

Appellant's Exhibit 17

(as referenced in June 30, 2017

Appellant WPDC Cleveland LLC's Witness and Exhibit List)

RICHARD L. SETTLE

Of Counsel
Foster Pepper PLLC
1111 Third Avenue, Suite 3000
Seattle, Washington 98101
(206) 447-4400
richard.settle@foster.com

Professor Emeritus
Seattle University School of Law
901 12th Avenue, Sullivan Hall
Seattle, Washington 98122

EDUCATION

B.A., University of Washington, 1964, *magna cum laude*,
Phi Beta Kappa;

J.D., University of Washington School of Law,
1967. (Rank in Class: 13 of 121).

TEACHING

2003-Present	Seattle University School of Law, Professor Emeritus
1994-2003	Seattle University (formerly University of Puget Sound) School of Law, Professor of Law;
1972-1994	University of Puget Sound School of Law Tacoma, Washington Professor of Law, 1975-1994 Associate Professor of Law, 1972-75
	Primary teaching areas: land use and environmental law, administrative law, property, torts, and products liability;
1968-72	University of Puget Sound Tacoma, Washington

I was hired to help plan a law school for the University and to teach interdisciplinary law courses which I did as Assistant and Associate Professor of Business Administration and Sociology.

LAW PRACTICE

- 1986-present Of Counsel
Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101

- 1972-1985 Consulting practice in Land Use and
Environmental Law

- 1970-71 Attorney
Gordon, Thomas, Honeywell, Malanca, Peterson
& Daheim
2200 First Interstate Plaza
Tacoma, Washington 98401

- 1968-present Member, Washington State Bar Association

I have represented municipalities, and landowners in numerous major land use and environmental regulatory matters.

I have been retained in major environmental and land use regulatory matters by the City of Vancouver, British Columbia, Canada; the Cities of Auburn, Bellevue, Federal Way, Kent, Lakewood, Long Beach, Oak Harbor, Puyallup, Tacoma, West Richland, and Yakima, Washington; Clark County, Grant County, King County, Pacific County, Pierce County, Skagit County, Snohomish County, Spokane County, and Skamania County, Washington; Whatcom County Water District No. 10; the Municipality of Metropolitan Seattle (Metro); the Port of Seattle, the Port of Tacoma, and the State of Washington.

Major court decisions in which I have been involved include: Knight v. City of Yelm, 155 Wn.App. 1027, Not Reported in P.3d, 2010 WL 1454096; Thurston County v. Western Washington Growth Management Hearings Board, _Wn.App._, 190 P.3d 38 (2008); King County Wastewater Treatment Division v. King County Hearing Examiner, 135 Wn.App. 312 _P.3d_ (2006); Wells v. Whatcom County Water District No. 10, 105 Wn.App. 143, 19 P.3d 453 (2001); Sammamish Community Council and East Bellevue Community Council v. City of Bellevue, 108 Wn. App 46, 29 P.3d 728 (2001);. West Main Associates v. City of Bellevue, 49 Wn. App 513, 742 P.2d 1266 (1987) (lead counsel for City of Bellevue) and Orion Corp. v. State of Washington, 109

Wn.2d 621, 747 P.2d 1062 (1987) (consultant and expert witness for Skagit County).

2001-2003, retained by State of Washington to mediate litigation on 2000 Shoreline Management Act (SMA) guidelines and develop new guidelines that were adopted in 2003 and are presently in effect. Served on three-person mediation team that included retired Justice Richard Guy and environmental mediator, Bill Ross. The successful mediation process included representatives of all relevant interest groups in the state.

RECENT LEGAL PUBLICATIONS (Since 1983)

Books

Washington Land Use and Environmental Law and Practice (Butterworth Legal Publisher, (1983).

The Washington State Environmental Policy Act, A Legal and Policy Analysis (Lexis Law Publishing, 1987, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016 Revised editions).

Chapter 90: Washington, In *Environmental Law Practice* guide, Mathew Bender, 1992, 1993, 1994.

