



American Planning Association
Oregon Chapter

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Making Great Communities Happen

February 26, 2013

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Chair, Senate Committee on Rural Communities and Economic Development
 State Capitol

Salem, Oregon 97301

Re: Senate Bill 77 (Relating to appellate review of land use decisions)

AT-LARGE DIRECTORS

Alwin Turiel, AICP

Terri Harding, AICP

Nicholas Snead

David Reesor, AICP

Oregon chapter of the American Planning Association represents nearly one thousand professional and citizen planners in Oregon. The organization supports state policies and legislation that fosters good community planning. **For the following reasons, OAPA recommends a NO vote on Senate Bill 77:**

PLANNING

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- The requirement that limits the issues that a petitioner may raise before LUBA to those identified in the notice of intent to appeal, filed 21 days after a decision is made, **compresses the timeframe in which a petitioner must identify errors and may prejudice a petitioner’s ability to fully pursue an appeal of all relevant issues**, as the notice of intent to appeal, as proposed, would be filed before the record from the local government proceeding is available for review. Under current LUBA structure, identification of errors is not required until *after* the record has been filed and all disputes over the content of the record resolved.
- The increased filing and deposit for costs of \$1,000 each and intervention fee of \$750 proposed in SB 77 are significantly higher than the existing fees of \$400, \$200 filing fee and \$200 deposit for costs, for a petitioner and \$100 filing fee to intervene. At present, LUBA is structured to provide for broad participation – it has comparably very low filing fees, allows for pro se litigants and very permissive standing rules. **SB 77 directly conflicts with both current LUBA structure and part of OAPA’s mission to “advocate for every citizen’s opportunity to participate.”**
- Section 8 of SB 77, which requires tolling of timelines to allow for consolidation of all land use decisions relating to the subject property, **may have an unintended consequence of causing significant delay in resolving appeals.** Although the bill language does not appear to take the various jurisdictional limitations into account, it appears, for example, that LUBA’s review of a plan amendment or zone change would be stayed under the proposed tolling provision until after the LUBA appeal period expires on a local government’s subsequent subdivision, site plan or development review approvals on the same property that could occur months or even years later.

Thank you for your thoughtful consideration of this testimony.

Sincerely,



Jeannine Rustad,
Chair
Legislative and Policy Affairs Committee

cc: OAPA Board