

February 27, 2023



FAIR
HOUSING
COUNCIL
OF OREGON



MAS Consulting



Representative Maxine Dexter, Chair
House Committee on Housing and Homelessness
Oregon State Legislature
900 Court Street NE
Salem OR 97301

Submitted via electronic mail and OLIS

Re: HB 2001 and HB 2889

Dear Chair Dexter and Members of the Committee,

We write today to urge your consideration of modest but essential amendments to the two major bills you are advancing that hold great promise for addressing Oregon's severe housing crisis in all its many forms.

The aspirations articulated in both HB 2001 and 2889 for "*fair and equitable housing access for all Oregonians*" can only be realized if the State:

- acknowledges the severity of unmet housing needs for people with all types of disabilities;
- requires that housing needs analytics specifically incorporate accessible housing using a consistent and community-informed definition of that term;
- includes people with disabilities in rule-making and program design; and
- tracks progress of accessible unit production and housing security of those with disabilities, disaggregated by impairment type.

Thirty-one years after the passage of Americans with Disabilities Act, people with disabilities are disproportionately living in unstable housing situations and are more likely to experience homelessness than the general population. This is especially true for people with disabilities who are also BIPOC.

What's worse is that decades after the Supreme Court ruling in the Olmstead lawsuit, one of the most pivotal civil rights decisions for the disability community, and the closure of Oregon's notorious Fairview Institution, we have largely failed to deliver on the promises of community-based, inclusive housing for people with intellectual and developmental disabilities that were embedded in both historic events.

With your leadership, Oregon is close to making historic changes to the ways in which state and local governments must plan for and deliver housing. We know our populations stand to benefit from the acceleration of housing production. We also know that without intentionality towards serving people with

Disabilities Coalition Letter

Page 2 of 8

disabilities, we will continue to experience disparities. Just as the Fair Housing Act failed to end discrimination against people of color, the current generic references to people with disabilities in these two bills cannot be expected to result in greater choice for people with physical, visual, intellectual, developmental, and other types of disabilities. Wheelchair access has become the proxy for accessibility, and while that's often helpful, it misses the broader set of needs and preferences for the populations served by our respective organizations.

Attached to this letter are examples of specific places in HB 2001 and HB 2889 where more inclusive language would set the stage for better addressing the unmet needs of the often-hidden disability community, as well as some background information specific to the challenges experienced by the IDD community.

We genuinely appreciate the tremendous work your Committee has done to address Oregon's housing problems. Clearly you've considered a great deal of public input in preparing to pass these pieces of legislation through to the Committee on Ways and Means. We regret that the testimony individual members of our group have submitted previously has not been incorporated and are hopeful that lifting up these issues as a collective will underscore the importance, and that legislative counsel can be instructed to provide conforming amendments throughout both bills.

Most sincerely,

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Community Vision

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Fair Housing Council of Oregon

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Rogue Valley Council of Governments

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Suggested Language Changes

The insertions noted here may not be comprehensive; legislative counsel can ensure conformance throughout with Committee direction.

HB 2889

SECTION 3. (1) On an annual basis the Oregon Department of Administrative Services shall conduct a statewide housing analysis. The analysis shall include a statewide estimate, segmented regionally, of: "(a) Projected needed housing units over the next 20 years; "(b) Current housing underproduction; "(c) Housing units needed for people experiencing homelessness; **(c.1) Housing units needed for people with disabilities;** and "(d) Housing units projected to be converted into vacation homes or second homes during the next 20 years. "(2) At the time the department performs the housing analysis under subsection (1) of this section, the department shall allocate a housing need for each city. "(3) In making an allocation under subsection (2) of this section, the department shall consider: "(a) The forecasted population growth under ORS 195.033 or 195.036; "(b) The forecasted regional job growth;

SECTION 4. (1) The Oregon Department of Administrative Services shall allocate to each city with a population of 10,000 or greater housing production targets that describe the proportion of the allocated housing need that the department determines each city should produce within six years for a city inside of Metro and within eight years for a city outside of Metro. "(2) The housing production targets must be separated into: "(a) A total target; and "(b) A target for housing affordable to households making less than 80 percent of the median income. "(3) In establishing housing production targets under this section, the department: "(a) May include a greater proportion of the allocated housing to accommodate people experiencing homelessness and housing underproduction within a city; **and to accommodate housing for people with the full range of physical, communication, intellectual, and developmental disabilities.**

SECTION 5. (1) On an annual basis the Housing and Community Services Department shall update a publicly available statewide housing production dashboard.

