

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
KLAMATH COUNTY**

**IN THE MATTER OF THE APPEAL OF HEARINGS OFFICER DECISION
RE: LIVESTOCK SHOWS, SALES AND PRACTICES WITHIN THE EXCLUSIVE
FARM USE ZONE, BY CLYDE COLLINS**

1. NATURE OF THE CASE:

The referenced case, a Classification of Uses (KCLDC Sec. 12.070) requested by the Planning Director, was heard by the Klamath County Hearings Officer on APRIL 5, 1996. An ORDER was entered APRIL 15, 1996. The appellant, Clyde Collins, represented by Attorney Spencer, filed, on APRIL 19, 1996, an appeal of the Hearings Officer Order/Decision. A hearing on this appeal was conducted by the Board of County Commissioners MAY 21, 1996.

The appeal was heard pursuant to the procedure set out in Article 33 of the Klamath County Land Development Code.

2. THOSE WHO PARTICIPATED:

A listing of those who participated at this Hearing is on file with the Planning Department. The Planning Department was represented by Kim Lundahl, Senior Planner. Karen Burg, Planning Assistant, was the recording secretary. Members of the Board who heard the appeal were: Dave Henzel and Clifton H. McMillan, III.

3. CASE DESCRIPTION:

The Hearings Officer entered Order April 19, 1996 interpreting the law as it relates to exclusive farm use, attached as Exhibit "A".

The appellant argued the Hearings Officer "exceeded his authority" in issuing an "interpretation" of the Code, and he "incorrectly interpreted the Code, Plan and applicable State Law by ignoring the provisions of the Code..."

4. FINDINGS:

The Board finds after consideration of the record and argument entered that:

A literal reading of the Code indicates the "Farm Use" and "Stockyard and Animal Sales" definitions in the Code appear to not be consistent with each other when applied to the factual situation of this issue. In order to find consistency between the two sections, the Board has looked to the custom, culture, and past history of Klamath County and the State of Oregon as they apply to agricultural practices in this State. The Board has determined that the Hearings Officer correctly determined that the practices at issue fall under the definition of "Farm Use" and not "Stockyard and Animal Sales."

5. ORDER:

The Board of Commissioners, upon review of the record, testimony and argument presented, hereby UPHOLDS the Hearings Officer ORDER entered April 15, 1996 and attached.

DATED this 3rd day of June, 1996

Dave Henzel
Dave Henzel, Chair

Clifton H. McMillan, III
Clifton H. McMillan, III, Commissioner

APPROVED AS TO FORM:

Reginald R. Davis
Reginald R. Davis, County Counsel

APPEAL RIGHTS

This decision may be appealed to the Land Use Board of Appeals within 21 days of the date of mailing. Please contact the Planning Department for information as to this procedure. Failure to file an appeal within the allowed timeframe may affect your right to appeal this decision.

ATT: EXHIBIT A - Hearings Officer Order April 15, 1996

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 5th day
of June A.D., 19 96 at 10:45 o'clock AM., and duly recorded in Vol. M96
of Deeds on Page 16438
Bernetha G. Letsch, County Clerk

FEE No Fee

Return: Commissioners Journal

By Cory Russell