

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

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3  
4 GENSTAR LAND COMPANY NORTHWEST, )  
5 )  
6 Petitioner, )  
7 )  
8 vs. )  
9 )  
10 CITY OF SHERWOOD, )  
11 )  
12 Respondent, )  
13 )  
14 and )  
15 )  
16 ROBERT JAMES CLAUS, )  
17 )  
18 Intervenor-Respondent, )  
19 )  
20 and )  
21 )  
22 LAWRENCE JAMES ERNSTER, )  
23 )  
24 Intervenor-Respondent, )  
25 )  
26 and )  
27 )  
28 KEITH HOWE, )  
29 )  
30 Intervenor-Respondent. )

LUBA No. 98-208  
FINAL OPINION  
AND ORDER

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33 Appeal from City of Sherwood.

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35 Jack L. Orchard, Portland, represented petitioner.

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37 Derryck H. Dittman, Tigard, represented respondent.

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39 R. James Claus, Sherwood, appeared on his own behalf.

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41 Lawrence J. Ernster, Sherwood, appeared on his own behalf.

42  
43 Keith Howe, Sherwood, appeared on his own behalf.

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45 HOLSTUN, Board Chair; BASSHAM, Board Member; BRIGGS, Board Member,

1 participated in the decision.

2

3 DISMISSED

09/03/99

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

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1 HOLSTUN, Board Chair.

2 On August 13, 1998, petitioner filed a notice with LUBA, which states:

3 "Based on a separate stipulation between Petitioner and Respondent,  
4 Petitioner hereby withdraws its appeal of this matter and moves the Board for  
5 an order dismissing this appeal on the basis of Petitioner's withdrawal."

6 Intervenors-respondent Claus and Ernster (intervenors) separately object to our dismissal of  
7 this appeal based on the above described notice.

8 Intervenors' objections are based on concerns about the possible legal effect of our  
9 dismissal regarding the referenced stipulation between petitioner and respondent.  
10 Intervenors are not parties to that stipulation and are uncertain of the scope of agreements  
11 that may have been reached by petitioner and respondent. However, as we noted in a prior  
12 order in this appeal, our dismissal of an appeal at petitioner's request expresses no opinion on  
13 the merits of any underlying agreement or any actions taken by the city that may form the  
14 basis for petitioner's decision to request that its appeal be dismissed. Genstar Land Company  
15 Northwest v. City of Sherwood, \_\_\_ Or LUBA \_\_\_ (LUBA No. 98-208, Order, August 6,  
16 1999). With that understanding, our concerns with petitioner's prior request that this appeal  
17 be dismissed are resolved in the August 13, 1999 notice.

18 The appeal is dismissed.