



Feb. 20<sup>th</sup>, 2018

Hon. Sen. Sara Gelser  
Chair, Senate Committee on Human Services

Chair Gelser, Vice Chair Knopp, and esteemed members of the Senate Committee on Human Services:

My name is Allan Lazo. I am the executive director of the Fair Housing Council of Oregon. We are a private non-profit civil rights organization working to end housing discrimination and ensure equal housing opportunity for all throughout the state of Oregon. We are working to create inclusive communities statewide through our education and outreach; enforcement; and public policy work.

As the leader of an organization whose mission is rooted in the history of housing discrimination, segregation, and displacement, I am hopeful that I can provide some important context for HB4134 and its efforts to make it simpler to remove discriminatory racially restrictive covenants from real property deeds.

Racially restrictive covenants intended to segregate housing were used predominantly in the early part of the 20<sup>th</sup> century – from approx. the 1920s until 1948 when their enforcement was declared unconstitutional by the Supreme Court.

These mechanisms came about after racially restrictive municipal zoning codes were declared unconstitutional in 1917 by the Supreme Court.

Racially restrictive deed covenants contained explicit language that prohibited members of certain races – or in some cases those of any race except Caucasian – from occupying homes in a neighborhood.

A national research study found that by 1940, 80% of property in cities like Chicago and Los Angeles carried restrictive covenants barring black families. Right here in Oregon, we have collected historical examples of racially restrictive deed covenants in Portland neighborhoods such as Cedar Hills, Raleigh Hills, Lake Oswego, Grant Park, and Hillsdale.

I have included here examples of the language used in these covenants. Including from Portland neighborhoods such as Palatine Hill, Laurelhurst, and Hillsdale.

In 1926 the US Supreme Court determined such covenants to be legal in *Corrigan v. Buckley* (noting that this was a transaction between private parties) but in 1948 another Supreme Court ruling, *Shelley v. Kraemer*, found deed restrictions legally unenforceable.

So that left these racially restrictive covenants in real property deeds legally unenforceable but quite often still left in the deeds to older homes in many neighborhoods throughout the state. I've been told by some who have called us about these that they noticed the clause in their home deed because it was stamped "unenforceable" over the clause but still remained in their deed.

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HB4134 would help simplify the process for removing these covenants, but since these are part of legal real property deeds, there still is a legal process that a homeowner would need to go through to remove the offensive language.

As important as simplifying the process of removing racially restrictive deed covenants, this bill also becomes an opportunity to bring forward a conversation about the history of housing discrimination and segregation that continues to shape disparities in our communities today.

For our organization, this conversation is rooted at the intersection of housing and civil rights. Rooted in a history of systemic and institutional racism that has shaped significantly the disparities we see today in housing and other sectors.

This also is an important moment for this conversation as we will commemorate the 50<sup>th</sup> anniversary of the passage of the federal Fair Housing Act in April of this year.

This landmark anniversary represents an opportune time for us as a community to not only celebrate the 50th anniversary of the Fair Housing Act and its intent to end the rampant housing discrimination and segregation of the early- to mid-20th Century, but also to reflect on the continuing disparities that racial discrimination, segregation, and displacement have created today.

The history of exclusion dates well back to when Oregon – which like many areas sits on what once was the land of indigenous peoples -- was forming as a state in the mid-19th century, when our state Constitution prohibited African-Americans from living and Chinese from owning property in Oregon.

Patterns of housing segregation really began to get set in Oregon and across the country during the early part of the 20th century. In addition to the racially restrictive municipal zoning codes that eventually were banned and then the racially restrictive covenants that eventually were made unenforceable, there continued to be discriminatory housing policies and practices, such as:

- steering by real estate brokers who would not sell homes in white neighborhoods to African-Americans;
- and redlining where federal underwriting standards were used to deny loans and access to capital in predominantly African-American neighborhoods nationwide. From 1934-1962, the Federal Housing Administration utilized the segregationist and discriminatory practices of those times as it underwrote \$120 billion in home loans – resulting in fewer than 2% of those loans going to non-whites, effectively denying generations of communities of color access to homeownership, one of the main wealth-creation mechanisms available to white families.

I am hopeful this context makes it clear why this history is so vital to the work of your committee.

We must understand the history of systemic and institutional housing discrimination, for example, to acknowledge the role it plays in the disparate wealth gap between white households who have 10 to

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100 times the wealth of black households, which research shows can be directly traced to the history of discriminatory practices such as efforts to segregate and redline neighborhoods and the lack of access to home ownership for those communities.

We also must acknowledge – 50 years after the passage of the Fair Housing Act – that segregation in our communities continues to persist.

