



Oregon

Kate Brown Governor

Oregon Judicial Department
Columbia County Circuit Court
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St. Helens, OR 97051
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<http://courts.oregon.gov/Columbia>

July 29, 2021

STATE OF OREGON
COLUMBIA COUNTY COURTS
DATE: 7-29-21 TIME: 1:30
BY: _____ IN COURT FILING PM

Ms. Sarah Hanson
Columbia Co. Counsel
230 Strand Room 20
St. Helens OR 97051

Mr. Steven Berman
Stoll Berne PC
209 SW Oak St Ste 500
Portland OR 97204

Mr. Brian Marshall
Oregon Department of Justice
100 SW Market Street
Portland OR 97201

Mr. Tyler Smith
Tyler Smith & Associates PC
181 N. Grant St Ste 212
Canby OR 97013

Re: Columbia County vs. In Rem
Columbia County Circuit Court Case No. 21CV12796

Dear Ms. Hanson, Mr. Berman, Mr. Marshall, and Mr. Smith:

While a governing body may seek review of an ordinance, even one that incorporates initiative measures, judicial examination still requires a justiciable controversy. ORS 3.710(4). Petitioners have not demonstrated such a controversy.

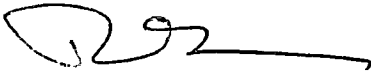
Petitioners do not seek to defend their ordinance from a challenge or resolve some conflict between parties. They do not attempt to overcome resistance from the Sheriff or State Police, nor, as apparent from their pleadings, would they defend their ordinance at all even if challenged. Instead, Petitioners seek what amounts to an advisory opinion designed to invalidate their own newly passed ordinance.

This lack of controversy is not cured by the appearance of intervenors. *Teledyne Industries v. Paulus*, 279 Or 665, 670 (1984) ("Justiciability does not depend on the fortuitous appearance of an intervenor.").

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Petitioners do not have authority to seek, and the court does not have authority to grant, review of an ordinance without a justiciable controversy. Intervenors' request to dismiss the petition is granted.

Sincerely,



Ted E. Grove
Presiding Judge

TEG:cf