



April 22, 2025

RE: Opposition to HB 3858 on the House Floor

Dear Madam Speaker and Colleagues,

I am writing to express my opposition to House Bill 3858.

Oregon's farm and forest lands are the foundation for our world-class agricultural and forestry sectors. Limiting development unrelated to farming and forestry on these lands is critical to the health of our economy and environment. HB 3858 would open up an unknown quantity of these lands for non-farm and non-forest development through the creation of a new category of property called "remainders" and recognize those properties as developable for non-farm and non-forest uses. This bill is unnecessary and will only sow confusion.

I urge you to vote "no" on House Bill 3858 because its necessity and full implications have not been fully vetted or understood by this body.

The members of the land use bar who testified before our committee could not agree on what this bill did and whether it was needed. Land use attorneys who represent individuals seeking to develop agricultural and forest land properties testified that the bill was needed to clarify the status of lots and parcels created before the adoption of the land use laws. Land use attorneys who represent organizations working to protect agricultural and forest land testified that current law was already clear, and that HB 3858 would create a whole new category of "remainder parcels" eligible for development on agricultural and forest land without justification.

The opponents of the bill testified that this bill is an effort to create a new category of "lawfully established" lots and parcels on which new houses can be built in farm and forest zones. They point out that we have no idea how many of these so-called "remainder" parcels exist in farm and forest land and what the impact would be of legalizing new units of land that do not exist under current law. The opponents testified this is particularly problematic as the case giving rise to the legislation dealt with land zoned for rural residential development, not for farm or forest use, and yet HB 3858 applies to farm and forest land as well as to rural residential zones.

Current law already allows for the validation of both legally created (ORS 92.017) and illegally created (ORS 92.176) parcels of land. HB 3858 would create confusion by allowing developers to dig through historic deeds, searching for potentially developable "remainder" parcels. "Remainder" properties validated by HB 3858 wouldn't have to meet current minimum lot size requirements applicable to all farm and forest lands across the state.

As I understand it, the proponents of the bill want to clarify the legality of certain lots or parcels that were created before our current land use laws went into effect, however, the bill is not limited to lots and parcels created before 1973 or other applicable date. The bill language apparently applies to new land divisions as well as old ones. What's more, witnesses pointed to existing statutes that are quite clear on how to determine whether early lots and parcels are legal.

There is no urgency to pass this legislation. We need to better understand the nature of the alleged problem and the potential impacts of the proposed fix before passing this bill into law. HB 3858 serves only to increase non-farm and non-forest development on farm and forest lands. Help preserve Oregon's farm and forest lands by voting NO on House Bill 3858.

Sincerely,

Susan McLain

Representative Susan McLain