

IN THE SUPREME COURT OF THE STATE OF OREGON

LAKE OSWEGO PRESERVATION
SOCIETY, Marylou Colver and Erin
O'Rurke-Meadors,

Petitioners on Review,

v.

CITY OF LAKE OSWEGO, and
Marjorie HANSON, trustee for the
Mary Cadwell Wilmot Trust,

Respondents on Review.

**Court of Appeals Case No.
A157619**

LUBA No. 2014-0009

**BRIEF FOR RESTORE OREGON AND ARCHITECTURAL
HERITAGE CENTER AS AMICI CURIAE IN SUPPORT OF THE
PETITION FOR SUPREME COURT REVIEW**

Appeal from an August 5, 2014 Final Opinion and Order of the
Land Use Board of Appeals, Opinion by Bassham, Board Member

The Court of Appeals reversed on petition and affirmed
on cross-petition on February 4, 2015
Before Armstrong, P.J, Egan, J. and Wollheim, S.J.
Opinion by Egan, J.

If review is granted, Amici Restore Oregon and
Architectural Heritage Center intend to file a brief on the merits

Attorneys and parties listed on back cover

March 2015

Daniel Kearns, OSB #89395
Reeve Kearns, PC
621 SW Morrison, Suite 1225
Portland, OR 97205
Phone (503) 225-1127
dan@reevekearns.com
Attorney for Petitioners

Evan Boone, OSB #78151
Lake Oswego City Attorney's Office
PO Box 369
Lake Oswego, OR 97034
Phone (503) 635-0225
eboone@ci.oswego.or.us
Attorney for Respondent Lake
Oswego

Christopher Koback, OSB #91340
Hathaway Koback Connors, LLP
520 SW Yamhill, Suite 235
Portland, OR 97204
Phone (503) 205-8404
chriskoback@hkcllp.com
Of Attorneys for Respondent
Marjorie Hanson

Carrie Richter, OSB #003703
Jennifer Bragar, OSB #091865
Garvey Schubert Barer
121 SW Morrison, 11th Floor
Portland, OR 97204
Phone (503) 228-3939
crichter@gsblaw.com
jbragar@gsblaw.com
Of Attorneys for Restore Oregon and
Architectural Heritage Center as
Amici Curiae

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STATEMENT OF HISTORICAL AND PROCEDURAL FACTS

Amici Curiae Restore Oregon and the Architectural Heritage Center (“Amici”) support the Statement of Historical and Procedural Facts as set out in the Petitioners Lake Oswego Preservation Society *et al.* (“Petitioners”) Petition for Supreme Court Review.

STATEMENT OF THE LEGAL QUESTIONS ON REVIEW AND THE PROPOSED RULES OF LAW

Amici support the Statement of Legal Questions on review and the Proposed Rules of Law set out in the Petitioners’ Petition for Supreme Court Review.

REASONS WHY THIS CASE PRESENTS A SIGNIFICANT ISSUE OF LAW THAT REQUIRES REVIEW BY THE SUPREME COURT

The Public Benefits From Historic Preservation.

For over a half-century, the identification, designation, and protection of historic landmarks has been an important tool for furthering land use planning objectives and achieving community sustainability.¹ In 1968, the City of

¹ In the seminal case, *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978), the U.S. Supreme Court found that designation and regulation of historic properties was a constitutionally allowable function of local government. In doing so, it noted:

Over the past 50 years, all 50 States and over 500 municipalities have enacted laws to encourage or require the preservation of buildings and areas with historic or aesthetic importance. *Id.* at 107.

Portland adopted the first landmark preservation ordinance in the state, second only to that of Los Angeles on the West Coast.²

The preservation of historic buildings provides demonstrable benefits for the economy, environment, and members of the community. Recent research conducted by the National Trust for Historic Preservation and the Oregon Parks and Recreation Department has shown:

- Dollar-for-dollar, building rehabilitation creates more jobs than manufacturing, logging, or new construction.³
- 60% of historic building rehabilitation expenses go towards labor instead of materials, much of which is imported.⁴
- 76% of the economic benefit of historic building rehabilitation stays within the local economy.⁵
- It takes an average of 50 years for a new efficient house to save the energy lost by demolishing an existing one.⁶

² Elisabeth Walton Potter, *A Past for Our Future* (Portland: Restore Oregon, 2012), 5.

