



ORCA: Oregon Coast Alliance

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Protecting the Oregon Coast

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

Sent via email: shelley.raszka@state.or.us

Dear Members of the Committee,

Oregon Coast Alliance (ORCA) is an Oregon nonprofit organization whose mission is to protect coastal natural resources and work with coastal residents for sustainable communities. We often work on land use issues, both educating residents as they deal with land use questions in their communities, and helping them with legal skills if necessary. We write this letter in opposition to SB 77 as it is currently structured.

ORCA has taken local government decisions to the Land Use Board of Appeals on its own behalf and representing other parties as well, ranging from former City Council members to private citizens to the City of Gold Beach. In all these instances, it was critically important that the fees at LUBA are reasonable, currently totalling \$400 per appeal. This is all the more important given that some cities and counties have begun charging local appeal fees that are very out-of-line with preserving due process opportunities to the legal system.

As currently written, SB 77 would increase LUBA appeal fees to up to \$2,000 – as high as some counties charge for local appeals. Indeed, some counties and cities charge up to \$3,000 or \$4,000 or higher. Appeal fees this high, whether local or at LUBA, are clearly inappropriate if citizens' rights to the enter the judicial process are to be upheld in any meaningful way, and the trend must be stopped. LUBA, as the statewide land use court, must be affordable. ORCA recommends LUBA's current fee levels be maintained.

We also oppose the SB 77 requirement for specific pleading in the Notice of Intent to Appeal (NITA). This is simply unnecessary, as all errors must be raised during local proceedings. Why create unnecessary work, and muddy a process designed to be streamlined for the convenience of all parties?

Data collection is important, but in our opinion, SB 77 should be amended to require data collection most useful to policymakers, including:

- (a) total number of appealable local government land use decisions, by type of decision;
- (b) total number and rate of appeals filed, by type of appeal, and the success rate of those appeals;
- (c) a list of petitioners, the decisions they have appealed, and their success rate;
- (d) a list of respondents, and their success rates;
- (e) a list of instances where LUBA has exercised its requirement to require losing party to pay prevailing party's attorney fees and costs if the loser's claims were not well founded in law.

Thank you for this opportunity to present testimony on SB 77 before the Committee.

Sincerely,

/s/ Cameron La Follette

Cameron La Follette
Land Use Director