

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

April 9, 2008

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**RE: Bestfield Homes, LLC. v. Sussex County Board of Adjustment
C.A. No. 07A-06-005 ESB
Letter Opinion**

Date Submitted: January 25, 2008

Dear Counsel:

This is my decision on the Sussex County Board of Adjustment's Motion to Dismiss the appeal filed by Bestfield Homes, LLC of the Board's denial of Bestfields' application for a special use exception for an off-premises sign. The Board held a hearing on Bestfield's application on January 8, 2007. At the conclusion of the hearing, the Board took the matter under advisement and tabled it until its next meeting on January 22, 2007. The Board tabled the matter again at its meeting on January 22, 2007. The Board voted to deny the application at its meeting on February 5, 2007. The Board filed its written decision in the office of the Board on March 26, 2007. Bestfield filed its appeal of the Board's decision with this Court on June 21, 2007.

The Board argues that Bestfield's appeal should be dismissed because it did not file its appeal within the applicable statutory period for filing an appeal. Bestfield argues that it did not get notice of the Board's decision. The Board did mail a copy of its decision to Bestfields' attorney. However,

it was returned in the mail to the Board.

This matter is governed by 9 Del.C. §6918(a). It provides that Bestfield's "petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board." The Board's decision was filed on March 26, 2007. Bestfield filed its appeal with this Court on June 21, 2007. This time limit is jurisdictional. After 30 days this Court is divested of jurisdiction to hear an appeal under 9 Del.C. § 6918(a). The statute specifically states that the time period begins to run with the filing of the decision in the office of the Board, not when Bestfield receives notice of the Board's decision. Bestfield's failure to file its appeal within the statutory time limit leaves this Court with no choice but to dismiss Bestfield's appeal.

CONCLUSION

The Boards' Motion to Dismiss is granted.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley