

**Parsons, Susan**

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**From:** Linda Nettekoven <linda@lnettekoven.com>  
**Sent:** Wednesday, December 21, 2016 7:54 AM  
**To:** Council Clerk – Testimony  
**Subject:** HAND Support for Inclusionary Housing  
**Attachments:** IH LTR of Support.docx



188162

AUDITOR 12/21/16 AM 8:13

**HOSFORD-ABERNETHY**  
NEIGHBORHOOD DISTRICT ASSOCIATION

December 15, 2016

Mayor Charlie Hales  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Steve Novick  
Commissioner Dan Saltzman

RE: Inclusionary Housing

Dear Mayor Hales and Commissioners:

The Hosford-Abernethy Neighborhood District Association (HAND) strongly supports the goals of the Inclusionary Housing (IH) proposal as enumerated in Exhibit A and urges you to adopt the IH package before you. While there are aspects of the current version of IH we might like to see strengthened, our priority is to see the implementation of a carefully crafted program begin as quickly as possible. Our neighborhood is split approximately 50/50 between renters and owners and the HAND Board has a decades long history of concern and effort regarding housing affordability, partnering with REACH CDC, whenever possible. Our goal is to maintain a mixed income neighborhood with a variety of housing options. However, without IH the chances of new, more affordable units being added to our neighborhood are slim to none.

Concerns about the future of development in Portland such as market volatility, fluctuations in land values, the withdrawal of outside capital from Portland, etc., are real, but continuing to debate them will keep this amended IH proposal from being tried and evaluated. We have seen conflicting sets of numbers for development costs and profit margins. Those of us who supported SB 1533 as it moved through the State legislature understood that the bill itself was the result of many compromises based on the needs of the development community. Hence our disappointment in the need to further modify the IH proposal. Numerous other jurisdictions have used inclusionary zoning for years, if not decades, to address housing affordability, and the role of inclusionary zoning has been upheld by the courts.

In rereading the General Findings in the IH proposal prior to drafting this letter we noticed staff responded again and again that IH would not undermine Comp Plan Goals and Policies, State of Oregon Planning Goals, or the Metro Urban Growth Management Function Plan. Ironically if you fail to pass and implement IH, the very aspirations contained in these goals and policies will be undermined by Portland's lack of adequate tools for addressing housing affordability.

Goals like Comp Plan Policy 5.36, Impact of Regulations on Affordability, in addition to calling for evaluation of regulatory impacts, ends with an admonition — "Avoid regulations that facilitate economically exclusive neighborhoods". Now we must look to IH provisions to help our city respond to recent waves of displacement that have led to further economic exclusivity in many neighborhoods.

Policy 4.14 Neighborhood Stability — i.e., a variety of ownership and rental options, security of housing tenure, and opportunities for community interaction — all are already being eroded by the high cost of residential and commercial space throughout the city. Goal 6 Transportation and Comp Plan Policy 2.5, Living Closer to Work — IH is not expected "to generate types of travel, levels of travel or travel access needs that are inconsistent with functional classifications .... However, without IH, teachers, health care workers, other types of employees will find themselves traveling further and further to work in our neighborhood. Goal 3 Neighborhoods — Policy 3.3 Preserve the Stability of the City's Neighborhoods, also speaks to the need for "Income diversity within individual buildings as well as within whole neighborhoods". Then there are Policies 4.1, Housing Availability and 4.7 Balanced Communities and so the list goes on.

HOSFORD-ABERNETHY NEIGHBORHOOD DISTRICT ASSOCIATION

Sue Pearce, Chair | 3534 SE MAIN St, Portland, OR 97293 | [www.HANDpdx.org](http://www.HANDpdx.org) | [chair@handpdx.org](mailto:chair@handpdx.org)



**HOSFORD-ABERNETHY**  
NEIGHBORHOOD DISTRICT ASSOCIATION

It will be impossible for the City to meet these and other major planning goals without having access to a tool as important as Inclusionary Housing.

Weirdness aside, Portland is a city that prides itself on being innovative and creative yet pragmatic. It's time to bring those qualities to bear on making IH a success. However, we ask that you pay special attention to the development of a transparent, accountable system of monitoring and evaluation. Without such a system the City is at risk of losing not only much needed affordable units but also of damaging the credibility of the IH program as well as other public sector housing efforts.

We also remain concerned that the fee-in-lieu will become the default approach for developers. While generating funds for housing, this aspect of the proposal will lead to further delays in actually constructing the needed units. We hope it will be used rarely.

In closing we wish to express our appreciation for the efforts of PHB, BPS and BDS staff along with your respective staff members and the community members of the Expert Group in bringing this proposal forward. We look forward to assisting in any way we can to make Inclusionary Housing a successful tool for Portland.

Sincerely,

Susan E. Pearce  
HAND Chair

**Parsons, Susan**

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**From:** Ted Gilbert <ted@gilbertbrocommercial.com>  
**Sent:** Tuesday, December 20, 2016 11:29 AM  
**To:** Council Clerk – Testimony  
**Subject:** Inclusionary Zoning Testimony  
**Attachments:** Inclusionary Zoning - Testimony.pdf

Please see my letter attached.

Respectfully,

Ted

Ted Gilbert  
Principal Broker  
Gilbert Bros. Commercial Brokerage Co.  
1205 SW 18<sup>th</sup> Avenue  
Portland, OR 97205  
503-221-9424  
Licensed in the states of Oregon and Washington



December 19, 2016

Dear Mayor Hales and City Commissioners,

As you review an Inclusionary Zoning Ordinance, I would like to, first, provide some facts for context, and then provide some suggestions for a common interest – East Portland:

1. The area of East Portland, the geographic area of greatest need in our community, has seen far less revitalization during the current development cycle than other parts of our region. This most diverse area now contains 40% of Portland's school-age population; some school districts which are bursting at the seams with students; and free and reduced lunch percentages as high as 88%.
2. Two Urban Renewal Areas in East Portland, Lents and Gateway, are nearing their maturities. While there have recently been some development activities announced for Lents, little has occurred in Gateway. It is accurate to say that neither has yet come close to achieving the visions described in their public plans, or in the hopes of their residents.
3. A significant gap remains in East Portland between quality development costs, including public entitlement costs, and the full fair market rents that can be generated for these quality developments.
4. Agreeing with the facts presented in Items 1, 2 and 3 above, the City Council previously agreed to apply the existing MULTE Program to these two URA's (also because of their transit orientation), and further, to exempt them from a later revision to the MULTE Program which imposed a cap and a competition for the rest of the city.
5. The incentives provided by the existing MULTE Program, primarily 10-year property tax exemption, and waiver from System Development Charges and Construction Excise Tax, have been quite effective tools to spur development elsewhere in the city, and will still be essential to spur development in Gateway.
6. My company, along with other key stakeholders, is now working on a major development project for the Gateway Transit Center area which would be urban in form; mixed-use and mixed-income; intergenerational; include much-needed educational and recreational facilities, as well as transit-oriented housing, office and retail; bring a substantial number of long-term, quality jobs; and also include economic development programming for the young people of East Portland which could help prevent the kind of displacement that occurred in N/NE Portland, once the area does revitalize. This multi-acre development, given its "who, what, where and how," could provide the placemaking and re-branding which will change the trajectory of Gateway, and eventually, East Portland.
7. Along with educational facilities, office, retail, and market-rate and adult-student housing, another key component of this interconnected development will be senior

housing. The owner/operator of this element wants to not only provide for the needs of the current senior population—of which East Portland is plentiful—but also provide for the evolution of senior housing as it transitions to the aging of the Baby Boomer Generation. This envisions a more active, engaged, and purpose-driven model, and new housing-product designed to go with it.

As you design a new Inclusionary Zoning Ordinance, perhaps incorporating and revising the existing MULTE Program, I respectfully request that you consider including the following suggestions:

1. PLEASE retain the financial incentives of the existing MULTE Program for Gateway, and if anything, enhance them, as they will be necessary for a period of years to come. (However, with the scope and scale of this development project, perhaps not too many more years would be required).
2. PLEASE retain the existing exemption of Gateway from any proposed benefit caps or citywide competitions.
3. The senior housing of today . . . and tomorrow . . . include the bundling of services into packages (e.g. food, transportation, level of assistance, amenities, and activities). The resident pays one amount monthly for the package(s) they select. For purposes of housing affordability, please allow the provider to “unbundle” the package, and base the affordability review on the true housing component.
4. We are advised that, as a generalization, seniors are quite reticent to discuss or share income information. Any private-sector senior community which required regular income verification from residents would be at a decided disadvantage.
5. While two components of this development will be senior housing and adult-student housing, and we are advised that these two types are currently exempt from the Inclusionary Zoning Ordinance’s provisions, we request:
  - a. These units will still meet or exceed the affordability goals of the MULTE Program and Draft Ordinance; and
  - b. The housing developed at Gateway in the near term will still need the financial incentives of the MULTE Program and Ordinance in order to be feasible.

The Mayor and current City Council have made the “kick-start” of the Gateway Regional Center URA an important goal, and further, have provided leadership and support with several significant investments. We believe that the time is now at hand to provide the key “place-maker,” if we bring all of our resources, public and private, to bear.

Thank you for your consideration.

Sincerely,



Ted K. Gilbert  
President

cc: Kurt Creager

**Parsons, Susan**

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**From:** Amanda Manjarrez <amanda@coalitioncommunitiescolor.org>  
**Sent:** Tuesday, December 20, 2016 8:54 AM  
**To:** Council Clerk – Testimony  
**Cc:** Hales, Mayor; Saltzman, Dan; Commissioner Fish; Commissioner Novick; Commissioner Fritz  
**Subject:** Inclusionary Housing Testimony  
**Attachments:** CoalitionCommunitiesColor\_Testimony\_December IH Hearing.pdf

Hello,

I'd like to submit the following testimony for the Inclusionary Housing Program on behalf of the Coalition of Communities of Color.

Sincerely,

Amanda Manjarrez

Advocacy Director  
[Coalition of Communities of Color](#)  
221 NW 2nd Ave #303, Portland, OR 97209  
Email: [Amanda@CoalitionCommunitiesColor.org](mailto:Amanda@CoalitionCommunitiesColor.org)  
Office: 503.200.5722  
Cell: 505.400.6513

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Tuesday, December 13th  
Portland City Council  
1900 SW 4<sup>th</sup> Ave, #7100  
Portland, OR 97201

Dear Mayor Hales and Commissioners,

Formed in 2001, the Coalition of Communities of Color (CCC) is an alliance of 20 culturally-specific community based organizations with representation from six communities of color: African, African American, Asian and Pacific Islander, Latino, Native American and Slavic. We are dedicated to eliminating racial disparities faced by our families and communities. Housing is continuously raised as the top priority for our organizations. The CCC advocated to repeal the ban on inclusionary zoning during the 2016 Legislative Session.

It's no secret that Portland is experiencing an affordable housing crisis. Families and communities of color are disproportionately burdened by rising housing costs—often spending more than 30% or even 50% of their income on housing. The release of the Portland Housing Bureau's 2016 State of Housing Report shows how great the need is for communities of color and moderate income households, and how dire the situation has been for those living on little to no income.

We ask you not to weaken the recommendation from Commissioner Saltzman and the Housing Bureau. The proposal reflects inclusive negotiations that strike a balance to ensure housing production will not be negatively impacted. It has been extensively calibrated to ensure development feasibility and to allow adequate flexibility for developers and the market. Moreover, the proposal has been designed to reflect community of color and low-income community priorities.

