

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

3  
4 TED M. COOPMAN,  
5 *Petitioner,*

6  
7 and

8  
9 PAUL T. CONTE and GARY NANCE,  
10 *Intervenors-Petitioners,*

11  
12 vs.

13  
14 CITY OF EUGENE,  
15 *Respondent,*

16  
17 and

18  
19 AL JOHNSON,  
20 HOME BUILDERS ASSOCIATION OF LANE COUNTY,  
21 ELIZA KASHINSKY, JOSHUA KASHINSKY, ANNE BROWN,  
22 CHRISTOPHER DEEL, PATTY HINE, ISAAC JUDD,  
23 ANGIE R. MARZANO, SIGH O'NARA, BABE O'SULLIVAN,  
24 BILL RANDELL, CARLEEN REILLY, SETH SADOFSKY,  
25 KEVIN SHANLEY, HEATHER SIELICKI, SUE WOLLING,  
26 1000 FRIENDS OF OREGON, BETTER HOUSING TOGETHER,  
27 and DEVNW,  
28 *Intervenors-Respondents.*

29  
30 LUBA No. 2022-056

31  
32 FINAL OPINION  
33 AND ORDER

34  
35 Appeal on remand from the Court of Appeals.

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37 Charles W. Woodward IV represented petitioner.  
38

1 Paul T. Conte and Gary Nance represented themselves.

2  
3 Lauren Sommers represented respondent.

4  
5 Al Johnson represented themselves.

6  
7 Bill Kloos represented intervenor-respondent Home Builders Association  
8 of Lane County.

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10 Andrew Mulkey represented intervenors-respondents 1000 Friends of  
11 Oregon, Better Housing Together, and DevNW.

12  
13 Eliza Kashinsky, Joshua Kashinsky, Anne Brown, Patty Hine, Isaac Judd,  
14 Angie R. Marzano, Sigh O’Nara, Babe O’Sullivan, Bill Randall, Carleen Reilly,  
15 Seth Sadofsky, Kevin Shanley, Heather Sielicki, and Sue Wolling represented  
16 themselves.

17  
18 ZAMUDIO, Board Member; RYAN, Board Chair; RUDD, Board  
19 Member, participated in the decision.

20  
21 REMANDED 10/12/2023

22  
23 You are entitled to judicial review of this Order. Judicial review is  
24 governed by the provisions of ORS 197.850.

**NATURE OF THE DECISION**

Petitioner appeals Ordinance 20667, which approves amendments to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) and Eugene Code (EC) related to middle housing.

**BACKGROUND**

This matter is on remand from the Court of Appeals. *Coopman v. City of Eugene*, 327 Or App 6, 534 P3d 1105 (2023). We set out the facts in our prior decision and do not restate them here. *Coopman v. City of Eugene*, \_\_\_ Or LUBA \_\_\_ (LUBA No 2022-056, Jan 27, 2023).

**MOTION FOR ORAL ARGUMENT**

The city moves for oral argument before LUBA on remand from the Court of Appeals “to allow the parties to address the Court of Appeals’ decision.” Motion for Oral Argument on Remand 2. “The City believes that oral argument would be particularly helpful to the Board in this case because it would provide the most efficient opportunity for the parties to point the Board to information in the record and the briefings that will aid the Board in addressing the issues raised by the Court of Appeals.” *Id.* The city does not specify what issues are raised by the court’s decision that the city believes remain for LUBA to resolve on remand.

Petitioner and intervenors-petitioners respond, and we agree, that the city has not identified any unresolved issue for us to address on remand or analysis

1 that would require further development or clarification on remand in response to  
2 the court's decision.

3 The motion for oral argument is denied.

4 **ASSIGNMENT OF ERROR (Petitioner)**

5 Petitioner argues that the city failed to consider and explain how the  
6 ordinance is consistent with Statewide Planning Goal 11 (Public Facilities and  
7 Services). We rejected that argument. On judicial review, the Court of Appeals  
8 agreed with petitioner. We therefore must sustain this assignment of error and  
9 remand for the reasons set out in the court's decision.<sup>1</sup>

10 Petitioner's assignment of error is sustained.

11 The city's decision is remanded.

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<sup>1</sup> The court's opinion does not require us to revisit the dispositions of any other assignment of error.