

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. LUBA will exercise its discretion and find that attending a previously scheduled family vacation is a reasonable basis for rescheduling oral argument, particularly where the objecting party gives no specific reason for why they are not able to agree to any alternative date. *Lundeen v. City of Waldport*, 80 Or LUBA 1029 (2019).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under ORS 197.830(11) and OAR 661-010-0030(1), where a petition for review is not filed within the time established by a stipulated extension of the deadline for such filing, and where the petitioner does not obtain written consent to extend the deadline further, LUBA will dismiss the appeal. *Becker v. Jackson County*, 79 Or LUBA 348 (2019).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. OAR 661-010-0039 was amended in 2010 to require a request to file a reply brief be filed “within seven days of the date the respondent’s brief is filed.” That amendment created a filing deadline. Accordingly, LUBA will deny a motion to file a reply brief under OAR 661-010-0039 (effective in 2018), where petitioner did not move for an extension of time or obtain the written consent of the parties to file a late reply brief, petitioner filed the request to file its reply brief 48 days after the response briefs were filed and petitioner offered no explanation or justification for such an egregious delay, because the violation is not a mere “technical violation” under OAR 661-010-005. *Yamhill Creek Solar, LLC v. Yamhill County*, 78 Or LUBA 1031 (2018).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under OAR 661-010-0050, an intervenor becomes a party to the appeal on the date the motion to intervene is filed. A petitioner seeking to extend the deadline for filing the petition for review pursuant to OAR 661-010-0067(2) must obtain the written consent of the intervenor and all parties, even if LUBA has not yet issued an order granting the motion to intervene. *Danielson Trust v. Jackson County*, 65 Or LUBA 437 (2012).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. A motion to reconsider a LUBA order is treated as a renewed motion for the same relief sought in the original motion. Because a motion to take evidence outside of the record suspends all other time limits in an appeal, a motion to reconsider an order denying the motion to take evidence, which is considered a renewed motion to take evidence, also suspends all other time limits. *Stewart v. City of Salem*, 61 Or LUBA 77 (2010).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. While OAR 661-010-0067(3) provides that certain time limits may be extended upon motion of a party, that rule must be interpreted consistently with ORS 197.830(7)(c), which mandates denial of a motion to intervene filed more than 21 days after the notice of intent to appeal is filed. Accordingly, OAR 661-010-0067(3) does not authorize LUBA to grant a motion to extend the time to file the motion to intervene more than 21 days after the notice is filed. *Grant v. City of Depoe Bay*, 52 Or LUBA 811 (2006).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. OAR 661-010-0067(2) requires that a motion for extension of time to file a petition for review be denied where the motion is not

consented to in writing by all parties, there is no indication that intervenors ever had plans or have plans to consent to extend the deadline, and no petition for review is filed within the 21-day deadline for filing a petition for review, pursuant to OAR 661-010-0030(1). *ODOT v. City of Phoenix*, 50 Or LUBA 548 (2005).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under OAR 661-010-0067(5), a stipulated agreement to extend one deadline also automatically extends any contemporaneous and subsequent deadlines. *Grahn v. City of Newberg*, 49 Or LUBA 762 (2005).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. ORS 197.830(7) not only prescribes a 21-day deadline for filing a motion to intervene with LUBA, but dictates that failure to comply with that deadline shall result in denial of the motion. That the legislature chose to spell out the consequences for untimely filing of a motion to intervene indicates that the legislature wanted that deadline to be rigorously enforced and, by implication, not extended. *Grahn v. City of Newberg*, 49 Or LUBA 762 (2005).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. While LUBA may have general authority to adopt rules allowing for extension of less critical statutory deadlines, it is unlikely that the legislature intended LUBA to have the authority to adopt rules extending more critical deadlines, including the 21-day deadline for filing the motion to intervene. *Grahn v. City of Newberg*, 49 Or LUBA 762 (2005).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under OAR 661-010-0065(4), LUBA may extend the deadline for filing the petition for review on its own motion without the written consent of all parties, where the extension is required to avoid prejudice to one or more party's substantial rights due to LUBA's failure to contemporaneously advise the parties that the record had been received. *Confederated Tribes v. Jefferson County*, 42 Or LUBA 597 (2002).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. The filing of a record objection does not automatically suspend resolution of other motions properly before the Board, or prioritize resolution of record objections over other motions. *No Tram to OHSU v. City of Portland*, 40 Or LUBA 588 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. LUBA will deny a motion to extend the time to file a response to a motion to dismiss until LUBA rules on a pending record objection, absent a showing that resolving the record objection is necessary to resolve the motion to dismiss. *No Tram to OHSU v. City of Portland*, 40 Or LUBA 588 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Petitioners are entitled to rely on a Board order extending the time to file a petition for review, notwithstanding that the order was issued without the written agreement of all parties, where no party's substantial rights are prejudiced by the extension of time. *Ballou v. Douglas County*, 40 Or LUBA 573 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where LUBA provided timely notice of the date and time of oral argument to the county counsel and was not notified of any substitution of counsel, and the county's new attorney did not make inquiries with LUBA or the

