



*Washington State*

**ENVIRONMENTAL AND LAND USE HEARINGS OFFICE**

Pollution Control Hearings Board  
Shorelines Hearings Board  
Growth Management Hearings Board

**FY 2023-25 Strategic Plan**

## Introduction

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The Environmental and Land Use Hearings Office (ELUHO) houses three independent, quasi-judicial boards: the Pollution Control Hearings Board (PCHB), the Shorelines Hearings Board (SHB), and the Growth Management Hearings Board (GMHB). The Boards provide an independent review of state and local decisions regarding environmental regulations and land use planning. ELUHO serves Washington State and its citizens as the final independent administrative authority on state environmental and land use planning laws under the Boards' jurisdiction.

This strategic plan describes the work ELUHO is doing in the 2023-2025 biennium. It guides us in advancing our mission.

<b>Mission Statement</b>	To resolve legal challenges of governmental decisions on environmental permits or land use plans and development regulations.
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### Statewide Goals

ELUHO's strategic framework directly supports the following [Governor's Results Washington initiatives](#):

**Goal 2: Prosperous Economy** - Fostering an innovative economy where businesses, workers and communities thrive in every corner of our state

**Goal 3: Sustainable Energy and a Clean Environment** - Building a legacy of resource stewardship for the next generation of Washingtonians

**Goal 4: Healthy and Safe Communities** - Fostering the health of Washingtonians from a healthy start to safe and supported future

**Goal 5: Efficient, Effective, and Accountable Government** - Fostering a Lean culture that drives accountability and results for the people of Washington

## Current State

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### Legacy Systems

ELUHO is addressing administrative system weaknesses and inefficiencies to build a stronger administrative operating environment. Several of ELUHO's key administrative systems are outdated and can be improved with enhanced technology, consistent procedures, and management controls. For more than 13 years, ELUHO has managed Board cases using a

custom-built case management system database in combination with a paper-based system for case filing and Board review of cases. As the database and website aged and demands on the agency for information increased, the current legacy case management system has become outdated and cumbersome to use. The COVID-19 pandemic compelled ELUHO toward electronic case filing and virtual hearings, however, case management workflows and processes remain largely unchanged. In addition, administrative organization, structure, and management can be improved to achieve more streamlined and consistent outcomes.

## **More Complex Work**

As Washington's population and demands on its environment continue to grow, the ELUHO Boards' caseload is expanding in complexity and diversity. As new environmental and land use laws are adopted, the legal issues that fall under the Boards' jurisdiction are increasing and the cases have higher stakes for Washington's communities, economies, and environment. For example, the PCHB and SHB have jurisdiction over appeals from over 30 environmental statutes including water and air pollution, hydraulic project approvals, forest practices, toxic pollution, oil spills and hazardous waste, diary nutrient management, floodplain management, water rights, solid waste, surface mining, and derelict vessels. In addition, significant and complex cases involving multiple parties, novel legal issues, media coverage, and lengthy hearings are increasing. These complex cases require more time, staffing, and attention throughout their longer lifecycle than average cases and they often result in court appeals. Similarly, with greater focus on planning for housing, infrastructure, agriculture, and the environment, the GMHB caseload is also evolving. When the Legislature adopts new environmental regulations or changes to the Growth Management Act, the ELUHO Boards may hear cases of first impression, establishing new law in Washington.

## **New Leadership and Workforce**

In fiscal year 2022, ELUHO saw many staff changes including a new Executive Director, new Director of Legal and Administrative Services, and all new support staff. Recruiting during a difficult job market has been challenging and the new team is managing the active caseload, including backlogged work, with limited training and instruction. Leadership is establishing clear duties, procedures, and expectations to gain technical competence. In addition, leadership aims to improve employee retention through organizational clarity, workplace inclusion, and developing employees to become independent decision-makers and innovators. ELUHO's workforce is expected to grow in the next biennium as Board jurisdiction expands and workload increases.

## **Cohesion**

As a small agency that supports three independent Boards with different purposes and mandates, ELUHO is challenged to maintain a cohesive identity and vision. ELUHO strives to center the Boards and agency administration around a unified vision and set of shared values to foster healthy and respectful workplace interactions and help guide organizational decision making and actions.

