



Portland City Council  
1221 SW 4<sup>th</sup> Ave, Rm 130  
Portland, OR 97204

AUDITOR 02/25/14 PM 2:33  
*Testimony rec'd  
after hearing  
on Feb. 12, 2014 pu*

Regarding: The City's upcoming FAR negotiations  
concerning the Park Avenue West Tower

February 20, 2014

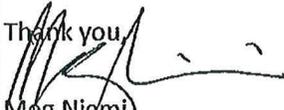
Dear Mayor and Commissioners,

On behalf of the 10,000 members of the Service Employees International Union, Local 49, I wish to reach out to address the upcoming negotiations between the City and TMT Development regarding the transfer of city-owned Floor Area Ratio credits to the Park Avenue West Tower. The FAR transfer as a real property matter is separate and distinct from the project's recently-approved design revision, LU 13-214772 DZ DZM MS AD.

As you may recall, during the February 12<sup>th</sup> Council hearing there was some discussion of the different levels of public participation afforded during a public land use hearing as opposed to the closed-door negotiations typically surrounding FAR transfers. In light of this, we ask that you provide a mechanism for public input as to how the City disposes of its FAR credits.

Using TMT's advertised leasing rates, we estimate the FAR credits at issue have the potential to bring in up to one million dollars per year in perpetuity. Proceeds from this property transaction will make a significant impact on the City's bottom line, and our union believes in exploring every opportunity to create good jobs and improve livability in our City. The negotiations surrounding this property transfer provide the City with another opportunity to ensure that all Portlanders experience the benefits of high-end downtown property development, and as such we request an avenue for public input.

We look forward to hearing from you as soon as possible on this important matter.

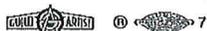
Thank you  
  
Meg Niemi  
President

Service Employees International Union, Local 49

Cc: Tracy Reeve, City Attorney

SERVICE EMPLOYEES  
INTERNATIONAL UNION  
LOCAL 49

3536 SE 26th Avenue  
Portland, OR 97202-2901  
503.236.4949  
Fax 503.238.6692  
Toll Free 800.955.3352  
Toll Free Fax 888.595.7979  
www.seiu49.org



Testimony Rec'd  
after hearing on  
Feb. 12, 2014 - *ju*

**Moore-Love, Karla**

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**From:** Commissioner Fritz  
**Sent:** Thursday, February 13, 2014 9:25 PM  
**To:** 'Benjamin Kerensa'  
**Cc:** Moore-Love, Karla  
**Subject:** RE: Park Avenue West Comments

Thank you for your comments. It is currently not legal for the Council to require affordable housing as part of a private development. I agree that a change in state law to allow inclusionary zoning would be good.

Amanda

Amanda Fritz

Commissioner, City of Portland

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**From:** Benjamin Kerensa [mailto:[bkerensa@gmail.com](mailto:bkerensa@gmail.com)]  
**Sent:** Tuesday, February 11, 2014 5:05 PM  
**To:** Novick, Steve; Commissioner Fritz; Commissioner Saltzman; Hales, Mayor; Commissioner Fish  
**Cc:** felisah@seiu49.org  
**Subject:** Park Avenue West Comments

Hello City Council,

I wanted to write to you as a constituent and share my support that Park Avenue West should include some affordable housing units. In my capacity as a board member of one of Portland's neighborhood associations I recently met with state legislators who shared their concerns that Portland has a major lack of affordable housing. While there are some great projects that have been underway like the new affordable housing on Glisan and 99th there is still a shortfall that's pushing more and more low and middle income households further east.

Some of the lawmakers we spoke with supported inclusionary zoning in Portland and it is my hope that the City Council will perhaps use any influence or power it has to try and push more and more residential projects under construction to include some affordable housing.

I have to say with rising utility rates (Garbage, Sewer/Water, Power) and rising property taxes and the new Arts tax it is putting a lot of pressure on property owners to raise rents to levels that many households are struggling to afford especially with growing inequality. I hope the City Council is mindful of the growing inequality in Portland and across the country whenever it makes decisions that could grow that gap.

Thanks for your time!

2/14/2014

Testimony rec'd after  
hearing on Feb. 12, 2014  
aw

**Moore-Love, Karla**

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**From:** Commissioner Fritz  
**Sent:** Thursday, February 13, 2014 9:23 PM  
**To:** Moore-Love, Karla  
**Subject:** FW: Park Ave West -2  
**Attachments:** parkavewest-2.docx

I did not read this before the hearing, but received it Tuesday so I am forwarding to the record.

Amanda

Amanda Fritz

Commissioner, City of Portland

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To help ensure equal access to City programs, services and activities, the City of Portland will reasonably modify policies/procedures and provide auxiliary aids/services to persons with disabilities. Call 503-823-2036, TTY 503-823-6868 with such requests or visit <http://www.portlandoregon.gov/bibs/article/454403>

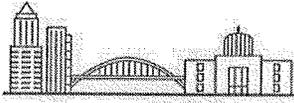
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**From:** John Mohlis [mailto:john\_mohlis@comcast.net]  
**Sent:** Tuesday, February 11, 2014 7:40 PM  
**To:** Hales, Mayor; Commissioner Fish; Commissioner Fritz; Novick, Steve; Commissioner Saltzman  
**Subject:** Park Ave West -2

Dear Mayor Hales and Commissioners, for your consideration, thanks very much.

