To: **Representative Maxine Dexter, Chair, and Members**
House Committee on Housing and Homelessness
Oregon State Legislature
900 Court Street NE
Salem, OR 97301

From: **Al Johnson**
Retired land use attorney[i]

Re: **House Bill 2983, February 2, 2023 public hearing**

Date: **February 1, 2023**

Greetings, Chair Dexter and Committee Members:

I urge your support for House Bill 2983 for the reasons set forth in testimony already in your record, including that of the City of Medford, Andree Tremoulet, and the Port of Portland. Manufactured and prefab housing, combined with limited equity ownership, provide what may well be the fastest as well as the most cost-efficient and sustainable route to affordable home-ownership that there is. Done right, with the kind of streamlining that has been piloted in Bend and elsewhere under recent legislation, it can create jobs and production capacity throughout the state while giving all of Oregon's big and little urban areas their fair share of the ambitious bi-partisan affordable housing production goals shared by the Governor and, I believe, by all members of the Oregon legislature.

I hope that the funding as approved can be used to help fund projects that include manufactured and pre-fab subdivisions with appropriate sidebars such as housing trust or limited equity coop ownership, resale deed restrictions, etc., as well as manufactured home parks, because unity of title is such an important part of homeownership for so many people, including those who qualify as "lower income." I have pasted in the ORS 496.498 statute below, with some key language highlighted. Please review it carefully to assure that the requested funding can be allocated promptly, without unnecessary strings or further administrative sausage-making. Anything you don't like in the rules? Just change it by statute. You can do that.

Thank you for your continuing commitment to fully realizing the vision of Oregon's 50-year-old statewide housing goal earlier than later in its second half-century.

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[i] Statewide practice 1974-2010. Wide range of clients, public and private, for-profit and non-profit.
Represented prevailing party in leading cases enforcing Oregon's statewide housing goal and needed housing statutes, including:

Opus v. Eugene (requiring cities to account for impacts of site review standards on housing inventories)
Jaqua v. Springfield (limiting type and scale of nonresidential uses on urban residential lands)
Creswell Court v Creswell (prohibiting city from excluding manufactured home parks without coordinating with nearby cities)
Homebuilders/Eugene Chamber v Eugene (2002 Eugene code update (requiring cities to account for losses to residential lands inventories from amendments overlaying up to 200,000 density-reducing tree buffers on inventoried 20-year residential land supply).

Served as LCDC hearings official in 1970's. Drafted early LCDC statewide housing goal decisions including ***Seaman v Durham*** (explaining least cost, regional fair share requirements of Goal 10) and **Kneebone v Ashland** (restricting downzoning of residential lands). Also co-edited, with DOJ's Jim Mattis, the Oregon State Bar's Administrative Law handbook.
Housing related volunteer work has continued, including:

Co-chair, Bend Residential Lands Technical Advisory Committee, during 2014-201 BLI-HNA-UGB update.
Member, Steering Committee, Wild Rivers Coast Alliance (focus on workforce housing inside coastal UGBs).
Member, DLCD Housing Capacity work group
Alternate, DLCD Climate-Friendly and Equitable Communities rulemaking advisory commttee

456.548 Definitions for ORS 456.548 to 456.725. As used in ORS 456.548 to 456.725, unless the context requires otherwise:

(1) "Bonds" means any bonds, as defined in ORS 286A.001, or any other evidence of indebtedness, issued under ORS 456.515 to 456.725 or issued in anticipation of bonds and payable from the proceeds of bonds issued.

(2) "Capital reserve account" or "capital reserve accounts" means one or more of the special trust accounts that may be established by the Housing and Community Services Department within the Housing Finance Fund.

(3) "Consumer housing cooperative" means a cooperative corporation formed under ORS chapter 62 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 62, that:

(a) The consumer housing cooperative has been organized exclusively to provide housing facilities for persons and families of lower income and such social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that no unreasonable part of the net income or net earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) The consumer housing cooperative is in no manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any transaction therewith, except that such limitation shall apply to the members of the cooperative only to the extent provided by rules of the department.

(d) The operations of the consumer housing cooperative may be supervised by the department and that the consumer housing cooperative shall enter into such agreements with the department as the department may require to provide regulation by the department of the planning, development and management of any housing project undertaken by the cooperative and the disposition of the property and other interests of the cooperative.