³ Donovan Rypkema, *The Economics of Historic Preservation* (Washington: National Trust for Historic Preservation, 2005), 11.

⁴ Donovan Rypkema, *Heritage Conservation and the Local Economy*, Global Urban Development, (Delaware: Rehoboth, 2008), 1.

⁵ Rutgers University, *First Annual Report on the Economic Impact of the Federal Historic Tax Credit* (Washington: National Trust Community Investment Corporation, 2010), 6. <http://www.nps.gov/tps/tax-incentives/taxdocs/economic-impact-2008.pdf>.

⁶ Preservation Green Lab, "The Greenest Building: Quantifying the Environmental Value of Building Reuse" (Washington: National Trust for

- Historic places attract tourism; 83% of leisure travelers in Oregon seek out cultural and heritage vacation destinations.⁷

Historic preservation also serves to maintain property values. An article in the National Park Service's journal, *Cultural Resource Management*, entitled "The (Economic) Value of National Register Listing," provides:

Property values in local historic districts appreciate significantly faster than the market as a whole in the vast majority of cases and appreciate at rates equivalent to the market in the worst case. Simply put—local historic districts enhance property values.⁸

The Court of Appeals decision allows a subsequent owner, who purchased property with knowledge of the restrictions and benefits that result from historic designation, to remove that designation for short-term fiscal gain, are not the class of innocent, objecting property owners that ORS 197.772 was intended to protect. De-designation followed by demolition of historic resources results in loss of the public benefits realized from preservation. The loss of the public benefits resulting from de-listing makes this case a significant one and suitable for the Court's consideration.

Historic Preservation, 2012), 72.

http://www.preservationnation.org/information-center/sustainablecommunities/green-lab/lca/The_Greenest_Building_lowres.pdf.

⁷ Mandala Research, "Oregon Cultural and Heritage Travelers Study" (Salem: State Historic Preservation Office, 2012). <http://www.oregon.gov/oprd/HCD/OHC/docs/travelers.pdf>.

⁸ Donovan Rypkema, "The (Economic) Value of National Register Listing," *Cultural Resource Management* 25, no. 1 (2002): 6.

The High Importance of Historic Preservation in Oregon.

Prior to the adoption of the statewide land use planning goals in 1974, Oregon communities began to inventory and designate historic properties. Some of these designations imposed obligations for review of proposals to alter, add to, or demolish designated structures. Designation titles vary but are most often referenced for their inclusion on a “list of historic sites,” as a “local landmark,” or placement on the National Register of Historic Places.⁹ A historic designation can be applied to an individual structure or include all or a portion of buildings within a district comprised of many contributing structures.

Historic designation can trigger both regulatory review and incentive provisions. Without historic designation, local governments would have no mechanism to review proposals for additions, alterations, and the demolition of

⁹ The National Register of Historic Places is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of their community, state, or the nation. Private individuals and organizations, local governments, and Native American Indian tribes initiate this process that is then reviewed by the State Historic Preservation Office and State Advisory Committee on Historic Preservation, a professional review board that makes a recommendation on the nominated site’s eligibility for designation. 16 U.S.C. 470 *et seq.* Since the adoption of Goal 5, mandating inventory and protection of historic resources, most local governments in Oregon automatically incorporate resources listed on the National Register into their list of historic properties and regulate their alteration or demolition. ORS 197.772(1) excludes National Register designation from the scope of the consent law. Therefore, a property owner purchasing a National Register structure after its designation cannot seek removal from the National Register solely on the basis of objection at the time of designation.

places that have aesthetic, cultural, or historical value to the community.

Maintaining existing designations of local landmarks provides certainty for how Oregon communities will honor the past, while allowing for growth in the future.

