3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. A replacement dwelling allowed under ORS 215.213(1)(q) must be located on a lawful unit of land. *Landwatch Lane County v. Lane County*, 80 Or LUBA 415 (2019).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. A hearings officer does not err in concluding that a county standard requiring a showing that the proposed "use" will not force a significant change in farm or forest practices or significantly increase costs of farm and forest practices does not apply to a property line adjustment, where the county standard applies to "uses" listed in the county's EFU zone, and property line adjustments are not listed as a use. *Louks v. Jackson County*, 65 Or LUBA 58 (2012).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. Where the county criteria that govern division of EFU-zoned land require that parcels be 160 acres or larger and require that divisions of EFU-zoned land comply with applicable comprehensive plan policies, and partition opponents argue that dividing an EFU-zoned parcel into parcels that are smaller than 160 acres violates those criteria and plan policies, the county's decision will be remanded where the county fails to address those arguments. *Friends of Umatilla County v. Umatilla County*, 55 Or LUBA 330 (2007).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. Where the county criteria that govern division of EFU-zoned land require that parcels be 160 acres or larger, and the county grants a variance to allow an EFU-zoned parcel to be divided into parcels that are smaller than 160 acres, where LUBA finds the county's justification for the variance is inadequate, the partition approval must be remanded. *Friends of Umatilla County v. Umatilla County*, 55 Or LUBA 330 (2007).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. ORS 215.263(7), which provides for the division of land resulting from lien foreclosure, does not authorize a county to "legalize" an existing but illegally created parcel that happens to be subject to foreclosure after its illegal creation. *Perkins v. Umatilla County*, 45 Or LUBA 445 (2003).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. Even assuming that a parcel formed without required local government approval has not been "created" in any meaningful sense, the legislature did not intend ORS 215.263(7), which provides for division of land resulting from lien foreclosure, to authorize counties to effectively legalize such parcels for development. *Perkins v. Umatilla County*, 45 Or LUBA 445 (2003).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally. Where a local land division ordinance mandates that the size of proposed parcels be greater than or equal to the size of the typical commercial agricultural enterprise in the area, a local government misconstrues that ordinance by requiring only that the size of the proposed parcel be similar to the size of other parcels in the area. *Wood v. Crook County*, 36 Or LUBA 143 (1999).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally The only difference between ORS 215.284(2) and 215.284(3) is that ORS 215.284(2) permits a nonfarm dwelling on an existing

parcel, while ORS 215.284(3) permits a nonfarm dwelling on a newly created parcel. *Dorvinen v. Crook County*, 33 Or LUBA 711 (1997).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Under OAR 660-05-005 to 660-06-020 and *Still v. Marion County*, 22 Or LUBA 331 (1991), there are three steps that must be followed to determine if a proposed partition of EFU land is appropriate. First, an area large enough to accurately represent the existing commercial agricultural enterprise must be identified. Second, the existing *commercial* agricultural enterprises in the area must be identified. Third, it must be determined that the proposed division will result in parcels of sufficient size to "maintain" or "continue" the identified existing commercial agricultural enterprise in the area. *Still v. Marion County*, 32 Or LUBA 40 (1996).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally The county erred by applying a local ordinance to determine, without further explanation, that the relevant area to be considered for purposes of OAR 660-05-015(6)(c) was limited to the zone in which the subject parcel is located. *Still v. Marion County*, 32 Or LUBA 40 (1996).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally In determining compliance with a local code standard requiring that partitions of EFU-zoned property result in parcels which are "as large as the typical commercial farm unit in the area," it is appropriate for the local government to examine only EFU-zoned parcels in determining the "typical commercial farm unit in the area." *Walker v. Clackamas County*, 29 Or LUBA 22 (1995).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Read together, ORS 215.263(7) and 215.284(2)(c) prohibit the further division of an EFU-zoned parcel created before January 1, 1993, on which a nonfarm dwelling has already been approved. Therefore, a county decision approving division of such a parcel is erroneous as a matter of law and must be reversed. *Harrell v. Baker County*, 28 Or LUBA 260 (1994).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally ORS 215.263 authorizes counties to approve *partitions* creating new parcels for farm uses and nonfarm uses in EFU zones. However, ORS 215.263 does not authorize *subdivision* of land zoned for exclusive farm use. *1000 Friends of Oregon v. Marion County*, 27 Or LUBA 303 (1994).