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Representative Maxine Dexter (Chair)
Representative Vikki Breese-Iverson (Vice-Chair)
Representative Mark Gamba (Vice-Chair)
Honorable Members
House Committee On Housing and Homelessness
Oregon Legislative Assembly
900 Court Street NE
Salem, OR 97301

Re: Testimony in Support of HB4058

Dear Chairperson Dexter, and Members:

I am writing in support of HB 4058, which proposes to regulate “residential property wholesalers”. Regulation of this part of the real estate industry is long overdue and sorely needed to protect consumers.

I’m a lifelong Oregonian who retired after a 27-year career in law enforcement, which included employment as a Financial Fraud Investigator for the Oregon Department of Justice; Securities Investigator for the Oregon Division of Finance and Corporation Securities; and an Investigator for the Oregon Building Codes Division. In those capacities I investigated and helped prosecute violations of Oregon’s consumer protection laws, banking and mortgage regulation, and building and construction laws. I saw first hand how fraudulent and unethical practices harmed the public.

The regulatory scheme proposed in HB4058 would provide important oversight of the business of residential property “wholesaling”, which has become a 21st century version of the great land rushes and swindles of the late 1800’s and early 1900’s.

“Wholesalers” approach property owners and offer to buy the home/property on contract. Once under contract, the “wholesaler” (who usually holds little or no equity or interest in the subject property) begins to market the property with the hope of selling it at a higher price and paying the original property owner from the proceeds of the sale.

In many cases, these “wholesalers” use tactics of deceit, fraud, or misrepresentation, not only to the original seller, but to their prospective buyers. It is common for “wholesalers” to: misrepresent that they are the actual owner of a property when in fact they are not; fail to disclose pre-existing mortgages, tax liens, or other encumbrances; and fail to disclose dangerous or defective conditions. Often, “wholesalers” sell property without utilizing a title company, which would reveal its true status and ownership. I have seen instances where “wholesalers” sell property on contract without properly recording deeds and mortgages, and then “foreclosing” on property if the unfortunate buyer misses or is

late on a payment. The “foreclosure” occurs without using the process mandated by law and the poor buyer loses the property and has little or no recourse.

There are a plethora of websites offering “get rich selling real estate” classes which purport to teach people how to flip homes and vacant land, with little or no money of their own invested, by engaging in the practice of wholesaling. People are lured into the business with the promise of easy money and are often provided with misinformation as to their rights, duties, and responsibilities. Largely unregulated, the business has become the “Wild West”.

HB4058 as proposed regulates residential property wholesalers. *Vacant land wholesalers should also be included.* Since 2006 I have purchased and re-sold vacant land as an investment in Oregon and I’ve seen many questionable, unethical, and downright fraudulent transactions occurring with vacant land.

Typically, a land “wholesaler” purchases lists of landowners from Oregon counties and then generates mailings, offering to buy the land at a steeply discounted price for cash, but with a distant closing date, often 60-120 days out. (A typical vacant land sale can be handled by title company in 7-14 days). Contracts are worded such that the “wholesaler” can back out of the transaction at just about any time, and with no earnest money up front.

If the landowner signs the contract, the “wholesaler” begins to market the property hoping to sell it before the contract closing date. Prospective buyers have no idea that the “wholesaler” doesn’t actually own the property. If it sells, the “wholesaler” pays the original seller, pockets the difference, and moves on to the next transaction. If it doesn’t sell, the “wholesaler” will cancel the original contract and look for another seller.

Another variation used by some land “wholesalers” is to sell land at inflated prices, sometimes three to five times (or more) higher than comparable properties listed through a licensed realtor. The “wholesaler” offers land with little down, no credit checks and “easy” payments, often at high interest. Buyers are required to enter into a land sale contract and mortgage that usually isn’t recorded, and don’t receive a deed until the contract is paid in full. If the buyer misses a payment or is late, the “wholesaler” takes the property back with any monies collected to date retained a “damages”.

The buyers have little to no recourse since the contract and mortgage wasn’t recorded, nor is there a deed or trust deed to indicate any interest or equity in the property. This also creates an issue with housing and development. People often buy land with the intent to build a home or farm. I have seen a number of instances where people were unable to obtain building permits from their local jurisdiction as they had no legal proof of ownership of the property, and then walking away losing whatever funds they had invested. And the “wholesaler” just begins the sale process anew.

HB4058 is an important first step in bringing honesty and ethical practices to the business. I strongly urge the committee to recommend its passage, but with an amendment to bring “vacant land wholesalers” under the regulatory umbrella. I would likely be subject to such regulation, but I would welcome it.

Sincerely,

/s/ Kimball Wallis