

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3  
4 VERIZON WIRELESS, LLC,  
5 *Petitioner,*

6  
7 vs.

8  
9 CLACKAMAS COUNTY,  
10 *Respondent.*

11  
12 LUBA No. 2008-026

13  
14 FINAL OPINION  
15 AND ORDER

16  
17 Appeal from Clackamas County.

18  
19 Christopher P. Koback, Portland, filed the petition for review on behalf of petitioner.  
20 With him on the brief was Davis Wright Tremaine LLP.

21  
22 Michael E. Judd, Assistant County Counsel, Oregon City, represented respondent.

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

25  
26 HOLSTUN, Board Member, did not participate in the decision.

27  
28 DISMISSED

05/28/2008

29  
30 You are entitled to judicial review of this Order. Judicial review is governed by the  
31 provisions of ORS 197.850.

**MOTION TO DISMISS**

The county moves to dismiss this appeal because the petition for review was not timely filed. The petition for review in this appeal was due March 31, 2008. The petition for review was filed April 7, 2008.

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.

Petitioner does not dispute that the petition for review was not timely filed. Petitioner explains that petitioner’s counsel’s assistant miscalculated the due date for filing the petition for review. However, petitioner argues, the county’s motion to dismiss should be denied because the county has suffered no prejudice as a result of the late filing of the petition for review. Petitioner also argues that the late filing of the petition for review is a technical violation of our rules that should not interfere with the review of a land use decision.

Failure to timely file a petition for review is not a mere technical violation of our rules. OAR 661-010-0005. The deadline for filing the petition for review is strictly enforced. *Terrace Lakes Homeowners Assoc. v. City of Salem*, 29 Or LUBA 532, 535, *aff’d* 138 Or App 188, 906 P2d 871 (1995); *Hutmacher v. Marion County*, 15 Or LUBA 514, 515 (1987).

Because a petition for review was not filed within the time required by our rules, and petitioner did not obtain written consent to extend the time for filing the petition for review

1 under OAR-661-010-0067(2) beyond March 31, 2008, ORS 197.830(11) and OAR  
2 661-010-0030(1) require that we dismiss this appeal.

3 The appeal is dismissed.