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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

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In the Matter of the Request )  
 for a Conditional Use Permit )  
 for DORIS KETARKUS. )

C.U.P. 11-86  
 FINDINGS OF FACT, CONCLUSIONS  
 OF LAW AND DECISION

This matter came before William M. Canong, Hearings Officer of Klamath County, for a supplemental hearing on June 18, 1987. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. Doris Ketarkus, the applicant, represented herself at the Hearing. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the Recording Secretary was Janet Libertajt. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The applicant applied for and was granted a Conditional Use Permit by the Klamath County Hearings Officer on April 21, 1986 to place a second mobile home on property owned by the applicant located near Keno, Oregon and more particularly described in said Order. In April, 1987, the applicant commenced work on her lot for the placement of said mobile home. At that point in time, several nearby landowners sought information from the Klamath County Planning Department concerning the work taking place on the applicant's lot. Said nearby landowners told the Planning Department that they did not receive notice of the prior hearing on the applicant's request for a Conditional Use Permit

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and had they received notice, they would have appeared and testified.

2. At the hearing on June 18, 1987, Dino Migliacco, Clarence Ramme and Myron E. Now testified that they did not receive notice prior to the original hearing conducted in this matter on March 20, 1986. Mr. Now testified on June 18, that he resided and has resided on his lot since October, 1985 and that he has owned his lot since 1979. Mr. Now testified that he does not subscribe to the Herald & News and that his first knowledge of the subject Conditional Use Permit occurred in April, 1987 when he saw construction work taking place on Mrs. Ketarkus' lot. Mr. Migliacco testified that he acquired his lot from Klamath First Federal Savings & Loan Association in January, 1987. Mr. Ramme testified that he has owned his lot for several years but has received no notice of the C.U.P. proceedings.

3. The Planning staff determined that the owners of the property now owned by Mr. Ramme, Mr. Migliacco and Mr. Now were entitled to receive notice of the subject application. Mrs. Ketarkus testified that when she filed the application she was advised that it was her responsibility to obtain the names and addresses of people owning property within 250 feet of her lot and that notice would be sent to those landowners. Mrs. Ketarkus testified that she went to the Klamath County Assessor's office and got the names and addresses of people she thought owned property within 250 feet from the Assessor. She then took that list to the Planning Department and notice was thereafter sent by

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the Planning Department to the people at the addresses furnished by Mrs. Ketarkus. At the Hearing on June 18, 1987, Mrs. Ketarkus produced a list of property owners. That list did not correspond with the list in the Klamath County Planning Department file as the list Mrs. Ketarkus produced at the June 18th hearing contained one name that was not on the list in the Planning Department file. The Planning Department file indicates that notice was mailed to Mr. Ramme at his current and proper address and that notice was mailed to the predecessor in interest of Mr. Migliacco. The Planning Department file shows that no notice was mailed to Mr. Now.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

At the time Ms. Ketarkus originally applied for the subject Conditional Use Permit, Article 32 of the Land Development Code set forth the provisions and requirements for the giving of notice to interested persons. Section 32.002 A requires that notice be published in a newspaper in general circulation in Klamath County, Oregon. The Hearings Officer finds, based on the affidavit to publication in the Planning Department file, that in fact notice was published in the Herald & News, a newspaper of general circulation in Klamath County. Paragraph B of Section 32.002 requires that notice be mailed not less than 15 days prior to the date set for hearing to the owners of all property located within 250 feet of the property subject to the Conditional Use Permit. The Klamath County Planning Department file indicates that notice was mailed to the Landowners of record provided by

Mrs. Ketarkus. Paragraph B puts the burden on the applicant of providing the names and the addresses of the people who are to receive notice to the Planning Department. The last sentence of paragraph B states:


"The failure of a property owner to receive notice shall not invalidate a decision reached at a public hearing if a good faith attempt was made to comply with the requirements of this code for notice."

The Hearings Officer finds that there is no evidence in the record that there was not a good faith attempt made to comply with the requirements of the code. Therefore, the Order dated April 21, 1986 granting a Conditional Use to Mrs. Ketarkus for the placement of a second mobile home on the property described therein is not invalid.

#### CONCLUSIONS OF LAW AND ORDER

The Hearings Officer, after review of the Klamath County Planning Department file for a Conditional Use Permit 11-86 and the following testimony as hereinabove described, finds that the Order of Hearings Officer James Spindor dated April 21, 1986, is valid and that Doris Ketarkus holds a valid Conditional Use permit to site a second mobile home on the property described in said Order.

DATED this 15th day of July, 1987.

  
William M. Ganong  
Hearings Officer

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 20th day  
of July A.D. 19 87 at 4:26 o'clock P.M., and duly recorded in Vol. M87  
of Deeds on Page 12916.

FEE NONE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By 