

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 GENSTAR LAND COMPANY,)
5 NORTHWEST)
6 Petitioner,)
7)
8 vs.)
9)
10 CITY OF SHERWOOD,)
11)
12 Respondent,)
13)
14 and)
15)
16 R. JAMES CLAUS, KEITH HOWE and)
17 LAWRENCE JAMES ERNSTER,)
18)
19 Intervenor-Respondent.)
20

LUBA No. 98-208

ORDER

21 **MOTIONS TO INTERVENE**

22 R. James Claus, Keith Howe and Lawrence James Ernster separately move to
23 intervene on the side of respondent in this appeal. There is no opposition to the motions, and
24 they are allowed.

25 **MOTION TO STAY APPEAL PROCEEDINGS**

26 Petitioner moves for an order staying this appeal pending mediation. ORS 197.860
27 provides, in part:

28 "All parties to an appeal may at any time prior to a final decision by the Court
29 of Appeals under ORS 197.855 stipulate that the appeal proceedings be stayed
30 for any period of time agreeable to the parties and the board or court to allow
31 the parties to enter mediation." (Emphasis added.)

32 Respondent joins in petitioner's request, however, intervenors-respondent do not. Intervenor-
33 respondent Claus expressly opposes the motion, noting that he has not been made a party to
34 the requested mediation.

1 Under ORS 197.860 "[a]ll parties" must "stipulate" that an appeal be suspended to
2 allow the "parties" to enter mediation. Intervenor's-respondent are parties in this appeal.
3 OAR 661-010-0050(1); Ramsey v. City of Portland, 22 Or LUBA 295, 301-06 (1991).
4 Intervenor's-respondent do not stipulate that this appeal should be suspended to allow
5 mediation and apparently petitioner and respondent have not invited intervenor's-respondent
6 to participate in such mediation. Accordingly the motion to suspend this appeal is denied.¹

7 **MOTION FOR EXTENSION OF BRIEFING SCHEDULE**

8 The local record in this appeal was received by the Board on January 29, 1999. The
9 petition for review is due February 19, 1999. OAR 660-010-0030(1). On February 11, 1999,
10 petitioner filed a motion requesting that the deadline for filing the petition for review be
11 extended from February 19, 1999, to March 22, 1999, and that respondent's brief be due
12 April 12, 1999. Any request to extend the deadline for filing the petition for review under
13 OAR 661-010-067(2) must be signed by all parties, including intervenor's-respondent.
14 Ramsey, 22 Or LUBA at 305-06. Intervenor's-respondent do not join in the request that the
15 briefing schedule be extended, and, for that reason, the motion is denied.

16 Dated this 16th day of February, 1999.
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23 _____
24 Michael A. Holstun
Board Member

¹Petitioner also requested that a conference call be held concerning the motion to stay the appeal. The request is denied.