



February 3, 2025

To: House Committee on Agriculture, Land Use, Natural Resources, and Water
Re: House Bill 3013-1

Dear Co-Chairs Helm and Owens, Vice-Chair McDonald, and Members of the Committee:

As proposed, HB 3013-1 would amend ORS 197.625 to provide an unprecedented avenue for challenges to final, unappealed land use permits, licenses, agreements, zone changes or other authorizations (collectively "land use decisions") made by local government. Where such land use decisions are based in whole or in part, on an effective but unacknowledged provision of a comprehensive plan or on a land use regulation that fails to gain acknowledgment based on a decision of the commission, this new legislation would provide opponents to the original application the right to bring a case in circuit court under ORS 197,.825 to revoke or declare void the land use decision, to enjoin or require removal of improvements constructed in reliance on the issued land use decision, and to seek actual damages alleged to have been caused by the improvements or use authorized by the approved land use decision. In addition, HB 3013-1 would require the Land Use Board of Appeals or an appellate court to terminate or revoke every such previously issued land use decision on the presumed basis that such decision is void and without further effect.

As currently constructed, HB 3013-1 will undermine vested rights, will affect procedural due process rights of applicants and property owners and will subject local governments to lawsuits when they, like Deschutes County, update their Comprehensive Plan. The Deschutes County Board of County Commissioners recently updated its Comprehensive Plan on October 2, 2024. The decision was appealed to the Land Use Board of Appeals (LUBA) by Central Oregon Landwatch and is currently subject to a record dispute. Compounding matters, LUBA is in limbo as two members nominated by Governor Kotek await confirmation from the Senate; the hearings have yet to be scheduled. If HB 3013-1 was in effect today and LUBA, the Court of Appeals, and/or the Oregon Supreme Court determined after several months or years that the Comprehensive Plan update warranted a remand, every land use decision, building permit, and ministerial decision issued from the Comprehensive Plan's local adoption date could be subject to termination. Not only would such result be untenable from a legal and constitutional standpoint, but implementing directives based on HB 3013-1 from LUBA or the appellate courts will wreak havoc on planning staff if they are required to roll back previous land use decisions while simultaneously processing current, pending applications. Code Enforcement staff also will be negatively impacted by a significantly increased workload resulting from the declared illegality of previously approved land use decisions.

Deschutes County, through its governing body, **requests opposition** for HB 3031-1.

Later this spring, Deschutes County will update its Comprehensive Plan and zoning code to comply with HB 3197 (2023) to comply with clear and objective standards for housing. It is possible that these amendments will be subject to lengthy appeals. Tying development actions including zone changes to HB 3013-1's enforcement mechanisms are unrealistic and incredibly irresponsible. There is already a private code enforcement mechanism in place today. ORS 215.185.

County staff, including Community Development Director Peter Gutowsky are available to further articulate our request.

Thank you for your consideration.

The Deschutes County Board of Commissioners

Anthony DeBone
Chair

Patti Adair
Vice Chair

Phil Chang
Commissioner

CC: Senators Anthony Broadman, Diane Linthicum, and Mike McLane
Representatives Emerson Levy, Jason Kropf, E, Werner Reschke, Vickie Breese-Iverson, and Mark Owens