

BEFORE THE MULTNOMAH COUNTY
HEARINGS OFFICER

MULTNOMAH COUNTY,

Plaintiff,

v.

SCOTT AND STACY REED,

Defendants.

Zoning Violation CCPR1-2025-0003

DEFENDANTS' REPLY IN SUPPORT OF
MOTION TO DISMISS PROCEEDING FOR
LACK OF JURISDICTION AND
ALTERNATIVE MOTION FOR AN
ORDER DETERMINING PROCEDURAL
PROCESS

REPLY

Defendants Scott and Stacy Reed submit this reply in support of Defendants' motion to dismiss proceeding for lack of jurisdiction and alternative motion for an order determining procedural process ("Opening Memorandum"). For the reasons set forth in the Opening Memorandum and as further described below, the Hearings Officer lacks jurisdiction to hear this matter and this administrative proceeding should be dismissed. Alternatively, if the Hearings Officer determines he does have jurisdiction over this matter, the Hearings Officer must establish an alternative process with additional procedural safeguards as the County's chosen "quasi-judicial land use process" does not afford Defendants procedural due process.

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1 **I. ORS 153.030(4) Bars Administrative Enforcement of Locally Created Offenses**

2 Both parties agree that the threshold jurisdictional question turns on the proper
3 interpretation of ORS 153.030(4). Defendants addressed that statute in detail in their opening
4 brief, and the Hearings Officer should review that brief for the full statutory analysis. To
5 summarize, ORS 153.030(4) preserves a political subdivision’s general authority to use
6 administrative enforcement to enforce its charter, ordinances, rules, and regulations, including
7 through monetary penalties. But the statute then creates an express limitation on this authority:
8 except for parking ordinances, administrative enforcement “may not be used for any prohibition
9 designated as an offense.”

10 That limitation is dispositive here. Oregon law defines an “offense” as conduct for
11 which imprisonment or a fine is provided by state law or by the law or ordinance of a political
12 subdivision. ORS 161.505. An offense may be either a crime or a violation. Id. By the plain
13 reading of the statute, an ordinance violation is an “offense” if the local ordinance prohibits
14 conduct and provides a fine as the penalty. ORS 153.008; ORS 161.505.

15 In this case, the County alleges that Defendants violated provisions of Chapter 39 of the
16 Multnomah County Code. Chapter 39 prohibits the use of land under certain circumstances, and
17 separate provisions of that chapter authorize the County to impose fines for the alleged
18 prohibited conduct. The County is, in this proceeding, seeking those fines from Defendants as a
19 penalty for their alleged prohibited conduct. Accordingly, the County has enacted ordinances
20 prohibiting certain conduct and has provided fines as the penalty for engaging in that conduct.
21 Under ORS 161.505, that alleged conduct falls within the definition of an “offense.” Therefore,

1 the County lacks the authority to adjudicate the offense through a locally adopted administrative
2 process.

3 The County raises a single argument in response to Defendants position that the Hearings
4 Officer lacks jurisdiction to hear this matter. According to the County, ORS 153.030(4) only
5 prohibits “offenses” found in the ORS, not “offenses” created by local governments. Response at
6 2-7. In reaching this conclusion, the County argues that in using the words “designated as an
7 offense” the Legislature intended subsection 153.030(4) to only refer to offenses designated as
8 offenses by the state – not local governments. Id at 3-5. As explained in greater detail below, there
9 is nothing in the text, context, or legislative history to support that argument. In fact, the opposite
10 is true – the text, context and legislative history all support Defendants’ interpretation.

11 **A. The County’s Reading of ORS 153.030(4) Cannot Be Reconciled With the Text**

12 The County’s interpretation cannot be reconciled with the text of ORS 153.030(4), the
13 statutory definition of “offense” in ORS 161.505, or the structure of ORS Chapter 153. Issues of
14 statutory interpretation are resolved by examining the text and context of the provision, as well
15 as any helpful legislative history. *State v. Gaines*, 346 Ore. 160, 171-72, 206 P3d 1042 (2009).
16 One begins this analysis by looking to the text, which “is the best evidence of the Legislature's
17 intent.” *State v. Wright*, 375 Or 383 (2026); quoting *PGE v. Bureau of Labor and Industries*,
18 317 Ore. 606, 610, 859 P2d 1143 (1993).

19 ORS 153.030(4) states:

20 “(4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to
21 engage in the activities described in ORS 3.136 (3). Nothing in this chapter affects
22 the ability of any other political subdivision of this state to provide for the

1 administrative enforcement of the charter, ordinances, rules and regulations of the
2 political subdivision, including enforcement through imposition of monetary
3 penalties. Except for ordinances governing the parking of vehicles, administrative
enforcement as described in this subsection may not be used for any prohibition
designated as an offense.”

4 ORS 153.030(4) (emphasis added). The County argues that the text of subsection ORS
5 153.030(4) is ambiguous because it does not state “who is responsible for designating an act as
6 an offense.” Response at 3. According to the County, this leaves open the possibility that an
7 offense is one only designated by the state. Defendants disagree. There is no ambiguity in the
8 last sentence of subsection (4). With the exception of parking violations, a local government
9 cannot administratively enforce any prohibition designated as an “offense”. There is nothing in
10 that sentence that limits its applicability to offenses designated by the Legislature.

11 In fact, the opposite is true. The sentence makes clear that certain “offenses” designated
12 by local governments – parking tickets – may be administratively enforced, but all other
13 “offenses” designated by local governments must be judicially enforced. By allowing local
14 governments to administratively enforce a limited subset of locally designated offenses, the
15 Legislature demonstrated an understanding that subsection (4) applies to most locally
16 designated offenses.

17 The County also argues that subsection (4) does not contain a clear legislative
18 preemption of local authority to administratively enforce locally created offenses. Response at
19 2, 6. Of course it does – that’s the whole point of the last sentence of subsection (4). In fact, the
20 Legislature was surgical in crafting the last sentence of subsection (4), allowing local
21 governments to administratively enforce parking tickets (which are obviously offenses as
22

1 defined in §43 of SB 20 (1999); now ORS 161.505) while requiring local governments to
2 comply with procedural safeguards for other designated local offenses. This certainly does not
3 prohibit a local government from designating prohibited behavior as an offense and imposing
4 payment of a fine as punishment. It simply means that if a local government is going to impose
5 a fine as punishment for violation of a local ordinance, they must follow standardized
6 procedures set forth in Chapter 153 to ensure that the accused is treated fairly. In this case, the
7 County clearly has designated Defendants' conduct as an "offense." It must use judicial
8 procedures to enforce violations of that conduct.

9 **B. Context Confirms That Chapter 153 Reaches Local Ordinance Violations**
10 **Punishable by Fine**

11 According to the County, ORS 153.030(4) only prohibits "offenses" found in the ORS,
12 not "offenses" created by local governments. Response at 3-5. In support of this argument, the
13 County points to three distinct statutory provisions where the Legislature explicitly limited
14 application to offenses designated in the Oregon Revised Statutes (ORS). Response at 3-4.
15 First, the County relies on ORS 153.008(1)(a), which defines "violations" strictly in terms of
16 offenses designated as such within the state code. Second, it references ORS 153.015, which
17 confines "unclassified" and "specific fine" violations solely to offenses described within the
18 ORS. Third, the County points to ORS 153.025(1), which outlines fine and classification limits
19 specifically for circumstances where an ORS provision declares a violation of a local ordinance
20 to be an offense. Together, the County uses these three statutes to argue that, contextually,
21 Chapter 153's procedural limitations were intended to target state-level legislative offenses
22 codified in the ORS rather than locally enacted ordinances. Response at 4. As explained below,

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1 the County's interpretation of ORS 153.030(4) is entirely unsupported by its statutory context.
2 Instead, the context supports Defendants' position.