(4) "Development costs" means the costs that have been approved by the department as appropriate expenditures and includes, but is not limited to:

(a) Payments for options to purchase property for the proposed housing project site, deposits on contracts of purchase, payments for the purchase of property as approved by the department, legal, organizational and marketing expenses including payment of attorney fees, managerial and clerical staff salaries, office rent and other incidental expenses, payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work;

(b) Expenses for surveys as to need and market analyses; and

(c) Such other expenses incurred by the qualified housing sponsor as the department may deem necessary under ORS 456.548 to 456.725.

(5) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an agency or instrumentality thereof.

(6) "Housing development" means a development that contains housing units for persons or families of lower income and such other incidental elements of residential, commercial, recreational, industrial, communal or educational facilities as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development.

(7) "Housing finance bond declaration" means a written instrument signed by the Director of the Housing and Community Services Department or the designee of the director and on file with and bearing the certificate of approval of the State Treasurer or the designee of the State Treasurer, and all housing finance bond declarations supplemental to that instrument.

(8) "Housing Finance Fund" means the Housing Finance Fund established in ORS 456.720 (1).

(9) "Lending institution" means any bank, mortgage banking company, trust company, savings bank, credit union, national banking association, federal savings and loan association or federal credit unit maintaining an office in this state, or any insurance company authorized to do business in this state.

(10) "Limited dividend housing sponsor" means a corporation, trust, partnership, association or other entity, or an individual that is a mortgagor.

(11) "Manufactured dwelling park nonprofit cooperative" has the meaning given that term in ORS 62.803.

(12) "Manufactured housing" means a dwelling unit manufactured off-site having a minimum width of 10 feet and a minimum area of 400 square feet built on a permanent chassis and designed to be used for permanent residential occupancy whether or not on a permanent foundation, and that contains permanent eating, cooking, sleeping and sanitary facilities and meets such standards as the department determines, by rule, are reasonable to maintain the quality, safety and durability of the dwelling, the sanitary requirements of the communities in which they are located and the security of the loans that the department may finance for the purchase of the dwellings.

(13) "Nonprofit housing corporation" means an organization formed under ORS chapter 65 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 65, that:

(a) The corporation has been organized exclusively to provide housing facilities for persons and families of lower income and such other social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All the income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation may inure to the benefit of any private individual, firm, corporation, partnership or association.

(c) The corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in transactions therewith.

(d) The operations of the corporation may be supervised by the department and that the corporation shall enter into such agreements with the department as the department may require to regulate the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and other interests of the corporation.

(14) "Person of lower income" or "family of lower income" means:

(a) A person or family residing in this state whose income is not more than 80 percent of area median income, adjusted for family size, as determined by the Oregon Housing Stability Council based upon information from the United States Department of Housing and Urban Development;

(b) A person or family residing in this state whose income, adjusted for family size, is below the level the Housing and Community Services Department has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the cost of utilities and taxes, for not more than 25 percent of the gross income of the person or family; or

(c) Any person or family the department determines is appropriate to treat as a person of lower income or a family of lower income incidental to the accomplishment of department programs for persons and families of lower income described in paragraphs (a) and (b) of this subsection.

(15) "Project cost" or "costs of the project" means the sum of all reasonable expenses incurred by a qualified housing sponsor in undertaking and completing a housing project approved by the department. "Project costs" or "costs of the project" include but are not limited to the expenses incurred by a qualified housing sponsor for:

(a) Studies and surveys;

(b) Plans, specifications, architectural and engineering services;

(c) Legal, organizational and other special services;

(d) Financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated housing units;

(e) Movement of existing buildings to new sites; the cost of acquisition, or estimated fair market value, of land and other interests in real estate;

(f) Rehabilitation, reconstruction, repair or remodeling of existing buildings;

(g) Estimated carrying charges during construction and for a reasonable period thereafter;

(h) Placement of tenants or occupants and relocation services in connection with the housing project;

(i) Reasonable builder's or sponsor's profit and risk allowance; and

(j) Development costs not otherwise included in this subsection.

