



# HOUSING ALLIANCE

March 25, 2021

House Committee on Revenue  
Oregon State Legislature  
900 Court Street NE  
Salem, OR 97301

Dear Chair Nathanson, Vice-Chair Reschke, Vice-Chair Pham, Members of the Committee:

I am writing to you today on behalf of the Oregon Housing Alliance to express our support for HB 2446, which extends the sunset date until 2028 for a property tax exemption for affordable housing.

The Oregon Housing Alliance is a coalition of more than ninety organizations from all parts of the state. We believe that all Oregonians need a safe, stable, and affordable place to call home.

Across Oregon, we simply do not have enough affordable and available homes for every household who needs one. For many decades, though, organizations across Oregon, affordable housing developers and public housing authorities have been building safe, stable, and affordable homes. These rental homes receive public funds, and in exchange, follow strict rules about the incomes of people who qualify for the housing, and how much rent can be charged.

We have many local, state, and federal tools to help pay for the development of these apartment homes, although the need for these homes is far greater than the currently available resources. A typical affordable housing development relies on a half dozen or more of these funding sources or tools to meet the necessary rent targets for the project and make the project feasible. Property tax exemptions are one tool to help incentivize and make financially viable affordable housing developments across our state, and over the years, the Legislature has authorized several property tax exemptions for affordable housing.

Property tax exemptions for affordable housing are critical for several reasons. Exemptions recognize the importance of affordable housing in our communities, and provide an on-going financial subsidy to the project by lowering the annual operating expense. Without property tax exemptions, affordable housing developers would need additional resources to serve the lowest income members of our communities, and typically those additional resources would have to come from public entities. Because the rents are restricted to people with low incomes, and because the regulations of funding sources generally don't allow it, the development cannot simply raise its rents to cover a significant cost increase.

Prior to a development being constructed, developers have essentially solved a complex math problem, pulling together grants, loans, and other sources of funding to purchase land, construct a building, and pay for its ongoing operations with the restricted rents that are paid by the people who will ultimately live in the building. A property tax exemption is one additional tool that supports the development and continued existence of the affordable housing in communities.

The property tax exemption being extended through HB 2446 has a unique history. Prior to 2013, many affordable housing developments qualified for a property tax exemption under ORS 307.130, which is the

statute which allows non-profit organizations to receive a property tax exemption to support their mission and work. This statute covers many different types of “charity,” from churches to hospitals to museums and service agencies like the Red Cross and YMCA. Oregon courts, the Legislature, and the Department of Revenue have struggled for decades to define what is or is not a charity eligible for this exemption. To illustrate the difficulty of defining “charity,” note that this statute has been amended almost twenty times since its adoption in 1955. Whether or not an affordable housing development received this exemption was a matter of local policy, meaning a local county assessor would have decided whether the project qualified under ORS 307.130.

However, due to a change in policy by Department of Revenue, local assessors began cancelling property tax exemptions previously granted to these projects and instead began taxing them. As a reminder, these projects were financed and constructed with the assumption that they would remain exempt from property taxes. As affordable housing rents are restricted, and cannot simply be raised to meet additional expenses, these organizations faced a significant, unplanned for expense. As a result of this change in policy and subsequent tax bill, one non-profit organization, the organization then known as Corvallis Neighborhood Housing Services, filed a lawsuit<sup>1</sup> to challenge the change in policy. Note that the organization and its affordable housing developments had not changed; rather, the Department of Revenue had changed their policy as to whether these projects were still eligible for the exemption.

The Tax Court found that the affordable housing developments did not meet the criteria for the property tax exemption under ORS 307.130 because they received rent, albeit reduced, for the units. As a result of the change in policy and subsequent court decision, many affordable housing properties across Oregon were no longer eligible for this exemption. They were faced with closing down or seeking additional public subsidy. To avoid further appeal, the Department of Revenue and Corvallis Neighborhood Housing Services agreed to a moratorium on new exemptions while preserving those previously – prior to July 1, 2014 – approved by local assessors, and they asked the Legislature to consider a bill to that effect.

In 2014, the Legislature considered and passed HB 4039<sup>2</sup>, which created an exemption explicitly for these properties. This exemption was created in recognition that the affordable housing, owned and operated by a non-profit organization, continues to provide benefit to our communities and to the people who live in these affordable rental homes. The exemption also recognized that the owners of the affordable housing had not financed these properties with the expectation they would pay property taxes in the future, and financing, grants, loans, and expected revenue from rents had not factored in an unexpected expense from loss of the property tax exemptions.

HB 4039 was a temporary, four year exemption from property taxes. The Legislature at the time did consider a broader look at which nonprofits qualify for the charitable exemption under ORS 307.130, however their work did not result in a proposal during another session. In 2016, when this exemption was last considered for renewal by the Legislature, the Staff Measure Summary<sup>3</sup> included significant background information on the Court case, and action by the Legislature. In 2016, HB 4081<sup>4</sup> extended the sunset until 2022, and passed both the House and the Senate unanimously.

