

EDITORIAL

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 that 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 that 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.

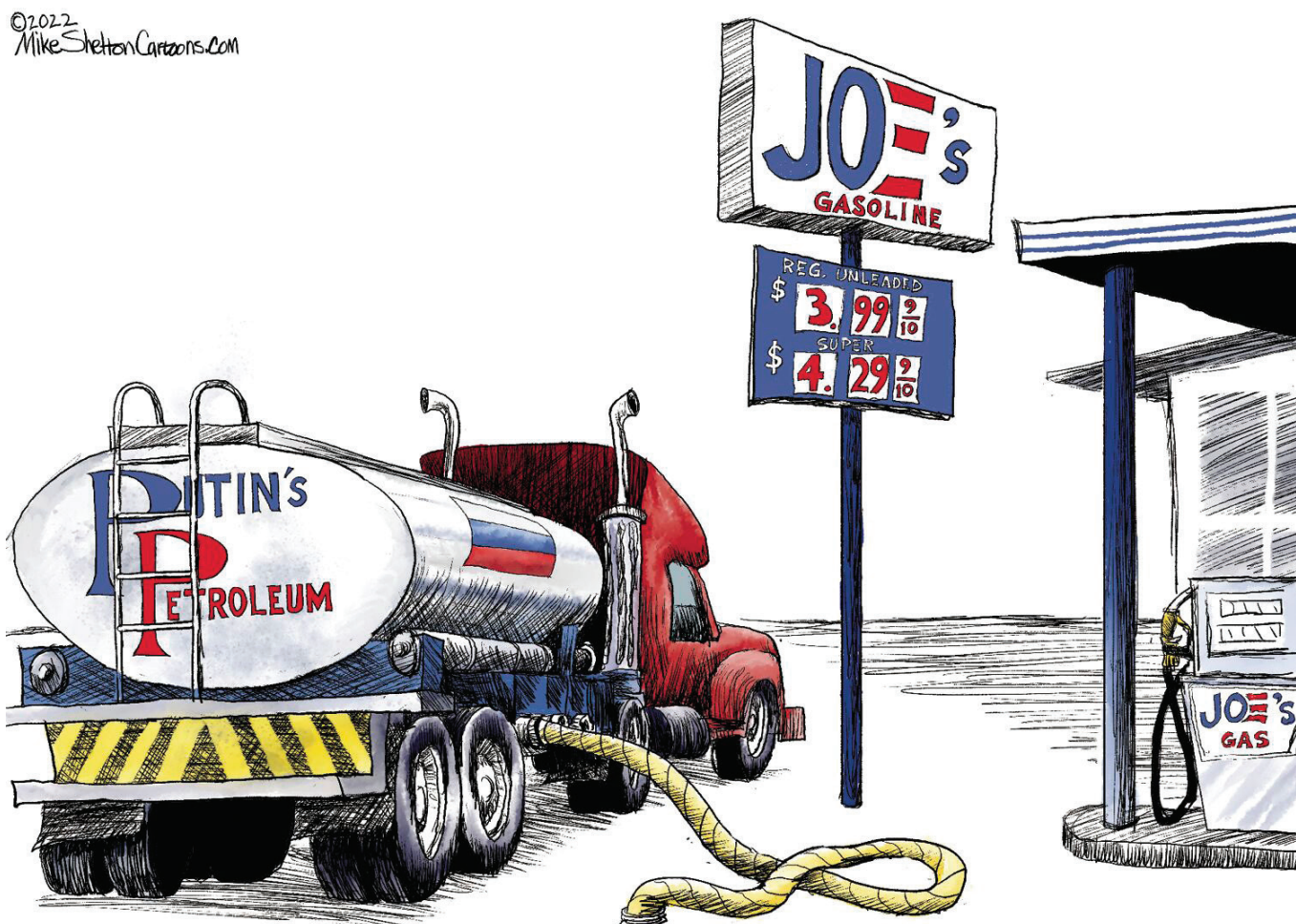
The preliminary injunction will remain in effect until Hernández makes a final decision on the lawsuit.

Oregon officials, including Attorney General Ellen Rosenblum and Real Estate Commissioner Steve Strode, both named as defendants in the lawsuit, should concede that 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.

— Jayson Jacoby, Baker City Herald editor

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OTHER VIEWS

Sanctions: Best of bad options

Editorial from The Chicago Tribune:

Two broad perspectives have emerged as the civilized world tries to figure out how to respond to the inhumanities perpetrated on Ukraine by the war criminal Vladimir Putin.

One argument counsels restraint and containment in any NATO or other Western action against Putin. Localized aggressors have created bloody massacres before in Yemen, Syria and the Democratic Republic of the Congo (to name but three) this thinking goes. What matters most here is negotiation and containment, especially given the Russian president's aggressive state and his military's formidable arsenal of nuclear weapons.

