



Feb. 24, 2015

Honorable Floyd Prozanski, Chair
Senate Committee on Judiciary
900 Court St. NE
Salem, Or 97301

RE: Senate Bill 359 – Fees; Local Land Use Appeals

Dear Chair Prozanski and Members of the Judiciary Committee:

I am writing to express the city of Beaverton's opposition to Senate Bill 359, as introduced. Senate Bill 359 would limit the appeal fee a city or county may charge for an appeal of a land use decision made by a local hearings officer or planning commission. These are fees paid for local appeals, not appeals to LUBA.

As proposed, Senate Bill 359 would limit a local appeal fee to "a reasonable fee not to exceed 10 percent of the original application fee or \$1,000, whichever is less." The proposed cap adversely affects Beaverton because the land use application fees the cap applies to are already low.

The city sets its land use application fees annually based on a good faith, reasonable estimate of the average cost for processing various land use applications. Beaverton's application fees for most Type 3 matters—the city's most common land use proceeding—are in the range of \$2,000 to \$3,000. Application fees for Type 4 matters are either \$4,770 for a development code text amendment or \$5,243 for a comprehensive plan amendment. All of these fees are set with notice to the public who can comment on the fee amounts.

Similarly, Beaverton sets its appeal fees annually based on a good faith, reasonable estimate of average cost of preparing for and conducting an appeal. These fees, too, are set with notice to the public who can comment on the fee amounts. Using this methodology, the fee for either a Type 3 or Type 4 land use appeal in Beaverton is currently \$1,439.

As written, Senate Bill 359 would limit land use appeal fees in Beaverton to the lesser of \$1000 or 10 percent of the original land use application fee. This means the city would be limited to a \$200 to \$300 appeal fee for most Type 3 matters and less than a \$500 appeal fee for any Type 4 matter. These appeal fees are unreasonably low.

Without question, appeal fees should not to be set so high as to discourage legitimate appeals. But Senate Bill 359 would set such unreasonably low appeal fees for jurisdictions like Beaverton that it will likely encourage a "roll-the-dice" mentality when it comes to appeals of local land use decisions. Appeal fees should not be set so low as to encourage spurious appeals.

I urge you to oppose Senate Bill 359, as introduced. Thank you for the opportunity to comment.

Sincerely,



Bill Kirby
City Attorney