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## Geographic Proximity

**ADVERSELY AFFECTED PERSONS** ORS 197.830(3), (4) & (5) & ORS 215.416(11)(a)

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

***Wilber Residents v. Douglas County*, 34 Or LUBA 634 (1998)** Whether a person is “adversely affected” within the meaning of ORS 215.416(11)(a) is a fact-specific inquiry that depends upon the nature of the development, and any factors regarding the person’s property or activities thereon that render the property more or less susceptible to impacts from the development.



Merely because a person owns property from which he can see or hear a proposed development does not necessarily render that person adversely affected by the decision.

***Warren v. Lane County*, 297 Or 290, 300, 686 P2d 316 (1984)** Petitioner’s reliance on their residency in a small planning area to establish aggrievement by a comprehensive plan amendment is misplaced. We clarified the distinction between aggrievement and adverse effect in *Jefferson Landfill Comm. v. Marrion Co.*, 297 Or 280, 686 P2d 310 (1984).

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1. 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.

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## LUBA Opinions/Court Cases

**Geographic Proximity** Closeness or nearness (e.g., within sight and sound) and harm are criteria to consider when making a “standing” determination because of adversely affected, but physical proximity is not the sole standard. It has become a sort of proxy for the real issue which is harm. However, geographic proximity of property interests to the disputed land use is not a consideration when determining whether a person is aggrieved.<sup>1</sup>

***Friends of Douglas County v. Douglas County*, 39 Or LUBA 156 (2000)** The facts that the petitioners have no geographic proximity to the area affected by the decision and that they can suffer no economic or noneconomic harm are germane to whether they were adversely affected, not to whether they were aggrieved by the planning commission’s decision.

***Jefferson Landfill Comm. v. Marion Co.* 65 Or App 323, 325 (1983)** The court pointed out that the statute does not limit either adverse affect or aggrievement to property interests which must be in physical “proximity” to the disputed land.

***Benton County v. Friends of Benton County*, 294 Or 79, 653 P2d 1249 (1982)** The court held that the interpretation of the statutory words, “adversely affected” or “aggrieved” in section 4(3) is a question of law to be decided by the court, citing *McPherson v. Employment Division*, 285 Or 541, 591 P2d 1381 (1979). The court pointed out that the statute does not limit either adverse affect or aggrievement to property interests which must be in physical “proximity” to the disputed land use.

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## More Information

***Marbet v. Portland Gen. Elect.*, 277 Or 447, 454, 561 P2d 154 (1977)** The statute does not support the contention that the “public interest” is restricted geographically. Communities in immediate proximity to a proposed site have economic and other reasons to desire, or to oppose a project that differ from the interests of a wider public.

*Marbet v. Portland Gen. Elect.* is illustrative that public interests may be localized, but that more distant geographic interests may be applicable in demonstrating standing. Much depends on the statute and the nature of the issues. For example, in this case the court found merit in considering several levels of geographic interests: local construction and operating standards; some regional consequences such as ability of affected areas to absorb industrial and population growth; interests beyond the boundaries of the state; environmental effects on air, water, and biological organisms that may enter the food chain; and possible dangers that transporting toxic materials may pose for public health or safety.

**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*.



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**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.

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## 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 Series



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

**Member of the CACNA Coalition**