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

SISTERS FOREST PLANNING COMMITTEE,
Petitioner,

vs.

DESCHUTES COUNTY,
Respondent.

LUBA No. 2004-073

FINAL OPINION
AND ORDER

On Remand from the Court of Appeals.

Paul D. Dewey, Bend, represented petitioner.

Laurie E. Craghead, Deschutes County Legal Counsel, Bend, represented respondent.

Peter Livingston, Portland, represented respondent.

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

REMANDED 05/11/2005

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

1 Opinion by Bassham.

2 In our decision dated October 13, 2004, we remanded the county's decision approving a
3 conditional use permit to build a large tract forest dwelling. *Sisters Forest Planning Committee v.*
4 *Deschutes County*, 48 Or LUBA ____ (LUBA No. 2004-073, October 13, 2004). Petitioners
5 appealed our decision to the Court of Appeals, which reversed and remanded our decision on the
6 petition, and affirmed on the cross-petition. *Sisters Forest Panning Committee v. Deschutes*
7 *County*, 198 Or App 311, ____ P3d ____ (2005).

8 In the fifth assignment of error before LUBA, petitioner challenged the county's inclusion of
9 a condition of approval that the applicant implement all the recommendations contained in a letter
10 from the applicant's fire prevention expert. We denied the assignment of error, finding that the letter
11 was not "drafted so poorly that it may be inadequate to ensure compliance with an applicable
12 approval standard it had been imposed to address." Slip op 12. The Court of Appeals affirmed
13 our final order and opinion with one exception:

14 "In short, petitioner is correct that some of the recommendations in [the fire
15 expert's] letter are too imprecise or hypothetical to serve as conditions of approval.
16 Others, particularly when considered in light of the conditions contained in the
17 county's administrative decision, are confusing or are not in apparent conformity
18 with the county's own stated conditions or its ordinances. It may be that the
19 applicant could implement [the fire expert's] recommendations in a manner
20 consistent with the county's own stated conditions and its code. On its face,
21 however, the county's decision is inadequate for the reasons described." 198 Or
22 App at 319.

23 Accordingly, we sustain the fifth assignment of error, for the reasons stated in the court's
24 opinion. Therefore, the decision is remanded pursuant to our previous decision and pursuant to the
25 Court of Appeals' opinion regarding the conditions of approval in the fire expert's letter.

26 Petitioner filed a cost bill shortly after our final opinion and order was issued. Because our
27 decision was appealed to the Court of Appeals, we did not previously rule on the cost bill. OAR
28 661-010-0075(1)(g). Petitioner's cost bill requests award of the cost of the filing fee, in the amount
29 of \$175. Petitioner also requests return of the \$150 deposit for costs. Respondent does not object

1 to petitioner's cost bill.

2 Petitioner is awarded the cost of the filing fee, in the amount of \$175, to be paid by
3 respondent. The Board shall return petitioner's \$150 deposit for costs.