

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

3
4 ZACHARY FORREST MARQUART,
5 *Petitioner,*

6
7 vs.

8
9 CITY OF SHANIKO,
10 *Respondent.*

11
12 LUBA No. 2023-036

13
14 ORDER

15 **MOTION FOR FEES AND COSTS**

16 Petitioner appealed a city council decision denying their single-family
17 dwelling site plan application. Petitioner, who is not an attorney, represented
18 themselves. We remanded the city’s decision. *Marquart v. City of Shaniko*, ___
19 Or LUBA ___ (LUBA No 2023-036, Feb 9, 2024). Petitioner is the prevailing
20 party. On March 2, 2024, petitioner filed a Motion for Fees in the total amount
21 of \$4,645.50.

22 The city responds, and we agree, that petitioner is only entitled to recover
23 the cost of their filing fee and is not entitled to recover any other fees or costs.
24 OAR 661-010-0075(1)(b) provides that “[c]osts may be recovered only for the
25 items set forth in this subsection.” OAR 661-010-0075(1)(b)(A) provides that a
26 prevailing petitioner “may be awarded the cost of the filing fee.” Petitioner
27 requests an award of the cost of their filing fee. The city concedes that petitioner

1 is entitled to such an award. Petitioner is awarded the cost of their filing fee, in
2 the amount of \$300, to be paid by the city. OAR 661-010-0075(1)(b)(A).

3 Petitioner requests award of their printing costs in the amount of \$47,
4 postage costs in the amount of \$173, and service costs in the amount of \$100, for
5 a total of \$320. The city responds, and we agree, that those costs are not
6 recoverable under OAR 661-010-0075(1)(b). Petitioner’s request for an
7 additional award of \$320 in costs is denied.

8 Petitioner moves for an award of \$3,975.50, described as “[b]illable hours
9 for General Contractor * * * and Paralegal,” for activities such as legal research,
10 communication with respondent’s attorney, and drafting pleadings. Motion for
11 Fees 1. Petitioner does not cite any legal basis for an award of fees for his self-
12 represented efforts on appeal as a general contractor or paralegal.¹ Petitioner’s
13 motion for an award of \$3,975.50 in fees is denied.

14 Dated this 16th day of April 2024.
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19 _____
20 H. M. Zamudio
Board Member

¹ Attorney fees may be recoverable in a LUBA appeal. OAR 661-010-0075(1)(d); ORS 197.830(15)(b), (c); ORS 197.835(10)(b). Petitioner’s motion for fees does not seek to recover any attorney fees.