3 Both ORS 153.030 and ORS 153.008 were created or amended by the Legislature as
4 part of Senate Bill 20 (1999), which established a unified procedure for all violations. Under
5 ORS 153.030(1), the procedures outlined in Chapter 153 apply broadly to all "violations"
6 defined in ORS 153.008. Crucially, ORS 153.008(1)(c) expressly includes offenses created by a
7 local ordinance of a county as "violations":

8 "The offense is created by an ordinance of a county, city, district or other political
9 subdivision of this state with authority to create offenses, and the ordinance
10 provides that violation of the ordinance is punishable by a fine but does not provide
11 that the offense is punishable by a term of imprisonment. The ordinance may
12 provide for punishment in addition to a fine as long as the punishment does not
13 include a term of imprisonment."

14 ORS 153.008(1)(c). If the procedures in Chapter 153 were meant to apply only to state-law
15 offenses as the County argues, then the Legislature's explicit inclusion of offenses created by
16 local ordinances in ORS 153.008(1)(c) would be completely superfluous. To adopt the County's
17 reading would render the statutory language including offenses created by local ordinances as
18 violations entirely meaningless.

19 The definition of "offense" in ORS 161.505 further supports this point. The statutory
20 definition of "offense" (which was amended as part of SB 20) is not limited to prohibited
21 conduct set forth in the ORS. In fact, an "offense" under ORS 161.505 expressly includes
22 prohibited conduct proscribed by local ordinance:

23 "An offense is conduct for which a sentence to a term of imprisonment or to a fine
is provided by any law of this state or by any law or ordinance of a political

1 subdivision of this state. An offense is either a crime, as described in ORS 161.515,
2 or a violation, as described in ORS 153.008.”

3 (emphasis added). Based on the plain reading of the statute, the key to whether prohibited
4 conduct is considered an “offense” under Oregon law is not limited to the source of the
5 prohibition being the ORS as the County suggests. Rather, what makes prohibited conduct an
6 “offense” under ORS 153.030(4) is the imposition of a fine (or imprisonment) as punishment
7 for the conduct.

8 While the County relies on ORS 153.015 and ORS 153.025, the actual context of these
9 statutes directly undermines its position. Defendants agree with the County that the definition of
10 “unclassified” and “specific fine” violations in ORS 153.015 do not apply to violations created
11 by local governments pursuant to ORS 161.505 and ORS 153.008(1)(c). In fact, a companion
12 provision enacted in SB 20 (1999), ORS 153.025(1), provides that if a state statute designates
13 the violation of a local ordinance as an offense, the local government has the authority to reduce
14 the severity of the penalty. Specifically, the political subdivision may pass an ordinance to set a
15 specific fine (or maximum fine) that is lower than the state’s statutory maximum, and it may
16 classify the offense as a lower-tier violation (Class A, B, C, or D) than what the state statute
17 prescribes. ORS 153.025(2) specifically provides that local governments are not bound by the
18 fee schedule set forth in ORS 153.019 and 153.020 or the classification schedule set forth in
19 ORS 153.012.

20 Far from helping the County, these provisions prove that when adopting SB 20 (1999)
21 the Legislature had the ability to distinguish between circumstances where various provisions of
22 ORS Chapter 153 were limited exclusively to offenses designated as violations by the ORS

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1 compared to those that were created by local governments through ordinance adoption. In fact,
2 as the County notes, the Legislature made that distinction many times. But there is no such
3 distinction found in the language of the last sentence of ORS 153.030(4). Nothing in the last
4 sentence subsection (4) limits the prohibition on administrative enforcement to only violations
5 designated by the Legislature and found in the ORS.

6 In fact, the language of the last sentence of subsection (4) contains a distinction between
7 the types of local ordinances which could (if the local government chooses) be enforced
8 administratively (parking tickets – just not by the City of Portland) as opposed to those which
9 must be enforced through judicial processes (the remainder). The Legislature certainly had the
10 authority and ability to limit the applicability of subsection (4) to only those violations found in
11 the ORS, but they chose not to do so. To read the sentence in that matter would be to insert
12 words into the statute that simply don't exist.

13 **C. The Legislative History Refutes the County's Interpretation**

14 In its Response, the County argues that legislative history demonstrates that when
15 enacting SB 20 (1999) , the Legislature did not intend for the bill to limit administrative
16 enforcement of locally adopted ordinances. Response at 4-5. A more careful review of the
17 legislative history shows this is not the case, and the only legislative history directly explaining
18 the meaning and intent of ORS 153.030(4) actually supports Defendants' position.

19 Senate Bill 20 was introduced in the 1999 Legislature at the request of the Oregon Law
20 Commission (OLC). The spokesperson for the proponents of the bill was Bradd Swank of the
21 Oregon State Court Administrator's Office, who was asked to introduce, explain, and speak in
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1 support of the bill by the Oregon Judicial Department. Senate Judiciary Committee, February 1,
2 1999, Tape 20, Side AB at 9:25.¹

3 At the hearing, Mr. Swank provided a history of the law and the need for the bill. Id. at
4 9:48. According to Mr. Swank, in the mid-1970's Oregon adopted a new system for citing for
5 traffic cases. Traffic tickets were written on uniform citation forms and labeled as infractions.
6 The accused could post their bail and choose to either forfeit the bail or take further action. The
7 process became popular enough that the Legislature expanded it over the years to other areas of
8 the law, creating seven different kinds of infractions by 1997 and two different kinds of
9 violations, each with its own procedural process and fine amount. This was causing confusion
10 for the courts, prosecutors and the public. That was the genesis for SB 20. Id. at 9:48 – 11:28.
11 To alleviate the confusion, Mr. Swank was asked by the Chief Justice of the Oregon Supreme
12 Court to unify the statutory process for all involved. Id. In response, an OLC workgroup created
13 a unified procedural framework for all non-criminal infractions – violations – and introduced as
14 the framework as SB 20. Id.

15 At the hearing, Mr. Swank testified that the Judiciary Committee staff had forwarded
16 him a list of issues that had been raised by interested parties to the bill, and that he would work
17 with Legislative Counsel to prepare amendments to address concerns raised by any interested
18 party. Id at 11:28 – 16:30. After questions from committee members, Senator Neil Bryant, the
19

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21 ¹
22 <https://records.sos.state.or.us/ORSOSCMSearch/Search/SearchDetail.aspx?uri=8203741>

1 chair of the committee, closed the public hearing and informed Mr. Swank that they would
2 schedule a work session on the bill once Mr. Swank reviewed the issues raised along with any
3 further suggestions and had a chance to analyze them. Id. at 26:20 – 26:27.

4 The Committee scheduled a work session on the bill for February 17, 1999. At the work
5 session, Senator Bryant asked Mr. Swank to explain the multitude of amendments that Mr.
6 Swank was recommending for adoption into SB 20 that had been prepared since the February 1
7 public hearing. See the following amendments to SB 20: SB-2 (Response, Attachment 2, pg.
8 20), SB-3 (Response Attachment 2, pg 22), SB-4 (Response Attachment 2, pg. 23), SB-5
9 (Response Attachment 2, pg. 24), SB-7 (Response Attachment 2, pg. 25), SB-9 (Response
10 Attachment 2, pg. 26), and SB-12 (Response Attachment 2, pg 28).