Articles

Washington's Growth Management Revolution Goes to Court, 23 Seattle U. L. Rev. 5 (1999).

Washington State Regulatory Reform: Jekyll and Hyde '95, 47 Land Use Law & Zoning Digest No. 9 (September, 1995).

Dolan and Washington Regulatory Taking Doctrine, ENVIRONMENTAL AND LAND USE LAW NEWSLETTER (WSBA), Vol. 21, No. 2 (1994).

The Growth Management Revolution in Washington: Past, Present, and Future, 16 U. Puget Sound L. Rev. 867 (1993).

United States and Washington Supreme Courts Expand Regulatory Taking and Substantive Due Process Doctrine, ENVIRONMENTAL AND LAND USE LAW NEWSLETTER, (WSBA) Vol. 19 No. 2 (1992).

Regulatory Taking Doctrine in Washington: Now You See It, Now You Don't, 12 U. Puget Sound L. Rev. 339 (1989).

Washington Land Use and Environmental Law in a Nutshell, Wash. St. B. News, 15 (May 1986).

Environmental Assessment: The Washington State Environmental Policy Act, *The NW. Env'tl. J.*, Vol. 2, No. 2, 36 (1986).

Potential Legal Facilitation or Impediment of Wind Energy Conversion System Siting, 58 Wash. L. Rev. 387 (1983) (with Kim R. York).

PROFESSIONAL SPEAKING

I frequently participate in a wide variety of seminars, clinics, and conferences, an average of about five such programs a year. Most have been on environmental and land use law topics.

RECENT PAPERS AND PRESENTATIONS

"New Substantive SEPA Mandate," Speaker and Co-Chair, 13th Annual SEPA & NEPA Conference, Law Seminars International, January 15, 2016.

"Greenhouse Gas and Climate Change Considerations," Conference on Permitting Strategies for Large, Controversial Projects in WA and the Northwest," The Seminar Group, October, 2015.

"Land Use Case Law Update," WSBA Environmental & Land Use Law Section Midyear Meeting and Conference, May, 2015.

"Arrested Development Becoming Unarrested: The Intersection of Land Use and Clean Water Law," 15th Annual Comprehensive Conference on Clean Water and Stormwater, Law Seminars International, April, 2015.

"Land Use Case Law Update," 2014 WSBA Environmental & Land Use Law Section Midyear Meeting and Conference, May, 2014.

"Update on the Department of Ecology Working Group SEPA Rule Changes," 22nd Annual Conference on the Growth Management Act, Law Seminars International, September, 2013.

"Important SEPA/NEPA Compliance, Litigation, and Policy Issues Confronting Land Use and Environmental Professionals Today," Co-Chair and Speaker, 12th Annual SEPA & NEPA Conference, Law Seminars International, January, 2015.

"A SEPA Primer," Office of the Washington State Attorney General, Conference on Hot Topics in Environmental law, June 17, 2013.

SEPA Rule-Making Progress Report, Washington APA Planning Law Conference, 2013.

"Recent Developments in Land Use Case Law" Washington State Bar Association Environmental & Land Use Law Section, Mid-Year Meeting and Seminars, May 2-3, 2013.

Co-Chair, Advanced Seminar on SEPA and NEPA, Law Seminars International, January, 2013.

"Top Ten" Land Use Cases, Land Use/Environmental Group Seminar, Seattle, Washington, May 2011

Panel Discussion – Is SEPA Still Vital, or is it Over the Hill?, SEPA at 40 – An AGO CLE Lite, Tumwater, Washington, May 2011

SEPA & NEPA: The Latest on Compliance from Developing Proposals Through Judicial Review, Law Seminars International's Eighth Annual Advanced One-Day Workshop on SEPA & NEPA, Seattle, WA, January 2011

Settle's Ten: The Ten Greatest GMA Cases, UW CLE – Land Use 2011: Law and Practice, Seattle, Washington, December 2010

