

Presented to: Senate Committee on Rural Communities and Economic Development  
for the Public Hearing for Senate Bill 841

April 11, 2013

Dear Chair Roblan, Vice-Chair Baertschiger, Senator Burdick, Senator Close and  
Senator Prozanski:

In early 2011, the first Oregon legislator with whom I spoke about the problem of event centers in rural areas was our then state senator, Suzanne Bonamici. She wisely characterized our dilemma as one of "unintended consequences" that legislators fear and try to avoid.

A wedding and event business had prospered in our area altering the rural nature of our neighborhood with commercial traffic and disruptive noise, particularly from dance bands and DJ offerings in the evenings. The site for the events was the grounds of a villa on a small vineyard, and so the proprietors sought to seize the opportunity of SB 1055 to become a "winery" to justify their pre-existing busy event schedule. The "unintended consequences" included that the burden was then put on the neighborhood to ask Washington County for a hearing. Then the onus was on us to show the event history of the establishment and otherwise prove the site's lack of qualification under the law.

Our neighborhood group was able to prevail in a Washington County hearing and then at LUBA to whom the proprietors appealed the decision. These events, however, create a very profitable business for its owners, and the proprietors have sought to continue them as a "farm stand" and now a "private park." We have thus far been successful in each Washington County proceeding and in two LUBA hearings, but this is a heavy burden for a neighborhood. It has required us to hire a land-use attorney which becomes an expensive proposition when two LUBA appeals are involved. The more confusing and unenforceable the laws are, the greater the burden on citizens to clarify.

Our neighborhood's history is also well-known to our new Senator Betsy Johnson who understands the nature of these problems in her senate district, and we have appreciated her input.

Washington County Department of Land Use and Transportation is overburdened, and I think that many other counties are as well. They have neither the available staff nor the resources to enforce land use laws and regulations. I cannot see how they could begin to enforce the proposed limits in SB 841.

What happens when law cannot be enforced is that it becomes a gift to scofflaws. While the great majority of those who grow winegrapes would not be guilty of rationalizing an event business with a winery, there is a minority who would do just that.

There are many neighborhoods similar to ours surrounding Portland. I would hate to see them go through what we have gone through in the past few years. County land-use code enforcement is already difficult because it is "complaint based." It is unreasonable to ask neighbors to monitor something as complicated as SB 841.

The 25/75 percent proportional income test described is also unworkable. Unless all of the revenue generated on the site, whether outsourced or not, is counted in the non-wine revenues, the test is meaningless. Our neighborhood has learned that it is these out-sourced activities that create the nature of the event. In our local example, outside catering has ranged from \$120 to \$165 per person and certainly cannot be ignored. When the same caterer is used exclusively scores of times, they are business partners, not incidental third party providers. Perhaps the out-sourced activities which most affect us are the dance bands and DJs whose amplified music rolls down our valley. These third party providers are often the center of an event as when the advertisements lure a few hundred visitors to come enjoy the sounds of a band like Hit Machine.

Another loophole that has been used is the "charitable activity" option as allowed under SB 841. By simply giving a percentage of the evening's wine sales to any agreeable charity, most any event can be labeled as a philanthropical event. For instance if there the center wants to host a Blazers party, a percent of wine sales could be given to the Blazer Foundation. Our neighborhood center designated many party evenings as "Philanthropy Evenings."

Events just outside the metro area are in demand and can be very profitable. They can also completely alter the livability of a neighborhood and create a threat to farm and forest practices. Fire danger is high on the list for this neighborhood and will be for many others. The onus cannot be put on a neighborhood to "prove" fire danger or other problems in order to limit permits. We already have land use planning and zoning for that and it should be kept in tact. Please continue to respect Oregon's land use law, and the law-abiding citizens who simply cannot be asked to be the enforcers of a new, vague system that is so very vulnerable to abuse.

Why are we concerned about SB 841 when our local event business is not a "winery"? The first reason is based on what we perceive to be an obligation to our state, its land use laws and ideals, and fellow citizens who might find themselves in a similar situation as we were following SB 1055. When it comes to the process of residents defending their neighborhood, and the law, it is not as important what a potential event-center proprietor can do under the law, as it is what he thinks he might be able to do. The second reason does concern our own preservation of countless hours of work, hearing preparation, testifying and worrying, coupled with thousands of dollars of attorney's fees. Ed Sullivan, a Portland land-use attorney, was quoted in an *Oregonian* article on Tom McCall describing the morphing of law that concerns us: "This is the 'death by a thousand cuts' approach."

I have voiced our complaint that monitoring and enforcing land-use law has been a major time and financial burden for our neighborhood. However, we feel there is a worse outcome in these situations that probably occurs at a much higher frequency. Many times when there is a violation of land-use law, neighbors do not know what to do. They do not feel empowered to deal with a county land use department or communicate with those of you in our state legislature. Most of the "unintended consequences" will thus go unnoticed by government.

Oregon has provided a growing and nurturing environment for our wine industry, and I hope that we can continue to do so. However, enacting law such as SB 841 with its dangerous potential for "unintended consequences" is long-term folly.

Thank you for your service to Oregon in challenging times. So many of us hope that you can help us navigate some difficult issues while maintaining the values and character of our wonderful state.

And thank you for your time in understanding this complicated issue.

Yours sincerely,

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