

LAND USE
BOARD OF APPEALS
SEP 8 2 58 PM '89

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

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SPEC INDUSTRIES, INC., SALLY F.,)
OLSON, and DIESEL TRUCK DRIVER)
TRAINING SCHOOL, INC.,)
)
Petitioners,)
)
vs.)
)
CITY OF EUGENE,)
)
Respondent.)

LUBA No. 89-085
FINAL OPINION
AND ORDER

Appeal from the City of Eugene.

Donald J. Churnside	Timothy Sercombe
Gaydos & Churnside, P.C.	City Attorney
975 Oak St., S-900	Harrang, Long, Watkinson,
Eugene, OR 97401	Arnold & Laird, P.C.
	101 East Broadway, S-400
	Eugene, OR 97401

Attorney for Petitioners Attorney for Respondent

KELLINGTON, Referee; HOLSTUN, Chief Referee; SHERTON,
Referee participated in the decision.

DISMISSED 09/08/89

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

1 Kellington, Referee.

2 The parties stipulate that this appeal be dismissed and
3 that respondent be awarded the deposit for costs in the amount
4 of \$150 for preparation of the record.¹

5 Accordingly, this case is dismissed and respondent is
6 awarded the deposit for costs.
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21 ¹The parties also stipulate that this Board "refund" to
22 petitioners their filing fee in the amount of \$50.00.

23 Under ORS 197.830(13)(a) and OAR 660-10-075(1)(b)(A), we
24 may "award" the amount of the filing fee to petitioners if they
25 are the prevailing parties. However, in this case, petitioners
26 are not the prevailing party, and neither the statute nor our
rules provide authority to "refund" the filing fee.