Statewide Planning Goal 5 requires that local governments conserve historic areas. In 1996, the Land Conservation and Development Commission promulgated new administrative rules outlining the general Goal 5 inventory and designation process and also specific rules relating to historic resources. OAR 660-023-0200. Under the standard process, local governments must inventory historic and cultural areas to determine their significance. OAR 660-023-0030. If areas, properties, or particular structures are determined to be significant, a local government must go through a process of identifying conflicting land uses and then resolve those conflicts. OAR 660-023-0040. Once the conflicts are resolved, local governments must provide sufficient implementation measures to put their Goal 5 programs into effect. To do this, local governments must adopt comprehensive plan provisions and land use regulations to provide a level of protection intended for each significant resource site. OAR 660-023-0050(1).

Historic preservation, as required to achieve compliance with Goal 5, is an important component of the land use planning system in Oregon. The ORS 197.772(3) de-designation authority makes no mention of Goal 5. How local

governments and, in turn, courts apply the resource removal provision of ORS 197.772(3) will have a significant effect on how local governments will achieve Goal 5, not only with regard to resources that were previously listed and subsequently removed, but also how a local government will maintain Goal 5 compliance in the future assuming substantial numbers of properties are removed.

Interpretation of ORS 197.772 is a Case of First Impression and Review is Necessary to Allow for Consistent Application.

ORS 197.722 is Unique to Oregon.

It may be that ORS 197.772 originated in response to an “owner objection” provision included in the 1980 Amendments to the National Historic Preservation Act. The provision provides that no individual property may be included on the National Register if its owner objects and no historic district shall be included on the National Register if a majority of the property owners in the district object.¹⁰ There is no evidence that Congress, in enacting the owner objection provision, intended that owner consent or owner objection provisions be included in state and local historic preservation laws. Many local governments across the county followed suit by requiring owner consent for local designation but none have done so on a statewide level. Oregon is virtually unique in its adoption of a state statutory law that includes a mandate

¹⁰ 16 U.S.C. §470a(a)(6) (2006).

to local governments regarding owner consent to historic designation. As a result, this court cannot look to other states for guidance in interpreting ORS 197.772 making this truly a case of first impression.

Consistent Application of ORS 197.772 Mandates that this Court take Review.

As the Petitioners in this case aptly address, the Land Use Board of Appeals found that the term “property owner” as used in ORS 197.772(3) was not intended to allow de-designation for property owners who purchase a historically listed property after its designation. *Lake Oswego Preservation Society, et al., v. City of Lake Oswego*, ___ Or LUBA ___ (slip op. at 25, LUBA No. 2014-009, Aug, 5, 2014). The Oregon Court of Appeals reversed LUBA’s decision. The appellate court concluded that in cases where the original owner objected to the designation, the successor property owner is entitled to have that designation removed under ORS 197.772(3). *Lake Oswego Preservation Society v. City of Lake Oswego*, 268 Or App 811, 821 (2015).

As noted above, prior to 1996 through the adoption of new Goal 5 administrative rules,¹¹ there was no single process for how local jurisdictions designated historic properties; each jurisdiction took its own path, consistent with the community’s unique history. Some communities adopted lists, others designated landmarks, and yet others designated conservation landmarks.

¹¹ OAR 660-023-0200.

Because owner consent was not a statutory right at the time, many communities did not collect or retain records related to the designation proceedings.¹² Some communities included designations or inventories approved only by their historic commissions that were then incorporated as part of comprehensive plans and zoning codes.¹³ Given the wide variety of methods under which historic resource designation was imposed by local governments, it is essential that this court take review and provide some clear guidance as to whether ORS 197.772(3) applies to subsequent owners.

Further, should this Court refuse review, implementation of the Court of Appeals opinion-the onslaught of de-designation applications filed by successor property owners-will be considered by local governments' landmarks or historic review boards, which are composed of volunteers that have no formal legal training in implementing state law.¹⁴ These landmarks boards will be required

¹² In preparing for this brief, Restore Oregon polled 25 staff planners and received feedback from 18 Oregon jurisdictions that offer protections for their historic resources. (Under Footnote 1 to ORAP 9.07, a party may include extra record materials to support the criteria and the footnote applies to Footnotes 14-16, 22, 25, and 29-31, *infra*. Notes from the poll are available upon request from *amici curiae*, Restore Oregon and AHC.)

