

LAND USE
BOARD OF APPEALS

BEFORE THE LAND USE BOARD OF APPEALS APR 29 3 36 PM '82

OF THE STATE OF OREGON

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3 MAS FUJIMOTO, DELMER EISERT,)
ROBERT and AGNES GUY,)
4) LUBA No. 80-111
Petitioners,)
5)
vs.) FINAL OPINION
6) (ORDER OF DISMISSAL)
CITY OF HAPPY VALLEY,)
7 a municipal corporation,)

8 Appeal from the City of Happy Valley.

9 Terry D. Morgan James Carskadon, Jr.
10 Morgan & Shonkwiler, P.C. Redman, Carskadon, Knauss
& Kelley
11 2111 N.E. 43rd Avenue 10565 S.E. 23rd Avenue
Portland, OR 97213 Milwaukie, OR 97222

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13 REYNOLDS, Chief Referee; COX, Referee; BAGG, Referee.

14 DISMISSED 4/29/82

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16 You are entitled to judicial review of this Order.
17 Judicial review is governed by the provisions of Oregon Laws
18 1979, ch 772, sec 6(a).
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1 REYNOLDS, Chief Referee.

2 Petitioners and respondent have jointly moved the Board for
3 an order dismissing the appeal for the reason that the appeal
4 is now moot. The stipulated motion for dismissal recites that
5 Happy Valley's comprehensive plan and land development
6 ordinance which were the subject of the present appeal were
7 also before LCDC on Happy Valley's request for acknowledgment
8 of compliance. LCDC has entered an order denying
9 acknowledgment based upon its conclusion that the city's plan
10 and ordinance did not comply with Goals 1, 2, 6, 9, 10, 11, 12,
11 and 14. Petitioners and respondent jointly urge that denial of
12 an acknowledgment is a final order on the merits on the goal
13 related issues and that LUBA cannot rule differently in the
14 present appeal. The parties also agree that LCDC's order
15 denying acknowledgment affords petitioners the same relief
16 sought in the present appeal and it would be unnecessary to
17 reach the constitutional issues raised in the present appeal.

18 The Board agrees with the parties that the above captioned
19 appeal should be dismissed in view of LCDC's final order
20 denying acknowledgment of the City of Happy Valley
21 comprehensive plan and land development ordinance. See Mas
22 Fujimoto v Land Use Board of Appeals, 52 Or App 875, 630 P2d
23 364 (1981).

24 Dismissed.
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BEFORE THE LAND USE BOARD OF APPEALS DEC 30 11 31 AM '81

OF THE STATE OF OREGON

3 HILLCREST VINEYARD and)
 RICHARD SOMMER,)
 4)
 Petitioners,)
 5)
 vs.)
 6 DOUGLAS COUNTY,)
 7)
 Respondent,)
 8)
 and)
 9)
 LATTIE BROYHILL and)
 10 DAVID FLURY,)
)
 11 Intervenors.)

LUBA No. 81-111
 FINAL OPINION
 AND
 ORDER OF DISMISSAL

Appeal from Douglas County.

Richard P. Benner	Clifford Kennerly
400 Dekum Building	Douglas County Legal Counsel
519 S.W. 3rd Avenue	405 Justice Building
Portland, OR 97204	Roseburg, OR 97470
Attorney for	Attorney for
Petitioners	Respondent

Dudley C. Walton
 Geddes, Walton, Richmond
 Nilsen & Smith
 435 S.E. Kane Street
 Roseburg, OR 97470
 Attorney for
 Intervenors

PEYNOLDS, Chief Referee; COX, Referee; BAGG, Referee.

DISMISSED 12/30/81

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 REYNOLDS, Chief Referee.

2 This matter is before the Board upon the Motion to Dismiss
3 submitted by Respondent Douglas County and Intervenors Broyhill
4 and Flury. The parties request an order of dismissal based
5 upon the grounds and for the reason that the matter for which
6 petitioner seeks an appeal has become moot.

7 There has been no response from petitioner.

8 NOW THEREFORE, this case is hereby ordered dismissed
9 because the same has become moot.

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