LANDWATCH
LANE COUNTY
Protecting Our Natural Heritage
From the Coast to the Cascades
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March 25, 2025

TO: HOUSE COMMITTEE ON AGRICULTURE, ENVIRONMENT, NATURAL RESOURCES, WATER

FROM: Lauri Segel, LANDWATCH LANE COUNTY

RE: HB 3858

Chair Helm and Members of the Committee:

LandWatch Lane County is a small 501C3 organization that was established in 1997. LWLC works throughout Lane County to protect farm and forest land for farm and forest uses, and from unlawful development. We are not a lobby organization and do not hire lobbyists to do our bidding.

I am writing in strong opposition to HB 3858, and with the hope that Committee Members will take the time necessary to attempt to understand how bad this bill is. Although it may seem insignificant to add a provision to ORS 92.010's definition of lawfully created unit of land, the intent and effect of doing so is anything but insignificant.

The fact is that this is an 'anti-land use bill' proposed by an anti-land use lobbyist. This bill would allow exceptions to the definition of "lawfully established unit of land", which will likely result in unintended consequences for an otherwise orderly land use system.

HB 3858 is about legalizing units of land known in land use parlance as remainders, which LUBA has previously stated are not recognized in state land use law - see ***Hartman v. Washington County*** **(LUBA No. 98-172, July 16, 1999**), ***Grimstad v Deschutes County (LUBA No. 2016-035, September 29, 2016), and LandWatch Lane County v. Lane County*, __ Or LUBA __ (LUBA No. 2019-044, Oct. 15, 2019).** When a court interprets statutory land use laws in a manner that displeases an applicant or other interested party, the legislative body does not necessarily need to 'fix' something. As Mick Jagger truthfully reminded us in the 1960's "You can't always get what you want. . . "

HB 3858 also uses a phrase that is not known or referred to in land use parlance, i.e. "subtracting a unit of land." The wording misconstrues the basic foundation of Oregon's land

use system. That is because nothing is actually "subtracted" as a result of a partition or subdivision.

On April 29, 2008, Committee Chair Helm in his role as a Hearings Official in a Deschutes County lot of record hearing, stated the following in his decision denying the application:

> " When the BLM conveyed land to Crown Pacific Limited Partnership in 1999, it only conveyed " sec. 4, lots 3 and 4 and (NW1/ 4 SW1/ 4)" of T.16., R. 10 E. See deed number 36- 99-D0001 in the record. ***The adjoining Lots 1 and 2 were not conveyed. That conveyance partitioned the property without following the procedures set forth in ORS Chapter 92. The resulting lot or parcel was later conveyed to the applicant."***

Those adjoining lots 1 and 2 were what are referred to as "remainders." Portions of lawfully created units of land left behind, left out of, the lawful action, the land division and/or final plat.

In that Deschutes County decision, Chair Helm also addressed the applicant's argument that either their property was a " lot of record" for all purposes under the County code, or it was illegal, and therefore, unusable:

> "The applicant appears to argue that either the subject property is a " lot of record" for all purposes under the code, or it is illegal, and therefore, unusable. I disagree. The applicant draws too tight a relationship between the term " lot" and " lot of record." Whether the subject property is considered a lot, parcel or tract, it was legally created.. The finding that it does not meet the requirements for a " lot of record" does not render the property illegal or unusable. The F-1 zone provides many "permitted uses" as of right under county regulations. As "forestland" the applicant is also entitled to conduct forest practices consistent the Oregon Forest Practices Act. . . "

While the anti-land use adversaries would love to topple or continue the gutting of a system of laws that makes Oregon unique in a positive way, and we urge you to resist the rhetoric of implied victimhood.

LWLC respectfully requests that the committee not move this bill.

Thank you.

Lauri Segel

LWLC