








Kelly S. Hossaini

Partner

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“Clients appreciate that I am thoughtful, engaged, and responsive from the beginning of a project to the end. I work collaboratively with the client and its development team to fashion the best solutions for the issues that arise, whether those issues are engineering, planning, architectural, or legal. When it comes to development not every problem is a legal problem, but just about every solution can benefit from some experienced legal thinking.”

Kelly Hossaini’s practice is devoted to representing clients, including developers, in a full scope of land use matters. Kelly assists public entities, including special districts, school districts, and other educational institutions, with planning for new facilities, urban growth boundary amendments, annexations, conditional use review, and site plan review. She also assists other public entities, including cities, with condemnation of property, when necessary for public projects.

Kelly’s practice extends to counseling national and regional homebuilders, retailers, senior care providers, and industrial developers with regard to site selection and all land use entitlements necessary for a successful project. Processes and approvals may include annexation, subdivision or planned unit development approval, and site plan review. Kelly also assists alternative energy providers, such as wind and solar, with site selection and land use approvals.

In complex land use permitting cases, thoughtful strategy and vigilant course correction are key to successful navigation. Identifying possible project risks at the outset, including threats to schedule and budget, and then working deliberately to address them goes a long way.

Kelly represents clients throughout the state of Oregon at the local government level, the Land Use Board of Appeals, the Oregon Court of Appeals, and at administrative hearings before state agencies.

Professional Activities

- American Planning Association, Oregon chapter, member
- Multnomah Bar Association, member

Education

J.D., Lewis & Clark Law School, 2000

- Member, *Environmental Law Journal*

B.A., Portland State University, 1993

- MURP, AICP Student Planner of the Year Award recipient

Bar Admissions

Oregon, 2001

- Oregon State Bar Association
 - Real Estate and Land Use Section, member
 - Sustainable Future Section, member

Civic Activities

- Ridgeview Homeowners Association, president
- Portland Business Alliance
 - Land Use Task Force, past chair, 2012-2016
 - Leadership Portland Program, graduate, 2006
 - Leadership Portland Alumni Association, member
- Portland State University
 - Advocate Committee, member
 - Presidential Search Committee, member
 - 1620 Club, Executive Committee member, 2019-present
 - Alumni Board, past Executive Committee member

Representative Experience

Urban Growth Boundary Amendments & Annexations

- Assisted large developer in negotiations with the City of Bend to include approximately 700 acres in the city's urban growth boundary.
- Assisted a group of adjacent property owners with annexing properties to Oregon City.
- Assisted property owner with negotiating with city to include approximately 40 acres into the city's urban growth boundary.
- Assisted school districts in Sherwood and Seaside with expanding urban growth boundaries and annexing additional land into the cities for school facilities.

Condemnation Actions

- Represented school district in the aggregation of properties for a new school facility, including consensual purchases and condemnation.
- Represented school district in obtaining new access to an existing elementary school through condemnation of an easement over neighboring property.
- Defended private landowner in Oregon Department of Transportation (ODOT) action involving condemnation of a portion of landowner's mixed-use, master-planned property for a new highway. Included takings in five different zoning classifications and associated damages to remainder property.
- Negotiated on behalf of private property owners in right-of-way condemnation actions.
- Represented large commercial farm against ODOT condemnation of a portion of the farming operation, including complex operational disruption and damages.

State & Federal Agency Experience

- Obtained a conditional use permit for a fire suppression reservoir in Crook County, including negotiation with Oregon Water Resources Department.
- Defended private client in Department of Environmental Quality (DEQ) enforcement action. Included pursuing appeals of administrative penalty imposed by DEQ to state administrative law judge, Environmental Quality Commission, and the Oregon Court of Appeals.
- Assisted developers with obtaining permits for access to state highways through negotiations with the Oregon Department of Transportation.
- Assisted numerous clients with obtaining wetland fill permits for development projects from the Department of State Lands and the Army Corps of Engineers.

