Watts Remy

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To: SENR Exhibits
Cc: Jim Belknap; Rick Lawler
Subject: HB 2225

134.
That is the total number of Template Test Dwellings approved across the entire state of Oregon in 2017. That information was provided by the Oregon Department of Land Conservation and Development to the House Agriculture and Land Use Committee. 134.

This statistic, if nothing else, points to the fact that we are not "paving over" our forestland in Oregon. No information is given as to how many of those dwelling approvals were on parcels created by property line adjustment. It's just a raw number, but it speaks volumes.

In the great words of Will Rogers: "If it ain't broke, don't fix it."

Please allow me a moment to share with you what is now nearly 30 years of experience working as a land use consultant. In that time I have completed more Template Test Dwelling applications than I can count, though the number probably is only 2 or 3 a year. A typical Template Test Dwelling application, when completed, will be between 200 and 300 pages in length. One I submitted last month was 272 pages. The process is time consuming and expensive. Probably about a third, or a bit more, of the people who come to see me to seek assistance in preparing a Template Test application do not have a parcel of land that will meet the very exacting standards. That is disappointing for those folks, but I am candid about the process, pointing out that in Lane County the filing fee is $2,600 and will take about 6 months to process at the county level. This fee and time frame varies from county to county, but the point is, it's not spectator sport.

There are three aspects of HB 2225 that are most troubling for me.

First is the requirement to establish the "mathematical centroid" of the parcel. No where in this bill is that defined. Such a requirement simply loads the quiver of the groups, most notably LandWatch Lane County, that are committed to the complete cessation of dwelling approvals in forestland zoned areas. Currently, the most common method of establishing the center of the parcel is to trace with carbon paper an outline of the parcel onto a piece of tagboard, cut out the transferred outline and balance the tagboard on the head of a pin. The point at which the cutout balances is dented into the tagboard, the pin reversed and poked through the indentation, the cutout is then placed back onto the map of the property and a pencil inserted through the hole to note the center of the lot. The process is called the "pin test" – it is simple, perhaps even by some definitions crude, but it works remarkably well. The process has been reviewed and approved by the Land Use Board of Appeals as accurately depicting the center of a parcel.

While this process could be viewed as unsophisticated, the beauty of it is it is "workable" for the average citizen. It does not require hiring an engineer or surveyor to engage in some, as yet undefined, formula to calculate a mathematical centroid. Government that is not "workable" for the average citizen is not good government. This requirement only serves to give additional munitions to those groups that will challenge each and every Template Test applicant to "prove up" – show us your calculations.

Second among my concerns is the retroactive provisions of this bill. While I understand there are development interests that "mine out" small parcels to have identified as "lawfully created units of land" – Legal Lots as they are defined in Lane County - the process cannot be extremely widespread if we are only seeing 134 homes across all of Oregon being

allowed under the Template Test. An example was given by a representative of LandWatch at the house committee hearing that showed about 10 parcels having been created by property line adjustments. 10? In how many years? How is this such a major problem?

My consulting practice has primarily been to represent land owners that are often referred to me by attorneys in Lane, Linn, Benton and Douglas Counties. Those land owners are typically engaged in what can best be described as "estate planning." They are often elderly couples that have owned a tract of land for many years, not uncommonly going back to the 1940s and 1950s, who are now seeking a way to divide off a parcel to give to a child or grandchild for a building site. Sadly, in some cases these are just good folks who have run out of money and are looking to sell a parcel as an approved building site to supplement their retirement income.

I currently represent three families that are in just this situation. These folks have gone through the Legal Lot Verification process to identify a "lawfully created unit of land" – with a filing fee in the area of $1,800 and have waited out the usual 6 month processing time. Then they have hired a surveyor to completed a property line adjustment to establish a parcel with their home and create a second parcel that can meet the criteria for a Template Test dwelling. The property line adjustment will have a fee in Lane County of a bit over $2,400, the surveying costs are anywhere from $3,000 to as much as $20,000. This process not uncommonly takes well over a year to complete. If appeals are filed the applicant's attorneys' fees will easily add $5,000 to $10,000 to the process to defend against the appeal and add another year to the time for completion.

That is where my clients are today. A retroactive application of this bill will flush down the drain the investment of time and money to create a buildable parcel of land to give to a grandchild or sell for their support in retirement.

I challenge you to find justice in that.

My third concern with this bill is the exemption given to governmental bodies to pay compensation to owners for restricting their residential use of their land. Ballot Measure 37 was a poorly constructed measure, I'll cut to the chase, it was a crummy law. But the heart of it was genuine: if you buy a piece of property that is subject to zoning restrictions you should reasonably expect that to be the rules you will have to live with. Measure 49 corrected many of the flaws in Measure 37, but this ballot measure, referred to the voters of Oregon affirmed: "If you vote for this measure you will be allowed live with the zoning that is in place on your property, if in the best interest of the community that zoning is changed and you incur a loss in value, you will be compensated." Over 60% of the voters agreed with this proposition – a phenomenal number in today's electoral climate.

HB 2225 absolutely breaks faith with that promise.

In your decision to send this bill forward I ask you the question: What is the word of the legislature worth? Does our government abide by its promises?

Thank you for your time in considering my thoughts today.

Jim Belknap