¹³ As shown in the example below, Portland regulates over 5,000 properties included in the City's 1984 Historic Resource Inventory. Although only adopted by the Landmarks Commission, the Inventory has been a foundation of the City's historic preservation program since 1984.

¹⁴ Operation of the National Register program as well eligibility for federal or state preservation grants at the local level is achieved through the Certified Local Government program. Oregon has 49 Certified Local Governments. Kuri Gill, telephone conversation with Brandon Spencer-Hartle, March 23,

to: (1) determine if the original owner objected (when record-keeping from the time of designation may be sparse or non-existent); (2) determine whether the designation was “imposed on the property,” as required in *Demlow v. City of Hillsboro*, 39 Or LUBA 307 (2001); and (3) determine how de-designation impacts the City’s Goal 5 inventory. This is not only a weighty task to impose on these volunteer-driven boards, but will result in considerable uncertainty, within communities and amongst local governments, that will inevitably seek resolution through the courts.

The Fate of Historic Resources in Oregon Will be Significantly Altered if the Supreme Court Refuses to Take Review.

The Court of Appeals opinion is likely to have a sweeping effect on locally designated properties across Oregon and will lead to the dismantling of the local landmark program in many communities. The aggregate number of historic resources that are not on the National Register of Historic Places, but identified and regulated as “historic” by local communities (including inventory, local landmark, conservation landmark, and list of significant resources), is approximately 4,000 across the state.¹⁵

2015. (Notes from the telephone conversation are available upon request from *amici curiae*, Restore Oregon and AHC.)

¹⁵ Brandon Spencer-Hartle, Senior Field Programs Manager at Restore Oregon, arrived at this estimate through communications with 18 jurisdictions. (Notes supporting these calculations are available upon request from *amici curiae*, Restore Oregon and AHC.)

Although it is impossible to determine exactly the number of historic properties that have subsequently been transferred to new owners, ORS 197.772 was adopted in 1995, twenty years ago. As discussed in greater detail below, it is estimated that between 50% to 80% of the properties designated before 1995 have been transferred to new owners since that time. Increased land values coupled with increases in zoned densities provide an incentive for subsequent owners to seek the short-term windfall resulting from de-listing. A dearth of historic records documenting the designation process including identification of those who objected only exacerbates this concern. Therefore, the potential loss of historic resources is a significant matter of statewide concern within the field of historic preservation, to the public who directly benefits by these protections, and to this court.

City of The Dalles Case Study.

In the City of The Dalles, 98 properties were designated as local landmarks in 1984-1985. The City's records documenting the circumstances surrounding these designations cannot be found and are presumed to be lost. A local staff planner has indicated that roughly 80% of those designated buildings have changed ownership since the time of designation.¹⁶ Therefore, without records to confirm notice and consent at the time of designation, 80% of the

¹⁶ Dawn Marie Hert, e-mail message to Brandon Spencer-Hartle, March 18, 2015. (This email is available upon request from *amici curiae*, Restore Oregon and AHC.)

structures carrying a local historic designation in that community could seek removal and proceed to demolition without review as a result of the Court of Appeals' decision.

City of Portland Case Study.

Consider another example in the City of Portland that illustrates the vast pool of properties that will likely be affected by the Court of Appeals decision.

The City of Portland's zoning code defines "historic resource" as:

A place, structure or object that has historic significance. Historic Resources include: Historic Landmarks, including those that are listed in the National Register of Historic Places; Conservation Landmarks; Conservation Districts; Historic Districts, including those listed in the National Register of Historic Places; Structures or objects that are identified as contributing to the historic significance of a Historic District or a Conservation District; and Structures or objects that are included in the Historic Resources Inventory.¹⁷

All of these designations are provided protection by the City's zoning code.¹⁸

Portland has 557 individually listed National Register properties and 16 National Register districts, comprised of 3,813 contributing properties.¹⁹ There is some overlap between the National Register, Local Landmark, Conservation District, and HRI properties, yet it is estimated that there are more than 3,000 historic properties that are protected by the zoning code, but are not designated

¹⁷ City of Portland Zoning Code (ZC) 33.910.030.

