

**31.3.2 Permits – Particular Uses – Farm Dwellings.** A county decision concerning whether to extend or terminate a permit authorizing construction of a farm dwelling based on whether there has to be "substantial compliance with the approved farm management plan" constitutes "discretionary approval" of a "proposed development of land" and, therefore, is a "permit" within the meaning of ORS 215.402(4). *Rochlin v. Multnomah County*, 35 Or LUBA 333 (1998).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** A finding that simply states the farm management plan submitted by an applicant for farm dwelling approval meets the local code's definition of "commercial farm" is impermissibly conclusory. *Kunze v. Clackamas County*, 27 Or LUBA 130 (1994).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** Where the local code allows a farm dwelling on EFU-zoned property that "is currently used for a commercial farm use," the local government may interpret its code to allow it to issue a building permit for a farm dwelling when a commercial farm management plan is substantially implemented, including a situation where perennial crops capable of producing the level of income required for commercial farm use have been planted on the property. *Kunze v. Clackamas County*, 27 Or LUBA 130 (1994).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** Even though LUBA might agree with a county's argument in its brief that the purpose section of its EFU zoning district is not an approval standard for a farm dwelling permit application, if the challenged decision itself does not interpret the code provision, LUBA must remand the decision for the county to interpret the provision in the first instance. *Testa v. Clackamas County*, 26 Or LUBA 357 (1994).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** Conditioning approval of a farm dwelling on the applicant obtaining a zoning permit with the board of county commissioners acting as initial decision maker on the zoning permit rather than the planning director is at most a procedural error, which provides a basis for reversal or remand only if petitioner's substantial rights are violated. *Louisiana Pacific v. Umatilla County*, 26 Or LUBA 247 (1993).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** A county decision approving a dwelling on a lot or parcel that is a woodlot capable of producing 10,000 dollars or more in average gross annual income, as provided in ORS 215.213(2)(b)(B), is "discretionary" and is a "permit," as defined by ORS 215.402(4). *McKay Creek Valley Assoc. v. Washington County*, 24 Or LUBA 187 (1992).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** In determining whether a proposed dwelling meets the ORS 215.213(2) standards for dwellings in conjunction with a Christmas tree farm use, it is incorrect to apply the "used exclusively" and "evidence of periodic maintenance practices" standards contained in ORS 215.203(2)(a) and (3)(a) and (d). Those ORS 215.203 standards are designed to constitute qualifications for particular

taxation treatment, and are not land use standards applicable to approval of dwellings in conjunction with farm use. *Harwood v. Lane County*, 23 Or LUBA 191 (1992).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** Nothing in ORS 215.213(2) requires a local government to find that a proposed dwelling in conjunction with farm use be "necessary" to the farm use of the property. *Harwood v. Lane County*, 23 Or LUBA 191 (1992).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** Where there is neither a local code nor a statutory definition of the term "perennial," the commonly understood meaning of that term is applied. Under the commonly understood meaning of "perennial," a Christmas tree is a perennial under ORS 215.213(2)(b)(A). *Harwood v. Lane County*, 23 Or LUBA 191 (1992).

**31.3.2 Permits – Particular Uses – Farm Dwellings.** OAR 660-05-030(4) does not allow approval of a dwelling customarily provided in conjunction with farm use where the farm use that the dwelling would be customarily provided in conjunction with does not yet exist on the subject property. *Hayes v. Deschutes County*, 23 Or LUBA 91 (1992).