

that application and must declare that area blighted and substandard. Remember, by allowing the combination, the area can be partly residential, partly business, partly agricultural, partly rural, partly urban, partly in the city, partly out of the city, and there is no piece of property... I would ask Senator Maurstad, because he's been kind of following, or anybody else to name me any piece of property in this state, even if it's under water, which cannot be fit within the definition contained in this bill. So since that is possible if you leave the word "shall" in, which Senator Withem has said he'll agree to change at this point, but I'm saying this for the record, if you leave the word "shall", this board that we're talking about becomes a mere rubber stamp. The application that is offered is going to state the various things that the bill says will have to be in the application. They will state how this particular area falls within the definition. And once that is shown, the board members can say, if they want to, well, we're not going to accept your interpretation. Let them say that, that is not the exercise of discretion, that is simply a refusal to do what the law has required them to do. And once they declare that they're not going to make the designation, a person goes into district court and files for a writ of mandamus. And what the court will look at is the law, the law defines blighted and substandard property. The court will look at the application. The application shows that this land fits within some element of that definition or a combination of those elements. Such being the case there, is a mandatory duty on the board to declare it blighted and substandard, they fail to do it, the court would order them to do it, and if they didn't do it, the court can always protect itself through its contempt powers. Those board members would be held in contempt. So despite what Senator Kristensen asked, despite what Senator Withem speculated about in terms of granting too much authority to this board, I say that the way the law is drafted now there is no discretion that the board has. By saying "may", you give them the power to exercise their judgment and their discretion and they would be immune to any attack by way of mandamus. I will ask that you adopt this amendment.

PRESIDENT ROBAK PRESIDING

PRESIDENT ROBAK: Thank you, Senator Chambers. The question before the body is the adoption of the Chambers' amendment to LB 830. All those in favor vote aye; all those opposed vote nay. Have you all voted? Please record.