

**38.1 State Agencies – Generally.** ORS 374.310 provides a very broad grant of authority to the Oregon Department of Transportation (ODOT) to condition access permits that are “in the best interest of the public for the protection of the highway or road and the traveling public.” Under this broad grant of authority, ODOT’s actions may have the indirect effect of delaying local government development approvals, but that delay does not impermissibly encroach on a local government’s planning authority. *Dept. of Transportation v. City of Eugene*, 38 Or LUBA 814 (2000).

**38.1 State Agencies – Generally.** LCDC has authority to adopt administrative rules that limit types of nonfarm uses otherwise allowed by statute. Therefore, OAR 660-033-0020(4), which establishes November 4, 1993, as the date a county must use for determining whether a dwelling exists on a tract for purposes of lot-of-record dwelling, is valid, notwithstanding that it prohibits some lot-of-record dwellings otherwise allowed by ORS 215.710. *Bruggere v. Clackamas County*, 37 Or LUBA 571 (2000).

**38.1 State Agencies – Generally.** Under the county’s comprehensive plan, ODOT’s initiation of eminent domain proceedings gave it the requisite “ownership” interest in property to file an application for a plan amendment regarding the property, and that interest was not affected, for purposes of the plan amendment, by dismissal of the eminent domain proceeding after the agency’s application was deemed complete. *Schrock Farms, Inc. v. Linn County*, 31 Or LUBA 57 (1996).

**38.1 State Agencies – Generally.** The coordination obligation imposed by Statewide Planning Goal 2 (Land Use Planning), and similarly worded local government comprehensive plan provisions, does not require that a local government accede to every concern expressed by a state agency, but does require that a local government adopt findings responding to legitimate concerns expressed by a state agency. *ONRC v. City of Seaside*, 29 Or LUBA 39 (1995).

**38.1 State Agencies – Generally.** With regard to siting a lot of record dwelling on high-value farmland, a county does not have authority to require that an Oregon Department of Agriculture hearings officer make determinations other than those specified in ORS 215.705(2)(c). *DLCD v. Josephine County*, 28 Or LUBA 459 (1994).

**38.1 State Agencies – Generally.** That state agencies may recognize and regulate “combination parks” which include both recreational vehicles and mobile homes occupied on a long-term basis does not mean a local government must adopt comprehensive plan and zoning provisions allowing such combination parks. *Jones v. Lane County*, 28 Or LUBA 193 (1994).

**38.1 State Agencies – Generally.** Where a document was originally drafted by state agency staff, but was never adopted by that agency as an administrative rule, and is applicable to a challenged local government decision only because it is incorporated by reference into the local code, under ORS 197.829 LUBA is neither required nor allowed to give deference to an interpretation of that document by an agency staff member. *Furler v. Curry County*, 27 Or LUBA 546 (1994).