The Inclusionary Housing Program passed by City Council must do the following:

1. Provide desperately needed housing in high opportunity areas at 80% MFI and 60% MFI and above.
2. Provide a measured approach that does not create a windfall profit for developers. The Portland Housing Bureau's proposal ensures that development will still occur, while providing much-needed housing at moderate income levels in new construction. However, developers who have testified are demanding a lucrative IZ incentive package incomparable to any jurisdiction in the country (see DRA expert testimony).
3. Avoid setting bad precedent that requires the private market to be “made whole” by the City when it provides public benefits. Developers already benefit greatly from public investments and infrastructure; IZ means low and moderate income households will see benefits from private development.
4. Avoid reducing needed resources from other important housing programs serving households below 30% MFI.
5. Consider the compromise what we already fought years for in Salem. The negotiations already provide the development community with many protections.

The CCC urges Council to support the Inclusionary Zoning Code proposed by Portland Housing Bureau. We, of course, know that none of these measures will be adequate on their own, and we must be diligent in creating a truly affordable, inclusive, equitable, and livable city. Just as this city leads the country on sustainability and planning, we must lead the country on a fundamental right—housing. We thank you for your time and commitment to making Portland a better place to live.

Sincerely,

Amanda Manjarrez

A handwritten signature in black ink, appearing to read "Amanda Manjarrez".



Parsons, Susan

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**From:** mvogelpnw@gmail.com on behalf of Mary Vogel <mary@plangreen.net>  
**Sent:** Monday, December 19, 2016 1:22 PM  
**To:** Hales, Mayor; Fritz, Amanda; Novick, Steve; Commissioner Fish; Saltzman, Dan; Council Clerk – Testimony  
**Subject:** Inclusionary Housing Comments

As someone who is working with Portland Small Developers Alliance (<https://www.facebook.com/groups/174869229550173/>), I want to echo the comments made by attorney Christe White at last week's hearing that **the policy must include METRICS to measure how we are doing.**

And I want to say ditto about the developers I work with--most of whom will not be building 20 units at a time anytime soon.

I posted Ms. White's comments on my business Facebook page (with her permission), but I will post them below for your convenience.

*"My clients support an Inclusionary Zoning program. This is necessary social, physical and equity infrastructure.*

*The developers that many were speaking so negatively about were not the developers I know. My clients have come to the table and have tried to work through this program with the City and the stakeholders. I found it an unfortunately divisive conversation that needs to be more elevated; when we work together we are at our best.*

*I recommend a few key indicators or metrics that should certainly be employed here to be sure the program is working. I'm starting from an assumption that everyone in the room is a little right; so everyone should be equally invested in whether this program is working SO LET'S TEST IT, let's stay accountable to each other. A few annual metrics could include:*

*How many units were built at 60% MFI and how many at 80%;*

*What has been the cost in public monetary subsidies for the 60% units and 80% units;*

*How many applications for projects below 20 units were submitted;*

*What percentage of maximum density was realized on the development site;*

*Etc.*

*I am very surprised that an accountability metric was not part of the program as proposed. I am certain there are more or better metrics we should watch as well so we can truly calibrate inclusion rates and offsets to deliver the units and maintain supply at the same time.*

*To be sure, I cannot say whether this program will work as intended but everyone should want it to work for the property owner, developer, tenant, new owner and the community at large. Revisiting the program outcomes annually seems to me to be fundamental to its overall success."*

Thank you for the complex issues you deal with day after day. I don't always feel that you get them right--just mostly so. And I hope you will get this one right by adding METRICS.

Thanks,  
Mary

Mary Vogel, CNU-A



Bringing services nature provides to community design & planning

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<http://plangreen.net>

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Blog: [Housing Affordability - Put a Bern on It](#)

**Moore-Love, Karla**

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**From:** Deborah Olson <queendao2016@gmail.com>  
**Sent:** Friday, December 16, 2016 3:43 PM  
**To:** Council Clerk – Testimony; Deborah Olson  
**Subject:** IH4PDX coalition

Hello PDX Council Members.

I am writing on my own behalf only.

Sorry I could not get to the hearing on Tuesday 12/13/16 for Inclusionary Zoning. I support affordable safe housing.

I have a section 8 voucher and I pay just over 50% of my SSI income.  
368.00 dollars.

In March my rent will go up another 29.00 bucks. I am also in Section 42 housing. A Tax Credit place.

I have been to Salem and the folks who can build still just want to talk about building affordable low income housing. They still have not come up with any. Except the Catholic Church on 11th.

1 Building is not enough. The builders are out to make money. They can put in a few apts- affordable places: in each building the is built. They can afford it. I believe it is called a TAX Write OFF.

I no longer live close to my friends. Medical and Dental app are so far away now.

If these builders can build they can put in at least 5 apt in 100. If they want to build 99 units. Make it 20 apt in the 99 unit building.

Deborah Olson  
503.568.8816

**Parsons, Susan**

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**From:** Stan Hubert <stanjhubert@yahoo.com>  
**Sent:** Wednesday, December 14, 2016 10:00 AM  
**To:** Council Clerk – Testimony  
**Cc:** 'Stan Hubert'  
**Subject:** Inclusionary Housing Testimony

Good morning,

I had not planned to testify at yesterday's meeting, but after attending it, I have a couple of thoughts and recommendations:

There is definitely a need for affordable housing, and this is a step in the right direction. As an apartment owner and developer, I have always "worked" with my tenants, and have had favorable "win-win" outcomes.

In terms of developer offsets for the lower rents; they seem relatively fair in the initial groundbreaking stages. However, after a few years in this program, based upon historical data, the gap between Market Rents and Inclusionary Housing rents will widen greatly.

I recommend an amendment with the following language:

Revise the Property Tax Credit for Inclusionary Units from 10 years to 20 years, or greater. Most apartment owners are long term holders, and with a 99 year term on the inclusionary housing, 10 years seems out of balance with the 99 year term.

On another note, I am encouraged by Commissioner Fish's continued urging for adequate staffing levels in the PHB office, and the overall Building Process. The Permitting and Approval process has been painfully slow, and it is preventing more affordable housing from entering the marketplace. With SDC's and Permit fees offsetting staffing costs, I would hope that staffing levels increase dramatically in these needed areas.

Finally, as I read the proposed ordinance, I am somewhat overwhelmed by the compliance and number of issues that will occur with apartment property manager and the PHB. I hope that Commissioner Novick's amendment to include square footage requirements, in addition to unit requirements, does not complicate the IZ requirements even further.

Thanks for your consideration.

Best regards,

Stan Hubert

Stan J. Hubert

Hubert Investments, LLC

p. 503.701.1793

f. 503.635.1328

stanjhubert@yahoo.com

**Parsons, Susan**

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**From:** Brian R Wilson <bwilson@mainlandcompanies.com>  
**Sent:** Wednesday, December 14, 2016 10:38 AM  
**To:** Council Clerk – Testimony  
**Cc:** Hales, Charlie; Commissioner Fish; Commissioner Fritz; Commissioner Saltzman; Novick, Steve  
**Subject:** Testimony for Inclusionary Housing Agenda Items 1381 & 1382  
**Attachments:** Wilson IH Written Testimony 20161213.pdf

**Brian R Wilson**

**Mainland** | Mainland Northwest LLC  
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<http://mainlandcompanies.com>

December 13, 2016

Mayor Charlie Hales  
Commissioner Steve Novick  
Commissioner Amanda Fritz  
Commissioner Dan Saltzman  
Commissioner Nick Fish

*Re: Inclusionary Housing*

Dear Mayor and Commissioners:

I am an advocate for housing affordability in our community and have been for many years. In addition to my years of service as an advisor to the Portland Housing Bureau's predecessor, Bureau of Housing and Community Development, and later as a member of the Portland Housing Advisory Commission, I also made housing and homelessness central themes in my campaigns for public office. My connection to housing policy and production spans three essential sectors:

1. Government—through my work with both the city and more recently Multnomah County;
2. Social Services and non profit groups—through my advocacy, volunteerism and financial support of many groups, from large (Central City Concern) to small (Our House of Portland);
3. Private industry—through my more than 20 years in real estate investment, development and management in Portland, including construction of affordable and workforce housing.

All three of these sectors must work in concert to ensure we keep up with growing demand for housing at all levels of affordability.

To this end, I want to first express my support for developing a well-calibrated Inclusionary Housing policy, and second express specific concerns with elements of the ordinances and rules you are currently considering for adoption.

Inclusionary Housing (IH) offers us a tool to integrate our community in important and exciting ways: move families to areas of high opportunity. An important goal everyone in our community should work hard to achieve. Inclusionary Housing can help...but only if it's calibrated to achieve those ends, is flexible to fit different economic cycles AND takes into account the different economics of development unique to different areas of the city. Market

forces act on housing development just as much as on any other infrastructure project, so when we try to harness the bucking bronco of the market to an inflexible public policy, we have to be doubly careful. Doing it wrong could cause damage and have long-term consequences. In my opinion, the current ordinance does not adequately account for the different economic realities of developing housing stock in different parts of the city and may stall development in the ever-critical mixed use zones where we want density and growth most. A better calibration of the inclusionary rates in these zones and/or adjusting the offsets is needed to forestall a slowdown of production.

As proposed, the mandatory and voluntary inclusion rates are too high for the offsets offered for development to occur. Even if the city and county were able to offer full tax abatements and SDC waivers in the mixed use zones to help with the equity gap, the other economic forces at work on developments suggest inclusionary rates well below what is proposed. The proposed mandatory rate for two of my current projects in St Johns would have to fall below 10% with full offsets, or with only the offsets currently on offer to somewhere between 3 and 5%. At these rates, my projects are feasible, but only just so.

Please keep in mind: FAR bonuses and removal of parking requirements are of marginal benefit in mixed use zones. Maximum height limits imposed in most neighborhoods prevent a development from utilizing the FAR bonus, and most neighborhood associations are unhappy when developers don't provide some off-street parking because of the negative impacts to neighborhood streets.

The only offsets that reliably work are reduced fees and taxes. I agree with many of the housing advocates that scarce general fund dollars shouldn't offset all costs that IH imposes. We have much greater uses for scarce general funds, including production of housing units to serve the poorest in our community. But we also have to be mindful that imposing too much of the cost on developments will drive capital away, and that means loss of housing production for many working families.

If you adopt the PHB's proposed inclusion rates and offsets as proposed, it is reasonable to conclude some slow down of development in the mixed use zones. It's impossible to know how long the slow down will last, but without some other form of relief, one or more market conditions—Prices for land, labor, material and/or capital—will have to change for development to resume to pre-IH levels (assuming the economy remains strong).

I can't emphasize enough: the cost to build housing is somewhat inflexible. Labor won't be inclined to lower wages for the purposes of getting affordable units built. Global markets aren't inclined to give Portland a price break on lumber, steel and concrete. And land owners have little incentive to take lower prices to sell their property (which typically already is income-producing), especially in an environment with little available land left inside our highly successful Urban Growth Boundary. Finally, investors like PERS, who are major capital contributors to housing developments, won't accept below-market returns of 5%—not when they are obligated to pay out 8% to their members.

All the more reason to amend the ordinance to require mechanisms to measure, review and adjudicate the policy's impact and success. As proposed, no detailed specific review process and measures of success or thresholds for recalibration are included. We need these in order to build a mechanism to ensure the success of the policy under any market conditions.

I hear a lot of accusations claiming developers are making obscene profits and are not willing to be part of the solution: "placing profit above people". This is simply not true. We're your partners in housing, not your adversary. Developers build because we want to provide housing and love to problem solve with the community. Development is very much driven by the ability to cover costs and make a modest return. It also helps increase the property tax base, assuring we have resources to fund critical programs and services in our community.

In a market boom like Portland is experiencing, profits are being made in real estate transactions, but on the *sales* side, not the development side. The single best way to keep profits reasonable on the sales side is to make sure there's adequate supply on the development side.

Portland will continue to grow, and over time I know the economics will justify development even in the mixed use zones at the currently proposed inclusionary rate. The problem becomes what do we do in the interim. The need for affordable units is now, not three or five years from now. If the inclusionary rate and corresponding offsets more closely matched the economic reality of development in the mixed use zones, we could start delivering units sooner rather than later.

