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April 23, 2021

Senator Jama, Chair
Senator Linthicum, Vice-Chair
Senate Committee on Housing and Development
900 Court Street NE
Salem, OR 97301-4048

Re: Information on the Publicly Supportive Housing Preservation (PuSH) Statute Correction

Dear Chair Jama, Vice-Chair Linthicum, and Members of the Senate Committee on Housing and Development:

Thank you for the engaging conversation around [House Bill 2095](#), which aligns timing of extension of affordability restriction for Publicly Supported Housing (PuSH) Preservation Program with timing for sending notices and removes an inadvertent 6 month waiting period. Oregon Housing and Community Services recognizes the need to preserve existing affordable housing while we work as a state to build new stock, and HB 2095 is a vital part of ensuring that is possible. During the conversation, a number of questions were raised related to HB 2095:

Senator Golden asked about the owner's ability to reject an offer:

Qualified purchasers have opportunity to submit offers to the owner; however, the owner is not obligated to accept any of those offers. In the event that a subsequent offer to purchase is made by a 3rd party, the qualified purchasers with right of first refusal may submit a matching offer under the same terms and conditions. The owner must accept the first matching offer received under the right of first refusal opportunity. If no matching offers are submitted, the owner may pursue the sale to the 3rd party. Right of First Refusal may extend up to 24 months after a property has been withdrawn from publicly supported housing. Additionally, owners can withdrawal from affordability restrictions when their contract allows and continuing operating the housing with higher rents.

Vice-Chair Linthicum asked for clarification of ORS 456.262 (4):

ORS 456.262 (4) covers the abilities and obligations of a qualified purchaser upon making an offer and states that a qualified purchaser may record, in the real property records of the county, a notice of right of first refusal in a form prepared by OHCS. This notice includes a legal description of the property, a copy of the notice delivered with the offer and proof of mailing of the notice. In this record the qualified purchaser must declare that the right of first refusal shall expire 24 months after the withdrawal date of the property. At this time the qualified purchaser must deliver a notice to the property owner notifying them of the right of first refusal.

Vice-Chair Linthicum also asked about affordability withdrawal restrictions:

Properties are subject to affordability restrictions for from 10 to 60 years, as outlined by the development funding source. Prior to PuSH regulations, there were no pre-withdrawal notice requirements. Now, the owner must 30-36 months prior to the end of the affordability restrictions, send a notice that details their intent, whether or not they plan to keep the homes affordable. They are then obligated to send a second notice 24-30 months before the property



would be withdrawn from publicly supported housing. Failure to meet either of these timelines results in the extension of affordability contract by either 30 or 24 months respectively. Under HB 2095, owners would be required to notify tenants of intent to withdraw from the program 12-14 months before withdrawal.

Senator Anderson asked about the length of the affordability restrictions after the withdrawal of the property:

Under HB 2095, landlords or property owners must send tenants notice of intent to withdraw from the program 12-14 months prior to withdrawing from publicly supportive housing. After that point Section 42 housing has a 3-year safe harbor periods where the rent remains affordable, giving tenants 4 years to search for housing prior to the end of the affordability restrictions. During this time, resources indicated in the notice will provide connections to tenant in search of new affordable housing.

Senator Golden asked OHCS to follow up with Woodspring residents:

Woodspring Apartments in Tigard were developed using Low Income Housing Tax Credit (LIHTC) resources in 1991. The LIHTC resources require an affordability period of 30 years, and the affordability restrictions associated with those development resources expired as of December 31, 2020. The owner chose to not preserve these homes through either accepting new affordability restrictions or by selling it to a purchaser who would preserve affordability. As such, the owner is able to convert to market-rate rent levels. Thankfully, federal regulations require a Safe Harbor period where residents of affordable housing can remain in their homes with affordable rents. That Safe Harbor period will last until 12/31/2023. After that, rent increases will be limited to 7% plus the consumer price index. We'll be watching this closely and will promote affordable housing opportunities to residents as they're available.

Oregon is in an affordable housing crisis; we need every tool available to us to preserve the stock of affordable housing while we build more. We look forward to continuing the conversation about improving affordable housing and other housing solutions in the coming weeks and months. Please reach out to [Nicole Stingh](#) with any questions.

Thank you for your attention to this vital issue,

Julie Cody
Director of Affordable Rental Housing
Oregon Housing and Community Services

