

Bond Case Briefs

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Barkers Five, LLC v. Land Conservation and Development Com'n

Court of Appeals of Oregon - February 20, 2014 - P.3d - 2014 WL 662329

Petitioners sought review of order of the Land Conservation and Development Commission (LCDC), acknowledging metropolitan service district's and counties' designation of urban and rural reserves.

The Court of Appeals held that:

- Legal premises undergirding and informing LCDC's review of the consideration and application of the reserve factors were individually and collectively valid;
- Legal premises informing LCDC's review of the "best achieves" standard were individually and collectively valid;
- First county misapplied rural reserve factors through its use of substituted pseudo-factors;
- Petitioners failed to establish error in second county's application of "safe harbor provision";
- Third county failed to adequately "consider" rural reserve factors in designating all of the land in a certain denominated "area" as rural reserve; and
- Order was unlawful for failing to meaningfully explain why urban reserve designation was supported by substantial evidence when evidence showed that transportation facilities serving the area would be failing.

Evidence that transportation facilities serving a certain area would be failing within the reserve period was "so at odds" with determination of the LCDC that the designation of the area as urban reserves was supported by substantial evidence that it gave rise to an inference that LCDC misunderstood its standard of review, and thus LCDC's order was unlawful in substance. Provision of adequate transportation facilities is critical to the development of urban areas, and LCDC failed to provide a meaningful explanation as to why, even in light of that conflicting evidence, the designation was supported by substantial evidence.