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

OREGON DEPARTMENT OF TRANSPORTATION
Petitioner,

and

TERRY W. EMMERT,
Intervenor-Petitioner,

vs.

CLACKAMAS COUNTY,
Respondent,

and

TERRY W. EMMERT,
Intervenor-Respondent.

LUBA No. 2007-148

FINAL OPINION
AND ORDER

Appeal from Clackamas County.

Kathryn A. Lincoln, Assistant Attorney General, Salem, represented petitioner.

D. Daniel Chandler, Assistant County Counsel, Oregon City, represented respondent.

Cynthia K. McNeff, Clackamas, represented intervenor-respondent.

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

RYAN, Board Member, did not participate in the decision.

DISMISSED 12/05/2008

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

MOTION TO INTERVENE

Terry W. Emmert, the applicant below, separately moves to intervene on the side of petitioner and on the side of respondent in the above-captioned appeal. No party opposes the motions, and they are allowed.

DECISION

Pursuant to ORS 197.830(13)(b) and OAR 661-010-0021, Clackamas County withdrew the decision challenged in this appeal for reconsideration on June 23, 2008. On September 15, 2008, the Board received Clackamas County’s decision on reconsideration. Pursuant to OAR 661-010-0021(5)(a), petitioner had until October 6, 2008 to either refile its original notice of intent to appeal in this matter, or file an amended notice of intent to appeal. The Board has not received a refiled original notice of intent to appeal or an amended notice of intent to appeal in accordance with OAR 661-010-0021(5)(a).

OAR 661-010-0021(5)(e) provides “[i]f no amended notice of intent to appeal is filed or no original notice of intent to appeal is refiled, as provided in [OAR 661-010-0021(5)(a)], the appeal will be dismissed.”

This appeal is dismissed. *Matrix Development v. City of Tigard*, 25 Or LUBA 557 (1993).