

26.6 LUBA Jurisdiction – Mootness. Where a county has approved a petitioner’s application for a nonfarm dwelling subject to a condition of approval; where the petitioner has constructed the nonfarm dwelling and related improvements; where the petitioner appeals a subsequent letter from county counsel concluding that the petitioner had not satisfied the condition and, thus, that the approval had expired; and where LUBA concludes that it lacks jurisdiction to review the letter; but where the county or an opponent may commence an enforcement action requiring the petitioner to remove the nonfarm dwelling and related improvements that may involve the county’s interpretation of the condition, LUBA will conclude that the issues raised in the appeal are not moot and transfer the appeal to circuit court, rather than dismissing the appeal. *Schofield v. Douglas County*, 81 Or LUBA 143 (2020).

26.6 LUBA Jurisdiction – Mootness. When all appeal fees originally charged by the county are refunded and the county has conceded that no appeal fees should have been charged, an opinion issued by LUBA would be in essence an advisory opinion. LUBA typically declines to issue advisory opinions. *Central Oregon Landwatch v. Deschutes County*, 78 Or LUBA 136 (2018).

26.6 LUBA Jurisdiction – Mootness. LUBA will not suspend a proceeding where petitioners have not established that LUBA’s resolution of the pending LUBA appeal would likely be rendered moot by a concurrently pending circuit court proceeding. Although a circuit court could ultimately decide, in a future remand proceeding from the Court of Appeals, to grant petitioners full injunctive relief which could potentially be in conflict with, or moot LUBA’s ruling, where such an outcome is extremely likely, LUBA will not grant petitioners’ motion for stay. LUBA is a creature of statute, and can exercise only those powers granted by the legislature, and according to ORS 197.805 and ORS 197.830(10)(a), LUBA’s mandate is that “time is of the essence in reaching final decisions in matters involving land use.” *Bishop v. Deschutes County*, 78 Or LUBA 1050 (2018).

26.6 LUBA Jurisdiction – Mootness. LUBA will deny petitioners’ motion for reconsideration of a motion to stay the proceedings, where petitioners argue for the first time that LUBA should grant a continuance under ORS 197.840(1)(d) and (2), and to suspend the 77-day deadline to resolve an appeal, where LUBA considered petitioners’ arguments and responses thereto in the underlying motion to stay the proceedings, and LUBA remains unpersuaded that, to the extent the “ends of justice” would be served by indefinitely suspending the appeal, those ends outweigh the best interest of the public and the parties in meeting the 77-day deadline. *Bishop v. Deschutes County*, 78 Or LUBA 1075 (2018).

26.6 LUBA Jurisdiction – Mootness. LUBA will decline to dismiss an appeal as moot based on extra-record evidence that the factual predicate for four of the assignments of error has been eliminated, where even if the evidence were properly before LUBA, the movant has not established that the changed factual predicate fully resolves the four assignments of error, or otherwise would render LUBA’s review of no practical effect. *McNichols v. City of Canby*, 78 Or LUBA 1090 (2018).

26.6 LUBA Jurisdiction – Mootness. An argument that the issue raised in an assignment of error is waived is not a basis to dismiss the appeal as moot. If LUBA agrees with that argument, the

appropriate disposition would be to deny the assignment of error and affirm the local government's decision, not to dismiss the appeal as moot. *McNichols v. City of Canby*, 78 Or LUBA 1090 (2018).

26.6 LUBA Jurisdiction – Mootness. A declaration signed by the county planning manager that a land use compatibility decision on appeal to LUBA is no longer “valid” is a sufficient basis for LUBA to conclude that the appeal is moot, notwithstanding the informality of the declaration and the absence of express words of revocation or rescission. *Bishop v. Deschutes County*, 77 Or LUBA 15 (2018).

26.6 LUBA Jurisdiction – Mootness. The “capable of repetition” prong of ORS 14.175 is not satisfied by the hypothetical possibility that in the future the applicant for a land use decision that the applicant has abandoned and the county has declared invalid could file a new application to obtain a new decision on the same terms or attempt to persuade the county to revive the invalid decision. If ORS 14.175 were that easy to satisfy, it would be nearly impossible for a local government to moot an appeal by revoking or rescinding the decision on appeal. *Bishop v. Deschutes County*, 77 Or LUBA 15 (2018).

26.6 LUBA Jurisdiction – Mootness. Where LUBA dismisses as moot an appeal of a land use decision, LUBA will also dismiss as moot a companion appeal of a decision rejecting the local appeal of the moot decision. *Bishop v. Deschutes County*, 77 Or LUBA 15 (2018).

