
Who Is Entitled To Notice¹

The starting place for determining who should receive notice is ORS 197.763(2)(a). For counties, additional requirements are found at ORS 215.416(5)-(7) and ORS 215.418; for cities, ORS 227.175(5)-(8). Consult the local code to determine who get notice.

If a local government makes a decision without providing a hearing, a person adversely affected by the decision may appeal the decision within 21 days of actual notice. ORS 197.830(3)(a). Cities and counties may make a decision on a permit application without a hearing, but the decision is subject to a hearing on appeal. ORS chapters 215 & 227. In *Wilbur Residents v. Douglas County*, 151 Or App 523, 529-530, 950 P2d 368 (1997), LUBA held that when the decision is not appealed and hence no hearing is held, persons who are “adversely affected” can appeal the decision to LUBA within 21 days of notice of the decision. The adversely affected persons in the *Wilbur* case lived outside the area in which notice was given.

1. Oregon State Bar. 2000 Supplement. *Land Use (Oregon Continuing Legal Education 1994 & Supp 2000)*. *Administrative Law Aspects Of Local Proceedings* by Beery, Pamela J., et. al. 2000. Library of Congress Catalog Card No. 94-065735. United States of America. The case citations were checked for overrulings and reversals through March 2000; the ORS citation were checked through 1999.

2. Hugo Land Use Committee. 2004. “Actual” *Notice Of Decision*. Hugo, OR; *Wilbur Residents v. Douglas County*, 33 Or LUBA 412, *aff’d* 151 Or App 523, 950 P2d 368 (1997); *Wilbur Residents v. Douglas County*, 34 Or LUBA 634 (1998); and *Tarjoto v. Lane County*, 137 Or App 305, 308-09 (1995); Hugo Land Use Committee. 2004. *Notice To Neighborhoods & Community Organizations*. Hugo, OR

Mailing Deadlines & Failure To Receive Notice¹

The 1999 Legislature responded to the *Wilbur Residents* case by separating the notice requirements from the right to request a hearing. Person entitled to notice and person “adversely affected or aggrieved” may still request a hearing, but written notice must be mailed solely to the applicant and property owners. ORS 215.416(11); ORS 227.175(7).



The Hugo Land Use Committee disagrees with the Oregon State Bar as it interprets *Wilbur Residents* to mean adversely affected or aggrieved persons not receiving notice of final land use decisions without a hearing have a right to appeal to LUBA per ORS 215.416(11)(a) within 21 days of actual notice of the decision without satisfying the requirements of ORS 197.830(2).²

Failure of a property owner to receive a notice does not invalidate the proceedings if the local government can demonstrate by affidavit that notice was given. ORS 197.763(8). *Epling v. Washington County*, 33 Or LUBA 392, 397, *aff’d*, 151 Or App 461 (1997). Failure to provide an individual with notice is a procedural error and LUAA will remand the decision for additional hearing if the petitioner’s substantial rights were prejudiced. *Wick-Snodgrass v. City of Reedsport*, 32 Or LUBA 292, 298-299, *rev’d on other grounds*, 148 Or App 217 (1997).

More Information

The 1999 Legislature amended 197.830, regarding appeal periods, to provide that a person who is not entitled to notice and who is adversely affected or aggrieved may appeal the decision to LUBA within 21 days after the period for filing a local appeal has expired. That is, expiration of the local appeal period continues to cut off any local appeal rights, but “adversely affected or aggrieved person” can go to LUBA for another 21 days.

The Hugo Land Use Committee maintains that governing bodies are required to give notice of a permit decision without a hearing to four categories of persons described in ORS 197.830(3), ORS 215.416(11)(a), ORS 215.416(11)(c), and ORS 215.422(1) & (2).²

1. Owners of Property Adjacent to Property Subject to Application
2. Adversely Affected Persons
3. Aggrieved Persons
4. Recognized Neighborhood or Community Organizations

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.

Hugo Neighborhood Association

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

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Hugo Land Use Committee

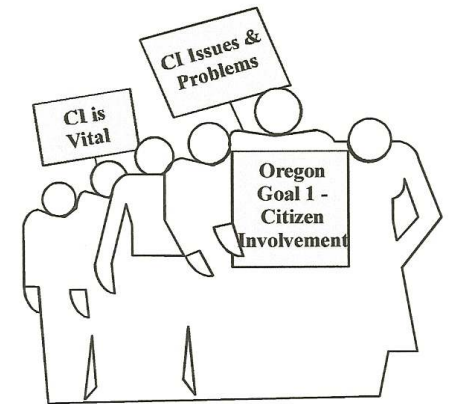
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**Land Use Committee
Hugo Neighborhood Association**

Members of the CAC/NA Coalition