



## [SAVE HELVETIA](#)

13260 NW Bishop Rd

Hillsboro, OR 97124

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*Advancing policies, leaders and actions that protect Helvetia's treasured resources.*

## Ethical Dilemmas re SB 1586

**Stare decisis** is the doctrine that courts should adhere to precedent in making their decisions. In Latin, stare decisis means to “stand by things decided”. Senators must assess whether HB 4078 of 2014 is stare decisis. We heard the mayor of Hillsboro deride HB 4078 as something decided “2 mayors ago”. Another elected official stated that this “took place when he was a teenager”. Precedents typically do precede us. Do we honor precedent? Do we attempt to understand the reasoning and context of earlier decisions? HB 4078 was decided by a bipartisan and unanimous vote in both chambers. That was and remains unusual and only a decade ago. That is worthy of careful study. **Does a short session allow careful study?**

### Honoring Agreements and Settlements

In 2014, the then Governor through his representative Richard Whitman told the settlement group that the Governor would only sign on to the settlement **IF** all governments supported the legislation and further agreed that they would **NOT** return to the legislature to conduct local land use. **Mayor Jerry Willey for Hillsboro, Commissioner Andy Duyck for Washington County, and Chair Tom Hughes for Metro all indicated support for this requirement.** The appellants considered the settlement agreement much as a treaty among the parties. Should **settlement agreements be honored?**

### Supporting Goal One Citizen Involvement

Washington County conducted its task of drafting an Urban and Rural Reserve plan. Citizens engaged the process and provided testimonies, including some excellent citizen science. When several organizations and individuals disagreed with decisions made by the county, they exercised their right to appeal.

Washington County's plan was appealed to Metro (which botched its oversight role), then to LCDRC (which botched its oversight role), and eventually to the Oregon Statewide Court of Appeals. While all waited for the court's ruling, Mayor Jerry Willey reached out to 1000 Friends and asked if the appellants might consider "settling". Save Helvetia and 1000 Friends indicated they would. Willey then asked Commissioner Duyck of Washington County if he would and he refused. We then waited another year for the court's ruling. Appellants were not stereotypical "tree huggers" standing in the way of progress. **We acted in good faith and were always willing to negotiate.**

### **Costs born by Appellants**

Save Helvetia incurred close to \$100,000 in legal and volunteer labor expenses. It was not lost on us that we paid for the county's reserves plan and we underwrote our testimonies and our appeal of that county plan. We prevailed in court! We had to fund raise for 5 years to pay down our debt...citizens seeking to protect their community and vocations from their government. Our prize was the protection of several thousand additional acres of farmland. **If you take away our prize what is our compensation?**

### **Public Process**

Senator Sollman touts that this issue has had continuous public involvement for over a decade. That is false. While she and the City of Hillsboro and the members of the North Hillsboro Alliance have likely had many conversations, the City of Hillsboro has never engaged their city residents of this potentially massive growth of the city limits. Sollman and Hillsboro have not had a conversation with the appellants about this bill and its many moving parts. Sollman, now a legislative "insider" cleverly scheduled an informational hearing during a short session, excluding all opposing voices and misrepresenting some the facts. Now for SB 1586's first hearing, it is scheduled at 8AM on a federal holiday while Senator Sollman amends the bill hours before the hearing. Amending on the fly, Sollman appears the diplomat and compromiser **BUT** this should not have been taken up in the first place and in a short session. **Many in Hillsboro are appalled at the landscape of data centers that the city has become. Many can't believe that data centers are clamoring for micro nuclear power plants.**

### **Pay Attention to the Court's Ruling and Washington County's Choice**

The Oregon State Court of Appeals took up the Urban and Rural

Reserve Plans for Multnomah, Clackamas and Washington Counties. The court **threw out only** Washington County's plan, finding that the county had created "**pseudo**

**factors”** that were **not in law or administrative rule**. The county had “cherry picked” studies and created factors that enabled them to support urban reserve designations that would not have otherwise held up. Soils and water were at issue. The county used an historic soils study and actively discriminated against sub-irrigation. The court indicated that the county could redo the plan. Instead the **county chose to enter into settlement negotiations and the city willingly joined in**. (Please refer to Save Helvetia’s 7 page document that details the process).

### **False Assertions by Senator Sollman**

Senator Sollman asserts that the 1700 acres was originally designated as an “urban reserve” and it was **taken away** from them by HB 4078. This is a false narrative. The 1700 acres was never **legally** assessed by the county and it was proposed as an “urban reserve” via “pseudo factors” later pointed out by the court. With the plan thrown out by the court, the acres **never achieved an acknowledged “urban reserve”**.

Senator Sollman also asserts that it isn’t good farm land and lacks irrigation and has traffic running through it. The area has in fact three streams (Storey, MacKay, Waibel) that run through it, sub-irrigation drains south off the Tualatin Mountains, the fields are “tiled” to drain off excess water, and there are also plentiful wells in active use. When the soils are profiled with up to date soil maps, they are found to include some of the top tier soils remaining in the Tualatin Valley. Senator Sollman asserts that the 1700 acres was taken away “in **perpetuity**”. This is simply not in the law: the reserves were to remain designated for **40-ish years and/or until 75% of the metro area urban reserves had been used**. HB 4078 valued **balanced growth** in the Metro area.

### **Trade Offs**

1000 Friends of Oregon and Save Helvetia agreed to not contest

Hillsboro’s “South Hillsboro” development the same for the Hillsboro’s North Industrial Park acreage. Hillsboro now wants to renege on the deal, but cannot give back what they got in the bargain. **Is fairness a factor?**

### **Certainty**

Mantras usually attach to various public relations campaigns. During the Urban and Rural Reserves campaign, “**jobs, jobs, jobs**” was a frequent refrain. “**Job-land**” was used to discuss possible industrial acreage. “Highest Best Use” and “**Certainty**” were

others. **Certainty for farmers who needed to forecast for longer term crops: hazelnut trees. Certainty for cities and developers to forecast growth and development.** Now the mantras are “generational opportunity” and JOBS! “Certainty” is now said to be what the corporations need. **Be wary of the development mantras!**

**Legislative Assembly, deliver us Certainty!**

Robert Bailey, Secretary for Save Helvetia

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