Sean T. Malone

Attorney at Law

259 E. Fifth Ave.,
Suite 200-C
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

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Via Email

House Committee on Agriculture and Land Use
900 Court Street NE
Salem, OR 97301

Re: **HB 3272 (Limits on the extension to briefing deadline for record objections denied by the Land Use Board of Appeals).**

I write to the Committee in opposition to HB 3272. As a land use practitioner for roughly 10 years, I am surprised to see a bill such as HB 3272 come before this committee because it is far-removed from the practicalities of litigating a land use case and it further reduces the role of public participation – a founding principle of Oregon's statewide land use system that appears to have fallen by the wayside.

First, LUBA records can be thousands and thousands of pages long for a variety of applications, and to allow a Petitioner 7 days to prepare a petition for review after a record objection is resolved is simply unrealistic. Moreover, the Petitioner would have even less than 7 days because – depending on where one lives in Oregon – it may take up to 4 days to arrive in the mail. In some situations, the Petitioner would not even know the Petition for Review is due until it is likely too late. There is simply no policy served or public interest satisfied for this Committee to advocate for arbitrary rulemaking. Having litigated cases in federal and state court, I can attest that LUBA's process is the most expeditious resolution of any of those bodies, and, therefore, there is little reason to speed up the process any further. Indeed, doing so will only reduce the quality of work presented to LUBA.

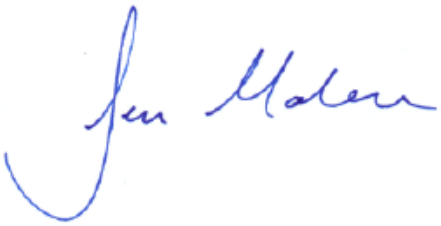
The Committee should also be wary of attempting to expand the possibility of attorney fee awards, especially in a system where pro se litigants are sometimes pitted against attorneys at the largest firms in the state. Indeed, this would likely have a chilling

effect. The HB 3272 is advocating for an inequitable system, driving pro se litigants from participating in a system that places public participation above all others at Goal 1. As noted elsewhere, this provision would have the unintended affect of increasing the number of motions for attorney fees and thereby reducing the ability of LUBA to effectively carry out its functions. The proposals here will fall squarely on the shoulders of the LUBA referees and staff.

The proposal to limit the time in which a party can submit a motion to take evidence is unwarranted. Such motions are, in my experience, used in conjunction with a petition for review to established standing or that LUBA has standing. It simply makes no sense for such a showing to be made before the record has been settled. It would create an unworkable process that would also *slow down the case* by requiring LUBA to resolve those issues prior to resolving the merits. It is more efficient for LUBA to do both at once. The motion to take evidence is infrequently used and there is simply no necessity for its timeline to be shortened. Moreover, such motions arise when there is a disagreement about certain facts, *which can occur at any stage of the case.* There is no practicality in placing limitations on this little-used motion.

For the reasons above, I cannot lend support to HB 3272, especially when it serves no purpose but to intimidate practitioners (including pro se litigants) and place arbitrary limitations on motions.

Sincerely,



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