

LAND USE
BOARD OF APPEALS

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON JUL 11 1 29 PM '86

LOGAN RAMSAY and)
MARGARETTA RAMSAY,)
)
Petitioners,)
)
vs.)
)
MULTNOMAH COUNTY,)
)
Respondent.)
)
and)
)
WOLF CREEK HIGHWAY WATER)
DISTRICT,)
)
Respondent-Participant.)

LUBA No. 86-028
FINAL OPINION
AND ORDER OF DISMISSAL

Appeal from Multnomah County.

Logan Ramsay
3026 NW Skyline Blvd.
Portland, OR 97229
Petitioner

Margaretta Ramsay
Star Rt. North, Box 38
Depoe Bay, OR 97341
Petitioner

Peter Kasting
Assistant County Counsel
1120 SW Fifth Avenue
Portland, OR 97204
Attorney for
Respondent County

DeMar L. Batchelor
Attorney at Law
139 NE Lincoln
Hillsboro, OR 97123
Attorney for
Respondent-Participant
Wolf Creek Highway Water District

DUBAY, Referee; KRESSEL, Referee; BAGG, Referee.

DISMISSED 07/11/86

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

1 DuBay, Referee.

2 This matter is before the Board on participant's Motion to
3 Dismiss on the grounds petitioners did not file a petition for
4 review within the time required by OAR 661-10-030(1). The rule
5 requires petition for review to be received by the Board within
6 21 days after the Board receives the record.

7 The Board received the record on May 28, 1986. By letter
8 dated May 29, 1986, the Board advised each of the parties of
9 the date the record was filed. The letter also stated the
10 petition for review would be due 21 days after receipt of the
11 record. According to OAR 661-10-030, the petition for review
12 was due on June 18, 1986.

13 In response to the motion petitioners allege they conferred
14 with county counsel for Multnomah County on June 19.
15 Petitioners requested that county counsel supplement the record
16 with a copy of a notice regarding the hearing before the
17 planning commission on the matter. Petitioners allege the
18 county counsel agreed to supplement the record. Petitioners
19 argue the record was not settled for purposes of computing the
20 time within which to file a petition for review until the
21 requested document was submitted to LUBA.

22 Petitioners' argument finds some support in OAR
23 661-10-025(3)(a), which states in part:

24 "Prior to filing an objection with the Board as
25 provided in the section, a party shall first attempt
26 to resolve the matter with the governing body or its
legal counsel. When the governing body or its legal
counsel transmits amendments or additions to the
record in order the resolve the matter without

1 objections, the date of such transmittal shall be
2 considered the date of transmittal of the record for
3 the purposes of computing time limits for issuance of
4 the Board's final opinion and order. The date of
5 receipt of such amendments by the Board shall be the
6 date for computing the time limits for submittal of
7 the petition for review and the respondent's brief.
8 If objection is thereafter filed with the Board, the
9 objection shall state that the party filing the
10 objection was not able to resolve the matter with the
11 governing body."

12 The above rule requires taking up the matter of objections
13 to the record with the governing body before an objection to
14 the record is filed. If an objection to the record is filed,
15 however, it must be received by the Board within 10 days
16 following service of the record on the person filing the
17 objection. OAR 661-10--025(3)(b).

18 Here, petitioners neither conferred with the governing body
19 about the objection to the record nor filed an objection with
20 the Board within the 10 days after service of the record upon
21 them. Petitioners delayed taking any action until one day
22 after the petition for review was due. While the Board is
23 inclined to grant some leeway to parties who appear without
24 attorneys, we are disinclined to grant relief to a petitioner
25 who fails to file an objection to the record, or take other
26 steps to supplement the record, within the time described by
27 OAR 661-10-025 and also fails to file a petition for review as
28 required by OAR 661-10-030(1).

29 Participant's Motion to Dismiss is therefore granted. The
30 appeal is dismissed.