

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

JAY A. KITTAMS,
Petitioner,

vs.

CLACKAMAS COUNTY,
Respondent,

and

CORK SOLAR LLC,
Intervenor-Respondent.

LUBA No. 2019-117

FINAL OPINION
AND ORDER

Appeal from Clackamas County.

Jay A. Kittams, Molalla, represented himself.

Nathan Boderman, Oregon City, represented respondent.

Sara A. H. Sayles and Damien Hall, Portland, represented intervenor-respondent.

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

DISMISSED

02/13/2020

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

NATURE OF THE DECISION

Petitioner challenges a decision by a county hearings officer approving a conditional use permit (CUP) to develop a seven-acre photovoltaic solar power generation facility on property zoned exclusive farm use.

MOTION TO DISMISS

On October 17, 2019, the county hearings officer held the public hearing on the CUP application. Petitioner did not testify or otherwise appear at the hearing. That same day, the hearings officer concluded the hearing, closed the record, and issued a written decision approving the CUP.

As relevant here, ORS 197.830(2)(b) provides “[A] person may petition [LUBA] for review of a land use decision or limited land use decision if the person * * * [a]ppeared before the local government, special district or state agency orally or in writing.” Intervenor-respondent Cork Solar LLP (Cork Solar) moves to dismiss and argues that petitioner lacks standing because petitioner did not appear before the county in the local proceeding.

Petitioner has not responded to the motion to dismiss. It is petitioner’s responsibility to establish standing. Because petitioner failed to do so, this appeal is dismissed. *See Strauss v. Jackson County*, 28 Or LUBA 56 (1994) (where the petitioner does not respond to a motion to dismiss for lack of standing, LUBA will dismiss the appeal).

The appeal is dismissed.