26.6 LUBA Jurisdiction – Mootness. Where LUBA cannot tell what legal effect, if any, an applicant's decision to “abandon/withdraw” its application for a permit approval has on the resulting permit approval decision that is the subject of a pending LUBA appeal, the appeal is not moot. *Hagan v. City of Grants Pass*, 76 Or LUBA 196 (2017).

26.6 LUBA Jurisdiction – Mootness. A decision by the electorate to reject an annexation that has been approved by the governing body renders moot a pending LUBA appeal of the land use decision that approved the annexation. *Altamont Homeowners' Association v. City of Happy Valley*, 76 Or LUBA 338 (2017).

26.6 LUBA Jurisdiction – Mootness. Where a challenged local government land use decision has been rescinded by the local government, and the decision rescinding the challenged decision has not been appealed, any decision LUBA might reach on the merits of the challenged decision would be without practical effect, and LUBA will dismiss the appeal as moot. *Altamont Homeowners' Association v. City of Happy Valley*, 76 Or LUBA 338 (2017).

26.6 LUBA Jurisdiction – Mootness. Where a city's voters reject an annexation, that rejection has the legal effect of rescinding the previously adopted city council land use decision approving annexation, and the voters' rejection of the annexation renders any decision LUBA might reach on the merits of the land use decision approving annexation without practical effect, and the appeal is therefore moot. *Altamont Homeowners' Association v. City of Happy Valley*, 76 Or LUBA 338 (2017).

26.6 LUBA Jurisdiction – Mootness. Where intervenor applied for, and received, two consecutive land use compatibility statements (LUCS), and argues it has now abandoned any

reliance on the first LUCS decision, and instead has chosen to proceed with development pursuant to the second LUCS decision, the intervenor's current intent does not necessarily render the first LUCS decision ineffective. Unless and until the local government takes action to withdraw, revoke, or supersede the first LUCS decision, it remains as a potential basis for intervenor to proceed with development based on the LUCS as a final and binding county decision, and is therefore not moot. *Bishop v. Deschutes County*, 76 Or LUBA 515 (2017).

26.6 LUBA Jurisdiction – Mootness. Where mootness is at issue, the jurisdictional arguments tend to evolve over the course of the pleadings or can be updated by more recent events. Where intervenor's reply memorandum adds a new argument to its motion to dismiss on the basis of mootness—that the appeals are moot based on a letter the intervenor recently sent to a state agency—and petitioners have responded to that new argument in a motion to strike, LUBA will consider both the reply memorandum and petitioners' countervailing arguments in resolving the pending motion to dismiss. *Bishop v. Deschutes County*, 76 Or LUBA 515 (2017).

26.6 LUBA Jurisdiction – Mootness. An appeal of a county's decision concluding that a tract consists of three legal lots of record is not mooted by, or a collateral attack upon, the county's subsequent unappealed decision to approve property line adjustments between the lots, where the property line decision was based on the prior lot of record determination and does not provide an independent basis for that determination. *Grimstad v. Deschutes County*, 74 Or LUBA 360 (2016).

26.6 LUBA Jurisdiction – Mootness. Petitioner's appeal of a decision approving several property line adjustments is not rendered moot by the applicant's reapplication for approval of the property line adjustments, where the decision on the reapplication is not yet final and the applicant could withdraw that reapplication at any time. *Bowerman v. Lane County*, 74 Or LUBA 644 (2016).

26.6 LUBA Jurisdiction – Mootness. An appeal of a decision granting property line adjustments that was rendered without providing notice and an opportunity for a local appeal is not rendered moot by a reapplication followed by notice and an opportunity for appeal, where petitioner's petition for review is not limited to assigning error to the failure to provide notice and an opportunity for local appeal and also assigns error to the substance of the property line adjustment decision. *Bowerman v. Lane County*, 74 Or LUBA 644 (2016).

26.6 LUBA Jurisdiction – Mootness. Where an application for property line adjustments is appealed to LUBA, while that appeal is pending at LUBA the local government lacks jurisdiction to accept a reapplication for those property line adjustments and render a modified decision on the application. *Bowerman v. Lane County*, 74 Or LUBA 644 (2016).

