

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

DARYL L. SOLE and WILLIAM)	
PHILLIPS,)	
)	
Petitioners,)	
)	LUBA No. 79-036
vs.)	
)	OPINION AND
LANE COUNTY,)	ORDER OF DISMISSAL
)	
Respondent.)	

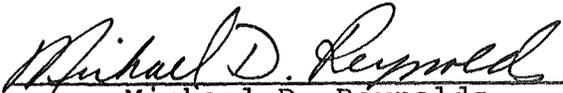
Petitioners have filed a Notice of Intent to Appeal challenging what they allege to be a land use decision of respondent which became final November 28, 1979, involving a request by petitioners that certain property be rezoned from AGT-5 to RR-2. Respondent Lane County has filed a Motion to Dismiss on the basis that no final decision has yet been rendered by Lane County because the County has not adopted an order denying the zone change and adopting findings of fact.

Oregon Laws 1979, Ch 772 invested this Board with jurisdiction to review only land use decisions. "Land Use Decision" is defined in Section 3 of Ch 772 to mean "a final decision or determination made by a . . . county" "Final decision or determination" is defined in the Board's procedural rules to mean "a decision or determination which has been reduced to writing and which bears the necessary signatures of the governing body." This definition is in accordance with recent case law requiring executed findings to accompany an order in a quasi-judicial proceeding in order for there to be a valid decision. See Heilman v. City of Roseburg, 39 Or App 71, 591 P2d 390 (1979); Fasano v. Washington County Commissioners, 264 Or 574, 507 P2d 23 (1972).

In order for this Board to acquire jurisdiction over an appeal, there must be a final decision or determination for it to review. In the absence of such a final decision or determination, the Board can only dismiss the appeal.

Therefore, it is hereby ordered that the above captioned matter be dismissed and that petitioners be refunded their deposit for costs submitted with the appeal.

Dated this 24th day of January, 1980.


Michael D. Reynolds
Chief Hearings Referee