

A Real Estate and Land Use Law Update

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Metro Area Urban and Rural Reserves: Senate Bill 1011 (2007)

Senate Bill 1011, passed by the 2007 Oregon Legislature (codified as Chapter 723, Oregon Laws 2007), addresses deficiencies in the growth management and urban growth boundary (“UGB”) expansion processes in the Portland metropolitan area. Existing state laws governing UGBs are based on a land hierarchy protecting farm and forest land. As a result, urban growth boundary additions have sometimes been pushed into areas where development is not cost-effective because of lack of proximity to other urbanized areas and the high cost of providing infrastructure, and this system has not always protected the most important farm and forest land. SB 1011 addresses this problem by establishing a system to designate where urban expansion will and will not occur on land outside UGBs over a 40-50 year period.

SB 1011 authorizes Metro, the regional government for the Portland metropolitan area (the urban portions of Multnomah, Clackamas and Washington Counties and 25 cities therein), to establish “urban reserves” and “rural reserves” that will direct urban growth for up to 30 years beyond the mandated 20-year land supply required at the time of each expansion of the UGB. There are essentially three elements to the new legislation:

- SB 1011 authorizes a new pathway for the creation of “**urban reserves**,” land that will be first in line for addition to the UGB when additional land is required for residential, commercial and industrial development and other urban needs. These urban reserves, in conjunction with the land already within the UGB, are intended to provide a 40-50 year capacity for urban growth. Designation of urban reserve areas will be based on a number of factors relating to suitability for urban development beyond the criteria previously used. SB 1011 urban reserves are intended as an alternative to the urban reserve process set forth in Land Conservation and Development Commission (“LCDC”) rules.
- SB 1011 also authorizes designation of “**rural reserves**” that will be off-limits to urban expansion during the 40-50 year planning period. Rural reserves will be designated based on their importance to agriculture and forestry, with emphasis on protection of natural systems and landscape features.
- The third major feature of SB 1011 is that urban reserves and rural reserves will be considered as part of an integrated planning process and will be **concurrently designated** through intergovernmental agreements between Metro and Washington, Clackamas and Multnomah counties. The simultaneous designation

of rural reserves and urban reserves through these agreements is a key concept that will allow “horse-trading” between stakeholders.

New rules for urban and rural reserves under SB 1011 must be adopted by LCDC by January 31, 2008. In August 2007, the Department of Land Conservation and Development (“DLCD”) formed a work group to assist the LCDC and the DLCD in drafting the administrative rules implementing SB 1011. A preliminary draft of the proposed rules has been completed, and a hearing before LCDC for adoption of the rules has been set for January 24, 2008.

One of the issues being considered during the rule-making process is whether to adopt a Department of Agriculture recommendation to provide for special protection for the most valuable “foundation” agricultural land through application of a higher standard for urbanization. This is seen by some as a continuation of the current “land hierarchy” applied at the UGB amendment stage, effectively defeating one of the purposes of SB 1011, which was to provide an alternative to the land hierarchy method.

SB 1011 is coupled with House Bill (HB) 2051, which grants Metro a one-time, two-year extension of its current five-year cycle for review and possible expansion of the UGB. This extension will allow Metro until 2009 to implement the new urban/rural reserve methodology. Metro is in the process of establishing a stakeholders’ committee to advise Metro and the counties as to which areas should be designated as urban and rural reserves.

For more information, please contact the Real Estate and Land Use Practice Group at:

206.223.7000 Seattle
503.778.2100 Portland
realestate@lanepowell.com
www.lanepowell.com

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