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February 19, 2019

Senator Floyd Prozanski
Senate Committee on Judiciary
900 Court Street NE, Room 331
Salem, Oregon 97301

Re: Written Testimony in Support SB 757

Dear Senate Committee on Judiciary:

The Oregon Revised Statutes are silent on whether a defendant is authorized to file a counterclaim in response to the plaintiff's complaint in tax court. The tax court rules, until recently, specifically allowed for counterclaims and practitioners filed counterclaims in tax court. In a recent decision by the Oregon Tax Court, *Village at Main Street*, the court questioned whether counterclaims are allowed under state law.

Assessors periodically bring counterclaims to address issues that the property owner did not bring up in the appeal. For example, if the property owner appeals the real market value of just one component of the property, such as the land value, but not the improvements value, the Assessor can by statute (ORS 305.287) bring before the court the total real market value of the property, including the improvement value. This is often accomplished by filing a counterclaim in the initial answer. Another example where a counterclaim may be filed by the Assessor is to assure the correct real market value for the property is on the tax roll. The Assessor is required to value property at 100 percent real market value under ORS 308.232. Sometimes after an appeal if filed by the property owner the Assessor finds that the value on the tax roll itself is too low. In that instance the Assessor should be able to file a counterclaim for the higher proposed value and let the court decide the value of the property based on the evidence submitted to the court.

If counterclaims are not allowed, the Assessor may potentially have to proactively appeal all BOPTA and Magistrate decisions in anticipation of any potential future appeals to assure a correct roll value for the subject property. This is a waste of the resources of the tax court, the county and the taxpayer. This problem is simply solved by SB 757 by clarifying that the defendant in an action may file a counterclaim.

I ask you to support SB 757 and the -2 amendment to the bill.

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