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EFF urges Washington Supreme Court to review terrible land use decision

OLYMPIA—The Evergreen Freedom Foundation today filed a brief urging the Supreme Court of Washington to review a land use ruling from the state Court of Appeals.

The petitioner, Lanzce Douglass, sought approval to develop a subdivision in the Ponderosa area of the City of Spokane Valley. The City approved the project after determining that the project would have no significant environmental impact under the State Environmental Policy Act (SEPA). The Ponderosa Neighborhood Association, a group opposed to the development of that area, challenged the City's decision, arguing that the area has inadequate emergency evacuation routes in the event of a wildfire. A hearing officer agreed. The superior court ruled in Douglass' favor, but the Court of Appeals reversed. Douglass now seeks review by the Supreme Court.

Today the Evergreen Freedom Foundation filed an *amicus curiae* ("friend of the court") brief urging the Supreme Court to review the Court of Appeals decision. The Foundation argues that the Court of Appeals ignores the Washington Legislature's clear guidance for regional development planning and that opponents cannot use a project-specific challenge to collaterally attack a regional plan. Allowing this would hinder development and subject landowners to uncertainty as to the proper process for obtaining land use decisions. The brief states:

"Allowing the Court of Appeals opinion to stand contradicts the well-established framework of land use and planning decisions, and is inconsistent with the Legislature's stated goal of insulating project-specific decisions from collateral attacks on broader regional planning issues. Property developers face a labyrinth of legal processes and regulations when pursuing a land subdivision. The developer carries potentially-disastrous economic risks, not to mention the delays and costs of years of litigation if a party challenges the project. Given the regulatory complexity and the economic risks borne by developers, it is good public policy to provide a predictable framework for the approval of projects. The Legislature specifically highlighted the 'unfair' impact if opponents of regional development were permitted to 'penalize applicants that have submitted permit applications that meet current requirements.'"

"We hope the Supreme Court accepts this case," said Michael Reitz, general counsel of the Freedom Foundation. "Property owners face enough restrictions in how they

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may use their property and they shouldn't be required, as part of a project-level permit application, to justify or litigate regional planning decisions made by governing bodies."

The case is *Lanzce Douglass, et al., v. City of Spokane Valley, et al.*, No. 84412-7.

Additional Information

- [Amicus curiae brief of Evergreen Freedom Foundation](#)

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