John Mohlis  
Executive Secretary  
Oregon State Building and Construction Trades Council  
3535 SE 86<sup>th</sup> Ave.  
Portland, OR 97266  
O- 503.788.7153  
F- 503.774.2816  
C- 503.784.1566

2/14/2014



Oregon State  
Building and Construction  
Trades Council  
AFL-CIO



Dear Mayor Hales and Commissioners,

I am writing to you regarding the Park Avenue West project on behalf of our approximately 25,000 members. We sincerely hope the project will be allowed to proceed, and provide much needed employment for our journeymen and women, and apprentices.

In the spring of 2008, I had the good fortune to be part of the Portland Business Alliance's Trade Mission to China. One morning when we were on the bus headed to our morning destination, someone on the bus who was checking his e-mail said "Tom Moyer just shut down the Park Avenue West project". A collective groan went up on the bus, and I felt my stomach tighten. The US and world economies were spinning into an abyss, and no one could see the bottom.

We in the construction industry certainly found out. Our members have averaged unemployment rates of 35% from 2008-2013. Some of our members were out of work for more than a year. I personally know people that have lost everything they worked their entire lives to build up- their marriages, homes, life savings.

As I said, I certainly hope this project is allowed to proceed. It is providing much needed jobs not only for our members, but for architects and engineers, material suppliers, and the ripple effect is positively affecting many others. Our members just want the opportunity to go to work, earn their wages, spend their dollars in local businesses, pay their taxes, and support their families and communities.

Thank you in advance for your consideration. If you have any questions, please feel free to contact me.

Respectfully,

John Mohlis  
Executive Secretary

SEIU LOCAL 49 APPEAL

PARK AVE WEST TOWER 728 SW 9TH AVE LU 13-214772

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

**SUPPORT PROPOSAL**

*OPPOSE Appeal*

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ Bernice Bottomly	200 SW market, suite 150 97201	bbottomly@portlandalliance.com
<del>Adela Maria</del>		
✓ Willy Myers	3535 SE 86th	willy@cphct.com
<del>FRANK ARBOLE</del>	<del>24217 SE OAK ST</del>	<del>argu@ua290</del>
Bob Riehl	8031 SE Post Greenham	rriehl@smw16.org
<del>Darrett Hopkins</del>	<del>5032 SE 26th</del> 5032 SE 26th Portland Or.	darrellh@roadersunion local49.com

**OPPOSE**  
**PROPOSAL**

SUPPORT  
APPEAL  
SP.

SEIU LOCAL 49 APPEAL

PARK AVE WEST TOWER 728 SW 9<sup>TH</sup> AVE LU 13-214772

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

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ Adella Mazer	4725 W. Powell Blvd #107 Gresham 97030	
✓ Graciela Tellez	2020 SW 196 <sup>th</sup> Ave Beaverton 97006	
✓ Felisa Hagins	3536 SE 86 <sup>th</sup> Ave Portland OR 97207	felisah@seiu49.org
<del>W [scribble]</del>	<del>[scribble]</del>	



Testimony to Portland City Council  
Provided by Felisa Hagins  
Political Director SEIU 49  
3536 SE 26<sup>th</sup> Ave. PO

Regarding:  
Park Avenue West Tower, LU #13-214772 DZ/MS/AD

February 12, 2014

Mayor Hales and Councilors,

For the record, my name is Felisa Hagins and I am the Political Director for the Service Employees International Union Local 49. SEIU Local 49 is a 10,000+ healthcare and property service member union. Combined with our brothers and sisters at SEIU 503, SEIU is the largest union in the state representing over 65,000 public and private sector workers, most of whom live in the Metro Region in our state. 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 been engaged in this issue for many years, we joined coalition partners in encouraging more affordable housing options in the city's south waterfront district, we have been part of the coalition in the legislature to end the ban on inclusionary zoning, we opposed the ban on the real estate transfer tax, and we have been long-time supporters of community coalitions who fight for affordable housing and transportation in our Metro Region.

I am here today because the city has an opportunity to create a more just society and improve the lives of Oregonians' social condition by standing by the goals in of our land use system when it comes to affordable housing. I am here to urge the City Council to deny the Park Avenue West Tower redesign on the basis that it lacks affordable housing and contributes to the growing income divide in our city. That divide threatens the fabric of who we want to be as a city and state and the foundation of sustainability in our city.

