



February 16, 2023

RE: In support of House Bill 2889-1 Amendments

Chair Dexter, Vice Chairs Helfrich and Gamba, and members of the committee,

As the legal director of the Fair Housing Council of Oregon (FHCO), I am submitting the following testimony in support of HB 2889-1 amendments. FHCO is a private non-profit civil rights organization whose work is to end housing discrimination and ensure equal access to housing throughout Oregon. The primary purpose of this testimony is (1) to reinforce the importance of defining “accessible housing” within the bill; (2) to bolster the disability-related components of the -1 amendment; and (3) to offer support for defining the phrase “Affirmatively Furthering Fair Housing” within the statute.

HB 2889 must define accessible housing to ensure that local jurisdictions are planning for the types of accessible housing that persons with disabilities need.

In oral and written testimony for the public hearing on February 7, 2023, myself and a number of other individuals with close ties to the disability community including Allen Hines of Community Vision, Michael Szporluk, and Margaret Van Vliet all emphasized the importance of defining “accessible housing” in HB 2889. The reason for including such a definition under Section 12 of the bill is so that jurisdictions understand the standards that they should be striving to meet or measure in terms of accessibility.

Accessibility in housing lies on a spectrum from the minimal accessibility standards for dwelling units required by the Fair Housing Act Guidelines (FHAG), commonly known as a “Type B Unit,” to the highest standards for full accessibility known as an “Accessible Unit.” Between those two types there is also the “Type A Unit,” which has some features of accessibility. A “Type B Unit” permits certain areas of a dwelling to be totally non-accessible and should not be the standard by which goals and measures should be set for “accessibility” within HB 2889. In other words, for persons with disability in need of an accessible unit, a “Type B Unit” is least desirable, if not inaccessible, when compared to a “Type A Unit” or “Accessible Unit.” It is for that reason that HB 2889 should define accessibility according to the standards for a “Type A Unit” or an “Accessible Unit.” (Sections 1102 and 1103 of ICC A117.1.)¹

Additional changes to the proposed legislation are still needed to ensure that the housing needs of persons with disabilities are properly planned for and produced.

FHCO proposes the following specific changes to the HB 2889-1 amendments, in order to improve accessibility for persons with disabilities:

¹ The minimal requirements of a “Type B Unit” are set forth in Section 1104 of the International Code Council Standard for Accessible and Usable Building and Facilities (Chapter 11 of ICC A117.1). The most accessible unit requirements are found in Section 1102 of ICC A117.1 (“Accessible Unit”) and the mid-level of accessibility is in Section 1103 (“Type A”).

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- In Section 3, the department should also segment housing need by “accessibility levels”, according to the following aforementioned standards for “Accessible Units” and “Type A Units” (Sections 1102 and 1103 of ICC A117.1) as follows: **“(5) In estimating and allocating housing need under this section, the department shall segment need by the following accessibility levels: (a) Housing accessible to households in need of dwelling units designed and constructed for accessibility in accordance with Section 1102 of the International Code Council Standard for Accessible and Usable Building and Facilities as last updated September 2022; and (b) Housing accessible to households in need of dwelling units designed and constructed for accessibility in accordance with Section 1103 of the International Code Council Standard for Accessible and Usable Building and Facilities as last updated September 2022.”**
- In Section 5, subsection (2)(a), the housing production dashboard updated annually by OHCS should include progress toward housing production not only by “affordability levels, as described in section 3 (4)” but also by **“accessibility levels, as described in section 3 (5),”** proposed above.
- In Section 6, subsection 2(c), the indicators should include quantifiable data displaying, “Accessibility and visitability of existing and new housing units, including whether units comply with the accessibility standards of ~~section 1104 of the International Building Code~~ **Section 1102 or 1103 of the International Code Council Standard for Accessible and Usable Building and Facilities as last updated September 2022.**”
- In section 14, subsection (1)(b), where it states, “Developing affordable and equitable housing” as a guiding principle of the evaluation process, I recommend adding the concept of accessible housing, so it states, “Developing affordable, **accessible**, and equitable housing.” Alternatively or additionally, the bill should define the phrase “equitable housing” to include “accessible housing,” because accessibility is too often overlooked when local governments apply equity concepts.
- In Section 14, subsection (7)(a)(B)(i), where it states “increased local capacity to facilitate housing production, affordability, and choice” with respect to specific actions that could be included in a “housing acceleration agreement” under subsection (6), the wording should be amended to state, “housing production, affordability, **accessibility**, and choice[.]”

Please refer to my previous testimony for other proposed amendments to HB 2889 as introduced. See Testimony, House Committee on Housing and Homelessness, HB 2889, Feb 7, 2023 (statement of Matthew Serres, Fair Housing Council of Oregon, pp 4-5).

Defining Affirmatively Furthering Fair Housing within the bill will expand equal access to housing.

We support the testimony of Housing Land Advocates (HLA) that defining “Affirmatively Furthering Fair Housing” (AFFH) within HB 2889 is of great importance. The simplest reason for including the term is that the proposed -1 amendments to HB 2889 reference AFFH in multiple places.² HLA also correctly points out that general references to “compliance with fair housing laws”,³ without the inclusion of a statutory definition of AFFH within state law leaves equal access to housing vulnerable to attack. “Compliance with fair housing laws” should be “consistent with the definition of ‘Affirmatively Furthering Fair Housing’ contained under Section 12.”

² See HB 2889-1, Section 2 (1)(b), and Section 38.

³ *Id.* at Section 28 (2)(d) and Section 30 (3)(d).



In conclusion, we urge the inclusion of definitions for “affirmatively furthering fair housing” and “accessible housing” under Section 12 of HB 2889-1, as well as other amendments that would improve the availability of housing for persons with disabilities, as noted above. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Serres".

Matthew Serres
Legal Director
Fair Housing Council of Oregon