26.6 LUBA Jurisdiction – Mootness. A local governing body's decision to deny an application to extend a previously approved CUP that was subject to a former version of the local code does not have any effect on a planning director's decision that was made after a different application was filed under a newly enacted version of the local code and does not render an appeal to LUBA of that planning director decision moot. *Devin Oil Co. Inc. v. Morrow County*, 70 Or LUBA 420 (2014).

26.6 LUBA Jurisdiction – Mootness. An appeal challenging a zoning classification decision that a methadone clinic is permitted in a professional office zone is not rendered moot by the commencement of operation of the methadone clinic. One of the possible outcomes of the appeal is a remand such that the methadone clinic would not be permitted to operate in the zone. *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013).

26.6 LUBA Jurisdiction – Mootness. LUBA has no authority to issue declaratory rulings regarding the county’s “underlying practices” or whether the county’s land use regulations comply with state law. *Friends of Douglas County v. Douglas County*, 67 Or LUBA 29 (2013).

26.6 LUBA Jurisdiction – Mootness. An exception to the general prohibition on LUBA deciding moot appeals, for decisions that are “capable of repetition, yet evading review,” is not applicable where the applicant withdraws the application, and the local code specifies that a withdrawal of an application after a decision is made by the county renders the decision “void.” In that circumstance, LUBA will dismiss the appeal as moot, because the county’s alleged procedural errors in failing to process an application as a statutory permit and to provide notice and an opportunity for public participation are capable of being reviewed in a future appeal of a different decision on a different application. *Friends of Douglas County v. Douglas County*, 67 Or LUBA 29 (2013).

26.6 LUBA Jurisdiction – Mootness. Where a county has issued temporary use permits to authorize a music festival on EFU-zoned land for the past two years, the record strongly suggests the county will be asked to issue additional such permit in the future, and those permits are issued so close to the day of the music festival that there is not time to appeal the temporary use permit to LUBA and receive a decision on the merits, the “capable of repetition yet evading review” exception to the mootness doctrine applies and LUBA has jurisdiction to consider the appeal. *Wetherell v. Douglas County*, 66 Or LUBA 454 (2012).

26.6 LUBA Jurisdiction – Mootness. In its decision in *Yancy v. Shatzer*, 337 Or 345, 359-60, 97 P3d 1161 (2004), the Oregon Supreme Court held that the power granted to the judicial branch under the Oregon Constitution does not permit courts to decide moot cases, even if they are capable of repetition yet evading review. However LUBA is not a judicial branch court and is not similarly limited, and LUBA does apply the generally accepted mootness doctrine exception for moot cases that are capable of repetition yet evading review. *Wetherell v. Douglas County*, 66 Or LUBA 454 (2012).

26.6 LUBA Jurisdiction – Mootness. While a decision to extend an ORS 215.402 permit decision pursuant to discretionary extension standards may also constitute a separate permit decision, the legal effect of such an extension is to extend the expiration date of the underlying permit approval, not to supersede or re-authorize the underlying permit approval. Therefore, the issuance of a permit extension does not moot an appeal of the underlying permit decision to LUBA. *Jones v. Douglas County*, 63 Or LUBA 261 (2011).

26.6 LUBA Jurisdiction – Mootness. A local government cannot moot an otherwise properly filed appeal of an ORS 215.402 permit decision to LUBA by issuing subsequent ministerial approvals, such as building permits, intended to implement the appealed permit decision. *Jones v. Douglas County*, 63 Or LUBA 261 (2011).

26.6 LUBA Jurisdiction – Mootness. An appeal by four property owners that challenges a county decision that finds that noise from a wind generating facility does not violate noise standards with regard to three residences is not rendered moot by the county’s finding that the wind generating facility must be modified so that it does not violate the noise standard with regard to a fourth dwelling, where the evidentiary record does not show that the measures that will be taken to meet the noise standard at the fourth dwelling will also be adequate to meet the noise standard at the three dwellings. *Mingo v. Morrow County*, 63 Or LUBA 357 (2011).

26.6 LUBA Jurisdiction – Mootness. Where there is no dispute that an ordinance appealed to LUBA has been repealed, review of the ordinance would have no practical effect, even where a local government adopted other decisions based on the repealed ordinance while it was effective, and LUBA will dismiss the appeal of the repealed ordinance. *Jacobsen v. City of Winston*, 61 Or LUBA 465 (2010).

26.6 LUBA Jurisdiction – Mootness. Where a city readopts an earlier land use decision that authorized an election on a proposed annexation so that the proposed annexation would be sent to the voters for a second time, petitioners are entitled to challenge that readopted land use decision at LUBA, notwithstanding that an earlier LUBA appeal of the first land use decision was dismissed as moot after the voters rejected the annexation proposal. But where the voters reject the proposed annexation at the second election, before LUBA issues its decision on the merits, the second appeal must also be dismissed as moot. *Kehoe v. City of Oregon City*, 58 Or LUBA 552 (2009).

26.6 LUBA Jurisdiction – Mootness. LUBA’s review of a city’s extension of an invalidated moratorium would have no practical effect where that extension has expired, and dismissal of the LUBA appeal is the appropriate remedy. *Thunderbird Hotels, LLC v. City of Portland*, 56 Or LUBA 430 (2008).

26.6 LUBA Jurisdiction – Mootness. Even though a zoning compliance letter that authorizes certain uses and allows for permits to be obtained for one year has expired, the decision that those uses are allowed is a land use decision and it does not become moot once the one-year period for acting on that authorization expires and permits have been obtained. *Examilotis v. Coos County*, 55 Or LUBA 675 (2007).

26.6 LUBA Jurisdiction – Mootness. Petitioners’ argument that a prior zoning ordinance did not allow a mushroom buying business is moot, where the currently applicable zoning ordinance that replaced the prior zoning ordinance does not allow a mushroom buying business and would apply to any application for a mushroom buying business in the future. *Robson v. City of La Grande*, 54 Or LUBA 10 (2007).

26.6 LUBA Jurisdiction – Mootness. Any assignments of error directed at a decision that LUBA has reversed in a consolidated appeal are moot, and hence LUBA will dismiss as moot an appeal limited to such assignments of error. *Grabhorn v. Washington County*, 50 Or LUBA 344 (2005).

26.6 LUBA Jurisdiction – Mootness. An appeal to LUBA is not moot simply because the local government mails another copy of the challenged decision to the parties, with a “corrected”

attachment, during the course of the LUBA appeal, where it is clear that the local government did not intend the re-mailed decision to replace the challenged decision, and the re-mailed decision does not purport to do so. *Grabhorn v. Washington County*, 49 Or LUBA 746 (2005).

26.6 LUBA Jurisdiction – Mootness. The fact that LUBA has in a previous decision remanded plan amendments that petitioners allege prohibit a grading permit on the subject property does not moot an appeal of a grading permit for the property to LUBA, where (1) it is not clear that LUBA’s remand rendered the plan amendments ineffective and (2), even if the amendments are ineffective, the unamended plan provisions include similar operative language that arguably prohibits the challenged permit decision. *Jaqua v. City of Springfield*, 46 Or LUBA 566 (2004).

26.6 LUBA Jurisdiction – Mootness. LUBA will dismiss as moot appeals of ordinances adopting a city’s comprehensive plan and land use regulations, where those ordinances are superseded by county plan and zoning regulations encompassing the same geographic area. *McGreer v. City of Rajneeshpuram*, 46 Or LUBA 607 (2004).

26.6 LUBA Jurisdiction – Mootness. A decision that effectively withdraws or repeals an earlier decision finding that a disputed berm requires a county permit, and that reserves final judgment on that issue to a subsequent decision, moots an appeal of the earlier decision. *Grabhorn v. Washington County*, 46 Or LUBA 672 (2004).

26.6 LUBA Jurisdiction – Mootness. An appeal of a resolution that authorizes a city to acquire property is not moot where the city has acquired only a part of the property that the resolution authorizes the city to purchase. *Willamette Oaks, LLC v. City of Eugene*, 46 Or LUBA 813 (2004).

26.6 LUBA Jurisdiction – Mootness. An appeal of a county decision verifying a nonconforming use is not necessarily moot simply because the subject property is annexed into a city after the appeal to LUBA is filed. Although city annexation means that the county loses jurisdiction over the subject property, annexation does not affect the validity of the county decision, and LUBA’s review of the county decision will continue to have a practical effect on the parties. *Leach v. Lane County*, 45 Or LUBA 580 (2003).

26.6 LUBA Jurisdiction – Mootness. Plan amendment and development approvals that are contingent upon voter approval of an annexation are not necessarily mooted by failure of the annexation election, where the plan amendment and development approvals are not contingent upon a specific election, and may yet take effect if there is a successful future annexation referral. *Mason v. City of Corvallis*, 45 Or LUBA 682 (2003).

26.6 LUBA Jurisdiction – Mootness. LUBA will dismiss as moot an appeal of a permit that expired by operation of a local rule during the three-year period when the parties had stipulated to suspend the appeal before LUBA. *Rest Haven Memorial Park v. City of Eugene*, 44 Or LUBA 228 (2003).