**Service Employees  
International Union**

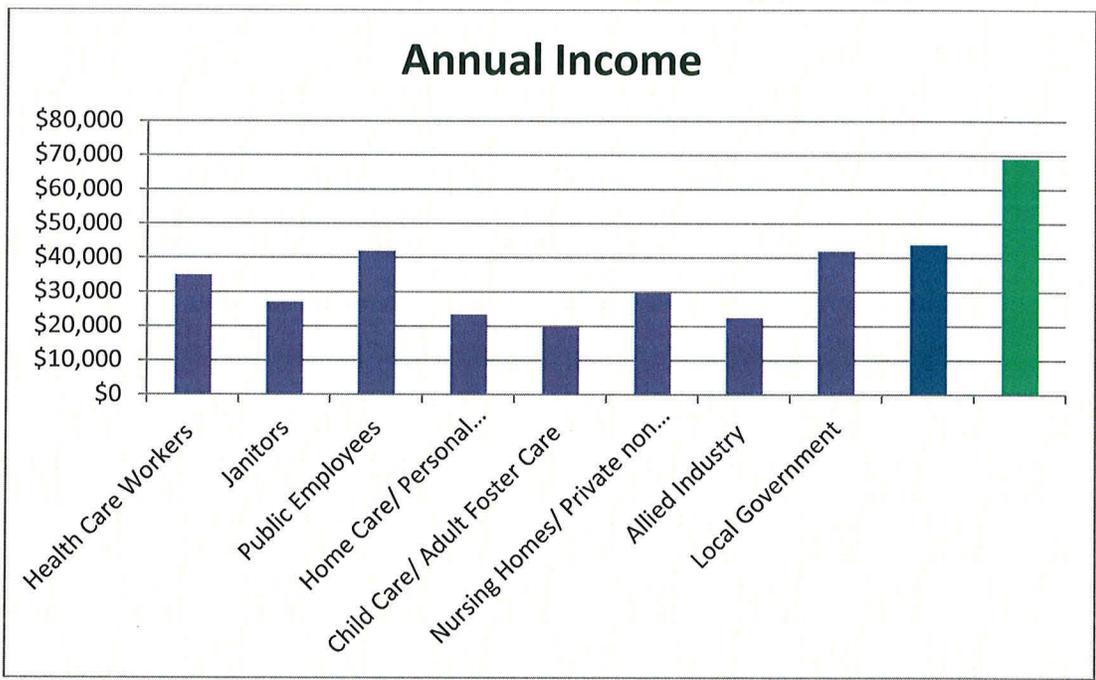
**SEIU 49**  
3536 SE 26<sup>th</sup> Ave.  
Portland, OR 97266

503-236-4949

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[www.seiu49.org](http://www.seiu49.org)  
Twitter: @seiu49

The average family in Oregon earns roughly \$43,091,<sup>1</sup> and rising housing costs are pushing these families farther and farther from the city core. To meet the goals that the state and city have laid out for families in Oregon to have affordable housing, food security, child care and basic needs with the ability to save, according to the Economic Policy Institute that wage would be roughly \$69,818 per year.<sup>2</sup> As you can see from the chart below most of SEIU 49 members and SEIU 503 members make far less than that \$69,818 and far less than the average yearly wage.

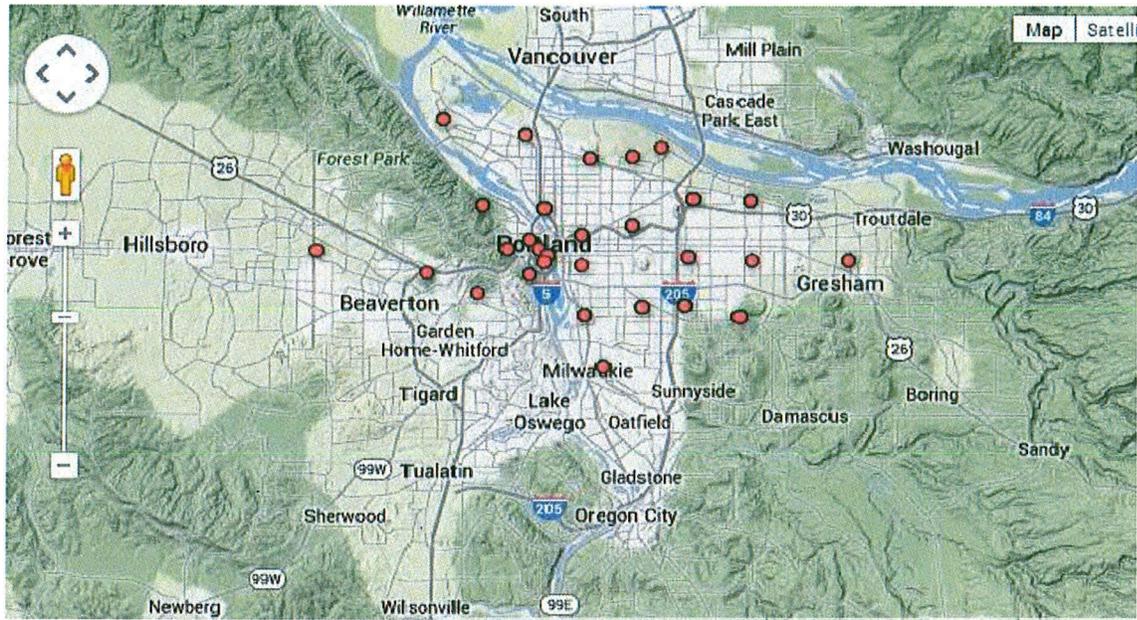


Using the voter file data we have been able to track the effects of this growing inequality. Our union has experienced this in our own membership. Every election I run voter registration data and analyze maps of where our members live, I have done this for the past ten years and have seen our member political outreach move from districts closer to the city core to what many Portlanders call “the numbers.” For many of our members, affordable housing in proximity to where they work is simply unattainable along with other barriers to transportation and access to key city and county services.

