



February 7, 2023

RE: In support of HB 2889

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

My name is Matthew Serres, and I am the legal director at the Fair Housing Council of Oregon (FHCO). We are a private non-profit civil rights organization whose work is to end housing discrimination and ensure equal access to housing throughout Oregon. Allan Lazo of FHCO provided separate testimony in support of the proposed legislation. This additional testimony is focused primarily on the disability-related components of House Bill 2889 in order to highlight some suggested amendments to the bill.

FHCO supports the legislation in part because it will improve housing opportunities for people with disabilities, in addition to other protected classes. It calls upon local jurisdictions to plan for and produce accessible and affordable housing. Whereas historically Oregon's land use planning primarily called upon cities to determine whether they have adequate land to provide for housing needs, the methodology set forth in HB 2889 will provide for greater planning to ensure an adequate number of dwelling units that are accessible for persons with disabilities.

Accessible housing benefits all Oregonians and enables individuals to age in place or live in one's home regardless of age or disability status. The proposed legislation would provide more information about the quantity of accessible housing that cities can use to plan for production. It is more likely to lead to the production of housing that is commensurate with the disability-related needs of the population. In doing so, the legislation will address the shortage of accessible dwelling units that force individuals to move into to higher levels of care than is necessary. Those higher levels of care come at greater cost to the state. It is also far more cost effective to plan for accessibility before housing is produced than to have to retrofit housing afterward.

There are a number of ways to improve the proposed legislation, and I would echo the suggestions made by Allen Hines of Community Vision. Among possible improvements to the bill as introduced are the following:

- Under Section 12, which addresses ORS 197.286, define "accessible housing." Defining what the bill means by "accessible housing" is important because accessible housing exists on a spectrum of accessible housing types. With no definition or limitation on the type of accessible housing Goal 10 should be focusing on, there is no assurance that the most accessible types of housing which are the most important will be built. A definition of "accessible housing" can narrow the definition to the most accessible housing types. Please refer to the attached amendment #1 for proposed wording for such a definition.
- Under Section 21, the bill should require local jurisdictions to examine financial and regulatory impediments or incentives to developing needed "accessible" housing when developing a housing production strategy under ORS 197.290. The reduction of financial and regulatory

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impediments and creation of incentives to developing needed housing is crucial to ensuring that jurisdictions are maximizing production. The proposed bill makes no changes to the statute that gives local jurisdictions discretion as to whether to consider those reductions using the wording "may" and only focuses on "higher densities" and "affordable" housing. That section should focus on "accessible" housing as well and be a required part of the planning process. Please refer to the attached amendment #2 for proposed wording for ORS 197.290.

- Under Section 21, local jurisdictions should specifically review and consider "disability status" when considering "socioeconomic and demographic characteristics of households" for its "housing production strategy" under ORS 197.290. It is too easy for jurisdictions to overlook disability-related economic and demographic factors under the current system. Disability-related characteristics are just as important as other factors such as income levels, household size, and race to ensure fair and accessible housing. Please refer to the attached amendment #3 for proposed wording.
- Under Section 25, The Land Conservation and Development Commission (LCDC) and the Oregon Housing and Community Services Department (OHCS) should be permitted to adopt a criteria for reviewing and identifying inefficiencies in cities' housing production strategies based on "percentage of households that include a person with a disability whose housing lacks necessary accessibility features" under ORS 197.293. The criteria that LCDC and HCSD develop are used to hold jurisdictions accountable for inadequate housing planning. Measuring the number of households that lack necessary accessibility features is an important indicator for determining whether cities' production strategies are adequate. Please refer to the attached amendment #4 for proposed wording.
- Under Section 42, Metro cities greater than 10,000 in size should conduct an analysis of existing and projected needed housing that includes housing by "accessibility," however, the proposed bill does not require that. It is not enough to simply measure needed housing by "type, mix, affordability, and density range," without considering "accessibility." Metro jurisdictions should also be required to analyze accessibility. Please refer to the attached amendment #5 for proposed wording.
- Under Section 47, "accessible" housing and the "need for accessible units" should be recognized as a matter of statewide concern. Doing so would increase the likelihood of jurisdictions throughout the state and state agencies to focus on accessibility. Please refer to the attached amendment #6 for proposed wording.
- The proposed bill includes reporting requirements that had been under Chapter 456 and brings them into Chapter 197 at Sections 29 through 31. Those reporting requirement could also include (1) information about the number of applications received for developments that have units that meet the definition of "accessible housing"; and (2) percentage of households that include a person with a disability whose housing lacks the disability-related features they need. Data on those applications or percentages can be used to help determine how many actual units of accessible housing are in the pipeline or need to be built. Please refer to the attached amendment #7 for proposed wording.



Thank you for the opportunity to write in support of Housing Bill 2889 and suggest amendments that would improve the disability-related components of the legislation.

Sincerely,

A handwritten signature in black ink that reads "Matthew Serres".

Matthew Serres  
Legal Director  
Fair Housing Council of Oregon

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Recommended Amendments to HB 2889 (additions in **bold**; deletions in brackets)

1. Add a definition for “accessible housing” under Section 12 is as follows:
  - (1) **“Accessible housing” means housing that complies with federal regulations and guidelines adopted on or before the effective date of this 2023 Act that implement the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.), the United States Department of Housing and Urban Development's “Fair Housing Accessibility Guidelines”; or Title II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including the United States Department of Justice's “2010 ADA Standards for Accessible Design” and:**
    - (a) Is designed and constructed for accessibility in accordance with section 1102 or 1103 of the International Code Council Standard for Accessible and Usable Building and Facilities as last updated April 2022; and
    - (b) Reflects universal design principles such that products, environments, programs and services can be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design, including assistive devices for particular groups of persons with disabilities where this is needed.
2. Amend subsection (3)(a)-(b) under Section 21 as follows:
  - (a) The reduction of financial and regulatory impediments to developing needed, affordable **and accessible** housing, including removing or easing approval standards or procedures for [needed] such housing or developing it at higher densities [or that is affordable];
  - (b) The creation of financial and regulatory incentives for development of needed housing, including creating incentives for needed housing at higher densities or that is affordable **and accessible**;
3. Amend subsection (5)(a) under Section 21 as follows:
  - (a) Socioeconomic and demographic characteristics, **including disability status**, of households living in existing needed housing.
4. Add an additional subsection for ORS 197.293(2) under Section 25 as follows:
  - (d) **Percentage of households that include a person with a disability whose housing lacks necessary accessibility features;**
5. Amend subsection (1)(b) under Section 42 as follows:
  - (b) Conduct an analysis of the city's existing and projected needed housing under statewide planning goals and rules related to housing by type, mix, affordability,

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**accessibility** and density range to determine the number of units and amount of land needed for each needed housing type for the next 20 years.

6. Amend subsection (1) under Section 47 as follows:

(1) The availability of affordable, accessible, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including agricultural housing **and accessible housing for individuals with a variety of disabilities**, is a matter of statewide concern.

7. Add additional subsections for subsection (1) under Section 31 as follows:

(c) **The total number of complete applications received for development of housing containing one or more housing units that are accessible units as defined in ORS 197.286, as part of a local, state or federal housing assistance program;**  
(d) **Percentage of households that include a person with a disability whose housing lacks necessary accessibility features.**