¹⁸ ZC Chapter 33.445.010 *et al.*

¹⁹ State Historic Preservation Office, "Oregon Historic Sites Database, <http://heritagedata.prd.state.or.us/historic/>.

on the National Register.²⁰ These 3,000 properties will be directly affected by the Court of Appeals' decision regarding ORS 197.772(3).

On October 1, 1993, the City of Portland designated six historic Conservation Districts in inner North and Northeast Portland. Creation of these districts was a product of the Albina Community Plan. Documents from the time make no mention of owner consent provisions and no records of property owner objection or consent are available.²¹ As of 2011, there were 1,612 contributing historic properties in Portland's Conservation Districts. Using available assessor data, it is estimated that at least 1,104, or 68%, of these contributing buildings have been sold at least once since October 1, 1993.²² Lacking any records documenting notice or tracking those who may have provided consent or objection, at least 1,104 structures in the City's conservation districts are at risk for demolition under the Court of Appeals decision.

²⁰ The City of Portland could not provide mutually exclusive totals for the different designations for this project. The 2009 "Portland Plan Background Report" and "Oregon Historic Sites Database," along with planning staff insights, were used to arrive at this estimate.

²¹ City of Portland, *Historic Districts in the Albina Community*, (Bureau of Planning, 1992).

²² Restore Oregon was able to aggregate sales data for properties through transaction data made available by the City. It is estimated that most properties for which data was unavailable last changed hands prior to the late 1980s. (Notes supporting these calculations are available upon request from *amici curiae*, Restore Oregon and AHC.)

On October 10, 1984, the Portland Historic Landmarks Commission adopted the Portland Historic Resource Inventory. Properties on the Historic Resource Inventory are given historic resource protection and are regulated through the zoning code.²³ There are 5,158 properties in the Inventory, an unknown number of which are also listed on the National Register, or as a Local Landmark, Conservation Landmark, or contributor to a Conservation District.²⁴ Of the 5,158 inventoried properties, last sale dates are available for 2,688 properties. Of these 2,688 properties, 2,666, or 99%, are held by owners who did not own the property at the time that the local historic designation was imposed.²⁵ Again, these 2,666 properties are now threatened under the Court of Appeals decision.

Regarding resources designated through the Historic Resource Inventory, the City of Portland has been interpreting ORS 197.772 consistent with the Court of Appeals ruling since 2002. Since that date, 94 designated properties have been de-listed on the basis of present owner objection.

²³ ZC 33.445.500.

²⁴ The City of Portland does not maintain current data on the status of Historic Resource Inventory properties. Due to the Inventory's geographic methodology and the locations of most National Register listings (clustered in a few districts), Restore Oregon estimates approximately half of the Inventory properties have no other designation.

²⁵ Restore Oregon was able to aggregate sales data for properties through transaction data made available by the City. It is estimated that most properties for which data was unavailable last changed hands prior to the late 1980s. (Notes supporting these calculations are available upon request from *amici curiae*, Restore Oregon and AHC.)

The Bridges House, formerly located at 1423 SW Columbia Street, Portland, was a relatively rare Eastlake style Victorian-era home. It was designed by noted Portland architect Justus Krumbein in 1884. The home was included in the City's Historic Resource Inventory in 1985.²⁶ After being sold several times since being listed in 1985, the house was removed from the Historic Resource Inventory on the day the owner objection was made to the City, December 20, 2013. The house was demolished in March, 2014, to make way for an 18-unit apartment building.



John Bridges House at the time it was listed in Portland's Historic Resource Inventory. Photo courtesy Fred DeWolfe.

²⁶ City of Portland, "Inventory of Historic Sites and Structures: Sturgis House," September 30, 1985.



John Bridges House being demolished in March 2014. Photo courtesy Tanya March.

City of Pendleton Case Study.

In 1985, the City of Pendleton inventoried 169 historic landmarks representing “Pendleton’s best preserved and most important historic resources.”²⁷ The City, through their zoning code and the powers granted to the Landmarks Commission, provides protection to these properties.²⁸ Due to a flood, all records of owner notification and/or objection from 1985 have been lost.²⁹ Of the 169 Local Landmarks, 22 have subsequently been listed in the National Register with the consent of their owners. This leaves 147 structures vulnerable for seeking removal of designation.

