

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

3
4 CAROL N. DOTY,
5 *Petitioner,*

6
7 vs.

8
9 CITY OF BANDON,
10 *Respondent.*

11
12 LUBA No. 2004-086

13
14 FINAL OPINION
15 AND ORDER

16 Appeal from City of Bandon.

17
18 Carol N. Doty, Bandon, filed the petition for review and represented herself.

19
20 Fredrick J. Carleton, Bandon, represented respondent.

21
22 DAVIES, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member,
23 participated in the decision.

24
25 REMANDED

09/16/2004

26
27 You are entitled to judicial review of this Order. Judicial review is governed by the
28 provisions of ORS 197.850.

Opinion by Davies.

1
2 On August 3, 2004, respondent City of Bandon filed a Motion for Voluntary Remand,
3 stating that, on remand, it would address all issues raised in the petition for review. Petitioner
4 objected to the motion, arguing that the results of a voluntary remand were likely to be superficial
5 and would not obviate an eventual appeal to this Board.

6 On August 11, 2004, we issued an order directing the city to show why remand was more
7 likely than our review to quickly and thoroughly resolve the issues raised in this appeal. The city
8 filed a response to our order on August 27, 2004, and on September 1, 2004, petitioner filed an
9 objection to that response.

10 The city's response states that the planning department currently does not follow the city's
11 procedures that petitioner challenges because it is "trying to follow state law." City's Response to
12 Order on Motion for Voluntary Remand 1. It is possible, therefore, that the city might choose to
13 amend the ordinance on remand, as petitioner argues it must, in order to comply with state law. The
14 city also alleges that the city has another matter before this Board that relates to the issues raised by
15 petitioner, and that the city currently has another matter before the Land Conservation and
16 Development Commission that could impact this appeal. Petitioner does not address these
17 statements other than to object that the proposal sounds like a lengthy process in which she does
18 not wish to engage.

19 The city has carried its burden to show that remand is more likely than our review to result
20 in thorough and expeditious resolution of this case.

21 City's motion is granted, and the city's decision is remanded.