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Testimony of Arthur Towers

OTLA Political Director

In Opposition to Senate Bill 213

Before the Senate Committee on Judiciary and Measure 110 Implementation

March 22, 2021

Chair Prozanski, Vice-Chair Thatcher and members of the committee, thank you for the opportunity to submit testimony in strong opposition to Senate Bill 213.

This bill would harm homeowners, business owners, and taxpayers by provoking and stretching out litigation when homes and other buildings are defectively constructed.

These are the people whose rights OTLA members fight for.

The most common consequence of construction defects in Oregon is mold. The people most impacted by the passage of SB 213 would be homeowners whose most significant investment is too toxic to live in and too toxic to sell.

When a construction defect is initially discovered, it is very difficult to determine who caused the problem. So, when litigation is filed, the general contractor, the subcontractors, the material suppliers, and the design professionals are all named in the suit. As the facts emerge, parties who performed their services properly are dropped from the suit.

This gives all parties an incentive to unravel what happened and determine levels of responsibility.

Under normal circumstances, this process unfolds over the course of a year and the parties get at the truth, negotiate a settlement, and compensate the homeowner for the damage. The homeowner gets closure and can move forward with their lives.

SB 213 upsets that time-tested balance by postponing the determination of the design professionals' level of responsibility until after trial. If the bill goes through, then many cases that would otherwise be settled would instead go to trial. On average, homeowners

would have to wait three years to get justice instead of getting the matter resolved in a year.

Over the course of several months of negotiations with proponents, it became clear that their concern is an insurance issue. We believe that there are creative solutions to the insurance problems that the design professionals claim to experience. Solutions to their concerns should not infringe on the rights of homeowners and business owners saddled with a defective, toxic building.

It is important to note that stakeholders who are adversaries in the courtroom are aligned in opposition to this legislation.

This bill has been brought forward repeatedly, and the legislature has wisely decided to protect homeowners' rights. We urge you to vote NO on SB 213.