

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 NEIGHBORS FOR SENSIBLE
5 DEVELOPMENT, INC., and REX ROSE,
6 *Petitioners,*

7
8 vs.

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10 CITY OF SWEET HOME,
11 *Respondent,*

12 and

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14 LINN COUNTY AFFORDABLE
15 HOUSING, INC.,
16 *Intervenor-Respondent.*

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18 LUBA Nos. 2000-154, 2001-001 and 2001-002

19
20 ORDER ON COSTS

21 Respondent, the prevailing party in these consolidated appeals, filed a cost bill
22 requesting reimbursement of its costs for copying the record, pursuant to OAR 661-010-
23 0075(1)(b)(B) and (C).¹ Respondent seeks reimbursement in the amount of \$536.

24 Petitioners object, arguing that respondent's cost bill fails to identify its costs of
25 copying the record or justify the amount requested. Petitioners argue that the costs of
26 copying the required two copies of the record in these cases should be less than \$536 and, in

¹OAR 661-010-0075(1)(b) provides in relevant part:

“Recoverable Costs: Costs may be recovered only for the items set forth in this paragraph.

“* * * * *

“(B) If the governing body is the prevailing party, the governing body may be awarded copying costs for the required number of copies of the record, at 20 cents per page, whether or not the governing body actively participated in the review.

“(C) Costs awarded to the governing body pursuant to this section shall be paid from the deposit required by OAR 661-010-0015(4) and shall not exceed the amount of that deposit.”

1 any case, the city cannot obtain reimbursement for copying expenses that exceed the amount
2 of the deposits filed in these cases, which total \$450.

3 The city responds with an itemization explaining that it seeks \$363.60 for copying the
4 required two copies of the record, \$52.56 for postage, and \$120.00 for copying 12 audio
5 tapes, for a total of \$536.16.

6 Our rules do not provide that a prevailing respondent may recover postage costs
7 incurred in mailing the two required copies of the record. *Craven v. Jackson County*, 18 Or
8 LUBA 909, 910 (1990). Our rules do not expressly address whether the respondent may
9 recover the costs of copying audio tapes that are filed with LUBA, and no reported cases
10 address that point. However, OAR 661-010-0075(1)(b) limits recoverable costs to those
11 specified in the rule. The rule provides for recovery of the costs of copying the record “at 20
12 cents per page.” The reference to “page” indicates that the scope of reimbursable copying
13 costs under the rule is limited to costs incurred copying pages, and does not include the costs
14 of copying audio tapes. Accordingly, that portion of the cost bill is denied.

15 Respondent is awarded its costs in the amount of \$363.60, to be paid from petitioners’
16 deposits. The remainder of petitioners’ deposits shall be returned to petitioners. OAR 661-
17 010-0075(1)(d).

18 Dated this 6th day of June, 2001.
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26 Tod A. Bassham
Board Member