

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

4 FRIEDRICH KLEIN and HIEDRUN KLEIN, )

5                                   ) )  
6                                   )                                   LUBA No. 92-044  
7                                   ) )  
8                                   )                                   FINAL OPINION  
9                                   )                                   AND ORDER  
10 CITY OF HUBBARD, )  
11                                   ) )  
12                                   )                                   Respondent. )

13  
14                                   Appeal from City of Hubbard.

15  
16                                   Robert L. Liberty, Portland, filed the petition for  
17 review.

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19                                   Robert L. Engle, Woodburn, filed the response brief.

20  
21                                   KELLINGTON, Referee; HOLSTUN, Chief Referee; SHERTON,  
22 Referee, participated in the decision.

23  
24                                   REMANDED                                   6/22/92  
25

26                                   You are entitled to judicial review of this Order.  
27 Judicial review is governed by the provisions of ORS  
28 197.850.

1 Opinion by Kellington.

2 **NATURE OF THE DECISION**

3 Petitioners appeal a city ordinance amending the  
4 comprehensive plan designation for two parcels from High  
5 Density Residential to Industrial, and changing the zone  
6 from Residential/Commercial to Industrial.

7 **FACTS**

8 The two subject parcels each contain 10,000 square  
9 feet. One parcel is the site of a furniture manufacturing  
10 facility which predates the city's zoning ordinance. The  
11 other parcel is undeveloped (undeveloped parcel). The  
12 properties surrounding the subject parcels are developed  
13 with a mixture of residential and commercial uses.

14 The applicant below is the operator of the furniture  
15 manufacturing facility, who wishes to expand that business  
16 to the undeveloped parcel. The planning department  
17 recommended denial of the proposal. The city approved the  
18 proposal, and this appeal followed.

19 **FIRST ASSIGNMENT OF ERROR**

20 "The City failed to apply and comply with the  
21 Statewide Planning Goals in violation of state  
22 statutes."

23 Petitioners contend that because the challenged  
24 decision amends the city's comprehensive plan (plan), the  
25 city was required to, but did not, apply the Statewide  
26 Planning Goals (goals).

27 The city argues it is not required to adopt findings of

1 compliance with the goals. The city contends the absence of  
2 any goal findings establishes the city determined the  
3 proposal complies with the goals.

4 It is well established that to adopt a quasi-judicial  
5 plan amendment, a local government must establish the  
6 proposed amendment is in compliance with the goals.  
7 1000 Friends of Oregon v. Jackson County, 79 Or App 93, 98,  
8 718 P2d 753 (1986), rev den 301 Or 445 (1987). Further, for  
9 this Board to review an appealed decision for compliance  
10 with the goals, a local government must adopt findings  
11 adequate for review. Sunnyside Neighborhood v. Clackamas  
12 Co. Comm., 280 Or 3, 19-23, 569 P2d 1063 (1977); DLCD v.  
13 Polk County, \_\_\_ Or LUBA \_\_\_ (LUBA No. 91-044, August 14,  
14 1991), slip op 8-9.

15 In their petition for review, petitioners cite several  
16 goals they believe are applicable to the proposed plan  
17 amendment and zone change proposal, and we agree those goals  
18 appear to apply.<sup>1</sup> In amending its plan, it is a local  
19 government's obligation "to explain in its findings why  
20 apparently applicable Goal standards need not be addressed  
21 and satisfied as part of its decision." 1000 Friends of  
22 Oregon v. Washington County, 17 Or LUBA 671, 685 (1989),  
23 citing Jackson-Josephine Forest Farm Assn. v. Josephine

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<sup>1</sup>Specifically, petitioners cite Goal 2 (Land Use Planning), Goal 6 (Air, Water and Land Resources Quality), Goal 9 (Economy of the State), Goal 10 (Housing), Goal 11 (Public Facilities and Services) and Goal 12 (Transportation).

1 County, 12 Or LUBA 40, 43 (1984); Concerned Property Owners  
2 of Rocky Point v. Klamath County, 3 Or LUBA 182, 185 (1981).

3       The city neither identified any goals as applicable to  
4 the proposed plan amendment and zone change, nor explained  
5 why any of the apparently applicable goals are satisfied.  
6 We do not agree with the city that its failure to adopt  
7 findings of compliance with the goals establishes the city  
8 determined the proposal complies with the goals. Because we  
9 cannot ascertain from the challenged decision whether the  
10 challenged decision is in compliance with the goals, the  
11 challenged decision must be remanded.<sup>2</sup>

12       The first assignment of error is sustained.

13 **OTHER ASSIGNMENTS OF ERROR**

14       Petitioners include other assignments of error in their  
15 petition for review, many of which concern comprehensive  
16 plan provisions that are similar to provisions in the goals.  
17 Because the flaw in the challenged decision concerning goal  
18 compliance is so fundamental, we do not consider the  
19 remaining assignments of error.

20       The city's decision is remanded.

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<sup>2</sup>We note that the city does not cite evidence "clearly supporting" a determination that the challenged decision is in compliance with the goals. ORS 197.835(9)(b).