

1 BAGG, Board Member.

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

3 Petitioner appeals a City of Ashland ordinance, Ordinance
4 2252. Findings in support of Ordinance 2252 say, in part, that
5 water pressures in a portion of the city are "insufficient
6 during times of peak demand." The ordinance imposes a ban on
7 water service to new structures, and it also imposes a ban on
8 building permits, with certain exceptions.

9 Both petitioner and respondent treat the ordinance as an
10 ordinance that imposes a "moratorium" as that term is used in
11 ORS 197.505.

12 The petition for review in this case was filed before
13 October 1, 1983. Therefore, it is governed by the provisions
14 of 1979 Or Laws, Ch 772, as amended by 1981 Or Laws, Ch 748.
15 LUBA's power to review land use decisions under this law does
16 not include review of moratoriums. Review of a "moratorium on
17 construction or land development" is provided exclusively in
18 ORS 197.505 to 197.540. Under these provisions, the moratorium
19 ordinance is reviewable by the Land Conservation and
20 Development Commission upon petition by a person whose
21 interests "are substantially affected." ORS 197.540(1). It is
22 clear from a review of the applicable statutes, that this LCDC
23 review is the sole review available of a moratorium.

24 "The review of a moratorium on construction or land
25 development under subsection (1) of this section shall
26 be the sole authority for a review of such a
moratorium, and there shall be no authority for review
in the circuit courts of the state." ORS 197.540(5).

1 The Board notes that 1983 Or Laws, ch 827, sec 45, gives
2 the Land Use Board of Appeals the authority to review
3 moratoriums after October 1, 1983.

4 Because sole jurisdiction to review this land use decision
5 rests with the Land Conservation and Development Commission,
6 the Board concludes it has no authority to review Ordinance
7 2252.

8 This review proceeding is dismissed.