

March 27, 2023

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House Committee on Housing and
Homelessness

RE: House Bill 3197

Dear Committee Members:

This letter is hereby submitted in opposition to House Bill 3197 (the “Bill” or “HB 3197”), limiting the requirement that development regulations be clear and objective to the development of housing within urban growth boundaries. As explained further below, the Bill is bad policy and should not be passed.

First, HB 3197 is contrary to Governor Kotek’s recently signed executive orders, which: 1) declare a state of emergency due to homelessness (Executive Order 23-02), 2) establish a statewide housing production goal of 36,000 new units per year (Executive Order 23-04), and 3) order state agencies to prioritize reducing homelessness (Executive Order 23-03). Based on those executive orders, the clear policy trend is to provide more housing in Oregon. Contrary to that trend, HB 3197 limits the amount of housing that can be built by limiting the requirement that development regulations be clear and objective to the development of housing within urban growth boundaries. Limiting that requirement will necessarily limit the amount of housing that can be built outside of urban growth boundaries as counties will be able to apply subjective approval criteria to the development of housing. Such subjective requirements make it more difficult to develop housing as developers cannot rely on clear and objective criteria in their applications (and local decision makers can therefore approve or deny applications based on subjective criteria). HB 3197 will therefore make it difficult to achieve Governor Kotek’s housing production goal, and falls short of the direction to prioritize homelessness.

Second, ORS 197.307(4) directs that “a local government may adopt and apply clear and objective standards, conditions and procedures regulating the development of housing[.]” (Emphasis added). Importantly, to the extent the state regulates development, it can apply subjective standards, and HB 3197 will not change that (regardless of whether it is passed or not). That is, to the extent the *state* has adopted rules or considerations that have subjective requirements, such as various statewide planning goals, those requirements still apply. Local governments (counties) should not be able to adopt additional subjective criteria.

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.Counties should be required to apply clear and objective development regulations to the development of housing. Limiting the clear and objective requirement of ORS 197.307(4) to development within urban growth boundaries is contrary to the Governor's recent executive orders and is contrary to Oregon's goals of reducing homelessness and producing more housing stock. HB 3197 also does not change the fact that the state may apply subjective criteria to the development of housing to the extent it regulates it.

The Bill should therefore not be passed. However, if the Committee wishes to move the bill forward, we would request that an amendment be made such that clear any objective standards must apply on residentially zoned lands (rural residential exception areas) outside of UBGs but that subjective criteria may be applied on farm and forest lands.

Sincerely,


Kenneth Katzaroff

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