



Oregon Communities For A Voice In Annexations

Promoting & Protecting Citizen Involvement in Land Use Issues

P.O. Box 1388
North Plains, OR 97133-1388

<http://www.ocva.org>
e-mail: info@ocva.org

tel: 541-747-3144

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February 19, 2013

To: The Honorable Brian Clem, Chairman and members
House Committee on Land Use

RE: OCVA TESTIMONY ON HB 2028

Dear Chairman Clem & Members of the Committee:

OCVA strongly supports HB 2028.

We'll ask that you put yourselves in this hypothetical situation: You own a home outside the city limits but in the UGB. You want to convert your garage into a play room. Your county, under an IGA, has delegated to the city its task of issuing building permits. You go to city hall to apply for a permit and are told **YOU'LL HAVE TO AGREE TO BE ANNEXED** in order to receive the permit.

In other words, you must agree to a near-doubling of your property taxes and potentially thousands of dollars in assessments and fees – just to get a simple building permit. **Do you believe that's fair?** We don't, and that's why we requested this bill.

We see no legitimate reason for such demands. There are no statutory mandates for such requirements that we're aware of.

Additionally, in January 2006, Legislative Counsel issued the following opinion on the matter:

"A city may require consent to annexation only for delivering its own services, not for acting as the agent of the appropriate service provider." A relevant section is attached and highlighted.

This bill partially addresses what are aptly termed "hostage annexations." It does not revoke the right of a city to require annexation in exchange for providing a CITY service extraterritorially where it has not been previously provided. Nor are we asking you to do that.

Some of you have supported us in our previous successful efforts to bring more fairness to Oregon's annexation laws and practices and we remain very grateful. With HB 2028, we're asking you to continue that process – it's not finished yet.

As always, thank you for listening and thank you for this opportunity to testify.

Respectfully,

Jerry J. Ritter
Secretary & Legislative Affairs Representative



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

January 9, 2006

Representative Jerry Krummel
7544 SW Roanoke Drive N
Wilsonville OR 97070

Re: Annexation

Dear Representative Krummel:

This opinion supersedes our opinion on the same topic dated December 15, 2005. Our answer to question 1 is basically unchanged. Our answer to question 2 is modified; however, we still reach a substantially similar result.

You asked two questions relating to landowner consent to annexation. You and your constituents provided several documents¹ for our review of specific concerns relating to the City of Tigard and an unincorporated area known as Bull Mountain.

First, you asked whether a local government may require a landowner to consent to annexation as a condition for the delivery of an urban service.

Generally, the answer is yes. Annexation is one of the planning tools addressed in ORS chapter 195, which requires local governments to enter into cooperative agreements for land use planning and urban service agreements for the delivery of urban services. However, in this specific instance, the documents show electors rejected an annexation plan² that, if approved, would have authorized annexation of Bull Mountain by the City of Tigard based on the delivery of urban services to the area.

Second, you asked whether a local government may require a landowner to consent to annexation as a condition for the issuance of a building permit.

Generally, the answer is that a local government may require consent to annexation for providing extraterritorial services. We note, however, that building inspection is not a service generally provided extraterritorially. In unincorporated areas, the county is responsible for providing building inspection services, not a city. When a city operates a building inspection program in unincorporated areas pursuant to an intergovernmental agreement with the county, the city does not deliver its own services; rather, the city acts as an agent of the county, delivering services on behalf of the county to the unincorporated territory. A city may require

¹ A list of documents reviewed is attached as Appendix 1.

² ORS 195.215 requires approval of an annexation plan by a majority of the electors of the city and a separate majority of electors in the territory to be annexed. A majority of electors in the City of Tigard approved the annexation plan; however, the annexation plan was rejected because a majority of electors in the Bull Mountain area did not approve the plan.

Representative Jerry Krummel
January 9, 2009
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consent to annexation only for delivering its own services, not for acting as an agent of the appropriate service provider.