

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 CITIZENS FOR RESPONSIBLE

5 AREA PLANNING,

6 *Petitioner,*

7
8 vs.

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10 CITY OF WILSONVILLE,

11 *Respondent,*

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13 and

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15 COSTCO WHOLESALE CORPORATION,

16 *Intervenor-Respondent.*

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18 LUBA No. 2002-177

19 ORDER ON COSTS

20 Per stipulation of the parties, this appeal was dismissed on January 23, 2003, prior to
21 the filing of the city's record in this appeal. Our final opinion stated that we would return
22 petitioner's deposit for costs. *Citizens for Responsible Area Planning v. City of Wilsonville,*
23 ___ Or LUBA ___ (LUBA No. 2002-177, January 23, 2003) slip op 2. On January 30, 2003,
24 the city filed a cost bill, requesting reimbursement for the cost of preparing the record from
25 petitioner's deposit for costs.¹

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

27 "If the governing body is the prevailing party, the governing body may be
28 awarded copying costs for the required number of copies of the record, at 20
29 cents per page, whether or not the governing body actively participated in the
30 review."

¹ Actually, the city requests reimbursement of \$271 as the cost of printing three copies of the record. Our rules provide that a prevailing local government is entitled to recover the cost of copying two copies of the record and the amount awarded to the local government may not exceed petitioner's deposit for costs. OAR 661-010-0075(1)(b)(C); *Craven v. Jackson County*, 18 Or LUBA 909 (1990). Thus, in this case, the city would receive no more than \$150 as reimbursement for preparing the required copies of the record.

1 While our rule does not explicitly say so, we interpret the rule to require that the local
2 government's record be filed at LUBA in order for the city to be awarded copying costs
3 pursuant to OAR 661-010-0075(1)(b)(B), at least absent an agreement by the parties to the
4 contrary. The city had not yet filed its record with LUBA when this appeal was dismissed,
5 and petitioner did not agree to reimburse the city for the cost of preparing the record.
6 Accordingly, the city's cost bill is denied.

7 Dated this 11th day of March, 2003.

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Anne Corcoran Briggs
Board Member