11 One of the amendments proposed by Mr. Swank was the dash-12 amendment. The
12 dash-12 amendment contained what is presently found in ORS 153.030(4) - (7). See Reply
13 Exhibit A. In describing the dash-12 amendment, the following colloquy occurred between Mr.
14 Swank and Senator Bryant:

15 “SWANK: We had rather extensive conversations, I did, with Tom Corr, the Linn
16 County Counsel, and with Paul Snider of the Association of Oregon Counties.
17 They were concerned. Currently, cities and counties both do a lot of administrative
18 enforcement of building codes, dog violations, other minor problems that they have.
19 Sometimes they enforce their codes by civil actions in courts rather than making
20 them offenses. They were concerned in looking at this that we were creating a large
21 scheme of offenses, and they didn't want that to be their only option for enforcing
22 their ordinances, as it currently is not their only option for enforcing their
23 ordinances. So we created the dash-12 amendments to resolve their problems.

24 The first sentence of this, and this is important legislative history, it says, ‘this
25 chapter does not affect the ability of the city described in ORS 3.136(1) to engage
26 in activities described in ORS 3.136(3).’ The reason that's important is because that
27 refers to the enforcement of parking in Portland. And in Portland, the circuit court

1 is the municipal court. And all the parking is - the only place in the state where all
2 of the parking is enforced through the circuit court. And while they have authority
3 to do administrative enforcement in Portland, that administrative enforcement does
4 not extend to parking offenses. And that's important to the State of Oregon because
5 having those offenses enforced in the circuit court means the state gets half of the
6 fine amount from those parking offenses. And that's about \$8 million dollars a
7 biennium that goes into the general fund. So we wanted to make clear with that first
8 sentence that we aren't touching what Portland does with its parking in the circuit
9 court. We're staying away from that. We're leaving it as it is. And I'm stating this
10 for the record –

11
12 SEN. BRYANT In case you ever get a parking ticket in Portland?

13
14 SWANK: Well, no. In case I ever get an argument from the City of Portland that
15 they should be able to do their parking enforcement administratively and take that
16 money away from the general fund. I don't want Ways and Means people to be
17 coming back at me saying this was an unintended consequence.

18
19 The rest of the section makes clear that to the extent political subdivisions of this
20 state have ability to administratively enforce their ordinances or to bring civil
21 actions to enforce their ordinances, including for civil penalties, that the provisions
22 of the new Chapter 153, which is going to deal with violations, do not affect those.
23 So they are in the clear to the extent that they currently have authority for all of that
kind of administrative enforcement, for all of that kind of bringing a civil action to
enforce.

24
25 But when they designate an offense, and if they create an offense by their
26 ordinances, then those offenses are subject to enforcement under the procedure set
27 forth in this chapter. That will give them the choice when they draft an ordinance
28 of saying how do we want to enforce this ordinance? Do we want to enforce it
29 administratively at the local level? Do we want to bring some kind of civil action
30 to enforce it? Or do we want to make it an offense, which means they can be cited
31 into circuit court or justice court or municipal court, whatever it is, and follow the
32 track that we've got for that. That's the purpose of the Dash 12 amendments. Those
33 are all of the issues that we addressed.”

Senate Judiciary Committee, February 17, 1999, Tape 41, Side A, 7:13 – 11:17 (emphasis added).²

The above statement is clear. A local government may choose how to enforce an ordinance that prohibits certain conduct, but if the local government chooses to make the ordinance an offense, then they have to comply with the requirements of ORS Chapter 153. Swank’s testimony is the only testimony explaining the intent and purpose of the dash-12 amendments. After his testimony, the following conversation occurred between Senator Bryant and Paul Snider, lobbyist for the Association of Oregon Counties, who had conferred with Mr. Swank on counties concerns with the original version of the bill:

“SEN BRYANT: Committee, we're in work session. What I'd recommend is we go ahead and adopt the amendments, and at that point, if you want to have the bill back redrafted, engrossed, and look at it one more time before it goes down to the floor, we can do that, or it's going to take a while, probably, to print, but we can take a look at it at the floor.

Mr. Snider, are you satisfied that if something comes up, you can comfortably address it on the House side?

SNIDER: Mr. Chair, members of the committee, I'm Paul Snider, representing the Association of the Oregon Counties. Mr. Chair, the answer to your question is I'm not sure. What I can tell you is that from concerns raised by county counsels that the county ordinances, the way they're enforced right now, things like outdoor mass gatherings, building code violations, dog control, excavation violations, a number of things that are kind of away from the general thrust of this bill, it appears as though many counties enforce these violations in court. They don't create a separate administrative process in the county, or if they did, they no longer do. I'm not sure whether and to what extent that's still true and whether and to what extent the amendments that Mr. Swank has had drafted address that concern.

1 SEN. BRYANT: Here's what we'll do. We'll adopt amendments, we'll have the bill
2 reprinted, and we'll wait a week after it's been reprinted for people to read through
it one more time, and then we'll bring it back for a final work session.

3 SNIDER: Okay. That would help, Mr. Chair, thank you.

4 SEN. BRYANT: Thank you. The Chair then would move the following
5 amendments be adopted to Senate Bill 20, the Dash 2s, 3s, 4s, 5, 7, 9, 11, and 12,
is that correct?

6 SWANK: Not 11.

7 SEN. BRYANT: Not 11. Well, not 11, but 12. Discussion? Objection? So ordered.”

8 Id at 13:13 – 15:08.

9 What is clear from the discussion between the Senator Bryant and Paul Snider from the
10 Association of Oregon Counties is that the counties were not expressing concern that the dash-
11 12 amendments were going to limit their authority to *administratively* enforce their ordinances.
12 To the contrary, the concern expressed by Mr. Snider was that counties may not be able to
13 *judicially* enforce many of their ordinances. In any event, Mr. Snider’s testimony did not
14 prevent the Senate Judiciary Committee from unanimously adopting the dash-12 amendments.

15 Following the February 17 committee hearing and pursuant to the promise he had made
16 at the hearing, the committee scheduled a follow-up work session on SB 20, which was held on
17 March 3, 1999. At that hearing, Mr. Swank described the dash-15 amendments based upon his
18 conversation with Mr. Snider. See Senate Judiciary Committee, March 3, 1999, Tape 59, side
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1 AB, 47:36 – 51:59.³ The dash-15 amendments addressed additional concerns raised by the
2 counties concerning standards for issuance of citations for violations and violation proceedings
3 initiated by private citizens. Id. The dash-15 amendments added the language currently found in
4 ORS 153.030(8), but did not alter or in any way change the dash-12 amendments which
5 contained the current language for subsection (4). See Reply Exhibit B.

6 Before completing his testimony concerning the dash-15 amendments, Mr. Swank
7 testified to the committee his belief, based on his conversations with Paul Snider, that the dash-
8 15 amendments addressed the concerns raised by the counties, and that they resolved those
9 concerns. Id at 51:44 – 51:57. In response, Senator Bryant asked Mr. Snider, who was present at
10 the hearing, to nod if the counties were satisfied that the amendments addressed their concerns,
11 and indicated for the record that Mr. Snider had nodded in agreement. Id at 51:57 – 52:00.

12 Upon the completion of Mr. Swank’s testimony, Senator Bryant moved the adoption of
13 the dash-14 (which contained the dash-12 amendments previously adopted by the committee on
14 February 17), dash-15, and dash-16 amendments and following adoption, moved the amended
15 bill to the Senate floor with a do-pass recommendation. Senate Judiciary Committee, March 3,
16 1999, Tape 58, Side B, 3:28 – 3:50.⁴ Both the motion to amend and the motion to move the bill

1 to the floor with a do-pass recommendation were approved by the committee unanimously. No
2 further amendments were made to these sections of the bill.

