

SENATE COMMITTEE ON  
WATER & LAND USE

Hearing Room  
Tapes - 46

MEMBERS PRESENT:

Sen. Rod Johnson, Chair  
Sen. Neil Bryant  
Sen. Ron Cease  
Sen. Bill Dwyer

MEMBER EXCUSED: Sen. Kintigh

STAFF PRESENT:

Karen Quigley, Committee Counsel  
Patricia Wehrli, Committee Assistant  
Mitch Hack, Senate Floor Staff

MEASURES HEARD:

SB 298  
SB 297  
SB 568  
SB 571

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

005 CHAIR JOHNSON: Calls the hearing to order.(1:00 p.m.)

PUBLIC HEARING ON SB 568

Witnesses: Jon Chandler, General Counsel, Home Builders Association of  
Metro Portland

Diane Linn. Director Of The Office Of Administration Of The City Of  
Portland

020 JON CHANDLER, GENERAL COUNSEL, HOME BUILDERS ASSOCIATION OF METRO  
PORTLAND, (OREGON) Testifies in support of SB 568.

( We believe that this is a good bill and a step in the right direction of  
restoring some consistency in the system.

( We urge a do pass vote.

SEN. DWYER: How many people have tried to appeal the system and how big is  
the problem?

CHANDLER: I don't have that number.

065 DWYER: I still want to know how many people have tried to access the  
system since the Statutes have been in effect, (1991).

( I want to know how many people try to appeal and how big of a problem  
this is.

CEASE: Questions 120 day rule.

089 CHANDLER: Responds regarding neighB orhood associations and appeals.

SEN. CEASE: Discusses 120 day rule.  
( Discusses fees and impacts of the SB 568.  
( Questions the impact of the bill on neighB orhood associations.

142 CHANDLER: There is nothing changed in this process by this bill.  
( Discusses line 28 of SB 568.

150 SEN. CEASE: The bill states clearly that if it does that and if LUBA establishes that it can throw the whole process out.  
( I agree that the hundred dollar fee can in fact bring a lot of this to a hold.

180 CHANDLER: Explains line 28; it is only a suggestion of a fee, not a requirement.

CHAIR JOHNSON: Anyone with \$100 can appeal the decision of the zoning process and slow down the building process of an established contract?

239 CHANDLER: Correct.

CHAIR JOHNSON: Describes the intent of SB 586

SEN. DWYER: I want to know how many decisions this effects.

CHAIR JOHNSON: I will get that information for you.  
( The question of this bill is how easy it is and how easy will it be for people to play with the process.

271 CHANDLER: The way this process works 85% of the people are excluded from the process.

CHAIR JOHNSON: That may be true but, some where some one has to make a decision on the use of lands and this bill protects that decision.

280 SEN. BRYANT: The proposed fees don't apply to the neighB orhood and community organizations?

CHANDLER: That is correct.  
( These two exclusions did not exist prior to 1991 because the system didn't change like we thought it would back in 1991.

CHANDLER: I will happily get as many numbers as I can possibly can.

353 CHANDLER: The process is not being changed; it is not intended to be a penalty.

404 CHAIR JOHNSON: Isn't it true that the only thing these people will be objecting to is the decisions made by the zoning commission?

CHANDLER: Limited land use decisions, subdivisions partitions, boundaries and decisions on how and why a project is capable of moving forward.

CHAIR JOHNSON: The kinds of the decisions that will be addressed in this appeal are limited land use issues, and the only types that can be a limited land use are the ones that are opposed to the already authorized use of those lands.

TAPE 46 SIDE A:

024 CHANDLER: It wouldn't be limited to only limited land use decisions, but the bulk of the use would be the limited land use ones.

CHAIR JOHNSON: The proposed actual project already complies with the approved plan; is that correct?

CHANDLER: Yes.

050 SEN. CEASE: The way it is put together it does not relate to the smaller issues such as subdivisions; doesn't it now?

CHANDLER: Depending on the type of the process.

SEN. CEASE: Are there any other states that have fees that high?

CHANDLER: Only if the local government makes these fees that high.  
( These fees are being paid, they are just choosing to give this to the applicants instead of the government.

089 SEN. DWYER: The 120 day rule puts the pressure on the City.

CHAIR JOHNSON: It seems to me that leaving state agencies able to force local governments to ensure the cost of the appeal would in essence impose a mandate on local governments; wouldn't that be?

118 CHANDLER: It could be seen that way, yes.

126 DIANE LINN. DIRECTOR OF ADMINISTRATION, CITY OF PORTLAND: Testifies in opposition to SB 568.

( We do recognize the problems with the process and we are committed to solving the problem.

( We would like to see a move towards stream lining the process.

( Restricting standing is not the way to fix the problem.

( Moving toward early intervention between the communities and the developer gives us the highest probability of success.

171 CHAIR JOHNSON: The kind of decisions involved with this process is the kind that are not required to have a hearing , but simply to determine uses

of piece of property already determined by the land use committee and whether or not the project fits the uses of that designated piece of land.

( Do you agree with that?

LINN: That is correct.

( I believe the bill sets the stage at each jurisdiction of the fee waivers.

