



American Planning Association
Oregon Chapter

Making Great Communities Happen

PO Box 28454 Portland, OR 97228
PHONE: (503) 626-8197
oapa@oregonapa.org • www.oregonapa.org

April 1, 2019

Representative Brian Clem, Chair
House Committee on Agriculture and Land Use
900 Court Street NE, Room 347
Salem, OR 97301
Haglu.exhibits@oregonlegislature.gov

RE: Testimony from the Oregon Chapter of the American Planning Association on -4 amendments to HB 2003

Dear Chair Clem and Members of the Committee:

This letter provides additional testimony from the Oregon Chapter of the American Planning Association (OAPA) in response to the proposed -4 amendments prepared for HB 2003. OAPA presented written and oral testimony in response to the initial bill. This letter reflects the collective comments received from OAPA's Legislative and Policy Affairs Committee (LPAC) in response to proposed amendments. As stated in our letter dated March 4, 2019, OAPA supports the approach that HB 2003 proposes to improve how we plan for needed and affordable housing in Oregon. We continue to support HB 2003 with this approach in mind but also request attention to certain clarifications as described herein.

Below is a summary of comments that OAPA has to offer in response to the proposed amendments.

- 1. Support for coordinated agency approach for housing needs methodology with clarifications.** Section 1, (2),(b), of the amended bill states that DAS, DLCD, and OHCS will include an inventory of the existing housing stock of each city. OAPA supports and foresees this amendment to be helpful because it will necessitate close coordination with respective cities, especially if data from the inventory is inclusive of both assessor's data and building permit data for a point-in-time estimate. We observe that Section 1, (3)(a) refers to the inventory of housing by type. We recommend that the bill clarify how multi-family housing is defined. We also recommend consistency with statewide Goal 10 and its administrative rules under OAR 660-007 and 008.
- 2. Support new housing production strategy with clarifications.** The amended bill introduces a new product called the Housing Production Strategy which we understand applies to cities with a population greater than 10,000. We observe that proposed text (page 5, lines 15-20) explains how the housing production strategy must include a list of specific actions, including adoption measures and policies that the city shall undertake to promote development in the city to address a housing shortage identified under ORS 197.296 (2)(b).

We observe how this reference to ORS 197.296 (2)(b) provides direct connection with a Housing Needs Analysis that is to be conducted in accordance with additional statutes, rules, and statewide planning goals. Our concern is specific to that part of the -4 amendments on page 6, (lines 15 through 19) where it states *a housing production strategy may not contain proposed changes to a comprehensive plan or land use regulation*. The bill also states that *the adoption of*

a housing production strategy is not a land use decision and is not subject to appeal or review except as provided in Section 4 of this 2019 Act. If not a land use decision, we recommend that bill further address where the strategy is expected to reside after its creation. For most cities, their Housing Needs Analysis resides in the adopted housing elements of respective Comprehensive Plans. Adopted policies are subsequently transferred and refined to land use regulations and development standards of respective development codes. If the housing production strategy is not a land use decision, how is it to be treated in the review and approval of future land use decisions? In short, how is the housing production strategy relevant in review of subsequent development applications if not identified as applicable approval criteria to respective Comprehensive Plans or development codes?

The current concept for the housing production strategy includes a number of elements that make it look and function like a land use decision, but the legal status and implementation may be weaker if it is not treated as a land use decision. We therefore recommend that it reside in either the Comprehensive Plan or codified land use regulations. HB 2003 could also clarify that the housing production strategy is not a land use decision, but that a city may need to make subsequent land use decisions if the strategies include amendments to respective comprehensive plan and/or land use regulations.

3. **Support for proposed removal of Sections 14 - 17 related to SDCs.** Page 21 acknowledges Sections 14 through 17 as deleted. OAPA supports and appreciates these changes.
4. **Concern remains for awarding attorney fees (Section retained)** The OAPA letter of March 4 identified specific concerns with changes identified in the initial bill (page 12, lines 29 – 32) that would award attorney's fees to an applicant / developer of a permit that approves a partition or subdivision or to construct publicly supported housing as defined. OAPA supports the involvement of community members in local planning decision (Statewide Goal 1). We acknowledge how appeals can be spiteful and cause subsequent delays for development of needed housing. We also acknowledge how appeals can address non-housing issues that address other statute, rules and planning goals.

In closing, there are a number of tasks and assignments delegated to rulemaking which could be difficult for local government staff to provide effective comment. OAPA recommends that the final version of HB 2003 require that rulemaking include more than just the League of Oregon Cities position but also require DLCD to reach out and find local government planning representatives for participation (e.g. video conference if necessary).

Thank you for your time and attention to our testimony.

Sincerely,



Kirsten Tilleman, AICP, President
Board of Directors



Damian Syrnyk, AICP, Chair
Legislative and Policy Affairs Committee