

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 HENRY KANE,
5 *Petitioner,*

6
7 vs.
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9 CITY OF BEAVERTON,
10 *Respondent.*
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12 LUBA No. 2013-029
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14 FINAL OPINION
15 AND ORDER
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17 Appeal from City of Beaverton.
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19 Henry Kane, Beaverton, represented himself.
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21 William J. Scheiderich, Assistant City Attorney, Beaverton, represented respondent.
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23 BASSHAM, Board Chair; HOLSTUN, Board Member; RYAN, Board Member,
24 participated in the decision.
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26 DISMISSED

05/02/2013

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

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NATURE OF THE DECISION

Petitioner appeals a city council decision approving a traffic signal.

MOTION TO DISMISS

The city moves to dismiss this appeal, arguing that the challenged decision is not a “land use decision” subject to LUBA’s jurisdiction. Specifically, the city argues that the decision falls within an exception to the definition of “land use decision” at ORS 197.015(10)(b)(D), for a decision that determines the final engineering design or construction of a transportation facility authorized by the comprehensive plan.

Petitioner does not dispute that the challenged decision falls within the exception at ORS 197.015(10)(b)(D). Petitioner moves for an order “affirming” the challenged decision and, because the record has not yet been filed, for return of his deposit for costs. OAR 661-010-0075(1)(d).

Because the challenged decision is not within our jurisdiction, dismissal is the appropriate disposition. The appeal is dismissed. The Board will return petitioner’s deposit for costs.