## ELUHO Administrative Program

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### Statutory Authority

**RCW 43.21B.005:** 2010 Legislature created the Environmental and Land Use Hearings office to house and provide support to the three independent quasi-judicial Boards (PCHB, SHB and GMHB)

### Goals

**Goal 1:** High-quality, timely case management support to the Boards.

**Goal 2:** Quick and easy access to Board decisions and appeal processes.

**Goal 3:** Innovative, effective and efficient business practices.

**Goal 4:** An inclusive workplace and sustained workforce.

**Goal 5:** Pro-Equity Anti-Racism is part of ELUHO's administrative framework.

### Strategies

1. Establish clear and consistent case management procedures using best practices
2. Design, build, train, and launch new case management system
3. Create and sustain a Pro-Equity Anti-Racism (PEAR) Team to develop recommendations for improving equity
4. Provide staff the technical competence (tools, training, expectations) and organizational clarity (guidance and understanding of roles and agency priorities) to become independent decision-makers and innovators
5. Strengthen core business practices by improving tracking mechanisms, consistent procedures, and management controls.

### Outcomes

1. Case management procedural manuals for all three Boards; accessible by all employees
2. New case management system is launched with training provided to all employees and instruction provided to external users
3. Review and update agency policies and WACs
4. PEAR Team recommendations woven into ELUHO's key business lines
5. Identify metrics and collect data for performance management
6. Training on job tools is provided to employees and Board members
7. Records management systems are installed and maintained
8. Hybrid hearings and board meetings are provided with appropriate technology

## Pollution Control Hearings Board and Shorelines Hearings Board (PCHB/SHB)

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### Statutory Authority

**RCW 43.21B.110:** 1970 Legislature created the Pollution Control Hearings Board to hear and decide appeals from state and local environmental agencies.

**RCW 90.58.170:** 1971 Legislature created the Shoreline Hearings Board to hear appeals of shoreline permits issued by local or state governmental agencies.

### Goals and Strategies

**Goal 1:** Provide expeditious and efficient resolution of environmental appeals through fair and impartial hearings and alternative dispute resolution processes.

1. Conduct fair and impartial hearings and issue clear and well-reasoned written decisions in a timely manner
  - a. Hold periodic “best practices” discussions to improve the skills of Presiding Officers.
    - Conduct periodic discussions on relevant procedural, legal and environmental subject matters.
    - Identify and prepare topics for discussion at bi-annual joint GMHB-PCHB/SHB meeting.
  - b. Provide training to part-time, outside Shorelines Board Members on the Shorelines Management Act, regulations, hearing processes, ethics and related topics.
  - c. Assess methods to expedite and streamline appeals of small penalty and derelict vessel cases, with input from the stakeholders. Streamlining will be implemented through rulemaking or statutory changes.
  - d. Review and update, if necessary, the Boards’ and the regulatory agencies’ instructions regarding appeal rights.
2. Increase standardized practices, procedures, and forms
  - a. Create updated templates on various orders or sections of orders for Board Members and Judges.
3. Increase the use of technology to assist the Boards and parties in the hearing and appeals process
4. Promote mediation and provide procedural assistance
  - a. Strongly encourage parties to participate in the mediation program or to engage in other informal settlement efforts throughout the appeal process.
  - b. Provide mediation training to judges as needed and as funding is available.
  - c. Develop strategies, such as articles and reports, for outreach to stakeholders, including the Bar Association.
5. Continue to improve the appeals process through both stakeholder input and internal involvement in Bar and Continuing Legal Education (CLE) related actions.
  - a. Participate in Environmental and Land Use Section of the Washington State Bar Association.
  - b. Accept invitations to present at relevant CLEs.
6. Conduct hearings by videoconference as guided by health standards, such as those designed to prevent the spread of the COVID-19 virus, or to minimize travel costs to the parties. Conduct

hearings outside the Olympia area, as funds allow, minimizing costs to parties and allowing citizens to see an important function of state government.

**Goal 2:** Create a safe, quality work environment and an effective team.

1. Ensure retention of knowledgeable, professional, and dedicated employees.
  - a. Continue to implement a policy for payment of Bar dues, where funds allow.
  - b. Identify opportunities for employee recognition and teambuilding.
  - c. Provide a safe and healthy work environment through participation in first aid/CPR training and building safety and maintenance discussions.
    - o Pursue wellness strategies that benefit employees, the environment, and the wellness of our workforce.
    - o Encourage commute trip reduction efforts.
2. Increase opportunities for career growth and training for all Board members, judges, and ensure continuity in operations.
  - a. Allot adequate funds to cover costs of CLEs, environmental conferences and other needed training.
3. Develop and implement a training and education plan for Administrative Appeals Judges (not Board Members) through an annual Performance Development Plan.
  - a. Develop legal, editing and other legal/organizational skills.
  - b. Assess and develop succession planning effort.
  - c. Assist in planning and participate in available judicial training programs.
4. Minimize and manage risks associated with the appeals process and administration of PCHB/SHB.
  - a. Encourage all Board members and Judges to be guided by the Code of Judicial Conduct.
  - b. Provide all new staff ethics training.
  - c. Review and update agency policy and procedures manual.
  - d. Include risk management as a topic for discussion among Board members, Judges, and staff at staff meetings.

