

O EAST OREGONIAN PINION

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OUR VIEW

Judge right to block real estate 'love letter' law

So-called real estate "love letters" aren't exactly a major free speech issue. But it's not surprising that Oregon's unique new law partially banning these messages quickly ran into trouble on First Amendment grounds.

U.S. District Judge Marco A. Hernández last week issued a preliminary injunction blocking the law, which the Oregon Legislature passed in 2021 and Gov. Kate Brown signed. It took effect Jan. 1, 2022.

Hernández made his ruling in a lawsuit filed in November 2021 by the Pacific Legal Foundation on behalf of the Total Real Estate Group of Bend.

Oregon State Rep. Mark Meek, a Democrat from Clackamas County and a real estate agent, promoted the law. It deals with letters that hopeful buyers sometimes send to a seller, using real estate agents as intermediaries, as a way to try to entice the seller to choose the letter writer's offer.

The law doesn't prohibit prospective buyers from writing such letters, or from sending them directly to a homeowner. The law prohibits real estate agents who represent a seller from passing on such letters to the seller.

Meek and other supporters said they were concerned such letters could include personal details about the prospective buyer, such as race, gender or sexual orientation, that might influence the seller's decision about which offer to accept.

Proponents of the law contend this situation would violate the federal Fair Housing Act, which prohibits discrimination in housing based on factors such as race and sexual orientation.

This is a legitimate concern, to be sure.

But the notion that such letters would truly lead to discrimination is difficult, if not impossible, to prove. In any case, the mere potential for a letter to contribute to discrimination is not sufficient to meet the appropriately high threshold that the First Amendment sets to ensure Americans have the right to freely express themselves, regardless of the topic or the forum.

Daniel Ortner, an attorney for the Pacific Legal Foundation, made that point in a statement about the preliminary injunction.

"Love letters communicate information that helps sellers select the best offer," Ortner said. "The state cannot ban important speech because someone might misuse it."

Hernández acknowledged in his decision that the purpose of the new law is worthwhile. The judge cited Oregon's "long and abhorrent history of racial discrimination in property ownership and housing" that in the past explicitly blocked people of color from owning property.

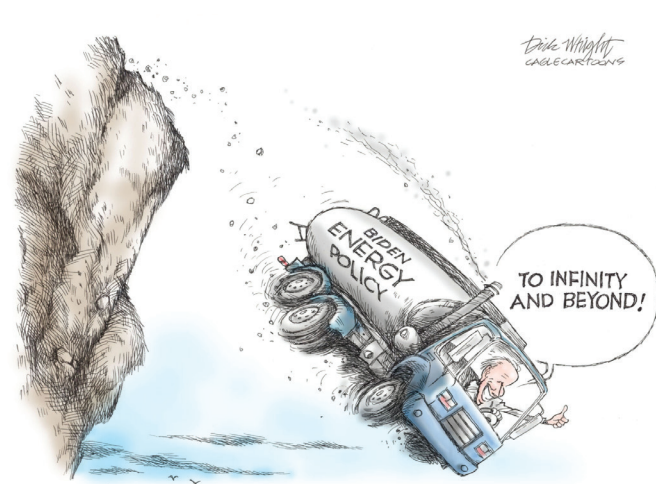
But the judge also rightly concluded the law is too broad, prohibiting this type of letter in general rather than outlawing specific subjects. Oregon lawmakers, Hernández wrote, "could have addressed the problem of housing discrimination without infringing on protected speech to such a degree."

That's an interesting point. However, it's hard to imagine that any such restriction on this type of letter, even one with a narrower focus than the current law, would pass constitutional muster.

The preliminary injunction will remain in effect until Hernández makes a final decision on the lawsuit.

Oregon officials, including Attorney General Ellen Rosenblum and Real Estate Commissioner Steve Strobe, both named as defendants in the lawsuit, should concede the new law, however well-intentioned, is too general in its restrictions on free speech to stand.

There's no reason to spend public money defending against a lawsuit that stands on a legal foundation as formidable as the First Amendment.



YOUR VIEWS

Americans should defend freedom in Ukraine

Before the USA entered World War I, an American contingent of pilots composed a group known as the Lafayette Escadrille under French command. These pilots became distinguished during that war. They felt it was necessary to defend freedom.

Before the USA entered World War II, there was the American volunteer group in China fighting the Japanese as pilots under Claire Chenault.

What has happened to the idea of Americans volunteering to support freedom from foreign invasion?

I propose calling on American veterans willing to support to help Ukraine. I am 78 and in poor shape to volunteer for such a venture. I am willing to die for Ukrainian people. I could be used as cannon fodder. We could use as our war flag the Gadsden flag (coiled rattlesnake

with words "Don't Tread On Me"), known as the Rattlesnake Contingent. Anyone interested please contact me.

Rudy Candler
Union

Runaway spending in Legislature gouges taxpayers

Every adult Oregonian should do the math as it relates to the Oregon Legislature's runaway spending of Oregon taxpayer money estimated at \$1.4 billion.

Then they should voice their ya or nay on this pork barrel giveaway to their local tax-and-spend senator and/or representative. I'm sure the majority-voiced vote will loudly and resoundingly, cry "nay."

Why? Consider this. The U.S. Census Bureau estimated the July 1, 2021, Oregon population to be 4.2-plus million. Divide \$1.4 billion

by 4.2 million and you get an astounding (potential refund of) \$333-plus per person. For a family of four, it's a whopping \$1,332. A family of eight, \$2,664.

I'm sure the wide majority of pandemic-stricken Oregonians behind on their rent, unable to pay their utility bills, helpless to put food on the table and/or can't afford to buy gas to get to and from work would appreciate that refunded money in their pocket rather than have it thrown at questionable projects, probably already eligible for federal funding, located way out in the most rural of Oregon's areas.

To boot, chances are highly likely most residents will never see the benefits of their own ill-gouged, legislatively appropriated money. Just because you have it doesn't mean you have to spend it. To correct the issue, adjust the tax rates biannually.

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letters that address concerns about individual services and products or letters that infringe on the rights of private citizens. Letters must be signed by the author and include the city of residence and a daytime phone number. The phone number will not be published. Unsigned letters will not be published.

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