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0BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

RESIDENTS OF ROSEMONT and  
DAVID T. ADAMS,  
*Petitioners,*

and

WEST LINN-WILSONVILLE SCHOOL DISTRICT 3JT  
and CITY OF TUALATIN,  
*Intervenors-Petitioner,*

vs.

METRO,  
*Respondent,*

and

ROSEMONT PROPERTY OWNERS ASSOC., OLIVE  
KUHLE, JUDY EISELIUS, LARRY PETERSEN and  
HOMEBUILDERS ASSOCIATION OF  
METROPOLITAN PORTLAND,  
*Intervenors-Respondent.*

LUBA No. 99-009

CITY OF LAKE OSWEGO, CITY OF WEST LINN and  
LAKE OSWEGO SCHOOL DISTRICT NO. 7J,  
*Petitioners,*

and

WEST LINN-WILSONVILLE SCHOOL DISTRICT 3JT,  
CITY OF TUALATIN and CLACKAMAS COUNTY,  
*Intervenors-Petitioner,*

vs.

METRO,  
*Respondent,*

and

1 ROSEMONT PROPERTY OWNERS ASSOC., OLIVE  
2 KUHL, JUDY EISELIUS, LARRY PETERSEN and  
3 HOMEBUILDERS ASSOCIATION OF  
4 METROPOLITAN PORTLAND,  
5 *Intervenors-Respondent.*  
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7 LUBA No. 99-010  
8

9 FINAL OPINION  
10 AND ORDER  
11

12 On remand from the Court of Appeals.  
13

14 Christine M. Cook, Portland, represented petitioners in LUBA No. 99-009.  
15

16 Jeffrey G. Condit, Portland, represented petitioners in LUBA No. 99-010.  
17

18 Brenda L. Braden, Tualatin, represented intervenor-petitioner City of Tualatin.  
19

20 Lawrence S. Shaw, Portland, represented respondent.  
21

22 David B. Smith, Tigard, represented intervenors-respondent Rosemont Property  
23 Owners Association, Olive Kuhl and July Eiselius.  
24

25 BASSHAM, Board Member; BRIGGS, Board Chair; HOLSTUN, Board Member,  
26 participated in the decision.  
27

28 REMANDED

06/01/2001  
29

30 You are entitled to judicial review of this Order. Judicial review is governed by the  
31 provisions of ORS 197.850.  
32

1 Opinion by Bassham.

2 Our decision in this appeal was remanded by the Court of Appeals. *Residents of*  
3 *Rosemont v. Metro*, 38 Or LUBA 199 (2000), *aff'd in part, rev'd and rem'd in part* 173 Or  
4 App 321, \_\_\_ P3d \_\_\_ (2001). The court's opinion affirms LUBA's decision in most  
5 particulars, but reverses and remands our decision, for further proceedings not inconsistent  
6 with the court's opinion, with respect to a subassignment of error in the cities' third  
7 assignment of error.

8 In the cities' third assignment of error, the cities argued that Metro lacked authority  
9 under Statewide Planning Goal 14 (Urbanization) to expand the urban growth boundary  
10 (UGB) based on a subregional, as opposed to regional, need. We disagreed, citing in  
11 relevant part to *1000 Friends of Oregon v. Metro Service Dist.*, 18 Or LUBA 311, 324 (1989)  
12 (Goal 14 does not prohibit Metro from identifying a subregional need as a basis for amending  
13 the Metro UGB).

14 On appeal, the court agreed with LUBA that a subregional need may, at least in some  
15 circumstances, constitute need for purposes of satisfying factors 1 and 2 of Goal 14.  
16 However, the court went on to conclude that

17 "LUBA erred in affirming Metro's decision here, because, in deciding that  
18 factors 1 and 2 of Goal 14 were satisfied, Metro focused solely on what it  
19 identified as a subregional need without any consideration of this need in the  
20 regional context or any explanation of how this area was identified as a  
21 subregion or why the needs of this area should be viewed in isolation." 173  
22 Or App at 326.

23 According to the court, in order to satisfy factors 1 and 2 of Goal 14, "a subregional need  
24 must be identified and evaluated in the context of the regional needs." 173 Or App at 330  
25 (citing *1000 Friends of Oregon v. Metro*, 38 Or LUBA 565 (2000), *aff'd in part, rev'd and*  
26 *rem'd in part* \_\_\_ Or App \_\_\_, \_\_\_ P3d \_\_\_ (May 30, 2001). The court explained that Metro  
27 erred in basing its expansion of the UGB solely on subregional considerations of the kind  
28 reflected in factor 2, specifically a need for affordable housing within a particular three to six

1 mile area, without considering whether that need could be accommodated outside the  
2 identified subregion. The court rejected Metro’s apparent view that “a determinative housing  
3 need could be established solely by reference to areas in close proximity to the preselected  
4 site of the proposed UGB expansion and without *any* consideration of other parts of the  
5 regional planning territory.” *Residents of Rosemont*, 173 Or App at 331. Further, the court  
6 concluded:

7           “\* \* \* Metro’s decision does not explain why the affordable housing must lie  
8           within a six-mile radius of the Stafford-Rosemont intersection, let alone why  
9           that intersection may appropriately be treated as the nucleus of an identifiable  
10          subregion or of the subregion to which virtually exclusive consideration was  
11          given as the site of the expansion. We hold that Metro’s present supportive  
12          showing for its decision does not satisfy Goal 14 in this regard.” *Id.*

13           The court’s decision requires no additional action or comment from this Board, other  
14          than to modify our earlier decision to sustain the relevant portions of the cities’ third  
15          assignment of error.

16           For the reasons expressed in the court’s decision and in LUBA’s decision, as  
17          modified, Metro’s decision is remanded.