

Catholic Community Services

A Forever Home for Everyone

February 5, 2014

House Revenue Committee
Testimony on HB 4039

Chair Barnhart and members of the committee,

Thank you for the opportunity to speak to the importance of HB 4039. My name is Jim Seymour, Executive Director of Catholic Community Services. We are a 501(c)(3) organization, which provides a wide variety of services in support of vulnerable children, adults, and families in the Willamette Valley including the operation of 100 units of affordable housing that are scattered throughout the greater Salem area.

Catholic Community Services has provided low-income housing options in Marion County for more than a decade. The individuals and families we serve include youth aging out of foster care, single parents living in poverty, and adults with intellectual disabilities. Our goal is to provide housing that enables these families to rebuild safe, stable, nurturing relationships and move out of poverty.

House Bill 4039 provides certainty to nonprofit providers of low-income housing that have relied upon the property tax exemptions in ORS 307.130. Last year, the Oregon Tax Court issued a decision in Corvallis Neighborhood Housing Services vs. Linn County that called into question exemptions nonprofits had relied upon under this section.

ORS 307.130 governs property tax exemptions for a wide variety of institutions including charitable and benevolent organizations. In order to qualify for an exemption under this section, the statute requires the property is “actually and exclusively occupied or used” by the charity in the charitable work carried on by the nonprofit.

Nonprofits in the low-income housing community are subject to Oregon Landlord Tenant Law, which stipulates requirements that must be in place for lease/rental agreements. Those agreements grant rights of occupancy and use to the tenant. As the court evaluated the use of nonprofit low-income housing in light of the requirements in ORS 307.130, the conflict between the property tax exemption statute and landlord tenant law appeared. The fact that tenants have some occupancy and use of individual units means that the nonprofit entity does not have exclusive occupancy and use.

In issuing its opinion, the tax court noted the inherent conflict in this situation – nonprofit low-income housing providers must abide by the landlord-tenant laws of the state, but the requirements in those laws prevent them from the exemption provided by ORS 307.130 as the exclusive occupancy and use clause is not met.

HB 4039 is a limited solution designed to provide certainty to nonprofit low-income housing providers. The legislation ensures that a nonprofit provider with an exemption under this section in place as of the 2012

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tax year will maintain that exemption. If the property is transferred to a for-profit entity, the exemption goes away. Our goal was to ensure that no entity that currently doesn't have an exemption will get a new one, but those who had them in place as of the 2012 tax year will be able to maintain their reliance on the exemption.

The -1 amendment, negotiated with the Association of Oregon Counties, provides for a sunset starting with the 2018 tax year. The other provision in the amendment, negotiated with the Oregon Housing Alliance, clarifies that if property is transferred between nonprofit entities, but the use as low-income housing remains the same, the exemption remains.

The reason we need this bill is simple: we rely on the property tax exemptions we have in order to make the finances of our charity viable. Nonprofit providers of low-income housing, like Catholic Community Services, work to ensure quality housing and services at the lowest costs possible. We are not profit-motivated organizations; instead, we serve the truly needy in our community often with the help of generous donors. Unanticipated costs, like a tax bill, would create a significant unplanned financial burden for our organization.

The bill will provide certainty to nonprofit entities like Catholic Community Services, but it's important to note that there are things this bill does not accomplish. The bill will not resolve or preempt the case currently in front of the Supreme Court. The facts of the case will not be changed as a result of this legislation. We need the Supreme Court to resolve this issue and it is our hope that the court will reverse the tax court opinion.

In addition, HB 4039 does not provide relief for those property tax exemption applications that were denied. Catholic Community Services is included in this group of applicants that will not be provided full relief under this bill. We sought an exemption under 307.130 for our Forever Home Community at Mill Creek, a low-income housing project, which was denied by Marion County. This bill will not overturn the county's decision on our Statesman property, but it is needed nonetheless to provide certainty for our remaining properties.

HB 4039 is not the long-term solution we all need to this issue. Instead, the bill provides certainty and valuable time for everyone to wait for the ruling from the Supreme Court. After the decision, we will work together to resolve any issues identified by the court with an eye on enabling the nonprofits impacted by the decision to continue to provide financially viable low-income housing.

Thank you for the opportunity to share the history and need for HB 4039. David Hilgemann, the attorney Catholic Community Services has retained to assist us in the legal issues involved with this case, is with me today and can answer any technical questions. We urge the committee to adopt the -1 amendment and move the bill forward.

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