

TESTIMONY TO THE OREGON HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING

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Portland, OR

May 6, 2019

Re: SB534.

My name is Loren Lutzenhiser. I am a resident of southeast Portland, a board member of my neighborhood association, and Emeritus Professor of Urban Studies and Planning at PSU. I am not representing those groups, but I am drawing on that experience in my analysis.

SB534 is destructive to community and democratic local governance. It is not the kind of special interest giveaway that we should ever expect from the Oregon Legislature.

The bill would force Oregon cities to allow construction on any antique “lot of record.” (A map of these randomly scattered properties in Portland is attached.) Opportunistically building on 25’ lots on the basis of historical artifact with no thought about community context or neighborhood form makes no modern planning sense. The approach is shockingly authoritarian and fundamentally inequitable, negatively impacting neighborhoods in arbitrary ways with no articulated public benefit.

Citizens have been blind-sided by this bill and are shocked because it would undo decades of engaged planning in Oregon communities. The beneficiaries would be a small group of well-heeled demolition/upscale construction businesses, while the downside falls selectively on a small number of neighborhoods and residents who never saw anything like this coming.

The map shows the areas in Portland that would be affected. The underlying lots in question are historical artifacts mostly 25’ wide. They haven’t been split off or newly built upon for most of the past 100 years in Portland. For tax and ownership purposes, they have never existed. The blocks with these “lots of record” have been treated no different from adjoining areas for most zoning and code purposes. The lots sizes and housing styles are identical to adjacent blocks. The only differences being blurry lines on old plat maps.

Virtually NONE of the current property owners are aware of the artifact lines. They have all trusted that they were buying houses in Portland neighborhoods like all other close by houses where a 50’ x 100’ or 75’ x 100’ lot was just that. Not 2 or 3 “underlying” 25’ lots. People buy houses and neighborhoods, not just “housing units” to sleep in, and they have no reason to go looking for antique maps that they’ve never been shown. If SB 534 passes in its current form, they are in for the surprise of their lives.

The neighborhoods with “underlying lots” will be at risk of large-scale demolition and upscale rebuilding. What’s wrong with this? Several things: (1) assault on communities

and quality of life, (2) loss of affordable housing, (3) arbitrary, unfair and unequal treatment, (4) removing local governance and decision-making from localities and citizens, and (5) using state law to enrich the few at the expense of everyone else.

(1) Assault on community and quality of life

Let me be very clear. I am not opposed to density or new housing inside the UGB. If I could wave a magic wand and accessible, affordable “infill housing” near services would appear, I would probably do that. But demolition and construction in long established neighborhoods is a disruptive, dirty, polluting, noisy, and dangerous business, particularly for children and the elderly. Nothing says loss of quality of life more clearly than a diesel truck loaded with steel weaving its way down a street where kids are headed for school in the morning.

People should have a right to live in a neighborhood that isn’t a perpetual demolition and construction zone, and particularly a zone created by state legislators to apply only to people who—by virtue of historical accident—wake up one morning to discover that they just happen to live in the wrong place at the wrong time.

(2) Loss of affordable housing

Don’t believe for a minute anyone who says this will provide affordable housing and greater access for more people in great neighborhoods. They haven’t done the math.

There aren’t bare artifact lots waiting to be built on anymore. In reality, these lots have had houses on them for many decades. And these houses are an important part of the existing affordable housing stock. In order to build new shotgun houses on skinny lots, the existing affordable units have to be demolished and replaced with much more expensive units to cover costs and profits. Where do the residents go? Wherever the invisible hand of the market sends them I guess. As one developer told OPB: [builders] “...come into town and pick up those spare lots that are sitting underneath a structure.” Um, that would mean under someone’s affordable home, wouldn’t it?

Let’s look at the numbers. An unexceptional new skinny house recently sold for \$570,000 in Southeast Portland. At this price point, only households with incomes of \$100,000+/year can afford to live there according to HUD standards. This income level represents less than 25% of households in the City of Portland. And a \$570k house certainly isn’t affordable to the vast majority of households even when they have two decent full-time incomes.

And the market pushes prices higher and higher in order to maximize profits. That’s just how it works. So something like \$570,000 target price with a \$100,000 profit becomes a benchmark, or at least a reasonable goal, for new construction on 25’ lots across the city—quite a business opportunity, but with the sacrifice of affordability. Make no mistake about it. SB534 will remove affordable housing, displace renters and working households, increase gentrification, and reduce diversity. This is not a hypothetical. It is clearly supported by the evidence.

(3) Arbitrary, unequal and unfair treatment of specific neighborhoods and groups of homeowners

Only a small number of Portland neighborhoods have these artifact lot lines. So they are already disproportionately targeted by speculators and demolitions. The City has limited lot splits that move artifact lines around to basically 37' wide remainders. Now, SB534 would allow virtually unlimited demolition and construction on 25' wide lots in those areas, turning them into land rush zones. These neighborhoods and clusters of blocks will have targets on their backs that the majority of other neighborhoods do not. Builders would be able to do things on one block that they are prohibited from doing across the street on an identical looking block—or on any of hundreds of other surrounding blocks.

SB534 is not an equitable or just way of sharing the pains of growth across all Oregonians. It may be a quick and dirty way to advantage a small number influential businesses who are in the demolition and upscale construction business—along with other non-resident real estate speculators waiting in the wings. But to pull this off, it also has to arbitrarily harm other Oregonians who have no idea what's headed their way and who will see this as random and deeply unfair.