No-fly zones, boots on the ground and other forms of direct military intervention, while tempting in the face of human suffering and pleas for help, risk catastrophic escalation that could destroy much of the planet.

The counterargument often draws on the analogy of the early years of Adolf Hitler, when the world failed to act quickly enough to stop his fascist rout of Europe, thus failing to stop unconscionable subsequent loss of life, including the victims of the Holocaust. If Putin is not stopped in Ukraine, this thinking goes, he likely will be emboldened to encroach on other sovereign nations and, perhaps even worse, other authoritarian regimes, such as China, watching Putin's success, will be tempted to follow his model in other disputed territorial regions, such as Taiwan.

As British Prime Minister Boris Johnson wrote over the weekend: "Vladimir Putin's act of aggression must fail and be seen to fail." Otherwise, consequences will be dire for the whole world.

Most politicians are vacillating between these two points of view. This is unsurprising, since they cannot read the future, and both theories risk consequences that would have been unfathomable just weeks ago.

Most Americans are doing the same as they talk around the dinner table. This is

an agonizing dilemma for decent people, as it is for editorial boards. It is easier to grab an oligarch's yacht, source your vodka from Finland or fire the Putin-sympathizing diva from the Metropolitan Opera.

Sanctions on an epic level are tricky, complicated and can cause collateral damage. But in the face of what is going on in Ukraine, they are the world's best option.

The danger, of course, is that the canceling of Premier League soccer, the closing of designer stores and the general, sudden de-Westernization of Russia and its people sends that country into the hands of China, which has not joined with the West in objecting to the "special military operation in," aka the invasion of, Ukraine.

That's already happening with credit-card processing. After Visa and Mastercard announced they would no longer guarantee Russian cards working abroad, many of the affected rushed to replace the contents of their wallet with a Chinese card.

Then there is the unpleasant spectacle of trying to discern which Russian individuals deserve to be personally punished because of their views. The opera world currently is consumed with this thorny debate, arguing over the morality of becoming the thought police in determining who is or is not a Putin sympathizer and, yet worse, insisting on Orwellian statements of repudiation before the first aria is sung. Not an attractive job for the general director of an opera company, and no fun for those in the crosshairs.

Better though, let's remember, than being holed up in a bunker in Ukraine with your kids. Or lying dead on the ground while attempting to evacuate.

Still, while the broad insistence in London that the Russian billionaire Roman Abramovich divest himself from owning the soccer powerhouse Chelsea has received little opposition, it's important to remember that he didn't work alone. Oligarchs have employees, their yachts have non-Russian crews, their Manhattan real-

tors have bills to pay and myriad other innocents suffer.

This situation is the sole responsibility of Putin, not the West. Period.

Sanctions cannot be cancellations. The sanctions must not be viewed through the same lens as the performative congressional "freedom fries" debacle in 2003 after France opposed the U.S. invasion of Iraq. That was mere posturing. And there is no logic to covering up the abstract work of Wassily Kandinsky, refusing to listen to the symphonies of Pyotr Ilyich Tchaikovsky, throwing Anton Chekhov plays out of the theater, or demanding of ordinary Russians, living under an authoritarian regime with long tentacles, that they publicly state their politics on pain of personal ruin.

But, no, cruise ships should not now be calling in St. Petersburg. Washington should move ahead with banning Russian oil from coming into America. Netflix should not be filming comedies in Russia. Aeroflot should not be allowed to land at O'Hare International Airport, nor should any of the big international consulting firms be working for Putin or his pals. And who can drink Russian vodka in good conscience right now when other options are available that taste much the same?

Sanctions are imperfect and imperfectly targeted. If and when Putin is gone, they should be removed. The post-invasion economic recovery of a Russia without Putin will be in everyone's interest.

But that is not the situation now. This is not an ordinary military incursion or territorial dispute: Putin is targeting civilians and killing children in Ukraine. Strategy is important but so is our basic morality as human beings. We cannot merely stand by as the people of Ukraine suffer.

Sanctions are the very least we can do to help end this brutal period of global history. Russians must understand we mean them no harm and that we are always at the negotiating table alongside the brave people of Ukraine.

But end it, we must. Together.

YOUR VIEWS

Candidate concerned about possible change to Baker County commissioner duties

Commissioner Nichols recently proposed a change in the way the Baker County Commissioners are seated. As a candidate for Baker County Commissioner Position 2, I am concerned. I fear the other candidates and Baker County voters have not given enough thought to this and could need more information to consider this fully. As of today, this is not up for a vote and is not on the commissioner agenda. Nichols stated he would try to push for a vote on the November ballot.

