



INSTITUTE FOR JUSTICE

March 26, 2025

House Committee on Housing and Homelessness  
Oregon State Capitol  
900 Court Street NE, Room 453  
Salem, Oregon, 97301

**Re: Testimony before the House Committee on Housing and Homelessness in support of HB 2138**

Chair Marsh, Vice Chair Andersen, Vice Chair Breese-Iverson, and Members of the Committee:

My name is Samuel Hooper. I am Legislative Counsel at the Institute for Justice (IJ), a nonprofit law firm that works to protect civil and economic liberties, including property rights. Through strategic litigation in courthouses and advocacy in statehouses, IJ's Zoning Justice Project seeks to reform restrictive zoning and land-use regulations that limit housing supply, drive up costs, and infringe upon private property rights.<sup>1</sup>

I write to support the passage of HB 2138, which, by requiring municipalities to allow more diverse types of “middle housing” (including duplexes, triplexes, quadplexes, cottage clusters and townhomes) in areas currently zoned for residential use, will help to address the housing crisis while upholding the rights of property owners.

**Addressing housing availability in Oregon**

As demand for housing continues to outstrip supply, outdated zoning policies are straining the housing market, contributing to localized shortages, and increasing costs across all home types and price points. This affordability crisis affects all Oregonians, but particularly low-income families, young professionals, and seniors.<sup>2</sup>

Restrictive zoning and land-use regulations contribute significantly to the shortage of housing. These regulations reduce housing options by effectively prohibiting multifamily housing, restricting smaller, more affordable homes, and barring “middle housing” options such as duplexes or townhomes. They also limit the construction of higher-density housing, pushing development outward away from urban cores, thus increasing transportation costs for working families. Costly and lengthy permitting processes discourage development and add to housing prices. And not only does restrictive

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<sup>1</sup> Institute for Justice – Zoning Justice Project: <https://ij.org/issues/zoning-justice/>

<sup>2</sup> “The Zoning Trap: How Local Planners Decide How We Live”, <https://ij.org/issues/zoning-justice/history-of-zoning/>



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zoning contribute to the rise in homelessness,<sup>3</sup> it can also restrict the ability of citizens and organizations to respond to the very problems that it creates.<sup>4</sup>

Overzealous zoning regulations prevent citizens from using their own property in a manner best suited to their needs, and to the extent that they prevent the building of gentle and sustainable urban density, they contribute to the housing crisis. Zoning laws that ban anything other than single-family homes drive up prices by artificially limiting the supply of housing. In fact, approximately 75 percent of all residential property in America is currently zoned to prohibit the construction of relatively affordable housing (such as duplexes, triplexes and quadplexes) where it is most needed, contributing to skyrocketing rents and home ownership slipping beyond the reach of average earners.<sup>5</sup>

### **Unlocking Housing Potential: The Importance of Middle Housing**

At IJ, we have seen firsthand how zoning restrictions often serve as a tool for exclusion, limiting who can afford to live in a community. HB 2138 helps to correct this imbalance by ensuring that cities do not arbitrarily prohibit middle housing options, allowing more Oregonians—including young professionals, working families, and retirees—to find housing that suits their needs and budgets.

Expanding the availability of middle housing will increase affordability by allowing more homes to be built where people want to live, helping to drive down housing costs through market competition. It will enhance economic opportunity by ensuring that people can afford to live closer to their workplaces, benefiting both employees and businesses. It will promote flexibility by making it easier for residents to find housing that fits their needs, whether they are young professionals, growing families, or retirees looking to downsize. It will also foster more inclusive communities by creating more housing options that welcome people from all backgrounds and income levels.

HB 2138 is not a top-down mandate; rather, it is a pragmatic, property rights-oriented reform that ensures property owners are free to make reasonable, more productive use of their land. Importantly, the bill still allows local governments to regulate siting and design of middle housing, provided such regulations do not impose undue costs or delays that discourage development. This strikes a fair balance between local planning needs and the fundamental right of individuals to use their property productively.

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<sup>3</sup> “Zoning Police and NIMBYs Want To Keep People Homeless”, A. Bargil and D. James, Reason, <https://reason.com/2024/07/19/zoning-police-and-nimbys-want-to-keep-people-homeless/>

<sup>4</sup> “With Winter Coming, the Institute for Justice Sues Kalispell, Montana, to Keep Warming Shelter Open”, <https://ij.org/case/flathead-warming-center/>

<sup>5</sup> Testimony: In Residential Zoning Policy, Congress Must Tear Down the Walls We Don’t See, <https://tcf.org/content/commentary/testimony-residential-zoning-policy-congress-must-tear-walls-dont-see/>



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## **Conclusion**

In every other sector of our economy, consumer demand is met with an array of consumer choices at different price points. Housing should be no different, and the marketplace of housing supply should be unshackled to allow for an array of housing options that will meet the diverse needs of Oregon's citizens. For these reasons, the Institute for Justice encourages the Committee to support HB 2138.

Sincerely,

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