

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

3
4 WAVESEER OF OREGON, LLC
5 *Petitioner,*

6
7 vs.

8
9 DESCHUTES COUNTY,
10 *Respondent.*

11
12 LUBA No. 2020-021/031

13
14 ORDER

15 On March 26, 2020, LUBA received the paper copy of the record that the
16 county transmitted. We assume that the county also served petitioner with a paper
17 copy of the record. The certificate of service included with the record LUBA
18 received states that the county filed the “RECORD” with LUBA and served
19 petitioner with an “AMENDED RECORD.” Certificate of Service 1.

20 The paper record that LUBA received is an unbound collection of
21 approximately 360 loose pages that were placed in a large envelope and mailed
22 to LUBA. It thus fails to comply with the requirement in OAR 661-010-
23 0025(4)(a)(A) that the record be “filed in a suitable folder” and in OAR 661-010-
24 0025(4)(a)(C) that the record be “securely fastened on the left side.” A several
25 hundred page record that is an unbound collection of loose documents invites the
26 potential for loss or reordering of pages, and improperly shifts the burden of
27 properly securing the record onto LUBA and the parties. The county’s

1 noncompliance with OAR 661-010-0025(4) is not merely a “technical violation.”
2 OAR 661-010-0005.

3 Not later than April 16, 2020, the county shall transmit to the Board and,
4 if necessary in order to correct noncompliance with OAR 661-010-0025(4) as to
5 the record served on petitioner, serve on petitioner, a record that complies with
6 the requirements in OAR 661-010-0025(4)(a)(A) that the record be “filed in a
7 suitable folder” and in OAR 661-010-0025(4)(a)(C) that the record be “securely
8 fastened on the left side.” The county shall confirm in its certificate of service
9 that the copies of the record that LUBA and petitioner have received are identical.

10 Dated this 27th day of March 2020.
11
12
13

14 _____
15 Melissa M. Ryan
16 Board Member