



February 24, 2023

HOUSE COMMITTEE ON
HOUSING AND HOMELESSNESS
Oregon State Capitol 900 Court Street NE
Salem, Oregon 97301

Re: House Bill 2506 – Testimony in Support

Chair Dexter and Committee Members:

Thank you for this opportunity to comment on HB 2506. Since 2004, Housing Land Advocates (HLA) has worked to ensure that Oregonians of all income levels can obtain adequate and affordable housing. We are proponents of land use policies and planning choices that advance affordable, fair, and equitable housing outcomes, **which is why we support HB 2506. Indeed, HB 2506 is the key to fulfilling the Governor's priorities of housing and behavioral health.** By expanding the definition of "residential homes" and "residential facilities," HB 2506 significantly reduces land use requirements for a number of facilities—including residential treatment facilities, community and community-based housing—that serve special populations. Please see the attached memorandum from HLA Board Member Kathy Wilde, who has litigated extensively around the issues HB 2506 works to correct.

We would further like to note that HB 2506 is in keeping with the current trend toward expansion of allowable uses in zones which allow single-family dwellings, in recognition of the urgent need for densification and for a greater supply of housing, especially for Oregon's most vulnerable residents.

While we commend the bill's overall direction, we do have two concerns:

1. As drafted, the bill will allow for the award of attorney fees where an applicant for such a facility overturns a denial at LUBA, or if a decision granting such a use is affirmed at LUBA. **However, there is no provision for the award of attorney fees on further appeal to the Oregon Court of Appeals.**
2. **We are concerned that the permissive language in ORS 197.667 is inconsistent with the Fair Housing Act unless it is read to *require*, rather than just *permit*, local governments to allow a residential facility in a single-family dwelling zone.** HB 2506 provides an opportunity to correct this very old mistake, and to ensure ORS 197.667 is aligned with other state laws and federal law.

Accordingly, we recommend the addition of the following bolded language to SECTION 3. ORS 197.667 (3), as amended by HB 2506:

“A local government [*may*] **shall** allow a residential facility in a residential zone

other than those zones described in subsections (1) and (2) of this section, including a zone where a single-family dwelling is allowed.”

As we continue to follow the progress of this bill and consider comments submitted by our colleagues, we may find it necessary to submit additional comments. Thank you, Chair Dexter and Committee Members, for your leadership and for considering this testimony.

Sincerely,

/s/ Kathy Wilde

Kathy Wilde
HLA Board Member

cc: (all by e-mail)
Representative Rob Nosse
Allan Lazo and Matthew Serres, Fair Housing Council of Oregon
Allen Hines, Community Vision
Housing Land Advocates Board

Memorandum from Kathy Wilde

This bill, particularly with the further modification proposed in HLA's letter of support, will make a dramatic difference in the ability to site residential group homes and facilities that are so sorely needed to provide mental health treatment and support in the community. For the past 15 years or more, communities around the state have opposed the creation of such homes and facilities, often without consequence, despite the fact that the homes and facilities had been licensed and funded by the State of Oregon. Disability Rights Oregon stepped in on many occasions, to advise the non-profits who sought to operate these homes, to provide them with legal support, and when necessary to litigate on their behalf in order to enable the homes and facilities to open and operate. This bill not only creates financial penalties for jurisdictions who refuse to allow such homes and facilities to be sited, but also expands the definitions of such homes and facilities in such a way as to make them a permitted use, and to prevent any conditions from being imposed on them that are not imposed on single family dwellings.

DRO represented providers in Milwaukie, where the city bought the land out from under the non-profit in order to prevent the operation of a residential facility; in Cornelius, where the town government sought to close an existing residential facility; in Malheur County, where the siting was denied by requiring a conditional use permit for the property; and in zoning proceedings round the state, including Lakeview, Coos Bay, and Eugene, prevailing over substantial community objections.

This bill creates a state law remedy, rather than requiring litigation under the Fair Housing Act or other federal laws.