



1 It is unclear whether the parties were aware that the deadline for filing the petition for  
2 review had already passed when they executed the stipulated dismissal. In any event, it  
3 seems relatively clear that OAR 661-010-0075(1)(c) is intended to apply to the situation  
4 where a petitioner does not file a petition for review on time, and the appeal is subsequently  
5 dismissed *for that reason*. The cross-reference in the rule to OAR 661-010-0030(1) supports  
6 this interpretation of OAR 661-010-0075(1)(c). OAR 661-010-0030(1) provides: “Failure to  
7 file a petition for review within the time required by this section \* \* \* *shall result in*  
8 *dismissal of the appeal and forfeiture of the filing fee and deposit for costs to the governing*  
9 *body*. See OAR 661-010-0075(1)(c).”

10 Here, the appeal was not dismissed because petitioner failed to file his petition for  
11 review on time. The parties filed a stipulated motion for order of dismissal one day after the  
12 petition for review was due to be filed, and the appeal was subsequently dismissed based on  
13 that stipulation, not because the petition for review was untimely. OAR 661-010-0075(1)(c)  
14 does not provide that the filing fee be awarded to the governing body under these  
15 circumstances.

16 Petitioner does not dispute that respondent is the prevailing party and therefore  
17 entitled to recover its costs for copying the record. OAR 661-010-0075(1)(b)(B).

18 Respondent’s cost bill seeking return of its filing fee is denied. Respondent is  
19 awarded the \$150 deposit for costs.

20 Dated this 3rd day of December, 2004.

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28 Anne C. Davies  
29 Board Member