

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

3
4 BRUCE D. GOLDSON,
5 *Petitioner,*

6
7 vs.

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9 CLACKAMAS COUNTY,
10 *Respondent,*

11 and

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14 BRIAN OOTEN,
15 *Intervenor-Respondent.*

16
17 LUBA No. 2017-035

18
19 FINAL OPINION
20 AND ORDER

21
22 Appeal from Clackamas County.

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24 David M. Phillips, Portland, represented petitioner.

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26 Nathan K. Boderman, Assistant County Counsel, Oregon City,
27 represented respondent.

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29 Rachel Atchison, Portland, represented intervenor-respondent.

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

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34 DISMISSED 06/21/2017

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

MOTION TO DISMISS

The challenged decision is the county’s decision denying petitioner’s application for a comprehensive plan amendment and zone map amendment.

Brian Ooten (intervenor) moves to dismiss the appeal, arguing that the appeal was not timely filed. The county’s decision became final on March 16, 2017.¹ Under ORS 197.830(9), the deadline for filing the notice of intent to appeal is 21 days after the appealed decision became “final.”² Petitioner filed his notice of intent to appeal on April 12, 2017.

Petitioner has not responded to intervenor’s motion to dismiss. We agree with intervenor that petitioner’s notice of intent to appeal was not filed within

¹ OAR 661-010-0010(3) provides:

“Final decision’: A decision becomes final when it is reduced to writing and bears the necessary signatures of the decision maker(s), unless a local rule or ordinance specifies that the decision becomes final at a later date, in which case the decision is considered final as provided in the local rule or ordinance.”

² ORS 197.830(9) provides, in part:

“A notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615. * * *

1 the time provided in ORS 197.830(9). Under OAR 661-010-0015(1)(a), this
2 appeal must be dismissed.³

3 The appeal is dismissed.

³ OAR 661-010-0015(1)(a) provides:

“The Notice [of Intent to Appeal], together with two copies, and the filing fee and deposit for costs required by section (4) of this rule, shall be filed with the Board on or before the 21st day after the date the decision sought to be reviewed becomes final or within the time provided by ORS 197.830(3)–(5). A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed with the Board on or before the 21st day after the date the decision sought to be reviewed is mailed to parties entitled to notice under ORS 197.615. A Notice filed thereafter shall not be deemed timely filed, and the appeal shall be dismissed.”