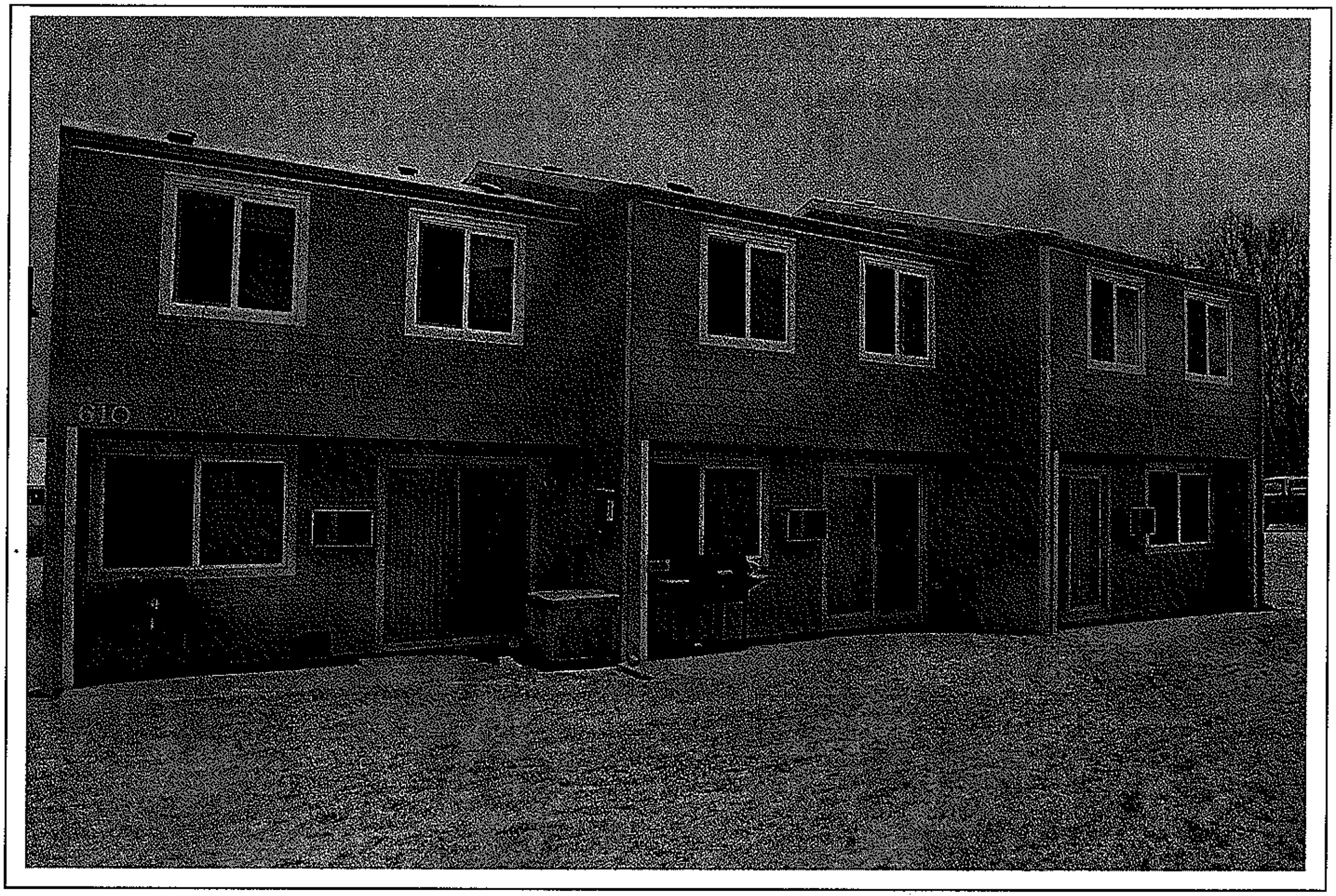
OREGON STATE HOUSING COUNCIL

February 18, 2011



Cottonwood 1 & 2, Hermiston, OR
(Acquisition Rehab/Preservation; 22 Units Family; 24 Units Seniors)

Meeting held at:
Kroc Community Center
1865 Bill Frey Drive NE
Salem, OR 97301
503.986.2005

OREGON STATE HOUSING COUNCIL

February 18, 2011

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Oregon State Housing Council
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What We Do Matters!

