

HB 3432 TESTIMONY

Chairman Holvey and Members of the Committee,

My name is Greg Coxey.

I am before you today speaking on behalf of the Oregon Washington Community Association Managers organization of OWCAM for short. I am a partner with the law firm of Vial Fotheringham LLP.

OWCAM is OPPOSED HB 3432 in its current form.

HB 3432 will make it very difficult for homeowners to collect damages for legitimate defective construction.

HB 3432 requires an onerous vote requirement – a majority – of all owners in the association prior to initiation litigation. Based on personal experience, I can tell you a majority of vote very challenging. A majority vote of all owners, in writing, particularly within 60 days of notice, is very difficult to attain and frequently involves adjourning and re-conveying meetings or extending deadlines when utilizing a vote by written ballot in lieu of a meeting, not to mention the need to solicit proxies under certain circumstances. This vote requirement would make it nearly impossible for an association to file a claim for legitimate defective construction.

There are options to consider and we would be willing to work with the bill sponsors and committee to amend this language to accommodate the realities of practical homeowner engagement.

Also, HB 3432 shortens the statute of limitations period from 10 years to six years. Studies have shown that nearly one-half of all construction defects are found after the statute of limitations has run. Therefore, shortening the existing statute of limitations from 10 to 6 years, will result in even higher percentage of construction defects that fall outside of warranty and become the financial burden of the association members.

We know that there is a shortage of affordable housing. However, HB 3432 will take away the consumer protection of Oregon residents and put the financial burden on these owners to repair the defect.

This bill will not help the housing crisis, automatically make insurance rates drop or encourage contractors to build more housing. What HB 3432 does is place an even greater financial burden on owners if construction defects are discovered after 6 years and require each owner to face a large special assessment in order to get the defects fixed.

I urge you to not vote HB 3432 out of committee. On behalf of OWCAM, I welcome the opportunity to sit at the table with stakeholders to discuss language that may help reach your goal without eliminating consumers protections for the more than 750,000 Oregonians living in community associations.