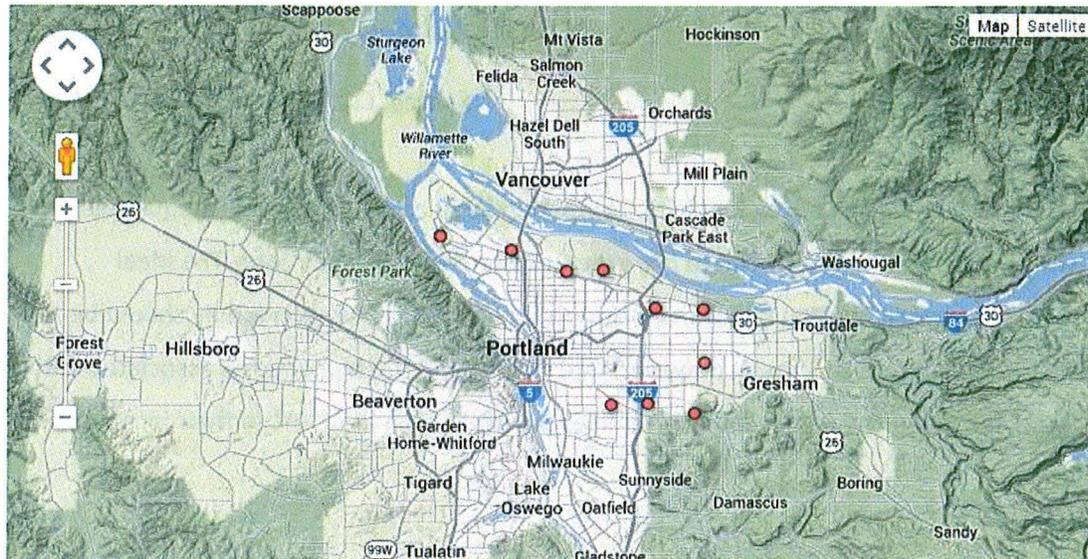
<sup>1</sup> Oregon Blue Book, *Oregon’s Economy: Wages*, available at <http://bluebook.state.or.us/facts/economy/wages.htm> (last accessed February 12, 2014).

<sup>2</sup> Economic Policy Institute’s “Family Budget Calculator” for the state of Oregon, available at <http://www.epi.org/resources/budget/> (last accessed February 12, 2014).

**Map of SEIU member jobsites:**

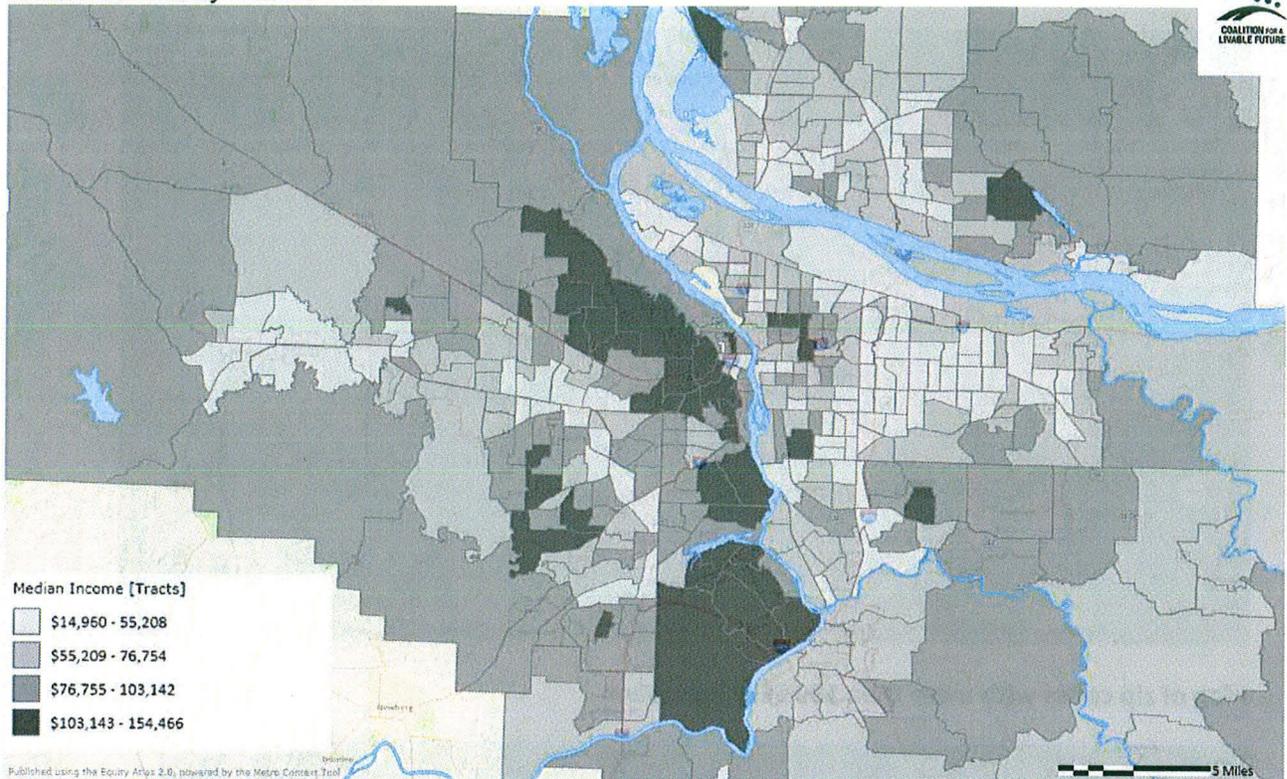


**Map of zip codes with more than 100 SEIU members:**



There are simply not enough affordable housing options within the Portland city core, and working families are increasingly bearing the burden of City development that favors the wealthy few. The Park Avenue West Tower as currently designed will not benefit the average Oregonian or our community as a whole; it is designed primarily to serve the needs of those in upper income brackets. It will draw a further divide in our city by not providing median income housing in the downtown core.