As I stated in my oral testimony, please look upon me as both a resource and partner in working to implement a robust and successful Inclusionary Housing program. I look forward to your call.

Very truly yours,

Brian Wilson  
Mainland Northwest, LLC

**Parsons, Susan**

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**From:** Paul Grove <PaulG@hbapdx.org>  
**Sent:** Wednesday, December 14, 2016 11:46 AM  
**To:** Council Clerk – Testimony  
**Subject:** testimony  
**Attachments:** Inclusionary Housing Letter.pdf

Please see the attached letter re: the Inclusionary Housing proposal.

Paul Grove  
Home Builders Association of Metro Portland  
t 503.684.1880 | f 503.684.0588 | [hbapdx.org](http://hbapdx.org)



188162

Home Builders Association  
of Metropolitan Portland

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December 12, 2016

The Honorable Charlie Hales, Mayor  
City of Portland  
1221 SW Fourth Avenue  
Portland, OR 97204

Re: Inclusionary Housing Proposal

Mayor Hales and Commissioners:

The HBA of Metro Portland (HBA) appreciates the opportunity to provide written comments on the Inclusionary Housing Project and proposal before Council.

As rents and housing prices continue to soar beyond many residents' means, there is no question that providing an affordable supply of housing is the most pressing challenge we face as a city and region. The issue is one that will likely continue well into the future, as we face unprecedented growth over the next 20 years.

Housing impacts everyone, across all income levels. As such, it is imperative that we partner to address this critical issue and do so in a manner that ensures the necessary production of both affordable and market-rate units in Portland, especially in the City's amenity-rich neighborhoods.

To that end, the HBA is supportive of an inclusionary housing program for the City of Portland. As an Association, we are mindful of the magnitude of the issue and will ultimately play a meaningful role in the development of units throughout the City, in particular throughout our Mixed-Use Zones (MUZs).

The current proposal should be applauded in its attempt to address our housing crisis. However, there is still the potential for unintended consequences with the measure as it is drafted. Namely, more attention is required in our Mixed-Use Zones, and the proposal should be refined to ensure that we realize the growth projections and objectives contemplated in the Comprehensive Plan.

It is important to note that the dynamics of development are markedly different for the smaller-scale projects constructed in these zones. From project financing and investment to basic economies of scale, there are unique factors at work that make it less likely to absorb costs and potentially suppress the production of overall units.

Following guidance provided by the Planning and Sustainability Commission (PSC), City Budget Office and policy analysts on the matter, we should ensure that the cost to development should not significantly suppress the rate of development and that the incentive structure is financially feasible

Home Builders Association of Metro Portland  
15555 SW Bangy Rd., Ste. 301  
Lake Oswego, OR97035  
503-684-1880 • Fax 503-684-0588

toward the production of units. In short, we must proceed with a measured approach to the requirements as we initially implement the program in our Mixed-Use Zones.

So as we move forward with an inclusionary housing program in February, we respectfully ask Council to consider three items:

- Lower Inclusion Rate in MUZs. The current proposal contemplates 15% of units at 80% MFI and 8% of units at 60% MFI. To better ensure the production of units during the initial stages of the program, we would propose an inclusion rate of 10% of units at 80% MFI and 5% of units at 60% MFI. By starting at a slightly lower inclusion rate, the program will have ample opportunity to test and prove its effectiveness and ramp up to higher inclusion rates over time.
- Maintain Incentives in MUZs. As noted, the financing of smaller projects in our MUZs takes on a different dynamic than other parts of the City. We recognize the difficulty in arriving at an appropriate offset. We ask that the waiver on parking minimums remain in its current form and Council revisit the overall MUZs incentive structure as part of its program review.
- Joint Program Review. Lastly, we'd suggest that Council engage the Portland Housing Bureau (PHB) and PSC, jointly, to evaluate and monitor the implementation of the program and report to Council on adjustments and refinements that may be needed.

As members of the community, we are all invested and have an obligation to help address this crisis. We took an important first step in passing the affordable housing bond in November – and this is an important next step to deliver on this tool.

As such, we must enact a proposal that is designed for success and delivers on our shared goal of providing much needed affordable housing for Portland's residents.

We appreciate the opportunity to comment on the proposal before Council and your attention to the above- noted items. We look forward to supporting the program and partnering on this important issue.

Respectfully,



Paul Grove  
Director of Government Affairs

**Moore-Love, Karla**

**From:** Mary Ann Schwab <e33maschwab@icloud.com>  
**Sent:** Tuesday, December 13, 2016 10:51 AM  
**To:** Moore-Love, Karla  
**Cc:** Commissioner Novick; Commissioner Fritz; Hales, Charlie; Commissioner Saltzman; Commissioner Fish  
**Subject:** Last night, I watched Inclusionary Housing work session. 16,000 permits in queue? -- with three year grace period to finish projects? And Developers Inclusionary House effective 2018. Stop the clock!  
**Attachments:** DeLaTorre\_letter to Council re RIPSAC\_accessibility.pdf

December 15, 2016

Mayor Hales, Commissioners, Novick, Fritz, Saltzman, Fish:

For the record, my name is Mary Ann Schwab

Last night I watched the replay, Infill Program work session.

Commissioner Fritz referenced 16,000 permits in queue under current zoning regulations, Developers have three years to complete their projects. Please set today's amendments to include those 16,000 building permits. And yes, I understand on-site parking will be addressed at a later date. Today, Landscapers must unload equipment — double parked. Overflow Tenants, 72.5% with vehicles are parking in front of my corner lot — Erwin's visiting Nurses and Physical Therapist are currently parking two blocks from our house.

UPS parks in middle of streets to drop-off packages.

I was pleased hearing Commissioner Fish comments regarding his daughter's rent increase by 200%. My fear, it will again next year, as it has for my friend — a grocery clerk: \$1,100, \$1,300 (with tears lowered to \$1,200), last September, increased to \$1,350. When she asked why? Property Manager's response? "...because we can." Property owners in Lake Oswego are doing the same. Why? "...because if they raise rents in Portland — so can we."

I trust those sitting around the conference table, heard his concern Inclusionary Housing Developer's bonus should also X# ADA units to meet the needs for Disabled and Elderly under MFI 60%. ADA Units must be constructed to access their wheelchairs into the kitchen, bathroom — roll-in shower, as outlined in Alan DeLaTorre's letter to Council regarding RIPSAC accessibility. pdf

I respectfully disagreed with Commission Dan Saltzman's closing comments asking City Council to accept Inclusionary Housing amendments "AS IS"! I am asking City Council to extend the closing date from 2018 to 2020, as supported by Commissioner Fritz, and approve the X# ADA units as outlined in Alan DeLaTorre's letter and supported by Commissioner Fish —surely by Elder's in Action as well. Thank you.

Sincerely,

Mary Ann Schwab, Community Advocate  
 605 SE 38th Avenue  
 Portland, OR 97214-3203

November 2, 2016

Re: Residential Infill Project - Concept Report to City Council

Dear Portland City Council:

My name is Alan DeLaTorre and I have served as a member of the Residential Infill Project Stakeholder Advisory Committee (RIP-SAC) from its inception in September, 2015, until the last Committee meeting on Tuesday, October 18, 2016. In addition to my role as a member of the RIP-SAC,<sup>1</sup> I am also writing to you as the co-coordinator of the Age-friendly Portland and Multnomah County initiatives, as a past member of the Neighborhood Centers Policy Expert Group to Portland's Comprehensive Plan, a self-described "urban gerontologist," as a researcher at Portland State University's Institute on Aging, and as a parent and aging citizen of our City.

On October 18, 2016, staff from the Bureau of Planning and Sustainability released a Residential Infill Concept Report<sup>2</sup> to City Council that detailed a series of recommendations for future infill housing in Portland. Although both the Comprehensive Plan and the Concept Report have highlighted that Portland's population is becoming older, and, that a more accessible, diverse, and adaptable housing stock is needed, **the final Concept Report failed to offer a single recommendation that would lead to housing in Portland becoming more accessible. This outcome is inequitable, short-sighted, and unacceptable. I expect that Portland's leaders and policymakers will take the necessary steps to remedy this omission and advance opportunities for Portlanders to find housing that facilitates aging in their homes and communities while maintaining critically important social connections that enable their health, well-being, and independence.**

I suggest City Council consider the following: Portland must create and implement regulatory (e.g., zoning code) and incentive-based policies (e.g., density bonuses) that increase our housing stock's accessibility as part of the outcomes associated with the Residential Infill Project. Please consider adding the following requirements as part of the final Concept Report and resulting policies (note: see the next page for suggested "visitable" and "accessible" criteria):

- (1) Require that all new housing built in Portland's single family zones as a result of the Residential Infill Project as "visitable" (note: exceptions can be considered)**
- (2) When cottage cluster developments and bonus unit provisions are given for infill housing (i.e., above and beyond by-right development detailed in Proposal 1), all qualifying units should be built to as "accessible"**

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<sup>1</sup> For additional information about the Residential Infill Project and recommendations pertaining to accessibility, please see the participant observation report submitted to the City of Portland on October 15, 2016: [http://agefriendlyportland.org/wp-content/uploads/2016/10/DeLaTorre\\_Residential-Infill-Project-Report\\_Oct14.2016.pdf](http://agefriendlyportland.org/wp-content/uploads/2016/10/DeLaTorre_Residential-Infill-Project-Report_Oct14.2016.pdf).

<sup>2</sup> City of Portland (October, 2016). *Residential Infill Project - Concept Report to City Council*. Retrieved from: <http://www.portlandoregon.gov/bps/article/594795>.

**Visitable Guidelines:**<sup>3</sup> The three main visitability criteria are:

1. At least one zero-step entrance
  - A step less path no steeper than 1:12, preferably less steep, which leads to the entry door
  - A 3'0" entry door
  - A threshold preferably no higher than ½ inch<sup>4</sup>
2. 32" clear passageways
3. One bathroom/powder room on the main floor (ground level) with mobility device access and maneuvering

**Accessibility Guidelines:** The accessibility criteria are:

1. All visitability criteria as detailed above
2. Single level living or, at the very least, a full bathroom and kitchen on the ground floor
3. Bathroom with required turning space for person in a mobility device (circular or "T-shaped")
4. Curb less shower or wet bathroom
5. Backing of bathroom walls to enable variable grab bar position
6. Varied and/or adjustable kitchen countertops
7. Sinks and stoves with roll-under cabinetry
8. Electrical outlets and phone jacks at least 18-24 inches above floor
9. Task lighting and natural light sources in areas of the home often used by residents (e.g., kitchens and bedrooms)
10. Ventilation and air conditioning for comfort
11. Lever handle hardware, rocker light switches, and "D-shaped" or loop-style hardware
12. Pocket doors (when possible) or outward swinging doors in bathrooms (when pocket doors are not possible), and front entryways that allow for a door to open while a mobility device is present

Sincerely,

Alan DeLaTorre, Ph.D.



503.725.5134

[aland@pdx.edu](mailto:aland@pdx.edu)

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<sup>3</sup> Visitability.org (2016). Visitability – what is it? Retrieved from: <http://www.visitability.org/>. Note: The term visitability refers to single-family or owner-occupied housing designed in such a way that it can be lived in or visited by people who have trouble with steps or who use wheelchairs or walkers

<sup>4</sup> According to ACCESSIBLE AND USABLE BUILDINGS AND FACILITIES ICC A111.1 - 2009 American National Standard 404.2.4 that relates to thresholds: If provided, thresholds at doorways shall be ½ inch (13 mm) maximum in height. Raised thresholds and changes in level at doorways shall comply with Sections 302 and 303. EXCEPTION: An existing or altered threshold shall be permitted to be ¾ inch (19 mm) maximum in height provided that the threshold has a beveled edge on each side with a maximum slope of 1:2 for the height exceeding ¼ inch (6.4 mm).

