

27.5.3 LUBA Procedures/Rules – Briefs – State Agency. A state agency’s participation in an appeal before LUBA pursuant to ORS 197.830(7) and OAR 661-010-0038 is limited to filing a state agency brief. A state agency participating in an appeal under those provisions may not file a motion to strike pleadings or otherwise participate as if it were a party to the proceedings. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

27.5.3 LUBA Procedures/Rules – Briefs – State Agency. “The proceeding” referenced in ORS 197.830(7) is the proceeding at LUBA, not the local proceeding. *Citizens for Florence v. City of Florence*, 34 Or LUBA 793 (1998).

27.5.3 LUBA Procedures/Rules – Briefs – State Agency. Where a state agency demonstrates that a petition for review places its “order, rule, ruling, policy or other action * * * at issue,” the state agency is entitled to participate in that LUBA appeal “as if it were a party.” *Citizens for Florence v. City of Florence*, 34 Or LUBA 793 (1998).

27.5.3 LUBA Procedures/Rules – Briefs – State Agency. Where a state agency’s brief submitted under ORS 197.830(7) presents essentially the same issue that is presented in the petition for review, LUBA will consider the arguments presented in the state agency brief. *Citizens for Florence v. City of Florence*, 34 Or LUBA 793 (1998).

27.5.3 LUBA Procedures/Rules – Briefs – State Agency. Where the petition for review challenging a post-acknowledgment decision raises an issue concerning the propriety of the city relying on documents that were prepared for a pending periodic review, the issue of whether ORS 197.644(2) and OAR 660-025-0040 deprive LUBA of jurisdiction to review the challenged decision is necessarily presented and may be included in a state agency brief submitted under ORS 197.830(7). *Citizens for Florence v. City of Florence*, 34 Or LUBA 793 (1998).