(16) "Qualified housing sponsor" means, subject to the approval of the department under ORS 456.620 (2):

(a) A consumer housing cooperative;

(b) A limited dividend housing sponsor;

(c) A nonprofit housing corporation;

(d) A for-profit housing sponsor;

(e) A housing authority;

(f) An urban renewal agency created by ORS 457.035; and

(g) Any city or county governing body or agency or department designated by the governing body.

(17) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land development and acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto and as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development. "Residential housing" includes, but is not limited to, a specific work or improvement within this state undertaken to provide mobile home or manufactured dwelling parks as defined in ORS 446.003. As used in this subsection, "land development" includes, but is not limited to, the improvement of streets and alleys and the construction of surface drains, sewers, curbing and sidewalks.

(18) "Residential loan" means any of the following:

(a) A loan that is for the acquisition, construction, improvement or rehabilitation of residential housing and, if the loan is for acquisition or construction of residential housing, that is secured by a first lien on real property located in the state and:

(A) Improved by a newly constructed, existing or rehabilitated residential structure for persons or families of lower income; or

(B) Unimproved if the proceeds of such loan shall be used for the erection of a residential structure thereon, whether or not such loan is insured or guaranteed by the United States or any instrumentality or agency thereof.

(b) An insured or guaranteed loan for the acquisition of manufactured housing or for the acquisition of a lot described in ORS 92.840 by a manufactured dwelling park tenant.

(c) A loan for the purchase of a proprietary lease and related cooperative shares in a housing cooperative formed under ORS chapter 62 secured by a security interest of first priority and a pledge or an assignment of proprietary leases and related cooperative shares.

(19) "Revolving account" means the Housing and Community Services Department Revolving Account created in ORS 456.574. [Formerly 456.615; 2009 c.541 §21; 2015 c.180 §5; 2021 c.55 §2]

456.550 Policy. (1) There exists in this state a seriously inadequate supply of and a pressing need for safe and sanitary dwelling accommodations within the financial means of persons and families of lower income, including but not limited to persons and families displaced by the clearing of slums and blighted areas or by other public programs;

(2) Private lending institutions have been and will continue to be unable to provide necessary financial support for lower income housing and the resulting shortage of financing has been in whole or in part responsible for the shortage of lower income housing;

(3) It is a valid public purpose to provide for the construction, rehabilitation, purchase, leasing and refinancing of housing for such persons and families who would otherwise be unable to obtain adequate dwelling accommodations which they could afford and to aid in the acquisition of land for present or future developments including such housing accommodations;

(4) It is further found that the authority and powers conferred by ORS 456.548 to 456.725 and ORS chapter 458 upon the Housing and Community Services Department and the Director of the Housing and Community Services Department constitute a necessary public program and serve a valid public purpose;

(5) To stimulate and increase the supply of housing for persons and families of lower income it is necessary that a central source of housing information, planning, educational services and technical assistance and a revolving fund be established. The Housing and Community Services Department shall be that central source in this state;

(6) It is the policy of this state to increase the amount of and improve the condition of low and moderate income housing by investing in developing local capacity to build, rehabilitate and manage housing. A primary vehicle for building such capacity is the formation and expansion of community development corporations; and

(7) In that the farmworkers in this state benefit the social and economic welfare of all of the people in Oregon by their unceasing efforts to bring a bountiful crop to market, the Legislative Assembly declares that it is the policy of this state to ensure adequate accommodations commensurate with the housing needs of Oregon's farm workers that meet decent health, safety and welfare standards. To accomplish this objective in the interest of all of the people in this state, it is necessary that:

(a) Every state and local government agency that has powers, functions or duties with respect to housing, land use or enforcing health, safety or welfare standards, under this or any other law, shall exercise its powers, functions or duties consistently with state policy and in a manner that will facilitate sustained progress in attaining the objectives established;

(b) Every state and local government agency with jurisdiction over farmworker activities must make every effort to alleviate insanitary, unsafe and overcrowded accommodations;

(c) Special efforts should be directed toward mitigating hazards to families and children; and

(d) Accommodations must be designed to provide for the rights of free association to seasonal farmworkers. [1971 c.505 §1; 1973 c.828 §1; 1973 c.832 §3; 1975 c.154 §7; 1989 c.1030 §5; 1995 c.79 §244; 2001 c.625 §4]