Parsons, Susan

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**From:** Eli Spevak <eli@aracnet.com>  
**Sent:** Tuesday, December 13, 2016 8:25 PM  
**To:** Council Clerk – Testimony  
**Cc:** Hales, Mayor; Fish, Nick; Commissioner Novick; Commissioner Fritz; Saltzman, Dan; Bump, Tyler  
**Subject:** Inclusionary Housing testimony and suggested amendment

Mayor Hales and City Council members,

It's encouraging to know that projects with buildings containing fewer than 20 housing units could get additional FAR by voluntarily enrolling in Portland's Inclusionary Housing program.

But it's hard to imagine this ever actually happening if those developments wouldn't received the other elements of the Inclusionary Housing incentive package (CET waiver, limited property taxes...) available to developers of projects with 20+ units. The city's economic analysis shows that the full incentive package is key to making projects feasible with long-term income restricted units at the 60% or 80% MFI levels. Smaller projects lack efficiency of scale, so would be even more hard-pressed to make the numbers work than larger ones.

**Proposed Amendment: Projects with *fewer than 20 units* would be eligible for *the same* incentive package as projects with 20+ units, so long as they commit to the same percentage of affordable units.**

From the city's perspective, this would achieve the same level of affordability for the same expenditure of public resources as with the current proposal, but allow smaller projects to participate as well.

Thanks for considering,  
- Eli

(trying to look out for the not-so-big builders who might want to participate too)

Eli Spevak  
4757 NE Going St.  
Portland, OR 97218  
(503) 422-2607

**Moore-Love, Karla**

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**From:** Donna Milrany <donnamilrany@gmail.com>  
**Sent:** Tuesday, December 13, 2016 9:36 AM  
**To:** Moore-Love, Karla  
**Subject:** Letter in Support of Inclusionary Housing

I can not be present for this morning's agenda on Inclusionary Housing so please accept this letter.

I have seen economic stratification -- and Residential Segregation by class -- from both sides. I had lived 41 of my 69 years in central city Portland (the east side only due to my non-profit arts wages) and I've navigated from "'donor' neighborhoods to those sketchy/warehouse neighborhoods where artists and working poor resided. I felt at home in both worlds but, alas, 2008 "negative life events" had eroded by economic choices. I sold my modest Buckman Neighborhood Rowhouse to seek a smaller, affordable footprint. The best I could do was 750 square foot condo in St. Johns across the street from the Home Forward property named Terry Schrunk RiverviewTower.

The Tower has been my first-hand lesson in the toxic stress of Residential Segregation. Eleven stories of tiny studios for the elderly, the ill and even families. Their stress permeates the neighborhood.

I am aware of Home Forward's great work and its 85 Stories renovation project but high rise "poor people" towers -- in "transitional" or economically disadvantaged neighborhoods can not be the only solution. I am grateful to the City of Portland for taking this one step to achieve more harmony and urge as much support as possible for the developers and builders we rely on to provide so many levels of market rate and supportive housing -- whether for rent or purchase..

Thank you.

Donna Milrany

Donna Milrany  
8833 N. Syracuse Street #11  
Portland, Oregon 97203  
Landline 503 234-6262  
Mobile (503) 544-7328  
[donnamilrany@gmail.com](mailto:donnamilrany@gmail.com)

**Moore-Love, Karla**

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**From:** Carl M. Szabo <cszabo@netchoice.org>  
**Sent:** Tuesday, December 13, 2016 9:57 AM  
**To:** Hales, Mayor; Commissioner Fish; Commissioner Fritz; Commissioner Novick; Commissioner Saltzman; City Auditor, Mary Hull Caballero  
**Cc:** Moore-Love, Karla; Parsons, Susan; Steve DeIBianco  
**Subject:** Opposition to Ordinance No. 1403 and 1404 – Hotel Tax on STRs and Hosting Intermediaries and New Burdens on STR Hosting Intermediaries  
**Attachments:** NetChoice Opposition to Portland City Ordinance 1403 and 1404.pdf

Dear Mayor Hales and members of the Portland City Council,

We ask that you not adopt Ordinance Nos. 1403/1404 as it opens the door to new taxes on services rendered by Portland City businesses, violates federal law, and creates higher taxes on travelers to Portland.

We further outline our concerns in the attached testimony.

While we ask that you not adopt the 1403/1404. We welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Carl Szabo  
Senior Policy Counsel  
NetChoice  
202-420-7485  
[cszabo@netchoice.org](mailto:cszabo@netchoice.org)

Parsons, Susan

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**From:** Eli Spevak <eli@aracnet.com>  
**Sent:** Tuesday, December 13, 2016 8:25 PM  
**To:** Council Clerk – Testimony  
**Cc:** Hales, Mayor; Fish, Nick; Commissioner Novick; Commissioner Fritz; Saltzman, Dan; Bump, Tyler  
**Subject:** Inclusionary Housing testimony and suggested amendment

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**Proposed Amendment: Projects with *fewer* than 20 units would be eligible for *the same* incentive package as projects with 20+ units, so long as they commit to the same percentage of affordable units.**

From the city's perspective, this would achieve the same level of affordability for the same expenditure of public resources as with the current proposal, but allow smaller projects to participate as well.

Thanks for considering,  
- Eli

(trying to look out for the not-so-big builders who might want to participate too)

Eli Spevak  
4757 NE Going St.  
Portland, OR 97218  
(503) 422-2607

**Moore-Love, Karla**

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**From:** JOE WALSH <lonevet2008@comcast.net>  
**Sent:** Tuesday, December 13, 2016 12:24 PM  
**To:** Moore-Love, Karla  
**Cc:** roberto lavato  
**Subject:** Special Meeting and item 1381 & 1382

I would have come to this meeting but for being too weak. I want Individuals For Justice to go on record supporting this item on the agenda. We do have a concern about the city doing a good job with enforcement. Thank you for any help in this matter.

For Justice,Peace and \*Laughter,  
Joe Walsh-Lone Vet  
Individuals for Justice <http://individualsforjustice.com>  
Proud member of Oregon Progressive Party, <http://propparty.org/>

War is failure, occupation a disgrace!

Ã¢â€ŒFunding these wars is killing our troopsÃ¢â€Œ  
<http://www.mfso.org/>

\* Why laughter?? Because without it I would have gone insane years ago.

An ounce of practice is worth more than tons of preaching.  
Mohandas Gandhi

Molly Ivins, "It's like, duh. Just when you thought there wasn't a dime's worth of difference between the two parties, the Republicans go and prove you're wrong."

"I have no country to fight for; my country is the earth,  
and I am a citizen of the world."  
Eugene V. Debs

"So keep fighting for freedom and justice, beloveds..." -- Molly Ivins

**PROVIDE AFFORDABLE HOUSING THROUGH AN INCLUSIONARY HOUSING PROGRAM**

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

✓ 1	Mike Kingoella	1925 SE REX STREET 97202	
2	<del>Brian Wilson</del>	<del>215 NW Park Ave Portland OR</del>	
✓ 3	Scott Kueny	"215 NW Park"	
✓ 4	Carol Chan	2788 SE 82nd Ave 97266	
✓ 5	Mychal Tetteh	757 NE Myrtle St 97211	
✓ 6	Shannon Sighlan	1435 NE 81st Ave Suite 100 97213	
✓ 7	Moel Mickelbey	1805 NE 2nd Ave 97212	
✓ 8	Bob Grossman	3224 NE 17th Ave 97212	
✓ 9	Ben Loson	328 SW Hamilton St 97239	
✓ 10	JUGA FISHER WILLIAMS	f SIERRA CLUB; SE ANKENY, Pld	
✓ 11	Frieda Christopher	13311 SE Sherman 97233	
12	<del>Margot Black</del>	Portland Tenants United	

PROVIDE AFFORDABLE HOUSING THROUGH AN INCLUSIONARY HOUSING PROGRAMIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)	ADDRESS AND ZIP CODE (Optional)	Email (Optional)
✓ 13 Lynn Hager	PTU	
✓ 14 Jeanne Favini	PTU	
✓ 15 Janice Partridge	PTU	
✓ 16 London Klauer	PTU	
✓ 17 Caron + Walter	PTU	
✓ 18 Jonathon Pulvers	97215	
✓ 19 Audrey Gnicth	97212	audreybcraig@gmail.com
✓ 20 HUY ONG	10304 NE HOLLADAY 97220	huy@opafpdx.org
✓ 21 Laura Golin o de Lavato	97201	laurag@nw-pilot-project.org
✓ 22 Andrew Riley	1000 Friends of OR	andrew@friends.org
✓ 23 Lauren Macbeth	ROSE Community Development	lauren@rosecdc.org
✓ 24 David Schoellhamer	Sellwood-Moreland SMILE NA	

PROVIDE AFFORDABLE HOUSING THROUGH AN INCLUSIONARY HOUSING PROGRAM

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

✓ 25 <del>Keith</del> Keith Milsark	Parvieu Christian Retirement Home	Kmilsark@parvieu retirement.com
✓ 26 NOEL JOHNSON	2455 N W Raleigh St. Portland	noelallenjohnson@yahoo.com
✓ 27 Tom DiChicra		Tom@Cairupacific.com
✓ 28 Bandanae Shrestha	7200 SE Sunnyvale Blvd Suite 410 Clackam	bshrestha@aarp.org
29 Di. Sonnette M-Thompson		diSonnettemt@joinpdx.org
✓ 30 Michael Buonoore		
✓ 31 Tram Hoang		
✓ 32 Allan Lazo		alazo@theo.org
✓ 33 Tom Gihring	3116 NE 9th Ave 97212	tasgian@gmail.com
✓ 34 Anira Streetar	Urban League of Portland	
35 <del>Inga Williams</del>	Sicra Club	
36 <del>Laura Lino de Latoro</del>	NE W Pilot Project	

1381 1382

9am 188162

Agenda Item ~~1379~~ and ~~1380~~

TESTIMONY

2:10 PM TIME CERTAIN

**PROVIDE AFFORDABLE HOUSING THROUGH AN INCLUSIONARY HOUSING PROGRAM**

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

37	<del>Alan Hippolito</del>	Verde	
✓38	JEFF BACHRACH (PSC)		
✓39	JOE CORTRIGHT		
✓40	BRIAN WILSON		
41	<del>Tom DiChiara</del>	Carm Pacific UC	
✓42	Stef Kondor	Central City Concern	
43	Lucas Grzybowski	97206	
✓44	Doug Klotz	1908 SE 35th Pl. 97214	dougorb@gmail.com
✓45	Tim O'Brien		tim@vaapdx.com
46	Sanaad Areen	1956 NE Tillamook St.	
✓47	Kurt Schultz		kurt5@serapdx.com
ref 48	Mark Edlen	Gerding Edlen	mark.edlen@gerdingedlen.com

Date 12-08-16 Gerald Deloney Coalition C @

56

1381 1382

9am 188162

Agenda Item 1379 and 1380

TESTIMONY

2:10 PM TIME CERTAIN

PROVIDE AFFORDABLE HOUSING THROUGH AN INCLUSIONARY HOUSING PROGRAM

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

Cannot come back

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

✓ 49	Shannon Milliman	10215 SE Raymond St.	
✓ 50	Yesika Ale	5211 N Interstate	
✓ 51	Diane Lim	" "	
✓ 52	Madeline Kovacs	6325 N Albina #7 97217	
✓ 53	Brett Perry	1026 SE Stark St. Portland, OR 97214	
54	Wayne Wignes	111 W. Burnside	
✓ 55	Chuck White	111 SW Columbia St C 97232 1100 32	Cwhite@radlerwhite.com
56	<del>_____</del>	<del>2837 SE 61st Ave 97206</del>	
57	Katrina Holland	2710 NE 14th Ave 97212	
✓ 58	Evan Wellington	850 NE 81st Ave # 206 97213	
59	<del>Alan Hippold</del>	6899 NE Columbia Blvd Sucka 97218	
✓ 60	Jessica Rojas	4721 NE 2nd Portland OR 97211	jessica@necoalition.org

**PROVIDE AFFORDABLE HOUSING THROUGH AN INCLUSIONARY HOUSING PROGRAM**

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)	ADDRESS AND ZIP CODE (Optional)	Email (Optional)
✓ 61 Stephen Lang	301 Sw. Lincoln #405 Portland, OR 97201	slangpdx@gmail.com
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**Testimony before the Portland City Council re: Proposed Inclusionary Housing Ordinance**

Dec. 8, 2016

Prepared by George Galster, PhD, Hilberry Professor of Urban Affairs & Distinguished Professor, Dept. of Urban Studies & Planning, Wayne State University, Detroit, MI 48202  
Residence: 1130 NW 12<sup>th</sup>, unit #520, Portland, OR 97209

Members of Council:

It is an honor and privilege to participate in the discussions of this important proposed ordinance, which I believe will positively affect my new hometown for generations. Based on my over 40 years of analyzing metropolitan housing markets and reviewing the scholarly research rigorously investigating the effects of inclusionary housing policies, I strongly endorse the proposed ordinance.

