

1                           BEFORE THE LAND USE BOARD OF APPEALS  
2                           OF THE STATE OF OREGON  
3

4	BHAGWATI P. PODDAR and SARADELL )	
5	PODDAR, )	
6	)	
7	Petitioners, )	LUBA No. 96-128
8	)	
9	vs. )	FINAL OPINION
10	)	AND ORDER
11	CLATSOP COUNTY, )	
12	)	(MEMORANDUM OPINION)
13	Respondent. )	(ORS 197.835(16))

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16  
17           Appeal from Clatsop County.

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19           Bhagwati P. Poddar and Saradell Poddar, Astoria, filed  
20 the petition for review and represented themselves.

21  
22           Blair J. Henningsgaard, County Counsel, Astoria,  
23 represented respondent.

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25           GUSTAFSON, Referee; HANNA, Chief Referee; LIVINGSTON,  
26 Referee, participated in the decision.

27  
28                   AFFIRMED                                   10/07/96

29  
30           You are entitled to judicial review of this Order.  
31 Judicial review is governed by the provisions of ORS  
32 197.850.

1 Gustafson, Referee.

2 Petitioners appeal the county's enforcement of a  
3 condition of approval of a 1992 development permit. The  
4 development permit, for a replacement dwelling, required as  
5 a condition of approval that "applicant agrees to remove  
6 existing house within 6 months (six) of occupancy of new  
7 house or completion of new house, whichever is first."  
8 Record 33. Petitioners have not complied with that  
9 condition.

10 Petitioners appeal on the grounds that (1) the 1992  
11 condition was not legal; (2) the condition has not been  
12 violated since the existing house is no longer being used as  
13 a residence; (3) the county waived the condition by offering  
14 petitioners the opportunity to apply for a permit to  
15 legalize the existing house as a storage building; and (4)  
16 enforcement of the condition constitutes an unconstitutional  
17 taking of petitioners' property.

18 We find no error in the county's enforcement of the  
19 condition to which petitioners agreed in 1992. Petitioners  
20 have provided no basis for remand or reversal of the  
21 county's decision.

22 The county's decision is affirmed.