1	BEFORE THE LAND USE BOARD OF APPEALS
2	OF THE STATE OF OREGON
3	ZENNIETH MANZED
4	KENNETH MAYER,
5	Petitioner,
6	
7	VS.
8 9	CITY OF DALLAC
	CITY OF DALLAS,
10	Respondent,
11 12	and.
	and
13 14	DALLAS RETIREMENT VILLAGE,
1 4 15	
16	Intervenor-Respondent.
10 17	LUBA No. 2020-052
18	LODA No. 2020-032
19	FINAL OPINION
20	AND ORDER
21	THE ORDER
22	Appeal from City of Dallas.
23	ripped from Oity of Bullas.
24	William L. Ghiorso, Salem, represented petitioner.
25	William B. Ginerso, Sarein, represented pentioner.
26	Lane P. Shetterly, Dallas, represented respondent.
27	
28	Wallace W. Lien, Salem, represented intervenor-respondent.
29	
30	RUDD, Board Chair; RYAN, Board Member; ZAMUDIO, Board
31	Member, participated in the decision.
32	/ 1
33	DISMISSED 06/24/2020
34	
35	You are entitled to judicial review of this Order. Judicial review is
36	governed by the provisions of ORS 197.850.

Rudd, Board Chair.

MOTION TO INTERVENE

Dallas Retirement Village (intervenor) moves to intervene on the side of respondent. The motion is unopposed and is granted.

MOTION TO DISMISS

On May 20, 2020, LUBA received petitioner's notice of intent to appeal (NITA) a planning commission decision approving a conditional use permit (CUP). That decision became final on April 24, 2020. On May 22, 2020, intervenor filed its motion to dismiss the appeal. For the reasons set forth below, the motion is granted and the appeal is dismissed.

OAR 661-010-0015(1)(a) requires in part that the NITA be filed with the Board on or before the 21st day after the date the decision sought to be reviewed becomes final. The filing deadline for an appeal of the challenged decision was May 15, 2020. The filing date of a NITA "is the date the Notice is received by the Board, or the date the Notice is mailed, provided it is mailed by registered or certified mail, and the party filing the Notice has proof from the post office of such mailing date." OAR 661-010-0015(1)(b). LUBA received the NITA on May 20, 2020, via regular first-class mail. Petitioner's NITA did not include a certificate of filing indicating the date or manner of mailing. Intervenor states in its motion that it has requested that petitioner provide it a copy of a certified mail receipt but no proof of certified mailing has been provided to intervenor or to LUBA. Petitioner has not filed a response to the motion to dismiss. OAR 661-

- 1 010-0015 provides that failure to timely file an appeal shall result in dismissal of
- 2 the appeal. The appeal in this matter was not timely filed.
- The appeal is dismissed.