

**BEFORE THE  
LAND CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF OREGON**

<b>IN THE MATTER OF THE REVIEW</b>	)	
<b>OF THE DESIGNATION OF URBAN</b>	)	<b>SCHEDULING</b>
<b>RESERVES BY METRO AND RURAL</b>	)	<b>ORDER</b>
<b>RESERVES BY CLACKAMAS COUNTY,</b>	)	
<b>MULTNOMAH COUNTY, AND</b>	)	
<b>WASHINGTON COUNTY</b>	)	

The matter of the Review of the Designation of Urban Reserves by Metro and Rural Reserves by Clackamas County, Multnomah County and Washington County, came before the Land Conservation and Development Commission (commission) on August 25, 2014, on remand from the Oregon Court of Appeals pursuant to ORS 197.651. On July 30, 2014, the Department of Land Conservation and Development (department) received the appellate judgment following judicial review in *Barkers Five, LLC v. LCDC*, 261 Or App 259 (2014) and the commission now has jurisdiction over the matter. Pursuant to the requirement in ORS 197.651(12), the commission adopts this order in response to the court’s appellate judgment.

The commission finds that the issues presented on remand are complex and present several procedural options. Therefore, the commission hereby offers any of the parties on judicial review in the *Barkers Five, LLC v. LCDC* (A152351) case the opportunity to provide the commission additional briefing on remand as provided in this order. The commission specifically requests briefing that addresses issues identified by the court in *Barkers Five, LLC v. LCDC*, 261 Or App at 363-364 and the extent to which the subsequent enactment of HB 4078 by the 2014 Oregon Legislature impacts those issues. In particular, the commission requests briefing from both the parties with assignments of error relating to issues (A)(1) and (2) below and the local governments that made the designation of urban and rural reserves at issue. Any party who desires to submit a brief may do so; however, briefing should be limited to preserved arguments (*i.e.*, only those new arguments that are based on the court’s opinion or HB 4078 that could not have been raised before).

**THEREFORE, IT IS ORDERED THAT:**

A. The parties may brief the commission regarding:

1. Whether there is substantial evidence in the record that clearly supports a conclusion that Multnomah County applied the reserves factors to Area 9D;
2. Whether there is substantial evidence in the record that clearly supports Metro’s designation of the Stafford area as urban reserves; and
3. Any other issues the parties determine should be briefed.

B. Parties may file an opening brief with the department on or before September 25, 2014.

An opening brief is acceptable if it does not exceed 25 pages; type may not be smaller than 12 point for both the text of the brief and footnotes.

C. Parties may file a response briefs with the department on or before October 9, 2014. A party may file a response brief irrespective of whether or not it filed an opening brief. A reply brief is acceptable if it does not exceed 10 pages; type may not be smaller than 12 point for both the text of the brief and footnotes.

DATED THIS 4<sup>th</sup> DAY OF September, 2014.

FOR THE COMMISSION:

  
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For Jim Rue, Director  
Oregon Department of Land  
Conservation and Development