

LAND USE
BOARD OF APPEALS

Nov 4 1 57 PM '80

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

| | | | |
|---|----------------------|---|----------------------|
| 3 | KATHLEEN BENNETT, |) | |
| 4 | Petitioner, |) | LUBA NO. 80-097 |
| 5 | vs. |) | FINAL OPINION |
| 6 | CITY OF GRANTS PASS, |) | AND ORDER |
| 7 | Respondent. |) | (Order of Dismissal) |

| | | |
|----|----------------------------|-----------------------|
| 9 | Michael L. Mowrey | Allan H. Coon |
| 10 | Brown, Hughes, Bird & Lane | City of Grants Pass |
| | 409 NE Sixth Street | 101 NW A Street |
| | Grants Pass, OR 97526 | Grants Pass, OR 97526 |

11 Bagg, Referee; Reynolds, Chief Referee; Cox, Referee;
12 participated in the decision.

13 Dismissed. 11/4/80

14 You are entitled to judicial review of this Order.
15 Judicial review is governed by the provisions of Oregon Laws
16 1979, ch 772, sec 6(a).

1 BAGG, Referee.

2 This matter is before the Board on the motion of Respondent
3 City of Grants Pass. Respondent asks for dismissal of the
4 appeal on the ground that petitioner has failed to file a
5 petition within the time set by LUBA Rule 7A. LUBA Rule 7A
6 provides that the petition for review must be filed within 20
7 days after the date the record is received by the Board.

8 On August 25, 1980, a notice of intent to appeal was filed
9 by Kathleen Bennett, petitioner. The notice of intent to
10 appeal stated the land use decision under review consisted "of
11 a continuing procedure wherein the Respondent City issues
12 demolition permits for buildings without considering their
13 historic value." On September 11, the Board received the
14 "record" filed by Respondent City of Grants Pass. The record
15 consisted of one page of representations by the City Attorney
16 that:

17 "1) There was no final decision as such;
18 therefore, there are no findings of fact and
conclusions of law;

19 "2) There are no exhibits, maps, documents or
20 other written material;

21 "3). There was no written testimony submitted,
22 and there was no proceeding before the governing body;
and

23 "4) Since there was no proceeding, there were no
minutes of a proceeding."

24 There has been no response to either the "record" or the
25 motion for dismissal.

26 The notice of intent to appeal and the record filed in this

1 case indicate that there has been no "land use decision" within
2 the meaning of Oregon Laws 1979, ch 772, sec 3. That is, there
3 has been no act reduced to writing that bears the necessary
4 signatures of the members of the city's governing body. See
5 LUBA Rule 3(C).

6 Because there is no decision reviewable by this Board, the
7 matter of a due date for a petition for review is moot. The
8 case must be dismissed simply because there is nothing within
9 this Board's jurisdiction to review.

10 This matter is dismissed. As no record has been prepared,
11 the \$150.00 deposit for costs will be returned to petitioner.