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

RICHARD BENSON SCHOLES, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
JACKSON COUNTY, )  
 )  
Respondent, )  
 )  
and )  
 )  
GERALD L. KIRSTEIN, )  
 )  
Intervenor-Respondent. )

LUBA No. 94-084  
FINAL OPINION  
AND ORDER

Appeal from Jackson County.

Richard Benson Scholes, White City, filed the petition for review and argued on his own behalf.

No appearance by respondent.

Gerald L. Kirstein, Grants Pass, filed the response brief and argued on his own behalf.

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

AFFIRMED 12/13/94

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

1 Opinion by Holstun.

2 **NATURE OF THE DECISION**

3 Petitioner challenges a conditional use permit  
4 authorizing an 85-space recreational vehicle campground on  
5 18.49 acres of land.

6 **MOTION TO INTERVENE**

7 Gerald L. Kirstein, the applicant below, moves to  
8 intervene on the side of respondent. There is no opposition  
9 to the motion, and it is allowed.

10 **FACTS**

11 The subject 18.49 acres were formerly part of an  
12 84-acre property known as LakeShore Village. Petitioner has  
13 a long-running dispute with county and other local public  
14 officials over various actions concerning part or all of  
15 LakeShore Village. Those actions apparently include real  
16 estate transactions, land divisions, lot line adjustments  
17 and zone changes, as well as the disputed conditional use  
18 permit for the subject 18.49 acres. Only the conditional  
19 use permit is before LUBA in this appeal.

20 **DECISION**

21 LUBA's rules set forth the required contents for  
22 petitions for review. OAR 661-10-030(3). The petition for  
23 review is to include the following:

- 1           1.    "[A] clear and concise statement of the case  
2           \* \* \*." OAR 661-10-030(3)(b).<sup>1</sup>
- 3           2.    An explanation of why the challenged decision  
4           is a land use decision subject to LUBA's  
5           review jurisdiction. OAR 661-10-030(3)(c).
- 6           3.    A copy of the challenged decision and the  
7           findings supporting the decision.  
8           OAR 661-10-030(3)(e).
- 9           4.    A copy of comprehensive plan and land use  
10          regulation provisions cited in the petition  
11          for review, unless quoted verbatim in the  
12          petition for review. OAR 661-10-030(3)(f).
- 13          5.    Separate assignments of error with argument  
14          in support of each assignment of error.  
15          OAR 661-10-030(3)(d).

16          Although each of the above requirements is important,  
17          the requirement of OAR 661-10-030(3)(d) that the petition  
18          for review include assignments of error, supported by  
19          argument, is particularly important. See Bjerk v. Deschutes  
20          County, 17 Or LUBA 187, 194 (1988).

21          Petitioner's petition for review does not comply with  
22          our rules.<sup>2</sup> Most importantly, the petition for review does

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<sup>1</sup>The statement of the case is to identify the nature of the land use decision and present a summary of material facts and a summary arguments.

<sup>2</sup>As we explained in our October 18, 1994 order denying petitioner's motion for evidentiary hearing:

"On October 12, 1994, the deadline for filing the petition for review in this matter, petitioner filed pages 1 through 8 of a document captioned 'Petition for Review -- Motion for Conference -- Reconsideration Motion for Evidentiary Hearing.' On October 13, 1994, petitioner filed by mail five copies of pages 5 and 9 through 11 of his 'Petition for Review -- Motion for Conference -- Reconsideration Motion for Evidentiary Hearing,' together with one copy of 30 pages of various

1 not include assignments of error, supported by argument. A  
2 partial transcript of a December 14, 1993 hearing before the  
3 county hearings officer is included at pages two through  
4 eight of the petition for review.<sup>3</sup> The remaining pages make  
5 it clear that petitioner disputes various past actions by  
6 county and other local officials regarding the subject  
7 property. However, petitioner does not explain why those  
8 past actions have any relevance to the disputed conditional  
9 use permit or provide a basis for reversal or remand of the  
10 challenged conditional use permit.

11 The closest petitioner comes to articulating a legal  
12 theory for why the challenged conditional use permit should  
13 be reversed or remanded is on page 10 of the petition for  
14 review, where petitioner quotes Jackson County Land Use and  
15 Development Ordinance (LUDO) 285.030(5) which provides:

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documents. On October 14, 1994, petitioner filed by mail five sets of blue brief covers and four additional copies of the 30 pages of various documents. We treat the entire document as constituting a petition for review, a motion for evidentiary hearing and a motion for a hearing on the motion for evidentiary hearing. \* \* \*" (Footnotes omitted.)

<sup>3</sup>The transcript shows petitioner posed questions concerning a prior decision denying approval for the disputed project and asked how conditions had changed. Petitioner challenged the validity of the underlying zoning and noted he has a pending federal action against a number of county officials. The hearings officer told petitioner he could not cross-examine persons present at the December 14, 1993 hearing. When petitioner persisted in his attempts to cross-examine persons present at the hearing, the hearings officer ordered petitioner to submit his remaining comments in writing. After additional exchanges between petitioner and the hearings officer, petitioner left the hearing. Petitioner cites no county plan or land use regulation provision giving him a right to cross-examination in this matter.

1 "An application may be rejected by the Planning  
2 Director where a violation of this or other County  
3 ordinances or state law is found to exist until  
4 such time as the violation is remedied or the  
5 application itself is intended to remedy the  
6 violation. Such violations may also be considered  
7 sufficient grounds for denial of an application by  
8 the County if the proposed application cannot and  
9 does not remedy the violation."

10 Although petitioner asserts the subject property's current  
11 zoning was improperly applied and that a variety of other  
12 actions concerning the property were fraudulent or improper  
13 in some way, petitioner does not establish that such is the  
14 case. More importantly, LUDO 285.030(5) simply provides the  
15 planning director "may" reject an application "where a  
16 violation of [the LUDO] or other County ordinances or state  
17 law is found to exist;" it does not require that the  
18 planning director do so.

19 Petitioner's citation to LUDO 285.030(5) is  
20 insufficiently developed to provide a basis for reversal or  
21 remand. Dougherty v. Tillamook County, 12 Or LUBA 20, 33  
22 (1984); Deschutes Development v. Deschutes County, 5 Or LUBA  
23 218, 220 (1982). We express no view concerning petitioner's  
24 dispute with the county and intervenor concerning actions  
25 other than the conditional use permit challenged in this  
26 appeal. However, the petition for review does not establish  
27 that there is any basis for reversal or remand of the  
28 challenged conditional use permit.

29 The county's decision is affirmed.