Settle's Ten: The Ten Greatest Land Use Cases. UW School of Law, Land Use 2010: Earth, Wind and Fire (and Water), Seattle, Washington, January 2010

Eighth Annual Advanced One-Day Workshop on Washington's State Environmental Policy Act (SEPA), Program Co-Chair, Law Seminars International, Seattle, Washington, January 2010

Knight v. City of Yelm: Water Availability and Ecology's Role in Local Land Use Decision Making, Law Seminars International, Washington Water Law 2009, Seattle, Washington, June 2009

Think Globally, Act Locally: Incorporating Climate Change Considerations into SEPA Process, The 2009 Environmental and Land Use Law Section Midyear Meeting and Seminar, Chelan, Washington, April 23-25, 2009

Intersection of Climate Change, SEPA and Entitlements, 2009 Real Estate & Land Use Seminar, Seattle, Washington, April 2009

Addressing Climate Change Through the SEPA Process, Planning Association of Washington 2009 Spring Conference, Semiahmoo Resort & Conference Center, April 9 & 10, 2009

Legislative Update on SEPA and Climate Change, The Seminar Group, Seattle, Washington, February 5, 2009

SEPA Working Group Recommendations to the Climate Action Team, SEPA & NEPA: The latest on Compliance from Developing Proposals Through Judicial Review, Seattle, Washington, January 2009.

Climate Change, SEPA, and Land Use Planning, Northwest Environmental Business Council, Seattle, Washington, November 2008

The Year's Most Significant Land Use Court Decisions, Hot Issues in Real Estate and Land Use Development, Seattle, Washington, March 2007.

Rural Lands: What can we learn from Thurston County's experience with initial adoption and recent updates to its Comprehensive Plan?, Land Use in Washington: The Latest in Planning and Project Permitting, Seattle, Washington, April 2007.

SEPA Case Law Update, SEPA/NEPA Workshop, Law Seminars International, Seattle, Washington, January 2006

Recent Court Decisions on Growth Management Act Issues, University of Washington seminar: The Latest on Land Use: What you Need to Know, Seattle, Washington, December 15, 2004

Designing SEPA Compliance for Major Essential Public Facilities, Regulatory Requirement & Permitting of Essential Public Facilities (The Seminar Group), Seattle, Washington November 9, 2004

Co-Chair and Panelist, SEPA/NEPA Workshop, January 28, 2004, Seattle, Washington

Recent Developments in the State Environmental Policy Act, Seattle University, Land Use Seminar, November 7, 2003, Seattle, Washington

Land Use Case Law Update, WSAMA 2003 Annual Fall Conference, October 1-3, 2003, Spokane, Washington

Recent Administrative Decisions Update: Important Cases from the Shoreline Pollution Control, and Growth Management Hearings Boards and the Forest Practices Appeals Board, WSBA 2003 Environmental and Land Use Law Midyear Meeting, May 1-3, 2003, Yakima, Washington

Current Constitutional Issues in Land Use Law, Seminar on Land Use Law: Recent and Anticipated Changes, April 28, 2003, Seattle, Washington

Regulatory Takings and Other Legal Limitations on Regulatory Burdens, Appellate Judges Spring Program, April 7, 2003, Leavenworth, Washington

Nonconforming Development, Vested Rights, and the Nykreim Case, APA Annual Planning Law Conference, March 6, 2003, Everett, Washington

Tailoring the SEPA Compliance Process, Advanced SEPA Workshop, January 22, 2003, Seattle, Washington

Regulatory Takings and Other Legal Limitations on Land Use Regulatory Burdens, WSBA Seminar: Navigating the Maze: Checklist Approach to Land Use and Environmental Law, October 4, 2002, Seattle, Washington

The Evolution of the Growth Management Act, Washington Land Use Law: Planning and Zoning, Growth Management and Procedural Problems, Appellate Judges' Spring Program, April 9, 2002, Orcas Island, Washington

