



# Oregon

Kate Brown, Governor

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February 10, 2016

SENT VIA E-MAIL



John Adam, Principal Planner  
City of Medford  
200 South Ivy Street  
Medford, Oregon 97501

RECEIVED  
FEB 10 2016  
PLANNING DEPT.

**RE: Urban Growth Boundary Amendment** (local file CP-14-114; DLCD File 012-014)

Dear Mr. Adam:

The department has been asked to respond to written testimony regarding whether the Housing Element adopted by Medford in 2010 is acknowledged and whether the city may amend the findings contained in the Housing Element at this time. The department has also reviewed a response from Medford's city attorney Lori Cooper.

We believe Ms. Cooper's analysis is correct and complete. This analysis relies on our letter to the City of Medford, dated January 5, 2011, rejecting the city's submittal of its adopted Housing Element update as premature without concurrent submittal of an urban growth boundary (UGB) amendment of greater than 50 acres, which pursuant to ORS 197.626 and OAR 660-025-0175 requires review by the Land Conservation and Development Commission in the manner of a periodic review task submittal.

The only court decision we are aware of that squarely addresses this issue is *DLCD v. City of McMinnville*, 41 Or LUBA 210 (2001). That opinion states:

The housing needs analysis required by ORS 197.296(3) identifies whether and to a limited, preliminary extent what actions the city must take under ORS 197.296(4) and (5). Where, as here, the city's housing needs analysis identifies a significant deficit in the supply of buildable land, the city must take one or more actions under ORS 197.296(4)-(7). It is highly probable under the present circumstances that whatever actions the city takes under ORS 197.296(4)-(7) will implicate Goal 14. In our view, LCDC's choice to require that the housing needs analysis required by ORS 197.296(3) be "consistent with Goal 14 requirements" is essentially a choice to require that, in circumstances such as the present one, the city must complete the statutory process and adopt one or more of the actions described in ORS 197.296(4)-(7) to take the necessary actions to plan for the identified housing need and the identified deficit in the supply of buildable lands. 41 Or LUBA 226.

and

[B]ecause LCDC's rules implementing [OAR chapter 660, division 8] require that the city's housing needs analysis *must* be consistent with Goal 14 requirements, the consequence in the present case is that the city committed reversible error in adopting a *final* comprehensive plan amendment that concludes that action will be required under ORS 197.296(4)–(7), but fails to complete the process set forth in the statute by taking action under those provisions. 41 Or LUBA 226. Italics in original.

Regardless of previous adoption/acknowledgement, the assertion that the city cannot amend its housing element to address an admitted inaccuracy is incorrect. There is no rule or statute which prevents a city from correcting an error or making changes to a comprehensive plan element as part of its UGB amendment submittal. For example, the City of Grants Pass amended many elements of their comprehensive plan as part of their UGB amendment which was acknowledged in March of 2015.

The department is confident that our pending review of Medford's UGB expansion submittal, *which will include the Housing Element*, is based upon a sound legal foundation, for the reasons stated above and those we expressed in our January 5, 2011 letter.

Furthermore, we would also like to respond to the letter found at Exhibit LLLLLL in the record. Footnote 2 of that letter asserts that not including enough residential land in the UGB may "inflate land and housing prices and impede the city's ability to provide an adequate supply of affordable housing." As we have previously pointed out (Exhibits WW and MMMM), a new population forecast has been issued for the city since the UGB amendment process began. This forecast, which is based on accepted methods, predicts population growth for Medford will be substantially slower than previously forecasted. In fact, the more recent forecast suggests the 20-year supply of land proposed though this UGB amendment process may be closer to a 60-year supply. Put another way, if the more recent forecast was used, it is likely the city would find it currently has a 20-year land supply and a UGB amendment would not be necessary. If anything, the city should be concerned with the implications of providing an oversupply of land, not the reciprocal. Additionally, if population growth for Medford were to increase rapidly, the new streamlined UGB process which is in effect should provide the appropriate mechanism to address any shortages of land.

If you have any questions, please don't hesitate to contact me at (541) 414-7932 or [josh.lebombard@state.or.us](mailto:josh.lebombard@state.or.us).

Yours truly,



Josh LeBombard  
Southern Oregon Regional Representative