



# OREGON PROPERTY OWNERS — ASSOCIATION —

## Senate Committee on Natural Resources House Bill 3362A Letter of Support

May 2, 2023

Chair Golden and Committee Members:

Thank you for holding a hearing on HB 3362A. The bill received a unanimous vote of the House Committee on Agriculture, Land Use, Water, and Natural Resources and was approved by the House with a 42-0 vote.

Over the years, the legislature has created laws to help property owners who unknowingly buy a parcel of land that was not lawfully created. ORS 92.176 contains provisions that allow a property owner who owns a parcel that was illegally created to apply to the County for a permit to validate that parcel. HB 3362-A makes a very minor expansion to current law to help property owners validate an illegally created parcel when the parcel was:

1. Illegally created but approved by the County;
2. Further adjusted and approved by the County; and
3. Sold to a property owner who had no reason to know that the parcel was illegally created.

In the situation described above, the current property owner is an innocent purchaser, and even though the parcel was illegally created, the property owner should be entitled to rely on the County's approvals as being the final word that the parcel is legal.

This bill will help two families in Lane County who have been caught in the middle of a legal proceeding between Lane County and a local land use attorney. In 2011, the land use attorney obtained multiple County land use approvals based on false deeds that were included in the attorney's land use application, which the County relied upon to verify the existence of three parcels. After receiving the verification approval from the County, the lawyer then applied to the County to adjust the boundaries between the three parcels that the County had verified. The County approved the boundary adjustments.

In 2015, after the County had verified the parcels and issued a second approval adjusting the boundaries between the parcels, the lawyer sold one of the parcels containing the homestead dwelling to the Vogel family. In 2017, the lawyer sold the second parcel to the Johnson family, who then obtained approval from the County to build a dwelling. The lawyer retained the third parcel and has subsequently built a home on it.

In 2021, the County discovered that the original County approval verifying the three parcels was based upon false deeds included in the lawyer's land use application. The County then revoked all the approvals it had issued, meaning the Vogels and Johnsons were left holding the bag for properties they had purchased in reliance on the earlier County approvals, which the County now made illegal.

This is a really bad situation for the County, the Vogels and the Johnsons. The lawyer fooled the County, two innocent families, two title insurance companies, and two banks who loaned each family money to buy their land and improve it. In short, we have a real mess.

Although the Vogels and Johnsons each have the potential to file a lawsuit against the lawyer, a judge does not have the authority to validate the parcels and give each family what they want – the right to get out of the middle of a fight they had nothing to do with and the right to keep what they bought and paid for, and what Lane County approved. Only the County can give them that relief, and the County can only act if the legislature authorizes it. That's what HB 3362A is all about.

HB 3362A allows the Vogels and Johnsons to apply to Lane County for a permit to validate their parcel and home. At the same time, the bill does not provide relief to the lawyer or anyone else who participated in creating the problem. The bill is narrowly written and is time limited. We have worked together with 1000 Friends to draft a narrow bill to fix a small but very unfair situation.

Unfortunately, due to the rush of first chamber deadline and the number of amendment requests at Legislative Counsel, we were unable to make the last set of amendments that were requested by 1000 Friends. The dash-A3 amendments remove the emergency clause from the bill. We ask the committee to adopt the amendments and move the bill.

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