

Quasi-Judicial Proceedings

Everything a Non-Lawyer Could Want to Know

(and Then Some)

**Chapter 16,
Article 5,
Division 2
Section 16-71:
*Procedures***

Table 49:

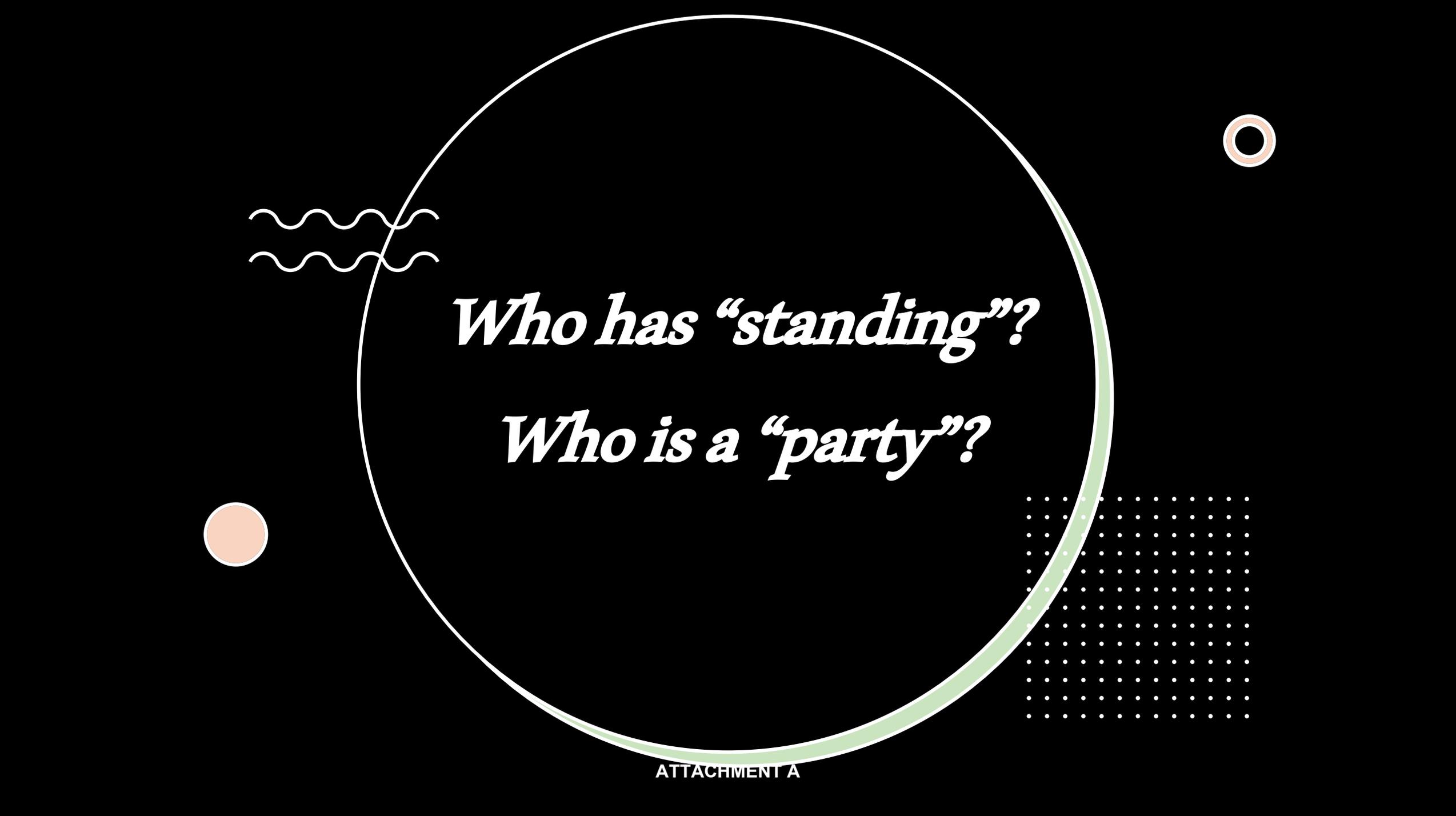
- Type of notice required;
- Whether pre-application meetings with staff or neighbor meetings are required;
- Which county bodies review and make a decision on the application; and
- **In which cases a public meeting or hearing is required.**

Quasi-Judicial Decisions

- Involves applying a discretionary standard (as specified in the development code), to an application for discretionary development approval.
- Require a public hearing consistent with the standards of procedural due process as established in [section 16-72\(f\)\(5\)](#).
- In the land use context, these quasi-judicial decisions generally involve the application of land-use policies to individual properties in common ownership as opposed to the creation of policy.



“In making quasi-judicial decisions, the decision-making body shall investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, make written findings of fact, conclusions of law and recommendations and exercise discretion of a judicial nature.”



Who has “standing”?

Who is a “party”?

Standing and Parties

Aggrieved party means any person who:

1) Is required to be served with notice by mail under this chapter;

or

2) Has an immediate, pecuniary and substantial interest, with respect to any final action taken pursuant to this chapter.

