

1                                   BEFORE THE LAND USE BOARD OF APPEALS

2                                   OF THE STATE OF OREGON

3

4   DUANE STROUPE and LORETTA STROUPE,                                    )

5    )                   LUBA No. 96-161

6                                   Petitioners,                                )

7    )                   FINAL OPINION

8                   vs.    )                   AND ORDER

9    )

10   CLACKAMAS COUNTY,    )                   (MEMORANDUM OPINION)

11    )                   197.835(16)

12                                   Respondent.                                )

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14

15                   Appeal from Clackamas County.

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17                   Steven W. Abel and Peter D. Mostow, Portland, filed the

18   petition for review and Peter D. Mostow argued on behalf of

19   petitioner. With them on the brief was Stoel Rives.

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21                   Susie L. Huva, Assistant County Counsel, Oregon City,

22   filed the response brief and argued on behalf of respondent.

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24                   HANNA, Chief Referee; GUSTAFSON, Referee, participated

25   in the decision.

26

27                   AFFIRMED   01/23/97

28

29                   You are entitled to judicial review of this Order.

30   Judicial review is governed by the provisions of ORS

31   197.850.

1 Opinion by Hanna.

2 **NATURE OF THE DECISION**

3 Petitioners appeal the county's denial of a conditional  
4 use permit to receive, process and sell wood and other  
5 vegetable waste and landscape materials in a Rural  
6 Residential Farm Forest 5 Acre zone.

7 **DISCUSSION**

8 This is the second time this matter is before us. In  
9 Stroupe v. Clackamas County, 28 Or LUBA 107 (1994), we  
10 remanded the decision for the county to (1) explain the  
11 scope of "farm use" as used in its code, (2) identify the  
12 "local rural community" for purposes of applying its code,  
13 and (3) determine if petitioners' operation is in  
14 conjunction with farm or forest uses in the local rural  
15 community. On remand the county addressed each of these  
16 issues. In this appeal of the county's remand decision, for  
17 the reasons set forth in the county's brief, petitioners  
18 have not established any legal basis upon which the  
19 challenged decision is subject to remand or reversal.

20 The city's decision is affirmed.