



INSTITUTE FOR JUSTICE

March 26, 2025

House Committee on Housing and Homelessness
Oregon State Capitol
900 Court Street NE, Room 453
Salem, Oregon, 97301

Re: Supplementary Testimony before the House Committee on Housing and Homelessness in support of HB 2138

Chair Marsh, Vice Chair Andersen, Vice Chair Breese-Iverson, and Members of the Committee:

My name is Samuel Hooper. I am Legislative Counsel at the Institute for Justice (IJ), a nonprofit law firm that works to protect civil and economic liberties, including property rights. I had registered to testify in support of HB 2138 during the committee hearing on March 26, but unfortunately spoken testimony was cut off before my turn to speak. Therefore, I wanted to provide some supplementary written comments to address opposing testimony given during the hearing.

Some testimony in opposition to the bill referred to fears about what might happen to some of the “quirky, unique neighborhoods” in Oregon if the bill were to pass. I would submit that it is restrictive zoning ordinances constraining middle housing which pose the most risk to such communities. When municipal zoning ordinances heavily favor single family homes above all other housing types, we tend to see older housing stock replaced by larger, more expensive single-family homes – or McMansions – in many neighborhoods. This has the effect of making neighborhoods more exclusive and less affordable, precisely the outcome feared by some opponents of this bill. Under such conditions, adult offspring are unable to live in the same neighborhood as their parents, and seniors are unable to downsize while remaining in the communities they have always called home.

I am based in Austin, Texas, and have seen this phenomenon firsthand. Prior to the Austin city council passing some comprehensive land use reforms, the city zoning ordinances made single-family homes the default and exclusive option for many neighborhoods. This led to the demolition of many older homes, their replacement with larger single-family homes, and the displacement of existing communities. Only recently did the council pass some reforms that enable infill development with middle housing as an option. Combined with aggressive building of multifamily housing, this has seen rents fall significantly from their 2022 peak.¹

Other witnesses at the hearing bemoaned the lack of public transit and warned that densification could strain the few existing transit options available to some neighborhoods.

¹ Texas Tribune, *Austin rents have fallen for nearly two years. Here's why.* January 22, 2025.
<https://www.texastribune.org/2025/01/22/austin-texas-rents-falling/>



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But again, this gets the causality backwards. Public transit requires a certain level of housing density in order to be economically viable, with certain densities needed to support occasional bus service, higher density for bus rapid transit, and higher density still for options such as light rail.² When municipalities make middle housing difficult if not impossible to build, they actively thwart the possibility of viable public transit as an option.

The housing crisis is not neatly confined to the boundaries of any one city or metro area. It is a statewide and national issue, and therefore cannot be solved at the local level. Indeed, municipalities – often responding to the outsized voices of a small but vocal minority – are incentivized to fall back on arguments about the importance of “local control” or “protecting neighborhood character” to impede the rights of property owners, while hoping that other localities will permit the housebuilding which they refuse. This is unsustainable and threatens the future growth and economic vitality of Oregon.

In every other sector of our economy, consumer demand is met with an array of consumer choices at different price points. Housing should be no different, and the marketplace of housing supply should be unshackled to allow for an array of housing options that will meet the diverse needs of Oregonians. For these supplemental reasons, the Institute for Justice encourages the Committee to support HB 2138.

Sincerely,

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² SmartCitiesDive, *At What Point Can Regular, Frequent Public Transit Be Made To Work in Suburbia?* <https://www.smartcitiesdive.com/ex/sustainablecitiescollective/thoughts-transit-and-urban-form/1088951/>