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally To the extent a "woodlot parcel" is something other than a farm parcel, the creation of a "woodlot parcel" in an exclusive farm use zone is not authorized by ORS 215.263, Goal 3 or the Goal 3 rule. *1000 Friends of Oregon v. Marion County*, 27 Or LUBA 303 (1994).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally The definition of "farm use" in ORS 215.203 is not an independent approval criterion for a lot line adjustment in an exclusive farm use zone. *Wissusik v. Yamhill County*, 27 Or LUBA 94 (1994).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally ORS 215.283(3)(d) must be independently applied to an application for division of EFU-zoned land and requires that the entire EFU-zoned parcel be found to be generally unsuitable for farm use, regardless of whether local

regulations impose a more relaxed standard on homestead lot divisions. *Geiselman v. Clackamas County*, 26 Or LUBA 260 (1993).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally LUBA will defer to a county's interpretation of its EFU zone provisions as not allowing approval of a nonfarm dwelling on a parcel that already has a dwelling, or approval of a partition to allow a nonfarm dwelling, if the parent parcel already has a dwelling. *Hahn v. Marion County*, 26 Or LUBA 18 (1993).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally A county may reasonably interpret the term "existing commercial farm enterprises" in a code provision establishing a minimum lot size standard for farm dwellings, as not including property that is not presently operated as part of a commercial farm operation. *Giesy v. Benton County*, 25 Or LUBA 493 (1993).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Where the county code requires the "farm unit" on which a farm dwelling is proposed to be located to be consistent with the size of existing commercial farm enterprises in the area, and also recognizes that commercial farms may be composed of several separate management units, it is reasonable for the county to interpret "farm unit" to include all land that is part of a farm operation, including land in different locations. *Giesy v. Benton County*, 25 Or LUBA 493 (1993).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Where a zoning district adopted to implement both Goal 3 and Goal 4 includes the generally unsuitable land standard that is required under statutory exclusive farm use zoning provisions, the generally unsuitable standard must be applied to the entire parent parcel and may not be limited in its application to a proposed nonforest parcel. *DLCD v. Curry County*, 24 Or LUBA 200 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally In applying a local code standard requiring that newly created nonfarm and nonforest parcels not materially alter the stability of the overall land use pattern of the area, a local government must define the relevant area and may not focus exclusively on a single rural residential area near the subject property and ignore the potential impacts on nearby forestlands. *DLCD v. Curry County*, 24 Or LUBA 200 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Where a local code standard requires that creation of new nonfarm and nonforest parcels be consistent with comprehensive plan forest and agriculture policies, the local government's findings must demonstrate compliance with all such plan policies or explain why they do not apply. *DLCD v. Curry County*, 24 Or LUBA 200 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally ORS 215.263(4) specifically governs the creation of new lots or parcels in an EFU zone for nonfarm dwellings, including the creation of a lot or parcel for a preexisting nonfarm dwelling. *DLCD v. Columbia County*, 24 Or LUBA 32 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally ORS 215.236 must be complied with before a land division for a nonfarm dwelling in an EFU zone may be approved, regardless of whether the dwelling already exists. *DLCD v. Columbia County*, 24 Or LUBA 32 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally In assuring that partitions creating new farm parcels within exclusive farm use zones comply with the requirements of OAR 660-05-015 and 660-05-020 that the parcels be of sufficient size "to maintain and continue the existing commercial agricultural enterprise in the area," counties may perform the required analysis legislatively or on a case-by-case basis. *DLCD v. Yamhill County*, 23 Or LUBA 351 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally A study which divides a county into four large subareas, and describes the "sizes and other characteristics" of commercial agricultural enterprises in the relevant areas, provides adequate justification for the area selected, under OAR 660-05-015(6)(c), to determine the parcel size sufficient to "continue the existing commercial agricultural enterprise in the area." *DLCD v. Yamhill County*, 23 Or LUBA 351 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Where a county identifies subareas of the county for purposes of identifying and analyzing the existing commercial agricultural enterprise within those subareas, the county may limit the analyses required by OAR 660-05-015 and 660-05-020 to the identified subareas. *DLCD