602-432-6291
klaynemorrill@gmail.com
ourcoastalvillage.org

Testimony in Support of House Bill 3302
3-14-23

My name is Layne Morrill. I am a semi-retired tax and business attorney from Phoenix, Arizona. Since 2007, we have resided in Yachats each summer and fall. I am also president of Our Coastal Village, Inc., a 501(c)(3) developer of affordable housing ("OCV") on the central coast, formed in 2009. We are a very small developer – basically a one-man show.

I am very familiar with the federal LIHTC. First, as a tax lawyer I worked on clients' real estate projects for over 40 years. Second, we developed and sold a site in Yachats to Cascade Housing Group on which they built the 25-unit Fisterra Gardens Apartments, a 9% LIHTC project that opened in 2009. Third, OCV developed the 21-unit Fisterra Gardens Townhomes, which opened in 2019, as a 4% LIHTC plus LIFT project. Finally, OCV's 24-unit Oak Manor Apartments in Florence, which begins construction in April, is a 9% LIHTC project.

LIHTC requires that apartments be reserved for families earning at or below 60% of area median income ("AMI") and that rents not exceed 30% of gross income. OHCS publishes annually the AMI for each Oregon County and the LIHTC rent limits. A LIHTC project carries those rent and income limits for 30 years under 4% LIHTC and 60 years under 9% LIHTC. Syndicators operate funds composed of banks and other corporations who can use the credits, identify promising development projects to fund, and provide to the projects cash equity from the investors that pays construction costs in exchange for the right to claim the credits.

I offer four main points in this testimony, based my 15 years personal experience:

- **The central Oregon coast is stuck in a chronic affordable housing crisis.**
- **Oregon's affordable housing developers' capacity exceeds available funding.**
- **The funding from Oregon LIHTC is desperately needed.**
- **The text of HB 3302 is technically sound and would only marginally increase administrative costs at OHCS.**

Chronic Crisis in Affordable Housing

Yachats is a village of 950 permanent residents but has a disproportionately large number of motel rooms and vacation rentals. Real estate prices are high and the local workers in motels, restaurants, and shops are unable to find safe, affordable housing within the City. Fisterra Gardens Apartments, a 25-unit affordable rental (LIHTC) housing complex opened in 2009. Our 21-unit Fisterra Gardens Townhomes (LIHTC) project opened in 2019. Even with 46 affordable housing units in our small village, the occupancy rate at our most recently completed project has averaged 99%. We typically have a waiting list of 100 households. Only two or three apartments turnover each year on average.

Florence is a city of about 9,000 permanent residents. The City's Housing Survey in 2017 recognized the City's "housing affordability challenge"; that over 1,900 workers in-commuted to their jobs every day from a distance of 25 miles or more; that rents were high, and supply was short, particularly in 3 bedroom and larger units. Our May 2021 Market Study showed rents had trended upward since 2016; apartment vacancies were near zero; waitlists were long; and no rent concessions were being offered. As of mid-2022, only 8 units of multi-family housing had been built in Florence since 2010 despite the ever-increasing demand. Our Oak Manor Apartments project will address only a portion of Florence's demand for affordable rental housing.

Capacity to Construct Affordable Housing Exceeds Funding Available

Affordable rental housing costs as much to build, usually more, than market rate apartments. But the low rents required for LIHTC properties over a long period make it economically unfeasible without massive subsidies. The net cash flow from a LIHTC project will usually permit a permanent loan of only about 15% of the total costs of development, leaving 85% to be funded from other sources.

In recent years, available resources have fallen far short of the funding sought by affordable rental housing developers in Oregon. Our 2021-22 experience with Oak Manor Apartments illustrates this. To secure funding, we participated in four competitions. At all four levels, the development capacity vastly exceeded the funds OHCS could offer:

1. In the 2021 Small Projects NOFA, OHCS offered $19.6 million in GHAP funding and received applications for 13 projects seeking $47.7 million.

2. In the 2022 NOFA for 9% LIHTC, OHCS offered of $10 million in annual 9% credits and received applications for 19 projects seeking $31.2 million.

3. In the 2022 NOFA for LIFT + 4% LIHTC, OAHTC offered $60.7 million in LIFT funding and received applications for 26 projects seeking $237.5 million.

4. In the 2022 9% for 4% credit swap program, OHCS offered $9,000,000 in 2024 annual 9% credits and received requests for 23 projects seeking $45.4 million.

Oregon LIHTC Would Provide Desperately Needed Funding

The advocates for HB 3302 estimate that it could increase the number of projects funded annually from 10 to 18. My own estimate is that the increase could be somewhat larger, maybe from 10 to 25. With recent applications at 3-5 times the funding OHCS offered, even with HB 3302, there will still be large unmet need.

The following examples illustrate my understanding of how the Oregon LIHTC would work in practice.

Example 1. Proposed qualified development *A*, with 30 units all of which are set aside for households at or under 60% of area median income, has a total development cost of $11.5 million. *A*'s eligible basis is $10 million. The maximum Oregon LIHTC credit available is $3 million (30% x $10 million). Those credits are available over six years so the annual credit would be $500,000. All apartments in *A* are placed in service in 2026. *A* claims $500,000 in credits starting in 2026 and ending in 2031.

Example 2. Same facts as in Example 1. The developer of *A* approaches tax credit syndicator *XYZ*. In exchange for the right to claim all the Oregon LIHTC credits for its fund members, *XYZ* offers to contribute $2,699,730 as equity capital to the Partnership that owns *A*, in exchange for the right to 99.99% of the Oregon LIHTC credits and of the Oregon taxable losses of the Partnership. The amount of equity contributed is calculated as follows:

Per year credits:	$ 500,000
Six-year credits:	$3,000,000
Price per $1.00 of credit:	$ 0.90*
Total equity:	$2,700,000
Limited Partner %:	.9999
Limited Partner Equity:	$2,699,730

*Varies based on interest rates and other market conditions.

Example 3. The $100,000,000 limit on credits has to be read as the six-year credits; so, the amount of credit that could be claimed annually is limited to $16,666,667. Oregon's allocation of federal LIHTC 9% annual credit is about $10,000,000. So, the Oregon LIHTC would add annual credits that are 1.67 times Oregon's allocation of 9% federal LIHTC credits. Technical amendments should be considered in order to clarify this understanding of the $100,000,000 annual limitation.

I am aware that major LIHTC syndicators who operate in the 22 states who have established state LIHTC programs are actively converting state credits in those states into cash equity to fund project construction.

Technically Sound and Administration Same as Federal LIHTC

The structure and language of HB 3302 tracks that of federal LIHTC so the interpretations and practices developed over the last 40 years can be used in administering the Oregon LIHTC.

In two recent projects, I have completed and submitted half a dozen lengthy applications for LIHTC and other OHCS funding. I have also worked with the staff at OHCS and the Housing Stability Council who administer and supervise the federal LIHTC program. Because HB 3302 piggybacks on the federal LIHTC, the systems are already in place that would allow OHCS also to administer the Oregon LIHTC.

Student Advocates for HB 3302

I highly commend the student advocates for HB 3302 and the House leaders who made possible their participation is this important legislation.