## Performance Measures and Targets

**Objective:** Provide the parties a hearing process and schedule that allows for the appeal to be resolved as quickly and efficiently as possible, recognizing the parties' schedules and the complexity of the issues involved.

**Measure:** The number of months for PCHB/SHB to issue a final decision following a hearing or a dispositive motion.

**Target:** Within three months from the date the administrative record closes following a hearing, issue a decision in accordance with the Administrative Procedures Act.

To the extent practicable, issue a decision within three months after briefing is complete on dispositive motions.

**Objective:** Engaging in alternative dispute resolution is a goal. Encourage parties to settle cases by participating in our mediation service.

**Measure:** Number of mediations conducted during the two-year strategic plan period.

# Growth Management Hearings Board (GMHB)

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## Mission Statement

The mission of the GMHB is to resolve challenges to local government actions adopting or amending comprehensive land use plans and development regulations based on the Growth Management Act (GMA), the adoption or amendment of shorelines master plans and certain portions of State Environmental Policy Act. The GMHB was established by statute to hear cases arising under implementation of these statutes as an administrative adjudicative body, providing a quicker and more efficient method of enforcing implementation of these laws.

## Statutory Authority

The GMHB's jurisdiction and powers are defined by the GMA, Chapter 36.70A RCW. The GMHB is comprised of members with special experience in local government and land use law and reflect both regional and partisan diversity. The GMHB reviews actions taken by local governments and, where applicable, the Department of Ecology, for compliance with provisions of the GMA, the Shorelines Management Act, Chapter 90.58 RCW, and some portions of the State Environmental Policy Act, Chapter 43.21C RCW. The GMHB has the authority to find actions to be violations of the law, to invalidate actions where necessary and to review subsequent actions for compliance.

## Goals and Strategies

**Goal 1:** Provide efficient resolution of petitions for review through skilled and impartial hearings and orders.

1. Focus on improving the GMHB's overall efficiency
  - a. Improve case management and scheduling procedures by supporting the creation of and constantly improving standardized practices for Board Members and staff
  - b. Improve database and web platforms, including access to cases and digest (abstracts) by active engagement with ELUHO's development of a new case management system (CMS), review and update of GMHB procedures, and coordination with the GMHB's digest (abstracts)
  - c. Improve communication among and between Board Members and staff by creation and implementation of a transparent and multi-platformed communication plan.
2. Enhance Board Members' professional skills
  - a. Foster professional and procedural excellence in case management by establishing internal protocols and sharing best practices as case managers and Presiding Officers.
  - b. Enhance understanding of state law affecting the GMHB by engaging in the study of the Open Public Meetings Act (OPMA) and the Public Records Act (PRA) and evaluating risks and opportunities.
  - c. Improve technology skills by engaging in active training on platforms and programs used by Board Members now (Word, PowerPoint, ZOOM) or in the future (new CMS platform, web interface, TEAMS, etc.)

- d. Encourage participation in city, county, planner, and bar events by creating internal standards for the creation of presentations to be offered by Board Members to stakeholder groups
- 3. Ensure high standards of impartiality by all Board Members
  - a. Encourage review of ethical standards for administrative adjudicators by at least one review annually at a GMHB meeting of all ethical standards which may apply to the GMHB.
  - b. Improve Board Members' ability to reach out to stakeholders and make presentations representing by jointly creating and practicing the delivery of at least one general information presentation about the GMHB's work.

**Goal 2:** Create a high-quality work environment that embraces and respects both on-site and remote employees, now and in the future.

- 1. Support and improve the overall quality of the GMHB work environment
  - a. Support a high-quality work environment by encouraging and appreciating ELUHO administration's efforts to implement best practices at the central staff level
  - b. Support career growth and training for all Board Members and staff by requesting specific budget allowances for these activities
  - c. Provide opportunities for cross-agency collaboration by creating channels for better communication in all board initiatives
  - d. Support future success of the agency by developing succession plans in collaboration with the Governor's Office and the legislature
- 2. Respect for all employees
  - a. Respect on-site employees work environment by acknowledging the standard workplace parameters for state employees
  - b. Respect remote employees work environment by acknowledging the benefits and challenges of working from home
  - c. Respect the GMHB's statutory deadlines by working with ELUHO administration to provide for overtime staff availability, as may be required
  - d. Provide opportunities for building trust across the agency by sharing perspectives, life experiences, hobbies or expertise, formally or informally.
  - e. Support future success of this goal by fostering an expectation that ELUHO administration will embed these objectives and actions in the agency's culture