

LAND USE
BOARD OF APPEALS

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

JUN 16 10 03 AM '81

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GORDON W. ELLIOTT,)	
)	
Petitioner,)	LUBA NO. 80-128
)	
v.)	
)	FINAL OPINION
LANE COUNTY, CITY OF EUGENE,)	AND ORDER
and CITY OF SPRINGFIELD,)	
)	
Respondents.)	

Appeal from Lane County.

Gordon W. Elliott, Eugene, filed a brief on his own behalf.

William Van Vactor, Eugene, represented Respondent Lane County.

Timothy Sercombe, Eugene, represented Respondent City of Eugene.

Joseph J. Leahy, Springfield, represented Respondent City of Springfield.

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

Dismissed. 6/16/81

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 Respondents City of Eugene, City of Springfield and Lane
3 County all move to dismiss this matter because petitioner
4 failed to timely file his petition for review.

5 The pertinent facts are as follows:

6 After a long battle over the contents of the record, this
7 Board, by order dated April 14, 1981, settled the record.
8 Notice of the record settlement was mailed to petitioner at the
9 address given this Board, that being 938 Jefferson Street,
10 Eugene, Oregon 97402. Included in that order was a specific
11 announcement that:

12 "Petitioner's Petition for Review would be due at the
13 Land Use Board of Appeals, 475 Cottage Street, NE,
14 Salem, OR 97301, on or before 5:00 p.m. May 4, 1981,
and Respondent's brief is due on or before May 26,
1981."

15 Petitioner admits in his response to respondents' motions
16 to dismiss, and the record so indicates, that he did not file
17 his petition for review with this Board until 5/20/81, some
18 sixteen days after the date his petition for review was due.

19 DECISION

20 Respondents' motion for dismissal is granted. Filing of
21 the petition for review within 20 days of the date the record
22 is transmitted or, in the case of objections thereto, when the
23 record is settled, is required by Oregon Laws 1979, ch 772, sec
24 4(6) which states:

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

1 Since the petitioner has failed to file his petition for
2 review within 20 days of the date the record was settled, the
3 Board does not have jurisdiction over this appeal. Therefore,
4 it is hereby ordered that this appeal is dismissed. See Hayes
5 v. Yamhill County, 1 Or LUBA 199 (1980). It is further ordered
6 that Respondent Lane County be awarded the filing fee and the
7 deposit for costs in the amount of \$200 as provided in Oregon
8 Laws 1979, ch 772, sec 4 which states in pertinent part:

9 "In the event a petition for review is not filed with
10 the board as required in subsection (6) of this
11 section, then the filing fee and deposit shall be
 awarded to the city, county, special district or state
 agency as cost of preparation of the record."

12 The record that has been transmitted to this Board was
13 primarily prepared by Respondent Lane County and, therefore,
14 the above mentioned deposit for costs and filing fee is awarded
15 to Lane County.

16 Dismissed.

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