

**Appendix V.A.3. LUBA 28.8.3 HEADNOTES**  
**(28.8.3 Grounds for Reversal/Remand - Unconstitutionality)**  
**FOR ASSIGNMENT OF ERRORS**  
**June 19, 2013**

**LUBA HEADNOTES 28**

**28. LUBA SCOPE OF REVIEW**

- 28.1 Generally
- 28.2 Denials

**28.8 Grounds for Reversal/Remand**

- 28.8.1 Generally
- 28.8.2 Lack of Jurisdiction
- 28.8.3 Unconstitutionality**
- 28.8.4 Procedural Errors
- 28.8.5 Noncompliance with Applicable Law
- 28.8.6 Inadequate Findings
- 28.8.7 Unsupported by Substantial Evidence

**28.8.3 LUBA Scope of Review – Grounds for Reversal/Remand – Unconstitutionality.** Standing to appeal a post-acknowledgment plan amendment to LUBA is governed by ORS 197.620(1), which requires only that the petitioner participate in the proceedings below. No statute governing LUBA requires that petitioners who wish to advance a facial constitutional challenge to an ordinance at LUBA must first demonstrate that the ordinance injures their legally protected interests. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

**28.8.3 LUBA Scope of Review – Grounds for Reversal/Remand – Unconstitutionality.** To advance a facial challenge under the Takings Clause of the Oregon Constitution to an ordinance that allegedly requires an uncompensated physical invasion of private property and acquisition of a property easement, a petitioner need not demonstrate that the mere enactment of the ordinance effects a physical invasion or acquisition of property. *Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010).

**FOR FURTHER HEADNOTES GO TO:**

**LUBA HEADNOTES 28.8.3 GROUNDS FOR REVERSAL/REMAND - UNCONSTITUTIONALITY** (<http://www.oregon.gov/LUBA/docs/headnotes/28.8.3.pdf>)  
(Also see Appendix V.A.3. LUBA) Headnote Index)

Note to Files: These headnotes need to be expanded at some future date.

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