



February 17, 2009

The Honorable Darlene Fairley, Chair
Government Operations and Elections Committee
Washington State Senate
227 John A. Cherberg Building
PO Box 40432
Olympia, WA 98504-043

Re: SB 5799 State Capitol special building height district

Dear Senator Fairley:

The Washington Chapter of the American Planning Association opposes SB 5799. It is unusual for our organization to comment on legislation that deals with a sole specific geographic location, however, SB 5799 itself is an anomaly because it takes exactly that narrow a geographic focus.

APA Washington supports the land use planning framework of specific goals and requirements set forth in our state's Growth Management Act (GMA). The GMA framework recognizes that many policy choices are reserved to local government decision makers, including building heights and other development standards. The GMA also states that those local choices are presumed valid upon adoption and will be upheld, absent a timely filed appeal and a subsequent showing that the local choice somehow does not comply with the goals and requirements of the GMA.

In our view, SB 5799 does not respect GMA's presumption of validity assigned to local government choices, nor does it oblige those dissatisfied with that choice to do what aggrieved parties have been able to do for 18 years - file an appeal to the Growth Management Hearings Boards. Instead, SB 5799 needlessly intrudes into what is appropriately a local decision (building height) in a single specific location (the Capitol Lake area of Olympia).

Local governments planning under the GMA must follow specific process requirements, notice and public participation, and a thorough analysis, review and recommendations from citizen planners (local planning



American Planning Association
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commissions). Elected policy makers, accountable to the citizens of those local governments, must then weigh all information in the record, including the response to issues identified during the public process, and then make a decision. Decisions are made after a transparent and reasoned process of balancing and weighing all of the goals and policies of a plan, and in full consideration of the requirements of state law.

The above process was followed by the Olympia Planning Commission and the Olympia City Council. Aggrieved parties to that process could have and should have availed themselves of their legal remedies under the law as it exists, rather than ask the legislature to overturn a decision that state law has wisely reserved to the discretion of local governments. We believe that SB 5799 would set a bad precedent for usurping local land use authority. For these reasons, APA Washington strongly opposes passage of SB 5799.

Sincerely,

A handwritten signature in black ink that reads 'J. Tovar'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joseph W. Tovar, FAICP
APA Washington
President

Members of the Senate Government Operations and Elections Committee