

1 for stay does not appear to adequately establish that the challenged demolition permit falls
2 within the statutory definition of “land use decision.” ORS 197.015(10). Under that statute,
3 a decision is a land use decision if it concerns the application of a land use regulation. It is
4 not clear to us that the demolition permit at issue in this appeal concerns the application of a
5 land use regulation. It is not even clear to us that the motion alleges that the demolition
6 permit concerns the application of a land use regulation. In addition, the notice of intent to
7 appeal was filed 14 months after the demolition permit was issued and eight months after it
8 was extended. We question whether the notice of intent to appeal was timely filed under
9 ORS 197.830(3)(b), which is the statute petitioner relies on. Under that statute, a petitioner
10 must file a notice of intent to appeal “[w]ithin 21 days of the date a person knew or should
11 have known of the decision * * *.” If petitioner is seriously concerned about the future of
12 the school, it would seem likely that petitioner should have known of the demolition permit
13 before June 22, 2009. If petitioner is not seriously concerned about the future of the school,
14 we question whether she has demonstrated that (1) she is “adversely affected” by the
15 decision, as ORS 197.830(3) requires and (2) she will suffer “irreparable injury” if the stay is
16 not granted, as ORS 197.845(1)(b) requires. For all of these reasons, we decline to grant the
17 stay based solely on the motion or accept petitioner’s suggested briefing schedule.

18 The motion for stay is only 5 pages long and we believe three days is an adequate
19 period of time for the city to prepare its response to the motion. The city shall have until
20 5:00 p.m. on Friday July 10, 2009 to file a written response to the motion for stay. That
21 response may be filed by mail, but a complete copy of the response in electronic format must
22 be sent to LUBA and to petitioner via e-mail on or before that deadline. LUBA will schedule
23 a conference call for Monday July 13, 2009 and advise the parties of the time of the
24 conference call.

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Dated this 8th day of July, 2009.

Michael A. Holstun
Board Member