

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 SHARON BOHAN,

5 *Petitioner,*

6
7 vs.

8
9 CITY OF PORTLAND,

10 *Respondent.*

11 03/20/19 PM 1:39 LUBA

12 LUBA No. 2019-022

13
14 FINAL OPINION

15 AND ORDER

16
17 Appeal from City of Portland.

18
19 Sharon Bohan, Portland, represented herself.

20
21 Linly F. Rees, Chief Deputy City Attorney, Portland, represented
22 respondent.

23
24 RYAN, Board Chair; RUDD, Board Member; ZAMUDIO, Board
25 Member, participated in the decision.

26
27 DISMISSED

03/20/2019

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

1 Opinion by Ryan.

2 The Amended Notice of Intent to Appeal (Amended NITA) describes the
3 appealed decision as “Land Division-Partition Case File Number LU 18-248066-
4 LPD which became final on February 1, 2019 and which involves creating a flag
5 lot[.]” Amended NITA 1. The city moves to dismiss the appeal on the basis that
6 the decision described in the Amended NITA is not a “final” decision, because
7 the city has not yet issued a final decision on the proposed land division. In
8 support of its motion, the city points to the February 1, 2019 “Notice of a Type
9 Ix Proposal in Your Neighborhood” that is attached to the Amended NITA, which
10 provides notice that a proposal to divide land has been submitted to the city, and
11 that the comment period closes on March 4, 2019.

12 LUBA has exclusive jurisdiction to review land use decisions or limited
13 land use decisions. ORS 197.825(1). ORS 197.015(10)(a)(A)(iii) defines the term
14 “[l]and use decision” to include “[a] final decision” “by a local government * * *
15 that concerns the * * * application of” “[a] land use regulation[.]” We agree with
16 the city that the decision that petitioner has appealed is not a “final decision” by
17 the city, or a decision of any kind, and accordingly, LUBA lacks jurisdiction over
18 the appeal.

19 The appeal is dismissed.

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2019-022 on March 20, 2019, 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:

Linly F. Rees
Deputy City Attorney
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

Sharon Bohan
11537 SE Madison
Portland, OR 97216

Dated this 20th day of March, 2019.

Kelly Burgess
Paralegal



Kristi Seyfried
Executive Support Specialist