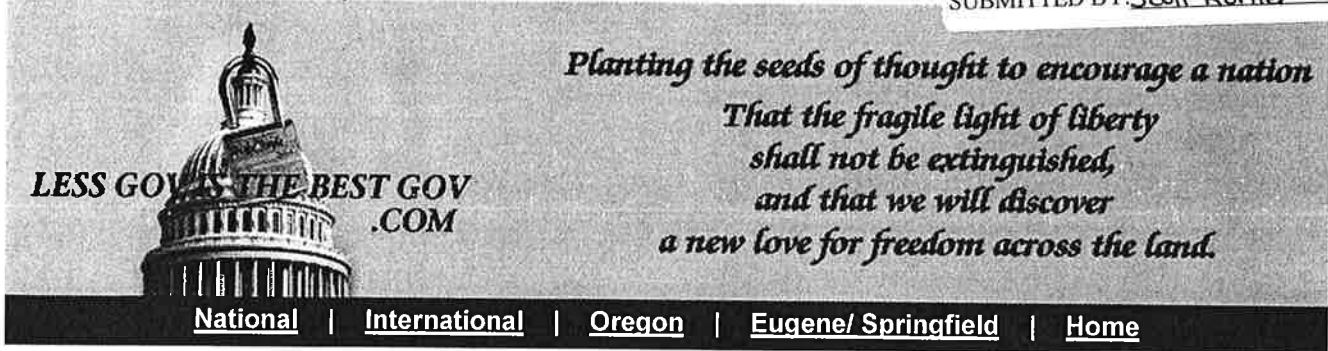


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"The question is not whether you have a right to render people miserable, but whether it is not in your best interest to make them happy."
- Edmund Burke, Irish Statesman and British M.P. 1729-1797

Property Rights Come Under Attack in Oregon by State Constitution
Looking back at Oregon HB 3453 and Senate Bill 929
- Scott Rohrer, December 2010

Property rights are under attack again in Oregon this year by the State Constitution and by the Oregon Legislature! State Legislators refused again to give my Foreclosure Reform Bill (Senate Bill 929) a hearing for the second straight year! This fifteen year old Bill, first written and drafted as Oregon House Bill 3453, in the 1995 Legislative Session, was allowed to die in committee again, in Salem this year! There was just not a lot of support for the Bill. Apparently there are a lot more important things for our State Legislators to do in Salem, than to make sure that our Oregon State Constitution conforms to the United States Constitution and the Bill of Rights! For the benefit of all of our Oregon legislators, who have never read it, the 'Takings Clause' of the Fifth Amendment to the US Constitution, which is a part of the Bill of Rights, reads as follows, "Nor shall private property be taken for public use without just compensation." For the rest of this story read on.

Once upon a time there was a little boy and girl, who lived happily together with their parents, in a little house in Oregon, out in the country. Time passed, and as the years went by, the children grew up, their parents died, the house grew old, and so did the little boy and girl. A little community sprang up all around them, but the two siblings, who never married, never left home either. Then one day, along came a big bad wolf in disguise, actually it was two big bad wolves, Lane County and the City of Eugene, and together they huffed and they puffed, and while they didn't actually blow the house down, it's still there today with some alterations, they did blow Jack and Betty Neely right out of their home, the only home they'd ever known! Homelessness, followed by a heart attack and the untimely death of her brother, broke Betty Neely's heart and she quietly left Oregon several years later! What we have here is a deplorable situation and a very horrible law, ORS 223.525, that violates the US Constitution and needs to be changed in this year's session of the Oregon Legislature! Read on:



The Neely House (After Remodel)

Retrospective: Eugene Oregon, 1995

Foreclosure Reform Bill, HB 3453 passes Oregon House 43-7 but companion bill languishes in Senate

In 1995 after a protracted dispute over a sewer assessment lien, the City of Eugene foreclosed on the childhood home of Jack and Betty Neely at 1600 Horn Lane, Eugene Oregon. Then Lane County evicted the elderly siblings, Jack age 76 and Betty age 66, and sold their home at a public sale at the county courthouse to the lone bidders, Marilyn Goss and Leroy Bench of Eugene for \$7,411, *the exact amount of the lien against it!* The Neely home had been last appraised at \$63,710. That forfeiture was quite a boondoggle for Goss and Bench!