3 Defendants believe that these were the only discussions in either the Oregon House or
4 Senate on the language that is now ORS 153.030, and outside of Mr. Swank's explanation, no
5 one (legislator or citizen) offered any different explanation of the meaning of this language,
6 which is now the statute before the Hearings Officer. In fact, the Association of Oregon
7 Counties (AOC), the logical association for raising the arguments raised by Multnomah County
8 in this matter, never suggested that the amendments were intended only to apply to violations
9 found in the Oregon Revised Statutes. AOC never challenged or opposed Mr. Swank's
10 explanation that the dash-12 amendments allowed a local government the option to impose a
11 fine for a violation of a local ordinance, but required the local government to comply with the
12 requirements of ORS Chapter 153 when doing so.

13 As a general rule, legislative history consisting of statements by non-legislators is of
14 limited assistance in determining legislative intent. *Landwatch Lane Cty v. Lane County*, 364 Or
15 724 (2019). However, when a non-legislator's testimony is the only explanation of a particular
16 amendment and the testimony is followed by the unanimous adoption of the amendment by the
17 committee immediately upon receipt of the testimony, the testimony provides a strong
18 indication that the Legislature relied upon the explanation of the non-legislator, especially if the
19 non-legislator was the drafter and principal proponent of the bill. *Id.* at 745, quoting *Kohring v.*
20 *Ballard*, 355 Or 297 (2014). That is certainly the case with Mr. Swank's interpretation of
21 subsection (4) and the rest of ORS 153.030.

1 In short, the legislative history cited by the County is insufficient to describe the intent
2 of the Legislature in enacting subsection (4) or the rest of ORS 153.030, and is inconsistent with
3 the only legislative history that actually addresses subsection (4), which is consistent with the
4 Defendants' interpretation. In fact, the County's interpretation runs directly counter to the stated
5 intent of SB 20, which was to harmonize and provide a uniform process for non-criminal
6 offenses. If the County's interpretation is to be believed, there could be an infinite level of
7 procedural processes for the exact same conduct, depending upon whether the conduct was
8 prohibited by the Legislature or by each local government, and could change from jurisdiction
9 to jurisdiction. That is anything but uniform. If the Hearings Officer chooses to rely upon
10 legislative history, the Defendants must prevail.

11 **D. The County's Maxims of Construction Conflict with Oregon's Rules of Statutory**
12 **Interpretation**

13 The text, context and legislative history all support Defendants' interpretation of
14 subsection (4). Applying the test set forth in *Gaines*, there is no need to resort to maxims of
15 statutory construction. Nevertheless, the County has raised statutory construction arguments that
16 are inconsistent with text, context and legislative history and also violate standard statutory
17 construction requirements. The County's ORS 174.010 argument reverses the problem they
18 allege. Response at 5-6. Defendants do not omit words from ORS 153.030(4); they apply the
19 words the Legislature used. The final sentence bars administrative enforcement of "any
20 prohibition designated as an offense." MCC 39.1510 prohibits use of land in violation of
21 Chapter 39, and MCC 39.1560 authorizes a civil fine for such a violation. That is a local
22 prohibition punishable by a fine and therefore an "offense" under ORS 161.505. Indeed, it is the

County that is *inserting* words where the Legislature did not. The Legislature included no qualification that offenses are only those designated by the state.

The County also incorrectly treats “monetary penalties” and “fines” as interchangeable. ORS 153.030(4) permits administrative enforcement through “monetary penalties,” but bars administrative enforcement of prohibitions designated as “offenses,” which ORS 161.505 defines by reference to imprisonment or a “fine.” Different statutory terms used in the same statute are presumed to have different meanings. *State v. Stallcup*, 341 Or 93, 101, 138 P3d 9 (2006). A “fine” is best understood as a subset of monetary penalties; other monetary penalties may include restitution, reimbursement, permit-fee surcharges, abatement or enforcement costs, late charges, or cost-shifting awards.

In practical terms, the distinction turns on function, not label. A “fine” is money imposed as punishment for violating a prohibition; that is why Oregon law uses a fine as the marker of an “offense.” A “monetary penalty,” by contrast, is a broader term that can include nonpunitive financial obligations such as reimbursement, abatement costs, late charges, or other administrative assessments. Thus, while ORS 153.030(4) allows administrative enforcement mechanisms that include monetary penalties in the broad sense, it does not authorize a county to prosecute prohibited conduct administratively when the monetary exaction sought is, in substance, a fine.

II. The County’s Quasi-Judicial Land Use Procedures Do Not Provide a Meaningful Opportunity To Be Heard In A Meaningful Manner

1 If the County’s process in this case meets the minimum requirements for due process, then
2 the bar for procedural fairness sits below the floor. As discussed in detail in Defendants’ opening
3 brief, procedural due process is flexible, but not optional. It at least requires proper notice and an
4 opportunity to be heard at a meaningful time and in a meaningful manner. See *Mathews v.*
5 *Eldridge*, 424 US 319, 333, 96 S Ct 893, 902, 47 LEd2d 18, 32 (1976) (emphasis added).

6 The Fourteenth Amendment was not adopted to create a “check-the-box” exercise for the
7 government to follow, but to ensure that citizens receive a fair and meaningful process before the
8 government deprives them of life, liberty, or property. The emphasis is on protecting the rights of
9 the people – not preserving the administrative convenience of the government. Multnomah
10 County has clearly lost sight of this principle in defense of its chosen process.

11 **A. Notice Was Improper Based On The County’s Own Code and the Due Process**
12 **Clause**

13 The County argues that the Notice of Public Hearing was sufficient because neither case
14 law nor County code require notice to explain hearing procedures or Defendants rights in the
15 appeal process with any requisite level of detail. See Response at 8-9. In other words, according
16 to the County, they just have to tell Defendants there is a process and that rights exist, but the
17 County doesn’t have to explain what the process is or what those rights include with any
18 specificity. This cursory approach to providing notice fails under both the County’s own code and
19 the Due Process Clause. See *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 US 306, 315, 70 S
20 Ct 652, 657, 94 LEd 865, 874 (1950) (“But when notice is a person's due, process which is a mere
21 gesture is not due process.”)

1 First, the County’s argument is inconsistent with the plain reading of MCC 39.1550(B),
2 which states:

3 “(B) Notice of Hearing

4 (1) The notice shall contain the time, date, and place of the hearing. A copy of the
5 Notice of Violation and a description of the appeal process and associated rights
shall be attached to the notice.”

6 MCC 39.1550(B)(emphasis added). Multnomah County code does not contain a definition of the
7 word “description”. However, the plain, natural, and ordinary meaning of the words “describe”
8 and “description” help illuminate that much more is required here than a vague allusion to a
9 process or rights.

10 The word “describe” means “1: to represent by words written or spoken for the knowledge
11 or understanding of others” through various methods such as verbal communication, transmitting
12 a “mental image” or distinguishing via labels. See Webster’s Third New International Dictionary
13 of the English Language, Unabridged (1961). Additionally, “description” means “the act or
14 instance of describing.” Id. By definition, a true description requires the transmission of a “mental
15 image” or an explanation that actually provides concrete knowledge and understanding to the
16 recipient. Thus, a “a description of the appeal process and associated rights” must contain enough
17 substance, mechanics, or criteria so that the Respondent or the public actually understands how
18 the process functions and what their rights entail.

19 In this case, the County did issue a Notice of Public Hearing for an “Appeal of Notice of
20 Violation”. Opening Memorandum Exhibit B, Page 1. However, the Notice did not contain a
21 description of the appeal process or the associated rights of the Defendants. Instead, the
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1 County's Notice simply says, "The hearing procedure will follow the Hearings Officer's *Rules*
2 *of Procedure* and will be explained at the hearing." Id.. The Hearings Officer's Rules of
3 Procedure was not attached to the Notice and not readily available in the County's code or on its
4 website. The "Code Compliance Hearings Officer Script" provided was also not included with
5 the Notice and was only provided to the Defendants after their attorneys reached out to the
6 County with questions about the process. Response Attachment 1, Page 1-3. Thus, the Notice
7 did not include a description of the appeal process; they were told only that the process would
8 be explained once the hearing began.

