

State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON

BLUE MOUNTAIN AUDUBON SOCIETY)	
and ANTONIA LEVI)	
Petitioners)	Case No. 95-1-0006
)	
vs.)	ORDER OF DISMISSAL
)	
WALLA WALLA COUNTY,)	
)	
Respondent)	
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On September 13, 1995, by facsimile, Petitioners, Blue Mountain Audubon Society and Antonia Levi, of Walla Walla, Washington filed a petition for review before this Board appealing Walla Walla County's Critical Areas Ordinance. Petitioners stated the Ordinance does not comply with RCW 36.70A.060 ... Critical Areas--development regulations. Petitioners further asserted the Ordinance did not comply with RCW 36.70A.140 - public participation. On September 14, 1995, hard copies of the petition were received by mail.

On September 19, 1995, the Board issued a notice tentatively setting the prehearing conference in this matter for October 17, 1995 at 1:30 p.m. in the Board's office. Also the notice tentatively scheduled the hearing on the merits for January 9, 1996 at 10:00 a.m. in Walla Walla at a location to be determined.

On September 25, 1995, Presiding Officer Chilberg sent notice to the parties inviting a motion concerning the timeliness of filing of this petition.

On September 27, 1995, the Board received Walla Walla County's Notice of Appearance from James L. Nagle, Prosecuting Attorney, Answer of Walla Walla County, Motion to Dismiss Petition and Respondent's Memorandum in Support of Motion to Dismiss Petition.

On September 28, 1995, Petitioner Levi faxed a letter stating she would be out of town until October 3 and after that time would file a motion.

On October 5, 1995, Petitioner faxed a Petitioner's Response to Respondent's Motion to Dismiss Petition including Declaration of Shirley Muse.

On October 11, 1995, the Board received Respondent's Index of the Record and Affidavit of Darcey Fugman-Small, Director of Walla Walla County Planning Commission.

After reviewing the motions, affidavits and memorandums, the Board finds that Petitioners did file their petition for review 2 days late. It is unfortunate petitioners relied upon the newspaper's incorrect determination of appeal time.

In order for the jurisdiction of this Board to attach, a petition must be filed in accordance with RCW 36.70A.290(2), which requires that a petition for review must be filed within 60 days of publication. The affidavit of publication shows that the County published on July 13, 1995. Therefore the appeal had to be filed no later than September 11, 1995, instead of the actual date of filing, September 13, 1995. The Board must base its decisions on the law. Nothing in RCW 36.70A.290(2) or other decisions of the Board grants authority to waive this statute of limitation.

IT IS HEREBY ORDERED that this matter is **DISMISSED** for lack of timely filing.

DATED this 17th day of October, 1995.

EASTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS BOARD

D. E. "SKIP" CHILBERG, Presiding Officer

JUDY WALL, Board Member

TOM A. WILLIAMS, Board Member