

Deschutes County Legal Lot of Record



What you need to know

What is a Legal Lot of Record?

A legal lot of record is a property that Deschutes County has deemed suitable for development, and is slightly different from a tax lot. It is a lot or parcel that was lawfully created through compliance with any land use laws and regulations in effect at the time of creation. Oregon Counties will not issue permits until it is determined that a parcel is a legal lot of record.



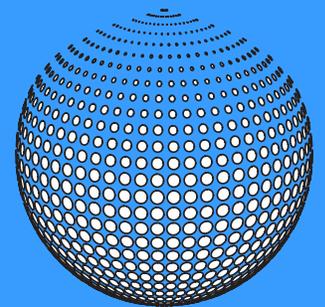
Examples

Examples include lots created through subdivision plats or as part of a partition or lots or parcels that were created prior to the enactment of land use laws. Not all tax lots are legal lots of record. Even though a property may have structures already on it, that does not make it a legal lot of record.



The 70s

For decades, Deschutes County's internal policy was to issue most residential building permits administratively based on a previously approved building or septic permit, with the belief that the subject properties were legal lots. In the 1970s, Deschutes County approved ordinances that changed the way individual residential properties can be established in rural parts of the county. Rules can vary, but in general, lots that have been created since 1977 by means other than breaking up larger pieces of property or as part of a larger subdivision, may not be considered legal lots of record under Oregon law.



How did we get here?

In 2015, a Deschutes County resident appealed a county decision to adjust the boundaries of a neighboring property. The appeal to the Oregon Land Use Board of Appeals — Grimstad v. Deschutes County — resulted in a ruling that said building permits issued by the county did not automatically establish legal lots. The board returned the case back to the county for further review.



What the ruling means

The decision by the Oregon Land Use Board of Appeals now forces property owners to prove their lot is legal before they receive a permit, which can be a challenge for some property owners. The decision basically upends decades of county policy and creates a chain reaction that makes it more difficult for property owners to build new structures, make changes to existing ones, or sell a property.



The problem

When attempting to sell their home, build on a vacant lot or look into an addition, some landowners are learning that their property is not a legal lot of record. This means admin fees to the county and legal fees to prove that the home exists on a legal lot before being able to sell it. There are possibly hundreds of Deschutes County property owners who may be affected – subject to higher costs and a convoluted approval process that stemmed from a state land use decision that called into question Deschutes County’s approach to providing building permits.



Addressing the issues - changes!

County Commissioners approved a fee reduction from \$925 to \$250 when the County has issued a prior building, septic or land use permit/decision. County staff have also recommended revisions to the process, including revising the definition of “lot of record” in code to recognize a lot or parcel that previously met the above conditions. These changes will go to public hearing on July 26. COAR will continue to advocate for changes!



Current fees

The process for proving a legal lot of record varies in complexity and typically requires fees even if a property owner can verify that his or her property was established legally. The fee reflects the average cost to the county from reviewing deeds and providing public notice to neighbors. Fees: \$925 for federal conveyances and vacant properties; \$250 for properties with prior building, septic or land use permits (the latter effective July 1).



What should I do as a REALTOR®?

If you, a buyer or seller have any questions as to whether the property is a legal lot of record, consult an attorney or the appropriate County Planning Department. You can also download advisory notices - both a seller's notice and buyer's disclosure - in the government affairs section of the COAR website.

