

**24.2.4 Standing – Before LUBA – Right to Notice.** A zone verification is not a statutory land use “permit” as defined at ORS 227.160(2)(b), and the city is not required to provide notice of the decision or opportunity for a local appeal of the decision. However, a zone verification decision is subject to LUBA review and a 21-day appeal period. ORS 227.175(11); ORS 197.830(5)(b). *Leyden v. City of Eugene*, 79 Or LUBA 151 (2019).

**24.2.4 Standing – Before LUBA – Right to Notice.** A zone verification is subject to LUBA’s jurisdiction and a person adversely affected by the decision may appeal the decision to LUBA “[w]ithin 21 days of the date a person knew or should have known of the decision where no notice is required.” ORS 197.830(5)(b). The city was not obligated to and did not provide notice of the zone verification decision to petitioner. Petitioner was put on inquiry notice of the zone verification decision when the city provided petitioner multiple notices of a subsequent land use application, review, and approval for site review, traffic impact analysis, and adjustment review for the same subject property and development described in the zone verification decision. The city invited petitioner to participate in that subsequent land use action and to review public planning documents at the planning division and online. The appeal was untimely filed and must be dismissed because petitioner failed to make such inquiries and the 21-day appeal period expired before petitioner filed the appeal. *Leyden v. City of Eugene*, 79 Or LUBA 151 (2019).

**24.2.4 Standing – Before LUBA – Right to Notice.** For purposes of the “knew or should have known” standard in ORS 197.830(3)(b) to gain standing to appeal to LUBA, the actual or constructive knowledge of a co-owner of property adjoining development is not imputed as a matter of law to the other co-owner, the petitioner. *Grimstad v. Deschutes County*, 74 Or LUBA 360 (2016).

**24.2.4 Standing – Before LUBA – Right to Notice.** For purposes of the “knew or should have known” standard in ORS 197.830(3)(b) to gain standing to appeal to LUBA, the actual or constructive knowledge of a co-owner of property adjoining development is not imputed as a matter of law to the other co-owner, the petitioner. *Grimstad v. Deschutes County*, 74 Or LUBA 360 (2016).

**24.2.4 Standing – Before LUBA – Right to Notice.** The presence of surveyor stakes on adjoining property is not sufficient to provide actual or constructive knowledge that a county has issued a lot of record decision for the property, for purposes of the “knew or should have known” standard at ORS 197.830(3)(b), because a property owner may hire a surveyor for reasons that have nothing to do with development or land use approvals. *Grimstad v. Deschutes County*, 74 Or LUBA 360 (2016).

**24.2.4 Standing – Before LUBA – Right to Notice.** Where a local government failed to provide DLCD with the notice required by OAR 660-041-0030 within the time set forth in the rule, LUBA will not dismiss an appeal on the grounds that DLCD did not make the required appearance, where DLCD’s failure to appear can be attributed to the local government’s failure to provide the notice. *DLCD v. Deschutes County*, 54 Or LUBA 799 (2007).

**24.2.4 Standing – Before LUBA – Right to Notice.** Where nothing in a conditional use permit proceeding concerning development of three lots in an existing subdivision is sufficient to put

petitioner on notice of the existence of an earlier decision approving reconfiguration of those three lots, petitioner knew or should have known of the challenged reconfiguration decision only when her consultant informed her of the existence of that decision. *Borton v. Coos County*, 51 Or LUBA 478 (2006).

**24.2.4 Standing – Before LUBA – Right to Notice.** Contrary to *dicta* in *Willhoft v. City of Gold Beach*, 38 Or LUBA 375 (2000), “actual notice” of a decision is provided under ORS 197.830(3)(a) only when the local government provides the written notice of decision required by law. Other circumstances that would lead a reasonable person to know that the local government has made a decision, or that would be sufficient to impute such knowledge, may trigger the 21-day appeal period in ORS 197.830(3)(b) for persons who are not entitled to notice of the decision, but such circumstances are not sufficient to trigger the 21-day deadline in ORS 197.830(3)(a) for persons who are entitled to actual notice of the decision. *Frymark v. Tillamook County*, 45 Or LUBA 685 (2003).

**24.2.4 Standing – Before LUBA – Right to Notice.** Where a local government fails to recognize that it is rendering a permit decision without providing a hearing or the opportunity for a local appeal as required by ORS 215.416(11) or 227.175(10), ORS 197.830(4) provides the applicable deadline for filing an appeal with LUBA. *Neighbors for Sensible Dev. v. City of Sweet Home*, 39 Or LUBA 766 (2001).

**24.2.4 Standing – Before LUBA – Right to Notice.** ORS 197.830(3)(a) (1997) applies, and a notice of intent to appeal must be filed with LUBA within 21 days after a petitioner receives “actual notice” of a decision, where (1) the city mistakenly fails to realize it should be proceeding under ORS 227.175(10)(a) (1997); (2) the city therefore fails to provide notice to persons who are entitled to receive notice of the decision under ORS 227.175(10)(a) (1997); and (3) no local appeal is available that must be exhausted before appealing to LUBA. *Willhoft v. City of Gold Beach*, 38 Or LUBA 375 (2000).

**24.2.4 Standing – Before LUBA – Right to Notice.** Petitioners’ appeal was timely filed pursuant to the second sentence of ORS 197.830(8) where the city failed to provide notice of the decision to petitioner pursuant to ORS 197.615(2). Petitioners were entitled to notice under ORS 197.615(2) notwithstanding that they requested notice of a limited land use decision rather than a land use decision. *Casey Jones Well Drilling, Inc. v. City of Lowell*, 34 Or LUBA 263 (1998).

**24.2.4 Standing – Before LUBA – Right to Notice.** Petitioners are not entitled to notice of a permit decision and an opportunity for a local appeal as a party adversely affected or aggrieved under ORS 215.416(11)(a), where petitioners only allege they will be adversely affected by solid waste disposal, but the challenged decision approves a waste treatment facility and does not establish, control or limit where the treated waste will be disposed. *Wilbur Residents v. Douglas County*, 33 Or LUBA 412 (1997).

**24.2.4 Standing – Before LUBA – Right to Notice.** The “most recent county property tax assessment roll” to which ORS 197.763(2)(a) refers is the property tax assessment roll, whether printed out or not, that shows, as nearly as possible, the current ownership of each property in the

county and that notes any property owner's change of address. *Walz v. Polk County*, 31 Or LUBA 363 (1996).

**24.2.4 Standing – Before LUBA – Right to Notice.** A county may not rely on its failure to update its tax rolls as soon as possible to defeat the purpose of the notice requirement stated in ORS 197.763. *Walz v. Polk County*, 31 Or LUBA 363 (1996).

**24.2.4 Standing – Before LUBA – Right to Notice.** ORS 215.416(11)(a), which requires notice and an opportunity for appeal of a decision made without a hearing be provided to “those persons who would have had a right to notice if a hearing had been scheduled or who are adversely affected or aggrieved by the decision,” establishes two categories of people to whom notice must be given. *Walz v. Polk County*, 31 Or LUBA 363 (1996).