## Median Income by Census Tract



Source: Coalition for a Livable Future<sup>3</sup>

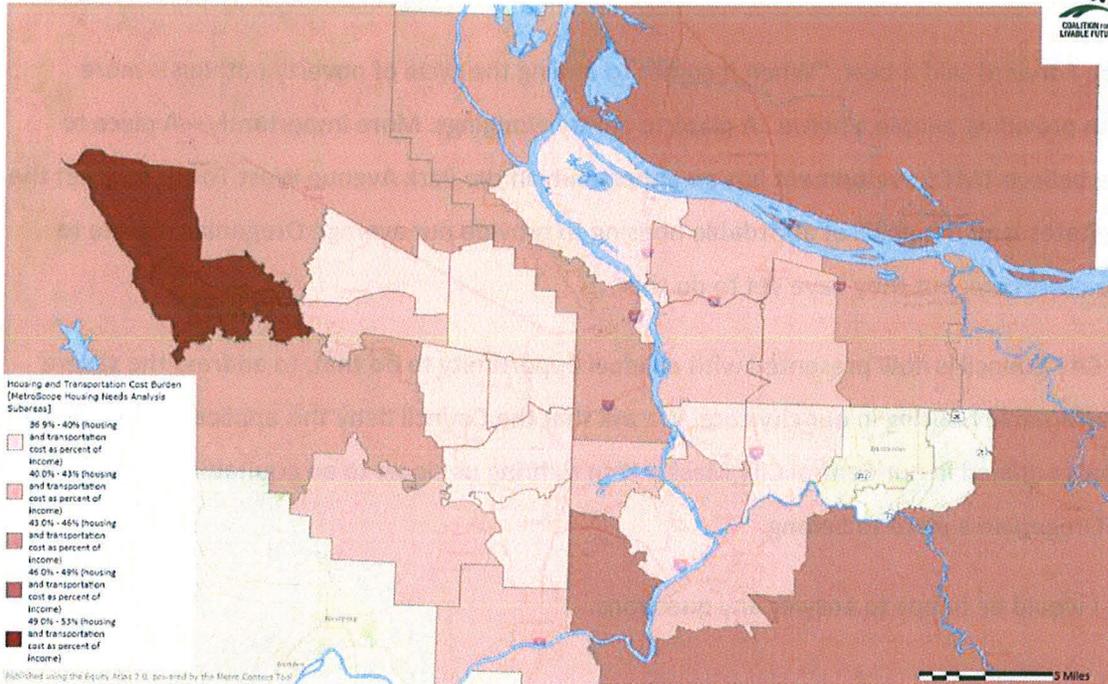
Compounding the challenges facing low-income working families are the deeply inequitable costs that arise when these families are forced to live greater distances from their jobs. The ideal distribution of expenses towards housing and transportation for an average Oregon family should be roughly 26% of income.<sup>4</sup> Studies have shown, however, that in Portland the higher costs associated with traveling longer distances to work result in working families paying as high as 52.2% of their income towards these costs.<sup>5</sup>

<sup>3</sup> Coalition for a Livable Future, "Median Income by Census Tract" map, available at <http://clfuture.org/atlas-maps-print-view/income> (last accessed February 12, 2014).

<sup>4</sup> Economic Policy Institute's "Family Budget Calculator" for the state of Oregon, available at <http://www.epi.org/resources/budget/> (last accessed February 12, 2014).

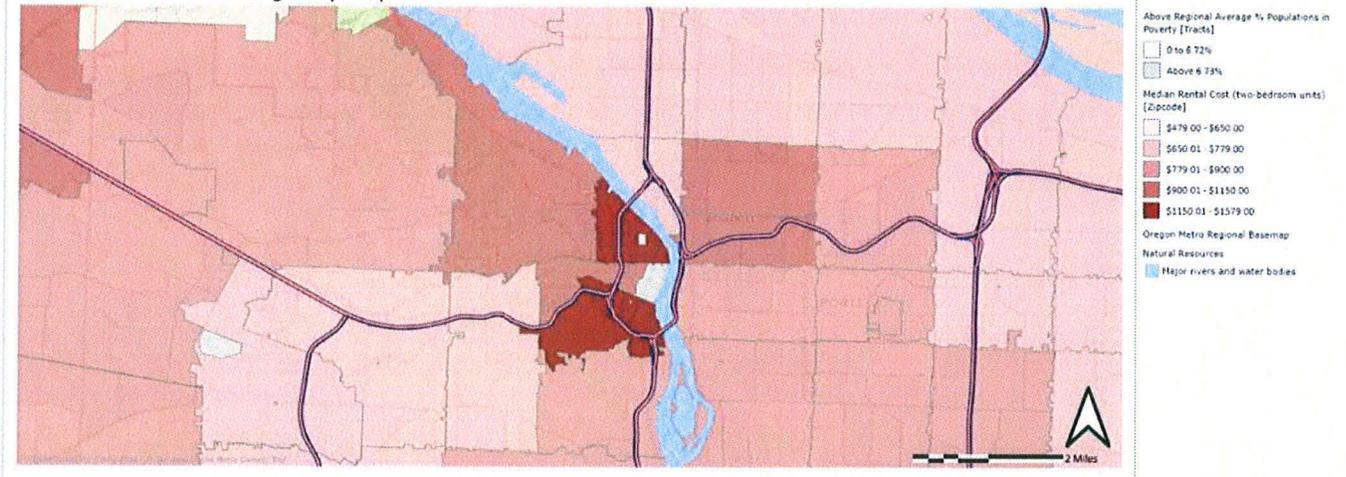
<sup>5</sup> Coalition for a Livable Future, "Housing and Transportation Cost Burden" map, available at <http://clfuture.org/atlas-maps/housing-and-transportation-cost-burden> (last accessed February 12, 2014).

