



OREGON PROPERTY OWNERS ASSOCIATION

House Committee on Agriculture, Land Use, Natural Resources and Water House Bill 2192 Letter of Support

February 20, 2023

Chair Helm and Committee Members:

We write in support of House Bill 2192 and thank you for holding a hearing on it.

HB 2192 is designed to allow a rural homeowner with a dwelling in a forest zone to rebuild that home if the home is destroyed or damaged as a result of a natural or human-caused disaster, whether that be fire, flood, tree damage, or simply because the owner would like a new home.

The current Oregon statute (ORS 215.755 – attached) requires a property owner in a forest zone to demonstrate that their existing home “has” intact walls and a roof, plumbing, heat, and wiring in order for the home to be replaced. For 25 years, the statute has been interpreted by all 36 counties to allow a homeowner to rebuild their home if the home was destroyed or damaged by natural or human-caused disaster.

Unfortunately, in 2022, Lane County began interpreting the word “has” in ORS 215.755 to require all the features of the home to be in existence in order to be replaced. The county determined that a home that had been destroyed or damaged no longer “has” walls, a roof, plumbing and heat, so therefore it couldn’t be rebuilt unless the property owner could meet the standards for a property that has never had a dwelling, as if the home that was destroyed by fire yesterday had never existed on the property.

Our laws purposely make it much more difficult to build a home on forestland or farmland where a home has never existed than to replace a home that was already there. The Lane County interpretation ignores that intentional distinction. We shouldn’t pretend that a home that burns down was never really there.

Currently Lane County is the only county interpreting ORS 215.755 in that manner, but the Oregon Land Use Board of Appeals has indicated (without deciding) that Lane County’s interpretation may be correct. See *West and Bollermann v. Multnomah County*, 70 Or LUBA 235 (2014). If LUBA were to formally make that ruling, Lane County’s interpretation would apply statewide.

HB 2192 aligns the replacement dwelling language in ORS 215.755 to the replacement dwelling language in ORS 215.291 which applies to replacement of homes in farm (EFU) zones. That statute currently allows a farmer to replace a home that “has” or “formerly had” all the features of a home. Legislative changes in 2013 and 2019 make it clear that farmers can replace homes that have been destroyed by fire or other disaster, but those changes sunset at the end of 2023. If this bill is not adopted, in 2024 the same issue currently impacting forest land owners will apply to farmers in EFU zones.

The legislature also passed special legislation in the 2021 session allowing homeowners who lost their homes in the Labor Day 2020 wildfire, regardless of their zoning designation, to replace their home in an easy truncated fashion. That legislation only applied to homeowners who were impacted by the Labor Day wildfires. If we have another wildfire in the future, without this bill, homeowners in Lane County will not qualify for replacement homes. If LUBA or the Oregon appellate courts formally adopt LUBA's language from the *West* decision, homeowners in every county won't qualify. The time to resolve this issue is now.

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