

Comments Submitted by Judy Parsons for Amended SB871 Hearing in the Senate  
Committee on Environment and Natural Resources on April 10, 2017

Thank you Senator Dembrow, Representative Keny- Guyer and others for sponsoring SB871. I support SB871 and submit these comments for consideration while the committee is finalizing this important bill:

**1.** Please indicate clearly in SB871 that the term “residence or residential building” includes “a structure with four units or less, including a *single family home*.” Today, the first web search result for DEQ’s asbestos survey requirements is a document titled Asbestos Building Survey Requirements, dated 07/2012, that states in paragraph three, “The survey rule **does not** apply to residential buildings with four or fewer dwelling units or a single private residence that is not used as a commercial business.” Here is the link: <http://www.deq.state.or.us/aq/factsheets/06-NWR-008-ASBSurvey.pdf>.

This DEQ language seems to contradict the intended survey requirement in SB 871 for a single family home or residential building demolition. Please resolve this discrepancy by including language in SB 871 that corrects this problem. I thought that loophole was addressed awhile ago during the SB 705 DEQ rulemaking process.

**2.** Please include the state definition of a demolition or at least its ORS citation, ORS340-248-0010(19), which defines a demolition as “removal of any load supporting structural member of a facility...” The city of Portland defines a demolition as removal of an *entire* superstructure taken down (completely) to the sub floor as it is explained in this document: <https://www.portlandoregon.gov/bds/67326> . The city of Portland defines a project where only one post or one wall is left standing of a house as a “major residential alteration or addition (MRAA)”, which is virtually a demolition. The state’s demolition definition is more inclusive. Therefore, please indicate clearly that SB871 requirements would also apply to these virtual demolitions or MRAAs in Portland.

**3.** The civil penalty clause found in Section 5 of the “Introduced” version of this bill should be reinstated and the penalty amount should be increased from \$5,000 to a much larger amount, maybe \$25,000 or more, to deter developers from possibly not complying with this bill’s requirements. Developers in Portland often sell their newly built McMansions, which replace viable older homes, for well over \$1,000,000. A fine of \$5,000 might not be enough to deter noncompliance.

**4.** In addition to notifying neighbors, this bill should include notification requirements of residential demolitions to oversight agencies (DEQ, OHA, CCB and OSHA) from those cities issuing demolition permits. This requirement could help solve some of the lack of abatement verification and enforcement issues that exist. The Oregonian newspaper has reported about alarming asbestos abatement discrepancies based upon DEQ data.

**5.** The current citizen complaint based system is unacceptable and must be changed to better protect the environment and public health. Please indicate in SB871 which agency is responsible for **verification and enforcement of asbestos and lead based paint**

**surveys and abatement plans.** For years now, there has been ongoing “ping pong” between the Portland DEQ office stating they do not know when demolitions occur and the city of Portland’s BDS staff explaining often they do not have jurisdiction or authority to request surveys, inspect or enforce abatements and that is DEQ’s purview. An example is this excerpt from a BDS Code and Policy Analyst’s email in May 2016:

*“With respect to whether we [BDS] can post the asbestos surveys online, it would be doable if the City had access to the surveys. Based on the rules adopted by DEQ, we don’t have that access. DEQ can ask that a survey for a particular project be provided to them, but the applicant is not automatically required to provide the survey to DEQ and they are not required to provide it to the City at all. I specifically asked that DEQ include a requirement that the survey be provided to the local jurisdiction as a condition of issuing a permit, but DEQ refused to include that requirement in the final rules....”*

*As noted above, SB 705 has been implemented since January 1. DEQ has no particular procedures for enforcing it. BDS has no authority to enforce the regulations, since they are not ours.*

*DEQ only verifies asbestos surveys if they are asked to do so by a member of the public, but even then, it’s at DEQ’s discretion whether to ask for a copy of the survey. Their enforcement is also at their discretion.”*

I urge this committee to include effective language in SB 871 that stops this frustrating back and forth between the agencies. Please indicate explicitly which agency should **verify and enforce asbestos and lead based paint surveys and abatements prior to residential demolitions.** In DEQ’s SB 705 rulemaking report last year, they predict at least 750 houses will be demolished across the state. As it has been for awhile, more than one house per day continues to be demolished in Portland. There have been 376 residential demolitions in Portland in just the *past* year, which *does not* include the hundreds of virtual demolitions or MRAAs. Here is a link:  
<http://www.portlandchronicle.com/376-portland-homes-demolished-last-year/>

Thank you for considering the above suggestions while amending and finalizing language in SB 871, including language that requires verifications and inspection of abatements by a designated agency **prior** to residential demolitions. Thank you for your leadership on these important issues.

With Appreciation, Judy Parsons, Senate District 23 Constituent,  
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