



Restoring Recreational Immunity in Oregon

Recent Court Decision Requires Statutory Changes to Protect Land Trust Immunity

Background

The Oregon Public Use of Lands Act encourages *public and private landowners* to make their land available to the public for recreational purposes by providing landowners immunity from liability.

However, a recent Oregon Court of Appeals decision undermined the immunity guaranteed in the Act, which would result in a severe reduction of land available to Oregonians for their recreational use and enjoyment.



As of 2023, there were 90 land trust properties open for public use in Oregon.

This legislative session, we must restore recreational immunity protections and ensure Oregonians can continue to access land for recreation and enjoyment!

What is Recreational Immunity?

With recreation immunity, landowners—both public and private—who make their land available without charge for recreational use by the public are not liable if a person is injured while using the land for recreational purposes.

The Public Use of Lands Act has increased the availability of land for free recreation by limiting liability of cities, counties, parks, schools and private owners that allow use for the public.

The Court Decision:

In *Fields vs. City of Newport*, the plaintiff fell on a wooden bridge on the city's "Ocean to Bay Trail," while walking her dog to the beach to engage in recreation.



The initial court dismissed her personal injury claim, but two issues arose in the appeal: 1) whether the walk on the trail was recreation, and 2) whether the trail falls under the recreational immunity statute.

The plaintiff argued that a jury could conclude her purpose was not principally recreational, as she was using the trail to access the beach, and that the Act only protects unimproved access trails and the designed “Ocean to Bay Trail” did not provide the city recreational immunity protections.

SIGNIFICANCE OF THE DECISION FOR LAND TRUSTS – Land trusts with properties open to the public now are at greater risk of lawsuits by recreational users who argue that they were injured while using a trail to access a recreation site, such as a fishing hole, a view point, or a bird watching location.

Land trusts could face costly litigation and increased liability insurance premiums.

Legislative Solution

Following *Fields vs. City of Newport*, we seek to amend the Public Use of Lands Act to restore recreational immunity protections for public and private land open for recreational opportunities.