Commercial Land Development

- Assisted major grocery store chain with siting stores in multiple cities, including site plan review and transportation analyses. Opposition, including LUBA appeals, was present in each.
- Assisted Portland developer in establishing food cart pod as legal non-conforming use on residentially zoned parking lot.
- Brought 120-day mandamus action against the City of Beaverton for a cell tower siting application. Obtained mandamus and approval for cell tower.
- Assisted large cellular companies and tower provider companies with both urban and rural cell tower siting.
- Represented senior care provider in gaining approval for annexation and a zone change for a seven-acre property in Happy Valley in order to build independent living, assisted living, and memory care development.
- Worked as part of a team to prepare a master plan for submission to Oregon City for a regional hospital's main campus.
- Represented the Portland Japanese Garden in obtaining a conditional use permit to expand the Garden's leasehold and add new structures and facilities. Successfully defended the expansion approval at the Land Use Board of Appeals.
- Assisting the Portland Japanese Garden in opening a new site in Northwest Portland, including application submittal to site a cultural community center.
- Represented non-profit botanical garden in the City of Portland with obtaining conditional use permit for a botanical garden expansion, and defending approval at the Land Use Board of Appeals.
- Assisted non-profit community club in establishing itself as a legal non-conforming use in the City of Portland.
- Worked as part of a team to prepare a master plan for the redevelopment of the Oregon City Golf Course as part of a larger sustainable, mixed-use community anchored by industrial/employment land. Participated on behalf of Oregon City Golf Course in the Metro Title 11 Beaver Creek Concept Plan preparation and adoption, of which Thimble Creek is a part. Represented property owner in annexation proceedings.
- Assisted data center clients with siting and approval of data centers in Washington County. Included property due diligence, negotiations with applicable local governments, and land use approvals.

Residential Land Development

- Converted mobile home park to residential planned unit development. Defended approval at the Land Use Board of Appeals and the Oregon Court of Appeals.
- Assisted property owner with approval of 43-lot residential planned unit development on 12 acres.
- Serve as general land use counsel for national and regional home builders in gaining entitlements for residential developments throughout the Portland metropolitan area.

School Districts & Education Institutions

- Assisting Sherwood School District with the siting of a new high school, including assemblage of four properties through negotiation and condemnation; urban growth boundary amendment; adoption of a Metro Title 11 concept plan; annexation to the City of Sherwood; land use entitlements.
- Assisting Tigard-Tualatin School District with land use and real estate issues associated with multiple 2016 bond projects, including on-site rebuild of an elementary school and a middle school.
- Assisting Seaside School District with evaluating options for relocation of schools and school facilities outside the tsunami zone. The work includes evaluation of property purchases, urban growth boundary expansion, annexation, natural resource issues, master planning, and land use permitting.
- Assisting Warrenton-Hammond School District with the relocation of schools outside of the tsunami zone. The work includes evaluation of candidate relocation properties, property purchase, natural resource issues, and land use permitting.
- Assisting Newberg School District with replacement of existing Dundee Elementary School with new 350 student elementary school.

- Assisted North Clackamas School District with land use approval for high school sports complex, including transportation demand management plan.
- Assisted Hillsboro School District with land use approval for new North Plains elementary school.
- Assisted Portland Community College with development projects on multiple campus sites as a result of the 2008 bond issued for \$374 million.
- Assisted Tigard-Tualatin School District with site due diligence and acquisition, and local permitting for construction of a new bus parking facility in Tualatin.
- Condemnation of a new access for Durham Elementary School over neighboring property; obtained permit for major modification of a conditional use.
- Provided legal services for a major amendment to a conditional use master plan for a combined elementary/middle school campus in Portland.
- Assisted Tigard-Tualatin School District with numerous property purchases and sales, including land use and real estate due diligence and transaction negotiation.
- Participated as a Technical Advisory Committee member on behalf of Tigard-Tualatin School District, a property owner and service provider in the concept and community plan area.
- Participated as a Steering Committee member on behalf of Sherwood School District, a service provider in the Brookman Road concept plan area.

Industrial Property Owners

- Assisted industrial business owner with relocation of business operations, including office space, truck maintenance, and fleet parking.
- Assisted industrial landowner in Washington County with preparing 42 acres for sale, including site evaluation, rezoning, public infrastructure planning, and negotiation with local government in preparation for development agreement.
- Assisting several national industrial developers with property due diligence and acquisition, and entitlements for industrial projects.
- Assisted owner of large industrial property in reconfiguring and repackaging property for sale, including annexation, zone change, partitions, and property line adjustments.
- Assisted business owner with city and county negotiations with respect to transitioning existing juice processing operation from farmland location to new industrial site in the city.
- Defended industrial landowner in Clackamas County against design review appeal by citizens participation organization.
- Managed defense of entity and owner against state environmental and county land use enforcement proceedings and assisted in acquiring, planning, and transferring operations to industrial park property.

