

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

3
4 MOLLY JACOBSEN and DANA JACOBSEN,
5 *Petitioners,*

6
7 vs.

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9 DOUGLAS COUNTY,
10 *Respondent.*

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12 LUBA No. 2007-074

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14 FINAL OPINION
15 AND ORDER

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17 Appeal from Douglas County.

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19 Molly Jacobsen and Dana Jacobsen, Winston, represented themselves.

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21 Paul E. Meyer, Roseburg, represented respondent.

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23 RYAN, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member,
24 participated in the decision.

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26 REMANDED

09/07/2007

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

MOTION FOR VOLUNTARY REMAND

The county moves for a voluntary remand. Petitioners object to the voluntary remand on numerous grounds. Where a petitioner objects to a local government’s motion for voluntary remand, we will grant the motion if the local government asserts that it will address all of the allegations set out in the petition for review. *Doob v. Josephine County*, 43 Or LUBA 130, 133 (2002). The county asserts that it will address all the issues raised in the petition for review.

The challenged decision is a lot of record determination. The first assignment of error concerns a legal issue regarding the merits of that determination. The second, third, and fourth assignments of error are procedural arguments. Apparently another lot of record determination involving these parties is pending before the county, and the same legal issue is involved in that determination. The county asserts that the county will address the issue fully in that case and then apply that resolution in further proceedings on remand in this appeal.

Although petitioners argue that addressing the issue on the merits in another case is not the same as addressing the legal issue in this case, the county will not be able to proceed on remand in this appeal until the legal issue has been resolved. Whether the issue is *initially* resolved in this appeal or another case is immaterial as long as the issue is resolved in a proceeding in which petitioners can participate, and as long as that resolution is applied in the remand proceedings in this appeal. The county has stated that it will address all issues in this appeal, and that is sufficient to allow a voluntary remand over petitioners’ objections.

The county’s decision is remanded.