

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 CATHOLIC DIOCESE OF BAKER,
5 *Petitioner,*

6
7 vs.

8
9 CROOK COUNTY,
10 *Respondent.*

11
12 LUBA No. 2009-071

13 ORDER

14 The notice of intent to appeal in this matter was filed on June 10, 2009. Pursuant to
15 OAR 661-010-0025(2), the deadline to transmit the record to LUBA expired on July 1, 2009.
16 On June 25, 2009, the county filed a request for a 30-day extension of time to transmit and
17 serve the record. In support of that request, the county cites “budget issues, staff summer
18 vacation time off, and the need for exclusive and complete attention to other pending
19 matters.”

20 On July 2, 2009, petitioner filed an objection to the record. As its reasons for
21 objecting to the requested 30-day extension, petitioner states (1) the original land use
22 application was filed September 18, 2008, (2) petitioner will be prejudiced by any additional
23 delay and (3) the reasons given by the county are “not compelling, especially in light of the
24 fact that the Record was previously assembled for the Crook County Court’s review.”
25 Although petitioner does not elaborate, it appears that the Crook County Court heard this
26 matter based on the evidentiary record that was compiled by the planning commission, and
27 we assume petitioner takes the position that not much additional work will be required to add
28 the record of the proceedings of the Crook County Court to the record of the planning
29 commission proceeding that has already been compiled in some unspecified form.

30 The difficult economic circumstances that many cities and counties currently face has
31 led to more frequent requests by local governments for additional time to compile and

1 transmit the record in LUBA appeals. Local governments that seek additional time to
2 compile and file the record should contact the other parties and advise LUBA whether any
3 party objects to the request. The county did so in this case. Local governments that seek
4 additional time to compile and file the record should also advise LUBA of the expected
5 length of the record and any other factors that might have some bearing on the
6 reasonableness of the requested extension. In this case the county relies on budget problems,
7 but provides no information about the expected length or complexity of the record. That
8 failure makes it much more difficult for LUBA to judge the reasonableness of the county's
9 request.

10 Parties that object to requests for extensions of time to compile and transmit the
11 record should also provide relevant information that will allow LUBA to judge the
12 reasonableness of their objections. Petitioner provided almost no helpful information to
13 assist LUBA in assessing the reasonableness of petitioner's objection. Objecting parties will
14 also improve their chances of prevailing if they suggest ways to shorten or simplify the
15 record or offer to assist the local government in compiling and transmitting the record. In
16 this case petitioner did not do so.

17 Based on the parties' arguments in this case, we have no idea how long or
18 complicated the record is expected to be. The record that was compiled for the Crook
19 County Court's review may or may not have been compiled in the way that is required by
20 LUBA's rules. If not, significant additional work may be required in preparing the record for
21 LUBA. In addition, although the Crook County Court apparently did not expand the
22 planning commission's *evidentiary* record, it presumably allowed written and oral legal
23 argument and the notices, minutes and other non-evidentiary materials that will have to be
24 compiled and included in the record could be substantial. Based on the information that has
25 been provided to LUBA by the county and petitioner, we cannot say the requested 30-day
26 extension of time to compile and transmit the record is unreasonable. If the county is able to

1 devote available resources and transmit the record before July 31, 2009, LUBA requests that
2 the county do so. However, the county shall have until July 31, 2009 to compile and transmit
3 the record if it needs that length of time to do so.

4 Dated this 7th day of July, 2009.
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11 Michael A. Holstun
12 Board Member