²⁷ City of Pendleton, “Historic Resource Inventory Methodology,” 1985.

²⁸ City of Pendleton, “Zoning Ordinance XIV: Historic Conservation Subdistrict,” 2013.

²⁹ Evan MacKenzie, e-mail communication to Brandon Spencer-Hartle, March 16, 2015; Nancy Kerns, telephone communication to Brandon Spencer-Hartle, March 20, 2015. (This email is available upon request from *amici curiae*, Restore Oregon and AHC.)

The Umatilla County Assessor was able to provide records for 87 of the 147 properties designated in 1985 and not on the National Register. Of these 87 properties, 86 of them have seen a change in ownership since 1985.³⁰

Conservatively assuming that all of the remaining properties are in the same ownership, 59% of Pendleton's landmarks have changed hands since the time of designation.

An illustrative and present case in Pendleton relates to the 1907 Lina Sturgis House. Located at 215 NW Furnish Avenue, the house is a 7-bedroom Prairie-style home built by the widow of William Sturgis, a prominent figure in Pendleton's history. Designated in 1985, the house was sold to its current owners on July 2, 2002. The property owner is opposed to the city's historic preservation ordinance and was featured on the cover of the *East Oregonian* on March 11, 2015, where he cited the Court of Appeals decision as a basis for his intent to remove the designation.³¹

³⁰ Research conducted by Restore Oregon, with assistance from Umatilla County Assessment and Taxation Office, on March 19, 2015. (Underlying information related to this research is available upon request from *amici curiae*, Restore Oregon and AHC.)

³¹ Phil Wright, *Historic Properties Ordinance Challenged Again*, *East Oregonian* (March 11, 2015) See article included in Appendix A.



Lina Sturgis House (center) in 1917. Photo courtesy Umatilla County Historical Society (Image 1990.059.1383).



Lina Sturgis House in March, 2015. According to the East Oregonian, “Tim O’Hanlon, owner of this house on Furnish Avenue, objects that the city placed homes on a historic preservation list without notifying the owners. Pendleton’s three-member Historic Preservation Committee must approve any renovations to properties on the list.” Photo courtesy Kathy Aney.

Available data suggests that 50% to 80% of locally designated historic properties have changed hands since the time of their designation. Of the estimated 4,000 local designated resources, 2,000 to 3,200 of these structures could be de-listed. In jurisdictions where notice was not provided or where

records of objections have been lost, the number of individuals that may qualify for removal is likely significantly higher. These subsequent property owners bought with notice of the historic designation such that it was not imposed on them, over their objection, as ORS 197.772(3) requires. As the Court of Appeals noted summarizing the legislative history, construing ORS 197.772(3) to include subsequent property owners will “lead to the dismantling of local historic districts” and historic programs statewide. 268 Or App at 821.

For all of these reasons, this is a case of statewide significance that merits Supreme Court review.

Respectfully submitted this 25th day of March 2015.

GARVEY SCHUBERT BARER

By: 

Jennifer Bragar, OSB #091865

Carrie A. Richter, OSB #003703

Garvey Schubert Barer

121 SW Morrison, 11th Floor

Portland, OR 97204

Phone (503) 228-3939

jbragar@gsblaw.com

EAST OREGONIAN

Historic properties ordinance challenged again

Phil Wright

East Oregonian

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Tim O'Hanlon, owner of this house on STAFF PHOTO BY KATHY ANEY Furnish Avenue, objects that the city placed homes on a historic preservation list without notifying the owners. Pendleton's three-member Historic Preservation Committee must approve any major renovations to properties on the list. [Buy this photo](#)

The key opponent of Pendleton's local law that limits what owners can do to historic homes found new ammunition to fight city hall.

Local attorney Tim O'Hanlon has for years been leading the charge to have the city change its historic preservation ordinance. The city in 1985 selected homes and sites — 167 in all — for a historic registry. The problem, O'Hanlon says, is that the city did not give anyone the opportunity to opt out from having their property on the list. O'Hanlon's house at 215 N.W. Furnish Ave. is on the registry, and he said the city law limits what he can do to the building.

