
Issue

The identified issue is the chilling effect on citizen participation from Josephine County's (JO CO) violations of the 150-day rule, and a mandamus process that may follow from the failure, to move the land use process out of the jurisdiction of the JO CO Board of Commissioners (BCC) to the local circuit court, and the award of attorney fees against intervenors (i.e., citizens).

There can *be* no successful mandamus action unless *the county* had violated the law.¹



A mandamus action is not a procedure that the legislature established to provide counties with an alternative to avoid making the land use decisions. It is a remedy that the legislature created to deal with circumstances where counties have failed to make the decisions that the law requires them to make.¹

This brochure is one of 11 brochures in the Hugo Neighborhood's education series on 150-Day Violations.²

Promising JO CO Approaches To Violations For 150-Day Rule

Even though the issue is JO CO's violation of the 150-Day rule, it is also in the best position to institute changes to correct the deficiency.³

The JO CO Planning Department recognizes the identified issue as a significant concern.⁴ However, the BCC has failed to take action to resolve the matter.

There can be no successful mandamus action unless the county had violated the law.

A helpful approach is the Planning Department's independent initiation to expedite the process through an office policy.

"Implemented a short 14-day deadline for the applicant to submit final written findings for signature by the Rural Planning Commission."

The Hugo Land Use Committee and the Goal One Coalition has been working with the Josephine County Planning Office to explore more effective alternatives for avoiding a violation of ORS 215.427.

OAR 660-045-0020(8). Mediation means a process in which a collaborative dispute resolution provider, as defined in OAR 137-001-0005(4), assists the requester and the affected local government or district in reaching a mutually acceptable resolution of issues raised in a petition for enforcement. Mediation is a voluntary process available to parties at any stage of an enforcement proceeding.

More Information

A violation of the 150-Day rule (ORS 215.427) results in a chilling effect on citizen participation in the county land use process, and a mandamus process (ORS 215.429) that may follow from those violations, to move the land use process out of the jurisdiction of the JO CO BCC to the local circuit court, and the award of attorney fees (ORS 20.075(1)) against intervenors (i.e., citizens). For many citizens there is no remedy left but to start a citizen initiated enforcement order against the county for a pattern and practice of violating the law (ORS 197.335).

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



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1. *State ex rel K. B. Recycling v. Clackamas Cty.*, 171 Or App 46 (2000); *State ex rel Aspen Group v. Washington County*, 166 Or App 217, 996 P2d 1032 (2000); *State ex rel Coastal Management v. Washington Cty.*, 159 Or App 533, 550, 979 P2d 300 (1999).
 2. Hugo Land Use Committee. 2006. *150-Day ORS Standards*. Hugo, OR.
 3. Hugo Land Use Committee. 2006. *Possible Citizen-Initiated Enforcement Order Based On 150-Day Rule Pattern & Practice Violations*. Hugo, OR.
 4. Minutes And Exhibits From Budget Committee Hearing FY 2005 - 2006, April 28, 2005; Minutes And Exhibits From Budget Committee Hearing FY 2004 - 2005, May 17, 2004.

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
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Promising JO CO Approaches To Violations Of 150-Day Rule: 2006

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CI Issues & Problems Series



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**Land Use Committee
Hugo Neighborhood Association**

Members of the CAC/NA Coalition