

URBAN BOUNDARIES AND
COMPREHENSIVE PLANNING:
THE PORTLAND EXPERIENCE

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The Urban Growth Boundary

Although methods of urban containment have been in use for quite some time, the last decade has witnessed the emergence of urban containment as one of the most important, yet controversial, growth planning issues.¹ One urban containment device, the urban growth boundary ("UGB"), has received a great deal of attention, from both critics and proponents.² Pitted on one side of the raging debate over UGB's lies a general public and land use planners working to alleviate growth management issues that they believe stem from urban sprawl, while property rights advocates and some economists are firmly entrenched on the opposite side of the argument.

Usually defined "as a set of land-use regulations that prohibit urban development outside a certain boundary," UGB's tend to take the form of an artificial line drawn between urbanized and rural lands.³ Essentially, the UGB employs a variety of regulatory techniques, such as zoning, to prevent urban development beyond the boundary.⁴

The UGB in Portland, Oregon

As a pre-emptive measure designed to halt sprawl, Oregon enacted the Oregon Land Conservation and Development Act, or Senate Bill 100, in 1973.⁵ The bill was based on the legislative findings that "[u]ncoordinated use of lands within the state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state..."⁶ The bill mandated the creation of statewide goals for the conservation and development of land.⁷ Additionally, the bill stated that "[t]he promotion of coordinated statewide land conservation and development requires the creation of a statewide planning agency to prescribe planning goals and objectives to be applied by state agencies, cities, counties and special districts throughout the state."⁸

That statewide planning agency, the Land Conservation and Development Commission ("LCDC"), was tasked with overseeing the state's planning program.⁹ Over the course of three years and hundreds of both informal and formal public hearings, along with guidelines set out by the legislature, LCDC was able to adopt 14 statewide planning goals.¹⁰ As part of that package, the LCDC implemented Planning Goal 14, which required every municipality in the state, regardless of size,¹¹ to establish an urban growth boundary ("UGB").¹² This directive was later clarified by Oregon courts, which have interpreted Goal 14 to "to prohibit urbanization outside

¹ Rolf Pendall and Jonathan Martin, *Holding the Line: Urban Containment in the United States*, The Brookings Institution Center on Urban and Metropolitan Policy, August 2002, 2.

² Id.

³ Id. at 4.

⁴ Id.

⁵ Pendall and Martin, supra note 1, at 20.

⁶ Or. Rev. Stat. § 197.005(1).

⁷ Robert Liberty, *Give and Take Over Measure 37: Could Metro Reconcile Compensation for Reductions in Value with a Regional Plan for Compact Urban Growth and Preserving Farmland*, *Envtl. L.* 36, 191.

⁸ Or. Rev. Stat. § 197.005(4).

⁹ Michael Lewyn, *Sprawl, Growth Boundaries and the Rehnquist Court*, 2002 *Utah L. Rev.* 1, 6 (2002).

¹⁰ Liberty, supra note 2, at 191.

¹¹ Id.

¹² Lewyn, supra note 4, at 6-7.

existing UGB's,"¹³ effectively prohibiting the conversion of rural lands to urban uses.¹⁴ Thus, Oregon's UGB's operate primarily through the use of restrictive zoning, so that land beyond the boundary is not permitted to be intensely developed.¹⁵

The Portland area has adopted a regional governance system, the Portland Metropolitan Service District, which is more commonly known as Metro.¹⁶ Created by popular referendum in 1978¹⁷, it is the only regional governing body in the United States. Metro sets the Portland area's UGB and has the power to require cities and counties to design land use plans that are compatible with the boundary established by Metro.¹⁸ Governed by an elected council and President, Metro was given broad authority over land use and transportation planning by the state legislature.¹⁹ Thus, instead of neighboring towns not having compatible planning, the Portland region is able to coordinate growth planning with all of the local municipalities.²⁰ By 2005, the Portland area's UGB, regulated by Metro, contained 397 square miles out of the 3,071 square miles of land in the three counties that comprise the metro area.²¹ By contrast, approximately 70% of the land in those three counties are zoned for farm use or forest conservation.²²

That boundary moves over time, as Oregon's land use regulations require that the state's UGB's contain enough land to provide for the next 20 years of growth.²³ Metro re-examines the boundary every five years, utilizing public input as well as planning staff recommendations.²⁴ After that process has played out, the proposed boundary changes must be approved by the Metro Council and state planners.²⁵

UGB's are not unique to Portland, as they have subsequently been adopted in numerous other states and metropolitan areas.²⁶ Although they can be an effective urban containment tool, critics often point out a number of problems with the use of UGB's.²⁷ For one, they may be difficult to implement and maintain, as their creation and implementation requires "intense political cooperation between various governmental entities and community groups."²⁸ That has led to a lack of citizen participation in the process, as even the LCDC has recognized the waning public input, as it is difficult for the public to receive notice of proposed UGB changes, interact with decision makers, or examine final decisions.²⁹ Critics of UGB's also routinely argue that the

¹³ *Id.* at 7.

