

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

3  
4                                   PATRICIA MODRALL,  
5                                   MARC STOUT, GAYLE STOUT,  
6                                   CLEM MEYERHOFER, PATRICIA MEYERHOFER,  
7                                   JOHN R. CHAPMAN and NANETTE R. CHAPMAN,  
8   *Petitioners,*

9  
10   vs.

11   CLACKAMAS COUNTY,  
12   *Respondent.*

13  
14  
15   LUBA No. 2003-099

16  
17   FINAL OPINION  
18   AND ORDER

19  
20                                   Appeal from Clackamas County.

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22                                   Patricia Modrall, Marc Stout, Gayle Stout, Clem Meyerhofer, Patricia Meyerhofer,  
23                                   John R. Chapman and Nanette R. Chapman, Canby, represented themselves.

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25                                   Michael E. Judd, Oregon City, represented respondent.

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27                                   BRIGGS, Board Member; BASSHAM, Board Chair; and HOLSTUN, Board  
28                                   Member, participated in the decision.

29  
30   DISMISSED

09/04/2003

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

1 Briggs, Board Member.

2 The petition for review in the appeal was due August 14, 2003. The petition for  
3 review has not been filed, nor has an extension of time to file the petition for review been  
4 granted. Respondent now moves to dismiss this appeal and requests an award of the filing fee  
5 and deposit for costs, pursuant to OAR 661-010-0075(1)(c).<sup>1</sup>

6 ORS 197.830(11) requires that a petition for review be filed within the deadlines  
7 established by Board rule. OAR 661-010-0030(1) provides, in relevant part:

8 “\* \* \* The petition for review together with four copies shall be filed with the  
9 Board within 21 days after the date the record is received or settled by the  
10 Board. \* \* \* Failure to file a petition for review within the time required by  
11 this section, and any extensions of that time under \* \* \* OAR 661-010-  
12 0067(2), shall result in dismissal of the appeal \* \* \*.”

13 OAR 661-010-0067(2) provides that the time limit for filing the petition for review may be  
14 extended only by written consent of all the parties. The deadline for filing the petition for  
15 review is strictly enforced. *Terrace Lakes Homeowners Assoc. v. City of Salem*, 29 Or LUBA  
16 532, *aff'd* 138 Or App 188, 906 P2d 871 (1995); *Bongiovanni v. Klamath County*, 29 Or  
17 LUBA 351 (1995). Because a petition for review was not filed within the time required by  
18 our rules, and petitioners did not obtain written consent to extend the time for filing the  
19 petition for review under OAR 661-010-0067(2) beyond August 14, 2003, ORS 197.830(11)  
20 and OAR 661-01-0030(1) require that we dismiss this appeal.

21 This appeal is dismissed. The county is awarded petitioners’ filing fee and deposit for  
22 costs, in the amount of \$325, pursuant to OAR 661-010-0075(1)(c).

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<sup>1</sup> OAR 661-010-0075(1)(c) provides:

“Forfeit of Filing Fee and Deposit: If a record has been filed and a petition for review is not filed within the time required by these rules, and the governing body files a cost bill pursuant to this section requesting forfeiture of the filing fee and deposit, the filing fee and deposit required by OAR 661-010-0015(4) shall be awarded to the governing body as cost of preparation of the record. \* \* \*”