



October 24, 2016

City of Portland Planning and Sustainability Commission
1900 SW 4th Ave, Suite 7100
Portland, OR 97201

Re: Proposed Inclusionary Housing Ordinance

Dear Planning and Sustainability Commission:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's concerns relate to a jurisdiction's obligation to affirmatively further fair housing under the federal Fair Housing Act. Please include these comments in the record for the above-referenced proposed amendment.

As organizations that support the development of affordable housing and inclusive communities, we believe inclusive zoning or inclusive housing programs, as allowed under Senate Bill 1533, are important tools for creating affordable housing units in market-rate developments. These market-rate developments often are in a community's highest areas of opportunity, with the best access to a community's most-desirable jobs and best-performing schools. These developments also are otherwise unlikely to include housing affordable at the income levels as required by the proposed inclusionary housing program.

HLA and FHCO commend the City on its efforts to add effective inclusionary zoning provisions to its code. If the changes suggested in our letter below are adopted, our organizations would support the revised code provisions and hold them up as excellent examples for others in the state to follow.

HLA and FHCO recommend the City address the following items prior to adopting the proposed Inclusionary Housing Program ordinance:

1221 SW Yamhill Street, Portland, Oregon 97205



The “Purpose” section (33.245.010) should emphasize that the goal of the ordinance is to encourage permanently affordable housing in *all* neighborhoods—as that is the objective of inclusionary zoning, as opposed to furthering the segregation of neighborhoods by economic class. HLA and FHCO suggest that the section should read: “The purpose of these regulations is to promote the production of permanently-affordable housing for a diversity of household types in all neighborhoods by linking the production of affordable housing to the production of market-rate housing.”

Inclusionary Housing Regulations 33.245.040(A)(3) requires applicants to pay a fee if they do not provide on-site affordable housing. HLA and FHCO encourage the City to adopt more specific language regarding how the fee is determined—the fee should at a minimum match the loss the developer would take by selling 10% of the dwelling units at a rate affordable to those earning 60% of the area median family income (AMI). Additionally, in the current draft, the fee must be reevaluated “at least every three years.” 33.120.205(E)(2)(b). The City should reevaluate the fee with greater frequency to ensure that it keeps pace with changes in the market.

HLA and FHCO also suggest the administrative rules to be developed relating to the fee-in-lieu option under Inclusionary Housing Regulations 33.245.040(A)(3) should mirror requirements being proposed for the off-site affordable housing option under 33.245.040(A)(2). The fee-in-lieu option should include requirements related to the point of occupancy and location of the affordable units to be developed under the fee-in-lieu option relative to the “sending” site for which the fee-in-lieu option was exercised. The administrative rules related to the fee-in-lieu option also should provide similar financial “claw-back” penalties being contemplated under the off-site affordable

Tables 130-3 and 140-3 set out the development standards. In both tables, the City allows for a large FAR bonus for meeting the inclusionary housing standards. HLA and FHCO suggest that the bonus be adjusted so that FAR is increased by a magnitude of two if the developer meets the requisite 10% of units for 60% AMI housing, and an increase by a magnitude of one for 20% of the units for 80% AMI housing. Splitting out the 80% AMI housing and 60% AMI housing would give a further incentive to developers to favor units that are more affordable.



Under Section 33.510.210(C)(1) a letter from the Portland Housing Bureau certifying that the inclusionary housing requirements have been met for projects in CX, EX, and RX zones is required. This letter of certification should be required for all residential projects in all zones.

Furthermore, the adoption of a new inclusionary housing ordinance may impact the availability of different types of housing and the availability of housing at different price levels. Therefore, the staff report for this proposal must address the potential impacts of the proposed changes on the City's Statewide Planning Goal 10 (Goal 10) obligations – the staff report does not address Goal 10. Goal 10 requires the City to inventory buildable lands for residential use and to use this inventory to show that an adequate number of needed housing units can be supported with the proposed change to the comprehensive plan. The inclusionary zoning program will address needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households, and allow for flexibility of housing location, type and density. See *Statewide Planning Goal 10*, OAR 660-015-0000(10) and such findings should be included.

HLA and FHCO urge the Commission to defer adoption of the proposed ordinance until the suggestions above are adopted in the ordinance with the changes we propose.

Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite, 1850, Portland, OR 97204.

Sincerely,

A handwritten signature in blue ink that reads "Allan Lazo".

Allan Lazo
Executive Director
Fair Housing Council of Oregon

A handwritten signature in blue ink that reads "Jennifer Bragar".

Jennifer Bragar
President
Housing Land Advocates