

**8.9 Goal 4 – Forest Lands/ Goal 4 Rule – Lots of Record.** Under a local code definition of “same ownership” for purposes of applying the local government’s lot of record standards, a life estate is a “greater than possessory interest” where, in addition to possession, the life estate holder has the right alienate or encumber the property and to retain rents, profits, and other income generated by the property, and where the life estate is not, by the terms of the conveyance or reservation, qualified and limited to only a possessory interest. *Ellis v. Multnomah County*, 81 Or LUBA 84 (2020).

**8.9 Goal 4 – Forest Lands/ Goal 4 Rule – Lots of Record.** When a previous approval for a partition required that the parcels not be used for residential purposes unless legal access was provided to the parcels, a current application for a lot of record dwelling cannot be approved unless the proposed dwelling satisfies the access standards that applied at the time of the partition or satisfies current standards. The fact that the applicant has an easement for residential use does not mean that the easement satisfies the local government standards for legal access. *Estremado v. Jackson County*, 61 Or LUBA 148 (2010).

**8.9 Goal 4 – Forest Lands/ Goal 4 Rule – Lots of Record.** Unlike the lot-of-record statutes, the forest template dwelling provisions of ORS 215.750 specify no date by which parcels qualifying for template dwellings must have been created; thus, the lot-of-record rules set forth in OAR 660-06-005(4) regarding the parcels’ date of creation do not apply to forest template dwellings. *Parsons v. Clackamas County*, 32 Or LUBA 147 (1996).

**8.9 Goal 4 – Forest Lands/ Goal 4 Rule – Lots of Record.** A code provision allowing establishment of a dwelling on certain “lots of record,” if the “lot or parcel” does not already have a dwelling, is impermissibly less strict than ORS 215.705(1)(b), which requires that the “tract” not have a dwelling. ORS 215.010(2) defines “tract” as “one or more contiguous lots or parcels under the same ownership.” *DLCD v. Josephine County*, 28 Or LUBA 459 (1994).