Housing and Transportation Cost Burden



Source: Coalition for a Livable Future<sup>6</sup>

MAP - Income and Housing Inequality



Source: Equity Atlas 2.0, Coalition for a Livable Future<sup>7</sup>

<sup>6</sup> Coalition for a Livable Future, "Housing and Transportation Cost Burden" map, available at <http://clfuture.org/atlas-maps/housing-and-transportation-cost-burden> (last accessed February 12, 2014).

<sup>7</sup> Income and Housing Inequality map created using the Coalition for a Livable Future's Equity Atlas Tool 2.0, available at <http://clfuture.org/programs/regional-equity-atlas/equity-atlas-20-mapping-tool> (last accessed February 12, 2014). Source map presented here available at <http://www.seiu49.org/good-jobs-affordable-housing/> (last accessed February 12, 2014).

Source: Coalition for a Livable Future<sup>8</sup>

Home Forward said it best, “When it comes to ending the cycle of poverty nothing is more powerful than providing people a home...A place to store belongings. More importantly – A place to belong.”<sup>9</sup> We believe TMT Development has an opportunity in the Park Avenue West Tower to meet the City and the States land use goals of affordable housing to provide our average Oregonian a place to belong in the city’s core, but they have yet to do that.

This City Council is now presented with an ideal opportunity to do that; to address the severe shortage of affordable housing in our city core. We ask that the Council deny this application and honor the policy goals outlined in our Central City Master Plan to bring us closer to an equitable city; to give the average Oregonian a place to belong.

Thank you – I would be happy to answer any questions.

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<sup>8</sup> Coalition for a Livable Future, “Transit Access in Relationship to Schools with 75% or more Students Eligible for Free or Reduced Price Lunch” map, available at <http://clfuture.org/atlas-maps/transit-access-relationship-schools-75-or-more-students-eligible-free-and-reduced-price> (last accessed February 12, 2014).

<sup>9</sup> Home Forward, Quote taken from “hope.” page located on the Home Forward website. Available at <http://homeforward.org/> (last accessed February 12, 2014).



Testimony of Bernie Bottomly  
Vice President  
Portland Business Alliance  
Before City Council  
Regarding Park Avenue West Tower  
February 12, 2014

Good afternoon, Mayor Hales and Commissioners. I'm Bernie Bottomly, Vice President of the Portland Business Alliance. I'm here to testify in support of the land use application for the Park Avenue West Tower and ask the city to approve the decision of the planning commission and reject this politically motivated appeal.

The Park Avenue West Tower was identified as a large scale catalytic development opportunity in the 2009 Downtown Retail Strategy Task Force report. Its strategic location, behind Nordstrom, a renowned national retailer, adjacent to Director Park and nearby burgeoning retail and restaurants, is the missing link to this critical stretch of office, retail, and restaurants along SW Yamhill and Morrison, our signature retail streets.

The proposed Park Avenue West Tower is a prime example of a high quality mixed-use building in a dense urban core with ground floor retail, office space, and residential opportunities. The Tower's broad mix of uses—retail, office, and residential—are the elements needed for a successful downtown. These uses will accommodate the demands of a growing population and help fulfill the goals of the City's 2035 Central City Plan. The development will generate several hundred family wage construction jobs, thirteen floors of Class A office, and fifteen floors of residential, including much needed family housing in the downtown core.

Frankly, SEIU's appeal of this development is an attempt to use the legitimate land use appeal process for political and economic extortion. Since this is a privately funded development, there is simply no basis for SEIU's appeal. In fact, this private, multimillion dollar investment will generate many public benefits, including family-wage jobs and an increase in our tax base, helping to fund important public services that we all rely on. The construction of this building will promote economic prosperity downtown. And, a healthy downtown is the cornerstone of a strong regional economy.

We urge you to support TMT Development's land use application for the Park Avenue West Tower.

Thank you.

## Moore-Love, Karla

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**From:** Jeffrey Stuhr [jstuhr@holstarc.com]  
**Sent:** Wednesday, February 12, 2014 12:35 PM  
**To:** Moore-Love, Karla  
**Cc:** Fioravanti, Kara  
**Subject:** LU 13-214772 DZM, MS, AD

Dear Commissioners:

As a past chairman of the Portland Design Commission, I stand in full support of the of the Staff Report for approval of the Park Avenue West Tower. This project is a lynch pin in the continued success of Portland's downtown Central City plan. Completion of this project is long overdue. I can't think of a project that has endured more setbacks, both economically and procedurally, yet still come through in a better position than before. This new solution is better than what was originally approved. As you are aware, this iconic tower has been well received by the Design Review Commission on multiple occasions over the past number of years. This iteration, with the additional housing and height added back to the project, makes what was an exemplary project even better. This project will be a capstone to the district, and will serve as the vital 4th façade of Director Park.

