



Wendie L. Kellington
P.O. Box 2209
Lake Oswego Or
97035

Phone (503) 636-0069
Mobile (503) 804-0535
Email: wk@klgpc.com

March 25, 2025

Via Electronic Mail
Hon Ken Helm
Hon Mark Owens
Members of the Agriculture, Land Use, Natural Resources, and Water Committee
Oregon State Capitol 900 Court St. NE Salem, OR. 97301

RE: Testimony in Support of HB 3858

Dear Co-Chair Helm, Co-Chair Owen, Members of the Committee,

This letter is written in strong support of HB 3858. Thank you for the opportunity to present this testimony. While I have no direct personal stake in this legislation, I offer my expertise, having practiced land use law since 1983, including six years of service on the Oregon Land Use Board of Appeals. My testimony is provided in the spirit of public service and with a genuine interest in ensuring clarity and fairness in Oregon's land use laws.

HB 3858 prevents significant injustice and is fully aligned with existing principles of real estate law and, until recently, established Oregon land use law. The bill clearly articulates a fundamental principle: lots or parcels created by deeds or land sales contracts prior to the existence of land use regulations are lawful. This commonsense clarification simply reflects what most people have long understood ORS 92.010 to mean.

Consider a practical example: In 1960, Farmer Jones divides a 10-acre parcel by selling a 5-acre portion to a neighbor via deed, retaining the remaining 5 acres for himself. Under the interpretation recently adopted by LUBA, the 5-acre remainder that Farmer Jones kept would now be considered an unlawful "remainder," introducing confusion and instability into real estate transactions statewide. HB 3858 corrects this unintended and harmful consequence, ensuring that both the land sold, and the land retained by Farmer Jones before there were any land use rules that applied, are recognized as lawful parcels.

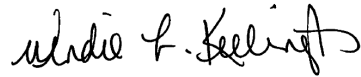
Historically, before land use rules existed, it would have seemed nonsensical for property owners to deed land back to themselves after selling off a chunk to a third party. Nothing required that such sellers deed land to themselves that they were keeping, and the extra step to do so would have seemed pretty pointless. Families routinely sold portions of their land to neighbors or others, often keeping their family homesteads and underlying land intact across generations. Without HB 3858, these families are now at risk of discovering that their family properties are legally invalid lots or parcels simply because their parent or grandparent did not deed the remainder back to themselves after selling some part to a third party. This upends generations of estate planning, makes it impossible for such a family to sell the "remainder" lot or parcel, or to

obtain permits for improvements, or construct needed structures. Such an outcome is unjust and contrary to common sense.

HB 3858 restores clarity, fairness, and practicality to Oregon's land use law, affirming the original intent of ORS 92.010. It ensures that lots or parcels created by a deed or land sale contract – whether the portion sold or the portion that remained in the hands of the seller - before land use regulations applied - will remain legally valid, preserving property rights and preventing unnecessary chaos and expense to countless Oregon families.

I urge your support for HB 3858, a measure vital to maintaining stability, fairness, and common sense in Oregon land use law. Thank you for the opportunity to provide these comments today. Please do not hesitate to contact me with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Wendie L. Kellington". The signature is fluid and cursive, with the first name "Wendie" being more prominent.

Wendie L. Kellington

WLK:wlk