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**TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON HOUSING  
IN OPPOSITION OF LD 772**

*An Act to Establish a Process to Vest Rights for Land Use Permit Applicants*

**November 15, 2023**

Senator Pierce, Representative Gere, and distinguished Housing committee members, my name is Stacie Beyer, and I am the Land Use Planning Commission (LUPC) Executive Director. I will be speaking on behalf of the Department of Agriculture, Conservation and Forestry, where the LUPC program resides, in opposition to LD 772 – *An Act to Establish a Process to Vest Rights for Land Use Permit Applicants*. I appreciate the opportunity to be here today.

As currently written, this bill would give an applicant for a land use permit the right to have a municipality or the LUPC review their application solely based on any orders, regulations, ordinances, rules, expiration dates, fees, or other requirements in effect at the time the original application for the land use permit is filed for review. This is problematic for several reasons, including what would result in a significant impact on staff time and resources.

The LUPC reviews each permit application based on the applicable agency rules in effect when it accepts an application as complete for processing. This practice is consistent with current State law and court interpretation of that law. Title 1, §302 states:

*Actions and proceedings pending at the time of the passage, amendment or repeal of an Act or ordinance are not affected thereby. For the purposes of this section, a proceeding shall include but not be limited to petitions or applications for licenses or permits ... For the purposes of this section and regardless of any other action taken by the reviewing authority, an application for a license or permit required by law at the time of its filing shall be considered to be a pending proceeding when the reviewing authority has conducted at least one substantive review of the application and not before.*

The standards established in the LUPC's Chapter 4 rules for accepting an application as complete for processing are not a high burden and are substantially lower than the burden to demonstrate that all the statutory decision-making criteria have been met. The current standards for accepting an application as complete for processing include, among others, whether the application is properly signed, is accompanied by the correct fee, demonstrates title, right, or interest, and has answers to relevant questions.

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This bill would change the applicant's rights when the application is submitted, regardless of whether the application is complete for processing. The change could encourage the submission of substantially incomplete applications, potentially flooding the agency just before a rule change becomes effective, causing a delay for those applicants that have already submitted a complete application, as the agency reallocates resources to address the incomplete applications. LUPC permitting procedures require the agency to return applications if they are not deemed complete for processing within 15 calendar days of receipt. Reviewing incomplete applications, corresponding with applicants, and ultimately returning many of those applications already significantly burdens staff. Implementing a change as outlined in LD 772 could increase that burden. For that reason, the Department of Agriculture, Conservation and Forestry is in opposition to LD 772.

Thank you for your time. I would be happy to answer any questions now or at the work session.