



# OREGON PROPERTY OWNERS — ASSOCIATION —

## Senate Committee on Natural Resources and Wildfire Recovery OPOA Testimony in Support of House Bill 2645

May 5, 2021

Chair Golden and Committee Members:

The Oregon Property Owners Association (OPOA) submits this testimony in support of House Bill 2645, a bill designed to ensure that the commercial building code treat farmers training dogs in their barns or other agricultural buildings the same as farmers training horses in the same buildings. For such a small change in the law, the bill has created controversy because of the mistaken belief that the bill changes land use policy. The bill makes no change to the land use laws for dog training, meaning the exact same criteria for a farmer to qualify a barn to be used to train dogs will remain, whether the bill passes or fails. This is a building codes bill, not a land use bill.

Section 1 of the bill amends ORS 455.315. Chapter 455 is the building codes chapter of the ORS. Since 1975 (two years after the Oregon legislature created the first statewide building code), the commercial building code has contained an exemption for agricultural buildings on farms, with significant sideboards to ensure that the number of people within the barn at any given time remains small (10 or less).

In 2003, in response to confusion among local building officials, the legislature amended the ag exemption statute through House Bill 3063, to clarify that a farmer did not lose the building code exemption for a barn or other agricultural building when the structure was used for training horses, as long as the same sideboards remained in place.

Unfortunately, the 2003 bill did not clarify the law for farmers training dogs, as opposed to horses. Consequently, a farmer can have 10 people inside a riding arena with their horses to train the horses and owners in both basic and advanced techniques, with no concern that the activity will result in the farmer losing the ag exemption and having to bring the riding arena up to commercial building code standards. But if the farmer has the exact same 10 people in for the exact same training, but substitutes dogs for horses, the farmer risks losing the building code ag exemption. This makes no sense – there is no difference in risk to the farmer, the public, or the structure between the two activities. The only difference is the animal.

This is why it's more than a little ironic that the few letters in opposition to this bill are predominantly from horse trainers. Just a few years ago, this group was asking the legislature to clarify that the building

code ag exemption applied to their horse training. Now a few of the people benefitting from the 2003 law wish to deny the same exemption to farmers who train dogs as opposed to horses.

A few of the opposition letters address concerns about conflicts between dog training and neighboring farm activities. These are valid concerns that are already addressed by our land use laws, not the building code. In fact, in 2012, the Oregon legislature approved (unanimously in both chambers) House Bill 4170, which amended the land use provisions in ORS Chapter 215 to specifically allow dog training to occur on farms, both inside and outside of barns and other ag buildings. These provisions are found in ORS 215.213 and ORS 215.283.

The 2012 legislature was thorough in its consideration of the conflicts between using rural property for dog training and neighboring farm activities. The bill created two levels of dog training – smaller operations (with few dogs present and limited training sessions) and larger operations with more dogs and more frequent training sessions. The legislature determined that the small operations would not create significant conflicts with neighboring farm activities, but the larger training operations could have that impact.

Consequently, the larger operations are subject to the “farm impacts” test in ORS 215.296, meaning a farmer wishing to conduct a larger dog training operation is required to demonstrate that the proposed training facilities won’t significantly interfere with neighboring farm uses. For the small operations, the “farm impacts” test is not applicable.

In other words, the objectors to this bill expressing concerns about dog training creating conflicts with neighboring farm uses or more traffic on rural roads are ignoring the fact that the legislature already addressed this very issue in 2012, and unanimously approved a process requiring large dog training operations to satisfy the farm impacts test but not small dog training operations. These laws have not proven to be controversial. Since they were enacted in 2012, there have been no appeals to LUBA of county decisions approving or denying dog training facilities. The 2012 legislation is working as intended and is not controversial.

Most importantly, however, House Bill 2645 makes **NO CHANGES** to the existing land use laws relating to dog training facilities. Not only are these laws uncontroversial and successful, they have absolutely nothing to do with the building code or ORS Chapter 455. This is a building code bill, not a land use bill.

The second part (found in Section 2) of House Bill 2645 clarifies provisions of ORS 92.017 to make it clear that a lawfully created unit of land does not become illegal as the result of a judgment entered by an Oregon circuit court that adjusts the boundaries of two neighboring parcels in a boundary line dispute. Fence line disputes are common in both urban and rural areas, and when two neighboring property owners can’t agree on the location of the boundary between their properties,

Oregon law contains provisions to allow the neighbors to have the boundary determined by a trial court judge, subject to appeals to the Oregon appellate courts. In a recent situation in Multnomah County, the County Planning Department declared two neighboring properties illegal because of an “illegal lot line adjustment”. The “illegal lot line adjustment” that the County was referring to was a judgment entered by the Multnomah County Circuit Court that changed the boundaries between the two parcels to resolve a fence line dispute over the correct boundary location. If a trial court judgment would result in the creation of two illegal parcels, property owners will be denied access to the court to resolve their

boundary line disputes. This makes no sense, and Section 2 of the bill clarifies that a trial court judgment changing boundary lines to resolve a boundary line dispute does not result in an illegal lot.

In the past few days, a number of emails and letters have been placed on OLIS in support of this bill. The dog training community is no different from the horse training community – they just enjoy training different animals. For building code purposes, there's no reason to treat them differently. That's why this bill is not particularly significant in the overall picture, but makes a big difference for farmers who train dogs. All the bill asks is that the same building code exemption that horse trainers enjoy be applied to dog trainers.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'D. Hunnicutt', with a large, stylized flourish at the end.

David J. Hunnicutt  
President

PO Box 230637 Tigard, OR 97281  
Email: [opoa@oregonpropertyowners.org](mailto:opoa@oregonpropertyowners.org)