"(2) The dashboard shall include, for each city with a population of 10,000 or greater:

"(a) Progress toward housing production by affordability **and accessibility** levels, as described in section 3 (4) of this 2023 Act and total housing targets, per capita; and

SECTION 6. (1) On a periodic basis the Housing and Community Services Department shall update a publicly available statewide housing equity indicators.

“(2) (c) Accessibility and visitability of existing and new housing units, including whether units comply with the accessibility standards of section 1104 1102 and 1103 of the International Building Code;

“(e) Housing segregation by race, disability status, and income

SECTION 12.

“Accessible housing” shall be defined consistent Section 1102 of the International Code Council Standard for Accessible and Usable Building and Facilities (“ICC”), as updated.

SECTION 14

“(4) For each city referred to the housing acceleration program, within six months, the department shall, in cooperation with the city, complete an audit of specific housing barriers, that must include an analysis of the following factors affecting housing production, affordability, accessibility, and choice:

SECTION 16

“(13)(b) Has a pattern or practice of creating adverse disparate impacts to state or federal protected classes or inhibiting equitable access to housing and opportunity, or otherwise fails to Affirmatively Further Fair Housing;

SECTION 23

(b) “Needed housing” includes the following housing types:

F) Housing for individuals with a variety of disabilities, including but not limited to mobility, communications, and neurodivergence that require accessibility features;

SECTION 26.

“(1) (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, accessibility, and density range to determine the number of units and amount of land needed for each needed housing type under ORS 197.303 for the next 20 years.

“(3) If the housing capacity and needed housing analysis conducted under this section demonstrates a housing need, the city shall amend its comprehensive plan or land use regulations or take actions to update or implement its housing production strategy to include new measures that demonstrably increase the likelihood that development of needed housing will occur for the type, mix, affordability, accessibility, and densities sufficient to accommodate needed housing for the next 20 years.

SECTION 27.

“(1)(f) Housing for individuals with a variety of disabilities related to mobility, neurodivergence, or communications that require accessibility features;

SECTION 28.

“(2)(b) The development and maintenance of housing that is of diverse housing types, high-quality, energy efficient, and accessible (as that term is defined in ICC 1022 and 1023), and affordable;

“(d) Meaningful actions that, when taken together, address significant disparities in housing needs and access to opportunity and replace segregated living patterns with truly integrated and balanced living patterns to transform racially and ethnically concentrated areas of poverty into areas of opportunity and foster and maintain compliance with civil rights, and fair housing, and laws, including, without limitation, the US Supreme Court’s Olmstead decision.

“(3)(d)(B) Allow greater housing choice for households and greater flexibility in location, type, accessibility, and density.

SECTION 30.

“(3)(b) The development and maintenance of housing that is of diverse housing types, high-quality, physically energy efficient, accessible as defined in ICC, and affordable;

SECTION 37.

“(1)(a)(E) Units with accessibility features or of an accessibility category recognized by a building code established under ORS chapter 455, and consistent Section 1102 of the International Code Council Standard for Accessible and Usable Building and Facilities (“ICC”), as updated.

HB 2001

SECTION 2

c) Housing units needed for people with the full range of disabilities and for those experiencing homelessness; and

SECTION 3

(3) May include a greater proportion of the allocated housing need to accommodate people with disabilities and those experiencing homelessness and housing underproduction within a city;

SECTION 4

(3) The dashboard shall include, for each city with a population of 10,000 or greater:

“(a) Progress toward housing production by affordability and accessibility levels, as described in section 2 (4) of this 2023 Act and total housing targets;

SECTION 5

(2)(e) Housing segregation by race, disability status, and income;

SECTION 14

1) In developing and implementing this section and performing its duties under ORS 197.319 (4), the Department of Land Conservation and Development shall be guided by section 8 (1) of this 2023 Act and the following principles:

“(a) Increasing housing production;

“(b) Developing affordable, accessible, and equitable housing;

