

SEP 2 2 32 PM '87

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

3	FRED PIQUETTE and SUSAN	)	
	PIQUETTE,	)	
4		)	LUBA NO. 87-041
	Petitioners,	)	
5		)	FINAL OPINION
	vs.	)	AND ORDER OF DISMISSAL
6		)	
	CITY OF SPRINGFIELD,	)	
7		)	
	Respondent.	)	

9 Appeal from City of Springfield.

10	Michael Farthing	Joseph J. Leahy
	Gleaves, Swearingen	City Attorney
11	Larsen & Potter	223 North "A" St.
	975 Oak St., Suite 800	Springfield, OR 97477
12	Eugene, OR 97401	

13	Attorney for	Attorney for
	Petitioners	Respondent City

14 Timothy J. Sercombe  
 15 Harrang, Long, Watkinson  
 and Arnold, P.C.  
 16 400 S. Park Building  
 17 101 E. Broadway  
 Eugene, OR 97401

18 Attorney for  
19 Applicants

20 HOLSTUN, Referee; DuBay, Chief Referee; BAGG, Referee,  
participated in the decision.

21 DISMISSED 09/02/87

22 You are entitled to judicial review of this Order.  
23 Judicial review is governed by the provisions of ORS 197.850.

1 Holstun, Referee.

2 This matter is before the Board on a motion to dismiss  
3 filed by respondent, City of Springfield. Respondent states  
4 that the record in this case was settled on July 7, 1987, and a  
5 petition for review, therefore, was due not later than July 28,  
6 1987. OAR 661-10-030(1) provides the petition for review must  
7 be filed within 21 days after the record is received by the  
8 Board. Because no petition for review was filed in this case,  
9 and the 21 day period for filing the petition expired,  
10 respondent argues the appeal should be dismissed.

11 Petitioner's motion to dismiss was received by the Board on  
12 August 10, 1987. Under our rules, petitioner is entitled to 10  
13 days following receipt of a motion, to serve and file a  
14 response. OAR 661-10-065(2). No response has been received by  
15 the Board.

16 The Board has consistently held that failure to file a  
17 petition for review within the required time limit, will result  
18 in dismissal of the appeal. Gordon v. City of Beaverton, 292  
19 Or 228, 637 P2d 125 (1981); Elliott v. Lane County, 6 Or LUBA  
20 423 (1982). ORS 197.830(9) provides that a petition for review  
21 must be filed with the Board within the deadlines established  
22 by the Board. Our rules provide that the petition for review  
23 shall be filed within 21 days after the record is received by  
24 the Board. OAR 661-10-030(1). The Board's rule for extending  
25 deadlines, OAR 661-10-075(1)(a)(b), provides in part:

26 "(a) Except as provided in subsection (b) of this

1 section, any time deadline established by these  
2 rules for the filing of documents with the Board,  
3 other than the notice of intent to appeal and the  
4 petition for review, may be extended by the Board  
upon motion by the party seeking the  
extension. \* \* \*

5 "(b) A motion which seeks to extend the time for  
6 filing the petition for review or respondent's  
7 brief must be accompanied by written stipulation,  
8 signed by all the parties to the appeal  
9 consenting to the extension. \* \* \*"

10 Because petitioner has neither filed a petition for review  
11 within the time required by our rules, nor obtained an  
12 extension of time for the filing of the petition for review,  
13 respondent's motion to dismiss is allowed.

14 This case is dismissed.  
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CERTIFICATE OF MAILING

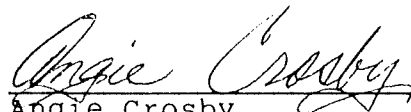
I hereby certify that I served the foregoing Final Opinion and Order of Dismissal for LUBA No. 87-041, on September 2, 1987, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 2nd day of September, 1987.

  
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Angie Crosby  
Administrative Assistant