

# Calendar Year 2013

## Fourth Quarter

### October 1, 2013 – December 31, 2013

Appeals Filed During this Quarter = 23  
 Appeals Decided During this Quarter = 31

#### (Disposition of Appeals--Where Petition for Review Was Filed)

<b>Disposition</b>	<b>Number</b>	<b>Percentage of Total</b>
Appeal Dismissed	1	5%
Decision Affirmed	9	45%
Decision Remanded	10	50%
Decision Reversed	0	0%
<b>Total</b>	<b>20</b>	<b>100%</b>

#### Disposition of All Appeals

<b>Disposition</b>	<b>Number</b>	<b>Percentage of Total</b>
Appeal Dismissed	12	39%
Decision Affirmed	9	29%
Decision Remanded	10	32%
Decision Reversed	0	0%
<b>Total</b>	<b>31</b>	<b>100%</b>

#### General Categories of Appealed Decision<sup>1</sup>

<b>Category</b>	<b>Number</b>
Plan Text Amendment (Nonspecific)	4
Land Use Regulation Text Amendment (Nonspecific)	7
Land Use Regulation Map Amendment (Goal Exception)	2
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Permit (Building Permit)	1
Permit (Conditional Use)	4
Permit (Planned Unit Development)	3
Permit (Sign)	2
Permit (Site Plan/Design Review)	1

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<sup>1</sup> Number of decisions exceeds total number of appeals because some appealed decisions grant more than one approval (for example a single decision may grant a plan map amendment, zoning map amendment and a permit approval).

Permit (Variance)	1
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Other Decision (Nonspecific or Unknown)	3
Other Decision (Lot of Record Determination)	1
Other Decision (Outdoor Mass Gathering)	1
Other Decision (Use Determination)	1

**Petitioners**

<b>Name</b>	<b>Total No. of Appeals</b>	<b>Decision Affirmed or Appeal Dismissed (%)</b>	<b>Remanded (%)</b>	<b>Reversed (%)</b>
<b>Ackerley Outdoor Advertising</b>	1	1 (100%)		
<b>AK Media Group, Inc.</b>	2	2 (100%)		
<b>Beaumont-Wilshire Neighbors for Responsible Growth</b> , Roni Richey, Marsh Gleason, John Golden and Margaret Davis.	1		1 (100%)	
<b>Clark, John</b>	1	1 (100%)		
<b>Friends of the Hood River Waterfront</b> , Corie Lahr, and Richard Bell	1		1 (100%)	
<b>Goal 1 Coalition</b> , Landwatch Lane County and Bob Emmons	1	1 (100%)		
<b>Gentle, Thomas</b>	1	1 (100%)		
<b>Lekas, Gary</b> and Robert Unitan	2	2 (100%)		
<b>Hatley, Jim</b>	3	3 (100%)		
<b>Lowery, Lawrence</b> ; Kelly Gilliard, Robin Best, Erin Howell, Alise Munson, Elmer Culi, Anmaria Ioanide, Paul Van Orden, Dena Kaufman, and Kevin Retalia.	1	1 (100%)		
<b>Mariposa Townhouses</b> and Southern Oregon Pediatrics	1	1 (100%)		
<b>Mackenzie, Beverly</b> ; Mackenzie, Hilary	1	1 (100%)		
<b>Moser, Delores</b>	1	1 (100%)		
<b>Olson, Kristine</b> , Les Swanson, William Davis, Meredith Davis, Tim Culligan, Yoko Funaki, Neil Rue, Bill Falkenhayn and Nicky Falkenhayn	1	1 (100%)		
<b>Oregon Coast Alliance</b>	1		1 (100%)	
<b>Oregon Coast Alliance</b> , The Landing at Newport Condominium Association, Nancy Smock	1		1 (100%)	
<b>Oregon Shores Conservation Coalition</b>	1		1 (100%)	
<b>Phillips, Kathryn</b>	1	1 (100%)		
<b>Savage, Sandra</b>	1	1 (100%)		
<b>Stevens, Tammy</b>	1	1 (100%)		
<b>Stop Tigard Oswego Project, LLC</b> , Norman King, Pete Bedard, Michael Monical, Carol Elsworth, Mark Elsworth,	3		3 (100%)	

Shannon Vroman, Jenne Henderson, Lamont King, Thomas Sieben, Gwen Sieben, Scott Gerber, Jan Gerber, Jack Norby, Thom Holder, Gary Hitesman, Rebecca Walters, and Daryl Walters.				
<b>Terra Hydr Inc.</b> , Tonquin, Industrial LLC, Bob Albertson, Donna Albertson, Albertson Trucking, Inc., Mark Brown, McCammant Properties Inc. Brown Transfer Inc., McGuire Brothers LLC, Steve McGuire-	2	1 (50%)	1 (50%)	
<b>White, John</b>	1		1 (100%)	
<b>Yih, Mae</b>	1	1 (100%)		

**Respondents**

	<b>Total No. of Appeals</b>	<b>Decision Affirmed or Appeal Dismissed (%)</b>	Decision Remanded (%)	<b>Decision Reversed (%)</b>	<b>No. of Appeals Where Respondent Appeared (%)</b>
Astoria	1	1 (100%)			1 (100%)
Clackamas County	1	1 (100%)			1 (100%)
Coos County	1	1 (100%)			1 (100%)
Curry County	2		2 (100%)		2 (100%)
Deschutes County	1	1 (100%)			0 (0%)
Hood River	1		1 (100%)		1 (100%)
Lane county	2	1 (50%)	1 (50%)		0 (0%)
Linn County	1	1 (100%)			0 (0%)
Lostine	1	1 (100%)			1 (100%)
Medford	1	1 (100%)			1 (100%)
Portland	6	5 (83%)	1 (17%)		6 (100%)
Metro	1	1 (100%)			1 (100%)
Multnomah County	1	1 (100%)			1 (100%)
Newport	1		1 (100%)		1 (100%)
Sherwood	1	1 (100%)			0
Tualatin	1		1 (100%)		1 (100%)
Umatilla County	3	3 (100%)			3 (100%)
Washington County	1	1 (100%)			0 (0%)
West Linn	3		3 (100%)		3 (100%)

**Appeals Where  
Attorney Fees  
Were Awarded**

<b>Appeal</b>	<b>Circumstances</b>
<b>Clark v. Coos County (LUBA No. 2013-077, November 26, 2013)</b>	The applicable statutory deadline required the petitioner file his notice of intent to appeal with LUBA within 21 days after notice of the decision was mailed. Petitioner's notice of intent to appeal was filed more than 21 days after notice of the local government's final decision adopting a post acknowledgment plan amendment was mailed. Petitioner was not given written notice of the decision. Petitioner did not argue that he was entitled to notice of the decision under the applicable statutes that require that persons (1) participate in the proceedings that lead to the decision and (2) request written notice. Petitioner argued instead that the county should have given him notice of the decision because "the county had good reason to know that I would be very concerned about" the proposal. LUBA concluded that argument did not pass the "probable cause to believe the position was well-founded" standard in ORS 197.830(15)(b). LUBA awarded attorney fees in the requested amount of \$1,400.