

I am testifying today because I care very much about parks and trails in our state. I have 30+ years' experience managing and building parks and trails in Oregon. Oregonians love their parks and trails. I am familiar with the Boise and Grants Pass court rulings that HB3115 addresses. Oregonians are frustrated that so many of our parks and trails, especially in the metro areas, have become large homeless camps, with garbage, human waste, stolen property, needles and other hazards. When the public can no longer enjoy using our parks and trails, because government has failed to protect them, then voters will be voting accordingly and fail to support parks and trails they cannot use.

This legislature intends to increase housing densities throughout the state, to provide more housing, leaving folks with much smaller yards. Parks and trails are vital resources for both housed and homeless individuals wanting to walk their dog, let their kids play on the playground, get some exercise, or relax on a blanket in the sunshine. This bill applies to all of the public parks and trails in our State.

Two important terms in this bill are almost completely undefined in scope: Section 1 (1) "keeping warm and dry" and "objectively reasonable" used in Sections 2 through 5. While keeping warm and dry has one limiting factor prohibiting open flame and fire, it has no other limits to prohibit long term homeless camps in our City owned and tax payer funded parks and trails. By omission, it allows large, almost permanent homeless camps with tents, structures, belongings, garbage, needles, human waste and all the other bodily functions that come along with "surviving outdoors" to take place - short of flame or fire.

The second undefined term is "objectively reasonable" in Sections 2-5. Who is deciding reasonableness regarding "time, place and manner"? Section B 5 of HB 3115 says:

....reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

This definition is anything but objectively reasonable. Objective reasonableness is a legal term generally used when discussing a police officer's use of force on a subject in the moment, based on what they knew at the time, and not 20/20 hindsight. When a City is dealing with a homeless camp, there is not a split second, "in the moment" situation. In the Oregon land use planning law, Cities are required to have "clear and objective" code standards, which means everyone can interpret a section of municipal code the same way for different situations.

Section B5 says objective reasonableness varies by circumstance, which is by definition, not objective. Variable circumstances can include: time, weather, location, impacts to other park users, neighbors, or businesses. It can vary by how high or sick the homeless person is, what their personal situation is, available shelter beds, distance to shelters, what restrictions a shelter may have and other factors. Who is deciding all this? The homeless person? The law enforcement officer? A judge? The City Council? It appears to give the homeless person the right to determine what is "reasonable" and "impacful: for them. Nowhere does House Bill 3115 give park and trail users (some of whom may be homeless) any rights to be able to use these areas for their intended use.

This bill provides no guidance, nor clear limits on what “objectively reasonable” homeless camping in our public parks and trails. When parks and trails are no longer safe, clean and useable by the public for their intended use, then the public will no longer support funding for building or maintaining parks and trails. Regional trails have been fought and canceled recently, because of the fear that they will become like Springwater, Marine Drive, or other trails, that are lined and blocked by homeless camps.

There is no question that Oregon needs to increase shelter beds-, short- and long-term housing, mental health services and drug and alcohol rehab services if we ever hope to address the homeless. Oregonians including myself, have compassion and empathy for homeless people, as shown by the record amounts of funds and resources being voted and allocated to helping the homeless and address this incredibly difficult problem. We must address the Boise and Grants Pass court decisions and allow homeless camping in some public areas of our cities, when shelter space is unavailable. However, I beg you all, to revise HB 3115 to clearly and objectively, allow Cities to restrict homeless camps, including tents, and sleeping overnight, in our public parks and along our trails, so that they can continue to be enjoyed by all public. This is critical to the long-term financial support and viability of parks and trails in the future.

Sincerely,

Kathleen Walker

Sandy, Oregon