

LAND USE  
BOARD OF APPEALS

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

Dec 15 9 51 AM '83

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3 ROBERT E. THURMOND, )  
4                   Petitioner, )           LUBA NO. 83-085  
5                   v.           )           FINAL OPINION  
6 LANE COUNTY,           )           AND ORDER  
7                   Respondent. )

8                   Appeal from Lane County.

9                   Robert E. Thurmond           William A. Van Vactor  
10                   c/o Country Squire Inn       Legal Counsel  
11                   33100 Van Durn Rd.           Public Service Building  
12                   Eugene, OR 97401           125 E. 8th Avenue  
13                   Petitioner                   Eugene, OR 97401  
14                                   Attorney for Respondent

15                   D. Michael Wells  
16                   Hutchinson, Cox, Teising & Anderson  
17                   200 Forum Building  
18                   777 High Street  
19                   Eugene, OR 97401-2782  
20                   Attorney for Intervenors

21                   DISMISSED                   12/15/83

22                   You are entitled to judicial review of this Order.  
23                   Judicial review is governed by the provisions of Oregon Laws  
24                   1983, ch 827.  
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1 BAGG, Chief Referee.

2 This matter is before the Board on the motions of  
3 Respondent Lane County and Intervenors Elsie Osborne and  
4 Vincent Zawodny. In its first motion to dismiss, Respondent  
5 County moves for dismissal on the ground the action appealed  
6 "is not a land use decision subject to administrative review  
7 pursuant to 1979 Or Laws, ch 772 (as amended)." In its second  
8 motion to dismiss, the county says the petitioner has failed to  
9 file his petition for review. This failure must result in  
10 dismissal of the appeal, according to Respondent County.

11 Intervenors move to dismiss on the ground the decision is not a  
12 land use decision and make an additional argument that  
13 petitioner failed to file a notice of intent to appeal within  
14 thirty days of the Lane County Order on review. To date, there  
15 has been no reply from the petitioner to any of these motions.

16 Under OAR 661-10-030(1), the petition for review was due on  
17 the 7th day of November, 1983. The petition has not been  
18 received. OAR 661-10-030(1) provides that failure to file the  
19 petition within the time prescribed will result in dismissal of  
20 the petition. There may be circumstances under which the time  
21 for filing the petition for review may be extended, such as in  
22 the case of changes in the constitution of the record or an  
23 agreement among the parties to extend the time for filing. See  
24 OAR 661-10-075. Nothing has occurred to make the rule  
25 applicable in this case.

26 Because petitioner has not responded to two motions to

1 dismiss and has failed to file a petition for review, this  
2 matter is dismissed.

3 Under the provisions of 1983 Or Laws, ch 827, §31(7), the  
4 Board is required to award the filing fee and deposit for costs  
5 to the local government where petitioner fails to file his  
6 petition for review. Therefore, petitioner's deposit for costs  
7 and his filing fee of \$50 shall be paid to Lane County.

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