

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 UNIVERSITY OF PORTLAND,

5 *Petitioner,*

6
7 vs.

8
9 CITY OF PORTLAND,

10 *Respondent.*

11
12 LUBA No. 99-033

13
14 FINAL OPINION

15 AND ORDER

16
17 Appeal from the City of Portland.

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19 Stephen T. Janik and Christen C. White, Portland, represented petitioner.

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21 Peter A. Kasting, Senior Deputy City Attorney, Portland, represented respondent.

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23 BRIGGS, Board Member; BASSHAM, Board Chair; HOLSTUN Board Member,
24 participated in the decision.

25
26 DISMISSED

 03/23/2000

27
28 You are entitled to judicial review of this Order. Judicial review is governed by the
29 provisions of ORS 197.850.
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Opinion by Briggs.

On March 17, 1999, respondent withdrew its decision on appeal for reconsideration, pursuant to ORS 197.830(12)(b) and OAR 661-010-0021.¹ The revised final decision was received by LUBA pursuant to OAR 661-010-0021(3) on February 15, 2000.

¹OAR 661-010-0021 provides in relevant part:

“(1) If a local government * * *, pursuant to ORS 197.830(12)(b), withdraws a decision for the purposes of reconsideration, it shall file a notice of withdrawal with the Board on or before the date the record is due. A decision on reconsideration shall be filed with the Board within 90 days after the filing of the notice of withdrawal or within such other time as the Board may allow.

“(2) The filing of a notice of withdrawal under section (1) of this rule shall suspend proceedings on the appeal until a decision on reconsideration is filed with the Board, or the time designated therefor expires, unless otherwise ordered by the Board. If no decision on reconsideration is filed within the time designated therefor, the Board shall issue an order restarting the appeal.

“(3) A decision on reconsideration under section (1) of this rule shall be filed with the Board within 7 days after the local government or state agency issues the decision on reconsideration and copies of the decision on reconsideration shall be served on all parties. * * *

“* * * * *

“(5) After the filing of a decision on reconsideration:

“(a) If the petitioner wishes review by the Board of the decision on reconsideration:

“(A) Except as provided in paragraph (B) of this subsection, the petitioner shall file an amended notice of intent to appeal together with two copies within 21 days after the decision on reconsideration is received by the Board.

“(B) In the event the local government or state agency affirms its decision or modifies its decision with only minor revisions, the petitioner may refile the original notice of intent to appeal, with the date of the decision on reconsideration indicated thereon, together with two copies within 21 days after the decision on reconsideration is received by the Board.

“* * * * *

“(e) If no amended notice of intent to appeal is filed or no original notice of intent to appeal is refiled, as provided in subsection (5)(a) and (b) of this rule, the appeal will be dismissed.”

1 OAR 661-010-0021(5)(e) provides that if a notice of intent to appeal is not renewed
2 within 21 days after the decision on reconsideration is received by LUBA, the appeal shall be
3 dismissed. No new or revised notice of intent to appeal was filed by March 7, 2000.

4 Accordingly, this appeal is dismissed.