

1 designated. OAR 661-010-0015(3)(f)(A).¹ Only petitioner Gillette signed the notice of
2 intent to appeal as a petitioner. For reasons that are not entirely clear, Eckert elected to move
3 to intervene in this appeal rather than simply join in the notice of intent to appeal by signing
4 as a second petitioner. But having made that choice, he cannot now be designated lead
5 petitioner. James Gillette is the petitioner; Eckert is the intervenor-petitioner.

6 To avoid any misunderstanding regarding Eckert's role in this appeal, we note that
7 the only real consequence of our decision that Eckert cannot be designated as lead petitioner
8 is that the county must serve copies of all documents that it files with LUBA on both
9 petitioner Gillette and Eckert, whereas only Eckert would have to be served if he were lead
10 petitioner. OAR 660-010-0075(2)(b)(A).² Lead petitioners do not "represent" the other
11 unrepresented petitioners and therefore cannot present arguments on their behalf. OAR 661-
12 010-0075(6) and (7)(a).³

13 The language in the notice of intent to appeal quoted above appears both to recognize
14 that Eckert cannot represent petitioner and at the same time ask permission to represent
15 petitioner. Providing "the bulk of oral arguments on Petitioner's behalf" is representing
16 petitioner. Because Eckert is not an attorney, he may not file documents for petitioner or

¹ OAR 661-010-015(3)(f)(A) provides, in relevant part, that "[i]f two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner, but the Notice [of Intent to Appeal] shall include the names, addresses, and telephone numbers of all such unrepresented petitioners. * * *"

² OAR 660-010-0075(2)(b)(A) provides, in part:

"Service on two or more petitioners unrepresented by an attorney is accomplished by serving the lead petitioner designated under OAR 661-010-0015(3)(f)(A)."

³ OAR 661-010-0075(6) provides, in part:

"An individual shall either appear on his or her own behalf or be represented by an attorney."

OAR 661-010-0075(7)(a) provides:

"A lead petitioner is responsible for notifying the other petitioners of documents received from the Board and other parties, but each petitioner remains responsible for his or her own representation."

1 provide oral argument for petitioner. This would be true whether Eckert participates in this
2 appeal as lead petitioner or as an intervenor-petitioner. Eckert may file motions and file a
3 petition for review on his own behalf. Petitioner Gillette may sign and thereby join in any
4 such motions and petition for review if he wishes. Petitioner may also attend oral argument
5 and adopt or join in any oral argument that Eckert may present on his own behalf. In
6 summary, petitioner and intervenor may join in each other's arguments, but each of them is
7 responsible for their own representation and neither may represent the other in this appeal.

8 Dated this 14th day of February, 2006.
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16 Michael A. Holstun
Board Member