

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

3
4 FRIENDS OF YAMHILL COUNTY,
5 *Petitioner,*

6
7 vs.

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9 YAMHILL COUNTY,
10 *Respondent,*

11
12 and

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14 MICHAEL KELLEY,
15 *Intervenor-Respondent.*

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17 LUBA No. 2015-039

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19 ORDER ON COSTS

20 In this appeal, petitioner sought review of county Ordinance 891.
21 Pursuant to OAR 661-010-0021(1), the county withdrew Ordinance 891 for
22 reconsideration. Thereafter, the county adopted Ordinance 893, which repealed
23 Ordinance 891, and filed Ordinance 893 with LUBA as its decision on
24 reconsideration. OAR 661-010-0021(3). Petitioner did not refile its notice of
25 intent to appeal or file an amended notice of intent to appeal, and LUBA
26 dismissed the appeal on November 16, 2015. OAR 661-010-0021(5)(e).

1 Petitioner filed a cost bill requesting award of the cost of the filing fee,
2 in the amount of \$200. Petitioner also requests return of its \$200 deposit for
3 costs.

4 Petitioner does not allege that the county's decision to repeal Ordinance
5 891 was caused by its appeal of that ordinance. *See Central Klamath County*
6 *CAT v. Klamath County*, 41 Or LUBA 600, 602 (2002) (if petitioner
7 demonstrates that petitioner's appeal plays a causative role in a local
8 government's action that dismisses or moots an appeal, petitioner is the
9 prevailing party). However, respondent and intervenor-respondent do not
10 object to petitioner's cost bill. We therefore will assume that petitioner is the
11 prevailing party. *Dove v. Crook County*, ___ Or LUBA ___ (LUBA No. 2003-
12 172, May 5, 2004, Order on Costs); *Sewco Investments, Inc. v. Clackamas*
13 *County*, 27 Or LUBA 678 (1994).

14 Petitioner is awarded the cost of the filing fee, in the amount of \$200, to
15 be paid by respondent and intervenor-respondent. The Board shall return
16 petitioner's \$200 deposit for costs.

17 Dated this 14th day of January, 2016.

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Michael A. Holstun
Board Member