As far as I have researched, Nichols wants the three commissioners to be

equal in duties and pay apart from the Chair Position 3 having slightly increased duties and pay to match. In the proposal also is to have the chair position elected by the three commissioners, not chosen by the vote of Baker County citizens. In this your voice, your vote, would be taken away.

Nichols also stated as part of this new system the chair would possibly be rotated annually. I see this as a possible strain placed on the staff assisting each position as the change would happen each year instead of working for four years with the commissioners in a solid position. Along with increased stress, tighter deadlines and rushed initiatives this change could incur, could this also spur an increase in the cost of the com-

missioners? Why is Mr. Nichols pushing for this change during an election year and before two new commissioners are seated?

My concern is for the five candidates who are currently running for the two open positions. I find it unbelievable that a position can be changed during an election year and that ultimately, the position could be different once seated in January 2023 than the position that we filed for.

I am dedicated to the people of Baker County and my campaign for Position 2. I will not back down in fear of the unknown future of the position; instead I am more determined than ever to make sure your voice is heard.

Christina Witham
Baker City

CONTACT YOUR PUBLIC OFFICIALS

President Joe Biden: The White House, 1600 Pennsylvania Ave., Washington, D.C. 20500; 202-456-1111; to send comments, go to www.whitehouse.gov.

U.S. Sen. Jeff Merkley: D.C. office: 313 Hart Senate Office Building, U.S. Senate, Washington, D.C., 20510; 202-224-3753; fax 202-228-3997. Portland office: One World Trade Center, 121 S.W. Salmon St. Suite 1250, Portland, OR 97204; 503-326-3386; fax 503-326-2900. Baker City office, 1705 Main St., Suite 504, 541-278-1129; merkley.senate.gov.

U.S. Sen. Ron Wyden: D.C. office: 221 Dirksen Senate Office Building, Washington, D.C., 20510; 202-224-5244; fax 202-228-2717. La Grande office: 105 Fir St., No. 210, La Grande, OR 97850; 541-962-7691; fax, 541-963-0885; wyden.senate.gov.

U.S. Rep. Cliff Bentz (2nd District): D.C. office: 1239 Longworth House Office Building, Washington, D.C., 20515, 202-225-6730; fax 202-225-5774. Medford office: 14 N. Central Avenue Suite 112, Medford, OR 97550; Phone: 541-776-4646; fax: 541-779-0204; Ontario office: 2430 S.W. Fourth Ave., No. 2, Ontario, OR 97914; Phone:

541-709-2040. bentz.house.gov.

Oregon Gov. Kate Brown: 254 State Capitol, Salem, OR 97310; 503-378-3111; www.governor.oregon.gov.

Oregon State Treasurer Tobias Read: oregon.treasurer@ost.state.or.us; 350 Winter St. NE, Suite 100, Salem OR 97301-3896; 503-378-4000.

Oregon Attorney General Ellen F. Rosenblum: Justice Building, Salem, OR 97301-4096; 503-378-4400.

Oregon Legislature: Legislative documents and information are available online at www.leg.state.or.us.

State Sen. Lynn Findley (R-Ontario): Salem office: 900 Court St. N.E., S-403, Salem, OR 97301; 503-986-1730. Email: Sen.LynnFindley@oregonlegislature.gov

State Rep. Mark Owens (R-Crane): Salem office: 900 Court St. N.E., H-475, Salem, OR 97301; 503-986-1460. Email: Rep.MarkOwens@oregonlegislature.gov

Baker City Hall: 1655 First Street, P.O. Box 650, Baker City, OR 97814; 541-523-6541; fax 541-524-2049. City Council meets the second and fourth Tuesdays at 7 p.m.

in Council Chambers. Councilors Jason Spriet, Kerry McQuisten, Shane Alderson, Joanna Dixon, Johnny Waggoner Sr. and Dean Guyer.

Baker City administration: 541-523-6541. Jonathan Cannon, city manager; Ty Duby, police chief; Sean Lee, fire chief; Michelle Owen, public works director.

Baker County Commission: Baker County Courthouse 1995 3rd St., Baker City, OR 97814; 541-523-8200. Meets the first and third Wednesdays at 9 a.m.; Bill Harvey (chair), Mark Bennett, Bruce Nichols.

Baker County departments: 541-523-8200. Travis Ash, sheriff; Noodle Perkins, roadmaster; Greg Baxter, district attorney; Alice Durlinger, county treasurer; Stefanie Kirby, county clerk; Kerry Savage, county assessor.

Baker School District: 2090 4th Street, Baker City, OR 97814; 541-524-2260; fax 541-524-2564. Superintendent: Mark Witty. Board meets the third Tuesday of the month at 6 p.m. Council Chambers, Baker City Hall, 1655 First St.; Chris Hawkins, Andrew Bryan, Travis Cook, Jessica Dougherty, Julie Huntington.