
Knew Or Should Have Known

Wilhoft v. City of Goldbeach, 38 Or LUBA 375, 391 (2000). *Wilhoft v. City of Goldbeach, 38 Or LUBA 375, 391 (2000).* “Determining the date a petitioner “**should have known**” of the decision that is appealed under ORS 197.830(3)(b) (1997) is not complicated where a petitioner has no reason to suspect that the decision was made until the petitioner is given a copy of the decision. However, where there are circumstances that would lead a reasonable person to realize that an appealable land use decision may have been rendered, it is necessary to consider whether a reasonable person would have made appropriate inquiries and thereby discovered the actual decision or confirmed the existence of the decision. We emphasize that the obligation to make reasonable inquiries under ORS 197.830(3)(b) (1997) is an objective one, and it turns on what a reasonable person would do rather than what the petitioner actually did.

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Therefore, if a petitioner observes activity that would reasonably suggest that an appealable land use decision may have been adopted, the petitioner is obligated under ORS 197.830(3)(b) (1997) to make appropriate inquiries with the local government and discover the decision. If the petitioner does so and files an appeal within 21 days after discovering the decision, the appeal is timely under ORS 197.830(3)(b) (1997). However, if the petitioner fails to make such appropriate inquiries, the 21-day appeal period nevertheless begins to run.

Notice

Wilhoft v. City of Goldbeach, 38 Or LUBA 375, 391 (2000). ORS 197.830(3)(a) (1997). With the above understanding of the events that may trigger the 21-day deadline for filing an appeal with LUBA under ORS 197.830(3)(b) (1997), we conclude that ORS 197.830(3)(a) (1997) does not impose a discovery obligation on petitioners. To conclude that it does impose a discovery obligation on petitioners would require that we ignore the different language in ORS 197.830(3)(a) and (b) (1997). If the legislature intended to impose the same discovery obligation on petitioners under ORS 197.830(3)(a) (1997) that it imposed under ORS 197.830(3)(b) (1997), it would not have required that the petitioner receive “actual notice” of the decision. We conclude that under ORS 197.830(3)(a) (1997), a petitioner receives “actual notice” of the decision when the petitioner is provided (1) a copy of the decision or (2) written notice of the decision. *Bowlin, 35 Or LUBA at 785.*



In addition to these two circumstances, we believe it is also possible that a petitioner can be deemed to have received “actual notice” of a decision without being provided a copy of the decision or written notice of the decision. However the circumstances that would lead us to conclude that a petitioner has received actual notice, without having been provided a copy of the decision or written notice of the decision, must go beyond those that would suffice to obligate a petitioner to make inquiries under ORS 197.830(3)(b) (1997) to discover the decision.

More Information

Wilhoft v. City of Goldbeach, 38 Or LUBA 375, 391 (2000) - Continued. The circumstances themselves must be sufficient to constitute the equivalent of receiving a copy of the decision or written notice of the decision. In other words, the circumstances must be sufficient to inform the petitioner of both the existence and substance of the decision.

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. Citizen Involvement Program Josephine County (Josephine County Ordinance 93-13); Hugo Neighborhood. 2002 (updated). *Role of JO CO's Citizen Involvement Committee*. Hugo, OR.; Hugo Land Use Committee. 2003. *Citizen Involvement Committee*. Hugo, OR.; Hugo Neighborhood. 2004. *Josephine County & City of Grants Pass CAC Programs*. Hugo, OR.
 2. Hugo Land Use Committee. 2003. *The Value of "Notice."* Hugo, OR.
 3. Hugo Land Use Committee. 2006. *Required Notice Without A Hearing*. Hugo, OR.

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.

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Knew Or Should Have Known & Relationship To Notice

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Land Use Committee
Hugo Neighborhood Association

Members of the CAC/NA Coalition