Inclusionary housing ordinances were first enacted in the U.S. 40 years ago, and since have widely proliferated in both geography and programmatic specifics. They are now in operation in hundreds of cities and counties across US (Schuetz, Meltzer and Been, 2009), including fast-growing, "Portland-sized" places like Denver and Minneapolis, (See table below for comparison of ordinances). Despite its longstanding track record and considerable number of scholarly evaluations, the debate over inclusionary housing here in Portland has been shrouded in half-truths and myths [some advanced by self-appointed "experts" who have purported to summarize scholarly research but in fact have misrepresented these findings]. I know that some people believe that there are no such things as "facts" anymore; I strongly dispute that. On the contrary, respected researchers whose methods have passed exacting peer-reviews have come to a consensus about what inclusionary housing ordinances such as the one being considered in Portland will do. That is, they; (1) increase the supply of housing affordable to moderate-income households; (2) they do not reduce the rate of new housing construction; (3) they do not raise overall housing prices, only perhaps in the luxury submarket.

My task this morning is to explain briefly why researchers have come to these conclusions. I shall proceed by debunking four myths that keep cropping up in the discussion over the proposed

ordinance. Perhaps some think that by repeating them loudly and often enough these myths will acquire the veneer of truth...

**Myth #1. Inclusionary housing will slow the production of housing.**

This could only occur if the proposed ordinance made developing housing absolutely UN-profitable (not simply LESS profitable). Even with the ordinance developers will make handsome profits because: (1) demand for luxury housing is growing so quickly that developers can't keep pace as it is; (2) they can raise prices for their luxury customers; and (3) they will receive a variety of financial incentives from the city.

Research shows that there is virtually no impact on total housing production with the sort of inclusionary housing policy Portland is proposing: mandatory but with strong financial incentives (Bento et al., 2009; Mukhija et al, 2010; Schuetz et al, 2011). Why? Developers as a rule are neither timid nor stupid—they'll read the regulations and quickly figure out a way to tweak their projects to still make a lot of money. And if for some reason the development community in Portland proves me wrong in my generalizations, I am confident that many developers from around the country who are experienced with inclusionary housing will come into Portland and eat their lunch.

**Myth #2. Inclusionary housing will slow the filtering down of housing to moderate-income households & thus hurt them.**

Just the opposite is likely. This myth is based on the fiction that we are building housing faster than the number of households is growing, whereupon an excess supply of newly built luxury housing will allow some Portlanders to move up from their middle-quality housing, thereby allowing their former house to filter down to others who are less well-off. Unfortunately for this myth, for the foreseeable future there is no chance that construction at the luxury end of the market will exceed demand and thus there won't be any filtering down of dwellings. By contrast, the inclusionary housing ordinance will provide moderate-income dwellings directly, not waiting for filtering to come into play in the distant future.

**Myth #3. Inclusionary housing will raise housing prices overall.** Not surprisingly, with little impact on production there will be little impact on housing prices overall. However, research has shown that if there is an overall price impact (Schuetz et al., 2011) it is due to increases in prices for luxury dwellings (as developers pass on some of their costs to their higher-income customers); there are decreases in prices for moderate- and lower-ends of the market (Bento et al., 2009).

**Myth #4. Inclusionary housing will generate few affordable units.** Few compared to what? Right now the construction of buildings with over 20 units in Portland is generating NO affordable housing. Certainly this ordinance is not a panacea for Portland's housing affordability challenges, but it is an important component of the solution. Research shows that thousands of affordable dwellings have been created by inclusionary housing programs like the one proposed (both directly and indirectly through the investment of *in lieu* fees into subsidized developments) (Schuetz et al, 2009; Urban Institute, 2012; Dawkins et al., 2016).

So, when you “bust the myths” with hard-headed research, the conclusions are clear.

Inclusionary housing ordinances such as the one being considered in Portland will: (1) increase the supply of housing affordable to moderate-income households; (2) do not reduce the rate of new housing construction; and (3) do not raise overall housing prices, only perhaps in the luxury submarket.

But let's face it: like any public policy, inclusionary housing ordinances will produce both benefits and costs. I am confident that the benefits will far outweigh the costs...But of equal importance is WHO will reap the benefits and who will pay the costs. I think we all know who will bear the costs, as they are the ones opposing this ordinance: Developers and landowners (who will reap slightly lower profits) and higher-income households (who will face slightly higher housing prices). In fairness, all Portlanders will bear some of the costs through foregone property tax and fee revenues.

Who will be the beneficiaries of this ordinance? Moderate-income households who occupy newly built set aside affordable dwellings; lower-income households who occupy newly developed subsidized housing generated by *in lieu* fees paid by developers; all Portlanders who

believe that we should strive for more economic diversity in our neighborhoods and more affordable housing for the neediest citizens. (Research shows that inclusionary housing programs increase economic and/or racial diversity of neighborhoods; Kontocosta, 2014).

This is what a fair, progressive housing policy should do: ask the advantaged with the greatest ability to pay to bear most of the costs of a policy that primarily benefits the disadvantaged with less ability to pay. I support the proposed ordinance because the gains will outweigh the costs and the costs will primarily be borne by those who can most afford it. This inclusionary housing ordinance is no panacea for Portland's affordable housing challenges, but it is an important component that is both effective and equitable. I strongly urge its adoption by Council.

## References

- Bento, Antonio, Scott Lowe, Gerrit-Jan Knaap, and Arnab Chakraborty. "Housing Market Effects of Inclusionary Zoning." *Cityscape* 11, no. 2 (2009): 7–26. doi:10.2307/20868701.
- Dawkins, Casey, Jae Sik Jeon, and Gerrit-Jan Knaap. "Creating and Preserving Affordable Homeownership Opportunities: Does Inclusionary Zoning Make Sense?" *Journal of Planning Education and Research* (online 2016): doi: 10.1177/0739456X16659763.
- Kontokosta, Constantine E. "Mixed-Income Housing and Neighborhood Integration: Evidence from Inclusionary Zoning Programs." *Journal of Urban Affairs* 36, no. 4 (October 2014): 716–41. doi:10.1111/juaf.12068.
- Mukhija, Vinit, Lara Regus, Sara Slovin, and Ashok Das. "Can Inclusionary Zoning Be an Effective and Efficient Housing Policy? Evidence from Los Angeles and Orange Counties." *Journal of Urban Affairs* 32, no. 2 (May 2010): 229–52. doi:10.1111/j.1467-9906.2010.00495.x.
- Schuetz, Jenny, Rachel Meltzer, and Vicki Been. "Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets in the United States." *Urban Studies* 48, no. 2 (February 2011): 297–329. doi:10.1177/0042098009360683.
- Schuetz, Jenny, Rachel Meltzer, and Vicki Been. "31 Flavors of Inclusionary Zoning: Comparing Policies from San Francisco, Washington, DC, and Suburban Boston." *Journal of the American Planning Association* 75, no. 4 (2009): 441–56. doi:10.1080/01944360903146806.
- Urban Institute. *Expanding Housing Opportunities through Inclusionary Zoning: Lessons from Two Counties*. Washington, DC: US Department of Housing and Urban Development Office of Policy Development and Research (2012).

Table 1. Comparing recent inclusionary zoning ordinances in three cities: Denver, Minneapolis and Portland

	Denver	Minneapolis	Portland
Year enacted	1/1/2017 (goes into effect)	3/18/2016	?
Minimum threshold size of development	30 units	30 units	20 units
% set aside as Moderately Priced Dwelling Units	20%	20%	20%
Minimum affordability level of units	10% <80% of AMI; 10% <95% of AMI	<60% of AMI	20%<80% of AMI; or 10%<60% of AMI
Minimum period of affordability	15 years	15 years	99 years
Dedicated revenues	a) Affordable housing linkage fee revenue fund; b) Affordable housing property tax revenue fund	Affordable Housing Trust Fund (AHTF)	n/a
Additional developer incentives	a) Density bonus or premium; b) Parking reduction; c) Expedited processing	Density bonus	a) 10-yr property tax abatement (amount depending if FAR=5+); b) Density bonus or premium; c) Parking reduction; d) excise tax waiver
Option to pay in lieu of MPDU set asides?	Yes	No	Yes
If yes, cost of fee	Amount equal to percentage up to 100% of the price per MPDU, depending upon the statistical neighborhood category of need.	n/a	\$25-34 per gross square foot, depending on building category and zone
Other alternatives to building required affordable units (MPDUs)	Developers may: (a) Build fewer MPDUs at affordability levels lower than the AMI required; or (b) Build fewer MPDUs with more net bedrooms; or (c) Build fewer MPDUs for populations or special need or high priority of the director; or (d) Build fewer MPDUs for a longer control period; or (e) Build more rental MPDUs at the site	Exemptions may be requested on the basis of alternative public purpose	

Source: Ordinances reviewed by author and Katrina Rinehart, MUP, Wayne State University

December 13, 2016

Seth J. King  
sking@perkinscoie.com  
D. +1.503.727.2024  
F. +1.503.346.2024**VIA HAND DELIVERY**Mayor Charlie Hales  
Portland City Council  
1221 SW 4th Avenue, Room 130  
Portland, OR 97204**Re: Oregon LOCUS Comments on Inclusionary Housing Program, City Council  
Agenda Items 1381 and 1382**

Dear Mayor Hales and Members of the Portland City Council:

We submit this letter on behalf of Oregon LOCUS ("LOCUS"), a local smart growth advocacy organization whose members include housing developers responsible for much of the multi-family housing development in Portland during the past decade. Please include a copy of this letter in the record for this matter and please consider it before making a decision on the inclusionary housing program.

LOCUS has worked at length with the Portland Housing Bureau ("PHB"), Bureau of Development Services ("BDS"), Council Members, and staff to craft an inclusionary housing proposal that supports growth of the housing supply (both affordable and market rate units). Unfortunately, LOCUS does not believe that the current proposal will support this objective. Council Item 1382 (the "PHB Ordinance"), which proposes changes to Portland City Code ("PCC") Titles 3 and 30 and proposes a new administrative rule (the "Administrative Rule") to implement the Inclusionary Housing ("IH") Program, and Council Item 1381 (the "BDS Ordinance"), which proposes changes to PCC Title 33, appear to be inconsistent with statutory requirements for inclusionary zoning, the City's Charter, and other requirements of state law. LOCUS requests that the City Council refrain from taking action on the IH Program until it addresses these deficiencies.