I believe the Design Commission has done the necessary work to make sure this project meets all the requirements for approval. I hope you come to the same conclusion by denying the Appeal.

Although I can't be there in person today, I do appreciate the opportunity to offer my support in writing.

Best Regards,

Jeffrey Stuhr, AIA  
**Holst Architecture**  
110 SE 8th Portland OR 97214  
v 503 233 9856 m 503 807 4106  
www.holstarc.com

2/12/2014

**Moore-Love, Karla**

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**From:** Ellen Johnson [eejo2000@yahoo.com]  
**Sent:** Wednesday, February 12, 2014 12:11 PM  
**To:** Moore-Love, Karla  
**Subject:** Need for Anti-Displacement Strategy In Areas Subject To Gentrification  
**Attachments:** HLA Antidisplacement letter to PDC.pdf

Dear Ms. Moore-Love:

Attached is Housing Land Advocates' letter to PDC regarding the lack of an Anti-Displacement Strategy in areas of public investment. Please provide this letter to the Mayor and the members of the City Council.

Thank you.

Ellen Johnson

2/12/2014

2.11.14



## Housing Land Advocates

Patrick Quinton, Executive Director  
Portland Development Commission  
222 NW Fifth Avenue  
Portland, OR 97209

RE: Anti-Displacement Strategy

Dear Mr. Quinton:

The Housing Land Advocates (HLA) is an advocacy organization dedicated to using land use planning and legal action to address affordable housing conditions in Oregon. We take this opportunity to support concerns voiced by the Portland African American Leadership Forum (PAALF) regarding The Portland Development Commission's (PDC) proposed Vanport Development on NE Alberta St. and NE Martin Luther King Jr. Blvd. While the proposed Vanport Development is localized around a specific geographic area, it is emblematic of a larger issue, the lack of an anti-displacement strategy to counter the loss of affordable housing in an area subject to gentrification.

The Gentrification and Displacement Study contracted by the City of Portland identifies the intersection of NE Alberta St. and NE Martin Luther King Jr. Blvd. as an area vulnerable to gentrification, with an accelerating housing market and increasing demographic change. The Vanport site is also in an Urban Renewal Area and affected by a Tax Increment Financing strategy, both programs known to generate displacement without active mitigation tactics.

The PDC has targeted this area for redevelopment and reinvestment, recently offering a below market price to the developer of the Vanport site. While HLA encourages neighborhood reinvestment, we believe that all residents should share its benefits. As an agency the PDC has a responsibility to not incur displacement of minority and ethnic households through economic development. Without specific anti-displacement measures built into new developments, the PDC runs the risk of creating economic and social benefits that are felt disproportionately by the majority group. Moreover, anti-displacement measures are called for in the 2011 Fair Housing Plan, the current Comprehensive Plan Update, the 1993 Albina Community Plan, and the Interstate Urban Renewal Area Plan. HLA believes incentivizing development in this area without incorporating specific anti-displacement strategies is inconsistent with the City's commitment to counter gentrification. In addition, failure to address the displacement of low income households, a high proportion of who are protected class households, would appear to violate the City's obligation to affirmatively further fair housing.

PolicyLink, a national research and action institute advancing economic and social equity, promotes pairing commercial stabilization efforts, like the one on MLK, with increased community input and control, noting the tendency of tax increment financing to promote gentrification. Mixed-use developments including affordable housing, development agreements, or community benefit agreement are standard tools to mitigate gentrification. None of these tools were put in place by the PDC in connection with the Vanport site, leading HLA to question



## Housing Land Advocates

whether the PDC has formally adopted an anti-displacement strategy. We call on the PDC to clarify their development strategy for the Vanport site. In doing so, PDC should make public their anti-displacement strategy to be used when contemplating economic development in areas prone to gentrification or adopt one after significant input from the community at large.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen Johnson", is written over the typed name. The signature is fluid and cursive.

Board Member

cc: Mayor Hales and and City Council Members

**Moore-Love, Karla**

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**From:** Ellen Johnson [eejo2000@yahoo.com]  
**Sent:** Wednesday, February 12, 2014 8:18 AM  
**To:** Moore-Love, Karla  
**Subject:** HLA re Park Avenue West  
**Attachments:** HLA Park Ave West letter to Portland CC.pdf

Dear Ms. Moore-Love:

Attached please find a letter Housing Land Advocates wishes to put into the record concerning SEIU's appeal of the approval of Park Avenue West.

