

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

3
4 JOHN E. MEEKE, JR.,
5 *Petitioner,*

6
7 and

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9 ALFRED E. LOUCHS, JR.,
10 *Intervenor-Petitioner,*

11
12 vs.

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14 THE CITY OF BEAVERTON,
15 *Respondent.*

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17 LUBA No. 2005-023

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19 FINAL OPINION
20 AND ORDER

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22 Appeal from City of Beaverton.

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24 John E. Meeke, Jr., Beaverton, represented himself.

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26 Alfred E. Louchs, Jr., Beaverton, represented himself

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28 William J. Scheiderich, Beaverton, represented respondent.

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30 DAVIES, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member,
31 participated in the decision.

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33 DISMISSED

03/28/2005

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

Opinion by Davies.

The petition for review in the appeal was due March 1, 2005. The petition for review has not been filed. On March 10, 2005, the city filed a motion to dismiss. On March 23, 2005, petitioner filed a response to that motion and a Motion for Extension of Time to Submit Petition for Review.

Petitioner argues that he “assumed the Board after expiration of the time to object to the record, would mail a letter stating the deadline to file the PETITION FOR REVIEW. If such a letter was mailed, Petitioner Meeke did not receive it.” Response to Motion to Dismiss and Petitioner’s Motion for Extension of Time to Submit Petition for Review and Brief in Support of Motion 2.¹ On February 8, 2005, LUBA staff mailed to the parties a letter stating that the local record was “received by the Board on February 08, 2005” and that the petition for review was due “twenty-one days after receipt of the record by the Board.” No record objections were subsequently filed, and the petition for review was therefore due on March 1, 2005. LUBA does not send a second letter restating the deadline for filing the petition for review in appeals where no record objections are filed.

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

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

OAR 661-010-0067(2) provides that the time limit for filing the petition for review may be extended only by written consent of all the parties.

¹ Petitioner also argues that the city failed to mail him notice of the challenged decision. As far as we can tell, the notice of intent to appeal was timely filed, and any failure by the city in notifying petitioner of the challenged decision is irrelevant to the question presented here; *i.e.*, the timeliness of the petition for review.

1 The deadline for filing the petition for review is strictly enforced. *Terrace Lakes*
2 *Homeowners Assoc. v. City of Salem*, 29 Or LUBA 532, *aff'd* 138 Or App 188, 906 P2d 871
3 (1995); *Bongiovanni v. Klamath County*, 29 Or LUBA 351 (1995). Because a petition for
4 review was not filed within the time required by our rules, and petitioner did not obtain written
5 consent to extend the time for filing the petition for review under OAR-661-010-0067(2) beyond
6 March 1, 2005, ORS 197.830(11) and OAR 661-010-0030(1) require that we dismiss this
7 appeal.

8 This appeal is dismissed.