

Meeting Notes

Oregon Law Commission

OLC MJC Limitations on Appeals 2026-2027 Small Work Group

June 11, 2026

I. Call to Order

Attendees for this meeting were Amy Zubko, Chris Perdue, Kimberly McCollough, Jim Nass, Monte G. Ludington, Jessica Minifie, Judge Juliet Britton, Lindsey Detweiler, Judge Emily Oberdorfer, Steve Arntt, and Judge Daniel Cross. Amy Zubko began the meeting by welcoming everyone and introducing OLC Legal Research Aide Gracie Schweitzer.

II. Discussion

Amy Zubko shared a brief background about the history of this issue/proposal and the materials pulled together before the meeting took place. In 2024 there was an initial conversation within the OLC MJC Work Group about this issue, however due to time constraints and the distance needed to be traveled to reach consensus within the work group, the group determined it was best looked at by a future work group. This meeting was to serve as a format for current work group members to continue discussion and determine if this issue should be pursued.

The small work group then began discussion of the memorandum put together by Jim Nass. The memorandum focused on two areas, the first was the codification of the *City of Eugene v. Lincoln* case and the second were technical corrections in ORS 221.

The conversation first focused on whether the group should codify the holding from *City of Eugene v. Lincoln*, 183 Or. App. 36, 50 P3d. 1253 (2002). The purpose of doing this would be to clarify that a defendant could make both a facial and as applied challenge to a city

ordinance/charter of which they are charged and to include language in the statute giving appellate courts the ability to consider relevant evidence when getting at the constitutionality challenge. The proposal shared with the small group was a more limited proposal than the one originally shared in 2024.

This proposal led to a discussion of whether this is something the work group should tackle, or if the Oregon legislature should be handling this issue directly. Work group members noted that while the legislature had approximately 20 years to codify the Court of Appeals holding in statute and had not, there was also the viewpoint that because the case had not been relitigated or overturned by the Oregon Supreme Court in approximately 20 years, the holding was settled law and after 20 years codifying could be helpful. One group member did raise the issue that if the group does decide to codify, it may limit future challenges.

A work group member brought up another reason to codify the case language: ensuring pro se litigants know their rights without having to conduct extensive research into case law. Even though no other case has dealt with the issue of facial versus as applied challenges, having it codified would clarify the statute for future defendants. A few work group members then brought attention to the proposed language offered in the materials would allow courts to review any appeals necessary to address the constitutional issue. After this discussion, the group consensus was to keep exploring this proposal.

The work group then moved on to discuss ORS 221.357 and 221.335. The group discussed a hypothetical regarding if City A contracts with City B to provide municipal court services and

whether the statutory scheme would need to be clarified either in statute, in the intergovernmental agreement or both.

Before the work group concluded, they addressed the original issue that led to the work group's establishment: ORS 221.389(6) and the limit on certain municipal court appeals. Some work group members expressed a desire to change the current language in order to clarify the law. The point was made that there was no intent to change the law, but rather clarify what is appealable. The second clarifying issue was in ORS 221.405 and the proposal was to update the word from "validity" to "constitutionality." A question was raised whether there should be a difference between the statutory language for a court of record v. a court not of record. The question was raised because the statute pre-dates the distinction. A question was raised of whether there was case law and folks did not think there was but a double check might be helpful. It was also brought to the group's attention that an error in the current law exists where an incorrect statute is mentioned (ORS 211.405(3)). In closing, the work group agreed they needed more time to think and discuss this issue.

III. Scheduling

Amy Zubko concluded the meeting by informing work group members they would have time to share their thoughts and desire to continue this small work group in the OLC MJC June 17th meeting.