

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3  
4 NOSLER INVESTMENTS, LLC.,

5 *Petitioner,*

6  
7 vs.

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9 CITY OF BEND,

10 *Respondent,*

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12 and

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14 CENTURY CENTER PROPERTIES, LLC,

15 *Intervenor-Respondent.*

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17 LUBA Nos. 2012-057 and 2012-058

18  
19 FINAL OPINION

20 AND ORDER

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22 Appeal from City of Bend.

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24 Steven P. Hultberg, Bend, represented petitioner.

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26 Mary A. Winters, City Attorney and Gary F. Firestone, Assistant City Attorney, Bend,  
27 represented respondent.

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29 Liz Fancher, Bend, represented intervenor-respondent.

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31 HOLSTUN, Board Member; BASSHAM, Board Chair; RYAN, Board Member,  
32 participated in the decision.

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34 DISMISSED

03/04/2013

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

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**MOTION TO INTERVENE**

Century Center Properties, LLC, the applicant below, moves to intervene on the side of respondent. No party opposes the motion, and it is granted.

**DECISION**

Pursuant to ORS 197.830(13)(b) and OAR 661-010-0021, respondent withdrew the decision challenged in this appeal for reconsideration on November 13, 2012. On January 24, 2013, the Board received the respondent’s decision on reconsideration. Pursuant to OAR 661-010-0021(5)(a), petitioner had until February 14, 2013 to either refile its original notice of intent to appeal in this matter, or file an amended notice of intent to appeal. The Board has not received a refiled original notice of intent to appeal or an amended notice of intent to appeal in accordance with OAR 661-010-0021(5)(a).

OAR 661-010-0021(5)(e) provides “[i]f no amended notice of intent to appeal is filed or no original notice of intent to appeal is refiled, as provided in [OAR 661-010-0021(5)(a)], the appeal will be dismissed.”

This appeal is dismissed. *Matrix Development v. City of Tigard*, 25 Or LUBA 557 (1993).