Ellen Johnson



February 11, 2014

Portland City Council  
c/o Council Clerk  
1221 SW Fourth Avenue, Room 130  
Portland, OR 97204

Re: Park Avenue West Casefile LU 13-214772 DZ/MS/AD  
De Novo Hearing February 12, 2014

Dear Mayor and Commissioners:

Housing Land Advocates (HLA), a non-profit organization, advocates for land use policy and practices that support the development of affordable housing in sustainable communities. HLA supports the appeal in this case. The master plan proposal to transfer density, in the form of FAR credits owned by the City, should not be approved unless the new development includes some level of affordable housing in compliance with the policies adopted by the City for this area, the Central City Plan and the 2011 Analysis of Impediments

The City's use of its FAR credits for other city programs, such as the development of new parks, may support laudable goals but results in a lack of compliance with prior enacted policies that support and require the development of affordable housing in the Central City District. Density transfers of city-owned property should be limited to the achievement of policy goals involving housing and not treated as a fungible asset to be used in achieving any goal. In the absence of a formal plan implementing the policies within the Central District, including those addressing affordable housing, the City Council should review all developments for compliance with those policies.

### **STANDING**

HLA has standing to participate in this hearing because it may be adversely affected or aggrieved by the city's decision. HLA is a 501(c) (3) organization comprised of land use planners, attorneys, housing advocates and practitioners that advocates for land use policies and practices that ensure an adequate supply of safe, decent and affordable housing for all Oregonians. Because the city has both a regulatory role in deciding whether to approve the master plan and a proprietary role as owner of the development rights that would be transferred, this case presents a rare opportunity for the City of Portland to take affirmative action to increase the supply of affordable housing in the downtown core. The city's failure to capitalize on this opportunity would adversely affect HLA's efforts to provide more affordable housing.

### **NEED FOR AFFORDABLE HOUSING**

The Portland downtown core is especially underserved by affordable housing. Both residential sale prices and rents are higher than in the city at large. This forces lower wage workers who



work downtown to live farther from work. As a result, the lower wage workers experience higher transportation costs, are segregated into areas of lower opportunity and do not experience the benefit of public investment in an equitable manner. The lack of affordable housing has a disproportionate impact on racial minorities and the disabled. (2011 Analysis of Impediments p. 144-148)

### **THE RATIONALE FOR AFFORDABLE HOUSING IN THIS CASE**

The transfer of floor-area ratio (FAR) across a right of way in the Downtown district is only allowed as part of an approved master plan. This application is therefore subject to the approval standards for master plans in 33.510.255.E, which require the applicant to show that “the proposed plan is consistent with the policy objectives of the Central City Plan.” Those Plan policies include Housing Policy 3.C, “*Encourage the development of housing in a wide range of types and prices and rent levels.*”

When it approved the application, the Design Commission adopted a finding that this housing policy was “aspirational,” stating that “these aspirational statements using wording such as ‘encourage’, ‘promote’ and ‘foster’ are not meant for each and every development project and every City regulation to fully meet.” Notwithstanding the Design Commission’s finding, even if the policies are “aspirational”, the policies clearly define the City’s goal for the district—a wide range of types and prices and rent levels. As such, all developers are on notice of this goal. The legal issue appears to be whether and when the City may require a developer to include affordable housing in project.

The applicant has sought and apparently received a significant public benefit from the City, a density transfer. The granting of the density transfer, a benefit that is solely within the City’s control, is rationally related to promoting the housing policies within this district. In the absence of any specific administrative rule governing the use density transfers, the City is required to use them to achieve the housing policies it has adopted for the district. It is required to do so because the use of the City’s property and assets should only be used to achieve a public goal or benefit. Use of the density transfer for any use other than housing actually defeats the Housing Policies and would therefore be contrary to the public benefit or goal identified in the Central City Plan.

### **THE IMPACT OF NOT REQUIRING AFFORDABLE HOUSING**

The city is the recipient of millions of dollars annually in federal block grants and other funds that require compliance with the federal Fair Housing Act. As a recipient, the city must certify that it is working to affirmatively further fair housing, promote integration and reduce segregation, not just in its public housing programs but in all its programs that affect housing, including planning and zoning.

The lack of an equitable distribution of affordable housing in Portland is acknowledged as an impediment to fair housing. (2011 Analysis of Impediments p. 144-148) The City is legally



obligated to act, when it can act, to affirmatively further fair housing. In this specific instance, the granting of a density transfer for a residential development, in an area of the City that lacks affordable housing, presents an opportunity to address proactively an impediment to fair housing. In the absence of any significant barrier to doing so, the City must require some level of affordable housing in the applicant's project or risk violating its obligation to affirmatively further fair housing.

The City lacks a comprehensive policy that would guide its staff in the use of density transfers to promote actions that would comply with its obligation to affirmatively further fair housing. HLA recommends the City adopt such a policy for use in the future.

### **CONCLUSION**

This application should be denied because it is not consistent with the City's policies addressing affordable housing. In the alternative, any approval should require an affordable housing component.

Sincerely,



Ellen Pluman  
Board Member

cc: David Noren

**Moore-Love, Karla**

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**From:** Nicole Knudsen [nicolek@seiu49.org]  
**Sent:** Monday, February 10, 2014 5:02 PM  
**To:** Moore-Love, Karla  
**Cc:** david@norenlaw.com; Maggie Long  
**Subject:** Feb 12 Hearing - Video

Hi Karla,

Here is a link to a 7-minute video; disk copies of the video are in the Design Commission record. Could you please distribute this to the city council so they may view it before the hearing on February 12?

<http://www.youtube.com/watch?v=ljxebYmey44>

Thank you!  
Nicole Knudsen  
Strategic Researcher  
Service Employees International Union, Local 49  
Ph# 503-236-4949 x 254

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2/11/2014