
Aggrieved Party

AGGRIEVED ORS 215.416(11)(a) & ORS 215.422(1)(a) and (2)

ORS 215.416(11)(a)(A) The county is required to give mailed notice of a land use decision without a hearing to all three categories of persons described in statute.^{1&2}

1. Adversely Affected Persons,
2. Aggrieved Persons, and
3. Adjacent Property Owners (within certain distances of proposed land use request).

ORS 215.422 Standing requirements for aggrieved persons in instances where one has not “appeared” because no local hearing was held or a person did not receive notice are more

convoluted. However, the context of ORS 215.416(11)(a) leads to the same conclusion with respect to adversely affected and aggrieved persons. Under ORS 215.422(1)(a) and (2), respectively, an aggrieved party may appeal “the action of a hearings officer” to the county planning commission or governing body, and may appeal the county’s final decision to LUBA.^{1&2}



1. *Wilber Residents v. Douglas County*, 33 Or LUBA 412, *aff'd* 151 Or App 523, 950 P2d 368 (1997); *Wilber Residents v. Douglas County*, 34 Or LUBA 634 (1998); and *Tarjoto v. Lane County*, 137 Or App 305, 308-09 (1995).
2. Hugo Neighborhood Association & Historical Society. 2004. The Party Series: *A Party, Or A Witness?*; *Aggrieved*; *Adversely Affected*; *Actual Notice Of Decision*; and *Geographic Proximity*. Grants Pass, OR.
3. *Friends of Douglas County v. Douglas County*, 39 Or LUBA 156 (2000); *Friends of Douglas County v. Douglas County*, Or LUBA No. 2000-086, November 27, 2000.

Aggrieved Testimony

***Friends of Douglas County v. Douglas County*, 39 Or LUBA 156 (2000)** The county cannot define the term “aggrieved” to mean something more restrictive than what is meant by ORS 215.416 and 215.422. *Overton v. Benton County*, 61 Or App 667, 672, 658 P2d 574 (1983). Nothing in the relevant statutes defines the term “aggrieved.” However, both *Jefferson Landfill and Benton County v. Friends of Benton County*, 294 Or 79, 90-91, 653 P2d 1249 (1982) suggest that the county’s discretion in determining what kind of interests can be “aggrieved” by a decision is very narrow. Both cases speak of the role of the local government in this context as distinguishing interested participants from those who are merely “disinterested witnesses,” who appear before local government only as a source of information or expertise. In *Friends of Benton County*, the Court gave several examples of such “disinterested persons”: planners, engineers, lawyers, economists or any other person who appears only as a witness or as an advocate for a client, as opposed to someone who appears in order to assert a position on the merits on his or her own behalf.

Whether petitioner is aggrieved for purposes of ORS 215.416(11)(a) is a matter of state law, controlled by relevant appellate court decisions. The Court held that persons attempting to establish that they are aggrieved must show the following.

1. **The person’s interest in the decision was recognized by the local land use decision-making body,**
2. **The person asserted a position on the merits, and**
3. **The local land use decision-making body reached a decision contrary to the position asserted by the person.”**

More Information

Aggrieved Persons Individuals or representatives of land use or environmental organizations who track land use applications to assure laws are correctly applied are personally interested. Or, a participant can become personally interested by sharing their personal philosophy about land use in general, such as protecting lands or groundwater supplies or keeping development within the limits of facilities and services. And, you must state a position on the merits of the application so that one will know if a decision favors or disfavors your position.

LUBA found in *Friends of Douglas County*³ that the petitioner was aggrieved because “The decision finds that petitioner is a nonprofit corporation whose membership includes local farmers and ranchers, and which has a philosophical interest in land use laws and their proper application.”

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*) located in Josephine County, Oregon. 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 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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Party



Brochure 2 In The Party Series



*Aggrieved for Purposes of
ORS 215.416(11)(a)(A) and ORS 215.422(1)(a)
and (2) Is a Matter of State Law, Controlled
by Relevant Appellate Court Decisions.*

July 26, 2004

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

Member of the CACNA Coalition