



# LINN COUNTY BOARD OF COMMISSIONERS

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5/26/2010

Chair Macpherson and RLUIPA Workgroup

C/O DLCD  
635 Capital Street NE, Suite 150  
Salem, Oregon 97301-2540

Re; Draft RLUIPA rules and concepts

Mr. Chairman and Members,

This is the written response that the Chairman asked me to write at the RLUIPA (Religious Land Use and Institutionalized Persons Act) meeting on Jan 14<sup>th</sup>. The Linn County Board has not discussed this matter and this letter reflects my opinion based upon my observations.

Linn County is one of the few counties in the State of Oregon that as a regular policy has aggressively pursued the development of recreation opportunities for its citizens. When looking at our parks you will note that usage and location vary greatly throughout the county. Some are placed as resource dependent and some are placed as geographically dependent.

For example, over the last 5-6 years Linn County has developed a new river front park and campground on the south fork of the South Santiam River, developed and constructed a new day use park and boat facility on Foster Reservoir, taken over and refurbished Clear Lake Resort and expanded and remodeled several of our other existing facilities.

All of our park developments are based upon what our citizens think we should provide and not what other entities around the state believe we should provide. Local policy is much more effective and efficient than the standard top-down one size fits all approach. For this, we enjoy an enormous amount of citizen support.

Linn County provides recreation not only for our citizens but also for people from all over Oregon and elsewhere. We currently are developing a large regional facility to fill a much needed use that is not available in Oregon. We are also working with our federal partners to plan for the continued maintenance and enhancement of their facilities and in the future designing and building new facilities in a joint effort for recreation in the region.

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Almost all of Linn County's facilities lay within 3 miles of a UGB (urban growth boundary). The 3 mile planning area is arbitrary and capricious and it does not make common sense. Generally, the UGB is a way to ensure that prime farm soils in Oregon are developed. Of Linn County's 1,477,736 acres, 24,383 are class 1 of which a large amount lays within cities and UGB's. The preservation of prime farm ground in general does not dictate state land use policy. As with all state land use, the size and experience of one's law firm dictates policy. If the legislature was serious, Oregon land use laws would be very different.

The "three mile rule" does not take into consideration uses on properties near a UGB. For example: Detroit is on a reservoir and is surrounded by campgrounds and recreation, McDowell Creek Falls is within 3 miles of Sweet Home and Camp Sherman/Black Butte impacts many facilities. In fact, most of Oregon's parks appear to be within 3 miles of a UGB.

Limiting the size of a facility on park land is unacceptable and does not take into account the ever changing face of recreation and community needs. The prohibition on structures that was suggested at the meeting is unacceptable and a limitation on size is unreasonable.

At the RUIPLA work group meeting on Jan 14th, it was suggested that facilities not let more than 100 people gather. This is so ridiculous on so many levels it shouldn't be necessary to even discuss it. The Deschutes county representative that was on the phone, I believe, shared many of the same concerns but was bound by the same restrictions as state parks personnel present, to not be candid. All of the proposals on the table would be prohibitive of developing and maintaining recreation facilities in our counties. The size limitation put forward by Art Schlack of the AOC (Association of Oregon Counties) is not acceptable. Mr. Schlack is not a county policy maker nor does he speak for Linn County. The fact is that any restriction on public park uses within 3 miles of an UGB is unreasonable.

After reading through the material provided by DLCD staff including proposed rules, memos, the Jackson County LUBA decision and the Federal Act I find the supposed purpose of the RLUIPA work group a bit perplexing and its apparent purpose a bit more disturbing.

Speaking as John Lindsey citizen, and not county commissioner, I found the work group's line of discussion more and more troublesome when thinking about things that were said. One of the suggestions included trying to figure out how to limit the number of religious individuals using a facility. It was even questioned what to do if someone leads a prayer in an open EFU zoned piece of land and I heard derogatory statements about native religions. For the life of me, I cannot understand how a prayer might end agriculture across Oregon.

This whole argument smells of the technocratic San Diego land use case in which city planners determined that a minister's prayer group in his home was a violation of zoning laws. He was handcuffed and jailed. The courts are having a ball with this one. A prayer cannot take place outside of the box that government allows it ?!?!

What I learned from reading the Jackson County LUBA case is that they actually followed the law. Period. What I also learned from the work group's discussion on Jan 14<sup>th</sup> is that there is apparently some hurt feelings that those darn shamans were given the same protections as all those other religious people. I observed members of the LUIPA committee at times engaging in not only ant-religious discussion but also racist discussions.

This regulatory discussion was instructive not just because of the poor policy proposals but rather as an exercise in using land use to control personal behaviors. I read recently that the Portland area is comprised of 52% non-religious people. That number explains a lot, but it does not reflect Linn County or the rest of Oregon. I still remember some of the arguments and derogatory comments made about Christians when then House Speaker Snodgrass worked on addressing these kinds of issues.

I think Oregon has an over abundance of rules, regulations and regulators. I also think that the RUILPA work group was a response created by a government of religious bigotry.

The Land Conservation and Development Commission and the LUIPA Committee can best serve the citizens of Oregon by taking no action and writing no more rules on this issue.

Respectfully,

John K. Lindsey  
Commissioner  
Linn County

Cc: Barnhart, Sprenger, Olson, Thompson, Morse, Boquist, Girod, Morrisette, LCDC Commission, Counties