1	BEFORE THE LAND USE BOARD OF APPEALS
2	OF THE STATE OF OREGON
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4	JOHN DUNZER,
5	Petitioner,
6	
7	VS.
8	
9	CLATSOP COUNTY,
10	Respondent.
11	12/15/17 en 8/53 LUBF
12	LUBA No. 2017-118
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14	FINAL OPINION
15	AND ORDER
16	
17	Appeal from Clatsop County.
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19	John Dunzer, Seaside, represented himself.
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21	Heather J. Reynolds, Clatsop County Counsel, Astoria, represented
22	respondent.
23	DVAN Doord Chair DACCHAM Doord Mambon HOLCTIN Doord
24	RYAN, Board Chair; BASSHAM, Board Member; HOLSTUN, Board
25 26	Member, participated in the decision.
20 27	DISMISSED 12/15/2017
2 <i>1</i> 28	12/13/2017
26 29	You are entitled to judicial review of this Order. Judicial review is
29 30	governed by the provisions of ORS 197.850.
. v	Externed of the brothering or Ord 1771000.

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2	On December 6, 2017, the Board received petitioner's notice of intent to
3	appeal. The notice was not accompanied by the filing fee and deposit for costs
4	required by OAR 661-010-0015(4). Rather, the notice was accompanied by
5	what appeared to be a completed application form for deferral or waiver of
6	circuit court fees. In that application, petitioner asked for deferral or waiver of
7	the filing fee and deposit for costs in this LUBA appeal.
8	On December 6, 2017, the Board issued an order that explained that
9	LUBA is not a circuit court, and LUBA's rules do not permit waiver or deferral

of the filing fee or deposit for costs. Our December 6, 2017 order required petitioner to remit payment of the filing fee and deposit for costs not later than 5:00 p.m. on December 13, 2017, and notified petitioner that if the filing fee

and deposit for costs were not received by December 13, 2017, the Board

would dismiss the appeal.

On December 13, 2017, the Board received from petitioner a document entitled "Request for Review," which states in its entirety:

"Pursuant to ORS 21.682(1), petitioner requests a review by the appropriate judge of the decision denying the applicant's request for waiver or deferral of the filing fees and deposit for costs in this LUBA appeal. Under the State of Oregon definitions, petitioner is a vulnerable person."

¹ ORS 21.682 provides:

[&]quot;(1) A judge may waive or defer all or part of the fees and court costs payable to the court by a party in a civil action or

- 1 Petitioner's request appears to seek review of our December 6, 2017 order
- 2 denying his request for a waiver of fees, and to rely on ORS 21.682. As we
- 3 previously explained in our December 6, 2017 order, LUBA is not a circuit
- 4 court and has no authority to waive fees. ORS 21.682 does not apply to LUBA.
- 5 The Board did not receive the required filing fee and deposit for costs on
- 6 or before 5:00 p.m. on December 13, 2017. Accordingly, pursuant to OAR 661-
- 7 010-0015(1)(c), this appeal is dismissed.

proceeding, including sheriff's fees under ORS 21.300 (1)(a), if the judge finds that the party is unable to pay all or any part of the fees and costs. Waiver or deferral under this section of the fees or court costs of an inmate, as defined in ORS 30.642, is subject to ORS 30.642 to 30.650.

- "(2) A presiding judge may delegate authority to waive or defer fees and court costs under this section to the court administrator for the court in which the judge serves. A delegation of authority under this subsection must be in writing and must be subject to clear standards. If a delegation is made under this subsection, an applicant may seek review of the court administrator's decision by a judge. If an applicant requests review of a court administrator's decision, the court administrator shall forward the application for waiver or deferral of the fees or court costs to the appropriate judge.
- "(3) A court may not delay or refuse to enter an order or judgment in an action or proceeding because deferred fees and court costs have not been paid.
- "(4) The Chief Justice of the Supreme Court by order may provide standards and practices for waiver or deferral of fees or court costs under ORS 21.680 to 21.698."

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2017-118 on December 15, 2017, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Heather L. Reynolds Clatsop County Counsel PO Box 145 Astoria, OR 97103

John Dunzer 2964 Keepsake Drive Seaside, OR 97138

Dated this 15th day of December, 2017.

Kelly Burgess Paralegal Kristi Seyfried

Executive Support Specialist