39.1 Boundary Changes – Generally. Where a right-of-way vacation process was initiated by a city council and could be abandoned at any time after initiation, the first *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), factor, which is whether the process is bound to result in a decision, suggests the decision is legislative rather than quasi-judicial. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

39.1 Boundary Changes – Generally. Where a right-of-way vacation decision was bound to "apply preexisting criteria to concrete facts,' the second *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), factor suggests the decision is quasi-judicial rather than legislative. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

39.1 Boundary Changes – Generally. The third *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 601 P2d 769 (1979), factor is whether the action is directed at a closely circumscribed factual situation or a relatively small number of persons. Where a decision vacates a vacant alley right-of-way over a small, 673-square-foot area with a handful of adjoining property owners, the third *Strawberry Hill 4 Wheelers* factor suggests the decision is quasi-judicial rather than legislative. *Heitsch v. City of Salem*, 65 Or LUBA 187 (2012).

39.1 Boundary Changes – Generally. A regional government code provision that requires local government comprehensive plans to include a legal requirement that property be annexed before the property is allowed to urbanize has no bearing on whether a local government may annex property before completing legally required concept planning for the annexed area. *Graser-Lindsey v. City of Oregon City*, 56 Or LUBA 504 (2008).

39.1 Boundary Changes – Generally. A city comprehensive plan policy that a concept plan should be adopted to guide zoning does not require that the concept plan be adopted before the property that will be the subject of that concept plan can be annexed. *Graser-Lindsey v. City of Oregon City*, 56 Or LUBA 504 (2008).

39.1 Boundary Changes – Generally. A city does not err by interpreting a comprehensive plan policy that requires the city to "annex lands to the city through a process that considers the effects on public services" to allow it to defer such consideration to an ongoing but unfinished concept planning process where: (1) the concept plan will precede actual urbanization of the annexed areas, (2) the plan will provide the basis for planning and zoning of annexed areas for urban development, and (3) the concept plan will determine how public facilities are extended to annexed areas as they urbanize. *Graser-Lindsey v. City of Oregon City*, 56 Or LUBA 504 (2008).

39.1 Boundary Changes – Generally. A city does not err by interpreting a code requirement that "adequacy and availability of public facilities and services" be "considered" as a "factor" in reviewing annexation proposals to allow it to defer needed public facility planning to an ongoing but incomplete concept planning process where: (1) annexation, in and of itself, authorizes no additional urban development of the annexed property, (2) no urban development of the annexed property could be allowed under the zoning that will remain in place following annexation, (3) no urban development would be allowed until the concept plan is adopted to allow urbanization of the annexed area, and (4) the concept plan will be required to address the public facilities and

services that will be needed for urbanization of the annexed area. *Graser-Lindsey v. City of Oregon City*, 56 Or LUBA 504 (2008).

39.1 Boundary Changes – Generally. No legal authority supports an assignment of error alleging that filing a tax assessor's form with the tax assessor's office had the legal effect of vacating parcel lines to create a single parcel of land. *Chaves v. Jackson County*, 56 Or LUBA 643 (2008).

39.1 Boundary Changes – Generally. A city decision to defer making a decision about whether a recently enacted statute operates retroactively to invalidate an annexation ordinance while the property owner's appeal of that annexation ordinance is pending before the Court of Appeals is not a final decision, and, because it is not a final decision, it is not a land use decision subject to review by LUBA. *Leupold & Stevens, Inc. v. City of Beaverton*, 53 Or LUBA 203 (2007).

39.1 Boundary Changes – Generally. A property owner's request that a city apply a statute to invalidate a previously enacted annexation ordinance is not an application for a boundary change, which would require that the city adopt a land use decision. *Leupold & Stevens, Inc. v. City of Beaverton*, 53 Or LUBA 203 (2007).

