

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

3
4 ROBERT L. RIEMENSCHNEIDER,)
5)
6 Petitioner,)
7)
8 vs.)
9)
10 CITY OF STAYTON,)
11)
12 Respondent.)

LUBA No. 94-089

13 _____) FINAL OPINION
14) AND ORDER

15 ROBERT H. WATSON,)
16)
17 Petitioner,)
18)
19 vs.)
20)
21 CITY OF STAYTON,)
22)
23 Respondent.)

LUBA No. 94-090

24
25
26 Appeal from City of Stayton.

27
28 Robert L. Riemenschneider, Redmond, represented
29 himself.

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31 Robert H. Watson, Redmond, represented himself.

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33 David A. Rhoten, Salem, represented respondent.

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35 SHERTON, Referee; KELLINGTON, Chief Referee,
36 participated in the decision.

37
38 DISMISSED 07/20/94

39
40 You are entitled to judicial review of this Order.
41 Judicial review is governed by the provisions of ORS
42 197.850.

1 Opinion by Sherton.

2 Respondent moves for dismissal of this appeal, on the
3 grounds that petitioners have failed to file a petition for
4 review within the time required by the Board's rules.
5 Respondent also moves for forfeiture of petitioners' filing
6 fees and deposits for costs to the City of Stayton.

7 ORS 197.830(10) provides that a petition for review
8 must be filed within the deadlines established by Board
9 rule. OAR 661-10-030(1) provides, in relevant part:

10 " * * * The petition for review shall be filed with
11 the Board within 21 days after the date the record
12 is received by the Board. * * * Failure to file a
13 petition for review within the time required by
14 this section, and any extensions of that time
15 under * * * OAR 661-10-067(2), shall result in
16 dismissal of the appeal * * *."

17 OAR 661-10-067(2) provides that the time limit for filing
18 the petition for review may be extended only with the
19 written consent of all parties. In addition, ORS 197.830(8)
20 and OAR 661-10-075(1)(c) provide that if a petition for
21 review is not filed with the time required by Board rule,
22 petitioner's filing fee and the deposit for costs required
23 by OAR 661-10-015(4) shall be awarded to respondent as cost
24 of preparation of the record.

25 Under OAR 661-10-030(1), the petition for review in
26 this appeal was due on June 28, 1994. No extension of time
27 for filing the petition for review has been requested or
28 granted. As of this date, no petition for review has been
29 filed.

1 Because petitioners have neither filed a petition for
2 review within the time required by our rules, nor obtained
3 an extension of time for filing the petition for review,
4 ORS 197.830(8) and (10), OAR 661-10-030(1) and
5 661-10-075(1)(c) require that we dismiss this appeal and
6 award petitioners' filing fees and deposits for costs to
7 respondent. McCauley v. Jackson County, 20 Or LUBA 176
8 (1990); Piquette v. City of Springfield, 16 Or LUBA 47
9 (1987); Hutmacher v. Marion County, 15 Or LUBA 514 (1987).

10 This appeal is dismissed. Petitioners' filing fees and
11 depsoits for costs, in the total amount of \$400, are awarded
12 to respondent.