

From: [Peter Livingston](#)
To: [HHS Exhibits](#)
Subject: HB 2001
Date: Monday, February 11, 2019 8:35:01 AM

Dear Chair:

I am writing to oppose two aspects of HB 2001: (1) It takes local control away from counties and cities across the state; and (2) It breaks with a long-time precedent that attorney fees should not be awarded for LUBA appeals. The first reason speaks for itself. It should be up to local governments to decide if permanently mandating "middle housing" is the solution to a local housing problem that may well be temporary. The legislature must be careful not to be unduly influenced by Portland problems, Portland legislators and Portland solutions.

With respect to the second reason: I am familiar with LUBA, having served there in the 1990s, having practiced land use law in both the private and public sectors for almost 30 years, representing parties from a diverse spectrum, and having taught the land use law class at Willamette University College of Law for 14 years. LUBA should be a forum where anyone can participate in good faith without fear of economic reprisals in the form of attorney fee awards. Fees are now available in cases where the arguments on one side or the other have no merit, but that is a high standard. Housing issues can run the full gamut from design disputes to outright zoning code violations. It is unlikely that all of these arguments, whatever they are, will be completely without merit. If they are, LUBA already has the discretion to award fees.

If attorney fees are permitted, they should be permitted for both sides of a dispute. That is the general rule in litigation.

Thank you for your consideration.

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