A December article on the NBC News website titled “The Resegregation of America” noted that: U.S. cities have grown more segregated over the past 40 years, and persistent and intensifying racial disparities between white communities and people of color have emerged. This systematic resegregation has grave implications for access to health care services, education and accumulation of wealth. Racial resegregation in U.S public schools is also deepening. A 2016 Government Accountability Office report announced: “The promise of Brown v. Board of Education is unraveling.”

These dynamics become a little reminiscent of the famous conclusion in the Kerner report, which helped move the Fair Housing Act into law in 1968: “Our nation is moving toward two societies, one black, one white—separate and unequal.”

There also is a business case for ending segregation and ensuring equal access to housing opportunity for all. A study last year by the Urban Institute found that “Less segregated communities aren’t only more inclusive. They’re more prosperous.”

In its report, *The Cost of Segregation: National Trends and the Case of Chicago, 1990–2010*, the institute found that building more inclusive regions can deliver dividends that come through providing greater access to opportunity. “More inclusive, or less segregated, regions have higher average incomes and educational attainment and lower homicide rates.”

While HB4134’s intent is to simplify the process of removing these racially restrictive covenants from real property deeds, its real power is in allowing us to acknowledge the history these offensive clauses represent and the opportunities their presence gives us to begin reversing the disparities they have created in our communities today.

Thank you for your consideration of this testimony.

Sincerely,

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

Allan Lazo

Executive Director

Laurelhurst Co., a corporation of Oregon, By F. F. Mead, Vice President, and Robert H. Strong, Assistant Secretary

#33191

Deed Book 643, page 212.

To

S. B. Stewart.

Warranty Deed, Dated November 20, 1913.

Duly Acknowledged November 20, 1913.

Recorded December 12, 1913.

Duly signed and witnessed. Corporate Seal.

Consideration \$1500.00.

Property conveyed:

The following described real property situated in the City of Portland, County of Multnomah and State of Oregon, to-wit:

Lot 7 in Block 13 in Laurelhurst, according to the map and plat thereof recorded at page 77 of Book 475 in the records of plats of said Multnomah County.

To Have and to Hold the same unto said second party, his heirs and assigns forever; but subject, nevertheless to the following conditions to-wit:

During the period of 25 years from and after the first day of January, 1909, no structure other than one single detached dwelling-house costing not less than \$3500.00 each, and also if desired, any outbuildings which may be necessary or usual, other than stables, shall be erected upon said premises; nor shall any portion or projection of any such dwelling-house or outbuilding (excepting the steps thereof) be within 20 feet from the nearest side line of the street upon which the front of said premises abuts, or within 15 feet from the nearest side line of any other street (it being understood and agreed that if said

premises have a frontage on two streets, the foregoing 20-foot restriction shall apply as to each of such front streets); nor shall said premises or any building thereon be used or occupied otherwise than strictly for residence purposes (or for church or school purposes, and then only with the prior consent of the first party, or its successors or assigns); nor shall the same or any part thereof be in any manner used or occupied by Chinese, Japanese or negroes, except that persons of said races may be employed as servants by residents; nor shall any old buildings be placed on said premises; nor shall any building or any part thereof, on said premises, be erected, maintained or used for flats, apartments, stables, stores or business or manufacturing purposes; nor shall any intoxicating liquor be manufactured or sold or otherwise disposed of as a beverage in any place of public resort, on said premises. And in the event that the restrictions and conditions aforesaid, or any one or more of them shall be broken by said second party, his heirs, successors, assigns or legal representatives, or by any person holding said premises for by, through or under them or any of them, then and in either or any such case, this conveyance shall be and become null and void, and the title to the said premises hereby conveyed shall revert to said first party, its successors and assigns, freed from all right, title or claim arising under or by reason of this conveyance. Provided, however, that in the event of any forfeiture as hereinbefore provided for, and if there shall, at the time thereof be any mortgage lien upon said premises, then the holder of such lien shall have the option to take said premises and to hold the same on the same terms and conditions and subject to forfeiture in his, her, its or their hands for like causes and on the same conditions as hereinbefore provided as against the grantee herein or his heirs, successors, assigns or

CONDITIONS AND RESTRICTIONS

Affecting PALATINE HILL  
by deed recorded Feb. 3, 1928,  
in Deed Book 1122 at page 339.