But the bigger concern, O'Hanlon asserted, was the city ignoring people's rights. He said there is no evidence the city even tried to contact people before making the registry, and a 1995 state law allows people to remove properties from such lists.

He sent a letter on March 4 to the city and Umatilla County officials, and to the East Oregonian, concerning a recent Oregon Court of Appeals ruled regarding that law, Oregon Revised Statute 197.772, and how it applies to a property on Lake Oswego's historic preservation list. The appeals court reviewed the law and its legislative history, according to the ruling, and concluded "the legislature intended to allow any property owner that had a local historic designation forced on their property to remove that designation."

O'Hanlon said he urged the county not to co-adopt Pendleton's ordinance, and he hoped the ruling would be

enough to spur the city to change their own.

So too does Jerry Villers, whose home at 707 S. Main St. also is on the registry.

"We found out we were on the historic preservation list after we bought our home and we lived here a few years," Villers said. "When we bought the house we weren't informed at all."

His house was built in 1890 and used cedar, he said, and under the historic designation he tried to find out if that meant he would have to use cedar if he rebuilt or replaced part of the house. But city staff was vague about how the local law affected what he could or could not do to the house, he said, and city council also could not give him the answers he sought.

"It was just really convoluted," he said. "I just wasn't really happy with it."

He said he would like the city to revise the ordinance so he and others can decide for themselves if they want their homes on the list.

Pendleton city attorney Nancy Kerns said Wednesday morning she did not think the appeals court ruling would invalidate or require a change to the city's law, but the city was going to research what the ruling means relative to O'Hanlon's property. She said the facts in his case could differ from the facts in the Lake Oswego case.

But within the hour she called back and said the city was holding off because Kearns learned Wednesday morning that the Lake Oswego case was going to the Oregon Supreme Court. Until that ruling comes down, she said, the city is not taking any action.



**CERTIFICATE OF SERVICE AND FILING
AND CERTIFICATE OF WORD COUNT**

I hereby certify that on the date indicated below, I caused to be filed the original of the attached BRIEF FOR RESTORE OREGON AND ARCHITECTURAL HERITAGE CENTER AS AMICI CURIAE IN SUPPORT OF THE PETITION FOR SUPREME COURT REVIEW with the:

State Court Administrator
Supreme Court Bldg.
1163 State Street
Salem, OR 97301-2563

by hand delivery. On the same date I caused to be served two true, complete and correct copies of the same document by First Class Certified US Mail, return receipt requested on the following parties or attorneys:

Christopher Koback
Hathaway Koback Connors LLP
520 SW Yamhill Street, Suite 235
Portland, OR 97204

Oregon Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Daniel Kearns
Reeve Kearns, PC
621 SW Morrison St., Suite 1225
Portland, OR 97205

Evan Boone
Assistant City Attorney
P.O. Box 369
Lake Oswego, OR 97034

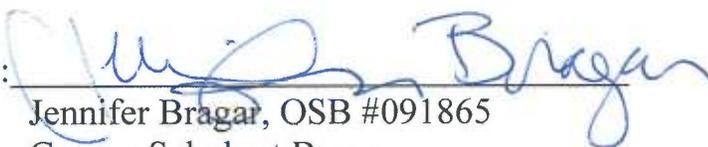
Honorable Ellen F Rosenblum
Oregon Department of Justice
1162 Court St NE
Salem OR 97301

I further certify that the BRIEF FOR RESTORE OREGON AND ARCHITECTURAL HERITAGE CENTER AS AMICI CURIAE IN SUPPORT OF THE PETITION FOR SUPREME COURT REVIEW complies with the word count limitation in ORAP 9.05(3)(a) for a Petition for Supreme

Court Review; it is proportionately typed, not smaller than 14-point font for body and footnotes and contains 3,789 words.

DATED this 25th day of March 2015.

GARVEY SCHUBERT BARER

By: 
Jennifer Bragar, OSB #091865
Garvey Schubert Barer
121 SW Morrison, 11th Floor
Portland, OR 97204
Phone (503) 228-3939
jbragar@gsblaw.com