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**I. The City's proposal violates state law for two alternative reasons.**

The City's proposal is deficient because it violates state law in one of two alternative ways: (1) it proposes to "adopt" a portion of the IH Program in an ordinance that is not a land use regulation, which is not allowed by SB 1533 (2016) ("SB 1533), the state law from which the City derives its authority to require inclusionary housing; or (2) the City's is adopting all of its IH Program in land use regulations but has failed to process one of its program ordinances (the PHB Ordinance) as a land use regulation by not providing notice of this ordinance to the Department of Land Conservation and Development ("DLCD") and not conducting a hearing for this ordinance before the Planning and Sustainability Commission.

First, the City's proposal is inconsistent with SB 1533, which only authorizes the City to require inclusionary housing if it "adopt[s] a land use regulation or functional plan provision, or impose[s] [] a condition for approving a permit." SB 1533, Section 1(4). Further, the adopted or imposed land use regulation, functional plan provision, or condition of permit approval must meet certain substantive requirements, including that it offer developers a menu of incentives in exchange for providing inclusionary housing. SB 1533 1(5). Finally, the adopted or imposed land use regulation, functional plan provision, or condition of permit approval may include additional incentives. SB 1533 1(6). SB 1533 does not allow a city or county to adopt another type of law, such as a non-land use regulation, to require inclusionary housing. SB 1533 also does not allow a city or county to adopt another type of law, such as a non-land use regulation, to include the incentive programs. Yet, that is exactly what the City is proposing to do.

The City is proposing to adopt its IH Program in two separate and independent ordinances, which together, appear to "adopt" the City's inclusionary housing requirements; however, according to the City, only one of these ordinances is a land use regulation as required by SB 1533. The first ordinance, the BDS Ordinance, would amend PCC Title 33 by identifying which development projects trigger inclusionary housing and how much inclusionary housing must be provided. The BDS Ordinance is clearly a land use regulation, and the City appears, to date, to have provided timely notice and hearings of the BDS Ordinance consistent with state law requirements. The second ordinance, the PHB Ordinance, would amend PCC Titles 3 and 30 and the City's

Mayor Charlie Hales  
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administrative rules by establishing the incentives identified in SB 1533. Although SB 1533 requires that a city only “adopt” inclusionary housing requirements in a land use regulation, the PHB Ordinance is not a land use regulation, at least not according to the City, which has not processed the PHB Ordinance as such. For example, unlike the BDS Ordinance, the City did not provide advance notice of the PHB Ordinance to DLCD, and the City did not conduct a hearing for the PHB Ordinance before the Planning and Sustainability Commission. To the extent the PHB Ordinance is not a land use regulation, the City may not require and regulate inclusionary housing by “adopting” the PHB Ordinance. See SB 1533, Section 1(4).

Alternatively, the PHB Ordinance is a land use regulation as required by SB 1533, but the City has still violated state law by failing to provide adequate notice and hearings for the PHB Ordinance. The City’s errors include at least the failure to provide 35 days’ advance notice to DLCD of the PHB Ordinance, as required by ORS 197.610 and OAR 660-018-0020(1) and the failure to conduct noticed hearings on the PHB Ordinance before the Planning and Sustainability Commission as required by PCC 33.740. The failure to conduct adequate hearings before the PSC is a procedural error that prejudices the substantial rights of LOCUS because it deprives LOCUS of the opportunity to prepare and present its case. The failure to provide timely notice of the PHB Ordinance to DLCD also deprives DLCD and the general public of notice and an opportunity to participate; this failure is not simply a procedural error but is a substantive one that will lead to remand of the PHB Ordinance, regardless of whether the failure to provide notice causes prejudice. *Oregon City Leasing, Inc. v. Columbia County*, 121 Or App 173, 177, 854 P2d 495 (1993).

The concern in having the program adopted in two separate ordinances is not merely a legal technicality either; it is a practical one: The City’s separate ordinances are not even compatible. For example, the BDS Ordinance requires inclusionary housing for all multi-family projects that meet certain characteristics. See draft PCC 33.245.020. Meanwhile, the PHB Ordinance provides that, if particular incentives are not available, a multi-family project that meets those same characteristics is not required to provide inclusionary housing. See draft PCC 30.01.120.F. However, the BDS Ordinance does not provide for the exception identified in the PHB Ordinance. Therefore, at least according to the BDS Ordinance, inclusionary housing is required regardless of whether the City’s incentives

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are available, yet another violation of the plain language of SB 1533. Additional examples of the inconsistencies between the two ordinances are identified later in this letter.

For these reasons, the City Council should delay the proceedings until the City corrects the errors and incompatibilities between the City's proposal and state law and until the City corrects the inconsistencies between the ordinances themselves.

## **II. The PHB Ordinance Exceeds the City's Authority Under SB 1533.**

As explained above, the City's authority to enact an inclusionary housing program is derived from SB 1533. This state law limits a city to requiring affordable units only in "multifamily structures" that contain more 20 or more new units (either as part of a new development or a renovation). See SB 1533, Section 1(4), (5). Section 1(1)(b) defines "multifamily structure" as a "structure that contains three or more housing units sharing at least one wall, floor, or ceiling surface in common with another unit within the same structure."

The City's IH Program exceeds this authority and states that inclusionary housing is triggered by "both new and renovation *developments* proposing 20 or more new units." See Administrative Rule, Section IV. "Development" is not defined by the Administrative Rule or by Title 30. The definition of "development" in Title 33 includes "all improvements on a site" and is much broader than the definition of "building." For example, it would appear to include projects that include 20 or more units in multiple structures. As a result, this aspect of the City's IH Program exceeds the authority of SB 1533 and therefore is not allowed. If the City Council decides to approve the IH Program, it should correct this error first.

## **III. The PHB Ordinance Violates State and Local Goal Post Rules.**

ORS 227.178 (known as the "goal post rule") requires a city to review an application for a permit, limited land use review or land use review based against the standards and criteria in effect on the date of application, as long as the application becomes complete within 180 days thereafter. PCC 33.700.080 includes a similar requirement and provides

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that an application for a building permit, where no land use review is required, is subject to the regulations in place on the date a complete building permit application is filed.

Section 2 of the PHB Ordinance provides that “the requirements and incentives applicable to the Inclusionary Housing Program shall apply to building permit applications submitted to the Bureau of Development Services and deemed vested on and after February 1, 2017.” The PHB Ordinance and City Code do not define “vested.”

The language of Section 2 creates two issues. First, application of the IH Program to a building permit that is submitted after February 1, 2017, but for which a land use review was submitted prior to February 1, would appear to violate ORS 227.178. *See, e.g., Gagnier v. City of Gladstone*, 38 Or LUBA 858 (2000) (city may not, consistent with ORS 227.178, apply one set of standards to the discretionary approval of a proposed development of land and apply an amended standard to deny a building permit to construct the development in accordance with the discretionary permit). Second, the requirement that a building permit be “vested” on February 1, 2017 appears to be inconsistent with the PCC 33.700.080 requirement that it simply be “filed.” To address this issue, the City Council should strike the “vested” language from the PHB Ordinance.

#### **IV. As Drafted, the Administrative Rule is an Improper Delegation of the City Council’s Legislative Authority to PHB.**

##### **A. This Unlawful Delegation Violates the City Charter and City Policy.**

Portland’s City Charter imposes a legislative non-delegation requirement, whereby the City Council must perform legislative functions, rather than delegating these to subordinate officers, boards or commissions.<sup>1</sup> This non-delegation requirement is common and is also a requirement for the state legislature’s delegation of powers to state administrative agencies. Case law provides guidance on proper and improper delegation of legislative authority: Oregon courts have found that “the test for determining whether a particular enactment is an unlawful delegation of legislative authority or a lawful delegation of fact-finding power is whether the enactment is

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<sup>1</sup> See Portland City Charter Section 2-104, allowing “only non-legislative duties or powers” to be delegated to subordinates.

Mayor Charlie Hales  
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complete when it leaves the legislative halls. A legislative enactment is complete if it contains a full expression of legislative policy and sufficient procedural safeguards to protect against arbitrary application.”<sup>2</sup> The Oregon Supreme Court recently decided that a delegation is permissible only when the legislature sets “clear standards” for the agency’s exercise of power.<sup>3</sup>

Substantial parts of the Administrative Rule, in its current form, contain no such clear standards, and are thus unlawful delegations to PHB of City Council’s legislative powers. Item G of the Title 30 Amendments, however, states that “PHB may adopt, amend and repeal Administrative Rules” and specifies that “the Director of PHB or a designee has authority to make changes to the Administrative Rules as is necessary to meet current program requirements.” Nowhere in this authorization is City Council approval required. The Administrative Rule, as drafted, makes many legislative policy choices that are not guided by clear standards in the City Code, under either Title 33 or Title 30. Under other programs, these same types of standards do appear in Code language, where changes would require the approval of the City Council through a public process. Because changes to the Administrative Rule will not require City Council approval, the PHB Ordinance would improperly delegate the City Council’s legislative powers to the PHB. In addition to violating the City Charter as described above, placing so much of the IH Program within an Administrative Rule offends established Portland policy and values and runs perpendicular to Portland’s commitment to public involvement in government processes.

Portland’s Public Involvement Principles emphasize that “government works best when community members and government work together as partners,” that “Community members have a right to be involved in decisions that affect them,” that “Public involvement” integrally relates to “concept development, design, and implementation

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<sup>2</sup> *City of Damascus v. Brown*, 266 Or App 416, 337 P 3d 1019 (2014).

<sup>3</sup> The Oregon Supreme Court, applying these rules, recently approved the state legislature’s delegation to an agency of the power to classify “dangerous drugs,” which the legislature clarified were: “Any substance which the [agency] finds as substantially affecting or altering consciousness, the ability to think, critical judgment, motivation, psychomotor coordination or sensory perception, and having potential for abuse when used without medical supervision.” *State v. Sargent*, 252 Or 579, 581-2, 449 P 2d 845 (1969). The Oregon Supreme Court concluded that the legislature’s delegation was of fact finding and not legislative power because it set for the agency clear standards to determine what is a “dangerous drug.”

of city policies,” and that “Public decision-making processes” should be accessible, open, honest, understandable, and transparent.” These principles are a “road map” to “establishing consistent, effective and high quality public involvement across Portland’s City government.”

In its current form, the IH Program allows an unelected government agency to make and alter at will, and without advance notice or public hearings, the City’s policy on an issue of immense public importance. To rectify this issue, the City Council should place all of the IH Program policies, which are required to be enacted as a land use regulation for the reasons explained earlier in this letter, within PCC Title 33.

**B. Specific Deficiencies with the City Council’s Delegation to PHB.**

We have identified the following key deficiencies in the City Council’s delegation of its legislative authority to PHB under the proposed Administrative Rule.

**1. IH Program Compliance Options.**

The Administrative Rule contains almost the full legislative policy for three of five compliance options the City plans to offer under the IH Program: Fee-in-lieu (“FIL,” which is required under SB 1533), Build Off-Site (“BOS”), and Designate Existing Units (“DEU”). The FIL and BOS programs receive a cursory mention in Title 33, but Title 33 does not set the level of the FIL, which is crucial to determining feasibility for a development. The BOS program in Title 33 is different from the Administrative Rule program, and requires 10% of units affordable to 60% MFI or 20% of units affordable to 80% MFI to be built off-site. Proposed PCC Section 33.245.040.A.2. The Administrative Rule directly contradicts this with different requirements for the BOS option. See Administrative Rule Section IV.A.3. Title 30 also mentions the FIL, BOS and DEU options, but merely states that the FIL and DEU options do not qualify for financial incentives but the BOS option does receive some incentives. Proposed PCC Section 30.01.120.D.3-5. Furthermore, the DEU option is not specifically authorized by Title 30 or Title 33, but is nonetheless included in the Administrative Rule as a compliance option. Titles 30 and 33 do not provide direction regarding the level of the FIL, which, as the Planning and Sustainability Commission Recommendation makes clear, could substantially alter the

Mayor Charlie Hales  
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success of the IH program in the face of market uncertainty. There are no clear standards from the City Council regarding how this fee should be set.

