



To: Senate Committee on Rules

From: Matt Serres, Fair Housing Council of Oregon

Date: March 7, 2024

RE: In support of HB 4023

Dear Chair Lieber, Vice Chair Knopp, 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 4023. FHCO is a private non-profit civil rights organization whose work is to end housing discrimination and ensure equal access to housing throughout Oregon. We write in support of HB 4023 with wording that requires local government to allow a residential treatment facility, and not require a zone change or conditional use permit, if the property is zoned for "residential uses." The inclusion of "residential uses" within the statutory language is key as it will vastly improve the siting of critical facilities, programs, and services for people with disabilities who have historically been targets of discriminatory zoning decisions.

The Fair Housing Act (FHA) prohibits state and local land use and zoning laws that discriminate based on a protected class characteristic under the Act. Land use and zoning laws have targeted persons with disabilities in a number of ways, including (1) restricting multifamily housing because of concerns its residents will include persons with disabilities (or other protected classes); (2) imposing restrictions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals; (3) restricting housing because of public safety concerns based on stereotypes of people with disabilities; (4) enforcing policies differently as they apply to persons with disabilities; and (5) refusing to provide reasonable accommodation to land use or zoning policies.¹

Although practices targeting the siting of group homes and residential facilities for persons with disabilities in zones for residential uses may be protected to some extent under state and federal fair housing laws, those laws are challenging to enforce and do not include the specificity and clarity for local jurisdictions afforded by including "residential uses" under HB 4023. Moreover, if "residential use" zones are not included in the zones for which local jurisdictions must permit siting under HB 4023, it creates confusion that is likely to mislead local jurisdictions to run afoul of anti-discrimination protections.

Reducing barriers to siting in residential zones as a factor that limits access to facilities covered under the statute also ensures that persons with disabilities will have their needs met in a more

¹ HUD/DOJ Joint Statement, "State and Local Land Use Laws and Practices and the Application of the Fair Housing Act," p 3 (November 2016) (Available at <https://www.justice.gov/opa/file/912366/download>)



community-based setting. Instead of relegating facilities, programs, or services for persons with disabilities to places meant solely for industry and commerce, or government-owned land, HB 4023 should encourage placement in more suitable places located near the home or family of the person with a disability.

For those reasons, we urge support of a version of HB 4023 with wording that a local government must allow a residential facility in zones for “residential uses.”