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February 2, 2025

Rep. Ken Helm and Rep. Mark Owens, Co-Chairs
House Committee On Agriculture, Land Use, Natural Resources, and Water
State Capitol
Salem, OR

Re: HB 3013 - Enforcement of Land Use Board of Appeals decisions

Dear Co-Chairs Helm and Owens and Committee Members:

1000 Friends of Oregon supports HB 3013. We are a nonprofit, membership organization that works with Oregonians to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choice.

The Land Use Board of Appeals (LUBA) was created by the legislature in 1979, to ensure quick and consistent decisions when land use decisions made by local governments are appealed.¹ The Oregon land use planning program values public involvement, and that carries to LUBA. LUBA is structured so that individuals do not need an attorney; many Oregonians have successfully represented themselves before the Board. LUBA is successfully fulfilling the charge the legislature gave it.

However, because LUBA is not a court under the Oregon Constitution, enforcement of its orders - if necessary - was left to the prevailing party, requiring bringing an action in a circuit court. ORS 197.825(3)(b).

In almost all situations, the local governments and parties to the matter abide by the LUBA decision. They might work at modifying the underlying land use matter to find a workable and legal alternative. But decisions are usually not simply ignored, requiring a party to spend often significant sums to go into the more complex and expensive circuit court system to actually get a LUBA decision enforced. But it does happen, and that is a loophole that needs to be fixed for a functioning system, and which HB 3013 addresses.

HB 3013 would make it clear that LUBA orders are self-executing. If permits were issued or construction commenced based on a local land use decision that is later reversed by

¹ I will note that very few local government decisions are appealed each year - out of what has been estimated to be over 10,000 local land use decisions made annually, both large and small, only about 90-130 appeals have been filed annually in recent years (e.g. 92 filed in 2023, 108 in 2022. <https://www.oregon.gov/luba/Docs/SB77%202022%20Reports.pdf>).

LUBA, the permits would be invalid and revoked. Any construction undertaken while an appeal is pending is at the property owner's own risk, and is subject to being removed if the permit is declared invalid. HB 3013 also makes clear the original intent when the legislature created LUBA - that parties to the LUBA appeal, including intervenors and others, have the right to enforce LUBA's order in circuit court.

We have reviewed a short set of clarifying edits to the bill that have been submitted in testimony by Mr. Ed Sullivan and support those.

Thank you for consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Mary Kyle McCurdy". The signature is fluid and cursive, with "Mary" and "Kyle" connected.

Mary Kyle McCurdy
Associate Director