

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

3  
4                   REBECCA B. RAWSON,  
5                   *Petitioner,*

6  
7                   vs.

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9                   HOOD RIVER COUNTY,  
10                  *Respondent,*

11  
12                  and

13  
14                  VERIZON WIRELESS,  
15                  *Intervenor-Respondent.*

16  
17                  LUBA No. 2016-099

18  
19                  ORDER

20   **MOTION TO INTERVENE**

21               Verizon Wireless, the applicant below, moves to intervene on the side of  
22   respondent. No party objects to the motion, and the motion is granted.

23   **RECORD OBJECTIONS**

24               Petitioner objected to the record that was transmitted by the county in  
25   this appeal. With a November 15, 2016 letter signed by a county planner, the  
26   county transmitted a Table of Contents and a number of replacement pages that  
27   it requests LUBA and the parties insert in their copy of the record to resolve  
28   petitioner's record objections.

29               The Table of Contents and record replacement pages 6, 7, 216 and 217  
30   partially resolve petitioner's objection A (what the county refers to as

1 Objection 1 in its November 15, 2016 letter) and fully resolve petitioner's  
2 Objection B (what the county refers to as objection 2). LUBA and all parties  
3 shall insert those pages into their respective copies of the record in this appeal.

4 We now resolve the parties' remaining disagreements concerning  
5 petitioner's objections A and C.

6 **A. Objection A (First Objection)**

7 We understand the county to take the position that any photographs  
8 beyond the two that the county submitted on November 15, 2016 to LUBA as  
9 Record insert pages 216 and 217 may have been shown to the board of county  
10 commissioners at its August 22, 2016 hearing in this matter, but petitioners did  
11 not give those five photographs to the county for inclusion in the record on  
12 August 22, 2016, as they did the two photographs that have now been added to  
13 the record as replacement pages 216 and 217. We understand the county to  
14 take the position that photos that are shown to but not given to the final  
15 decision maker are, in the words of LUBA's rule, not "placed before \* \* \* the  
16 final decision maker[.]" OAR 661-010-0025(1)(b). For that reason, we  
17 understand the county to take the position that such photographs are not  
18 properly included in the record.<sup>1</sup> Petitioner offers no reason to question that  
19 position, aside from her apparent disagreement with the position. Accordingly

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<sup>1</sup> That position is stated in as many words in the county planner's November 15, 2016 letter to LUBA. We understand the attorney for the county to adopt that position in his December 9, 2016 Response.

1 petitioner's objection that the five additional photographs attached to her  
2 December 15, 2016 Reply should be included in the record is denied.

3 **B. Objection C (Third Objection)**

4 Prior to filing her record objections, petitioner prepared and transmitted a  
5 transcript of the August 22, 2016 hearing to the county to be included in the  
6 record. The transcript that the county transmitted with its November 15, 2016  
7 letter to LUBA has formatting problems associated with line numbers and page  
8 breaks. The formatting problems will complicate use of the transcript, but do  
9 not render it unusable.

10 Attached to petitioner's December 15, 2016 Reply is a different copy of  
11 the transcript that does not have the formatting problems. We understand  
12 petitioner to contend the county should be required to add record page numbers  
13 to the properly formatted transcript and transmit it to LUBA as an Amended  
14 Record.

15 The formatting problems that petitioner complains of were present in the  
16 copy of the transcript that petitioner attached to her record objections and  
17 presumably were present in the copy of the transcript she provided to the  
18 county and the county sent to LUBA with its November 15, 2016 letter. Given  
19 that course of events, we decline petitioner's invitation to order the county to  
20 resubmit the transcript a second time as a further Amended Record.

1           Objection C is denied. LUBA and the parties shall include in their  
2 copies of the record the transcript (Record Pages 218 through 260) that was  
3 attached to the county's November 15, 2016 letter.

4           **C. Conclusion**

5           With the replacement pages and the transcript pages that were  
6 transmitted to LUBA by the county with its November 15, 2016 letter inserted  
7 into LUBA's and the parties' copies of the record, and this Order's denial of  
8 petitioner's remaining record objections, the record is settled.

9           The record is settled as of the date of this order. The petition for review  
10 shall be due 21 days from the date of this order. The response briefs shall be  
11 due 42 days from the date of this order. The Board's final opinion and order  
12 shall be due 77 days from the date of this order.

13           Dated this 21<sup>st</sup> day of December, 2016.  
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19           Michael A. Holstun  
              Board Chair