

2 OF LUBA 144

LAND USE
BOARD OF APPEALS

DEC 12 12 11 PM '80

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

DIANE A. BRICE,)
)
Petitioner,)
)
vs.)
)
PORTLAND METROPOLITAN AREA)
LOCAL GOVERNMENT BOUNDARY)
COMMISSION, and REX COREY,)
)
Respondent.)

LUBA NO. 80-069

FINAL OPINION
AND ORDER

Appeal from Portland Metropolitan Area Local Government
Boundary Commission.

Diane Brice 2501 26th Avenue Forest Grove, OR 97116	Frank Ostrander Assistant Attorney General State of Oregon Department of Justice 500 Pacific Building 520 SW Yamhill Portland, OR 97204
Beth Blount Attorney at Law 2437 Pacific Avenue Forest Grove, OR 97116	

Bagg, Referee; Reynolds, Chief Referee; Cox, Referee;
participated in the decision.

Remanded. 12/12/80

You are entitled to judicial review of this Order.
Judicial review is governed by the provisions of Oregon Laws
1979, ch 772, sec 6(a).

1 Bagg, Referee.

2 This matter is before the Board on a motion for remand made
3 by Respondent Portland Metropolitan Area Boundary Commission
4 and Participant Rex Corey. The motion "admits that the
5 findings of fact in the subject case are inadequate"

6 Petitioner Diane Brice moves for denial of the remand on
7 the ground and for the reason that she has made other
8 assignments of error which will not be addressed if the case is
9 remanded on findings. It is her view that the case should be
10 reversed as a reversal will "ensure that the annexation is
11 dealt with on a local level (as opposed to a Boundary
12 Commission level)."¹ We note that the petition includes five
13 assignments of error, two of which involve the findings and
14 their adequacy and adoption, two of which allege violation of
15 LCDC goals and the last asserting a violation of the LCDC
16 annexation rule, OAR 660-01-315.

17 Failure to adopt and make adequate findings will result in
18 a remand of the decision. See Cave v. Klamath Falls, LUBA No.
19 80-084; BCVSA vs. Jackson County, LUBA NO. 80-090; Laudahl v.
20 Polk Co., LUBA NO. 80-089 (1980). The Board is unable to
21 determine whether goal violations have occurred when there are
22 no findings or other writings showing how the local government
23 arrived at its decisions and what standards it used. BCVSA vs.
24 Jackson County, supra.

25 A quick review of the findings in this case suggests that
26 the motion by respondents is a good idea. Given such admitted

1 problems with the findings, it would very difficult for the
2 Board to test the decision against the goals as petitioner
3 wishes.

4 The motion for remand is granted.

5 On December 9, 1980, petitioner filed a Motion for Default
6 Order because respondent had not filed a brief within the time
7 allowed by Board rule. Because the case is remanded, the
8 motion for default is denied.

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FOOTNOTE

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Petitioner is apparently of the view that a reversal of this decision would return the matter to the City of Forest Grove. We note that it is the Portland Metropolitan Area Boundary Commission's decision that is on appeal. A reversal or remand of this decision will place the matter in the hands of the Boundary Commission for some future action. Our reversal or remand in this case will not of itself return the matter to the City of Forest Grove.