HB 2446 does not allow any new affordable housing developments to qualify for this exemption. The policy simply maintains the existing affordable housing. In 2016, the Legislative Revenue Office indicated the total impact<sup>5</sup> of this policy is less than one million dollars per biennium.

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<sup>1</sup> <https://law.justia.com/cases/oregon/tax-court-regular-division/2013/tc-4996.html>

<sup>2</sup> <https://olis.leg.state.or.us/liz/2014R1/Measures/Overview/HB4039>

<sup>3</sup> <https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureAnalysisDocument/33531>

<sup>4</sup> <https://olis.oregonlegislature.gov/liz/2016R1/Measures/Overview/HB4081>

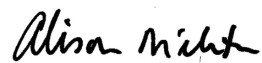
<sup>5</sup> <https://olis.oregonlegislature.gov/liz/2016R1/Downloads/MeasureAnalysisDocument/33095>

When regulated affordable housing is built with public dollars, regulatory agreements are put in place that require the housing to remain affordable for at least thirty years, and more commonly sixty years. In some jurisdictions, local dollars also mean that the housing should remain affordable for ninety-nine years. As noted above, these projects have multiple funding sources, all of which have restrictions. To qualify originally for the 2014 legislative extension of this exemption, the organization had to be a non-profit organization, and developers agreed to inform assessors if there was ever either a change in ownership or a change in the property use that meant they were no longer operating as an affordable housing property with restricted income eligibility and restricted rents.

We urge you to support of HB 2446, and maintain this important exemption for affordable housing.

Thank you very much for your time, and for your service to our state.

Sincerely,

A handwritten signature in black ink that reads "Alison McIntosh". The signature is written in a cursive, flowing style.

Alison McIntosh  
On Behalf of the Oregon Housing Alliance

## Housing Alliance Members

1000 Friends of Oregon  
211info  
Aging in the Gorge  
Benton Habitat for Humanity  
Bienestar  
Bradley Angle  
BRIDGE Housing  
Business for a Better Portland  
CASA of Oregon  
Central City Concern  
Chrisman Development  
Church Women United of Lane County  
City of Beaverton  
City of Eugene  
City of Forest Grove  
City of Hillsboro  
City of Hood River  
City of Portland  
City of Tigard  
Clackamas County  
Coalition of Community Health Clinics  
Coalition of Housing Advocates  
College Housing Northwest  
Community Action Partnership of Oregon  
Community Action Team  
Community Alliance of Tenants  
Community Development Partners  
Community Housing Fund  
Community Partners for Affordable Housing  
Community Vision  
Cornerstone Community Housing  
DevNW  
Ecumenical Ministries of Oregon  
Enterprise Community Partners  
Fair Housing Council of Oregon  
Farmworker Housing Development Corp.  
FOOD for Lane County  
Habitat for Humanity of Oregon  
Habitat for Humanity Portland/Metro East  
Hacienda CDC  
Home Forward  
Homes for Good  
Housing Authorities of Oregon  
Housing Authority of Clackamas County  
Housing Development Center  
Housing Oregon  
Human Solutions  
Immigrant & Refugee Community Organization  
Impact Northwest  
Innovative Housing, Inc.  
Interfaith Alliance on Poverty  
JOIN  
Lane County Health and Human Services  
League of Oregon Cities  
League of Women Voters of Oregon  
Lincoln County  
Looking Glass Community Services  
Mainstream Housing Inc.  
Metro  
Mid-Columbia Housing Authority  
NAYA Family Center  
Neighborhood Partnerships  
NeighborImpact  
NeighborWorks Umpqua  
Network for Oregon Affordable Housing  
Northwest Housing Alternatives  
Northwest Pilot Project  
Oregon AFSCME Council 75  
Oregon Coalition of Christian Voices  
Oregon Center for Public Policy  
Oregon Coalition on Housing & Homelessness  
Oregon Council on Developmental Disabilities  
Oregon Food Bank  
Our Children Oregon  
Partners for a Hunger-Free Oregon  
Portland Community Reinvestment Initiatives  
Portland Homeless Family Solutions  
Proud Ground  
Raphael House  
REACH CDC  
Residents Organizing for Change (ROC Oregon)  
Rogue Action Center  
Rose CDC  
St. Francis Shelter  
St. Vincent de Paul of Lane County, Inc.  
ShelterCare  
Sisters Habitat for Humanity  
Sponsors, Inc.  
SquareOne Villages  
Street Roots  
Think Real Estate  
Transition Projects  
Washington County  
Welcome Home Coalition