26.6 LUBA Jurisdiction – Mootness. Where the challenged permit has expired, LUBA’s decision on the merits of an appeal of the permit would have no effect on the rights or obligations of the

parties under the permit, and would constitute an advisory opinion. LUBA has no jurisdiction to render advisory opinions. *Rest Haven Memorial Park v. City of Eugene*, 44 Or LUBA 231 (2003).

26.6 LUBA Jurisdiction – Mootness. Findings adopted after a land use decision is appealed to LUBA cannot support that decision, and do not moot the appeal. *West Side Rural F.P.D v. City of Hood River*, 43 Or LUBA 546 (2003).

26.6 LUBA Jurisdiction – Mootness. LUBA will consider documents that are not included in the record in deciding whether an appeal is moot. *Willhoft v. City of Gold Beach*, 39 Or LUBA 743 (2000).

26.6 LUBA Jurisdiction – Mootness. Where LUBA has determined in a prior earlier appeal that a conditional use permit has expired, a subsequent appeal challenging a city decision that refuses to revoke the conditional use permit or delete certain conditions of approval in the conditional use permit is moot. *Willhoft v. City of Gold Beach*, 39 Or LUBA 353 (2001).

26.6 LUBA Jurisdiction – Mootness. Where a local government adopts modified findings in support of a land use compatibility statement and the modified findings are appealed to LUBA, an earlier appeal of the land use compatibility statement will be dismissed as moot because review of the earlier decision would have no practical effect. *Friends of Clean Living v. Polk County*, 36 Or LUBA 544 (1999).

26.6 LUBA Jurisdiction – Mootness. Petitioners’ appeal of a zone change approval is not rendered moot by a contemporaneous comprehensive plan amendment that redesignates the subject property from “Urban Area Reserve” to “Urban Area.” Although a county cannot allow more intensive uses on property than are allowed by the plan, it may impose more restrictive zoning than would be permitted under the plan. *Alliance for Responsible Land Use v. Deschutes County*, 33 Or LUBA 12 (1997).

26.6 LUBA Jurisdiction – Mootness. Issues raised concerning a local government’s interpretation of code demolition delay provisions are moot if (1) no stay of the challenged decision was requested from or granted by LUBA, the historic building in question was demolished, and petitioner does not contend it could be restored; or (2) even under petitioner’s suggested interpretation of the demolition delay provisions, the demolition delay period has expired. *Champion v. City of Portland*, 28 Or LUBA 618 (1995).

26.6 LUBA Jurisdiction – Mootness. Where a code provision is challenged on the basis that it is inconsistent with the requirements of the statute it implements, but the code provision is subsequently amended so that it is consistent with the statute, the challenge to the prior code provision is moot. *DLCD v. Douglas County*, 28 Or LUBA 242 (1994).

26.6 LUBA Jurisdiction – Mootness. Where the trees that are the subject of the challenged city decision authorizing removal of trees within a city right-of-way have been cut and removed, LUBA review will have no practical effect, and LUBA will dismiss the appeal as moot. *Gettman v. City of Bay City*, 28 Or LUBA 121 (1994).

26.6 LUBA Jurisdiction – Mootness. Where a local government renders a final decision approving an application for land use approval, and that decision is appealed to LUBA, the LUBA appeal is not rendered moot by withdrawal of the application for land use approval, where the local code does not make it clear that withdrawal of the application in such circumstances has any legal effect on the local government’s final decision. *Davis v. City of Bandon*, 28 Or LUBA 38 (1994).

26.6 LUBA Jurisdiction – Mootness. A LUBA appeal of a local government decision applying local code historic landmark and demolition delay provisions is not moot, simply because those provisions involve voluntary efforts to preserve historic resources and do not authorize the local government to prohibit demolition. *Historical Development Advocates v. City of Portland*, 27 Or LUBA 617 (1994).

26.6 LUBA Jurisdiction – Mootness. Allegations that a local code provision consolidating commonly owned parcels conflicts with ORS 92.017, which provides that a lawfully created lot or parcel shall remain a discrete lot or parcel, are rendered moot and provide no basis for reversal or remand, where the parcels in question were combined in an approved and recorded plat. *Van Veldhuizen v. Marion County*, 26 Or LUBA 468 (1994).

