OREGON PROPERTY OWNERS ASSOCIATION

House Committee on Rules
Testimony in Opposition to HB 3971

Chair Bowman and Committee Members:

Thank you for the opportunity to provide testimony in opposition to HB 3971. As background, the Oregon Property Owners Association has represented Oregon property owners before the legislature, local governments, state agencies and Oregon courts for nearly 40 years, with more than 12,000 contributors across the state, including all 36 Oregon counties.

We hadn't planned to comment on this bill since it only impacts publicly owned property and not private property, but today's hearing should be required viewing for every legislator, as it perfectly encapsulates the current state of Oregon's land use "planning" system.

There is universal recognition that our current land use system is broken. As Lane County's attorney noted in his testimony explaining why this bill is needed:

> "What it (the bill) does is it basically says look, we can do years and years of litigation on the current appeals, we can start again on the next round (of appeals), and the next round, and by then, by the time we're all done with that this project will have been delayed for many many years while we're waiting, waiting, waiting to get this important project done, to extend the life of this landfill and to accomplish the goals this legislature has put into statute."

Fair enough – Oregon's private property owners certainly understand the County's frustration. In fact, I've provided nearly identical testimony on behalf of private property owners for years on important projects like (1) letting property owners quickly rebuild after their home has been lost to flood, fire, earthquake or other disaster, or (2) developing needed housing to meet the significant housing shortage identified by the Governor in her Executive Order on housing.

For some reason, bills that allow Oregon private property owners to escape our broken land use system never seem to get the same treatment as bills like HB 3971 – this seems odd. After all, the impact of the delays and endless rounds of litigation that the County seeks to avoid with this bill are much more profound on an average Oregon family or small business than they are on Lane County. Amazingly, the same supporters of this bill have <u>zero</u> sympathy for average Oregonians

who get caught up in this maze of litigation. But when it comes time to supersite a garbage plant in Goshen, we have to do something - NOW.

To justify a supersiting bill to rescue a garbage plant in Goshen that 1) doesn't meet County code requirements, 2) will be sited on wetlands, 3) is on appeal to LUBA (I'm sure LUBA will love that – since Lane County is suing itself, the caption of the appeal will be Lane County v. Lane County), and 4) can be fixed by the County without the need to come to the legislature for supersiting assistance, the County makes two main arguments:

First, the County argues that the garbage plant provides significant environmental benefits to Lane County and the State of Oregon. We don't know enough about the proposed plant to know whether that's true, so we'll assume it is.

This is a fantastic argument, because it proves what we've known all along – compliance with Oregon's land use laws is bad for the environment!

Second, the County argues that they should be allowed to ignore their own land use code, Oregon land division laws, Oregon land use statutes, and all of LCDC's Goals and rules because at the time Senate Bill 100 was introduced in 1973, Oregon legislators couldn't have known that technology would develop and innovative uses like the proposed garbage plant would come into existence.

That argument ignores the fact that this is a problem that Lane County can easily fix on its own in recognition of the change in technology. The County doesn't need the legislature to supersite their garbage plant to get it approved – it's an issue of Lane Code that's the problem, not state law. The County's argument also ignores the fact that Senate Bill 100 has been amended hundreds of times since it was first introduced to address technological changes without resort to a supersiting bill.

But we're happy to agree with the County's second argument as well. In fact, we'll join the County in the 2026 short-session on a bill that says that property owners (public or private) can supersite any proposed use that wasn't in existence in 1973, because the legislature back then couldn't have known about them.

In our quest to pass our 2026 bill, I suspect we'll be joined by advocates for renewable energy, microchips, rural housing (sure, rural housing existed in 1973, but no one would have anticipated the loss to rural homes caused by increasingly large wildfires), and urban housing (no one in 1973 could ever have anticipated that our land use system would create a shortage of over 140,000 housing units by 2025). In fact, except for the limitations found within the relating clause, we're sure the proponents of the bill would agree with an amendment to make these changes for each of these important projects in this bill, saving us all the trouble and work in 2026.

Thank you for the opportunity to comment. Please don't hesitate to reach out with any questions or concerns.

Dave Hunnicutt: dhunnicutt@oregonpropertyowners.org