



LEAGUE OF WOMEN VOTERS®
OF OREGON

February 26, 2013

To: Senate Rural Communities and Economic Development
Senator Arnie Roblan, Chair
Members of the Committee
(shelley.raszka@state.or.us)

Re: SB 77 – Appeals at LUBA (Land Use Board of Appeals) - OPPOSE

The League of Women Voters is a nonpartisan, grassroots political organization that encourages informed and active participation in government. The League has a very strong position related to land use Goal 1, Citizen Involvement. Since 1959 we have been studying and participating in legislation related to land use in Oregon.

Our land use planning system provides for broad citizen involvement in development of Comprehensive Plans and Development Codes. Those documents are then used to guide development in our communities. Sometimes there are questions regarding the administration of those Plans and Codes. That's when LUBA's role is critical. Cases are brought to LUBA by both applicants and others who participated at the local level. We know that there are thousands of land use applications in local jurisdictions around the state each year. At its peak, LUBA's caseload was around 260. In the last few years, appeals have dropped to a little over 100. Enforcement of our land use laws is a complaint driven system. **All parties must have access to adjudication of those complaints. That's why we oppose the increase in fees on page 3.**

The issue of appeals is a perennial conversation. Those discussions usually occur around anecdotal or one time cases. **We can support the gathering of data listed on page 4 (20) (a) and (b). In fact we have done so during recent budget hearings.** We asked for data collection so that decision makers have adequate information on the total number of land use actions, the number of appeals, types/general issues of appeals, appeals upheld, denied or remanded (and for what reason). It is possible that an intern could provide that data and perhaps set up a system that LUBA could maintain so it is not just a one-time exercise.

We question the ability to collect the "total cost" requested on page 4 (20) (c). While appellants who are also businesses may have accurate figures for their costs, citizens or citizen groups who choose to appeal often rely on hours of volunteer time. One estimate given me was 120 hours on their LUBA appeal alone. That's on top of the hundreds of hours (again, one estimate was over 300 hours) spent appealing at the local level. How does one calculate that cost? This time is above and beyond any expenses/legal fees they may choose to incur.

A private citizen who feels so strongly that an error has occurred that they take the step to go to LUBA puts both significant money and time into the effort. They may do this because of a particular development near them OR they may feel the decision errs in interpreting the plan, code or statewide goals. That decision could affect them personally in the future because such decisions set precedent. But the decision might also violate the overall community vision. Our local comprehensive plans and development codes are approved by one set of local decision makers, but are often now being administered by newer elected officials.

LUBA provides a mechanism for addressing concerns related to local land use decisions in a timely manner. Decisions are made by judges whose expertise is in land use law. **Their mission:**

- *simplify the appeal process;*
- *speed resolution of land use disputes; and*
- *provide consistent interpretation of state and local land use laws.*

Citizens are asked to help pay for the impacts of development in their communities. They should not be shut out of processes that review that development. Thank you for listening to our concerns. We ask that you reject SB 77.

Sincerely,



Robin Wisdom
President



Peggy Lynch
Natural Resources Coordinator