

Watts Remy

From: Derek Blum <derekb@stanfordalumni.org>
Sent: Thursday, April 4, 2019 12:20 PM
To: SENR Exhibits; Sen Dembrow; Sen Olsen; Sen Bentz; Sen Prozanski; Sen Roblan
Cc: Derek Edward Blum
Subject: Senate Bill 927 Testimony and Comments

Senator Debrow and members of the Senate Committee On Environment and Natural Resources,

Imagine you had applied for a building permit and were in the process of working with the city agency to receive approval. And then, after months of negotiation and discussion, and after you had received approval for your permit but before the permit was issued, the local governing body or department changed codes or zoning nullifying the permit altogether and wasting countless hours and perhaps thousands of dollars you had spent to obtain the permit.

This is effectively the situation that Portland's Eastmoreland neighborhood finds itself in. Given Oregon's land-use policies and the increasing rate of demolitions, the neighborhood undertook an effort to get Eastmoreland listed on the National Registry of Historic Places (NRHP). Our process began a long time ago – well before SB927 was even conceived. Here are some key dates:

- * November 1, 2016 – Eastmoreland Historic District nomination submitted for initial review by the State Historic Preservation Office (SHPO)
- * February 17, 2017 – The State Advisory Council on Historic Preservation (SACHP) meets to consider the proposed Eastmoreland Historic District nomination and agrees (unanimously) that it meets the criteria for nomination to the NRHP, thus obligating the state to move the nomination forward.
- * May 15, 2017 – The nomination document is sent to the National Park Service (NPS). The SHPO sent the National Register of Historic Places nomination document for the proposed Eastmoreland Historic District to the NPS with a recommendation not to list the District due to procedural problems at the SHPO.
- * July 5, 2017 – NPS sends notice dated June 30, 2017 to the Oregon SHPO that the agency is returning the nomination for its (SHPO's) "procedural errors" related to the agency's May 15th recommendation.
- * February 13, 2018 – The Oregon SHPO begins the process of recounting the number of private-property owners and notarized objections for resubmission to the NPS.
- * June 29, 2018 - During the SHPO's 2018 work, four residents in the Eastmoreland neighborhood transferred ownership of their properties to thousands of new trusts. Federal guidance grants qualifying trusts the ability to submit notarized objections to the nomination. The May 2018 submittal noted that with objections from the new trusts, more than 50% of the owners objected to the nomination. In its June 29, 2018, the National Park Service says the Oregon SHPO "needs to ascertain whether these trusts are valid and whether they have a fee simple ownership in the properties at issue."

Since this date last June, there has been no discernable action from SHPO to ensure that the Eastmoreland nomination is resubmitted to the NPS.

Both the SACHP and the SHPO are on record stating that Eastmoreland meets the qualifications for listing on the NRHP. But because the state has failed in its duties, Eastmoreland’s status remains uncertain and I have little confidence that, given how long they have delayed and extended this process, the neighborhood’s status of listing on the NRHP will be resolved prior to the proposed January 1, 2020 effective date of SB 927.

My sincere hope is that the committee account for this in the wording of SB 927 in fairness to Eastmoreland and any other property or district in pursuit of listing on the National Registry of Historic Places. The same protections should be afforded to us because we are already within the process.

Much like the example of the permit seeker, an exception should be made. In the case of permits, building code changes do not apply to those who have already filed their application. And the reason it works this way is because not only is it fair, but it creates certainty in the process and the assurance that the rules won’t change midstream.

I urge the committee to consider a simple change in language to SB927 which would not at all change the substance of the bill, but rather ensure it respects the fairness and certainty that any of us would expect from our government. Specifically, revising sections 3(4) and 3(5) would accomplish this:

Section	Old Verbiage	New Verbiage
3(4)	With respect to a resource that is first listed in the National Register on or after the effective date of this 2019 Act, a historic resource program:	With respect to a resource that is listed in the National Register provided that it was approved by the State Advisory Committee on Historic Preservation on or after the effective date of this 2019 Act, a historic resource program:
3(5)	With respect to a resource listed in the National Register before the effective date of this 2019 Act, a local government may not approve an application for the demolition or relocation of the resource except through a land use decision that considers factors set forth by rule. This subsection does not apply to accessory structures or noncontributing resources of a National Register listing.	With respect to a resource listed in the National Register provided that it was approved by the State Advisory Committee on Historic Preservation before the effective date of this 2019 Act, a local government may not approve an application for the demolition or relocation of the resource except through a land use decision that considers factors set forth by rule. This subsection does not apply to accessory structures or noncontributing resources of a National Register listing.

Please do what is right and fair.

Sincerely,

Derek Blum
7920 SE Reed College Place

Portland, OR 97202