Subject to the additional covenants herein contained to-wit:

- (1) That no building nor structure, which shall be used for any purpose except that of a dwelling house, or appurtenances thereto, shall be erected or placed upon the above described property at any time before January 1, 1975.
- (2) That no store, saloon, grocery or mercantile business of any character, nature or description shall be carried on, nor any spirituous or malt liquors be manufactured, sold or exchanges, bottled or dealt in, upon the above described real property at any time before January 1, 1975 and that said real property shall not be used for anything except residence purposes at any time before said last mentioned date.
- (3) That prior to said January 1, 1975 no store, business or manufacturers of any kind or any thing of the nature thereof shall be carried on or conducted upon said real property or any part thereof.
- (4) That prior to the January 1, 1975 no person of African, Asiatic or Mongolian descent shall be allowed to purchase, own or lease said premises or any part thereof.
- 5) That prior to January 1, 1975 no flats stores, double houses or apartment houses shall be built or placed upon said real property or any part thereof and no fence or wall or similar structure shall be built or placed upon any lot or lots or parcel along the boundary line thereof, which is a greater height than 6 feet.

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PROTECTIVE COVENANTS ON "FERNCREST" IN INSTRUMENT EXECUTED BY BEATRICE BERG AND ROY BERG, HER HUSBAND, DATED AUGUST 14, 1941 RECORDED AUGUST 14, 1941, IN BOOK 631, PAGE 100.

Know all men by these presents, That we, Beatrice Berg and Roy Berg, her husband, owners of Ferncrest, an addition within Multnomah County Oregon, which real property is more particularly described in the Surveyor's certificate in the dedication of said FERNCREST, hereby referred to and made a part of this instrument do hereby impose the following Protective Covenants on said real property and every part and parcel thereof to-wit:

A. All lots in the tract shall be known and described as residential lots. No structures shall be erected, altered, placed, or permitted to remain on any residential building plot other than one detached single-family dwelling not to exceed 2-1/2 stories in height and a private garage for not more than 2 cars and other outbuildings incidental to residential use.

B. No building shall be erected, placed, or altered on any building plot in this subdivision until the building plans, specifications, and plot plan showing the location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the subdivision and as to location of the building with respect to topography and finished ground elevation, by a committee composed of three persons to be appointed by Roy Berg, or by a representative designated by a majority of the members of said committee. In the event of death or resignation of any member of said committee the remaining member or members, shall have full authority to approve or disapprove such design and location, or to designate a representative with like authority. In event said committee, or its designated representative fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it or, in any event, if no suit to enjoin the erection of such building or the making of such alterations has been commenced prior to the completion thereof. such approval will not be required and this Covenant will be deemed to have been fully complied with. Neither the members of such committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this Covenant. The powers and duties of such committee, and of its designated representative, shall cease on and after January 1, 1944. Thereafter the approval described in this Covenant shall not be required unless, prior to said date and effective thereon, a written instrument shall be executed by the then recorded owners of a majority of the lots in this subdivision and duly recorded appointing a representative or representatives, who shall thereafter exercise the same powers previously exercised by said committee.

631-100 Ferncrest

Continued #23413/2

C. No Building shall be located nearer than 20 feet to the front lot line nor nearer than 15 feet to any side street line. No building, except a detached garage or other outbuilding located 65 feet or more from the front lot line, shall be located nearer than 7 feet to any side lot line. No residence or attached appurtenances shall be erected on any lot farther than 50 feet from the front lot line thereof, except that this restriction shall not apply to lots 2, 3, and 4 of Block 5, and Lot 7 of Block 2.

D. No residential structure shall be erected or placed on any building plot, which plot has an area of less than 10,000 square feet or a width of less than 75 feet at the front building setback line.

E. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood.

F. No trailer, basement, tent, shack, garage, barn, or other outbuilding erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

G. No dwelling costing less than \$3500 shall be permitted on any lot in the tract. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 900 square feet in the case of a one-story structure nor less than 750 square feet in the case of a 1-1/2 and 2 or 2-1/2 story structure.

H. No livestock will be permitted on said real property. An easement is reserved over the rear 5 feet of each lot for utility installation and maintenance.

I. Until such time as public mains for sewage disposal are available, sewage disposal shall be by means of septic tanks of such type, construction, location on the lot, and tile disposal field as to be in accordance with the requirements of the Oregon State Board of Health.

J. No person of any race other than those of the Caucasian or White race shall use or occupy any building on any lot. Except that this covenant shall not prevent occupancy by domestic servants of a different race domiciled with an owner or tenant.

K. No dwelling house shall be used or occupied other than for strictly residence purposes. All buildings shall be completed and painted within one year from time construction thereof is commenced. Nor shall any building or any part thereof be erected, maintained or used on said premises for flats, apartments, manufacturing or commercial purposes.

L. No fence more than 36 inches in height shall be placed or constructed within 30 feet of any street laid out, established or dedicated through said real property. These Covenants are to run with the