



American Planning Association
Oregon Chapter

Creating Great Communities for All

March 16, 2021

Senator Kayse Jama, Chair
Senator Dennis Linthicum, Vice-Chair
Senate Committee On Housing and Development
Oregon State Legislature
Salem, OR 97301

RE: Testimony from the Oregon Chapter of the American Planning Association in Opposition to SB 8

Dear Chair Jama, Vice-Chair Linthicum, and Members of the Committee:

This letter provides testimony from the Oregon Chapter of the American Planning Association (OAPA) in opposition to SB 8. OAPA is an independent, statewide, not-for-profit educational organization of more than 800 planners from across the state who work for cities, counties, special districts, state agencies, tribes, community-based organizations, universities, and private firms. We provide leadership in the development of vital communities by advocating excellence in community planning, promoting education and resident empowerment, and providing the tools and support necessary to meet the challenges of growth and change. OAPA supports sustainable communities and works to enhance the quality of life for current and future generations by helping to create and stabilize places that are equitable, healthy, and resilient and provide ongoing economic, environmental, and social benefits.

SB 8 limits standards and conditions of approval that local governments may apply to certain affordable housing, including a requirement that local governments allow development of certain affordable housing on lands not zoned for residential uses and at increased density. The bill also expands the availability of attorney fees for applicants developing affordable housing and local governments prevailing at the Land Use Board of Appeals (LUBA) or on appeal from LUBA.

OAPA strongly supports measures to promote the development of affordable, livable housing. OAPA's 2021 Legislative Priorities include: "Address the housing crisis" and "Advocate for Oregon's planning program," among others. While we support efforts to increase affordable housing in Oregon, this bill's approach to providing affordable housing would circumvent established zoning and planning processes. Local governments develop and adopt zoning and development codes through community engagement and in keeping with adopted comprehensive plans in order to guide development and growth in a coordinated fashion that provides certainty. Importantly, this coordination also helps to ensure that new development, such as affordable housing, is implemented in concert with supporting infrastructure, including crucial consideration of transportation access between housing and nearby jobs.

OAPA does not believe that any particular use should be selected to overcome the planning process. If that were to happen, the process itself is weakened and the outcome could yield development that fails to address the necessities of working families, including access to jobs and community services. Far better is the approach taken by HB 2001 and HB 2003 from the 2019 session, which work within the process. HB 2001, for example, allows for increases in residential density - through the allowance of middle housing - on land that communities have already planned for housing.



Specifically, OAPA has concerns with the following elements of the bill:

- The "notwithstanding" type of language on p. 1, lines 16-18 and 23-26, is a purported quick fix to a complex problem. As with many quick fixes, it fails to consider the rationale for the rules or processes being circumvented and the unintended consequences that can follow. It upends comprehensive planning and invites similar bills to do other quick fixes, notwithstanding the results.
- Commercial lands in urban areas are geared to overall commercial and employment needs. They are inventoried and part of a balanced comprehensive planning process. Allowing affordable housing development on commercially-zoned land would necessitate identification of replacement land through a more thoughtful (and likely more expensive) planning process. Cities would be required to expend unbudgeted resources to address the outcomes of this legislative approach. If there are inadequate lands for affordable housing, it is recommended that existing processes to rezone areas or reassess uses in existing residentially zoned areas to accommodate an identified need for affordable housing. A significant change in use of property should not occur without regard to land use compatibility, the provision of public services and facilities, and changes to land use inventories that are intended to guide future development.
- Non-residential areas of cities are often planned with lower levels of residentially-supportive amenities such as parks, schools, and community centers. We believe that it is critical that affordable housing development occurs in areas where residents have equitable access to amenities critically important to livability.
- While the bill does provide provisions in section 2(6)(b) under which cities may deny the development on property if it can't be adequately served by public services (including water, sewer, storm water drainage, or streets), due to site constraints such as steep slopes and floodplains, and in areas with land use regulations relating to natural disasters or hazards and natural and historic resources, there is a risk of appeal and having to pay attorney fees and costs. We also concur with testimony from the Department of Land Conservation and Development that the term "streets" is far too narrow to consider the full range of transportation modes that are needed to support residents.
- One probable outcome of this legislation may be that the first few awards of attorney fees will give a cause for complaint that will resonate and act to the disadvantage and credibility of the planning program.

OAPA stands for comprehensive planning. A significant part of the housing crisis has to be laid at the door of planners for not advocating for affordable housing, and we acknowledge our role in helping address this crisis. Nevertheless, endorsing an anti-planning solution is not the correct approach. While OAPA stands ready to support measures that can support effective development of affordable housing, we oppose the approach taken in this bill that ignores the foundation of comprehensive planning and public policy development which guides our planning system.

Thank you for your time and attention to our testimony. OAPA recommends that SB 8 be tabled.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Aaron Ray', is positioned below the text 'Sincerely,'.

Aaron Ray, AICP, President
Board of Directors