

LAND USE
BOARD OF APPEALS

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

SEP 24 11 57 AM '80

3	WALLACE E. GORDON and)	
	MARY E. GORDON,)	
4)	
	Petitioners,)	No. 80-078
5)	
	vs.)	FINAL OPINION
6)	AND ORDER
	CITY OF BEAVERTON,)	(Order on Dismissal)
7)	
	Respondent.)	

Appeal from City of Beaverton.

11	Thomas A. Gordon	Eleanore Baxendale
	Bullivant, Wright, Leedy,	Assistant City Attorney
12	Johnson, Pendergrass & Hoffman	City of Beaverton
	1000 Willamette Center	4950 SW Hall Boulevard
13	121 SW Salmon Street	Beaverton, OR 97005
	Portland, OR 97204	

COX, Referee; REYNOLDS, Chief Referee; BAGG, Referee; participated in the decision.

Dismissed. 9/24/80

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 the Board pursuant to Respondent City
3 of Beaverton's Motion to Dismiss petitioner's appeal on the
4 ground that petitioners failed to file their petition for
5 review within the time prescribed by Rule 7(A) of the Land Use
6 Board of Appeals Rules of Procedure. Respondent City of
7 Beaverton appeared by and through its attorney, Eleanore S.
8 Baxendale. Petitioners appeared by and through their attorney,
9 Thomas A. Gordon, who filed a response to Respondent's Motion
10 to Dismiss.

11 The Land Use Board of Appeals Rule of Procedure 7(A)
12 entitled "Filing and Service of Petition" states in pertinent
13 part:

14 "The petition for review shall be filed with the
15 Board and served on the governing body and all parties
16 who have filed a Notice of Intent to Participate or
intervened within 20 days after the date the record is
received by the Board."

17 The Land Use Board of Appeals Rule of Procedure 7(A) as
18 above stated finds its legal basis in Oregon Laws 1979, ch 772,
19 sec 4(6) which states:

20 "Within 20 days after the date of transmittal of
21 the record, a petition for review of the land use
22 decision and supporting brief shall be filed with the
board."

23 The record in this case indicates that the Board received
24 the transmittal of the record from Respondent City of Beaverton
25 on August 19, 1980 and so notified petitioners. Pursuant to
26 the above cited Land Use Board of Appeals' rule and Oregon

1 statute, petitioners' petition for review was due on September
2 8, 1980. Petitioners did not file their Petition for Review
3 until September 9, 1980. Based on the foregoing, this Board is
4 without jurisdiction to hear petitioners' case due to failure
5 of petitioners to file their brief within the statutory time
6 limitation. It is, therefore, ordered that respondent's motion
7 to dismiss is granted and petitioners' petition for review is
8 dismissed. See Hayes v. Yamhill County, ____ Or LUBA ____
9 (1980), (LUBA No. 79-035).

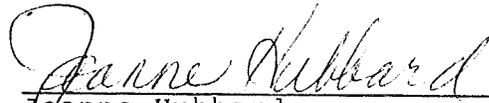
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1 CERTIFICATE OF MAILING

2 I hereby certify that I served the foregoing Final Opinion
3 and Order for LUBA No. 80-078, on September 23, 1980, by
4 mailing to said parties or their attorney a true copy thereof
5 contained in a sealed envelope with postage prepaid addressed
6 to said parties or their attorney as follows:

5 Thomas A. Gordon Eleanore Baxendale
6 Bullivant, Wright, Leedy, Assistant City Attorney
7 Johnson, Pendergrass & Hoffman City of Beaverton
8 1000 Willamette Center 4950 SW Hall Boulevard
9 121 SW Salmon Street Beaverton, OR 97005
10 Portland, OR 97204

11 Dated this 23rd day of September, 1980.

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13 Jeanne Hubbard
14 Secretary to the Board
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