark County was 2004; 130(5)(a) is the section that shows when the next update is due - June 30, 2016.

Futurewise's reading ignores the plain language of 367(6) which states the action shall be taken "on or before the last date to complete the county's next periodic review under 36.70A.130(4) that occurs prior to December 31, 2016."

Futurewise's reading also ignores the many legislative extensions of this deadline:

- HB 1360 (adopted in 2014) changed the deadline of 367 from 2014 to 2016;

- SHB 1965 (adopted in 2007) changed the deadline of 367 from 2007 to 2014 - this is the bill that added the reference to RCW 36.70A.130(4). RCW 36.70A.130 was amended this year, too (SSB 5841), to state the first update deadline for Clark County as 2004;
- EHB 2498 (adopted 2002) changed the deadline of 367 from 1999 to 2007 - this was the first reference back to RCW 36.70A.130, and did not reference 130(4).
- SHB 3099 (adopted 1998) changed the deadline of 367 from 1998 to 1999;
- HB 2467 (adopted 1996) created 367 and established a deadline of 1998.

In other words, in 2002, the Legislature did two things: (1) it created the comprehensive plan update deadline for Clark County of 2004, and (2) it changed 367's deadline from 1999 to 2007. Clearly the Legislature intended the RILB deadline to be 2007, not 2004. In addition, the extensions granted in 2007 (SHB 1965) and 2014 (HB 1360) would be meaningless if 367 had expired in 2004.

RCW 36.70A.367(6) must mean that the deadline for Clark County to adopt the RILB is the last date the County has to complete its comp plan update that occurs before the end of 2016 - and that last date to complete its update in 2016 is June 30, 2016, per RCW 36.70A.130(5)(a).

Please let me know if you want to discuss.

Regards,
Andy

CH&

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From: Tim Trohimovich [Tim@futurewise.org]
Sent: Friday, April 22, 2016 3:34 PM
To: boardcom@clark.wa.gov; comp.plan@clark.wa.gov
Cc: Andy Lane
Subject: Comments on the proposed Industrial Land Bank, proposed Ord. No. 2016-04-03

Dear Sirs and Madams

Enclosed please find Futurewise's comments on the Industrial Land Banks and proposed Ordinance No. 2016-04-03 the Board is considering on Tuesday, April 26th. As the letter explains, Clark County's deadline for designating industrial land banks has expired. Thank you for considering our comments.

Tim Trohimovich, AICP

Director of Planning & Law





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