BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

FRED PIQUETTE and SUSAN PIQUETTE, Petitioners, vs. CITY OF SPRINGFIELD, Respondent.	LUBA NO. 87-041 FINAL OPINION AND ORDER OF DISMISSAL

Appeal from City of Springfield.

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Attorney for Petitioners	Attorney for Respondent City

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Attorney for Applicants

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

DISMISSED 09/02/87

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

Holstun, Referee.

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

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

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

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

> section, any time deadline established by these rules for the filing of documents with the Board, other than the notice of intent to appeal and the petition for review, may be extended by the Board upon motion by the party seeking the extension. * * *
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> "(b) A motion which seeks to extend the time for filing the petition for review or respondent's brief must be accompanied by written stipulation, signed by all the parties to the appeal consenting to the extension. * * *"

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

This case is dismissed.

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.

Angie Crosby
Administrative Assistant