

LAW OFFICE OF BILL KLOOS, PC

OREGON LAND USE LAW

375 W. 4<sup>TH</sup> STREET, SUITE 204  
EUGENE, OR 97401  
TEL (541) 343-8596  
FAX (541) 343-8702  
E-MAIL BILLKLOOS@LANDUSEOREGON.COM

January 16, 2015

Land Use Board of Appeals  
DSL Building  
775 Summer Street NE, Suite 330  
Salem, OR 97301-1283

Certified No. 7013 1710 0001 1752 2617

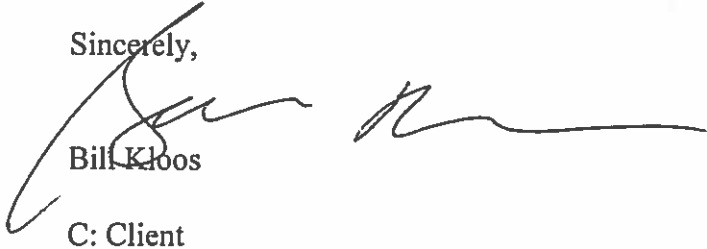


Re: *Overleaf Village Homeowners Assn. v. City of Yachats*

Dear LUBA:

Enclosed for filing is the original and two copies of a Notice of Intent to Appeal in this matter, along with our check for \$400 to cover filing fee and costs.

Sincerely,

  
Bill Kloos

C: Client

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

OVERLEAF VILLAGE HOMEOWNERS	)	
ASSOCIATION, DENNIS MURPHY,	)	
PAT MURPHY, GERALDINE A. BETZ,	)	
MICHAEL P. EVANS, ROBERT P. NOBLE,	)	
CANDY NEVILLE, DENNIS SCHUELKE,	)	
VALORIE SCHUELKE, LINNARD WEST,	)	
ALAN AULIE, MARY AULIE,	)	
	)	
Petitioners,	)	LUBA No. 2015-
vs.	)	
	)	
CITY OF YACHATS,	)	
	)	
Respondent.	)	

NOTICE OF INTENT TO APPEAL

I.

Notice is hereby given that Petitioners intend to appeal that land use decision made by the Yachats City Council, entitled:

CITY OF YACHATS  
ORDINANCE NO. 315

AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE  
CHAPTER 9.52, SECTION 9.52.070 SHORELAND SETBACKS

The decision became final on August 9, 2012. The decision is a “land use decision,” as defined by ORS 197.015(10)(a)(A)(iii). This decision is also a “Measure 56 decision,” in that it amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone. The decision was made without proper notice, which prejudiced Petitioners’ substantial right to

1 participate in the process.

2 Notice of the legislative hearing was sent along with city water bills. Some  
3 city water users received the notice in the U.S. mail, along with their water bill.  
4 Some city water users received the notice via email, if they had elected to receive  
5 their water bills via email. Some owners of property affected by the legislative  
6 amendment have undeveloped property, so they receive no water bill, and it  
7 appears they received no notice of the legislative hearing.

8 In addition to the failure to provide notice to all required recipients, the  
9 notice was inadequate in substance in that it lacked specific content required by  
10 ORS 227.186. Petitioners' substantial rights have been prejudiced, and they are  
11 adversely affected by the decision. This NITA is filed within 21 days from the  
12 date that Petitioners first received actual notice of the challenged decision.

13 II.

14 Petitioners are represented by the LAW OFFICE OF BILL KLOOS PC, 375  
15 W. 4<sup>th</sup> Ave., Suite 204, Eugene, OR 97401; Phone: 541-343-8596.

16 III.

17 Respondent, City of Yachats, has as its mailing address and telephone  
18 number: Yachats Commons Room 2, 441 Hwy 101 N., P.O. Box 345, Yachats, OR  
19 97498. Respondent has as its legal counsel: Ross Williamson, Local Government  
20 Law Group, 975 Oak Street, Suite 700, Eugene, OR 97401; Phone: 541-349-5012.

21

1 IV.

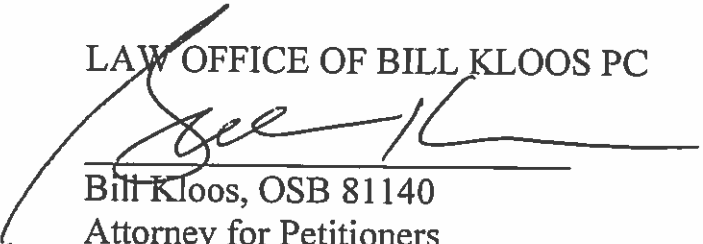
2 Petitioners did not appear below, as improper notice was given and  
3 inadequate opportunity for a hearing was provided. Other persons mailed written  
4 notice of the land use decision by City of Yachats are unknown, as the City  
5 Recorder was unavailable to provide the information in a timely manner.

6 NOTICE

7 Anyone designated in paragraph IV of this Notice who desires to participate  
8 as a party in this case before the Land Use Board of Appeals must file with the  
9 Board a Motion to Intervene in this proceeding as required by OAR 661-010-0050.

10 Dated: January 16, 2015

LAW OFFICE OF BILL KLOOS PC



Bill Kloos, OSB 81140  
Attorney for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2015, I served a true and correct copy of this Notice of Intent to Appeal on all persons listed in paragraphs III and IV of this Notice pursuant to OAR 661-010-0015(2) by US mail.

Dated: January 16, 2015.



Bill Kloos, OSB 81140