39.1 Boundary Changes – Generally. ORS 268.347(1) is ambiguous in providing that a metropolitan service district has jurisdiction over boundary changes "within the boundaries of the district," because it is not clear whether the legislature intended that the district has jurisdiction only if the entire territory affected by the boundary changes is within the district, or if the district has jurisdiction if any part of the territory affected by the change is within the district. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

39.1 Boundary Changes – Generally. Under ORS 268.347(1), a metropolitan service district has jurisdiction over boundary changes "within all territory designated as urban reserves" prior to June 30, 1997, even if the decision establishing those urban reserves was subsequently overturned and the territory affected by the boundary change is no longer designated as an urban reserve. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

39.1 Boundary Changes – Generally. Absent some textual or contextual reason to conclude otherwise, LUBA will not presume that a special district boundary change regulation listing certain "urban services" is intended to incorporate the distinctions between "urban," "urbanizable" and "rural" lands articulated in *1000 Friends of Oregon v. Curry County*, 301 Or 447, 724 P2d 268 (1986). *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

39.1 Boundary Changes – Generally. Intergovernmental agreements concerning the provision of water service are "agreement[s] for provision of an urban service" for purposes of establishing who is a necessary party to a boundary change under special district regulations, even if those agreements do not qualify as ORS 195.065 urban service agreements. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

39.1 Boundary Changes – Generally. While ORS 195.065 envisions that the focus of required urban service agreements will be on providing urban services inside UGBs, nothing in that statute precludes including provisions in the agreement for providing urban services to lands lying just beyond the UGB. That a service agreement includes such provisions does not mean that it does

not qualify as an ORS 195.065 urban service agreement, for purposes of establishing who is a necessary party to a boundary change under special district regulations. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

39.1 Boundary Changes – Generally. The requirement in ORS 199.462(1) that boundary changes be based on consideration of economic, demographic and sociological trends does not implicitly authorize denial of a proposed water district boundary change for failure to consider whether one provider of water services is preferable to another. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

39.1 Boundary Changes – Generally. ORS 268.354(1), which provides that in addition to other statutory requirements "boundary changes within a metropolitan service district are subject to the requirements established by the district," is an adequate statutory grant of authority to allow the district to adopt legislation that delays the effective date of an annexation ordinance while the annexation ordinance is on appeal to the district. *City of Happy Valley v. City of Damascus*, 51 Or LUBA 141 (2006).

39.1 Boundary Changes – Generally. Where a Metro Committee would be required to apply land use standards to approve a city annexation ordinance on appeal, its decision to deny the annexation ordinance is a land use decision subject to review to LUBA, notwithstanding that the denial was based on non-land use standards. *City of Damascus v. Metro*, 51 Or LUBA 210 (2006).

39.1 Boundary Changes – Generally. Where a city annexation ordinance must be reviewed by Metro under its code to determine if the annexation is consistent "with other applicable criteria * * * under state and local law," Metro does not exceed its interpretive discretion by interpreting that requirement to allow it to determine if the city's annexation ordinance is inconsistent with two Oregon Supreme Court decisions concerning annexation. *City of Damascus v. Metro*, 51 Or LUBA 210 (2006).

39.1 Boundary Changes – Generally. Where a review criterion that applies to a city boundary change on review by Metro unambiguously requires that the boundary change must be consistent with agreements between the city and other necessary parties, a memorandum of understanding to which the city is not a party could not provide a basis for Metro to deny the annexation ordinance under that review criterion. *City of Damascus v. Metro*, 51 Or LUBA 210 (2006).

39.1 Boundary Changes – Generally. Where a city is required by the Metro Code to prepare and release a report prior to annexation that describes how the annexation is consistent with agreements that the city is not a party to, but the Metro Code review criteria that govern review of the annexation on appeal do not require that the annexation be consistent with agreements the city is not a party to, Metro may not deny the annexation ordinance based on the city's failure to comply with the report requirement without explaining why that violation of the report requirements has the same status as a violation of one of the review criteria and provides a basis for denial. *City of Damascus v. Metro*, 51 Or LUBA 210 (2006).

39.1 Boundary Changes – Generally. An acknowledged city code provision that replaces county comprehensive plan and zoning designations with functionally equivalent city comprehensive plan and zoning designations upon annexation may dramatically reduce the city's obligation to address

the statewide planning goals when annexing property. But the new city comprehensive plan and zoning designations may not be sufficient to maintain statewide planning goal requirements where special purpose county planning and zoning requirements are repealed by annexation and special purpose city planning and zoning are not made applicable by the annexation. *Friends of Bull Mountain v. City of Tigard*, 51 Or LUBA 759 (2006).