

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

3  
4 FRIENDS OF YAMHILL COUNTY,           )  
5    )  
6                   Petitioner,           )  
7    )  
8                   and                    )  
9    )  
10 JIM LUDWICK,                            )  
11    )  
12                   Intervenor-Petitioner,                                    )  
13    )  
14                   vs.                    )  
15    )  
16 YAMHILL COUNTY,                        )  
17    )  
18                   Respondent,            )  
19    )  
20                   and                    )  
21    )  
22 CHARLYN DALEBOUT,                      )  
23    )  
24                   Intervenor-Respondent.                                    )

)  
LUBA No. 97-012  
  
FINAL OPINION  
AND ORDER

25  
26  
27                   Appeal from Yamhill County.

28  
29                   Charles Swindells, Portland, represented petitioner.

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31                   Jim Ludwick, McMinnville, represented himself.

32  
33                   John C. Pinkstaff, Assistant County Counsel,  
34 McMinnville, represented respondent.

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36                   Michael C. Robinson, Portland, represented intervenor-  
37 respondent.

38  
39                   GUSTAFSON, Chief Referee; HANNA, Referee; LIVINGSTON,  
40 Referee, participated in the decision.

41  
42                   DISMISSED                                   10/02/97

43  
44                   You are entitled to judicial review of this Order.  
45                   Judicial review is governed by the provisions of ORS

1 197.850.

1 Opinion by Gustafson.

2 Respondent and Intervenor-Respondent move to dismiss  
3 this appeal on the ground that the notice of intent to  
4 appeal (NITA) was not timely filed under ORS 197.830(8).  
5 The NITA was filed 21 days from the date the decision was  
6 mailed to petitioner, but 25 days from the date the decision  
7 was signed.

8 ORS 197.830(8) requires that a NITA be filed not later  
9 than 21 days after the date the decision sought to be  
10 reviewed becomes final. OAR 661-10-010(3) defines "final"  
11 as the date the decision is reduced to writing and bears the  
12 necessary signatures of the decision maker, unless a local  
13 rule or ordinance specifies that the decision becomes final  
14 at a later time. The Yamhill County Zoning Ordinance (YCZO)  
15 does not create a later date for finality of county  
16 decisions; it specifies only the date the decision becomes  
17 "effective." YCZO 1301.02 provides:

18 "The effective date of the decision is the date of  
19 recording of the final order or, if the decision  
20 is such that no order is to be filed, the  
21 effective date of the decision is the date of the  
22 letter notifying the applicant of the decision."  
23 (Emphasis added.)

24 Petitioner argues that, as stated in the notice of  
25 decision letter sent by the county, the decision became  
26 final when it was filed with the county clerk on January 2,  
27 1997. We disagree. As we recently determined on identical  
28 facts in DeBates v. Yamhill County, \_\_\_ Or LUBA \_\_\_ (LUBA

1 No. 97-091, September 29, 1997), the language of YCZO  
2 1301.02 indicates that a county decision must be a "final  
3 order" prior to the date upon which it is made effective by  
4 recording. Under OAR 661-10-010(3), the county's decision  
5 became final on the date it was reduced to writing and  
6 signed by the decision makers. As in DeBates, the erroneous  
7 information provided by the county to petitioner in the  
8 notice letter does not change the date upon which the  
9 challenged decision became final.

10 The challenged decision was reduced to writing and  
11 signed by the decision maker on December 30, 1996. The NITA  
12 was filed on January 23, 1997, more than 21 days from the  
13 date the decision became final.<sup>1</sup> Accordingly, petitioner's  
14 appeal was not timely filed, and this Board has no  
15 jurisdiction. ORS 197.830(8); Wicks-Snodgrass, 148 Or App  
16 217 \_\_ P2d \_\_\_ (1997).

17 This appeal is dismissed.

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<sup>1</sup>The 21st day fell on January 19, 1997, a holiday, and our rules allow for a NITA to be filed the next business day. Thus, our rules required that the NITA be filed no later than January 20, 1997.