SECTION 16

(13) b) Has a pattern or practice of failing to Affirmatively Further Fair Housing, or otherwise creating adverse disparate impacts to state or federal protected classes or inhibiting equitable access to housing choice, as described in ORS 197.290 (2)(b) to (d);

SECTION 23

(2)(b)(F) Housing for individuals with a variety of disabilities, related to mobility, neurodiversity, or communications that require accessibility features;

SECTION 27

(1)(f) Housing for individuals with a variety of disabilities related to mobility, neurodiversity, or communications that require accessibility features;

SECTION 28

(2) A housing production strategy must include a list of specific actions, including the adoption of measures and policies, that the city shall undertake to promote *[development within the city to address a housing need identified under ORS 197.296 (6)(b) or (10)(b) or 197.297.]*:

“(a) The development of needed housing;

“(b) The development and maintenance of housing that is of diverse housing types, high-quality, affordable, and accessible and visitable as described in section 5 (2)(c) of this 2023 Act;
[ENSURE BROADEST DEFINITION]

(3)(f)(A) Increase housing diversity, efficiency, accessibility, and affordability, including new construction and the preservation of naturally occurring affordable housing;

“(B) Allow greater housing choice for all households and greater flexibility in location, type and density;

(9) As used in this section, ‘affirmatively furthering fair housing’ means meaningful actions that, when taken together, address significant disparities in housing needs and access to opportunity and re-place segregated living patterns with truly integrated and balanced living patterns to transform racially and ethnically concentrated areas of poverty into areas of opportunity and foster and maintain compliance with civil rights and fair housing laws, including without limitation the Supreme Court’s Olmstead decision.

SECTION 30

(3)(b) The development and maintenance of housing that is of diverse housing types, high-quality, physically accessible as that term is defined in Section 1102 of the International Code Council Standard for Accessible and Usable Building and Facilities (“ICC”), as updated.

SECTION 37

(1)(a)(E) Units with accessibility features or of an accessibility category recognized by a building code established under ORS chapter 455 and consistent Section 1102 of the International Code Council Standard for Accessible and Usable Building and Facilities (“ICC”), as updated.

SECTION 40

(6)(a) “(a) Forecasts for intervals, within the 50-year period, that are established by standards adopted by Portland State University in consultation with the Department of Land Conservation and Development and the Department of Human Services with respect to developing population estimates for people with intellectual and developmental disabilities;

“(b) Population cohorts as provided by standards adopted by the university in consultation with the department;

“(c) Population data segmented by race, ethnicity and disability status; and

2020 IDD Housing Study

In 2020 [Kuni Foundation](#) commissioned ECONorthwest to conduct a [comprehensive study](#) of the housing needs, preferences, and gaps facing people with IDD and their families. The findings were stark: there is no reliable figure for how many people are living with IDD. John Tapogna, then-President of the firm noted, *“Fundamental data on this population – the number of people, basic demographics and living arrangements – are some of the most outdated and assumption-laden this firm has experience in 30+ years working on public policy solutions.”*

Still, based on that 25-year-old data and related analytics, ECONorthwest estimates that there are 31,000 adults with IDD in Oregon and SW Washington, and of that number 24,000 face housing insecurity. Why are there such high rates of housing insecurity within this population? The data shows that the combination of very low incomes and a limited number of appropriate independent living options means that 61% of adults with IDD in Oregon live at home with family – mostly aging parents who will eventually be unable to provide the same kind of stable housing. Another 26% of Oregonians with IDD live in some kind of group home, many of which are themselves financially unsustainable. There are an untold number of people with IDD who are also homeless, and the looming crisis could well result in their numbers swelling in the coming years unless Oregon steps up production of suitable housing options for our population.

Beyond incomplete and outdated data, there is a widespread lack of representation of people with IDD at all levels of decision-making. Without engaging the disability community to better understand the spectrum of needs and housing preferences, assumptions are made by planners, developers, funders, and designers that disabilities are only physical. Wheelchair access has become the proxy for accessibility, and while that's often helpful, it misses the broader set of needs and preferences.

Without affordable and accessible options, many individuals with IDD who desire to live independently may be unable to find a suitable unit and may turn to housing settings that are less independent than they desire, more expensive than they can afford, or may face homelessness.