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BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON  
BUD MILES AND MILES OIL CO.,  
*Petitioners,*  
vs.  
CITY OF FLORENCE,  
*Respondent,*  
and  
SAFEWAY, INC.,  
*Intervenor-Respondent.*  
LUBA No. 2003-007  
FINAL OPINION  
AND ORDER

On remand from the Court of Appeals.  
Bill Kloos, Eugene, represented petitioner.  
Emily N. Jerome, Eugene, represented respondent.  
Steven P. Hultberg, Portland, represented intervenor-respondent.  
HOLSTUN, Board Chair; BASSHAM, Board Member, participated in the decision.

AFFIRMED 05/26/2004

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

Holstun, Board Chair.

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2           In *Miles v. City of Florence*, 44 Or LUBA 411(2003) we sustained petitioner's second  
3 assignment of error concerning Florence City Code (FCC) 10-4-11(2) and remanded the city's  
4 decision so that it could interpret and apply the street frontage requirement that is imposed by FCC  
5 10-4-11(2). The Court of Appeals reversed our decision on appeal, concluding that petitioner  
6 failed to preserve the street frontage issue. *Miles v. City of Florence*, 190 Or App 500, 79 P3d  
7 389 (2003). In accordance with the Court of Appeals' instructions, the city's decision is affirmed.