( My concern is that it starts us down the slope of removing the standings of these neighB orhood groups.

198 CHAIR JOHNSON: By definition, what does it hurt?

LINN: There are those cases where a development does effect the major process of a community.

210 CHAIR JOHNSON: Again, not when an appeal is found to be correct; what good does it do to stop this person from using this land as it's intended and allowing someone the ability to slow down the development?

LYNN: I don't believe that neighB or volunteers would risk the chance of paying the fee.

( You have to have that one window of opportunity.

SEN. DWYER: I've never seen that process with out a vote.

LINN: And it already has every possible advantage in that sense.

CHAIR JOHNSON: Explains his issue.

340 LINN: I respectfully disagree.

373 LLOYD FARLEY, DEVELOPER CURRENTLY DEVELOPING IN OREGON CITY: Testifies  
in favor of SB 568.  
( I believe that the complainer should pay these fees and I support SB 568.

SEN. CEASE: When the developer pays does the person that the developer is  
working for reimburse for these fees?

389 FARLEY: That is correct.

WORK SESSION OF SB 297

408 CHAIR JOHNSON: Describes the bill..

TAPE 45 SIDE B:

SEN. BRYANT: Something needs to be added to the bill the states that  
justification for reasons of a study can not be denied on that bases.

CHAIR JOHNSON: Is there any language that you would suggest?

061 SEN. BRYANT: The fact that this study has not been completed or taken  
does not give grounds of denial.

112 CHAIR JOHNSON: I can assure you that the Ways and Means are waiting on us  
to give to them the direction on the Back Log Bill.

PUBLIC HEARING ON SB 568

Witnesses: Christine M. Cook , Attorney On Behalf Of 1000 Friends Of  
Oregon

Roy Burns, Representing Lane County  
Tim Crail Vice Chair Of The Southwest NeighB orhood Association  
Richard Benner, Director, Department of Land Conservation and Development

140 CHRISTINE M. COOK , ATTORNEY ON BEHALF OF 1000 FRIENDS OF OREGON:  
Testifies in opposition to SB 568.

( The process leaves the burden on the appealer and takes away their rights  
to appeal to LUBA and other means of intervention.

( We are symphathetic to the cost of developers; many of the problems are a  
result from a lack of clarity.

( All this language screams for interpretation.

( This bill cuts citizens out of the process:

SEN. CEASE: If you have a comprehensive plan and the plan states that it  
should be used for commercial development, can you give me a sense what  
kinds of options would be available to siting a particular piece of  
property there?

280 LINN: I think a good example would be the piece of development in  
Portland that consists of small stores and delicatessens.  
( Describes situation.

327 ROY BURNS, REPRESENTING LANE COUNTY: Testifies in support.  
( Prior to 1991 we did have a fee for the appellate process to take it on  
to the hearing.  
(You created for us a mandate that we had to fund and we are looking for a

way to reverse that trend and this is one of those.

404 TIM CRAIL VICE CHAIR, SOUTHWEST NEIGHB ORHOOD ASSOCIATION: Testifies in  
Opposition to SB 568.

( We feel that this bill tends to fix something that isn't broken.

( If this bill was passed real citizens would not be capable of appealing  
and that would eliminate the ability to guarantee that good decisions were  
being made.

TAPE 46 SIDE B:

050 CRAIL: Sometimes it's necessary for the threat of an appeal in order to  
keep people at the table so that the city makes better decisions.

( The appeals are rare; the issue really is the person that owns the land  
really meeting the requirements?

CHAIR JOHNSON: Those people will still have exactly the same rights to  
appeal.

( The only thing we are really talking about is whether people should be  
exempt the fees.

130 CHAIR JOHNSON: For the record, this bill will not go forward with a  
blanket clause of how much they think the appeal will cost.

180 CRAIL: There would be the right to appeal, but there would not be the  
realistic liklihood that the appeal would be affordable for the  
communities.

191 RICHARD BENNER, DIRECTOR, DEPARTMENT OF LAND CONSERVATION AND  
DEVELOPMENT, (DLCD): Testifies against SB 568.

Its important that the agency understands that they are not responsible  
for the appeals.

SEN. DWYER: How many people will this effect?

250 BENNER: I know I can get this information for you in regards to LUBA,  
but I don't have any idea how I can get a hold of the local counties  
information.

294 CHAIR JOHNSON: Carries over the testimony of SB 297 and 298 will be  
rescheduled.

( Adjourns the committee.

Submitted by, Reviewed by,

Patricia Wehrli Karen Quigley  
Committee Assistant Committee Counsel

#### EXHIBIT SUMMARY:

A: SB 568: WRITTEN TESTIMONY IN SUPPORT OF SB 568 SUBMITTED BY CHANDLER,  
PP 1  
B: SB 568: WRITTEN TESTIMONY IN OPPOSITION SUBMITTED BY COOK, PP 2  
C: SB 568: WRITTEN TESTIMONY IN OPPOSITION SUBMITTED BY UNGER, PP 1  
D: SB 586: WRITTEN TESIMONY SUBMITTED FOR THE RECORD BY STAFF, PP 6