
Facts Which Were Believed And Relied Upon By Decision Maker(s)

Findings Must:

- √ Identify the relevant approval standards (i.e., standards and criteria).
- √ **Identify the facts which were believed and relied upon by the decision maker(s).**
- √ Explain how those facts lead to the conclusion that the standards are, or are not, satisfied.
- √ Respond to specific issues relevant to compliance with applicable approval standards and criteria that were raised by citizens in the proceedings.
- √ State that the approval standards are met or that compliance is feasible and impose conditions that will ensure compliance.

This brochure is one of several in the “findings” series.¹



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1. Hugo Neighborhood Association & Historical Society. 2003. *Land Use Decisions: What Are Findings?*. Brochure 1 in Findings Series. Grants Pass, OR.
 2. OAR 661-010-0071(2)(b); OAR 661-010-0073(2)(b); ORS 197.835(9)(a)(C); ORS 197.828(2)(a).
 3. *Younger v. City of Portland*, 305 Or 346, 752 P.2d 262 (1988); *Dodd v. Hood River County*, 317 Or 172, 855 P2d 608 (1993).

Substantial Evidence

LUBA will remand a decision that is not “supported by substantial evidence in the whole record.”² This means that LUBA will send a decision back to the local government if:

1. there was virtually no evidence to support the decision, or
2. the supporting evidence was so undermined by other evidence that it was unreasonable for the local government to decide as it did.³

Land use decisions often involve valid evidence both for and against a given proposal. It is up to the local government, and not LUBA, to decide which evidence deserves more weight in these cases.⁴ Likewise, evidence may be subject to more than one legitimate interpretation, in which case a reasonable interpretation by the local government controls.⁵

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4. *Stefan v. Yamhill County*, 18 Or LUBA 820, 838 (1990); *Boumon v. Jackson County*, 23 Or LUBA 628, 641 (1992); *Harwood v. Lane County*, 23 Or LUBA 191 (1992).
 5. *Dority v. Clackamas County*, 23 Or LUBA 384, 388, *aff'd* 115 Or. App. 449, 838 P2d 1103 (1992), *rev. den.* 315 Or 311 (1993); *McInnis v. City of Portland*, 25 Or LUBA 376 (1993).
 6. *1000 Friends of Oregon v. LCDC (Lane Co.)*, 305 Or 384, 405-406, 752 P2d 271 (1988).
 7. *Seagraves v. Washington County*, 17 Or LUBA 1329 (1989).

More Information

The local government has freedom to base its decision on one side’s reliable evidence, even if that evidence has been controverted by the other side. But it cannot rely on unsupported assertions to justify a decision.⁶ If conflicting evidence directly and credibly undermines evidence relied upon to support a decision, the final decision should explain why the evidence is still adequate to support the decision.⁷

It is very frustrating when you know the other side’s evidence is inaccurate or misleading, but you don’t have the resources to engage in a “battle of the experts.” Even if you did have the resources, there is no guarantee you will win the battle. Evidence in support of a proposal may be challenged by a much greater amount of evidence in opposition, and still the local government can often base its decision on supporting evidence without being overturned.

More Information. Would you like to learn more about citizen involvement in land use planning? 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 promoting the social welfare of its neighbors.

Land Use & History

The *Hugo Neighborhood's* land use mission is to promote the social welfare of the citizens of the area by working to promote Oregon Statewide Goal 1 — Citizen Involvement, and by preserving, protecting, and enhancing the livability and economic viability of its farms, forests, and rural neighbors. It will act, as requested, as a technical resource assisting neighbors to represent themselves.

On January 2003 we began the concept of volunteer membership dues. They are \$10.00 annually and will be used for paper, ink, envelopes, publications and mailings. Make checks to the *Hugo Neighborhood* and send them to a member of the Land Use Committee. Send us your e-mail address if you want to know what we are doing.

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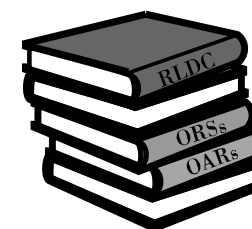
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Facts



Brochure 3 in
Findings Series



*Identify the Facts Which Were Believed and
Relied upon by the Decision Maker(s)*

December 20, 2003

Land Use Committee
**Hugo Neighborhood Association &
Historical Society**

Member of the CACNA Coalition