

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 ROBERT WEEKS and BILL BECK,)
5)
6 Petitioners,)
7)
8 vs.)
9)
10 CITY OF TILLAMOOK and)
11 TILLAMOOK COUNTY,)
12)
13 Respondents,)
14)
15 and)
16)
17 COMMUNITY ACTION TEAM, INC.,)
18)
19 Intervenor-Respondent.)

LUBA No. 92-025

FINAL OPINION
AND ORDER

20
21
22 Appeal from City of Tillamook and Tillamook County.

23
24 Phillip E. Grillo, Portland, represented petitioners.

25
26 Douglas E. Kaufman, Tillamook, represented respondent
27 City of Tillamook.

28
29 William K. Sargent, Tillamook, represented respondent
30 Tillamook County.

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32 Neal C. Lemery, Rockaway Beach, represented intervenor-
33 respondent.

34
35 KELLINGTON, Referee; HOLSTUN, Chief Referee; SHERTON,
36 Referee, participated in the decision.

37
38 DISMISSED 05/14/92

39
40 You are entitled to judicial review of this Order.
41 Judicial review is governed by the provisions of ORS
42 197.850.

1 Kellington, Referee.

2 Under the Board's rules, the petition for review in
3 this appeal was due on April 8, 1992. No extension of time
4 for filing the petition for review was requested or granted.
5 No petition for review has been filed, and respondent City
6 of Tillamook requests an order dismissing the appeal. See
7 ORS 197.830(8) and (10); OAR 661-10-030(1),
8 661-10-075(1)(c); McCauley v. Jackson County, 20 Or LUBA 176
9 (1990); Piquette v. City of Springfield, 16 Or LUBA 47
10 (1987).

11 Petitioners argue the untimely filing of a petition for
12 review is a technical violation of our rules which we may
13 overlook.

14 Petitioners are incorrect. OAR 661-10-005 provides:

15 "* * * Failure to comply with the time limit for
16 filing * * * a Petition for Review under
17 OAR 661-10-030(1) is not a technical violation [of
18 LUBA's rules]."

19 Petitioners also argue the motions to dismiss
20 previously filed by the city in this appeal automatically
21 suspended the time for filing the petition for review.

22 The only events that automatically suspend the time for
23 filing a petition for review in a LUBA appeal are the filing
24 of (1) a motion for an evidentiary hearing (OAR 661-10-
25 045(7)), (2) a record objection (OAR 661-10-026(5)), or (3)
26 a written stipulation by all parties for an extension of
27 time to file the petition for review (OAR 661-10-067(2));

1 Bloomer v. Baker Co., 19 Or LUBA 90, 92 (1990). No motion
2 for evidentiary hearing or record objection is pending, and
3 no stipulation complying with OAR 661-10-067(2) has been
4 filed.

5 This appeal is dismissed.