

LUBA Case Summaries December 2025

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Case summaries below may include references to LUBA’s headnote index. Similarly indexed headnotes can be found at <https://www.oregon.gov/luba/Pages/Headnotes.aspx>.

● ***Le v. City of Tigard*, LUBA No 2025-018 (Dec 4, 2025)**
(Opinion by Bassham, Board Member)

Petitioner appealed a city council decision adopting an ordinance establishing a new chapter in the city’s development code governing food carts and food cart pods. Held: Petitioner “appeared” and established standing under ORS 197.830(2) when petitioner testified about their frustrations with the city’s enforcement of its food cart regulations during the public comment portion of the same city council meeting where the city adopted the challenged ordinance, and the city’s public hearing instructions were unclear regarding how and when to present testimony on the ordinance. Petitioner did not establish that the ordinance’s emergency declaration was deficient under ORS 221.310(1) or the city’s code in failing to state reasons for the emergency, or that any deficiency warranted reversal or remand. Petitioner did not demonstrate that the city committed procedural error by providing notice of the hearing only on the city’s website, and not providing any media outlet publication or mailed notice. The city was not required to provide Ballot Measure 56 notice to property owners because the ordinance did not “rezone” property within the meaning of ORS 227.186. Petitioner did not establish that the city’s three-day delay in submitting the ordinance to DLCD as required by ORS 197.615 prejudiced petitioner’s substantial rights or was substantive error. Affirmed.

25.3.3 – Local Government Procedures – Compliance with Statutes – Notice of Hearing

24.2.3 – Standing – Before LUBA – Appearance

● ***Central Oregon LandWatch v. Deschutes County*, LUBA No 2025-050 (Dec 5, 2025)**
(Opinion by Zamudio, Board Chair)

Petitioner appealed a board of commissioners decision approving a modification to a destination resort final master plan. Held: Petitioner did not provide objective proof of the date that the Notice of Intent to Appeal (NITA) was deposited or dispatched for delivery; thus, the NITA

LUBA Case Summaries December 2025

filing date was the date that LUBA received the NITA. OAR 661-010-0015(1)(b); *Miller v. City of Maupin*, LUBA No 2025-027 (Aug 5, 2025) (slip order at 3-4). LUBA received the NITA five days after the NITA filing deadline; therefore, the NITA was not “deemed timely filed[.]” OAR 661-010-0015(1); OAR 661-010-0005. Dismissed.

27.10.1 – LUBA Procedures/Rules – Time Limits – Notice of Intent to Appeal

- ***McAlister v. Jackson County*, LUBA No 2025-071 (Dec 12, 2025)**
(Opinion by Wilson, Board Member)

Petitioner appealed a hearings officer decision denying a permit to place a storage building, caretaker dwelling, and associated site improvements on the subject property located in a rural unincorporated community and zoned Unincorporated Communities Rural Service Commercial. Held: Petitioner requested that this appeal be dismissed. Dismissed.

- ***Elken v. City of Mosier*, LUBA No 2025-065 (Dec 16, 2025)**
(Opinion by Zamudio, Board Chair)

Petitioner appealed a city council decision approving a conditional use permit for a community skate park. Held: Petitioner requested that this appeal be dismissed. Dismissed.

- ***Friends of Yamhill County v. Yamhill County*, LUBA No 2022-090 (Dec 17, 2025)**
(Opinion by Wilson, Board Member)

Petitioner appealed a board of commissioners decision approving a bed and breakfast inn as a conditional use in an exclusive farm use zone. Held: Parties do not have the authority to limit LUBA’s scope of review through a private agreement. In hybrid situations where the proposed bed and breakfast home occupation is proposed within a structure with characteristics of both a dwelling and a hotel, the county decision maker must determine whether the structure in which the home occupation will operate is still a type of dwelling allowed in the zone, even though the manner of proof requires the county to revisit and revalidate a previous dwelling approval. *Friends of Yamhill County v. Yamhill County*, 373 Or 790, 572 P3d 278 (2025) (*Grange Hill III*). Under the reasoning in *Grange Hill III*, the county must reevaluate whether the approval criteria for a replacement dwelling are satisfied, and such an evaluation is not a collateral attack on the replacement dwelling approval. Remanded.

3.2.3 – EFU Statute/Ordinances – Farm Uses – Other Uses

- ***Egger v. Clackamas County*, LUBA No 2025-063 (Dec 24, 2025)**
(Opinion by Wilson, Board Member)

Petitioner appealed a hearings officer’s decision denying an application for verification and alteration of a nonconforming use. Held: Petitioner failed to file their petition for review within the time allowed by OAR 661-010-0030(1) or any extension of that time under 661-010-0067(2). Dismissed.

**LUBA Case Summaries
December 2025**

27.10.3 – LUBA Procedures/Rules – Petition for Review

- ***BestCare Treatments Services, Inc. v. City of Prineville*, LUBA No 2025-045 (Dec 29, 2025)**
(Opinion by Zamudio, Board Chair)

Petitioner appealed a planning commission decision denying an application for a conditional use permit to build and operate a nine-unit, multi-family housing complex in the General Commercial zone. Held: The city withdrew the decision for reconsideration pursuant to ORS 197.830(13)(b) and OAR 661-010-0021. Petitioner did not refile their original notice of intent to appeal, or an amended notice of intent to appeal in accordance with OAR 661-010-0021(5)(a). Under, OAR 661-010-0021(5)(e), the appeal is dismissed. Dismissed.

27.16 – LUBA Procedures/Rules – Withdrawal of Decision

- ***Hyde v. Lane County*, LUBA Nos 2025-031/032/035 (Dec 29, 2025)**
(Opinion by Zamudio, Board Chair)

Petitioners appealed a series of hearings official’s decisions concerning a legal lot verification. Held: The parties requested that these appeals be dismissed. Dismissed.

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