9 There is certainly no description of the hearing procedures under MCC 39.1140 that the
10 county alleges apply to this process in its Response (i.e. opportunity to present and rebut evidence,
11 limitation of testimony and evidence to the applicable criteria, preservation of issues, and the
12 requirement for the decision maker to disclose any ex parte contacts, conflicts of interests, or bias).
13 See Response Brief Page 7. If those hearing procedures apply to this appeal process, why are they
14 not even mentioned – let alone described – in the Notice?

15 Further, the only description of any associated rights related to the appeal hearing can be
16 found in these two sentences:

17 "All interested parties may appear and testify virtually or submit written comment
18 on the NOV at or prior to the hearing. Comments should address either support of,
19 or opposition to, the specific violation(s) of Multnomah County Code being
20 appealed; and must be received prior to the close of the public hearing record."

21 If the Defendants were to rely on the Notice alone, they would be led to believe that the only right
22 afforded to them is to show up at the hearing (virtually) and provide testimony in opposition or
23 support of the specific violations in question. This language completely fails to describe any of

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1 the actual procedural process or rights afforded to them under MCC 39.1140 – which apparently
2 apply in this this proceeding.

3 For example, MCC 39.1140(E)(3) states that “[A]ll testimony and evidence submitted,
4 orally or in writing, must be directed toward the applicable approval criteria.” While there are no
5 “approval criteria” in this case, based on the language in the Notice, presumably all evidence and
6 testimony submitted must be directed to the specific violations of Multnomah County Code being
7 appealed. Yet, the Notice is entirely silent on what happens if this rule is violated. Does the
8 Respondent have the right to object to or move to strike non-compliant testimony? If so, what is
9 the process for doing so? Must that happen before the hearing? Are Defendants and the Hearings
10 Officer required to sit through possibly hours of irrelevant or prejudicial testimony from the
11 County or public without any opportunity to object to the relevance of the information? This
12 information should have been described in the Notice in sufficient detail for the Respondent to
13 understand their rights in this process. If Defendants’ aren’t told the procedural rules, how can
14 they prepare for a hearing and defend themselves?

15 While this is a singular example, the failure to provide this information is not immaterial.
16 The County has already surreptitiously allowed testimony not related to the specific Code
17 Violations to be added into the record. See Reply Exhibit C; See also Opening Memorandum
18 Exhibit D, Page 6, Item 14. As explained in the Defendants Opening Memorandum, some of this
19 information is highly prejudicial. Opening Memorandum at 16-17. The failure of the County to
20 properly inform Defendants of their rights to exclude this information or ask the Hearings Officer
21 to disregard it violates their due process rights.

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23 Page 21 – DEFENDANTS’ REPLY IN SUPPORT OF MOTION TO DISMISS PROCEEDING FOR
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1 Defendants cannot imagine that during the creation of Multnomah County’s code, the
2 Multnomah County Board of Commissioners intended “a description of the appeal process and
3 associated rights” to mean a bare-bones notification that a hearing process exists, paired with a
4 two-sentence note that the Defendants may attend and testify in opposition to their alleged
5 violation. Merely acknowledging that a process exists does not “describe” it, and limiting a
6 description of “associated rights” to a brief mention of the right to speak completely subverts the
7 text and purpose of the code. Defendants also find it hard to believe that the Multnomah County
8 Board of Commissioners intended “a description of the appeal process and associated rights” to
9 mean a statement that the Defendants would find out about the appeal process and their rights at
10 the beginning of the public hearing.

11 However, if this is the proper interpretation of the County’s code, then the Hearings
12 Officer should still find notice to be improper in this case. The purpose of notice under the Due
13 Process Clause is to apprise the affected individual of, and permit adequate preparation for, an
14 impending hearing. *Memphis Light, Gas & Water Div. v. Craft*, 436 US 1, 14, 98 S Ct 1554, 1563,
15 56 LEd2d 30, 42 (1978). It is unclear how Defendants can adequately prepare for an impending
16 hearing when they are supposed to receive the information they need to prepare for the hearing
17 *at the hearing*.

18 **B. The *Mathews* Factors Require Additional Procedural Safeguards**

19 Multnomah County argues that the County’s procedures are consistent with the
20 requirements for a quasi-judicial land use proceeding, and as such, provide for a meaningful
21 opportunity to be heard. See Response at 9. However, the County fails to acknowledge that the
22

1 nature of this proceeding is not a quasi-judicial land use proceeding where the Defendants have
2 volunteered to engage in a County process through submitting a land use application under
3 express code criteria. Instead, this is a code violation enforcement proceeding where the County
4 is seeking to penalize the Defendants with significant monetary fines for alleged activity the
5 Defendants' refute and the County insufficiently explains.

6 That difference matters under *Mathews v. Eldridge*. As stated *supra*, while procedural due
7 process is flexible, it at least requires proper notice and an opportunity to be heard at a meaningful
8 time and in a meaningful manner. See *Mathews v. Eldridge*, 424 US 319, 333, 96 S Ct 893, 902,
9 47 LEd2d 18, 32 (1976); citing *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). Whether a process
10 meets this standard is fact specific and depends on the nature of the proceeding. In determining
11 the proper procedure afforded in any given circumstance, the Court articulated a three-factor
12 analysis for determining what process is due and whether there should be additional procedural
13 safeguards: (1) the private interest affected by the government action; (2) the risk of erroneous
14 deprivation under the procedures used and the probable value of additional or substitute
15 safeguards; and (3) the government's interest, including the fiscal and administrative burdens of
16 additional procedures. *Id.*

17 **i. Defendants' Interests Here Differ Fundamentally From Those in a**
18 **Typical Quasi-Judicial Land Use Matter**

19 The private interests at stake here warrant procedural safeguards beyond those provided
20 in the County's ordinary land use process. For the sake of brevity, Defendants restate the analysis
21 of the first *Mathews* factor in their opening brief. See Defendants Opening Memorandum at 14-
22 15. Defendants clearly have a distinct private interest that is not at issue in a standard quasi-

1 judicial land use proceeding – the potential loss of thousands of dollars through fines. In a normal
2 quasi-judicial land use proceeding, applicants may spend money on application fees, but are not
3 at risk of the government imposing thousands of dollars fines and potential liens on their property.
4 These unique private interests make the county’s process for a land use application inappropriate
5 in these circumstances and warrants additional procedural safeguards.

6 **ii. The County’s Current Procedures Create a High Risk of Erroneous**
7 **Deprivation**

8 Under the second *Mathews* factor, the risk of erroneous deprivation is especially high if
9 this matter proceeds under the County’s quasi-judicial land use process given the context and
10 nature of the proceedings. Again, this is not a proceeding where the Defendants have voluntarily
11 applied for land use approval. This is a violation proceeding that was initiated because of ongoing
12 complaints filed by members of the public known only to the County and cooperation between
13 these unknown complainants and county code enforcement officers. See Reply Exhibit D.
14 Accordingly, the merits of this case turn on disputed facts and legal questions. Resolving these
15 issues requires a robust evidentiary process and the right of Defendants to directly challenge the
16 County’s witnesses and evidence, including through the use of expert testimony. Unfortunately,
17 Defendants certainly can’t challenge a witness when the County refuses to disclose the witness’
18 name.

