

From: [Jeffrey Delapena](#)
To: [Clark County Citizens United, Inc.](#); [Bart Catching](#); [Cnty 2025 Comp Plan](#); [Jose Alvarez](#); [Oliver Orjiako](#)
Subject: RE: Poyfair Remand is a landmark case that remains critical to Clark County land use
Date: Monday, December 1, 2025 8:56:21 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Good day, Susan,

Thank you for your feedback related to the 2025 Comprehensive Plan Update.

These will be entered into the Index of Record. We will ensure they are also brought to the attention of the Planning Commission.



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From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Thursday, November 27, 2025 8:53 PM
To: Bart Catching <Bart.Catching@clark.wa.gov>; Cnty 2025 Comp Plan <comp.plan@clark.wa.gov>; CommDev OA Land Use <CommDevOALandUse@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung <Glen.Yung@clark.wa.gov>; Matt Little <Matt.Little@clark.wa.gov>; Wil Fuentes <Wil.Fuentes@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>
Subject: Poyfair Remand is a landmark case that remains critical to Clark County land use

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Clark County Council
27, 2025
Clark County Community Development
Clark County Planning Commission
P.O.Box 5000
Vancouver, Washington 98666

November

FOR THE PUBLIC RECORD AND THE COMPREHENSIVE PLAN

Re: Poyfair Remand is a landmark case that remains critical to Clark County land use

The Poyfair Remand concerns a landmark case that remains critical to Clark County land use zoning laws under the Washington Growth Management Act. The case should inform the work of the Agricultural Study Committee and any update to the Comprehensive Plan.

The case was developed by the rural, grass-roots membership of Clark County Citizens United, Inc., a 501c4 non-profit representing approximately 6,000 rural citizens. It originated as a direct response to the 1994 Clark County Comprehensive Growth Plan and the massive 36,000 acre downzoning that ensued. The membership saw their land values plummet; their property rights obliterated along with any future dreams they had for their families and private properties. All because a formulaic view created massive large lot land zones in the county's 1994 Plan.

Most of the rural and resource properties were down zoned from a previous 2.5 and 5 acre density to 10, 20, 40 and even 80 acre density. The down zoning generated massive shifts, not just in parcel sizes, but economically, culturally and socially.

Judge Edwin Poyfair had the foresight to see what was looming in the horizon and that is why he wrote in the court ruling, that the county had *"a plan that gives little record for the realities of existing rural development in direct contradiction of the terms of the GMA."* The Court of Appeals, District II upheld his opinion when they said, *"Based on the foregoing, we conclude that the GMA does not require counties to use OFM's projections as a cap on non-urban growth. The Board exceeded its authority, and the trial court did not err by reversing the Board's ruling."*

Needless to say, many people were unhappy with the county's newly designated zone sizes for their private properties. The Superior Court and the Court of Appeals agreed; *"The result is a plan that gives little regard for the realities of existing rural development in direct contradiction of the terms of the GMA.."* Within the court ruling other conclusions of law were noted. It states:

1. Jurisdiction

This Court has jurisdiction over this case pursuant to RCW 36.70A.300 and RCW 34.05.570(3) (d)

3. Statutory Mandate

...the Board was required to comply with the statutory mandates and guidelines set forth in the GMA. The legislature created the Board in the GMA. The Board is not above the law which gave it its existence..

4. Agri-Forest Lands

The agri-forest resource designations violate the GMA. The Board erroneously interpreted and applied the GMA when it failed to require the agri-forest resource land meet the statutorily mandated definitional criteria for resource lands.

6. Comprehensive Plan EIS

The Comprehensive Plan EIS issued by the County violates the State Environmental Policy Act (SEPA) RCW Ch. 43.21C. The agri-forest resource land designations were disclosed subsequent to the publication of the final Plan EIS and were not disclosed or discussed in any way in the EIS Alternative. The removal of the rural activity centers also was not addressed in the EIS....The county failed to comply with SEPA's requirement for additional environmental review....The Boards decision to uphold the adequacy of the EIS....was clearly erroneous.