county counsel regarding the scheduling of oral argument and did not appeal at oral argument, LUBA will not schedule a second oral argument. *Dudek v. Umatilla County*, 40 Or LUBA 416 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. An untimely filed petition for review requires dismissal of the appeal where petitioners rely on a motion to extend the time for filing the petition for review to avoid the deadline, but the motion is not signed by all the parties and petitioners are aware that all of the parties have not consented to the extension of time. *Ballou v. Douglas County*, 40 Or LUBA 377 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Petitioners do not have the right to rely on a Board order extending the time for filing a petition for review, where not all of the parties have stipulated to the extension of time and petitioners unreasonably believed that some of the intervenors were represented by a single attorney who had consented to the extension of time on behalf of only one intervenor. *Ballou v. Douglas County*, 40 Or LUBA 377 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where a motion to intervene has been filed and served but not yet received by LUBA and the parties, and an order extending the deadline for filing the petition for review is entered based on the mistaken understanding that all parties consent to the extension, the intervening party may thereafter object to the extension and is entitled to have the original deadline for filing the petition for review reestablished, if that can be done without prejudicing petitioner's substantial right to rely on the deadline that was established in the order. *Pereira v. Columbia County*, 39 Or LUBA 760 (2001).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where petitioners fail to obtain a stipulation from the county to extend the deadline for filing a petition for review pending resolution of a motion, an appeal will be dismissed if the petition for review is not filed within the deadline established by Board rules. *Berry v. Jackson County*, 35 Or LUBA 137 (1998).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under OAR 661-10-067, time limits for documents other than the notice of intent to appeal and petition for review may be extended upon written consent of all parties, LUBA's motion, or the motion of a party. *Save Amazon Coalition v. City of Eugene*, 30 Or LUBA 448 (1995).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. LUBA normally considers several factors in determining whether to accept a late petition for attorney fees and damages: (1) length of delay; (2) validity of the explanation of lateness; and (3) presence or absence of prejudice. *Save Amazon Coalition v. City of Eugene*, 30 Or LUBA 448 (1995).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. OAR 661-10-065(4) simply provides that with the exception of objections to the record and motions for evidentiary hearing, the filing of a motion does not have the legal effect of automatically suspending the deadlines for future events in a LUBA appeal until the motion is resolved. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 746 (1994).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where a petitioner obtains the

written consent of all parties to extend the deadline for filing the petition for review, filing the written agreement one day after the petition for review was due constitutes a technical violation of OAR 661-10-067(4) and does not prevent LUBA from granting an extension of time to file the petition for review under OAR 661-10-067(2). *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 746 (1994).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. A motion to stay LUBA proceedings that is not signed by all parties is not the equivalent of a written stipulation by all parties for an extension of time to file the petition for review and, therefore, filing such a motion to stay LUBA proceedings does not suspend the time for filing a petition for review. *Hackett v. Multnomah County*, 26 Or LUBA 551 (1994).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under OAR 661-10-067(2), LUBA may not extend the deadline for filing a petition for review, unless all parties consent to the extension. *Zippel v. Josephine County*, 26 Or LUBA 626 (1994).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. LUBA will not grant a request for an extension of time to file respondents' briefs, over petitioner's objection, if the requested extension would necessitate a delay in oral argument and a delay in issuing LUBA's final opinion and order. *Waugh v. Coos County*, 26 Or LUBA 599 (1993).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where parties object, a delay of five weeks or more in a LUBA proceeding is inconsistent with the legislative policy that "time is of the essence" in reaching final decisions in appeals to LUBA, and a request for such an extension will be denied. *Wilson Park Neigh. Assoc. v. City of Portland*, 23 Or LUBA 708 (1992).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where all parties acknowledge an oral agreement to extend the time for filing the petition for review was reached prior to the date the petition for review was required to be filed, that a stipulated motion for extension of time to file the petition for review was filed one day after the day the petition for review was otherwise due is a technical violation of LUBA's rules and will not result in dismissal of the appeal. *Rabe v. City of Tualatin*, 22 Or LUBA 832 (1992).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. If petitioner's motion for extension of time to file the petition for review does not satisfy the requirement of OAR 661-10-067(2) for the written consent of all parties, and the petition for review was not filed within 21 days after the date the Board received the record, the appeal must be dismissed. OAR 661-10-030(1). *Ramsey v. City of Portland*, 22 Or LUBA 535 (1992).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Under LUBA's rules, if petitioner's motion for extension of time to file the petition for review does not satisfy the requirement of OAR 661-10-067(2) for the written consent of all parties, and a petition for review is not filed within 21 days after the date LUBA received the local record, the appeal must be dismissed. *Ramsey v. City of Portland*, 22 Or LUBA 295 (1991).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. The provision of OAR 661-10-

067(2) allowing extensions of time for filing the petition for review only where all parties to the appeal consent to such extension does not exceed LUBA's statutory authority. *Ramsey v. City of Portland*, 22 Or LUBA 295 (1991).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Where the copy of the record initially served on petitioner was lost in the mail, LUBA will grant an extension of time for petitioner to file objections to the record. *Gray v. Clatsop County*, 21 Or LUBA 583 (1991).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. Petitioner's failure to file her motion for an extension of time to file record objections until three days after the record objections were due is a technical violation of LUBA's rules which will not interfere with LUBA's review unless the substantial rights of other parties are affected. *Gray v. Clatsop County*, 21 Or LUBA 583 (1991).

27.10.6 LUBA Procedures/Rules – Time Limits – Extensions. LUBA will not grant a party's motion to continue an appeal proceeding pending the completion of other state agency or appellate court review proceedings, over the objections of other parties, where it cannot be determined when the other proceedings will be completed. *Blatt v. City of Portland*, 21 Or LUBA 510 (1991).