

1                   BEFORE THE LAND USE BOARD OF APPEALS

2                   OF THE STATE OF OREGON

3  
4                   SEAN AGNEW and OLGA AGNEW,  
5                                 *Petitioners,*

6  
7                                 vs.

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9                   JOSEPHINE COUNTY,  
10                                *Respondent,*

11  
12                               and

13  
14                   BRENDA PATTON,  
15                                *Intervenor-Respondent.*

16  
17                   LUBA No. 2017-017

18  
19                   ORDER

20           We previously suspended the deadline set out in OAR 661-010-0025(2)  
21 for transmitting the record. In an order dated May 3, 2017, we denied the  
22 county's motion to dismiss the appeal, and ordered the county to transmit the  
23 record within 21 days, making the record due not later than May 24, 2017. On  
24 May 11, 2017, the county moved for an extension of ninety days to transmit the  
25 record. The county explains that it is short-staffed.

26           Petitioners object to the extension. Petitioners point out that their notice  
27 of intent to appeal was filed on February 17, 2017, and LUBA previously  
28 suspended the deadline for transmitting the record while the county's motion to  
29 dismiss was pending, potentially giving the county more than two months to  
30 work on preparing the record. Petitioners also posit that, because the

1 challenged decision is a planning director's decision without a hearing, the  
2 record in this appeal is not lengthy or complicated, and according to petitioners  
3 is expected to include the application, the decision, and a plat map. Finally, in  
4 order to assist the county, petitioners offer to obtain the planning file from the  
5 county, index the documents in the file, and make the necessary copies of the  
6 documents.

7 In *Catholic Diocese of Baker v. Crook County*, 59 Or LUBA 530, 531  
8 (2009), we explained that in seeking an extension of the deadline for  
9 transmitting the record:

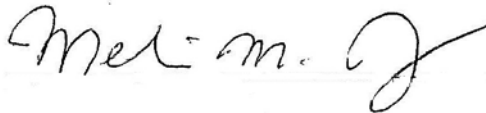
10 "The difficult economic circumstances that many cities and  
11 counties currently face has led to more frequent requests by local  
12 governments for additional time to compile and transmit the record  
13 in LUBA appeals. Local governments that seek additional time to  
14 compile and file the record should contact the other parties and  
15 advise LUBA whether any party objects to the request. The county  
16 did so in this case. Local governments that seek additional time to  
17 compile and file the record should also advise LUBA of the  
18 expected length of the record and any other factors that might have  
19 some bearing on the reasonableness of the requested extension. In  
20 this case the county relies on budget problems, but provides no  
21 information about the expected length or complexity of the record.  
22 That failure makes it much more difficult for LUBA to judge the  
23 reasonableness of the county's request."

24 Although the county's motion advises LUBA that petitioners object to the  
25 request, the county's motion does not advise LUBA of the expected length or  
26 complexity of the record. Conversely, petitioners' objection provides  
27 convincing detail about the expected length and complexity of the record.

1           ORS 197.805 provides in relevant part that the legislative objectives in  
2     creating LUBA are that “time is of the essence in reaching final decisions in  
3     matters involving land use and that those decisions be made consistently with  
4     sound principles governing judicial review.” We conclude that granting the  
5     requested extension would be inconsistent with the legislative objective that  
6     “time is of the essence in reaching final decisions in matters involving land  
7     use.” That is so particularly given (1) petitioners’ objection to the extension,  
8     (2) the detail provided by petitioners about the probable brevity of the record,  
9     and (3) petitioners’ offer to assist the county in preparing the record.

10           The county shall transmit the record to the Board and the parties within  
11     14 days of the date of this order.

12           Dated this 17<sup>th</sup> day of May, 2017.



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16     Melissa M. Ryan  
          Board Member