

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 HOME BUILDERS ASSOCIATION OF)
5 METROPOLITAN PORTLAND, and)
6 COMMON GROUND: URBAN LAND)
7 COUNCIL OF OREGON,)

8)
9 Petitioners,)

10)
11 vs.)

12)
13 CITY OF PORTLAND,)

14)
15 Respondent,)

16)
17 and)

18)
19 SOUTHWEST NEIGHBORHOOD)
20 INFORMATION, INC.,)

21)
22 Intervenor-Respondent.)

LUBA No. 93-068

FINAL OPINION
AND ORDER

23
24
25 Appeal from City of Portland.

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27 Jeff H. Bachrach, Portland, represented petitioner
28 Homebuilders Association of Metropolitan Portland.

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30 Jon A. Chandler, Portland, represented petitioner
31 Common Ground: Urban Land Council of Oregon.

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33 Ruth Spetter, Senior Deputy City Attorney, Portland,
34 represented respondent.

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36 Timothy S. Crail, Portland, represented intervenor-
37 respondent.

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39 LIVINGSTON, Chief Referee; HANNA, Referee, participated
40 in the decision.

41
42 DISMISSED 09/01/95

43
44 You are entitled to judicial review of this Order.
45 Judicial review is governed by the provisions of ORS

1 197.850.

1 Livingston, Chief Referee.

2 The city moves to dismiss this appeal on the ground
3 that LUBA lacks subject matter jurisdiction. In support of
4 its motion, the city refers to the Stipulated Motion to
5 Delay the Briefing Schedule and Order (Stipulated Order),
6 dated November 14, 1994, which delayed the briefing schedule
7 pending issuance of a final periodic review order by the
8 Department of Land Conservation and Development or the Land
9 Conservation and Development Commission (LCDC) and the
10 resolution of any appeals of that order. The Stipulated
11 Order provides:

12 "[P]etitioners agree that they will move to
13 dismiss this appeal, unless LCDC or the appellate
14 courts have ruled that jurisdiction to review any
15 Statewide Goal issues relevant to the Fanno Creek
16 Plan and E-Zone regulations lie with LUBA.
17 Petitioners agree that they will not seek LUBA
18 review of any non-Goal issues." Stipulated Order
19 1.

20 According to the city, LCDC has fully reviewed the land
21 use regulations at issue for goal compliance. Neither LCDC
22 nor the appellate courts have ruled that LUBA has
23 jurisdiction to review any statewide goal issues relevant to
24 the Fanno Creek Plan and E-Zone regulations.

25 Petitioner has filed no response to the city's motion.

26 This case is dismissed.

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