
Standards Are, Or Are Not, Met

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



Reversal or remand of land use decisions by LUBA is covered at OAR 661-010-007.

1. Hugo Neighborhood Association & Historical Society. 2003. *Land Use Decisions: What Are Findings?*. Brochure 1 in Findings Series. Grants Pass, OR.

LUBA Opinions

When deciding a case, LUBA affirms (approves) the local decision, reverses (overturns) it, or remands (sends back) the decision to the local government for further consideration² To receive a favorable ruling from LUBA, a petitioner should cite certain grounds for either reversal or remand that fall with LUBA’s scope of authority³

Reversal:

- Governing body *exceeded its jurisdiction*;
- Decision is *unconstitutional*; or
- Decision violates a provision of applicable law and is *prohibited as a matter of law*.

Remand:

- The *findings are insufficient*;
- The decision is *not supported by substantial evidence* in the whole record;
- Decision errors that *prejudice the substantial rights* of the petitioners; or
- Decision *improperly construes the applicable law*.

Reversals are rare. However, a significant number of LUBA decisions are remands.

2. ORS 197.835(1).

3. ORS 197.835(5)-(10); OAR 661-010-0071; OAR 661-010-0073.

4. ORS 215.416(9); ORS 227.173(2).

More Information

Arguing The Merits. This usually boils down to arguing the merits of the land use request.

- # Inadequate Findings
- # Lack of Substantial Evidence
- # Misconstrued Applicable Law
- # Prohibited as a Matter of Law

The local government is required to adopt written “findings” that explain the criteria which apply to its decision and say how those criteria have been satisfied.⁴ This is a very important requirement which local governments often fail to meet.

We have found the best way to understand the law is to read it again and again, and especially review the court’s interpretations (LUBA - Web Page: <http://luba.state.or.us/>, Court of Appeals, & Oregon Supreme Court).

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.

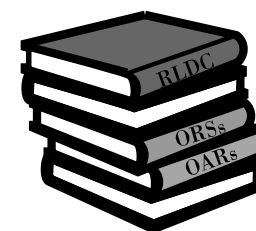
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Brochure 4 In Findings Series



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"Findings" That Explain the Criteria Which Apply to
its Decision and Say How Those Criteria Have Been
Satisfied.*

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

Member of the CACNA Coalition