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COX, Board Member.

Respondent State Park and Recreation Advisory Committee moves to dismiss petitioner's notice of intent to appeal, and thus his appeal, on the ground that this Board lacks jurisdiction. Respondent argues there is no final order, decision or determination upon which to base an appeal and, therefore, there is nothing for this Board to review.

Petitioner seeks a beach zone line designation change. The zone line is established by statute, ORS 390.770, and can not be changed without an act of the legislative assembly. Apparently the standard procedure for dealing with a request for a zone line designation change is as follows: First, the applicant must request the State Parks and Recreation Advisory Committee to recommend the zone line change to the Parks and Recreation Division, which in turn recommends the change to the Oregon Transportation Commission and the Department of Transportation. It is then, pursuant to ORS 390.775(2) that

"The Department of Transportation may, from time to time, recommend to the Legislative Assembly adjustment of the line described in ORS 390.770."

Petitioner's appeal states the land use decision from which it seeks review as the December 10, 1982 letter from the State Parks and Recreation Advisory Committee. The letter signed by the Ocean Shores Coordinator to the Committee states in part:

"Although most Committee members do not favor your proposal, they are reluctant to adopt an official position because of their uncertain legal authority to do so. Since the beach zone line is part of the beach law and changes require legislative action, the Advisory Committee feels that the proper way for you to proceed is through your state representative or senator."

1 Petitioner argues that without the requested recommendation
2 from the Parks and Recreation Advisory Committee, he is
3 precluded from appealing any decision other than the refusal to
4 grant the recommendation. Petitioner argues that if they can
5 not get the recommendation from the Advisory Committee, then
6 the Parks and Recreation Division will not act and, therefore,
7 the four-step process which culminates in the Department
8 submitting a bill to the legislature cannot be activated.

9 We do not believe that there has been a final action over
10 which this Board has any jurisdiction. Petitioner, in essence,
11 is seeking this Board to issue an order directing the
12 respondent to take some specific action which would be governed
13 by ORS 183.490. We do not deem the December 10 letter to be a
14 final order or decision of the Department of Transportation or
15 the Transportation Commission. We can not agree with
16 petitioner because the Advisory Committee has no final decision
17 making authority for the Department or the Commission and
18 because the choice of the beach line is up to the legislature.
19 We have no power to review decisions of the legislature. It
20 would appear that the petitioner has two alternatives left to
21 him. He can appeal the refusal by the Committee to give a
22 recommendation through the internal processes of the Department
23 of Transportation, and ultimately to the Transportation
24 Commission, or he may proceed as any private party and go
25 directly to the legislature. Petitioner makes the argument
26 that neither process has been successful in prior situations
27 since neither the commission nor the department has ever
28 recommended a zone line change to the legislature. While we

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can appreciate petitioner's frustrations, we are without any authority to consider his complaints. For the foregoing reasons, the Board dismisses petitioner's appeal.

Dismissed.