19 When important governmental decisions are based on determinations of fact, due process
20 usually requires an opportunity to confront and cross-examine adverse witnesses. See *Cole v.*
21 *DMV*, 336 Or 565, 588, 87 P3d 1120, 1133 (2004). In *Cole* the Oregon Supreme Court held that
22 a hearing violated due process where the agency failed to disclose, before the hearing, the identity

1 of the officer or a copy of their report, despite offering that report at the driver's hearing. *Id.*
2 Although the driver technically had an administrative hearing (opportunity to be heard) and
3 statutory subpoena rights, the lack of prior notice of the officer's identity deprived the driver of
4 an opportunity to be heard in a meaningful manner, because the driver lacked the information
5 necessary to subpoena and cross-examine the witness prior to the hearing. *Id.*

6 The same risk exists here. If the County relies on complainant statements, investigative
7 materials, or factual assertions generated by unidentified witnesses, while refusing to disclose the
8 witnesses' identities in time for Defendants to subpoena and cross-examine them, then
9 Defendants' hearing rights exist only in form. They cannot meaningfully test the accuracy, bias,
10 foundation, or credibility of the evidence being used to support continuing monetary penalties.

11 The County's Response to this issue helps further demonstrates the risk of error. In its
12 Response, the County argues that it should not have to disclose the names of the complainants
13 because "the County has not relied on the complaints as evidence of the alleged violations." See
14 Response at 12. If this is the case, then why are the complaints and photos provided by the
15 complainants included in the evidentiary record and cited in the Staff report? See Record Exhibits
16 A.1-B.1; Opening Memorandum, Exhibit D, Page 3, Item II B. If this is true, then this is another
17 example of the County's woefully insufficient process, as the County has not afforded Defendants
18 the opportunity to exclude cumulative, unfairly prejudicial, not credible, unreliable, or
19 irrelevant evidence from the record.

20 As explained above, MCC 39.1140(E)(3) (which the County contends applies to these
21 proceedings in its Response memo) provides that all testimony and evidence submitted, orally or
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1 in writing, must be directed toward the applicable approval criteria. But there are no “approval
2 criteria” in this case because this not an ordinary land use application. Based on the language in
3 the Notice, the closest analogue appears to be that testimony and evidence must be directed to the
4 specific violations of Multnomah County Code being appealed. Yet neither the County’s quasi-
5 judicial land use process nor the Notice explains what happens if that rule is violated in this
6 proceeding.

7 That omission materially increases the risk of erroneous deprivation. If the County, a
8 witness, or member of the public offers testimony that is irrelevant, prejudicial, or not directed to
9 the alleged code violations, do Defendants have the right to object? Do they have the right to
10 move to strike the testimony? If so, what is the process for doing so? Must the objection be made
11 before the hearing, during the testimony, or after the record closes? Is the Hearings Officer
12 permitted to receive hours of prejudicial testimony and then Defendants can attempt to cure the
13 prejudice after the fact? The County’s land use process answers none of those questions.

14 Those are not mere technical defects. They affect Defendants’ ability to defend against an
15 erroneous finding that they violated the County Code – an order that could expose them to
16 thousands of dollars in fines and potentially liens against their property. If Defendants are not told
17 in advance how to object to or challenge non-compliant testimony or evidence, they cannot
18 adequately prepare objections, preserve issues for review, or prevent the record from being
19 influenced by irrelevant or prejudicial material. That uncertainty materially increases the risk of
20 erroneous deprivation under *Mathews* and shows why additional procedural safeguards are
21 required here.

1 **iii. Other Counties (With Less Resources) Provide Procedural Due Process**

2 The third *Mathews* factor requires the balancing of the Government’s interest in adhering
3 to its chosen procedures. In defending the land use-style process, the County asserts it has an
4 interest in using its own determined procedures because it is permitted to do so under ORS
5 153.030(4)-(6). In other words, “we do it because we can.” Response at 12. As explained
6 throughout this Reply, the County does not retain that authority when the County’s ordinance has
7 created an offense, which it has done here. The County also argues that it faces fiscal and
8 administrative constraints, pointing out that the City of Portland can enforce a clearer, more
9 exhaustive code due to its larger financial resources. *Id.* This rationale is wholly unpersuasive,
10 particularly to the rural property owners subject to County enforcement.

11 Multnomah County just approved a staggering annual budget of approximately \$4
12 billion.⁵ The Office of the County Attorney maintains a robust team of civil litigators, featuring
13 nearly 30 assistant county attorneys and specialized legal personnel explicitly dedicated to areas
14 like land use, transportation, and county governance.⁶ In stark contrast, the typical rural property
15 owner possesses no specialized legal staff, no institutional compliance budget, and no inherent
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17

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19 ⁵ See Multnomah County, *NEWS RELEASE: Multnomah County Board of*
20 *Commissioners Closes Significant Spending Gap, Adopts Balanced \$4 Billion Budget for Fiscal*
Year 2027 (June 5, 2026), [https://multco.us/news/news-release-multnomah-county-board-](https://multco.us/news/news-release-multnomah-county-board-commissioners-closes-significant-spending-gap-adopts)
21 [commissioners-closes-significant-spending-gap-adopts](https://multco.us/news/news-release-multnomah-county-board-commissioners-closes-significant-spending-gap-adopts).

22 ⁶ Multnomah County Attorney’s Office, *Office Staff* (last reviewed July 1, 2026),
23 <https://multco.us/info/office-staff>.

1 understanding of complex administrative procedures. The costs of paying for representation and
2 experts to defend themselves come out of their pocket.

3 When the County chooses to prosecute a violation, this extreme disparity becomes a
4 defining factor. To argue that an institution commanding \$4 billion in public capital and an elite
5 team of attorneys cannot afford the administrative “burden” of creating a process that is fair to
6 property owners is untenable, and frankly – vulgar. The County possesses exhaustive resources
7 to investigate, prosecute, and penalize its taxpayers; it should be required to at least allocate those
8 same resources toward ensuring those taxpayers are granted due process.

9 The County also offers throughout its Response comparison to other counties.
10 Specifically, the County argues that Defendants interpretation will create “significant issues”
11 for other counties, such as Washington County, Clackamas County, Marion County, and Lane
12 County, who allow hearings officers to enforce code violations with the imposition of
13 “monetary penalties” or “fines”. While we do not know if these counties are using local
14 administrative processes to adjudicate offenses⁷, the relevant factor for *Mathews* is that those
15 counties are far ahead of Multnomah County in actually providing a local administrative
16 process that provides property owners with due process.

21 ⁷ Marion County Code actually requires land use enforcement proceedings to be
22 brought in Marion County Circuit Court. See Marion County Code (MCC) Chapter 1.25.

1 Clackamas County, for example, has a distinct, detailed, and publicly available code
2 governing compliance hearings. See Clackamas County Code (CCC) Ch. 2.07.⁸ That code does
3 not merely tell an accused party that procedures will be explained later. It sets out actual
4 procedural safeguards and rights, including detailed written notice from the hearings officer
5 specifying the applicable procedural process and rights of the accused, testimony under oath,
6 issuance of subpoenas at a party's request, the right to cross-examine witnesses, and the right to
7 exclude irrelevant, immaterial, or unduly repetitious evidence. See CCC 2.07.050-090. Lane
8 County and Washington County follow suit and require, among other things, testimony under
9 oath, subpoena power at the request of a party, the right to cross-examine witnesses, the right to
10 exclude cumulative, unfairly prejudicial, not credible, unreliable, or irrelevant evidence, and
11 more. See Lane Code 5.005; Washington County Code of Ordinances 1.12.150-90.⁹

12 The procedural protections Defendants seek are not extraordinary. Other counties have
13 adopted them as part of ordinary code-enforcement practice, demonstrating that a process
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17 ⁸ Clackamas County, Or., *Clackamas County Code tit. 2, Government*
18 *Administration* (amended through Ord. 04-2026, Apr. 9,
2026), <https://dochub.clackamas.us/documents/drupal/aa0bd99c-5300-4686-a309-238feca996de>.

