

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Where the petitioner prevails in at least one assignment of error that results in the challenged decision being reversed or remanded based on that sustained assignment of error, LUBA considers the petitioner the prevailing party and entitled to an award of the filing fee from respondents. The fact that the petitioner did not prevail on a majority of assignments of error is immaterial. *Curl v. City of Bend*, 59 Or LUBA 513 (2009).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** There may be rare circumstances where a sustained cross-assignment of error has such a disproportionate impact upon the remand proceeding that it calls into question whether the petitioner is the prevailing party. When the sustained cross-assignment of error merely serves to clear up alleged errors in the wording of conditions of approval, that does not mean the petitioner is no longer the prevailing party. *Curl v. City of Bend*, 59 Or LUBA 513 (2009).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Delaying oral argument in an appeal of a local government’s decision following a remand from LUBA is not an authorized sanction for the local government’s delay in responding to an order awarding costs to petitioners in the prior appeal that led to the remand. *Rice v. City of Monmouth*, 52 Or LUBA 786 (2006).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Where there is uncertainty regarding which of two city council decisions denying local appeals of a hearings officer decision had the effect of making the hearings officer’s decision final, and petitioners appeal both of those city council decisions to LUBA and no party moves to dismiss either of those appeals, the prevailing petitioners are entitled to recover both filing fees as costs under OAR 661-010-0075(1)(b)(A). *Save Our Skyline v. City of Bend*, 48 Or LUBA 643 (2004).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Where a petitioner moves to withdraw the notice of intent to appeal and LUBA dismisses the appeal before the deadline for filing the petition for review expires, the petitioner does not fail to file a timely petition for review and the prevailing respondent is not entitled to an enhanced award of costs under OAR 660-010-0075(1)(c). *Holtzman v. Jefferson County*, 47 Or LUBA 618 (2004).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Costs will not be awarded to a local government for preparing a local record, where the parties stipulate to dismiss the appeal prior to the city’s filing of the record at LUBA. *Citizens for Resp Area Plng v. City of Wilsonville*, 44 Or LUBA 819 (2003).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** The scope of reimbursable copying costs allowed by OAR 661-010-0075(1)(b) to a prevailing local government is limited to the cost of copying “pages” of the record, and does not include the costs of copying audio tapes. *Neighbors for Sensible Dev. v. City of Sweet Home*, 40 Or LUBA 563 (2001).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** A cost bill filed on behalf of a local government must be filed by the local government’s attorney. A cost bill filed on behalf of a local government by someone other than a member of the Oregon State Bar will be denied. *Marine Street LLC v. City of Astoria*, 37 Or LUBA 1018 (2000).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** LUBA considers filing a cost bill eight days later than required by OAR 661-10-075(1)(a) to be a technical violation of its rules that will not interfere with LUBA’s consideration of the cost bill unless a party’s substantial rights are prejudiced. *Jones v. Lane County*, 29 Or LUBA 573 (1995).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** It is LUBA’s practice to return to petitioner any portion of petitioner’s deposit for costs that is not awarded to respondent. It is not necessary for petitioner to request refund of the unused portion of its deposit for costs. *Murphy Citizens Advisory Comm. v. Josephine County*, 25 Or LUBA 794 (1993).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Although LUBA’s rules authorize award of a petitioner’s filing fee to *respondent* in certain circumstances (OAR 661-10-075(1)(c)), they do not provide for return of a filing fee to petitioner. *Totman v. City of Grants Pass*, 24 Or LUBA 46 (1992).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** LUBA considers filing a cost bill two days later than required by OAR 661-10-075(1)(a) to be a technical violation of its rules which will not interfere with LUBA’s consideration of the cost bill unless the parties’ substantial rights are prejudiced. *Schatz v. City of Jacksonville*, 21 Or LUBA 569 (1991).

**27.12.4 LUBA Procedures/Rules – Costs – Generally.** Where petitioner’s cost bill is filed 38 days after LUBA’s final opinion and order was issued, without a request for an extension of time or an explanation as to why the cost bill could not have been filed in accord with OAR 661-10-075(1)(a), the cost bill is untimely and will be denied. *1000 Friends of Oregon v. Marion County*, 18 Or LUBA 906 (1990).