

NATURE OF THE DECISION

Petitioner appeals adoption of a resolution approving annexation of territory to the City of Florence, subject to action by the Lane County Boundary Commission.

PETITIONER CITIZENS FOR FLORENCE

The notice of intent to appeal (NITA) was filed with LUBA on behalf of two petitioners, Citizens for Florence and Zane Ziemer. The NITA states that “[p]etitioner Citizens for Florence is represented by Zane Ziemer, President of Citizens for Florence[.]” The NITA is signed by Zane Ziemer, on behalf of Citizens for Florence as well as on his own behalf. The NITA contains no indication that petitioner Ziemer is an active member of the Oregon State Bar.

OAR 661-010-0075(6) provides as follows:

“Appearances Before the Board: An individual shall either appear on his or her own behalf or be represented by an attorney. A corporation or other organization shall be represented by an attorney. In no event may a party be represented by someone other than an active member of the Oregon State Bar. In the event someone other than an active member of the Oregon State Bar files a notice of intent to appeal on behalf of a corporation, other organization, or another individual, the individual filing the notice of intent to appeal will be given an opportunity to provide an amended notice of intent to appeal that conforms with this section. If an amended notice of intent to appeal is not filed within the time set by the Board, the Board will dismiss the appeal.”

Petitioner Citizens for Florence is clearly a “corporation or other organization” that must be represented by an attorney before LUBA. On July 3, 2002, the Board issued an order allowing petitioner Citizens for Florence seven days from the date of the order to file an amended NITA, signed by an active member of the Oregon State Bar. Petitioner Citizens for Florence did not do so. Therefore, Citizens for Florence is dismissed as a party to this appeal.

1 **MOTION TO DISMISS**

2 The city moves to dismiss this appeal, arguing that the challenged decision is not a
3 final land use decision and is thus not subject to LUBA’s jurisdiction. The city explains that
4 the challenged decision is a resolution that, in effect, initiates an annexation proceeding
5 before the Lane County Boundary Commission. The city argues that under the pertinent
6 statutes the city lacks any authority to render a final decision regarding annexation.
7 According to the city, only the boundary commission has that authority. *See Vancouver*
8 *Federal Savings v. City of Oregon City*, 17 Or LUBA 348 (1989) (a city resolution initiating
9 an annexation proceeding before the boundary commission is not a final land use decision
10 subject to LUBA’s jurisdiction).

11 As the party seeking review by LUBA, petitioner has the burden of establishing that
12 LUBA has jurisdiction. *1000 Friends of Oregon v. Columbia County*, 29 Or LUBA 597
13 (1995). Petitioner has not responded to the city’s motion. Therefore, petitioner has not met
14 his burden of establishing that we have jurisdiction over this appeal. This appeal is
15 dismissed.