
State of Oregon Burden Of Proof Standards

An important early rule to understand by the applicant and the public are the rules for the applicant's burden of proof.

State Standards on Burden Of Proof¹

- . *Matiaco v. Columbia County*, 42 Or LUBA 277, 288, *aff'd* 183 Or App 581, ___P3d___2002.
- . *Mountain West Investment Corp v. Silverton*, 175 Or App 556, 30 P3d 420 (2001) (Mountain West II).
- . *Rochlin v. Multnomah County*, 35 Or LUBA 333, 348 (1998), *aff'd* 159 Or App 681, 981, P2d 399 (1999).
- . *Fasano v. Washington Co. Comm.* 264 Or 574, 586, 507 P2d 23 (1993).

State Standard on Conditions Of Approval

ORS 197.522 specifies how JO CO can apply develop conditions of approval. The key word is "reasonable" conditions. *Oien v. City of Beaverton*, 46 Or LUBA 109 (2003) records that the initial burden of proposing conditions to make development consistent with applicable criteria belongs to the applicant.

JO CO Standards

- RLDC 22 - Permit Review Procedures
- RLDC 30.020.B - Applications
- RLDC 30.040B - General Procedures
- RLDC 31.070.A - Burden & Nature Of Proof

1. Hugo Land Use Committee. 2006. *Complete Land Use Applications*. Hugo, OR.; Hugo Land Use Committee. 2006. *Evidentiary Requirements*. Hugo, OR.

Josephine County Rural Land Development Coded Standards

RLDC 22.040.B.2 - Permit Review Procedures For Quasi-Judicial Review Procedures. During pre-application review the application materials shall be reviewed pursuant to Article 21 to determine completeness. If the information is not complete ... , the applicant shall be notified in writing of exactly what information ... [is] missing. The application shall be deemed complete upon receipt of the missing information ...; or, if the applicant refuses to submit the missing information, the application shall be deemed complete the 31st day after the application and fees are received and accepted.

RLDC 30.020.E - Applications provides, : "E. Review of an application shall or a public hearing on an application shall not be scheduled or noticed until the application is deemed complete by the Planning Director.

RLDC 30.040B - General Procedures provides, "B. The burden of proof is on the applicant and/or the appellant to complete the forms and to substantiate the information presented on the application and/or appeal forms.

RLDC 31.070.A - Burden & Nature Of Proof provides, in relevant part: "A. The burden of proof shall be on the applicant. The more a proposed use or structure changes existing land use patterns, or causes impacts on surrounding lands or the community, the greater the burden of proof shall be on the applicant to show the request complies with all applicable criteria. . . ."

More Information

LUBA Opinions On Burden Of Proof

- . *Leupold & Stevens, Inc. V. City of Beaverton*, 51, Or LUBA 65 (2006).
- . *Ray v. Josephine County*, 51 Or LUBA 443 (2006).
- . *Cadwell v. Union County*, 48 Or LUBA 500 (2005).
- . *Stewart v. Coos County*, 45 Or LUBA 525 (2003).
- . *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA50 (2003).
- . *Robinson v. City of Silverton*, 44 Or LUBA 308 (2003).
- . *Friends of Yamhill County v. Yamhill County*, 44 Or LUBA 777 (2003).
- . *Mountain West Investment Corp v. Silverton*, 39 Or LUBA 507, 508-509 (2001).
- . *Mountain West Investment Corp v. Silverton*, ___ Or LUBA ___(September 27, 2002).
- . *Stahl v. Tillamook County*, 43 Or LUBA 518 (2003).
- . *Murphy Citizens Advisory Comm. v. Josephine County*, 28 Or LUBA 274 (1994).
- . *Washington Co. Farm Bureau v. Washington Co.*, 21 Or LUBA 51, 64 (1991).

More Information. Would you like to learn more? Contact a member of the Land Use Committee of the *Hugo Neighborhood*.



Disclaimer. This brochure is as much about providing information and provoking questions as it is about opinions concerning the adequacy of findings of fact and land use decisions. It does not provide recommendations to citizens and it is not legal advice. It does not take the place of a lawyer. If citizens use information contained in this paper, it is their personal responsibility to make sure that the facts and general information contained in it are applicable to their situation.

Hugo Neighborhood Association & Historical Society's Mission

This information brochure is one of a series of documents published by the Hugo Neighborhood Association & Historical Society (*Hugo Neighborhood*). It is designed to be shared with neighbors for the purpose of helping protect our rural quality of life by promoting an informed citizenry in decision-making. The *Hugo Neighborhood* is an informal nonprofit charitable and educational organization with a land use and history mission of promoting the social welfare of its neighbors.

Land Use & History

The *Hugo Neighborhood's* land use mission is to promote Oregon Statewide Goal 1 — Citizen Involvement, and to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. It will act, if requested, as a technical resource assisting neighbors to represent themselves.

Its history mission is to educate, collect, preserve, interpret, and research its local history and to encourage public interest in the history of the Hugo area.

Volunteer membership dues are \$10.00 annually per family and normally used for paper, ink, envelopes, publications and mailings. Make checks to the *Hugo Neighborhood* and send them to our Treasurer. Send us your e-mail address if you want to know what we are doing.

Hugo Neighborhood Association

Web Page: <http://jeffnet.org/~hugo/>

Edited by Holger Sommer & Mike Walker

Hugo Land Use Committee

Wayne McKy, Member
Land Use Committee
Hugo Neighborhood
6497 Hugo Road
Grants Pass, Oregon 97526

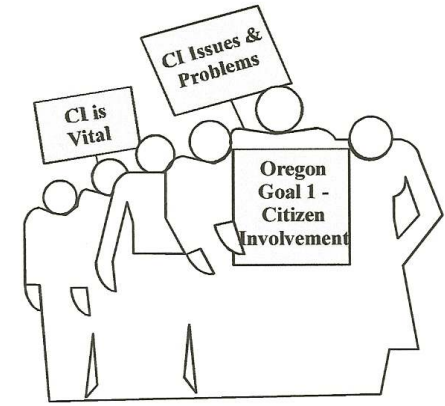
Mike Walker, Member
Land Use Committee
Hugo Neighborhood
3388B Merlin Rd #195
Grants Pass, Oregon 97526

Hal Anthony, Member
Land Use Committee
Hugo Neighborhood
3995 Russell Road
Grants Pass, Oregon 97526

The Burden Of Proof



Brochure 11E in Josephine
County CI Issues & Problems Series



November 14, 2006

**Land Use Committee
Hugo Neighborhood Association**

Members of the CAC/NA Coalition