

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

3
4 IRWIN B. HOLZMAN
5 *Petitioner,*

6
7 vs.

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9 JEFFERSON COUNTY,
10 *Respondent,*

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12 and

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14 FRIENDS OF THE METOLIUS,
15 DAVID RICHENSTEIN, and MARY RICHENSTEIN
16 *Intervenors-Respondent.*

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18 LUBA No. 2004-053

19 ORDER ON COSTS

20 Respondent, the prevailing party in this appeal, filed a cost bill that seeks forfeiture of
21 petitioner's \$175 filing fee and \$150 deposit for costs, in accordance with OAR 661-010-
22 0075(1)(c). Under OAR 661-010-0075(1)(c) LUBA will award a local government the filing
23 fee and deposit for costs where the petitioner fails to file a petition for review "within the
24 time required by [LUBA's] rules." Otherwise, a prevailing local government's recover of
25 cost is limited to the \$150 deposit for costs or the copying costs for the required number of
26 copies of the record, whichever is less. OAR 661-010-0075(1)(b)(B) and (C).

27 The record in this appeal was received on April 13, 2003. Under our rules, the
28 deadline for filing the petition for review was May 4, 2004. On April 14, 2004, well before
29 the deadline for filing the petition for review expired, petitioner withdrew his notice of intent
30 to appeal and moved to dismiss the appeal. On April 19, 2004, LUBA issued its final
31 opinion and order dismissing this appeal. Because petitioner withdrew his notice of intent to
32 appeal and the appeal was dismissed before the deadline for filing the petition for review
33 expired, petitioner did not fail to file a timely petition for review. *Olson v. Neahkahnie*

1 *Water District*, 25 Or LUBA 792 (1993). It follows that the county is not entitled to an
2 enhanced award of costs under OAR 661-010-0075(1)(c). The county's cost bill is denied.

3 Although the county does not seek an award of costs under OAR 661-010-
4 0075(1)(b)(B) and (C), it is entitled to recover costs under those provisions. The county's
5 cost of copying the required number of copies of the record was \$164. In accordance with
6 OAR 661-010-0075(1)(b)(B) and (C), the county is awarded costs in the amount of \$150.

7 Dated this 27th day of May, 2004.
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15 Michael A. Holstun
Board Chair