

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

3
4 NO MORE FREEWAYS and JOE CORTRIGHT,
5 *Petitioners,*

6
7 vs.

8
9 METRO,
10 *Respondent.*

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12 LUBA No. 2024-001

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14 ORDER

15 Petitioners appeal Metro Council Ordinance No. 23-1496, which is a
16 legislative amendment to Metro's Regional Transportation Plan with
17 corresponding amendments to the transportation-related Goals and Objectives in
18 Metro's Regional Framework Plan. We refer to those amendments, collectively,
19 as Metro's amendments. In an order dated January 19, 2024, the Board granted
20 the parties' stipulated request that this appeal be suspended to allow the parties
21 additional time to resolve review of Metro's amendments by the Department of
22 Land Conservation and Development (DLCD). On April 9, 2024, DLCD issued
23 an Order of Dismissal after concluding that it lacked jurisdiction to review
24 Metro's amendments.

25 On November 5, 2024, we issued an order directing the parties to advise
26 LUBA of the status of the appeal not later than November 26, 2024. On
27 November 26, 2024, Metro filed a notice of related matters, explaining that, on
28 October 3, 2024, Metro filed a petition in Multnomah County Circuit Court Case

1 No. 24CV47583, seeking judicial review of the DLCD’s Order of Dismissal.
2 Metro explained that the circuit court case concerns whether DLCD has
3 jurisdiction over petitioner’s challenges to Metro’s amendments, the same
4 decision that is challenged in this appeal. Metro did not request that we reactivate
5 or continue the suspension of this appeal.

6 On December 17, 2024, we received from petitioners a Renewed
7 Stipulated Motion to Extend Deadlines, in which petitioners request that we
8 continue the suspension to allow the pending circuit court review to proceed to
9 conclusion. Petitioners explain that they “would like to avoid additional motion
10 practice dealing with jurisdiction that will inevitably follow if this appeal is
11 reactivated.” Renewed Stipulated Motion to Extend Deadlines 2. Petitioners
12 request, and Metro stipulates, that this appeal remain suspended until one of the
13 parties moves to reactivate the appeal. Petitioners filed an alternative, contingent
14 motion to reactivate if we decline to continue the suspension.

15 We conclude that continued suspension of this appeal is warranted because
16 reactivation and accelerated LUBA review could potentially result in inconsistent
17 adjudications by LUBA and the circuit court on a threshold jurisdictional issue.
18 Either DLCD or LUBA, but not both, has jurisdiction to review Metro’s
19 amendments. If the circuit court agrees with Metro that DLCD issued its Order
20 of Dismissal in error, then the matter may return to DLCD for further
21 proceedings. In allowing a continued stipulated suspension, we express no
22 opinion about whether we have jurisdiction to review Metro’s amendments.

1 This appeal remains suspended pursuant to the parties' stipulation until one
2 of the parties moves to reactivate the appeal or the pending circuit court
3 proceeding is concluded, whichever occurs first. Metro shall notify LUBA within
4 seven (7) days after the period for appealing the circuit court's final judgement
5 in Multnomah County Circuit Court Case No. 24CV47583 has expired and shall
6 provide LUBA a copy of the circuit court decision. Metro shall notify LUBA
7 within seven (7) days if the circuit court judgement is appealed to the Court of
8 Appeals and shall provide LUBA the Court of Appeals case number.

9 Dated this 21st day of March 2025.
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15 H. M. Zamudio
 Board Chair