26.6 LUBA Jurisdiction – Mootness. Where a challenged local government land use decision has been rescinded by the local government, and the decision rescinding the challenged decision has not been appealed, any decision LUBA might reach on the merits of the challenged decision would be without practical effect and LUBA will dismiss the appeal as moot. *Heiller v. Josephine County*, 25 Or LUBA 555 (1993).

26.6 LUBA Jurisdiction – Mootness. In determining whether a land use decision is moot, the question is whether a decision by LUBA on the merits would resolve merely an abstract question and be without practical effect. *Forest Highlands Neigh. Assoc. v. City of Lake Oswego*, 24 Or LUBA 215 (1992).

26.6 LUBA Jurisdiction – Mootness. Where it is not clear from the local code that the applicant’s withdrawal of a permit application after the local government makes a decision approving it has any effect on that decision, the withdrawal does not in itself make an appeal of such decision to LUBA moot. *Berg v. Linn County*, 22 Or LUBA 507 (1992).

26.6 LUBA Jurisdiction – Mootness. When LUBA’s decision on the merits of an appeal will be without practical effect, LUBA will dismiss the appeal as moot. LUBA does not have authority in these circumstances to remand the challenged decision to the local government with instructions to dismiss the local proceedings as moot. *Barr v. City of Portland*, 22 Or LUBA 504 (1991).

26.6 LUBA Jurisdiction – Mootness. Where it is not clear from the local code that the applicant’s withdrawal of a permit application *after* the local government makes a decision approving it has any effect on that decision, the withdrawal does not necessarily make an appeal of such decision to LUBA moot. *Gilson v. City of Portland*, 22 Or LUBA 343 (1991).

26.6 LUBA Jurisdiction – Mootness. LUBA does not have authority to take official notice of adjudicative facts, as set out in OEC 201. LUBA’s review is limited by ORS 197.830(13)(a) to the

record of the proceeding below, except in instances where an evidentiary hearing is authorized by ORS 197.830(13)(b), and where facts outside the record are essential to determining whether LUBA has jurisdiction or whether an appeal is moot. *Blatt v. City of Portland*, 21 Or LUBA 337 (1991).

26.6 LUBA Jurisdiction – Mootness. Where a subsequent local government decision is substantially identical to a prior decision, is based on the same findings and evidentiary record and does not purport to supersede or rescind the earlier decision, the subsequent decision does not moot an appeal to LUBA challenging the earlier decision. *Tice v. Josephine County*, 21 Or LUBA 550 (1991).

26.6 LUBA Jurisdiction – Mootness. LUBA will dismiss an appeal as moot, where review would have no practical effect. *Davis v. City of Bandon*, 19 Or LUBA 526 (1990).

26.6 LUBA Jurisdiction – Mootness. Where a moratorium challenged at LUBA expires, but the moratorium has been extended by a subsequent moratorium which is the subject of a later LUBA appeal and the subsequent moratorium is also likely to expire before a final decision can be issued in the LUBA appeal challenging that moratorium, LUBA’s decision in the appeal challenging the first moratorium may influence the local government’s decision to adopt additional moratoria and, therefore, may have practical effect. *Davis v. City of Bandon*, 19 Or LUBA 526 (1990).

26.6 LUBA Jurisdiction – Mootness. The exception to the judicial doctrine of mootness to provide guidance to administrative agencies in cases involving the public welfare has been significantly narrowed by the Oregon Supreme Court. If the only reason for continuing with an appeal challenging an expired moratorium was the public interest in knowing whether the expired moratorium was properly enacted, the appeal would have to be dismissed as moot. *Davis v. City of Bandon*, 19 Or LUBA 526 (1990).

26.6 LUBA Jurisdiction – Mootness. Where a local government adopts successive moratoria with effective dates which guarantee LUBA will be unable to reach the merits of a challenged moratorium before it expires, and petitioner does everything possible to bring the appeal to a conclusion before the challenged moratorium expires and is replaced by another moratorium, the exception to the judicial doctrine of mootness for cases capable of repetition yet evading review is applicable. *Davis v. City of Bandon*, 19 Or LUBA 526 (1990).

26.6 LUBA Jurisdiction – Mootness. Petitioners’ appeal of a decision adopting a moratorium is not rendered moot by the expiration of the moratorium, where invalidation of the challenged moratorium may entitle petitioners to have their application for land development approval reviewed under standards in effect when the challenged moratorium was adopted, rather than under subsequently adopted land use regulations. *Davis v. City of Bandon*, 19 Or LUBA 523 (1990).