

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

FRITZ and JOANN von LUBKEN)
and von LUBKEN ORCHARDS, INC.,)
Petitioners,)
vs.)
HOOD RIVER COUNTY,)
Respondent,)
and)
BROOKSIDE, INC.,)
Intervenor-Respondent.)

LUBA No. 89-023
ORDER ON MOTION FOR
EXTENSION OF TIME

Intervenor-respondent (intervenor) moves for an extension of time in which to file its brief in this appeal.¹ Following an objection to the record by petitioners, the supplemental record in this case was received on June 19, 1989, and the record was settled on that date. OAR 661-10-026(5). Under our rules, the petition for review was due 21 days after the record was settled, or July 10, 1989. OAR 661-10-030(1). The respondent's brief is due July 31, 1989.

Intervenor's attorney states in an affidavit attached to the motion for an extension of time:

"I will be out of the country on a long planned adventure from July 3, 1989, until returning to my office on July 25, 1989. The timing of the briefing schedule was worked out so that the petitioners' brief is due at about the time of my departure or shortly thereafter. I will not see that brief until July 25. I am requesting 21 days from July 25 to file the intervenor-respondent's brief. * * *"

1 Petitioners object to any extension in the briefing
2 schedule "so long as intensive development of the golf course
3 now under review * * * is permitted to continue." Objection to
4 Motion For Extension of Time 1. We understand petitioners'
5 objection to include an objection to any extension in the 77
6 day time limit set by ORS 197.830(12) for the Board to issue
7 its opinion in this matter. Although, as noted above, the
8 Board has received a request for stay and under
9 ORS 197.840(1)(c) the Board may exclude periods of delay
10 attributable to a request for stay from the 77 day deadline in
11 ORS 197.830(12), the requested delay is not attributable to the
12 request for stay. Rather, the requested delay is attributable
13 both to the earlier delay caused by the record objection and to
14 intervenor's attorney's prior plans to be out of the country.

15 Intervenor's attorney will return from his trip on July 25,
16 1989. The intervenor's brief is now due July 31, 1989. We
17 agree that six days may not be a sufficient length of time to
18 prepare a response brief. However, in view of the statutory
19 deadline for issuing our opinion and petitioners' objection to
20 extending the briefing schedule or our opinion deadline while
21 construction of the golf course continues, we will not grant
22 intervenor's request for an extension to August 15.

23 Intervenor's shall file its response brief on or before
24 August 7, 1989, an extension of seven days. The Board shall
25 adhere to its statutory deadline to issue the final opinion.

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1 Dated this 27th day of July, 1989.

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5 Michael A. Holstun
6 Chief Referee
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FOOTNOTES

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1 This appeal challenges the county's approval of a conditional use permit for a golf course. Citing intervenor-respondent's actions to begin development of the golf course, petitioners moved for a stay under ORS 197.845 and OAR 661-10-068. An order denying petitioners' request for a stay is issued this date.