19 ⁹ See Lane County, Or., *Lane Code ch. 5, Administrative Enforcement* (Jan.
2024), [https://cdnsm5-](https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_3585797/File/Government/County%20Departments/County%20Counsel/Lane%20Code/LC05.pdf)
20 [hosted.civiclive.com/UserFiles/Servers/Server_3585797/File/Government/County%20Departments/County%20Counsel/Lane%20Code/LC05.pdf](https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_3585797/File/Government/County%20Departments/County%20Counsel/Lane%20Code/LC05.pdf); Washington County, Or., Code of Ordinances
21 ch. 1.08, *Unincorporated Areas*, https://library.municode.com/or/washington_county/codes/code_of_ordinances?nodeId=TITLE1GEPR_CH1.08UNCIPR.
22

1 consistent with due process is both practical and administratively manageable, particularly for a
2 county with the resources and institutional capacity of Multnomah County.

3 **III. CONCLUSION**

4 This case should end at the threshold. Multnomah County chose to charge Defendants
5 with prohibited conduct under Chapter 39, chose to attach fines to that alleged conduct, and
6 now seeks to adjudicate those alleged violations through a County-created administrative
7 process that resembles a circus – all because they believe they can. Oregon law does not permit
8 this approach. Under ORS 153.030(4), administrative enforcement may not be used for any
9 prohibition designated as an offense, except for parking ordinances. Under ORS 153.008 and
10 ORS 161.505, a local ordinance violation punishable by a fine is an offense. The County cannot
11 avoid that result by relabeling the proceeding as a land-use matter or by retroactively
12 characterizing the fine as an “administrative monetary penalty”. Substance controls over labels.

13 The County’s contrary interpretation would erase the final sentence of ORS 153.030(4)
14 in the very setting where it matters most. The Legislature preserved local governments’ ability
15 to enforce ordinances administratively when they are acting administratively; but it drew a clear
16 line when a political subdivision chooses to create an offense. Once the County seeks to punish
17 prohibited conduct by imposing a fine, the County must use the uniform procedures the
18 Legislature enacted in ORS Chapter 153. The text, context, and legislative history all point in
19 the same direction: local governments have enforcement choices, but they do not have authority
20 to prosecute offenses through an ad hoc administrative process that lacks the protections
21 required by Oregon law.

1 Even if the Hearings Officer were to conclude that jurisdiction exists, the County's
2 chosen process cannot proceed in its current form. As explained herein, due process requires
3 more than a hearing in name only. It requires proper notice, and a meaningful opportunity to be
4 heard at a meaningful time and in a meaningful manner. Here, the County did not provide
5 proper notice even under its own code. Instead, it told Defendants that the rules would be
6 explained later. That is not notice. That is the withholding of the information needed to prepare.
7 The problem here is not technical. It is fundamental. The County seeks to impose potentially
8 substantial monetary penalties against rural property owners through a process borrowed from
9 land-use applications, even though this is not a voluntary land-use application. It is an
10 enforcement prosecution.

11 The County's process does not adequately identify the governing procedures, does not
12 provide meaningful prehearing disclosure of adverse witnesses and evidence, does not clearly
13 establish subpoena and cross-examination rights, does not explain how Defendants may object
14 to irrelevant or prejudicial evidence, and does not provide the safeguards necessary to prevent
15 erroneous deprivation. Other Oregon counties have managed to adopt detailed compliance-
16 hearing procedures with subpoenas, testimony under oath, cross-examination, and evidentiary
17 exclusions. Multnomah County can do the same. Its administrative convenience cannot
18 outweigh Defendants' constitutional right to a fair process.

19 For these reasons, Defendants respectfully request that the Hearings Officer grant the
20 Motion to Dismiss and dismiss this proceeding for lack of jurisdiction. In the alternative, if the
21 Hearings Officer determines that the County may proceed administratively, Defendants request
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1 an order establishing a constitutionally adequate process before any merits hearing occurs,
2 including at minimum: clear written procedures; adequate notice of all rights and hearing rules;
3 disclosure of all witnesses, complainants, evidence, and communications on which the County
4 intends to rely; subpoena authority; testimony under oath; the right to cross-examine adverse
5 witnesses; the right to present expert testimony; and a defined process for objecting to and
6 excluding irrelevant, unreliable, cumulative, or unfairly prejudicial evidence.

7
8 DATED this 8th day of July, 2026.

9
10 /s/ Samantha J. Bayer

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16 *Of Attorneys for Defendants*
17 *Scott and Stacy Reed*
18
19
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21
22

EXHIBIT: SB 20-12
 SENATE JUDICIARY COMMITTEE
 DATE: 2/17/99
 PAGES: 1
 SUBMITTED BY: Travis Freshwick

SB 20-12
 (LC 319)
 2/17/99 (DH/ps)

**PROPOSED AMENDMENTS TO
 SENATE BILL 20**

1 On page 4 of the printed bill, after line 20 insert:

2 “(4) This chapter does not affect the ability of a city described in ORS
 3 3.136 (1) to engage in the activities described in ORS 3.136 (3). Nothing in
 4 this chapter affects the ability of any other political subdivision of this state
 5 to provide for the administrative enforcement of the charter, ordinances,
 6 rules and regulations of the political subdivision, including enforcement
 7 through imposition of monetary penalties. Except as provided in subsection
 8 (2) of this section, administrative enforcement as described in this subsection
 9 may not be used for any prohibition designated as an offense.

10 “(5) Nothing in this chapter affects the ability of any political subdivision
 11 of this state to establish rules relating to administrative enforcement as de-
 12 scribed in subsection (4) of this section, including rules providing for the use
 13 of citations or other procedures for initiating administrative enforcement
 14 proceedings.

15 “(6) Nothing in this chapter affects the ability of any political subdivision
 16 of this state to conduct hearings for administrative enforcement as described
 17 in subsection (4) of this section, either before a hearing officer or before the
 18 governing body of the political subdivision.

19 “(7) Nothing in this chapter affects the ability of any political subdivision
 20 to bring a civil action to enforce the charter, ordinances, rules and regu-
 21 lations of the political subdivision, or to bring a civil action to enforce any
 22 order for administrative enforcement as described in subsection (4) of this
 23 section.”.

24

SB 20-15
(LC 319)
3/3/99 (DH/ps)

MEASURE: SB20
EXHIBIT: F
SENATE JUDICIARY COMMITTEE
DATE: 3/3/99 PAGES: 1
SUBMITTED BY: Travis Probst

**PROPOSED AMENDMENTS TO
SENATE BILL 20**

1 On page 4 of the printed bill, after line 20, insert:

2 “(4) Nothing in section 9 of this 1999 Act affects the authority of any
3 political subdivision of this state to provide for issuance of citations for vi-
4 olation of offenses created by ordinance on the same basis as the political
5 subdivision could under the law in effect immediately before the effective
6 date of this 1999 Act.”.

7 On page 5, line 21, after “require” delete the rest of the line and insert
8 “any enforcement officer to serve the summons.”.

9 Delete line 22.

10 After line 27 insert:

11 “(6) Any political subdivision of this state may require by ordinance that
12 violation proceedings for the purpose of enforcing the charter or ordinances
13 of the political subdivision may not be commenced in the manner provided
14 by this section and that those proceedings may be commenced only by
15 enforcement officers.”.

16



12424 NW Springville Road

3 messages

Charlene Cowling <char0987@hotmail.com>
To: "lup-hearings@multco.us" <lup-hearings@multco.us>

Mon, Apr 27, 2026 at 3:37 PM

This Message Is From an External Sender

External Sender - Be Suspicious of Attachments, Links, and Requests for Payment or Login Information.

