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April 12, 2017

Senate Committee on Environmental and Natural Resources  
State Capitol  
900 Court St. NE  
Salem, OR 97301

RE: Testimony on SB 1048

Chair Dembrow and members of the Committee:

Thank you for the opportunity to provide testimony on HB 1048, a bill to clarify the processing of property line adjustments.

The intent of this amendment is to clarify ORS 92.190, not to expand it. This bill provides efficiency and cost saving for local jurisdictions and applicants by streamlining processing. It does not provide any new property line adjustment mechanisms, opportunities, or standards that do not already exist.<sup>1</sup> In short, this bill is limited to the issue of simplified processing of multiple adjustments, which are already allowed by law.<sup>2</sup> The end result of the adjustments is exactly the same.

This amendment essentially corrects *Bowerman v. Lane County*, LUBA No. 2016-008. In that decision, LUBA determined that a local government may not approve the processing of multiple, sequential property line adjustments in a single land use approval because adjustments can only be made to "existing" properties. Under the holding in *Bowerman*, each adjustment must be finalized with a deed recorded before a subsequent adjustment may be approved by the local government. This amendment is intended to more clearly ratify the current law, which

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<sup>1</sup> The assertions in the testimony by 1,000 Friends and Friends of Yamhill are inaccurate. The new language has no impact on farm and timberland because no new types of adjustments are allowed.

<sup>2</sup> The intent of the amendment is to ensure that: A county or city may process and approve multiple adjustments in a single decision provided that each adjustment meets the requirements of ORS 92.192 and is consistent with ORS 92.010(12). If the approved adjustment(s) requires a survey, a single survey of the final configuration shall be sufficient. Required recording of the adjustment deed(s), declaration(s) or survey(s) may be made a condition of approval. The amendments should apply to adjustments of land occurring before and after the effective date of this Act.

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allows a single decision to review and approve multiple adjustments being recorded in a sequential series.

Because this is a correction of LUBA's reading of the statute, it should be retroactive. Local governments throughout Oregon have made numerous decisions in the past and have many current applications that would be affected by *Bowerman* because LUBA misread the statute. Further, a requirement for individual land use approvals and professional surveys for each adjustment is burdensome, wasteful and potentially confusing to the public because only the final configuration will exist. A survey is not presently needed for each intermediate property line adjustment, just the final configuration.

LUBA has affirmed time and time again that serial property line adjustments ("a progression of property line adjustments") are allowed by the statute. They reaffirmed this position in the *Bowerman* case. This bill simply allows for efficient processing of those adjustments in a way that saves local jurisdictions and applicants time and money. The end result is exactly the same. Please vote yes on SB 1048.

Respectfully submitted,



Kimberly J.R. O'Dea

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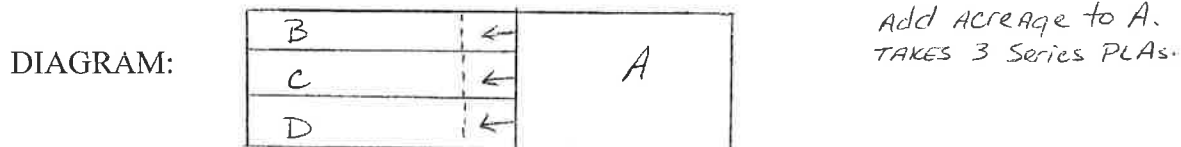
April 12, 2017

## Oral testimony notes

This amendment does not change the result, it only simplifies the process. It does not limit appeal rights.

At issue here are multiple property line adjustments in a series (a progression of property line adjustments). These types of adjustments are allowed under the existing statute. LUBA and the Court of Appeals have affirmed this numerous times, most recently in the *Bowerman* case.

Under existing law, you may do several adjustments, one after another, to get to a final configuration. Series adjustments are needed because, under the definition of property line adjustment, you can only adjust one common line at a time.



This amendment does not change property line adjustments (PLAs). It does not add PLA methods, opportunities or standards; it does not extinguish PLA methods, opportunities standards. It simplifies processing.

Prior to the *Bowerman* case, it was generally understood that you could process these types of adjustments in a single application, get one decision approving all the adjustments, and then record the deeds in sequence along with a final survey showing the adjustments. Many jurisdictions follow this.

- This is efficient for the applicant, because it's a single application and the adjustments are either all correct or wrong, and errors within the sequence can be fixed prior to recording.
- This is efficient for the local jurisdiction because the adjustments are so interrelated that the most efficient way to review them is together, at the same time, under a single application.
- This is efficient for the surveyor's office because the middle diagrams are temporary in nature and just result in clutter.
- This is efficient for deeds and records (and the public), because PLA deeds are recorded in short sequence, which group them and make them easy to find.

After LUBA's interpretation in *Bowerman*, an applicant would need to record the first PLA deed with survey, have it reviewed, come back, record a next deed with survey, have it reviewed, come back, record the next deed with survey, and on and on.

This is expensive and inefficient, and will lead to confusion, and does not change the outcome at all.