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Hon Ken Helm & Hon. Mark Owens, Co-Chairs
Members of the Agriculture, land Use, Natural Resources, and Water Committee
Oregon State Capitol
900 Court Street NE
Salem, OR 97301

Re: Testimony in Support of HB 3858

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

I want to add my personal comments to the chorus of land use professionals in support of this common-sense measure. I am a Eugene land use attorney who has been working with all iterations of the land division statute for 44 years.

This bill does nothing more than rescue the landowners who have been thrown overboard by the *Carroll* decision. They and their successors need this life ring and don't even know it yet. These are people who, for the 75-plus years predating any land division regulations, were deeding a part of their land to family and neighbors without also deeding to themselves the acreage they retained.

There are undoubtedly many thousands of people and units land across the state similarly situated as the owners in *Carroll*.

The shared characteristic of this group is that the deeds they gave were fully lawful because there were no state or local laws in effect that said they needed to anything other than give a deed for part and hold onto the rest – the remainder.

You have opposing letters from LandWatch Lane County – Emmons and Segel-Vaccher – listing other decisions that would be overturned by this bill. None of these decision is related to the *Carroll* rule.

Emmons and Segel-Vaccher say this bill will overturn *LandWatch Lane County (Doughty)* (LUBA No. 2019-044, Oct. 10, 2019). Not so. *Doughty* involved one of two units of land that had been separated without going through the county land division process. I lost this case at LUBA to LandWatch. Because the remainder of the original lot was not lawfully created it was not a legal lot that could get a replacement dwelling.

Segel-Vaccher cites *Hartman v. Washington County*, (LUBA No. 98-172, July 16, 1999). This stands for the unremarkable proposition that the date of creation of a partition parcel is the date of the recorded partition plat, not the date of the unit of land before division. Not relevant here.

Grimstad v. Deschutes County (LUBA No. 2016-035, Sept. 29, 2016), is similar to *Doughty*. A conveyance that does not comply with existing state and local land division regulations does not create any legal lots.

I believe the ORS Chapter 92 “legal lot” provisions need a substantial makeover in the near future. *Carroll*, however, is worthy of triage in the moment.

Thank you for getting this straightened out.

Sincerely,

Bill Kloos

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