



Elissa Gertler  
Director

**PUBLIC AND GOVERNMENT AFFAIRS**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

September 29, 2010

Board of Directors  
Villages at Mt Hood  
PO Box 142  
Welches, Or 97067

Dear Board members:

On behalf of the Board of County Commissioners, I want to thank you for your hard work on behalf of the citizens of your community.

I am writing to provide some clarification on the status of Hamlet and Village board members when there is pending or threatened litigation involving the county.

Clackamas County treats its Hamlet and Village board members as agents of the county when they are acting within the scope of county policies:

*Agency status. Hamlet and village board members acting within the scope of authority granted by the organization bylaws and county policies are advisory to the BCC and shall be treated as agents of the county for claims against them for purposes of the Oregon Tort Claims Act. When acting in the capacity of a CPO, a hamlet or village board shall not be considered an agent of the county.*

Clackamas County Code Section 2.10.110

Clackamas County policy in matters involving litigation or threatened litigation is not to comment until the matter is resolved in the proper forum. As agents of the county, Hamlet or Village board members should follow that policy when acting in their official capacity as board members.

When acting as a Hamlet or Village board member, it may be appropriate to advise other board members, county staff, or other agents of the County of the opinions and statements of the community.

However, when participating as board members in a meeting or other public forum, it is not appropriate to make statements on issues regarding litigation or that may lead to litigation. When acting in an official capacity, it is never appropriate to comment or take a position on these matters. In the extremely unlikely event you are actually a defendant or potential defendant in a county-related lawsuit, you should avoid making any public statements at all, except as advised by county counsel and county risk management staff.

Of course, as citizens, Hamlet and Village board members are free to exercise their First Amendment right to express individual opinions. In doing so, a board member would not be acting as a county agent, and would not be subject to either county policies, or the Oregon Tort Claims Act protections provided to county agents. Being a part of Clackamas County's citizen involvement efforts requires you to follow the agency requirements. There are other forums available for citizen involvement that do not have the same program requirements and may better fit your needs.

Again, thank you for all your dedicated effort on behalf of your community.

Sincerely yours,

Elissa Gertler, Director  
Public and Government Affairs  
Clackamas County