¹⁴ *Id.*

¹⁵ Patricia E. Salkin, *Squaring the Circle on Sprawl: What More Can We Do? Progress Toward Sustainable Land Use in the States*, 16 *Widener L.J.* 787, 813-14.

¹⁶ Lewyn, *supra* at note 6, 8.

¹⁷ Daniel Brook, *How the West Was Lost*, March/April 2005 *Legal Affairs*, 45.

¹⁸ Lewyn, *supra* 6, at 8.

¹⁹ Liberty, *supra* note 2, at 194.

²⁰ Pendall and Martin, *supra* note 1, at 5.

²¹ *Id.*

²² *Id.*

²³ Brook, *supra* note 12, at 45.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Salkin, *supra* note 10, at 814. See Rolf Pendall and Jonathan Martin, *Holding the Line: Urban Containment in the United States*, The Brookings Institution Center on Urban and Metropolitan Policy, August 2002, 2.

²⁷ *Id.*

²⁸ *Id.*

²⁹ William J. Van Vactor, *The Backlash to Land Use Regulation Continues: An Analysis of Oregon's Measure 37*, 26 *J. Land Resources & Env'tl. L.* 221, 225.

artificial nature of the boundaries leads directly to inflated housing prices.³⁰

As to sprawl, some critics argue that UGB's can actually magnify the effects of sprawling, low-density development.³¹ The argument asserts that when homes on rural parcels are even further apart, the result is extreme urban sprawl, as the homes are even more distant from each other and area amenities.³² And areas inside of the boundary may not be immune to sprawl either. There are parts of Portland "with sprawl as pure as anywhere in America," with the typical mix of strip shopping centers and enormous parking lots.³³

The impact of Portland's UGB on land and housing prices is arguably the single most frequently researched topic in urban containment literature,³⁴ and it seems that there is no clear answer to that vexing question. Without a doubt, the higher land and housing prices linked to the economic boom of the 1990's made the perceived economic effects of Oregon's land use regulations, including UGB's, more visible.³⁵ However, it seems that the unexpectedly rapid growth experienced in the Portland area, and not the regulations on land, were what caused home prices to rise.³⁶

To some economists, it seems abundantly clear that UGB's limit the supply of developable land and result in higher housing prices.³⁷ Despite this seemingly obvious calculation, allowing higher densities within the boundary, or "upzoning," can allow the same amount of development, only in a smaller footprint.³⁸ A tightly drawn UGB can raise housing prices in the short term, if combined with other factors, such as strong demand.³⁹ However, it has not been conclusively shown that the implementation of UGB's alone inevitably leads to higher land and housing prices.

Yet, the numbers seem to indicate that Portland's UGB has not resulted in substantially higher housing prices.⁴⁰ As required by statute, Portland's boundary provides enough land to accommodate the next 20 years of growth.⁴¹ Thus, the UGB was drawn expansively and subsequently enlarged when deemed necessary.⁴²

CONCLUSION

1. UGB's are effective to:
 - a. protect environmentally sensitive areas;
 - b. protect agricultural lands;
 - c. setting goals for capital infrastructure

³⁰ Robert E. Lang, *Does Portland's Urban Growth Boundary Raise House Prices?*, Housing Policy Debate Volume 13, Issue 1, 1 (2002).

³¹ Neisen O. Kasdin, *Revisiting the UDB Debate*, South Florida CEO, July/August, 90.

³² Id.

³³ Brook, supra note 17, at 47.

³⁴ Pendall and Martin, supra note 1, at 22.

³⁵ Van Vactor, supra note 23, at 225.

³⁶ Lang, supra note 24, at 4.

³⁷ Lang, supra note 24, at 1.

³⁸ Id.

³⁹ Id.

⁴⁰ Pendall and Martin, supra note 1, at 31.

⁴¹ Brook, supra note 12, at 45.

⁴² Pendall and Martin, supra note 1, at 31.

2. UGB's are of questionable value:
 - a. in setting artificial boundaries unrelated to achieving a rational benefit to the community;
 - b. in achieving the restrictions on urban sprawl;
 - c. maintaining affordable housing opportunities.