

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

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NELSON & PYLE WOODWORKING)
CO., an Oregon corporation,)
Petitioner,)
vs.)
DOUGLAS COUNTY OREGON,)
a political subdivision of)
the State of Oregon,)
Respondent.)

LUBA NO. 80-043
FINAL OPINION AND ORDER
(MOTION TO DISMISS)

Appeal from Douglas County.

Doyle Schiffman
Attorney at Law
1012 SE Oak
Roseburg, OR 97470

Clifford Kennerly
Douglas County Counsel
Douglas County Courthouse
Roseburg, OR 97470

Attorney for Petitioner

Attorney for Respondent.

Cox, Referee; Reynolds, Chief Referee; Bagg, Referee;
participated in the decision.

Dismissed. 5/14/80

You are entitled to judicial review of this Order.
Judicial review is governed by the provisions of Oregon Laws
1979, ch 772, sec 6(a).

1 COX, Referee.

2 This matter is before LUBA on Respondent Douglas County's
3 motion for an order dismissing the above entitled appeal for
4 the reason that the notice of intent to appeal was not filed
5 within 30 days after the date the decision sought to be
6 reviewed became final. Respondent appeared by and through its
7 Counsel Clifford W. Kennerly. Petitioners did not appear in
8 any form regarding this motion.

9 The decision petitioners seek to have reviewed became final
10 on March 12, 1980. On that date, the Board of County
11 Commissioners of Douglas County signed an Order denying
12 petitioners' requested subdivision. This Board received
13 petitioners' notice of intent to appeal on April 15, 1980.

14 Controlling law in this matter is set forth in Oregon Laws
15 1979, ch 772, sec 4(4) which states in pertinent part

16 "A notice of intent to appeal a land use decision
17 shall be filed not later than 30 days after the date
18 the decision sought to be reviewed becomes final."

19 Land Use Board of Appeals Rule 3(C) defines a final
20 decision or determination as:

21 "*** a decision or determination which has been
22 reduced to writing and which bears the necessary
23 signatures of the governing body."

24 The contested decision of respondent was reduced to writing
25 on March 12, 1980, (the 72nd day of 1980). Pursuant to the
26 above cited Oregon Laws 1979, ch 772, sec 4(4), LUBA's
jurisdiction over this appeal was predicated upon receipt of

1 petitioners notice of intent to appeal by April 11, 1980 (the
2 102nd day of 1980). Inasmuch as petitioner's notice of intent
3 to appeal was not filed with this Board until April 15, 1980
4 (the 106th day), LUBA has no jurisdiction to hear the
5 petitioners' case.

6 It is, therefore, ordered that this case is dismissed.

7 Dated this 14th day of May, 1980.

8
9 /s/ William C. Cox

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William C. Cox
11 Hearings Referee
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