



Save Helvetia.org

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Advancing policies, leaders and actions
that protect Helvetia's
treasured resources

April 1, 2015

Save Helvetia's position on Senate Bill 716

Save Helvetia is an organization born out of the Washington County Reserves Process in 2010. Members logged over 10,000 volunteer hours and encumbered a \$75,000 legal bill providing education and testimony supporting the protection of farmlands north of Highway 26. We appealed Washington County's Reserves Ordinance to Metro then to LCDC, and then to the Oregon State Court of Appeals. While the court was deliberating, we attempted to "settle" with the City of Hillsboro and Washington County: the county rejected our overture. In February 2014, the court ruled in support of our assertion that the county had misapplied state law in assessing Helvetia acreage as meeting urban reserve criteria. Even though the county had contributed to the law and contributed to the OAR work group, the county went astray in its implementation. The court threw out the entire county plan.

Save Helvetia then participated in the legislative settlement of that court case, in February 2014. We supported this emergency intervention in local land use to protect appropriate farmlands, speed up the zoning of lands appropriate for urban development, and to address the economic development needs faced by the entire State of Oregon.

With skin in the game, we strongly oppose Senate Bill 716.

1. The Oregon State Court of Appeals undertook extensive study of the Reserves ordinances of Clackamas, Multnomah, and Washington Counties. The court ruling was over 125 pages in depth. SB 716, in short study, would undermine the court's ruling. Clackamas and Multnomah Counties' Reserves ordinances were largely affirmed by the court. How does SB 716 support that?
2. The legislature has a citizen involvement process but it lacks the notice, involvement through time, and input opportunities required by Goal One of SB 100, and enshrined in county ordinances for local land use planning. SB 716 might require counties to violate their citizen involvement ordinances.
3. SB 716 lacks transparency in that it does not show us who requested this bill. While the body implies that a recent study of industrial acreage needs is the motivating force, those land needs already received extensive study during the Reserves process and were to be factored in to the development of the 50 year Urban and Rural Reserves and the so-called "grand bargain," HB 4078. The recent assertion that already more acreage is needed is simply refutable. For example, in the past year, the City of Hillsboro broke up a "shovel ready, state certified" 74-acre large industrial parcel into smaller parcels: a high tech golf driving range is now approved for part of that land.
4. SB 716 would violate the good faith negotiations that resulted in the legislative settlement of most of the reserves litigation, also known as the "grand bargain." All three counties and Metro testified in the legislature that they supported this one time, emergency fix. None now could support SB 716 without a breach of faith.

5. The grand bargain was an extra-ordinary state intervention into regional land use authority. The legislature was only sitting for 6 weeks in 2014; the court issued its ruling mid-session. Into this window, creative legislative leadership devised the mechanism to protect appropriate farmlands as rural reserves, while moving appropriate lands forward for development. This won bipartisan and statewide support in the legislature. The legislature is to be commended for a smart fix in the nick of time and during such a brief sitting. This does not however constitute a precedent and SB 716 does not resonate with need or statewide benefit.
6. SB 716 would create more precedent for state intervention into local land use planning and the authority and responsibility of locally elected representatives. If you are attempting to correct something wrong at the local level, we recommend tightening up on the conflict of interest in land use by decision makers, giving citizen involvement (Goal One) OARs to strengthen them, and by putting more clarity into the open meeting laws. For us, many land use decisions came into conflict, were subject of close door dealing, and adherence to citizen involvement became manipulated.
7. SB 716 appears to have the footprints of landowners and speculators seeking yet another way to make a fortune. Did these owners/speculators have “standing” in the Reserves process? If not, why not? Should any SB 716 lands be required to meet that test? Did these owners/speculators appeal at all appropriate levels? If not, why not? Should any SB 716 lands be required to meet that test? The steps of redress are known and available to all. SB 716 would create a two-tiered land use system: one for the wealthy speculator and one for the others.
8. SB 716 would subject Save Helvetia to a double jeopardy. We did our work, we developed standing, and we appealed at every appropriate level. In the end, the court ruling focused on the misapplication of law with regard to the Helvetia farmland. Even though our county government used our tax dollars in its misapplication of law, nobody is reimbursing us our 10,000 hours of volunteer time or \$75,000 in legal bills. SB 716 could cause these lands to be retaken, with no criteria, without appropriate citizen involvement, while taking away any method of redress. That is simply wrong. Pass this and pay us back our time and treasure.
9. The Reserves process was marketed as providing farmers and landowners the essential “certainty” needed for agricultural or forestry business plans and for those awaiting urbanization. SB 716 dashes certainty and replaces it with a monopoly game of chance.
10. SB 716 would take away the right of appeal, an established system of redress, a valuable check and balance in the scheme of land use planning. The development of standing and the right to appeal to a higher level of review helps our land use system remain robust. This is quality assurance. It helps governments follow the law and its’ ordinances. Citizens and advocacy organizations bring forward detailed information and perspective about lands and issues that governments might be more distant from. If a government land use plan fails upon legal review, isn’t that still a good thing?
11. We anticipate full public disclosure of possible conflicts of interest during discussions of SB 716. Eligible lands and landowners should be identified and decision makers should declare receipt of any contributions/benefits from these landowners and/or their advocates.

The grand bargain (HB 4078) was a creative and unique way to respond to a court decision that would otherwise have taken the Metro region local governments a long time to respond to appropriately. For that reason, governments and advocacy organizations came together, put differences aside, came to agreement, and with the help of the legislature, made land use history. But that successful history belongs in a chapter to itself. It should not be repeated. Close this barn door. Don’t let the legislative success of the grand bargain beget the demise of our state land use system, reward speculation, diminish local land use authority, and remove checks and balances.

Respectfully,

Robert Bailey, Secretary
Board of Directors
Save Helvetia