## **2. Remedies.**

Title 30 and 33 also provide no standards for demonstrating compliance with the IH Program and remedies for non-compliance. These policies are recited only within the Administrative Rule and are subject to change without City Council approval.

## **3. Vacancies and Incomes Rising In Place.**

The Administrative Rule provides the only standards regarding tenant incomes rising in place and the policy decision to allow tenants whose incomes exceed the affordability thresholds to remain in their units until their income reaches a certain level. There are no City Council-approved standards to guide PHB's determination of the level of income rise that is acceptable or to require that this policy remain in place. This policy direction is critical, as PHB could determine that a high level of income rise is acceptable, thereby making fewer units available for those earning lower incomes, or could simply decide to evict all tenants whose incomes rise. As drafted, PHB's authority to revise the Administrative Rule would allow it to make these policy decisions without seeking authorization from the City Council.

Similarly, the Administrative Rule requires developers to "float" the affordability within a building to allow tenants whose income rises beyond the income thresholds to remain in units as market rate renters. See Administrative Rule Section VII.A.7. If an affordable unit is converted to market rent in this manner, another unit must become the affordable unit to take that unit's place. This policy also occurs only in the Administrative Rule and is not based on standards set forth in the PCC.

## **4. Utility Allowances.**

The Administrative Rule includes a requirement for utility allowances that further increases costs developers and owners must bear when including affordable units in a development. Neither Title 30 nor 33 set standards for allocating this cost to the owner or determine that this is consistent with City policy.

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## **5. For Sale Requirements.**

The Administrative Rule provides the only guidance regarding units that will be sold, rather than rented. It sets a price cap of 80% MFI or “50% of the market price of other units, as supported by a market comparison study.” This “study” option is a policy for which no guidance is provided in Titles 30 or 33. The requirements also give PHB a right of first refusal to purchase any IH Program unit that is offered for sale. This too is included in the Administrative Rule without policy direction from the City Council.

### **C. Placing Important Compliance Information in an Administrative Rule Creates Uncertainty.**

The Administrative Rule contains crucial program compliance policies, including the equivalency standards and requirements for building off-site or designating existing units. In order to determine if a housing development will be feasible, developers need to understand what regulations will apply to a project far in advance of the date construction begins. Under Title 33, applications for a land use review or building permit must be reviewed against the standards and criteria in place on the date of application. Changes to Title 33 require notice and public hearings, so a developer will generally understand if standards and criteria are proposed to change prior to purchasing land for a project. Changes to the City’s administrative rules, in contrast, do not require a public hearing, or even notice. The compliance options offered under the Administrative Rule are subject to change at any time and it is not clear when these rules will be “frozen in place” for a project in the pipeline. Placing so much of the substance of the IH Program in the Administrative Rule makes the Program less feasible for developers—and, as a result, the housing market as a whole—due to the added uncertainty.

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**V. Conclusion.**

In sum, we request that the City Council defer final action on the IH Program until the City addresses the legal deficiencies identified in this letter. Thank you for your courtesies.

Very truly yours,



Seth J. King

SJK:rsr

Doug Klotz  
1908 SE 35<sup>th</sup> Place  
Portland, OR 97214  
12-13-16

Comments on Inclusionary Housing Program

To : Mayor Hales and Commissioners:

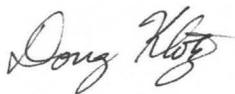
Inclusionary Housing regulations are an important part of a complete housing strategy for Portland. We need this proposal, but we need to also make sure it does not slow down the production of all multifamily housing in the neighborhoods. I trust that the incentives and requirements in the current proposal are well balanced.

One key component is the removal of parking requirements for all units in Mixed Use areas, not just for the Affordable Units. The bar graph on Slide 12, labeled Mixed Use Zones Feasibility, shows how the Residual Land Value drops from \$70 to \$40 when the regulations are changed, but is "made whole" again when the removal of parking requirements is calculated in.

I would like to point out what I fear will be an unintended consequence of these regulations. From Feb. 1, 2017 until Jan. 1, 2018, builders will get a bump in FAR for buildings in the CS and CM zones, from 3:1 FAR to 4:1 FAR. Yet, there is no height increase. So, especially on interior lots, there will be no place to put the bonus FAR. It would be wiser for many builders to wait until Jan. 2018, when an extra story is allowed in CM-2 and CM-3 to go along with the increased FAR. We may get very few permit applications in this next year.

I'm also concerned that the IH requirements will stop the sort of development that has been increasing, which is, 4-story buildings on 50 x 100 commercial lots. While these are often in the 20-unit range, we may get zero applications in the future. It may not pencil out to administer 2 or 3 units in a 20-unit building. It makes sense to allow the 19-unit buildings on such small lots, without the IH uptake, and increase the FAR to 4:1 regardless on 5000 sf or smaller sites. Otherwise, we not only won't get the IH units, we may get no units at all.

I thank staff for all the work in crafting this proposal.



Doug Klotz

December 12, 2016

Mayor Hales  
Commissioner Saltzman  
Commissioner Fish  
Commissioner Fritz  
Commissioner Novick

RE: Inclusionary Housing (IH) Zoning Code Project

Mayor Hales and City Commissioners:

In the City Council IH work session, Commissioner Fish asked two questions of clarity from The Portland Planning and Sustainability Commission (PSC): 1) was the PSC making a yes or a no recommendation, and 2) of the nine recommendations in our letter, what would be the highest priorities.

To answer Commissioner Fish's first question - the PSC fully supports implementing IH to promote the production of affordable housing but did not support the program that The Portland Housing Bureau (PHB) put before the PSC.

The PHB stated that their proposal was the result of a data-driven discussion, yet our letter reflects the struggle that the PSC had in getting the data requested to answer our questions. At the conclusion of our hearing on October 25, we had multiple requests for further information including:

- Analysis on the differences between Locus and DRA's models – not provided
- Analysis comparing other IH programs to the proposed program – not provided
- Analysis that includes the cumulative effect of current zoning changes – not provided
- Analysis on the total cost of the program to other programs and City budgets – not provided
- Analysis on calibrating the "sweet spot" for the feasibility gap – meaning what inclusion rate and incentive package provide the most units.

Due to lack of data provided, The PSC chose to recommend proceeding with an IH policy and provided nine recommendations on changing the proposed program in the hope that by the time the program was presented to City Council, the answers to our questions could be addressed so that Council could make an informed decision.

To answer Commissioner Fish's second question – of our nine recommendations, which would we prioritize as most critical:

- 1) Calibration.

All of the research agrees that calibration is critical to the success of the program. To quote the Lincoln Institute of Land Policy, "Inclusionary programs need to be designed with care to ensure that their requirements are economically feasible. While developers are not able to pass on the cost of compliance to tenants and homebuyers, there is some risk that poorly designed

inclusionary requirements could slow the rate of building and ultimately lead to higher housing costs.”

The PSC recommended a full inclusion rate as long as incentives were increased. The latest proposal by PHB did not increase the incentives, therefore, the PSC recommends lowering the inclusion rate in all zones to reduce the feasibility gap as appropriate for the different areas of the City.

2) Lower the fee-in-lieu.

The PSC recognized the fee-in-lieu option as a critical relief valve for when the program is out of calibration with the financial feasibility of projects. The fee-in-lieu schedule as proposed by PHB is set too high and should be lowered to an amount higher than the cost of providing units on site, but not so high as to be punitive.

3) Require annual monitoring and reporting to both the PSC and City Council.

Additionally, the PSC was concerned that the program depends on resources that are not certain to be reliably available, are provided at the expense to other programs, and that the City carefully calibrate the program to not offer more financial incentives than is necessary to offset costs.

The PSC highly recommends that you take the time to get all of the data necessary to make a thoughtful decision on a well-crafted and calibrated program.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Schultz". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Katherine Schultz  
Chair

Good Morning Mayor Hales and City Council members.

My Name is Sam Rodriguez. My address is 220 NW 2<sup>nd</sup> Ave Portland and I am the Senior Managing Director for Mill Creek Residential in Portland.

I will like to make it clear that we are in support of a successful Inclusionary Housing program. However, I do not believe that the program as drafted will achieve the intended outcome.

The incentive package proposed in the program is going to stifle development and hence is going to result, at best, in limited housing production in the city.

The success of the program can only be measured in homes delivered and we will all be very disappointed when we get 20% of Zero.

I know that the generally speaking people believe developers are disingenuous. That we are trying to get a better Deal! That we are trying to scare people with claims that building will stop and housing will be even more expensive. But that is currently the most probable outcome.

What nobody seems to see is that we are a vehicle for investment. That Investment Capital is fungible and will seek risk adjusted returns wherever it can find it. Ask the city's pension managers and they will confirm that accretion.

We are a part of this community and as such we recognize we have a responsibility to make sure our city is healthy, with a thriving development and construction industry that will provide jobs and opportunities for our citizens. This program is not well calibrated and is not ready to be rolled out. Portland has been a leader in Urban Planning, Environmental policy and Social Equity with many successful programs implemented and this one, as proposed, will not be one of them. We have an opportunity to show leadership and craft a program that can be truly a Public / Private effort and partnership. We can put together a policy that balances housing production and affordability and can be an example to other cities. The development community has been and will be at the table with an open mind and ready to share the economics of our work to generate the best outcome for all.

Thank you

Sam Romaine  




Testimony to the Portland City Council  
 Provided by Grant Fournier  
 Member, SEIU Local49  
 3536 SE 26th Ave  
 Portland, OR 97202

Re: Support for the Inclusionary Housing Zoning Code Project, Recommended Draft

December 13, 2016

Good morning Mayor Hales and Commissioners,

My name is Grant Fournier and I am a security officer at the Brewery Blocks and a proud member of the Service Employees International Union, Local 49. I am writing to you today to urge the council to adopt the recommended draft of the Inclusionary Housing Zoning Code.

There is just not enough affordable housing in Portland, and it's pushing workers out of the city and away from their jobs. I used to live in Portland but my wages could not keep up with my rent increases. Over the past six years my rent went up \$50 to a \$100 a month every year, while my wages only increased by \$0.20/hr. I've had to move to St. Helens because it is cheaper there. I'm able to save \$300 a month living so far from Portland, but my commute is now 45 minutes each way. As a result, I don't get to spend as much time with my kids.

Portland is becoming such a popular place to live, and I see new homes and apartment buildings going up all over town. But we need inclusionary zoning to make sure that some of this new housing is actually affordable for working families. Portland is a special place because of the wide variety of people who live here and it shouldn't become a place where only the very rich can afford housing.

In addition to protecting affordable housing, the City should also be doing everything it can to make sure the jobs created by all of this new construction are good jobs that pay a fair wage and provide important benefits for the workers that build, maintain, and protect these buildings. Even "affordable" housing can be out of reach if workers don't have good jobs. Developers and building owners can end up making a lot of money from these buildings, and the City should take every opportunity to insist that development contributes the maximum public benefit possible.

You have an opportunity now to help make Portland affordable for everyone, and I urge you to accept these recommendations on inclusionary zoning.

Thank you,  
 Grant Fournier

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Testimony to the Portland City Council  
 Provided by Felisa Hagins  
 Political Director SEIU, Local49  
 3536 SE 26th Ave  
 Portland, OR 97202

Re: Support for the Inclusionary Housing Zoning Code Project, Recommended Draft

December 13, 2016

Good afternoon Mayor Hales and Commissioners,

My name is Felisa Hagins and I am the Political Director for the Service Employees International Union, Local 49. SEIU Local 49 is an 11,000+ healthcare and property service member union. Combined with our brothers and sisters at SEIU Local 503, SEIU is the largest union in the state representing over 65,000 public and private sector workers throughout Oregon and Southwest Washington. Our mission as a union is to improve the quality of life for our members, their families, and dependents by achieving a higher standard of living, by elevating their social conditions, and by striving to create a more just society.