16-72(b)(2) *Neighborhood Meeting*

a. **Where Table 49: Procedures Summary Table requires neighborhood meetings, the community development department shall offer at least one meeting to all property owners within 300 feet, excluding public rights-of-way, of the exterior lot lines of the subject property prior to the public hearing on the request.**



NM Case Law

The standards for who has standing to oppose a land use application are **very low based upon New Mexico case law**. The complainant must allege/articulate that he/she is injured in fact or is imminently threatened with injury, economically or otherwise.

De Vargas Sav. and Loan Ass'n of Santa Fe v. Campbell, 87 N.M. 469, 535 P.2d 1320 (1975).



Examining Standing:

Ramirez v. City of Santa Fe

Ramirez v. City of Santa Fe

- Standing requires an allegation (a showing) of direct injury. The threat of aesthetic, quality of life and property harm is sufficient.
- However, this requirement is met even when the extent of the alleged injury is slight:
 - Fear of increased noise, traffic, crime and pollution
 - Detrimental effect on aesthetics of the area
 - Decline in property values
 - Intensification of traffic hazards at street intersections
 - Increase in drainage, flooding, and runoff
 - Change in peaceful nature of neighborhood



“Standing” Summarized

Applicant

Persons who own a property interest within 300 feet of the subject site

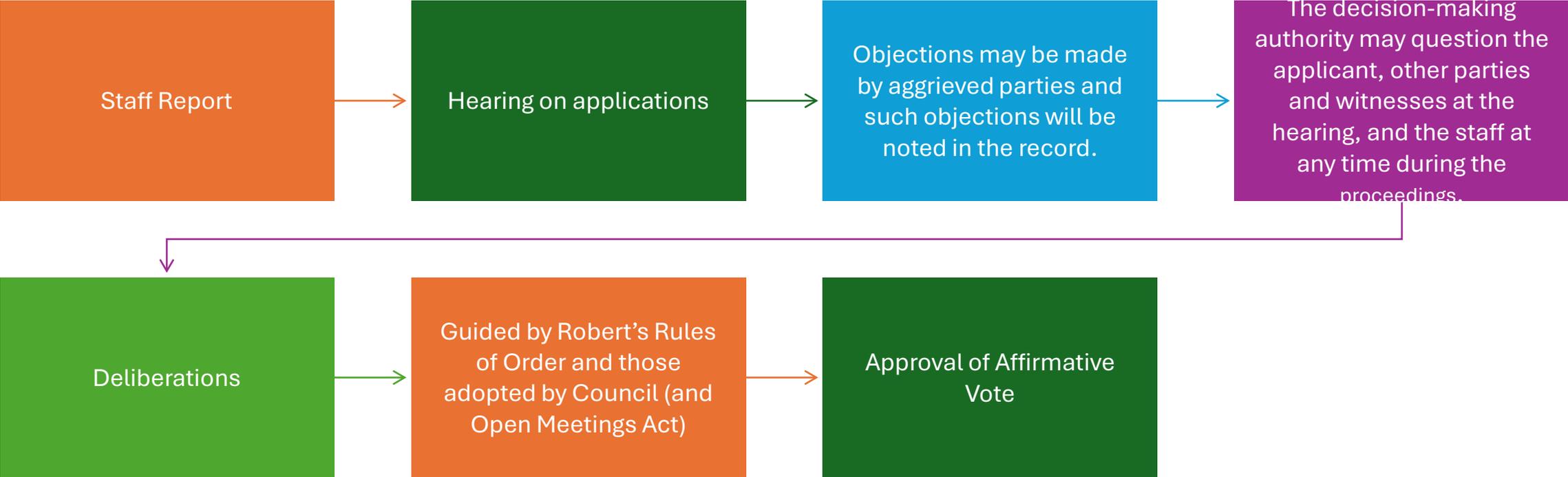
An organized neighborhood association, if the subject site or a portion thereof is within the association's boundaries or within 300 feet of the subject site (if organized at time of hearing)

Persons whose property will be adversely affected by the decision

Requires allegation of direct injury

Need to identify and explain why they believe the outcome of the case will adversely affect them

Public Hearing Procedure



Keeping an Orderly Record

- Any parties present, their witnesses, or anyone else who intends to speak to the Commission during the hearing **MUST** be sworn in.
- Parties and witnesses should not speak to each other directly inside the hearing.
- Parties and witnesses should not speak **OVER** each other inside the hearing.
- If evidence and testimony has not yet closed, Commission/Parties can recall parties or witnesses for additional questions.
- Any exhibits presented during the hearing, or relied upon for the Commission's deliberations, **MUST** be identified and admitted as evidence.
- Rules of Evidence v. Robert's Rules

Deliberations



Application criteria serves as your road map.



Consider those who wished to be considered a “party”



Consider evidence and credibility of witnesses (expertise, bias, authenticity, relevance, etc.)
Can disregard evidence or testimony if you do not find it to be credible.



Determine what the facts are and apply the law.



Do not take straw vote – all decisions shall be made in open meeting

Decision: Findings and Conclusions



“Checklist” or some way of organizing and tracking evidence and testimony throughout hearing.



If Commission unanimously determines a certain criterium has been satisfied, at least provide brief summary how it’s been met. Touch on each criterium for clarity in Order.



“Criterium ____ has/has not been met because _____, which we saw/heard in the testimony/evidence of _____.”



“We disregard the testimony of _____/the _____ (name of document or item in evidence) because_____.”