

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

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

JEANNE BIGGERSTAFF and CARR BIGGERSTAFF,
Petitioners,

vs.

YAMHILL COUNTY,
Respondent,

and

RALPH JOHNSON and NORMA JOHNSON,
Intervenors-Respondents.

LUBA No. 2008-059

FINAL OPINION
AND ORDER

Appeal from Yamhill County.

Charles Swindells, Portland, represented petitioners.

Fredric Sanai, Assistant County Counsel, McMinnville, represented respondent.

Edward H. Trompke, Portland, represented intervenors-respondents.

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

TRANSFERRED 07/02/2008

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

NATURE OF THE DECISION

Petitioners appeal a county vested rights determination that intervenors-respondents were entitled to proceed with development authorized under a Measure 37 waiver.

MOTION TO INTERVENE

Ralph Johnson and Norma Johnson (intervenors), the applicants below, move to intervene on the side of respondent in this appeal. There is no opposition to the motion, and it is granted.

FACTS

A lengthy recitation of the facts is not necessary given our disposition of this appeal. In sum, intervenors obtained a vested rights determination from the county that they may continue and complete development of their property based on waivers obtained under Measure 37.

MOTION TO DISMISS

The county and intervenors move to dismiss this appeal on the grounds that the challenged decision is not a land use decision subject to our jurisdiction. For the reasons expressed in our final order and opinion issued this day in *Friends of Yamhill County v. Yamhill County*, ___ Or LUBA ___ (LUBA No. 2008-060), LUBA does not have jurisdiction to hear this appeal. Pursuant to petitioners’ conditional motion to transfer to Yamhill County Circuit Court under OAR 661-010-0075(11), this appeal is transferred.