

August 15, 2012

Simon Hare, Commissioner Chair  
Don Reedy, Commissioner Vice Chair  
Harold Haugen, Commissioner  
Josephine County  
Room 154, Courthouse  
Grants Pass, Oregon 97526

**Re: For “The Record” Testimony At Rogue Advocates v. Josephine County, LUBA No. 2011-037 Probable Remand Hearing To Be Before The Josephine County Board of County Commissioners**

Dear Commissioners:

Rogue Advocates is a non-profit organization dedicated to promoting citizen involvement in local land use issues, and the promotion of responsible land use planning to ensure a more livable and sustainable Rogue Valley region. Along with our members in Jackson and Josephine counties, we are particularly concerned with the protection and preservation of farmland, forestland and open space. Our organization writes these comments to voice our concerns about a county citizen involvement policy in the Josephine County Rural Land Development Code (RLDC) that is pertinent to the probable remand hearing referenced above.

**RLDC 33.130(D) Illegally Limits Participation in Land Use Remand Hearings:**

Rogue Advocates challenges the legality of RLDC 33.130(D), which limits the parties to those that had standing at LUBA No. 2011-037. It is quite clear from ORS 197.763(7) that when the record is reopened (including in remand hearings) to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which applies to the matter at issue. *Siporen v. City of Medford*, 55 Or LUBA 29 (2007) goes further in clarifying ORS 197.763(7). *Siporen v. City of Medford* (pgs. 18-16.) identifies that a remand hearing is open for all interested participants to testify. A party who otherwise has standing to participate in a local government’s land use public hearings under the government’s land use legislation may not be denied standing to participate in public hearings following a remand from LUBA, simply because he or she failed to participate in the LUBA appeal.

**Concern:**

We are concerned that as the county has not responded to our two similar previous requests under statewide Goal 1 - Citizen involvement (Attachments 1 & 2), that this request may too illicit no response. However, as a party to *Rogue Advocates v. Josephine County* and as an organization that promotes citizen involvement in local land use issues, Rogue Advocates requests once again that the county clarify that all individuals interested in providing testimony at the Rogue Advocates remand hearing are invited to

do so.

We further urge the county to amend RLDC 33.130(D) to be in compliance with ORS 197.763(7) and *Siporen*. Thank you for this opportunity to comment.

Sincerely,

/s/ Jimmy MacLeod  
Jimmy MacLeod  
Executive Director, Rogue Advocates

/s/ Sarah Vaile  
Sarah Vaile  
Staff Attorney, Rogue Advocates

cc:  
Steve Rich, Legal Counsel  
Josephine County

David Wechner, Planning Director  
Josephine County Planning Department

Josh LeBombard, Southern Oregon Regional Representative  
Oregon Department of Land Conservation and Development

Oregon Citizen Involvement Advisory Committee  
c/o Bob Rindy, Policy and Legislative Coordination  
Department of Land Conservation and Development

Enclosures