

10/18/2024 PM 12:17

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

KATHRYN JANE PHILLIPS,  
*Petitioner,*

vs.

POLK COUNTY,  
*Respondent,*

and

DAVID HARRIS,  
*Intervenor-Respondent.*

LUBA No. 2024-031

FINAL OPINION  
AND ORDER

Appeal from Polk County.

Petitioner represented themselves.

Morgan B. Smith represented respondent.

Intervenor-respondent represented themselves.

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

DISMISSED

10/18/2024

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

**BACKGROUND**

The challenged decision is a board of commissioners’ decision vacating an unimproved county right of way that bisects a portion of petitioner’s property zoned exclusive farm use. On August 30, 2024, petitioner timely filed objections to the record. On September 5, 2024, the county filed its response to the record objections and a supplemental record. On September 14, 2024, petitioner filed a pleading titled “Petitioner’s Response to Respondent’s Response to Objection to Record; Petitioner’s Supplement to Objection to Record and Requested Transcription Resolution.”<sup>1</sup>

OAR 661-010-0026(6) provides in relevant part that “[w]hen the objection is resolved, the Board shall issue an order declaring the record settled and setting forth the schedule for subsequent events.” On September 16, 2024, the Board issued an order sustaining petitioner’s first record objection, which the Order concluded was resolved by the supplemental record, and denying petitioner’s second record objection. Pursuant to OAR 661-010-0026(6), our September 16, 2024 Order settled the record and established a briefing schedule. Pursuant to that order, the petition for review in this appeal was due October 7, 2024. Petitioner did not file a petition for review.

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<sup>1</sup> Petitioner’s September 14, 2024 pleading clarified their first objection, and restated their second objection.

1    **DISPOSITION**

2           ORS 197.830(11) requires that a petition for review be filed within the  
3    deadlines established by Board rule. Failure to file a petition for review within  
4    the time required by OAR 661-010-0030(1) or any extensions of that time under  
5    OAR 661-010-0067(2) shall result in dismissal of the appeal. OAR 661-010-  
6    0030(1).

7           The deadline for filing the petition for review is strictly enforced. *Towey*  
8    *v. City of Hood River*, \_\_\_ Or LUBA \_\_\_ (LUBA No 2021-057, Mar 21, 2022),  
9    *aff'd*, 321 Or App 414, 516 P3d 738 (2022); *Terrace Lakes Homeowners Assoc.*  
10   *v. City of Salem*, 29 Or LUBA 532, 535, *aff'd*, 138 Or App 188, 906 P2d 871  
11   (1995); *Hutmacher v. Marion County*, 15 Or LUBA 514, 515 (1987).

12           The appeal is dismissed.

## Certificate of Mailing

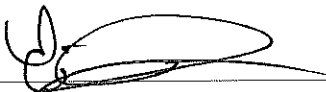
I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2024-031 on October 18, 2024, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Morgan B. Smith  
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Dallas, OR 97338

Dated this 18th day of October, 2024.



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Erin Pence  
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