

LAND USE
BOARD OF APPEALS

MAY 9 1 54 PM '88

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

3 PORTLAND OIL SERVICE CO., INC.,)
4 Petitioner,)
5 vs.)
6 CITY OF BEAVERTON,)
7 Respondent.)

LUBA No. 88-017
FINAL OPINION
AND ORDER OF DISMISSAL

8 Appeal from City of Beaverton.

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 & Wyatt
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 Petitioner

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15 SHERTON, Referee; BAGG, Chief Referee; HOLSTUN, Referee.

16 DISMISSED 05/09/88

17 You are entitled to judicial review of this Order.
18 Judicial review is governed by the provisions of ORS 197.850.

1 Sheraton, Referee.

2 This matter is before the Board on the stipulated motion of
3 the parties for an order dismissing the appeal on the grounds
4 that all issues between the parties have been resolved. The
5 parties further stipulate that LUBA "may make such disposition
6 of the filing fee and deposit of costs as it deems appropriate."

7 ORS 197.830(7) provides, in relevant part:

8 " * * * If a petition for review is not filed with
9 the board as required in subsections (8) and (9) of
10 this section, the filing fee and deposit shall be
awarded to the local government, special district or
state agency as cost of preparation of the record."

11 ORS 197.830(9) requires a petition for review to be filed in
12 accordance with LUBA rules. OAR 661-10-030(1) requires a
13 petition for review to be filed within 21 days after the record
14 is received by LUBA.

15 We received the record in this case on April 7, 1988.
16 Thus, the petition for review was due on or before April 28,
17 1988. No petition for review was filed by this deadline. On
18 May 2, 1988, the Motion to Dismiss and Stipulation for
19 Dismissal were filed. Since the petition for review was not
20 filed as required by ORS 197.830(9) and OAR 661-10-030(1), ORS
21 197.830(7) requires us to award the filing fee and deposit for
22 costs to the city.

23 Accordingly, the appeal is dismissed and the filing fee and
24 deposit for costs are awarded to respondent City of Beaverton.

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