7. Rural Land Densities

The County's rural and resource development regulations are inconsistent with the GMA.....It is evident the rural land use density regulations were driven in part by earlier Growth Management Hearing Board decision requiring urban population plus rural population to equal Office of financial Management population forecasts. This formulaic view of the GMA requirements is fatally flawed. There is no requirement in the GMA that the OFM projections be used in any manner other than as a measure to ensure urban growth areas are adequately sized and infrastructure in those growth areas provided for.....The only requirement for rural areas in the GMA is that growth in rural areas not be urban in character. While the GMA contains no restrictions on rural growth, it does require a variety of residential densities.....the Board had an end in sight and disregarded the GMA's mandate in applying the unauthorized formula to the review of the Clark County Comprehensive Plan's land use densities. The Board's interpretation was erroneous.....

The consequences of this plan have now rippled outward and impact generations. . . rural buildable parcels are nearly depleted, rural families are displaced, a culture is fragmented, and unaffordable housing is rampant. For good reasons, the GMA does not have a provision to cap rural growth included among the 15 Planning Goals. The Poyfair ruling is crucial to the work of the Agricultural Study Committee.

Judge Poyfair's ruling is characterized as an "overarching ruling" because the formulaic view contaminated the entire plan. The evidence is plentiful and

compelling. Elements of the formula are evident in the large lot zoning, aggressive buffers, and predominance of nonconforming parcels to their zone sizes. **Current zoning fails to reflect the historical parcel sizes prevalent on the ground.** Conservation covenants and inadequate supplies of buildable rural parcels critical to relevant housing, was the result.

In the **Washington Supreme Court ruling under Redmond v. Growth Hearings Board 136 Wn 2d at 38 – 1998** the court took the case to address a definition of agricultural land. The court determined that intended use was a factor to be considered, **but RCW 36.70A.030 (2) involves the concepts of both primarily devoted to and long term commercial significance. Long term commercial significance is further defined at RCW 36.70A.030 (10).**

The Court held that under the statutory definition of that term a local government **“must evaluate growing capacity, productivity, and soil composition, proximity to population areas, and the possibility of more intensive uses of the land in question.”** In addition, the court cited WAC 365-190-050 and state that the factors contained therein, in addition to the statutory factors, “offer ready guidance in determining if land has long term commercial significance for agricultural production.

Needlessly expensive permitting processes were used for rural housing and structures. Transfer of rural population allocations were transferred to urban areas, depleting land supplies for rural parcels relevant to housing. This created insufficient supplies of affordable rural housing. Waiting 30 years for a rural study, failing a rural social impact analysis, failing to acknowledge the needs of the county's equestrians, family farms, ranchers, family foresters and Veterans are all oppressive actions evident in the *illegal formula* that still dominates and remains rooted in the Clark County Comprehensive Land Use Plan.

Judge Poyfair ruled the county erred in using an **“unauthorized formula”** and determined it **was “illegal”**. He commented to CCCU's membership that the entire Plan needed to be rewritten as the formula infects the whole plan like a virus. Judge Poyfair was commended by his peers for the type of ruling that he made, which was considered **“overarching”**. The ruling was upheld in the Court of Appeals supported by a Published Opinion.

During the time the county was supposed to come into compliance with court orders, it made a strategic choice to work with CCCU's attorney, Glenn Amster. The same attorney that prevailed against the county was now on their side. Rather than honor the courts, respect the rural citizens and dismantle the illegal formula, the county chose to perpetuate the **“illegal formula”** and **“cap rural growth.”** This decision was not an accident and is an abuse of power.

CCCU's case was closed not because of compliance, but due to *inactivity*. **How can a court ruling and decision on a case, that was supposed to deliver and end in accountability with Clark County, be closed due to inactivity?** What does this say about Clark County, the judicial system and

treatment of certain citizens? The case never went back before Judge Poyfair and his court for satisfaction. He questioned this. These questions need answers;

1. Who assumed the legal jurisdiction to determine the case was inactive and closed?

2. Where did the legal authority come from and why?

The Growth Management Act states that when a case goes to a court, the Hearing Board no longer has jurisdiction over the matter. Yet the WWGMHB closed the case because of inaction by the county and used a different case number to justify those actions.

The facts are there for all to see. Since 1994 Clark County has been actively supporting illegal activity in the Comprehensive Plan. The time has come to correct the matter, comply with Judge Poyfair's ruling and include all the citizens of Clark County in the planning process for the 2025 Comprehensive Land Use Plan.

Sincerely,

Susan Rasmussen, President

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