GMA and SEPA: Current Developments and Evolving Trends, Presented at Seminar on Advanced Training for the Experienced Land Use Lawyer, University of Washington School of Law, December 12, 2001, Seattle, Washington

What Does GMA Mean in 2000: GMA Caselaw, presented at Growth Management Act 2000, September 14, 2000, Seattle, Washington

Growth Management Act and SEPA: Current Developments and Evolving Trends, Advanced Training for the Experienced Land Use Lawyer, University of Washington School of Law, December 15, 1999, Seattle, Washington

The Taking Issue: Federal Constitutional Limitations On Land Use and Environmental Regulatory Burdens, 1995 National CLE Conference on Environmental and Land Use Law (January 9-14, 1999, Vail, Colorado)

Environmental Disclosure and Protection: The State Environmental Policy Act and the Shoreline Management Act, Land Use Training Program, University of Washington School of Law, December 8-11, 1998, Seattle, Washington

A Focus on Current Land Use Law, Washington Cities Insurance Authority City Attorney Seminar, November 6, 1998, Bellevue, Washington

Municipal Compliance With The New SEPA Rules, Washington State Association of Municipal Attorneys 1998 Annual Spring Conference, April 29 – May 1, 1998, Skamania Lodge, Stevenson, Washington

Takings: Constitutional Limits on Government Regulation, Land Use and Environmental Law: A Checklist Approach To The Fundamentals, Washington State Bar Association, February 11, 1998, Seattle, Washington

The Evolution of Federal Regulatory Taking Doctrine, Conference on Government Takings (Law Seminars International), Seattle, WA, November 13-14, 1997.

Critical Decisions of the Growth Management Hearings Boards, Conference on GMA 1997 (Law Seminars International), Seattle, WA, September 18-19, 1997.

Exploring Regulatory Taking Doctrine, Conference on Land Use and Environmental Law: A Checklist Approach, WSBA, Seattle, WA, July 17, 1997.

Recent Growth Management Hearing Board Decisions, Midyear Meeting of the Environmental and Land Use Law Section, WSBA, Eastsound, WA, May 8-10, 1997.

Recent Development in Regulatory Taking Doctrine, 1997 Spring Conference of Washington State Municipal Attorneys' Association, Skamania, WA, April 23-25, 1997.

The State Environmental Policy Act, Land Use Certification Program, University of Washington School of Law, Seattle, WA, December 10-13, 1996.

Exploring the Uncharted Waters of Regulatory Taking Doctrine, Conference on Private Property and Regulatory Takings (Law Seminars International), Seattle, WA, November 21-22, 1996.

Growth Management in Washington, Third Annual Real Estate Symposium, National Association of Industrial and Office Parks, Portland, OR, November 14, 1996.

Latest GMA Decisions on City Plans and Regulations, Conference on Growth Management Hearing Board Decisions (Law Seminars International), Seattle, WA, November 8, 1996.

A Case Study on Industrial Development: How it Really Works (with Professor William H. Rodgers), Midyear Meeting of the Environmental and Land Use Law Section, WSBA, Ocean Shores, WA, June 6-8, 1996.

The State Environmental Policy Act, Land Use Certification Program, University of Washington School of Law, Seattle, WA, December 18-21, 1995.

The Evolution of Regulatory Taking Doctrine in the U.S. Supreme court, Conference on Private Property and Government Takings (Law Seminars International), Seattle, WA, November 9-10, 1995.

The Potential Impacts of Initiative 164, Conference on Growth Management, Regulatory Reform, and Initiative 164, WSBA, Seattle, WA, September 7, 1995.

Recent Developments in Land Use Case Law, Midyear Meeting of the Environmental and Land Use Law Section, WSBA, Orcas Island, WA, May 11-13, 1995.

Takings After Dolan, Proceedings of 1995 Annual Spring Conference, Washington State Association of Municipal Attorneys, April 26-28, 1995, Skamania Lodge, Stevenson, WA.

Discussant, *SEPA Thinkers Roundtable*, presented by Washington State Department of Community, Trade, and Economic Development, April 14, 1995.

