

BEFORE THE LAND USE BOARD OF APPEALS **OCT 6 4 15 PM '82**

OF THE STATE OF OREGON

3	ED ELKINS and JUDY ELKINS,	)	
		)	
4	Petitioners,	)	LUBA NO. 81-027
		)	
5	v.	)	FINAL OPINION
		)	AND ORDER
6	CITY OF MCMINNVILLE CITY	)	
	COUNCIL and CITY OF	)	
7	MCMINNVILLE PLANNING	)	
	COMMISSION,	)	
8		)	
	Respondents.	)	

Appeal from City of McMinnville.

11	Stan Bunn	E. Clifton Ross
	Attorney at Law	City Attorney
	408 E. First Street	City Hall
12	Newberg, OR 97132	230 E. Second Street
		McMinnville, OR 97128

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

Dismissed. 10/06/82

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 BAGG, Referee.

2 This matter is before the Board on the parties' stipulation  
3 and affidavit to dismiss with prejudice the foregoing appeal.  
4 In the stipulation and affidavit, a copies of which are  
5 attached hereto, the parties agreed to a disbursement of costs  
6 as follows:

- 7 1: \$75.00 to the City of McMinnville,
- 8 2. \$75.00 returned to the application,
- 9 3. \$50.00 filing fee returned to the applicant.

10 This Board does not have the authority to return the \$50  
11 filing fee.<sup>1</sup>

12 Based upon the stipulation and affidavit, it is ordered  
13 that this appeal is dismissed with prejudice. The \$150 deposit  
14 for costs shall be divided between the parties, \$75.00 to the  
15 Respondent City of McMinnville and \$75.00 to Petitioners Elkins.

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24 <sup>1</sup> The board advised petitioner it lacked authority to return  
25 the \$50 filing fee and asked if this had any effect on the  
26 stipulation to dismiss. Petitioner then requested the Board to  
proceed with the dismissal, acknowledging that the \$50 filing  
fee would not be returned.