v. Yamhill County*, 23 Or LUBA 351 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally A local government may not distinguish between commercial and noncommercial farms in an area, as required by OAR 660-05-015(6), based on gross farm income only. All of the factors specified in OAR 660-05-015(6)(b) must be considered. *DLCD v. Yamhill County*, 23 Or LUBA 351 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally ORS 215.263(2) establishes minimum standards for approving divisions of land in EFU zones. ORS 215.263(2) does not require findings that the existing parcel is in farm use. Rather, ORS 215.263(2) requires that proposals to divide EFU-zoned land for farm use must establish that the resultant parcels either (1) will be appropriate for the continuation of the existing commercial agricultural enterprises in the area, or (2) will be no less than the acknowledged minimum lot size for the area. *Fennell v. Douglas County*, 23 Or LUBA 178 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Where a local government changes the zoning of agricultural land from one acknowledged EFU zone to another, Goal 3 requires that it demonstrate that the minimum lot size imposed by the new EFU zone is appropriate for the continuation of the existing commercial agricultural enterprise in the area. *Dobson v. Polk County*, 22 Or LUBA 701 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally ORS 215.243(2), relating to the preservation of agricultural land in large blocks, does not prohibit all divisions of agricultural land. *Dobson v. Polk County*, 22 Or LUBA 701 (1992).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally The legislative policy of ORS 215.243(2) to preserve agricultural land in large blocks is not correctly interpreted to preclude *any* division of an existing farm parcel. *Still v. Marion County*, 22 Or LUBA 331 (1991).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally The division of existing farm parcels into two or more smaller parcels is only appropriate where the resulting parcels are appropriate for the continuation of the existing commercial agricultural enterprise in the area. *Still v. Marion County*, 22 Or LUBA 331 (1991).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally OAR 660-05-015 and 660-05-020 establish three steps that must be followed to divide an EFU-zoned farm parcel. First, an area large enough to accurately represent the existing commercial agricultural enterprise must be identified. Second, the existing *commercial* agricultural enterprises in the area must be identified. Third, it must be determined that the proposed division will result in parcels of sufficient size to "maintain" or "continue" the identified existing commercial agricultural enterprise in the area. *Still v. Marion County*, 22 Or LUBA 331 (1991).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Where an EFU-zoned area includes different commercial agricultural enterprises, with differing land area requirements, a county may not automatically approve divisions of farm parcels in that area into parcels the size of the smallest existing commercial agricultural enterprise. The county may, however, adopt findings explaining why, in the particular circumstances presented, such a proposed division will result in parcels of sufficient size to "maintain" and "continue" the existing commercial agricultural enterprise in the area. *Still v. Marion County*, 22 Or LUBA 331 (1991).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally An acknowledged zoning ordinance provision concerning division of EFU-zoned farm parcels providing that "evaluation shall include the subject property and commercial agricultural enterprises located in the same zone within one-half mile of the subject property" is properly interpreted as identifying the *minimum* area to be evaluated, and areas beyond a one-half-mile radius may have to be evaluated to establish the nature of the existing commercial agricultural enterprise in the area. *Still v. Marion County*, 22 Or LUBA 331 (1991).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally Goal 3 requires that in EFU zones the minimum lot size "shall be appropriate for the continuation of the existing commercial agricultural enterprise in the area." Where a local government changes the zoning of agricultural land from one acknowledged EFU zone to another, it must demonstrate that the minimum lot size imposed by the new EFU zone is appropriate for the continuation of the existing commercial agricultural enterprise in the area. *DLCD v. Polk County*, 21 Or LUBA 463 (1991).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally In reviewing a combined request for approval of a nonfarm dwelling and a partition to create a nonfarm parcel, a county must first apply applicable approval standards, including the "general unsuitability" standard, to the request for approval of the nonfarm dwelling. Only after the nonfarm dwelling is approved may the county consider the request to create a new nonfarm parcel for the dwelling. *Smith v. Clackamas County*, 19 Or LUBA 171 (1990).

3.4.1 EFU Statute/Ordinances – Land Divisions – Generally The "general unsuitability" standard applies to the entire parent parcel, not just to the portion of the parent parcel or the new

nonfarm parcel on which a nonfarm dwelling is to be located. *Smith v. Clackamas County*, 19 Or LUBA 171 (1990).