

27.7.4 LUBA Procedures/Rules – Parties – Amicus. LUBA has significant discretion under OAR 661-010-0052 in determining when amicus participation will assist the Board's review. LUBA will allow the applicant to appear as amicus, where the applicant filed a response brief and appeared at oral argument, but the motion to intervene was not denied until LUBA's final opinion, due to the petitioner's late objection to the timeliness of the motion to intervene. *Rose v. City of Corvallis*, 49 Or LUBA 260 (2005).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. The fact that a potential *amicus* could have intervened in an appeal, but did not, does not prevent participation as an *amicus*. *Nelson v. Curry County*, 48 Or LUBA 178 (2004).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. The deadline for filing a motion to appear as an *amicus* is not a deadline that is rigidly enforced. Filing the motion to appear as *amicus* one day late, when the *amicus* brief was timely filed, does not prejudice other parties' substantial rights. *Nelson v. Curry County*, 48 Or LUBA 178 (2004).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. An *amicus*' assertion that it can knowledgeably discuss the history, legislative intent, and policy behind the approval criteria is sufficient to significantly aid LUBA's review. *Nelson v. Curry County*, 48 Or LUBA 178 (2004).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. A property owner's "specific and narrow interest" in property is not sufficient by itself to show that LUBA's review would be significantly aided by the property owner's participation as an *amicus*. *Cotter v. Clackamas County*, 35 Or LUBA 749 (1998).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. That LUBA will have only the perspective of the petitioner for review is always the case where the local government fails to respond and no party moves to intervene, and is not a valid reason by itself to delay the appeal so that an *amicus* brief may be filed. *Krieger v. Wallowa County*, 35 Or LUBA 742 (1998).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. LUBA's rules do not provide for the filing of motions or responses to motions by an *amicus*. Accordingly, LUBA will not consider any submissions of an *amicus* other than a brief. *Lewis v. City of Portland*, 31 Or LUBA 513 (1996).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. Except as provided in 197.830(13)(b), LUBA's review is limited to the local government record. A motion to participate as an *amicus* will be denied where the only reason stated for the request is to present expert testimony and other evidence that is not included in the local government record. *Sanchez v. Clatsop County*, 26 Or LUBA 647 (1994).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. OAR 661-10-052(1) does not bar persons or organizations representing a private interest from appearing as an *amicus* in a LUBA appeal proceeding. *Adkins v. Heceta Water District*, 23 Or LUBA 207 (1992).

27.7.4 LUBA Procedures/Rules – Parties – Amicus. OAR 661-10-052, authorizing *amicus* participation in LUBA proceedings, does not result in *amici* becoming *parties* to the appeal. Consequently, OAR 661-10-052 does not allow party status to a person in violation of ORS 197.830. *Tuality Lands Coalition v. Washington County*, 22 Or LUBA 781 (1991).