

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. LUBA will not allow an amicus brief that consists only of the personal recollections of a participant to rulemaking, because such recollections do not constitute probative legislative history and would not significantly aid LUBA’s review of an appeal where the meaning of the adopted rule is at issue. *Squier v. Multnomah County*, 71 Or LUBA 98 (2015).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. That an amicus is aligned with the interests of one party and the proposed amicus brief mostly repeats arguments already advanced by one party is not, in itself, a basis to reject amicus participation. *Campers Cove Resort LLC v. Jackson County*, 61 Or LUBA 491 (2010).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. Where the interests and positions asserted by a party and an amicus are not entirely the same and allowing an amicus to participate would require no delay in the appeal, LUBA may allow amicus participation. *Campers Cove Resort LLC v. Jackson County*, 61 Or LUBA 491 (2010).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. Where the arguments that a movant seeks to present are based on matters outside LUBA’s scope of review, a party moving to appear as amicus has not established that LUBA’s review would be significantly aided by amicus’s participation in the appeal. *Biggerstaff v. Yamhill County*, 58 Or LUBA 678 (2009).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. LUBA will consider arguments in a brief filed by an amicus whose participation at LUBA has been denied, where the respondent’s brief incorporates the arguments in the amicus brief and the respondent’s brief with the incorporated material does not exceed the 50-page limit or otherwise violate any other rule limitation. *Herring v. Lane County*, 54 Or LUBA 417 (2007).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. LUBA will deny a motion to appear and file an amicus brief where the local government files a response brief that responds to assignments of error in the petition for review and the amicus fails to demonstrate that the amicus brief will significantly aid LUBA’s review. *Herring v. Lane County*, 54 Or LUBA 772 (2007).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. The deadline for filing a motion to appear as an *amicus* is not a deadline that is rigidly enforced. Filing the motion to appear as *amicus* one day late, when the *amicus* brief was timely filed, does not prejudice other parties’ substantial rights. *Nelson v. Curry County*, 48 Or LUBA 178 (2004).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. An *amicus*’ assertion that it can knowledgeable discuss the history, legislative intent, and policy behind the approval criteria is sufficient to significantly aid LUBA’s review. *Nelson v. Curry County*, 48 Or LUBA 178 (2004).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. LUBA will not remand a land use decision based on a legal argument that is presented in an amicus brief but is not presented by any other party to the appeal. *Concerned Citizens v. Malheur County*, 47 Or LUBA 208 (2004).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. A city’s *amicus* brief will significantly aid LUBA’s review of relevant issues, where the county’s decision affects property within the UGB that was subsequently transferred to the city’s planning jurisdiction. *Multi/Tech Engineering v. Josephine County*, 36 Or LUBA 767 (1999).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. A property owner’s “specific and narrow interest” in property is not sufficient by itself to show that LUBA’s review would be significantly aided by the property owner’s participation as an *amicus*. *Cotter v. Clackamas County*, 35 Or LUBA 749 (1998).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. That LUBA will have only the perspective of the petitioner for review is always the case where the local government fails to respond and no party moves to intervene, and is not a valid reason by itself to delay the appeal so that an *amicus* brief may be filed. *Krieger v. Wallowa County*, 35 Or LUBA 742 (1998).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. Under OAR 661-010-0052, the purpose of *amicus* participation is to aid LUBA’s review of relevant issues in the appeal. An *amicus* brief must be filed within the time for filing response briefs, and a motion for additional time to file an *amicus* brief to allow an opportunity to respond to arguments in the response briefs will be denied where the motion fails to demonstrate the extension is warranted. *D.S. Parklane Development, Inc. v. Metro*, 34 Or LUBA 790 (1998).

27.5.4 LUBA Procedures/Rules – Briefs – Amicus. LUBA will not grant a motion to file an *amicus* brief where the proposed *amicus* brief raises only an issue that is not raised in the petition for review. *Friends of Bryant Woods v. City of Lake Oswego*, 26 Or LUBA 594 (1993).