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January 28, 2025

House Committee on Agriculture, Land Use, Natural Resources and Water Resources
Oregon State Capitol
900 Court St., NE
Salem, OR 97301

Re: Support HB 3013

To Co-Chairs Helm, Owens and Members of the Agriculture, Land Use, Natural Resources and Water Resources

Friends of Marion County is an independent 501(c)(3) farmland protection organization founded in 1998. Our mission is to protect farm and forestland, parks, and open space in Marion County.

We support the adoption of HB 3013 and request that the House Committee on Agriculture and Land Use move this bill forward to eventual passage by the 2025 Oregon Legislature.

PROBLEM

The legal disputes at the Aurora Airport have gone on for almost fifteen years and most have been land use appeals up to the Court of Appeals and the Supreme Court;

The most recent of these cases (LUBA No. 2020-108) has brought into view a problem in the land use legal system with recipients of a LUBA reversal and remand choose not to comply—in this case two state agencies and a county;

ORS 197.825(3)(b) authorizes LUBA and parties to a LUBA appeal to enforce LUBA orders in the circuit court. LUBA does not enforce its orders, and relies on the parties in an appeal to take corrective action;

In this case Joseph Schaefer filed a complaint in Circuit Court but the Marion County Circuit Court recently ruled that a project opponent (party) that won a LUBA appeal cannot enforce LUBA's order asserting they "don't have standing";

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This means only the very limited number of parties that actually sign an agreement have standing, which sets the terrible precedent that governments and developers can ignore LUBA's order and citizens and organizations not party to the specific agreement do not have standing;

SOLUTION

ORS 197.825(3)(b) and ORS 197.625(5) should make LUBA orders self-executing. If permits were issued or construction commenced based on a land use decision that is later reversed by LUBA, the permits shall be revoked, and all constructed improvements shall be removed. Additionally, a party to the LUBA appeal has the right to enforce LUBA's order in the circuit court.

The time is right for the legislature to pay serious attention to Oregon's farm, range, and forest land and the many resources those lands protect. Please stop the land speculation and conversion of Oregon's limited and precious agricultural and forest land resulting from unintended loopholes in existing land use statutes.

Thank you for considering these comments.

Sincerely,

Roger Kaye, Pres.
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