

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 WILLAMETTE OAKS, LLC,

5 *Petitioner,*

6
7 vs.

8
9 CITY OF EUGENE,

10 *Respondent,*

11
12 and

13
14 GOODPASTURE PARTNERS LLC,

15 *Intervenor-Respondent.*

16
17 LUBA Nos. 2010-060 and 2010-061

18
19 GOODPASTURE PARTNERS LLC,

20 *Petitioner,*

21
22 vs.

23
24 CITY OF EUGENE,

25 *Respondent,*

26
27 and

28
29 WILLAMETTE OAKS, LLC,

30 *Intervenor-Respondent.*

31
32 LUBA No. 2010-062

33
34 FINAL OPINION

35 AND ORDER

36
37 On Remand from the Court of Appeals.

38
39 Zack P. Mittge, Eugene, represented petitioner/intervenor-respondent Willamette
40 Oaks, LLC.

41
42 Emily N. Jerome, Eugene, represented respondent.

43
44 Michael C. Robinson, Portland, represented petitioner/intervenor-respondent

1 Goodpasture Partners, LLC.

2

3 RYAN, Board Chair; BASSHAM, Board Member; HOLSTUN, Board Member,
4 participated in the decision.

5

6

AFFIRMED

04/30/2012

7

8

9

You are entitled to judicial review of this Order. Judicial review is governed by the
provisions of ORS 197.850.

Opinion by Ryan.

In *Willamette Oaks, LLC v. City of Eugene*, __ Or LUBA __ (LUBA Nos. 2010-060/061/062, March 8, 2011), we denied six of Willamette Oaks’ assignments of error that challenged the city’s approval of Goodpasture Partners’ planned unit development project. We sustained Willamette Oaks’ seventh assignment of error that concerned the local appeal fee that the city charged Willamette Oaks for its local appeal to the planning commission of a hearings officer’s decision, and remanded the city’s decision in order for the city to take evidence on whether the city’s appeal fee violates ORS 227.180(1)(c).

The city appealed our decision to sustain the seventh assignment of error to the Court of Appeals, and Willamette Oaks cross-appealed and assigned error to our rejection of various aspects of its challenge to the city’s decision. The Court of Appeals rejected Willamette Oaks’ assignments of error in its cross-appeal. The Court of Appeals reversed and remanded our decision, concluding that LUBA’s decision to remand the decision to the city in order for the city to take evidence on whether the city’s appeal fee violates ORS 227.180(1)(c) was “unlawful in substance” under ORS 197.850(9)(a), because our decision failed to identify a legal basis for requiring the city to admit evidence on remand on the appeal fee issue where the city’s code precludes the city’s planning commission from accepting new evidence on appeal issues.

Accordingly, because the Court of Appeals reversed the single basis on which we remanded the city’s decision, the city’s decision is affirmed.