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

SHIRLEY ROBERTS,)
)
 Petitioner,)
)
 vs.)
)
 CLACKAMAS COUNTY,)
)
 Respondent.)

LUBA No. 99-048
FINAL OPINION
AND ORDER

Appeal from Clackamas County.

Shirley Roberts, Estacada, represented herself.

Michael Judd, Oregon City, represented respondent.

HOLSTUN, Board Chair.

DISMISSED 04/26/99

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

1 Holstun, Board Chair.

2 **NATURE OF THE DECISION**

3 Petitioner appeals the county's decision denying petitioner's request to recognize a
4 nonconforming use for six mobile homes.

5 **FACTS**

6 Petitioner applied to the county to verify the existence of a nonconforming use to
7 maintain six mobile home spaces on her property. The county planning director approved
8 the request in part and denied it in part. Petitioner appealed to a county hearings officer. On
9 January 13, 1999, the hearings officer issued the challenged decision in this case, denying
10 petitioner's appeal. The decision states that it is final as of the date of mailing. The hearings
11 officer mailed a copy of the challenged decision to petitioner on January 13, 1999.

12 On March 11, 1999, petitioner filed a notice of intent to appeal the county's decision
13 with LUBA. The notice of intent to appeal states that petitioner did not receive a copy of the
14 challenged decision until February 19, 1999. However, the notice of intent to appeal does
15 not dispute that the decision was mailed to petitioner on January 13, 1999, or explain why
16 petitioner did not receive the decision until February 19, 1999.

17 **MOTION TO DISMISS**

18 The county moves to dismiss this appeal for lack of jurisdiction, arguing that
19 petitioner failed to file a timely notice of intent to appeal within 21 days of the date the
20 county's decision became final.

21 Petitioner does not respond to the county's motion. Under Clackamas County Zoning
22 and Development Ordinance 1304.02, the hearings officer's decision was final on the date it
23 was mailed. We agree with the county that petitioner failed to file her notice of intent to
24 appeal within 21 days of the date the decision became final, as required by ORS 197.830(8),
25 and thus that the Board lacks jurisdiction. That petitioner may not have received notice of

1 the decision until February 19, 1999, as the notice of intent to appeal alleges, has no
2 significance.

3 This appeal is dismissed.