SEIU Local 49 has long been a champion of affordable housing in the Metro area, and to that end we actively participated in the coalition urging the legislature to end the ban on inclusionary zoning. On behalf of our members, I am here today to voice SEIU Local 49's strong support for the proposed resolution to adopt the Recommended Draft of the Inclusionary Housing Zoning Code Project.

Portland is experiencing a period of unprecedented growth, but our supply of affordable housing is nowhere near adequate to meet the rising demand. As a result, working families are being pushed to the margins – literally – as they are forced to move farther and farther from their jobs in the city core to find affordable housing. For many of our members, affordable housing in proximity to where they work is simply unattainable. This reality, combined with barriers to transportation and access to vital city and county services, give rise to a host of additional hardships disproportionately borne by working families.

Inclusionary zoning is an important tool that will help to ensure Portland remains welcoming and affordable for *all* of its residents. This Recommended Draft of the Inclusionary Housing Zoning Code will allow the city to capture a portion of the enormous value being generated by our construction boom for the benefit of working families.

I would like to remind the council, however, of the need to ensure the jobs created by this construction boom are good, quality jobs. There is a clear link between good jobs and the ability to afford adequate housing, and the workers who build, clean, and secure our City's

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buildings deserve a fair shot at participating in Portland's growth. Accordingly, we urge you to direct the Bureau of Planning and Sustainability to craft a requirement that transfers of Floor Area Ratio credits, after meeting the threshold 3:1 affordable housing bonus FAR, contribute a further public benefit such as paying sufficient compensation to the workers who maintain the development in order to ensure that these workers can afford adequate housing.

Real estate developers today are enjoying significant financial returns, and further analysis is needed to determine how to best capture the residual value of developments that pursue additional FAR. The details of an additional public benefit for transferred FAR should be addressed in the Central City Plan during the Planning and Sustainability Commission's work session in January.

With the City's current development momentum, the time is now to consider new ways for the City's code to incentivize affordable housing and community benefits. I urge the Council to accept the Recommended Draft of the Inclusionary Housing Zoning Code, and to also pursue further analysis for determining how best to capture the residual value of additional FAR for the benefit of working families.

Thank you for the opportunity to testify. I would be happy to answer any questions.

Felisa Hagins  
Political Director SEIU, Local49

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## Testimony to Portland City Council on the Inclusionary Housing – Zoning Code Project, Amendments to Title 33

By Thomas Gihring, Common Ground – Oregon / Washington

### **Subject: The need for oversight tools to accompany Inclusionary Zoning Code provisions**

Portland's housing crisis is becoming more serious day-by-day. Now we need to design and implement every affordability tool that we can, and we must make those tools fair and effective. Inclusionary zoning is leveraging below market rate housing in other states, and it can function here too. To make the proposed code amendments work in Portland it is important that we build a consensus around a *quid pro quo* or "offsets" that returns a public benefit at a value equivalent to the incentives given to the owner-developers applying for the Inclusionary Housing Program. SB 1533 requires that financial incentives be offered to applicants obligated to include a quota of affordable units in their multifamily projects. Those incentives must be fair and equitable from the perspective of both owner-investors and the taxpaying public through whom appropriate city agencies bestow added value to the project owners. Not too minimal as to impose a burden on the owners, and not too excessive as to constitute a windfall at the city's and taxpayers' expense.

A public disclosure rule is the means to accomplish this. Any public provision of economic value by the city for purposes beneficial to the public, including cash payments, loans at below market interest rates, land or access to land at prices below fair market value, waiver or reduction of fees or taxes, is a subsidy requiring disclosure. This simply means that the details of the subsidy be publicly disclosed – the source of funds, and the costs & benefits of deals given to specific private entities. Providing the public with information on subsidy awards is clearly in the spirit of open government.

There is ample evidence of states enacting laws on subsidy disclosure. Findings suggest that subsidy disclosure is advancing in every region of the country, including 23 states that now publicly disclose company-specific subsidy data on incentives provided.<sup>[1]</sup> In our case, disclosure should not require a public records request; financial worksheets should be routinely accessible to all stakeholders including city bureau staff and the local housing community consisting of non-profit housing providers and affordable housing advocates.

The point I'm making here is the need for full disclosure of each proposed project's financials – cost figures, market rents, income projections, terms of subsidy (or incentive such as increased FAR) and the calculations that produce estimates of return on investment – that is the complete pro forma prepared by the project applicant, line-by-line. Pro forma spreadsheets should be standardized so that they are simple and user-friendly, and so the details can be checked and verified by stakeholder reviewers. The Portland Housing Bureau or BPS can be designated as the conduit in the disclosure process.

Why should full disclosure become a rule attached to the Zoning Code? The principle is this – If a public benefit is conferred upon a private party, the public has a right to know the value and nature of the assets being granted. Why should the housing community in particular have access to financial spreadsheets? Because public accountability calls for oversight. Overseeing the implementation of public policy is part of open government. It is certainly well established in the land use sphere. Watchdog agencies have been set up to monitor the implementation of the Growth Management Act to see that statewide goals are being met by local jurisdictions. What would our urban regions be like

without 1000 Friends of Oregon and Futurewise in Washington? You can bet we would be seeing more urban sprawl and depletion of natural resource lands. My organization, Common Ground, is also dedicated to the wise use of land through incentive property taxation <sup>[2]</sup>, and is furthermore committed to the prevention of windfall gains from land value increments.

In conclusion, we need an accompanying rule: first establishing the right of full disclosure of applicant financials, secondly setting up a process by which the financial worksheets of proposed projects are routinely channeled to and reviewed by a self-appointed group of citizen housing providers and advocates, with a feed-back loop to the appropriate city bureau.

[1] Philip Mattera, Karla Walter, Julie Farb Blain and Michelle Lee. The State Of State Disclosure: An Evaluation of Online Public Information About Economic Development Subsidies, Procurement Contracts and Lobbying Activities. November 2007 (Revised 11/19/07). Corporate Research Project of Good Jobs First, Washington, DC.

[2] NOTE: The latest Sightline newsletter commented on IZ programs, emphasizing the need to fairly compensate owner-developers with offsets. In accord with Common Ground's view, the writers favor land value taxation as a broad-based approach to advancing housing affordability. "An IZ program, absent sufficient offsets, acts like a targeted tax that penalizes conversion of existing uses to housing. In contrast, a land value tax penalizes landowners for *not* developing their properties to the highest and best use—the owner pays the same tax whether it's a trash-strewn vacant lot or a \$200 million glass tower. In fast-growing cities, the highest and best use is usually high-density multifamily housing, which is precisely what's most needed to correct for a housing shortage." Our studies show that indeed, it is multifamily sites that benefit most from this tax shift to land assessments.

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Tom Gihring, Ph.D.  
Director of Research

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# S·M·I·L·E

SELLWOOD MORELAND IMPROVEMENT LEAGUE  
8210 SE 13th AVENUE, PORTLAND, OR 97202  
STATION 503-234-3570 • CHURCH 503-233-1497

December 8, 2016

Portland City Council  
1221 SW 4<sup>th</sup> Ave. Room 130  
Portland, OR 97204  
Re: Inclusionary Housing

Honorable Mayor and City Commissioners:

The Sellwood Moreland Improvement League (SMILE) is submitting to you testimony on the Inclusionary Housing Zoning Code that we previously submitted to the Planning and Sustainability Commission. We ask that you eliminate options to move affordable housing out of our neighborhood, count affordable units in required car parking, and eliminate a temporary spike of FAR for EX zones in our neighborhood. Two updates are that we are now aware are that a fee in lieu option must be included and we believe that the newly proposed one-half mile limit for offsite transfers is a substantial improvement.

Sincerely,



Corinne Stefanick, President  
Sellwood-Moreland Improvement League

# S·M·I·L·E

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October 25, 2016

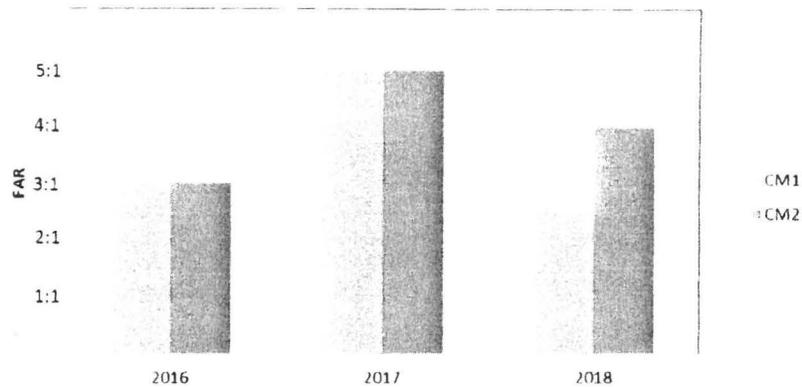
Portland Planning and Sustainability Commission  
Inclusionary Housing Testimony  
1900 SW 4th Ave., Suite 7100  
Portland OR 97201

Honorable Commissioners:

The Sellwood Moreland Improvement League (SMILE) is submitting the following testimony regarding the Inclusionary Housing Zoning Code Project Revised Proposed Draft Report.

- **Eliminate options to move affordable housing out of our neighborhood** (off site transfers out of neighborhood and payment to Affordable Housing Fund). A primary concern of our residents is the lack of affordability in our neighborhood and we want affordable housing available in our neighborhood. We were named the 'Hot Hood' in Portland recently by *Money Magazine* because of the phenomenal rate of housing units being built in our commercial corridors (1,210 units under construction, in permit review, or getting early assistance). We expect that developers will maximize the number of market rate apartments in our neighborhood and build affordable units elsewhere. The result would be that new mixed use buildings receive the affordable housing bonus and are just as tall and boxy as they are now and we not only have no affordable housing but our affordability decreases to pay for affordable housing elsewhere. The result would be that housing is not inclusionary, preventing a mixing of economic classes and equal access to amenities in this neighborhood.
- **Count affordable units in required car parking.** Both the SMILE Community Survey and the Residential Infill Project public survey showed that the lack of parking is a major concern of residents. The lack of parking is causing traffic safety problems and reducing the quality of life in many neighborhoods. Given the current minimal parking requirements for new multi-family housing projects, affordable housing units should not be excluded from parking requirements. Tenants of affordable units are likely to require car parking.
- **Eliminate temporary spike of FAR for EX zones in our neighborhood.** This proposal provides a floor area ratio bonus (FAR) of 5:1 for EX zones beginning in 2017 because most will become CM3 zones with a 5:1 bonus FAR in 2018. This is not the case in our neighborhood where EX zones will become CM1 or CM2 zones with bonus FAR of 2.5:1 and 4:1, respectively. This proposal would provide a

temporary density increase in our (and perhaps other) EX zones which now have a 3:1 FAR. To be compatible with future zoning, there should be no bonus FAR for EX properties that will become CM1 and for properties that will become CM2 the bonus FAR should be 4:1. Otherwise, this loophole would allow EX zoned properties in our neighborhood to have temporary CM3 zoning.



Existing (2016), proposed (2017), and future (2018) floor area ratio (FAR) for EX zoned properties that will be rezoned CM1 or CM2 in 2018. Includes proposed inclusionary housing bonus in 2017 and 2018.

This testimony was approved by the SMILE Board of Directors on October 19, 2016. Thank you for the opportunity to testify.

Sincerely,

Corinne Stefanick, President  
Sellwood-Moreland Improvement League