Hearings Officer: I am submitting in writing for the hearing scheduled for Friday, May 29th, 2026 at 10:30 a.m. for the virtual meeting, to be read.

CODE CASE FILE: CCPR1-2025-0003

I am only interested in the activities around my own property ranch:

All statements are for the area around Reed's property #3 G SW LINE
THIS PROPERTY IS A WETLAND AREA UNDER SIGNIFICANT INCLUDING; WILDLIFE

I own the ranch at [12800 NW Springville Road, Portland, Oregon](#). My lower ranch property is a wetland area, unbuildable zoned: FARM. My ranch is next door to the Scott and Tracy Reed's ranch property. Last September, 2025, I found Scott Reed's men working on his fences along my property line which was permitted however on the SW side and ATV's were running around on my property in the middle without my permission and stuck in the mud and had to be pulled out!

This was not permitted by me to do. In great concern I hired a survey company and found my original monuments had been taken out of the ground, SW corner only where excavating activity is noted, and a pipe had been found in my pond, without my permission, SW side, which was being drained into a conduit pipe on to the Reed's property #3. This began my 6 months research into trying to find the permits and allowances of this including a dump that had been placed on my line to view.

I could not get anyone from Multnomah County to come and view from my line. I made contact with two Head Planners, and Code Compliance and I had a formal meeting with them in Gresham. I was told to turn my eyes away from the dump. I was told that I was the only neighbor in the area that had concerns. The true matter was, many complaints had gone in to Multnomah county, on the Reed property, including Bethany residents, Washington County who view the dump and the commercial dumping activities in closer proximity. The reality of this was commercial type trucks were dumping large amounts of asphalted materials into a wetland area, unbuildable, where significant wildlife and significant streaming had been noted for our area, which is a 50- year untouched cycle.

I found also that permits had been allowed by Multnomah County under Agriculture for buildings, and a residential home permitted thru Public Hearing &, under the Oregon Department of Agriculture where farming buildings can be erected without too many permits or inspections needed, under the Right to Farm Act.

However, this is not the case in any areas where significant wildlife and streaming is concerned. Excavation along my wildlife and wetland property had no barriers or protection from dangerous poisons seeping into

my own ground and water area. This includes the other two ranchers next to the Reed dump property #3. After doing more research into this activity, I also found that ranchers were to have a public notification from Multnomah County, before a residential homesite, or buildings would be permitted for the discussion of wetland and wildlife areas such as upper Springville Road is concerned. Ranchers were to be able to discuss "replenishment by the owner" This is under the Multnomah County Comprehensive Plan. This never happened, rather, the permits for these were rushed thru without consideration, thru Multnomah County with no concerns whatsoever!

To make things very clear: The Oregon Legislature has laws in place for the protection of wildlife and streaming. To DATE: NOTHING HAS BEEN ENFORCED BY ANY BRANCH OF ANY GOVERNMENT WHATSOEVER FOR THIS ADDRESS AT:

[12424 NW Springville Road, Portland, Oregon 97229](#) owners: Scott and Tracy Reed

This is what I am seeking for: 12424 NW Springville Road Property #3

Where are the permits for the stopping up of a State Land owned creek that is just at my lower property line at 12800 property as shown on the map.

Where are the permits for the 2-way road at the end of Property #3 that is asphalted into the creek basin from State Lands and their permission for the stopping up of the waterflow which has been in place, since mappings of our upper Springville Road area. Where is the permits for the covert that is placed at the bottom of the Reed's property. Where has the water gone, and where is it being stored? As a rancher, I am entitled to use this water for future irrigation if needed, under Oregon Department of Agriculture. Where has this water gone that ran past my ranch property for 60 years of ownership at: 12800? If I am not entitled to use this water, where is the written documentation from the owner and State Lands on this to myself and to the other ranchers property further on down?

AREA #3

Where are the permits for the draining of my pond onto the property of Reed's #3

Where are the permits for excavation next to my property line?

Where are the permits for the extension of time for the excavation of property at my line? Mr. Reed has been excavating over 3 years into this area next to my line, no visible buildings being built at this time? How long does it take to erect a building?

Where are the recommendations from the Fire Marshall for our area which is a high danger zoned area in summer months when massive buildings are being permitted for: 12424

How will the CITY OF PORTLAND FIGHT A FIRE WHEN WE HAVE LIMITED WATER RESOURCES!

Where are the recommendations for water when we are limited with no city piped water at this time around 12424 #3 when our area is zoned: FARM I want to know for my own property ranch protection including area ranchers who own next to: 12424 NW Springville Road, #3 SW SIDE

Where are the protective wildlife Barriers next to my line? Other ranch properties also, #3

Where are the permits for commercial dumping into this wildlife and streaming area?

Where are the permits for the massive amounts of tree trunks in this area next to my property line?
Permission and permits for the cutting down of these trees, including rusting equipment and gasoline trucks being stored, plastic bagging's with ties, around streaming and wildlife?

Noise considerations in area #3

DUMP Viewing consideration in area #3

Where is the owners "replenishment plans" for the streaming and wildlife which has been taken away in this area thru massive commercial dumping and excavation next to my property line? Including area ranchers' properties?

Submitted:

Charlene Sue Cowling

LUP Hearings <lup-hearings@multco.us>
To: Charlene Cowling <char0987@hotmail.com>

Tue, Apr 28, 2026 at 7:28 AM

Hello,

We have received your comment and added it to the record in the case. Thank you.

Best regards,
Land Use Planning

Multnomah County
Department of Community Services - Land Use Planning Division
1600 SE 190th Ave., Portland OR 97233
T: 503-988-3043
E: lup-hearings@multco.us
<https://multco.us/landuse>

Ex. D.10, Pg. 37

Scott Reed's fill permit expiration date

To: LUT Code Compliance <lut.compliance@multco.us>

Wed, May 21, 2025 at 11:36 AM

Reply Exhibit D

 **External Sender** - Be Suspicious of Attachments, Links, and Requests for Payment or Login Information.

Hello again. The planner suggested I pass along my observations that it appears the lower southern area of the Bannister Creek appears to also have disturbance. I didn't get many pictures but one is attached.

[Quoted text hidden]

2 attachments



20250519_132027.jpg
1024K



20250519_132027.jpg
1024K

CERTIFICATE OF SERVICE

I hereby certify that on the below date, I filed and served a true and correct copy of the below stated document on the below stated persons, using the below stated method of service.

Mail by first-class mail, postage prepaid to the last known address of the persons identified below;

Fax by facsimile transmission to the last known facsimile of the persons identified below;

E-Filing by electronic filing with the Oregon Judicial Department File and Serve;

E-mail by electronic mail to the last known e-mail address of the persons identified below, and if sent by electronic mail only, under agreement pursuant to ORCP 9.

Name/Address

Relationship

Manner of Service

A. June Bradley, OSB #243455
Multnomah County Attorney's
Office
501 SE Hawthorne Blvd Ste 500
Portland, OR 97214
june.bradley@multco.us

*Attorney for
Multnomah
County*

Email
Mail

DEFENDANTS' MOTION TO DISMISS PROCEEDING FOR LACK OF JURISDICTION AND ALTERNATIVE MOTION FOR AN ORDER DETERMINING PROCEDURAL PROCESS

DATED this 8th day of July, 2026.

OPOA LEGAL CENTER

/s/ Samantha J. Bayer

Samantha J. Bayer OSB #185220
PO BOX 230637
Tigard, OR 97224
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E: sbayer@oregonpropertyowners.org
Of Attorneys for Plaintiff

/s/ David J. Hunnicutt

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