Exploring the Uncharted Waters of Regulatory Taking Doctrine, The New Frontier of Takings Law, University of Washington School of Law, March 9, 1995, Seattle, WA.

The Growth Management Act, Conference on Puget Sound Water Quality, sponsored by Puget Sound Water Quality Authority, November 18, 1994, Kenmore, Washington.

The Impact of Dolan on Washington Regulatory Taking Doctrine, Conference on Private Property and Government Takings, sponsored by Law Seminars International, November 3, 1994, Seattle Washington.

The Trend Toward Closer Judicial Supervision of Land Use Regulation, American Bar Association Appellate Judges Seminar, August 28-September 1, 1994, Anchorage, Alaska.

Goals of Land Use and Environmental Law: Where Are We Succeeding and Where Are We Failing, 1994 Environmental and Land Use Law Section Midyear Meeting, May 12-14, 1994, Orcas Island, Washington.

Invited presenter of paper on Growth Management in Washington at conference on Land Use and Environmental Regulatory Constraints on Public Port Development sponsored by the University of Washington School of Law, November, 1993, Seattle, Washington.

Constitutional Limitations on Land Use Regulatory Burdens, Annual Fall Conference of the Washington State Association of Municipal Attorneys, October 27-29, 1993, Vancouver, Washington.

Invited presenter and chair of panel on Regulatory Reform at Annual Meeting of Washington Association of Counties, June, 1993, Yakima, Washington.

Future Directions for Land Use Regulation and Takings Doctrine, Conference on The Lucas Aftermath: Balancing Private Property Rights and Public Regulation of Land Use presented by the University of California at Los Angeles, School of Law (December 3, 1992, Los Angeles, CA).

The Public Trust and Takings, The Washington Public Trust Doctrine Symposium presented by Washington State Department of Ecology (November 18, 1992, Seattle, WA).

An Historical Overview of Growth Management in Washington, Symposium on Growth Management presented by the University of Puget Sound Law Review (November 6, 1992, Tacoma, WA).

The Limits of Land Use Regulation: The Private View, Conference on Conflict in Growth Management presented by the Administrative Law Section of the Washington State Bar Association (October 30, 1992, Seattle, WA).

Taking Limitation on Environmental Regulation, Conference on Takings After Lucas presented by the Federalist Society (September 21, 1992, Seattle, WA)

Recent Developments in Constitutional Limitation on Environmental Regulation, Environmental Law Conference presented by Executive Institutes (June 29, 1992, Seattle, WA)

Regulatory Takings and Substantive Due Process: The 1992 Washington Trilogy, 1992 Convention of the Association of Washington Cities (June 17, 1992, Bellevue, WA)

Regulatory Takings and Substantive Due Process Washington Style, 1992 Annual Spring Conference of the Washington State Association of Municipal Attorneys (June 18, 1992, Bellevue, WA)

Recent Developments in Land Use Litigation, presented at conference on *Rough Times and Regulations: Preserving the Environment in the 1990's* (May 28, 1992, Vancouver, B.C.)

Growth Management: GMA I and GMA II, a Progress Report, presented at Annual Fall Conference of the Washington State Association of Municipal Attorneys (October 9, 1991, Chelan, WA)

Recent Developments in Land Use Case Law, presented at conference *Hanging in the Balance*, (May 30, 1991, Blaine, WA)

Federal Wetlands Regulation, presented at conference on Wetlands 1991 (April 30, 1991, Seattle, WA)

Local Sensitive Area Regulation, presented at the conference on *Wetland Sensitive Area Regulation*, American Water Resource Association, Bellevue, WA (Nov. 16, 1990)

Washington Regulatory Taking Doctrine After Presbytery, presented at the *Annual Fall Conference of the Washington State Association of Municipal Attorneys*, Victoria, B.C., Canada (Oct. 24, 1990)

