

Donald Bowerman

#331617 | April 12, 2022

Testimony to **Portland City Council** on the **Environmental Overlay Zone Map Correction Project, Recommended Draft**

Dear Commissioners: This office represents William and Margaret Bitar regarding their residential property located at 15580 NE Siskiyou Court, Portland, OR 97230. On their behalf, we submit the following regarding the proposed Ezone Map Correction Project; R318673. As we have communicated in prior testimony, both oral and written, the Bitar property will be disparately impacted by the project in a manner that is inconsistent with stated City priorities and goals. These impacts are imposed despite the Bitars not experiencing any adverse flooding associated with the minor creek in their 30-plus years of residing at the subject property. The most significant impact of the project will nearly erase the development opportunities of the Bitar property. To do so significantly undercuts the City's stated goal of increased density and housing options for individuals and families, including but not limited to the Residential Infill Project. The Ezone Map Project will also amount to a taking of the Bitar property. In *Cedar Point Nursery v. Hassid*, 141 S. Ct. 891 (Mem), 208 L.Ed.2d 450 (Mem) (2020), the court expanded per se takings from exclusively physical acquisitions, to include regulatory takings. As the Court noted, "[b]efore the 20th century the Takings Clause was understood to be limited to physical appropriations of property" but now regulatory takings can rise to the level of per se takings as well. The City's taking of the Bitar property through the proposed Ezone Map Project regulations will be a per se taking, and the City has offered zero compensation. We again urge the City to reconsider the scope and breadth of the project regarding the Bitar property, or to offer compensation for the regulatory overreach and taking.

Testimony is presented without formatting.