(4) Removing local governance and overruling local decision-making

When people encounter local problems and have grievances, they turn to their local governments and elected officials. SB534 would stop that in it's tracks. It says to citizens "Oh, by the way, don't appeal to your local officials. We've specifically prohibited them from trying to do anything for you."

The City of Portland has been working in different ways over the past 50 years to integrate smaller housing units and deal with lot line artifacts in ways that contribute to quality of life for all residents, new and old. This has been a public process with planning, input, opportunities for study, discussion, and debate—open to change as we learn from experience.

SB534 would undo all of that. It would remove control of local land use decisions and negate deliberative planning and community engagement, and replace it with essentially unlimited development rights for demolition businesses and land speculators. It weaponizes widespread concerns about housing in order to take long-standing and well-accepted rights and responsibilities away from city governments and local citizens. This is shameful and can only happen if the legislature chooses to be a willing enabler of this kind of dismantling of local governance in Oregon.

(5) Using state law to displace working households while enriching the few

Finally, SB534 is a give-away to special interests by treating communities as piggy banks. It is clear whom it benefits, but it has been almost completely invisible to those it would harm. It is a stealth bill. Two of the three sponsors live far from Portland and the third has only a handful of artifact lots in her district. In the Senate there was little testimony in committee, and except for a builder/demolition representative, no visible public support for the bill. Yet somehow it passed out of committee and out of the Senate.

Hopefully, the House can look at this issue with fresh eyes. Undoing decades of local planning and a history of working relationships between cities, citizens and the state should require more serious deliberation.

The underlying issues and policy goals of SB534 need to be made explicit, and the unintended consequences of SB534 need to be carefully and thoroughly considered first by local governments and local neighborhoods and planning professionals—people who have a stake in the issue and will live with the results. It certainly should not be quickly passed by the legislature at the end of a session, undoing decades of planning and engagement, and arbitrarily targeting some Oregonians in order to enrich a few others.

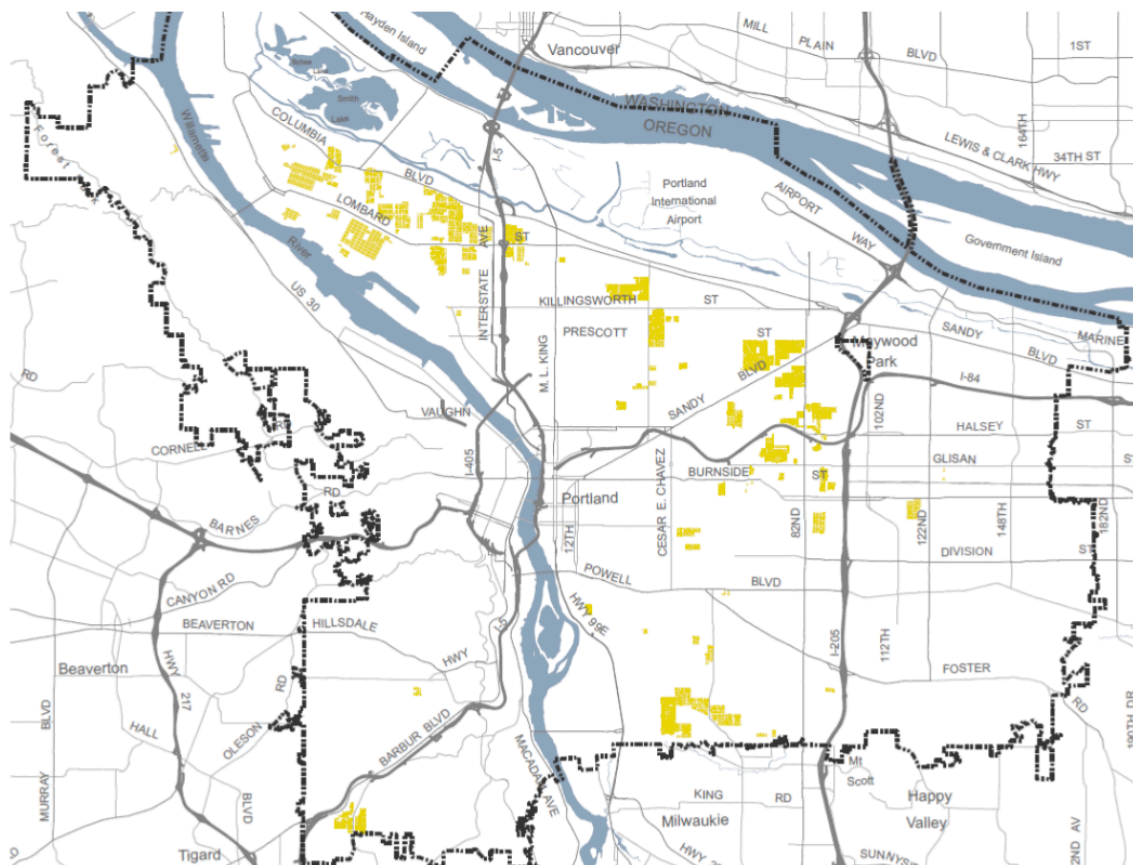


Figure 3: Map showing locations of plats with historically narrow lots in Portland.