



February 24, 2004

Writer's Direct Line: (503) 460-4360
Writer's Fax Line: (503) 460-4343
Writer's Email Address: jacobbb@portptld.com

Kevin Starrett
Executive Director
Oregon Firearms Educational Foundation
PO Box 556
Canby, OR 97013

Re: Possession of Concealed Handguns at Portland International Airport

Dear Mr. Starrett:

I am in receipt of your letter to Chief Phil Klahn, dated February 16, 2004, and your e-mail dated February 5, 2004. Chief Klahn has asked me to respond to both, just as he asked me to respond to your prior inquiry on this same subject.

Per my earlier telephone message to you, the Port of Portland ("Port") is authorized to restrict the public from carrying guns inside of the Portland International Airport ("Airport") Terminal, concealed weapons permit or not, pursuant to Port Ordinance No. 377-R, of which you have already received a copy from my legal assistant. Ordinance 377-R was issued in 1996 pursuant to the authority given to the Port by the Legislature under ORS 778.260. This statute specifically allows the Port, in accordance with ORS 198.510 to 198.600, to enact ordinances, as needed, to police and regulate the use of the Airport. The wording of that particular statute is intentionally broad and all encompassing. There are no restrictions or limitations to ORS 198.510 by reference to any other section of the Oregon Statutes.

Pursuant to Oregon law and federal regulations, Port police have primary jurisdiction over the Airport, except for checkpoint areas which is reserved to Federal law enforcement jurisdiction. Port police also receive back-up assistance from the City of Portland, when they request it, pursuant to mutual aid agreements. Portland International Airport is located within Multnomah County. I note in your e-mail that you sought legal advice on this subject from some unidentified person in the Clackamas County sheriff's office. That office has no jurisdiction over this Airport.

As you state in your e-mail, I did call you back the first day I received your inquiry from Chief Klahn. Although you were not present, I left you a message concerning the Ordinance and sent you a copy of the Ordinance. I also advised you that I was checking with regional legal counsel for the Transportation Security Administration ("TSA") concerning Federal law pertaining to the carrying of a concealed weapon, with a concealed weapons permit, within the Airport Terminal, since you had expressed a desire for full clarification on our legal position concerning the carrying of concealed weapons

within the Terminal structure. Unfortunately, TSA's regional counsel was traveling on business and was unable to get back to me until Thursday of last week, which is why you had not received the follow-up information that I had told you I would send as soon as I received it. Per my conversation about your inquiry with Mike Feikes, the regional counsel for the TSA, although TSA does not currently regulate firearms in the unsecured portion of the Airport Terminal, any person attempting to carry a gun through a security checkpoint, whether or not they have a concealed weapons permit, and whether or not the act was intentional or unintentional, will be charged with a felony under Federal law. See the attached information that he forwarded to me. Also enclosed for your reference is a copy of an article that recently appeared in US Today which outlines the fines that TSA will impose on individuals who carry any weapons through the checkpoints. As I mentioned to you, the Port's Ordinance fine is \$250.00, which is minimal by comparison to the TSA's program.

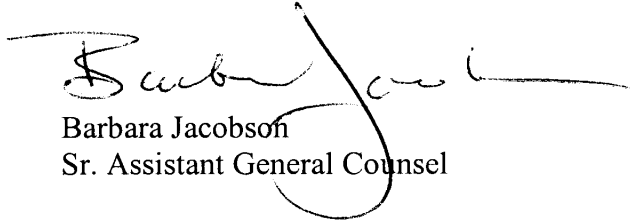
While I understand you believe that the Port's Ordinance is inconsistent with ORS 166.170 and 166.173, the Port does not agree with that assessment. Laws of statutory construction consistently provide that a statute is to be interpreted, first and foremost, with reference to its purpose, and every word, clause, and provision is to be liberally construed in order to achieve that purpose. Fitzgerald v. Neal, 113 Or. 103, 231 P. 645 (1924); Lommasson v. School Dist. No. 1, 201 Or. 71, 267 P.2d 1105 (1954); 21 *Oregon Digest*, Statutes § 188. Where there is more than one statute addressing a particular topic, a construction is, whenever possible, to be adopted that will give effect to all. Said another way, all statutes dealing with the same or similar subject must be taken "*in pari materia*" and read together as one law. ORS 174.010; State v. Buck, 200 Or. 87, 262 P.2d 495 (1953); Taggart v. School Dist. No. 1, 96 Or. 422, 188 P. 908, 1119 (1920); 21 *Oregon Digest*, Statutes § 223.2(1). Finally, if a law is challenged as being inconsistent or ambiguous, it is then up to the courts to determine the legislative intent, if possible, or, if that is not possible, either given sketchy legislative history or passage of time, more often than not, the courts will do as the famous Justice Cardozo, succinctly put it "...when what the judges have to do is, not to determine what the legislature did mean on a point which was presented to its mind, but to guess what it would have intended on a point not present to its mind, if the point has been present." (See *The Nature of Judicial Process*, pp 14, 15, published 1921.) In today's heightened security environment at airports, the Port is confident that an Oregon court would find that the legislature intended for the Airport authority's security and safety based need to restrict the presence of concealed weapons in the Airport Terminal outweighs the concealed weapons permit holder's right to bring guns into the Airport, except in those limited cases articulated in the Ordinance.

I hope that the foregoing has helped clarify the Port's position pertaining to the carrying of guns in the Airport Terminal. Concealed weapons, permit or not, are prohibited, except as expressly provided in the Ordinance. I hope this letter also helps to clarify why the Port does not believe that the Ordinance is in conflict with any other law or laws. Therefore, as Chief Klahn has already advised you, the Port will continue to enforce

Kevin Starrett
February 24, 2004
Page 3

Ordinance 377-R, as written. I hope this letter will be of assistance to you in advising your members.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Jacobson". The signature is fluid and cursive, with a large loop at the end of the last name.

Barbara Jacobson
Sr. Assistant General Counsel

encl.

cc: Mike Feikes, Regional Counsel, TSA
Chief Phil Klahn
Steve Schreiber