Except for the sewer assessment lien, the property was owned free and clear by the Neely's, and there were no other recorded liens against the deed. The difference between the appraised value and the amount that the property sold for at foreclosure was \$56,299. This was the equity that Jack and Betty Neely had in their home. It was their life savings! It was effectively stolen from them by the City of Eugene and Lane County in order to perfect a \$5000 sewer lien and then handed over to Marilyn Goss and Leroy Bench, currently of 2128 W 28th St., Eugene Oregon. They bought the Neely house for \$7,411 and sold it 5 years later in 1999 for \$100,650 and meanwhile they purchased a much nicer house in the South Eugene Hills for \$158,000, with the equity that rightfully belonged to Jack and Betty Neely!

Following the foreclosure on their house and their subsequent eviction, Jack Neely died homeless, one month later of a heart attack, and Betty Neely was forced to go into Public assistance housing. She got an apartment at Yapoah Terrace. I'm sure they couldn't believe that their country would actually do this to them. Jack died broken hearted. In 2005 Betty Neely left Oregon and moved south to California where she still lives with family members today. It was a tragic story and an often forgotten one in the history of Eugene, and in the struggle between "Big Development" and the residents of Lane County.

Many members of Eugene's political establishment were around back then and they are still around today, as well as the same horrible law, ORS 223.525 that did the Neely's in! Mayor Kitty Piercy was then a freshman assemblywoman representing River Road and Santa Clara who only reluctantly agreed to sponsor the reform bill, HB 3453. Floyd Prozanski was a state assemblyman from South Eugene in 1995 but he was officially excused from voting on the bill. Peter Sorenson was a state senator from Eugene who was not at all helpful in supporting the bill. In 2009, I asked then state senator Floyd Prozanski to sponsor a new version of HB 3453. It did not even receive a hearing that year in the Democrat controlled legislature. Floyd told me that they were very busy that year in Salem. Commissioner Peter Sorenson said he would work to bring some kind of reforms at the County level but then he never got back to me!



The Neely House (After Remodel)

The horrible law which allowed the Neely's to lose everything and even cost Jack Neely his life, is still on the books today. The danger is still there! ORS 223.525 is a deplorable law! *It requires that a property in foreclosure be sold for no more than the actual amount of the lien against it!* That's correct, you could lose your home in a government foreclosure for the exact amount of an unpaid lien! This violates the "Nor shall private property be taken for public use without just compensation" Clause of the 5th Amendment to the US Constitution commonly referred to as the "Takings Clause." In 1995 I wrote Oregon HB 3453 to correct his inequity. If it had passed, it would have prohibited the government, when foreclosing on private property, from selling it for the exact amount of a lien. Instead it would have required the government to sell the property for not less than 80% of its fair market value and return to the judgment debtor,

the balance of the sale price after the lien and interest, and all costs associated with conducting the sale were deducted. At least that would be just compensation! It passed the Oregon House 43-7, but a companion bill SB 572 died in the Senate.

Editors Note: One aspect of what Eugene did in forcing the residents of River Road and Santa Clara to hook up to the Eugene Municipal Sewer System without jurisdiction and without actually even representing them was later declared to be illegal, in the Oregon Appellate Court, in the City of Eugene v. Kashin/Nalven.

ANALYSIS: So much for Jack and Betty Neely's high principles! Marilyn Goss and Leroy Bench of Eugene took \$7,411 and paid off the Neely's original sewer assessment lien of \$5,000 plus interest, and then regardless of the Neely's high principles, and with the assistance of the City of Eugene, Lane County and the State of

Oregon, they converted that \$5,000 bill for sewers (***which was illegal***) into a \$158,000 house in Eugene's Southwest hills for themselves! The law that allowed this horrible injustice to occur to the Neely's is ORS 223.525. It must be repealed or amended to conform to the US Constitution! HB 3453 or SB 929 needs to be reintroduced in the legislature and passed in order to protect all private property owners in Oregon and in order to bring the Oregon State Constitution into compliance with the United States Constitution!

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