

4004 NW Thurman St.
Portland, OR 97210
January 31, 2025

House Committee on Agriculture, Land Use,
Natural Resources and Water
State Capitol
Salem, OR 97301

Re: HB 3013

Co-Chairs Helm and Owens and Committee Members:

I am Ed Sullivan and am writing you in my personal capacity. While I am aware of the successful efforts of several petitioners in LUBA proceedings to vindicate their rights with respect to the Aurora Airport and their later efforts to enforce those efforts, I have not been involved with that litigation. However, I have been a longstanding participant in the Oregon land use system and have reviewed both the original version of this bill, as well as the -1 amendments

I fully support this proposal. When LUBA was created by the legislature in 1979, the problem of enforcement of LUBA decisions was a problem. LUBA is not a court under the Oregon Constitution, so it cannot enforce its own orders. Instead, the legislature left it to the successful party in LUBA to seek enforcement of those orders in circuit court. Indeed, when divesting the circuit courts of the jurisdiction over land use decisions and giving it to LUBA, the legislature provided that circuit courts had specific authority to enforce LUBA orders.

This proposal follows through on that allocation of jurisdiction and makes it clear that, if we are to avoid a situation in which the losing party thumbs its nose at LUBA's order, there is a clear and effective remedy. That remedy is provided in three ways:

1. If a permit or zone change (and, I might add, other local government grants such as a limited land use decision or expedited land division) is successfully appealed, it *automatically* is void, once there is a final decision in the case. No further action is necessary by the local government or a court.
2. No one gets a vested right by the fact that they continued to develop while an appeal is pending, in the hope that no one would be able to require improvements to be removed.
3. Anyone has the right to enforce the LUBA order, regardless of whether they had standing, sought interim relief, or the action was a land use decision or not.

The Committee may wish to consider further amendments to clarify what appears to be the intent of the proposal:

1. p. 3, l. 13 now reads: