

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

Nov 16 8 37 AM '81

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LARRY VAN DAMME,)	
)	
Petitioner,)	LUBA NO. 81-070
)	
v.)	
)	FINAL OPINION
LINCOLN COUNTY,)	AND ORDER
)	
Respondent.)	

Appeal from Lincoln County.

Larry Van Damme, Otis, petitioner, represented himself.

Nancy Craven, Newport, attorney for respondent.

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

Dismissed. 11/16/81

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

1 BAGG, Referee.

2 This matter is before the Board on its own motion.

3 The record in this case was the subject of an objection by
4 petitioner. Petitioner's objection and certain other matters
5 were decided in a written order of the Board dated September
6 24, 1981. The record was settled effective that day, and
7 petitioners' petition for review was due 20 days thereafter or
8 October 14, 1981. Petitioner's petition arrived on October 15,
9 1981, one day late.

10 By letter of October 23, 1981, the Board advised the
11 parties that "[p]ursuant to the holding in Gordon v.
12 Beaverton, ____ Or App ____ (1981), the Board believes it has
13 no choice but to dismiss the case." The Board gave the parties
14 10 days to present sufficient reason as to how the case might
15 continue. The Board has not received anything amounting to
16 such sufficient reason. Petitioner only responds that he
17 mailed the petition via certified mail promptly, and petitioner
18 was unaware that the post office would take longer than usual
19 to deliver the petition.

20 Oregon Laws 1979, ch 772, sec 4(6) requires the filing of
21 the petition for review within 20 days of the transmittal of
22 the record. The Court of Appeals in Gordon v. Beaverton,
23 supra, has held the Board has no authority to extend the time
24 for this filing. This case is dismissed pursuant to the
25 holding in Gordon v. Beaverton.

26 //

1 Oregon Laws 1979, ch 772, sec 4(4) provides that

2 "In the event a petition for review is not filed with
3 the board as required in subsection (6) of this
4 section, then the filing fee and deposit shall be
awarded to the city, county, special district or state
agency as costs of preparation of the record."

5 Pursuant thereto, it is hereby ordered that the filing fee and
6 deposit for costs be awarded to Lincoln County.

7 Dismissed.

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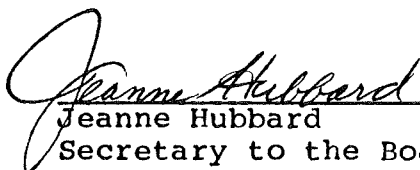
CERTIFICATE OF MAILING

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 81-070, on November 16, 1981, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Larry Van Damme
Rt. 2, Box 39
Otis, OR 97368

Nancy Craven
Lincoln County Counsel
225 W. Olive Street
Newport, OR 97365

Dated this 16th day of November, 1981.



Jeanne Hubbard
Secretary to the Board

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