

Watts Remy

From: ENA President <president@eastmorelandpdx.org>
Sent: Monday, April 8, 2019 1:49 PM
To: SENR Exhibits
Subject: Testimony In favor of SB48 and in favor of deferring SB 927 for future year

April 7, 2019

Senator Michael Dembrow, Chair
Senate Committee on Environment and Natural Resources
900 Court Street NE, HR C
Salem, OR 97301

senr.exhibits@oregonlegislature.gov

RE: Senate Bill 927

Dear Senator Dembrow and Committee Members:

Protection of historic properties in Oregon should be a high priority. However, I am writing to suggest that SB 927 is not ready for prime time in this session of the legislature, could do damage to preservation, and Oregon cities are totally unprepared to implement.

I greatly respect the policy work that has been done to open the way for protection of locally adopted historic properties but the lack of guidance, funding, and time for local government to formulate a regulatory process could mean an extended period of confusion and inaction that will leave existing designated National Register listed properties even less protected than they are under the extensive/expensive Goal 5 regulatory rewrite that has been in effect for only 2 years.

As you may be aware, Oregon SHPO's processes for managing the Eastmoreland Historic District (EHD) and other applications have been a fiasco when it comes to counting as confirmed by the April 3, 2019 Oregon Court of Appeals decision [Brown v. State Historic Preservation Office](#) **Docket Number:** A165691. A first priority should be to clarify the processes that Oregon SHPO has repeatedly fumbled by inventing its own rules without a rule making process. The same is needed for coordinated implementation by local government .

1000 Friends (1KFO) and their allies have sought to delay the EHD nomination, to undermine the process for approval, and to diminish the protections afforded historic districts in Oregon. As it stands SB 927 would end future historic districts in Portland. It follows that 1KFO who opposed the Goal 5 rulemaking is firmly in support of this legislation knowing that local governments are unprepared to implement and future historic districts will be made impracticable.

Neither the State nor local governments have funds to inventory, implement a local nomination and approval process, or to formulate demolition or design protections - including Portland. Funding for such processes and incentives for owners must be part of historic preservation and this bill provides none.

While SB 927 is well intended, its implications have not been tested. At a minimum there should be a **two to five year delay for its effective date and funding must provided for implementation**. This would allow for a new rule making process at the state and local level allowing local governments to prepare and test a process (or regional process) for identifying local properties, designating levels of protection, and to formulate options for demolition protections and design review.

For consistent statewide process, it would seem sensible to utilize the established National Park Service model and criteria for identifying, inventorying, and nominating including the public review and objection process rather than leaving this up to every local governmental agency to invent a new process.

Supporters claim that SB 927 will allow localities to inventory, list, and protect their resources. In fact, they currently have that right and SB 927 isn't granting any new powers. The lack of local listings reveals a fundamental failure to comply with Goal 5 with the consent of the DLCDC. The constraint of the 100% owner consent rule is the impediment. Protection of historic resources is in the long term interests of everyone in much the way our state and national parks are soulful, enlightening, and inspiring. There are so many architectural and culturally significant resources which would have been lost to redevelopment without protections.

Summary. **SB 927** is not ready for prime time. Yes, development interests have effectively blocked *local historic designations* without 100% owner approval for too long. However, reversing this draconian provision is not justification for approving SB 927 nor is the "decoupling" which is a strawman argument. SB 927 requires a great deal of further refinement and a long implementation cycle as discussed above.

On the other hand **SB 48**, the extension of the Special Assessment for 3 years, should be approved. Although seriously flawed, without it there's no incentive program for single family residential resources. We can't afford to lose it.

Sincerely,

Rod ENA president
Portland, OR 97202

PS. Consider the example of damage SB 927 may do to national or local preservation in the context of the proposed Portland Historic Resources Code Revisions.

- 1) If a landmark nomination is prepared for a property whose owner objects but is listed and then subject to demolition delay, the city may be subject to a Measure 37/49 claim. In effect, the property would not be subject to demolition delay because the city will fail to compensate the owner - who can in turn continue to disregard the regulation as now.
 - 2) There would be an insurmountable disincentive to ever list a district at the local level. The \$14,000 per property cost of completing a zoning map amendment would mean that a 100 property historic district would now cost at least \$1.4 million dollars. As proposed the Planning and Sustainability Commission, would have veto authority over any district over 16 properties. The agency is characteristically unsympathetic with preservation.
 - 3) Portland and presumably all other Oregon cities lack a board with the necessarily expertise to review and rule on a landmark nomination.
 - 4) A purported goal of SB 927 is to broaden the diversity of resources that are protected. The legislation is, as noted, unfunded. The amount of money SHPO has to distribute to local communities for surveys is negligible. Thus while the legislation weakens protections for those same resources it provides no funding for their listing.
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