

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MULTNOMAH NEIGHBORHOOD
ASSOCIATION,

Petitioner,

v.

LAND CONSERVATION AND
DEVELOPMENT COMMISSION and
CITY OF PORTLAND,

Respondents.

Land Conservation and Development
Commission No. 18WKTSK001897

Appellate Court No. A168704

NOTICE TO COURT - ORDER ON
MOTION TO CORRECT RECORD

Attached is the Order on Motion to Correct Record.

Respectfully submitted,

ELLEN F. ROSENBLUM #753239
Attorney General
BENJAMIN GUTMAN #160599
Solicitor General

/s/ Jona J. Maukonen

JONA J. MAUKONEN #043540
Assistant Attorney-In-Charge
jona.j.maukonen@doj.state.or.us

Attorneys for Respondent
Land Conservation and Development
Commission

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF REVIEW) LCDC No. 18-WKTSK-001897
OF THE CITY OF PORTLAND)
PERIODIC REVIEW TASKS 4 AND 5) Court of Appeals No. A167704

ORDER ON MOTIONS TO CORRECT RECORD

The Land Conservation and Development Commission (LCDC) filed the record for the above matter with the Court of Appeals on September 24, 2018. On October 9, 2018, LCDC received two motions under ORAP 4.22 to correct the record, one from the City of Portland (City) and one from the Multnomah Neighborhood Association (MNA).

LCDC has delegated the authority to decide the motions to the Director of the Department of Land Conservation and Development (DLCD). The Director rules as follows.

The City and MNA identify a number of items that were not included in the record filed September 24, 2018. The City identifies the following: (1) the City’s local record table of contents for Task 5; (2) mailing lists and returned notices for the Ballot Measure 56 Notice; (3) indices of Portland Planning and Sustainability Commission videos and Portland City Council videos from the local record for Task 4; (4) video recordings of the Portland Planning and Sustainability Commission and Portland City Council meetings for Task 4 and Task 5. MNA identifies the following: (1) the Periodic Review Work Program approved by DLCD; (2) City Ordinance 185657, together with its exhibits and attachments; (3) City Ordinance 187831, together with its listed exhibits; and (4) an undated version of the Urban Design Direction.

LCDC agrees that certain of the items are properly included in the record, and grants the motions except with respect to forth item requested by MNA: the undated version of the Urban Design Direction. MNA does not assert or demonstrate that the undated Urban Design Direction was included in the record pursuant to OAR 660-025-0130(3)(b). Instead, MNA declares that “the attached version of this document is not in the record, and this [undated] version contains material differences to the version that is in the record.” Petitioner’s Motion to Correct the Record at 2. ORAP 4.22(1)(b) does not authorize supplementing the record on judicial review with evidence that never was part of the record before the agency. Accordingly, absent a demonstration that the undated Urban Design Direction *was* placed in the agency record, LCDC declines to supplement the record.

Dated this 6 day of November, 2018.



Jim Rue, Director
Department of Land Conservation and
Development

NOTICE OF FILING AND PROOF OF SERVICE

I certify that on November 6, 2018, I directed the original Notice to Court - Order on Motion to Correct Record to be electronically filed with the Appellate Court Administrator, Appellate Records Section, and electronically served upon Michael J. Gelardi, attorney for petitioner, and Linly F. Rees, attorney for respondent City of Portland, using the court's electronic filing system.

/s/ Jona J. Maukonen

JONA J. MAUKONEN #043540
Assistant Attorney-In-Charge
jona.j.maukonen@doj.state.or.us

Attorney for Respondent
Land Conservation and Development
Commission