

The wealth of a frugal lifestyle

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## 2 State tackles TD charges

### No other Oregon city charges so much for lot partitioning

■ By RaeLynn Ricarte  
*The Dalles Chronicle*

John and Gerry Dennee could not afford the \$52,111 bill levied by the City of

The Dalles if they partitioned their East 10th Street property to create two lots instead of one.

The couple didn't know where to turn after plead-

ing their case without success to the city council at two separate hearings.

They had moved into their retirement years and felt it was time to sell the

large two-story home they purchased in 1985.

The Dennees were finding it more and more difficult to move up and down the stairs and maintaining

the lush landscaping on the 82-by-200-foot lot had become arduous.

"We needed to downsize and we wanted the choice to either build smaller on

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# State

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the lower lot or go someplace else if we decided to sell everything," said Gerry. "Plus, we had always planned to use some of the money from a sale to supplement our retirement income."

Other neighbors with sizeable tracts of land on the east side of town were facing the same problem of high costs — some as much as \$150,000 — for partitions. They were unsatisfied with the "compromise" plan that had been approved by the city council in February.

The elected body decided the assessment of \$350 per linear foot to cover the cost of future street, sidewalk, curb and storm drain improvements should stand. However, they tied payment to the development of the new lot instead of when the property sold or after a 10-year period had passed.

"What they are basically doing is stopping development because no one is going to be able to afford this assessment," said John.

Opponents said no new traffic was generated by a land partition and construction on the lot might lie years in the future. They also protested having the fee tied to the property once the lot had been created so that future buyers inherited the cost if they sought to develop.

"Why would a person want to buy a house that basically had a lien on it?" asked John.

Although a public hearing about the amended code is scheduled to take place in June, the Dennees and other landowners in the area are hoping the state will intervene and change the way The Dalles does business.

"We weren't getting anywhere with the council so we took the issue to the powers-that-be," said John.

The Dennee's daughter-

in-law, Tammy Dennee, a lobbyist in Salem, brought the issue before Dave Hunnicutt, executive director of Oregonians in Action, a property rights watchdog group.

He was "flabbergasted" to learn about the assessment and said it is "thousands upon thousands" of dollars more than charges in other Oregon cities.

"I thought there must be some mistake," he said. "It goes beyond the scope of reason for the City of The Dalles to charge extraordinarily high fees; this is essentially a tax and no one's ever going to pay it."

Rep. John Huffman, R-The Dalles, was also approached by local residents about the issue and agreed to sponsor House Bill 3479-4. The measure was crafted by Hunnicutt with input provided by the League of Oregon Cities and municipalities around the state.

As a result of these consultations, language to limit the amount of System Development Charges was removed and the sole issue addressed by the bill is the partitioning of a lot.

The bill limits the amount that can be charged for minor property divisions to \$5,000, also payable at the time of development.

"I think everyone on the (House Land Use) Committee was sympathetic to the plight of property owners in The Dalles," said Hunnicutt, who asked the Dennees and other affected residents to either testify in person or submit documentation of their experiences with city officials.

"When I told the committee what was going on, they all just shook their heads."

Huffman said Thursday the measure was unanimously approved by the committee and is headed for a floor vote, probably sometime next week. He said the assessment levied by the city, in some cases, exceeds the value of the property.

"We have to figure out

how, as a community, we're going to put infrastructure in without increasing the real market value of a lot beyond the price it can be sold," he said.

Gene Parker, city attorney, disagrees with Hunnicutt's assertion that The Dalles has higher fees than elsewhere in the state. He said the difference between the local municipality and others is that the bill for street improvements is imposed as soon as the lot is created instead of when development occurs.

"The assessment is based on what it would cost to buy materials and the labor involved in making improvements," he said. "These costs have to be paid somehow and we are just asking people to prepay them."

He said several developers have paid into the fund that will be used for future street projects planned by the public works department.

Currently, the City of LaGrande, with a population of slightly over 13,000, charges \$255 to partition a lot, plus a \$45 recording fee. Hood River, with a population about half the size of The Dalles, charges \$997 to partition and an additional \$450 recording fee. The price drops to \$100 plus a \$50 recording fee in Astoria, a city with about 10,000 residents, and is \$230 plus a nominal recording fee in Hermiston, with 16,795 residents. Pendleton, a city with nearly 17,000 residents, bills \$100 for a partition that does not involve a public hearing and \$200 for those that are challenged.

In each of these cities, as in The Dalles, the property owner is responsible to pay surveying costs involved with carving out a new lot that can amount to several thousand dollars.

Hunnicutt said The Dalles appears to be trying to avoid formation of a Local Improvement District to make street improvements. He said even

though the assessments tied to these districts often meet with strong opposition, it is the proper way for a government to do business.

He said the city is required by its own code to go through a specific process to levy additional taxes for street work, which is not being followed when fees are tied to a minor change in property use.

"The city's own ordinance states that property owners will be given notice about the intent to form an LID and be given a list of costs and then a chance to say, 'Yes' or 'No,'" said Hunnicutt.

Parker disagrees with that assertion and said state statutes allow cities to make pre-assessments for work that will need to be done to provide infrastructure services to areas with new development.

"Mr. Hunnicutt is entitled to his opinion but we have a different opinion," he said.

Hunnicutt and Huffman were in agreement that HB 3479-4 include a provision that stops The Dalles from requiring that property owners sign a "nonremonstrance agreement" when they partition a lot. That

agreement strips away their right to oppose an LID but Hunnicutt said it might be years before the district is formed and the cost for improvements might have skyrocketed by then.

He said an alternate scenario is that landowners pay the assessment and it sits in the future improvement fund for years without being used.

"You can't have people paying ahead of time for street improvements that might never occur," he said. "The Dalles is doing it backwards and is not even obligated to give the money back if they decide not to provide the service."

Parker said it is likely the funding would be returned to the landowner if the city decided not to proceed with infrastructure improvements. He said the proposed bill, itself, sets the stage for the city to ask that a nonremonstrance agreement be signed. He said the language of the measure allows the landowner to agree to the \$5,000 charge up front, do the improvements themselves or voluntarily sign away their rights to oppose an LID.

"We still believe we can

require a nonremonstrance agreement under this bill," he said.

Hunnicutt pointed out that The Dalles is located in the Columbia River Gorge National Scenic Area, which limits the amount of developable land. He said the city has to maximize its opportunities to attract new residents and industries, not make it prohibitive for people to make the best use of available properties.

He said if HB 3479-4 does not become law in the 2013 legislative session, he plans to keep pushing the issue until landowners in The Dalles are better protected.

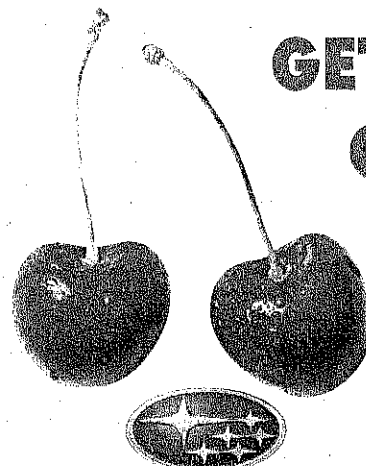
Parker said the city is not trying to place an undue financial burden on its citizens; officials are simply trying to make sure that money is available to repair and upgrade streets. He said putting off these repairs due to budget constraints results in even higher expenses when roadways deteriorate.

"We don't agree on some of the points that have been made but we can live with the revised bill if it passes," he said.

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