

1 Opinion by Sherton.

2 **NATURE OF THE DECISION**

3 Petitioner appeals a county decision approving a home
4 occupation permit for a metal fabrication business on
5 property adjacent to that owned by petitioner.

6 **DECISION**

7 On April 13, 1993, respondent filed a motion to dismiss
8 this appeal as moot, on the ground that the applicant for
9 the subject home occupation permit had withdrawn his
10 application. On June 18, 1993, the county filed an amended
11 motion to dismiss this appeal. The amended motion to
12 dismiss argues this appeal is moot because the board of
13 county commissioners adopted an order rescinding the
14 appealed decision approving the subject home occupation
15 permit. The county attaches to its amended motion an order
16 of the board of commissioners, dated June 16, 1993. This
17 order rescinds the board of commissioners' January 22, 1993
18 decision approving a home occupation permit.

19 Petitioner opposes the county's amended motion to
20 dismiss. Petitioner does not dispute that Order No. 93-95
21 rescinds the county decision challenged in this appeal.
22 However, petitioner argues this appeal is not moot, because
23 a metal fabrication business continues to operate on the
24 subject property and continues to cause adverse impacts on
25 petitioner's property. Petitioner also argues the county
26 has failed to respond to this Board's previous decision

1 remanding a county decision to approve a home occupation
2 permit for the metal fabrication business on the subject
3 property. Heiller v. Josephine County, 23 Or LUBA 551
4 (1992).

5 ORS 197.805 establishes a statutory policy that LUBA's
6 decisions "be made consistently with sound principles
7 governing judicial review." Pursuant to this policy, we
8 have stated that an appeal will be dismissed as moot if our
9 decision on the merits of the appeal will be without
10 practical effect. Barr v. City of Portland, 22 Or LUBA 504,
11 505 (1991); Davis v. City of Bandon, 19 Or LUBA 523, 524
12 (1990); Mobile Crushing Company v. Lane County, 13 Or LUBA
13 97, 99 (1985); Struve v. Umatilla County, 12 Or LUBA 54, 59
14 (1984).

15 Under ORS 197.835, the only relief a petitioner may
16 obtain from this Board is to reverse or remand a challenged
17 land use decision.¹ Here, the challenged land use decision
18 has been rescinded by the county, and the county decision
19 rescinding the challenged decision has not been appealed.
20 Consequently, any decision this Board might reach on the
21 merits of the decision challenged in this appeal would be
22 without practical effect and, therefore, this appeal is
23 moot.

¹This Board does not have jurisdiction to enforce provisions of the county's land use regulations. However, the circuit court does. ORS 197.825(3)(a).

1 This appeal is dismissed.