



House Committee On Agriculture, Land Use, Natural Resources, and Water Opposition Testimony on HB 3013 & -1 Amendment

Chair Helm, members of the Committee,

Thank you for the opportunity to provide testimony today in opposition to HB 3013 and the -1 amendment. As background, the Oregon Home Builders Association represents over 3,000 members engaged in the residential construction industry and advocates for homeownership opportunities for all. We write today to express concerns about the unintended consequences of HB 3013 on our ability to overcome our housing crisis.

At the outset, this bill appears to be in response to a case concerning the Aurora Airport. OHBA was not involved in that case, is unaware of the underlying facts of that case, and takes no position on that issue. With that said, we are concerned about how this bill drastically changes standing requirements to allow third-parties to “enforce” LUBA decisions in a way that wrongly disincentivizes the construction of important needed housing developments.

As this committee well knows, Oregon is in the midst of an unprecedented housing shortage. Not surprisingly given our challenging land use system, Oregon has the 2nd most constrained housing market in the country.¹ Only Connecticut ranks worse than Oregon in providing enough housing per household in the country. Additionally, the entire Willamette Valley falls well below the national vacancy rate, highlighting the limited supply of homes available for rent in our most populated region.²

Housing experts from around the country and those in Oregon have identified “appeals” and “NIMBYism” as a core barrier to building housing – especially affordable and low-income housing, middle housing, multi-family housing, and manufactured housing. This is why the Governor’s Housing Production Advisory Council recommended several key policy changes to actually limit the opportunity for parties who are not applicants or those immediately affected by new development from being able to appeal the approval of new homes.

While others have submitted testimony that very few applications are appealed to LUBA, that ignores the reality of how appeals (even in small number) can drastically chill the production of needed housing. A single litigious individual can be responsible for loss of hundreds of needed affordable housing units, and there is little-to-no repercussions or penalty for this type of gamesmanship in existing law.

¹ <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/CommitteeMeetingDocument/288090> (slide 5)

² <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/CommitteeMeetingDocument/288090> (slide 6)

Unfortunately, both the base bill and the -1 amendment will exacerbate these issues because this legislation not only allows, but incentivizes, our courts to be weaponized by anti-housing activists who want to stop the development of needed and affordable housing.

First, HB 3013 and the -1 amendment create a new and unprecedented right of action that upends Oregon's settled law on legal standing, which helps prevent abuse of judicial resources. Specifically, the base bill and the -1 amendment allows anyone who submitted testimony at a local hearing to enforce a LUBA decision under ORS 197.825 (3)(b). If passed, HB 3013 would flip our court system on its head, and allow countless individuals and organizations, who have no material connection to a specific land use matter, to bring lawsuits seeking injunctions and damages against property owners and local governments.

Despite testimony submitted in support of this legislation suggesting otherwise, there is sufficient recourse available under existing law for those who have legitimate standing to enforce a LUBA decision and enjoin development wrongfully allowed. However, members of the public who merely have a general interest in how the land use planning system operates, do not (and should not) have this right – especially not the right to seek damages in the way HB 3013 allows.

Second, vagueness in the base bill, the -1 amendment, and testimony submitted against the bill raises significant questions for those ever wanting to improve or develop new homes. For example, what constitutes an “improvement” under the bill? Does that need to be something as significant as a wholly new structure, or could that extend to minor improvements like fences or important maintenance activities necessary to protect the property while litigation is pending or complying with other laws? Could a third-party seek the removal of an “improvement” that was not at issue on appeal, or require cities or special districts to remove critical infrastructure?

Moreover, when does a decision “become final” for the purpose of triggering a notice requirement under the bill? What if a LUBA decision is subsequently appealed to the Court of Appeals or the Oregon Supreme Court, and that prior decision is overturned? What does that mean for the property owner or local government who has now had their approval “voided” and is facing litigation against a third-party seeking damages against them? By making approvals “void” upon a first decision at LUBA, irrespective of errors in LUBA’s decision-making, HB 3013 and the -1 amendment poses significant and inequitable outcomes for applicants who may likely gain just approval of their project at the end of the day.

While we understand that many organizations and individuals take great pride in “enforcing our land use system,” this bill opens a new can of worms at a time when navigating our planning system is already difficult, contentious, and litigious. This is not the type of legislation we need at this time as it sends the wrong message that Oregon is willing to continue to add more barriers to home building in this state and allows our courts to be weaponized to stop the development of needed housing.

Thank you for the opportunity to provide these comments today.

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