LANDWATCH
LANE COUNTY
Protecting Our Natural Heritage
From the Coast to the Cascades
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May 9, 2019

Senate Committee - Environment and Natural Resources
900 Court Street
Salem OR

Re: HB 3024 (Prohibits county from considering property tax classification of dwellings that were previously removed, destroyed, demolished or converted to nonresidential uses when reviewing application for replacement dwelling on lands zoned for exclusive farm use.)

Chair Dembrow and Members of the Committee:

LandWatch Lane County is a small nonprofit; we have never had a bill drafted on our behalf, nor are we represented by lobbyists; we serve neighbors throughout Lane County who need help understanding and negotiating the land use code and laws, and we focus on protecting resource land for resource uses. I am a constituent of Senator Prozanski, have paid property taxes since the mid 1980's, earned a masters degree from the U of O while raising my daughter who attended 4J schools, and have no potential or actual financial gain from the work I do.

LandWatch did not know about HB 3024 when it was before the House, nor did it occur to us that the legislative body would consider, at the request of one special interest, stepping in front of the Supreme Court before it issued its decision regarding the existing law.

We urge you to oppose HB 3024 for the following reasons noted in the Supreme Court decision, issued on April 25, 2019, three weeks following the public hearing before the House Ag and Land Use Committee.

1. Under landowner's interpretation, any dwelling that ever existed on EFU land, but no longer does, can be replaced, as long as the building

at some point had the structural elements listed in paragraph (2)(a). That would appear to permit a potentially substantial number of replacement dwellings across the state, which would be a surprising result, based on the concerns that led to the 2013 amendment.

2. The path that led to the 2013 passage of HB 2746, as well as the testimony of its sponsors and supporters, makes clear that the legislature did not intend to authorize replacement of dwellings that had been destroyed or demolished many years earlier.

3. The bill's sponsors and supporters explained that its purpose was to address the problem of dwellings that were ineligible for replacement because they did not presently meet the structural requirements. Both actual and hypothetical examples of such dwellings were discussed

4. The five-year assessment period set out in HB 2746 (A-Engrossed) was addressed by David Hunnicutt of Oregonians in Action; he and other proponents of the bill were concerned that the blanket "five year" tax assessment period in the A-Engrossed bill would not permit the replacement of buildings that had not been on the tax roll as dwellings for five years because they had been both constructed and destroyed within the past five years

> "*We needed to add language * * * to deal with the situation where a dwelling was less than five years old and * * * to make sure that property owners of those types of dwellings, if the dwelling needed to be replaced, that they could benefit and use the provisions of this statute as they could under current law*." ***(statement of David Hunnicutt), https://olis.leg.state.or.us (accessed Apr 17, 2019***)

5. At a subsequent hearing, the Senate committee considered responsive amendments . . . along with some other changes. . . . At that hearing, Hunnicutt again described HB 2746 as necessary to "address the issue that was raised and brought forward * * * about the dilapidated dwellings and their ability to replace them."

> *"For a dwelling that is more than five years old, the amendments allow the dwelling to satisfy this subsection if the dwelling is taxed as a dwelling for the past five years, or if the dwelling would*

have been taxed as a dwelling for the past five years but stopped being taxed as a dwelling because it was destroyed or demolished by the owner for replacement or rebuilding.

"For a dwelling that is less than five years old, the amendments allow the dwelling to satisfy this subsection if the dwelling has been taxed as a dwelling since it was first occupied or if the dwelling would have been taxed as a dwelling since it was first occupied but stopped being taxed as a dwelling because it was destroyed or demolished by the owner for replacement or rebuilding. "

6. We have recognized that legislative history consisting of statements by nonlegislators "sometimes provides limited assistance in determining the legislature's intent."

In this case, however, it is appropriate to rely on Hunnicutt's statements as evidence of the legislature's intent in enacting the "unless" clauses. Hunnicutt's explanation of the purpose and effect of the amendments was the only such explanation that the Senate committee received before it adopted the amendments—which it did without objection immediately following Hunnicutt's statement

7. Representative Unger, who sponsored the bill, and whose family owned land that included a dilapidated dwelling, stated at the May 16, 2013, Senate hearing:

". . . ***this bill brought before you here is to address this group of people who have a house that has all the characteristics of a house but don't quite meet all the current guidelines for getting a new permit, tweaking them a little bit so that we can replace those dwellings where appropriate while respecting the land use laws that I think are important to respect out in these agricultural areas."***

8. The bill was repeatedly described as dealing with a small number of farmers,"tweaking" existing requirements, and a small fix. As Hunnicutt stated, "[t]he goal of this is to clean up the replacement dwelling statutes and allow farmers ***in a few circumstances*** to replace

> dwellings that are already on the property, but for lack of a better term, dilapidated."
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> Additionally, none of the legislatively cited examples . . . were dwellings that had been demolished or destroyed 20 years earlier.

This bill also would allow structures to be replaced with dwellings. As you are not land use experts, you are likely unaware that dwellings converted to structures are most often enabled as a condition of approval for a replacement dwelling - a condition that allows conversion of the existing dwelling to a "non-residential use." This bill would allow those 'non-residential uses' to be converted back to residential uses, further proliferating non-resource development on property tax deferred resource lands

HB 3024 is superfluous as the Supreme Court has adjudicated the confusion and technical elements of the law enacted in haste by the 2013 legislative assembly. Please don't repeat that past mistake by passing yet another bill that muddies the landscape.