

February 25, 2013

Senate Committee on Rural Communities and Economic Development
State Capitol
900 Court St. NE
Salem, OR 97301

RE: SB 77

Dear Chair Roblan and Members of the Committee,

Rogue Advocates is a Southern Oregon based nonprofit land use sustainability organization. On behalf our members we advocate for the protection of resource lands, open space and the creation of livable communities. We also advocate for increased citizen involvement in the land use system. We thank this Committee for this opportunity to enter testimony in opposition to SB 77 as it is currently written.

Rogue Advocates fully supports the democratic values embodied in Goal 1 of Oregon's Statewide Land Use System and has worked hard to increase citizen participation in land use planning at the local level since it began in 2006. But for the values expressed in Goal 1 to have real effect Citizen Participation at the appeal level must be affordable. If citizens cannot afford to participate in seeking redress at LUBA of illegal land use decisions at the local level, then citizen participation, where the public share equitably in decisions, is nothing but an idea on paper. It is the very fact that citizens and organizations like ours can afford to appeal wrong decisions that makes Oregon's land use system a vibrant and truly democratic process.

By raising appeals fees from \$100 to \$1000, a 10-fold increase, and to increase the deposit fee from \$400 to \$2000, a 5- fold increase, SB 77 will surely shut people out of the public process at a key point in that process. If this is the purpose of this legislation then it is right on target. However if it's purpose is to reduce or eliminate a claimed trend of excessive frivolous appeals then this claim needs to be supported with verifiable evidence prior to a change in policy. To our awareness this evidence has not been presented. To base such a radical departure from longstanding policy, that has a great potential to harm Citizen Involvement, on nothing more than hearsay is simply wrong.

Consolidation of appeals that come from a single permit is reasonable as it will be more efficient while not excluding anyone from the process.

More data collection by LUBA would be beneficial. The data should give a clear picture of the impacts of the appeal process as it stands. We suggest the data enumerated below as appropriate to achieve that end.

- The total number of appeal-able land use decisions made by local governments by type of decision
- The total number and rate of appeals filed (by type of decision) and success rate of these appeals
- A list of petitioners and all of the decisions which they have appealed and success rate of these appeals
- A list of respondents and their success rate
- Instances when LUBA has exercised its statutory requirement to require the losing party to pay the prevailing party's attorney fees and costs if the losing party's claims were not well founded in law
- Summary statistics showing type of petitioner (applicant or opponent) and success rate by type of petitioner

In conclusion, without major changes to this bill's wording, particularly it's unjustifiably punitive fees for citizens who appeal land use decisions, our organization respectfully requests that you oppose this bill.

Sincerely,

Melissa Matthewson

A handwritten signature in black ink that reads "Melissa Matthewson". The signature is written in a cursive, flowing style.

Executive Director
Rogue Advocates