Affordable Housing

- Assisted with transit-oriented affordable multi-family housing development land use approvals in Clackamas County.
- Defended development of an 82-unit mixed-use affordable housing development in Medford, Oregon.

Public Entities

- Assist Multnomah County Drainage District with various land use issues, including negotiating code changes with various local governments, creation of land use application review process, and assistance with easement issues and infrastructure maintenance responsibility issues.
- Prepared master planning ordinance for Oregon City, which is currently in use.
- Assisted several public clients with siting of solar facilities on the roofs of new and remodeled buildings. Assisted wind and solar energy clients with obtaining and defending on appeal county land use approvals for renewable energy projects.

- *Kieling v. City of Sherwood*. Defended reimbursement district against writ of review and court of appeals challenges.

Publications

Kelly is a frequent writer. Following is a listing of presentations since 2016. A complete list is available upon request.

- “Will a New Restriction on the Size of Homes Qualify for Measure 49 Relief? The Oregon Court of Appeals Says No.” Miller Nash Graham & Dunn, *From the Ground Up* (Jan. 2021)
- “After Four Years of Controversy, Portland Adopts the Residential Infill Project,” Miller Nash Graham & Dunn, *From the Ground Up* (Aug. 2020)
- “CARES Act Provides Relief for Federally Backed Property Loans and Renters,” Miller Nash Graham & Dunn, *From the Ground Up* (Mar. 2020)
- “COVID-19 and the Oregon Land Use Process,” Miller Nash Graham & Dunn, *From the Ground Up* (Mar. 2020)
- “State of Oregon Loses Statutory Recreational Immunity Defense Under New Court of Appeals Decisions” Miller Nash Graham & Dunn, *From the Ground Up* (Aug. 2018)
- “Oregon Supreme Court Allows Coos Bay Terminal Project to Move Forward” Miller Nash Graham & Dunn, *From the Ground Up* (July 2018)
- “Are State and Local Regulations Making the Portland Housing Affordability Crisis Worse?” Miller Nash Graham & Dunn, *From the Ground Up* (Feb. 2018)
- “City of Corvallis Loses the First Round of the Voter Annexation Fight,” Miller Nash Graham & Dunn, *From the Ground Up* (Mar. 2017)
- “Lack of Evidence of Prior Use Not Fatal to Implied Easement Claim,” Miller Nash Graham & Dunn, *From the Ground Up* (Aug. 2016)

Presentations

- “Tigard, Where Collaboration Meets Goals,” American Planning Association, National Planning Conference (Apr. 2018)
- “CISF Regional Roundtable,” Metro Area Regional Facility Workshop, moderator (Nov. 2014)
- “Attorneys’ Guide to Local Government Law,” National Business Institute (Sept. 2014)
- Miller Nash, 19th Annual Affordable Housing Conference (May 2012)
- “Entitlements: Land Use Matters, Adjusting the Lot Line and Statutory Warnings,” Oregon Law Institute, Real Estate 101: A Toolkit for the Real Estate Practitioner (Dec. 2011)
- “2010 Land Use Case Review,” The Seminar Group, 14th Annual Oregon Land Use Law (Dec. 2010)
- “Top Ten Land Use Tips for Affordable Housing Developers,” Miller Nash, 17th Annual Affordable Housing Conference (May 2010)
- “Navigating the Land Use Process Before a Hearings Officer—The Development Perspective,” Oregon State Bar, Fundamentals of Real Estate and Land Use CLE (Jan. 2008)
- “Explaining the Changes: How Measure 49 Amends Measure 37,” Oregon Law Institute, CLE on Measure 49 Explained (Dec. 2007)

Recognition & Honors

- Selected for inclusion in *The Best Lawyers in America*® in Land Use and Zoning Law, 2022
- Recognized as a “Leader in Their Field” by *Chambers USA* for Real Estate: Zoning/Land Use, 2019-present
- Selected for inclusion as an Oregon Super Lawyers—Rising Star, 2009-2011

Personal Activities

Kelly enjoys traveling, reading, and hiking in the Columbia Gorge and central Oregon.