Regulatory Taking Constraints on Sensitive Area Regulation, presented at the conference on *The Regulation of Environmentally Sensitive Areas*, Seattle, WA (Oct. 16, 1990)

Regulatory Taking Doctrine in Washington: Now You See It, Now You Don't, presented at the conference on *Growth: Is Anyone In Charge?*, Vancouver, B.C., Canada (May 31-June 1, 1990)

The Legal Setting: Land Use Law In Washington, presented at the conference on *Growth Management: Directions For A New Century*, American Planning Association, Tacoma, WA (May 30, 1990)

Washington's SEPA at Eighteen: A Little NEPA's Family Resemblance Fades, paper presented at *NEPA At Twenty: The Past, Present And Future of the National Environmental Policy Act*, Portland, OR (Oct. 27-28, 1989)

Analysis of Orion Corp. v. State, presented to meeting of the Environmental and Land Use Law Section of the Washington State Bar Association, Seattle, WA (Jan. 21, 1988)

Developer Exactions, 1987 Annual Meeting of Washington State Association of Sewer Districts, Olympia, WA (Nov. 21, 1987)

The Impact of Nollan on Public Access to Shorelines, *Public Access Conference* sponsored by Washington Department of Ecology, Seattle, WA (Sept. 3, 1987)

Recent Developments in the Public Trust Doctrine and Regulatory Takings, presented at a seminar for officials and professional staff of the State Department of Ecology, Redmond, WA (June 25, 1987)

The U.S. Supreme Court and Regulatory Takings and Municipal Liability for Land Use Regulatory Conduct, presented to the 1987 annual convention of the Association of Washington Cities, Yakima, WA (June 18, 1987)

The Legal Limits of Development Fees and Recent Developments in Land Use and Environmental Law, presented to the Thirtieth Annual Meeting of the Washington State Association of Municipal Attorneys, Yakima, WA (June 18, 1987)

Washington Land Use Law - the Climate for Legislative Reform, presented to the Land Use Committee of the Washington Environmental Council, Seattle, WA (Dec. 5, 1986)

History and Current Legal Status of the Public Trust Doctrine in Washington, presented at a conference (*The Public Trust Doctrine: Protecting Washington's Natural Heritage*),

sponsored by the Washington Environmental Foundation, Seattle, WA (Nov. 7, 1986)

Bases of Land Use Law, presented in a symposium (*Land Resources: Public and Private Control*, sponsored by the University of Washington Institute for Environmental Studies, Seattle, WA (Oct. 17, 1986)

OTHER PROFESSIONAL SERVICES

2012-present	Washington Department of Ecology SEPA Rule-Making Advisory Committee
2010-11	Washington Department of Ecology SEPA and Climate Change Advisory Committee
2008-present	Co-Lead, Washington State Climate Action Team SEPA Implementation Working Group
1993-94	Chair, State Environmental Policy Act Regulatory Reform Task Force, City of Bellevue, Washington
1990-92	Member, Washington State Public Trust Doctrine Advisory Commission
1987-88	Member, Private Sector Review Panel Washington State Local Governance Study Commission
1983-present	Editorial Advisory Board Northwest Land Use Review
1983-85	Chair-elect, Chair, Past-Chair Environmental and Land Use Law Section Washington State Bar Association (WSBA)
1978-85	Member, Executive Board Environmental and Land Use Law Section WSBA
1978-84	Co-editor (with Prof. Donald M. Carmichael) Environmental and Land Use Law Newsletter (Environmental and Land Use Law Section publication) WMBA
1981-83	Member, Legal Technical Committee Washington State Commission on Environmental Policy Review and revision of State Environmental

Policy Act

1972-80

Participation in a variety of roles in designing, drafting, and administering a novel, environmentally-based, comprehensive land use regulatory system for Gig Harbor Peninsula area of Pierce County, Washington. Primary drafting responsibility, 1972-74. Membership upon and Chair for one year, of Peninsula Advisory Commission, the quasi-judicial agency with primary responsibility for processing development permit application, 1976-80.