STATE HOUSING COUNCIL MEETING

February 18, 2011

9:00 a.m.

Meeting Location:
Kroc Community Center
1865 Bill Frey Drive NE
Salem, OR 97301
(503.986.2005)

AGENDA

I.	**CALL TO ORDER**		**M. LaMont**
II.	**ROLL CALL**		**M. LaMont**
III.	**PUBLIC COMMENTS**		**M. LaMont**
IV.	**APPROVAL OF MINUTES**		**M. LaMont**
	A.	Minutes of January 21, 2011 Meeting	
V.	**RESIDENTIAL CONSENT CALENDAR -- None**		
VI.	**NEW BUSINESS**		
	A.	*Anchor Mobile Home Park* (Gold Beach, OR), Manufactured Dwelling Park Preservation Program Grant Request	**D. Zitzelberger**
VII.	**SPECIAL REPORTS**		
	A.	Ending Homelessness Advisory Council (EHAC) Report	**M. Carroll**
VIII.	**OLD BUSINESS**		
	A.	Period of Housing Affordability	**R. Crager & B. Markey**
IX.	**REPORTS**		
	A.	Legislative Update	**L. Joyce**
	B.	Oregon Homeownership Stabilization Initiative (OHSI) Update	**M. Kaplan**
	C.	Report of the Chief Financial Officer	**N. Cain**
	D.	Report of the Deputy Director	**R. Crager**
	E.	Report of the Director	**V. Merced**
	F.	Report of the Chair	**M. LaMont**
X.	**FUTURE AGENDA ITEMS**		**V. Merced**

OREGON STATE HOUSING COUNCIL
Minutes of Meeting

Meeting Location:
Oregon Housing and Community Services
725 Summer Street NE, Room 124 A/B
Salem, OR 97301

9:00 a.m.
January 21, 2011

MEMBERS PRESENT
Maggie LaMont, Chair
Tammy Baney, via phone
John Epstein
Mike Fieldman
Francisco López
Nancy McLaughlin

MEMBERS ABSENT
Jeana Woolley

GUESTS
Janet Byrd
Patti Whitney-Wise
Cathey Briggs
Ryan Fisher
Michelle Deister
Peter Hainley
Rob Prasch
Tom Cusack

STAFF PRESENT
Victor Merced, Director
Rick Crager, Deputy Director
Nancy Cain, Chief Financial Officer
Bill Carpenter, Information Services Division Administrator
Mike Kaplan, OHSI Administrator
Karen Clearwater, Regional Advisor to the Department
Karen Chase, Regional Advisor to the Department
Vince Chiotti, Regional Advisor to the Department
Bruce Buchanan, Regional Advisor to the Department
Lisa Joyce, Policy and Communication Unit Manager
Roberto Franco, Single Family Section Manager
Betty Markey, Senior Policy Advisor
Linda Morter, Budget Analyst
Shelly Cullin, Senior Loan Officer
Rich Malloy, NSP & Policy Coordinator
Dave Summers, MultiFamily Section Manager
Roseanne Ward, Financial Services Section Manager
Cheryl Resendez, NSP Analyst
Leslie Tennies, Grants & Monitoring Unit Section Manager
Vicki Massey, Emergency Housing Coordinator
Tony Penrose, Resource Coordinator
Roz Barnes, Loan Officer
Dawn Voelker, Asset Performance Section Manager
Janna Graham, Loan Specialist
Aria Seligmann, Senior Communication Advisor
Vikki Pointer, Recorder

I. <u>CALL TO ORDER</u>: **Chair LaMont** calls the January 21, 2011 meeting to order at 9:03 a.m.

II. <u>ROLL CALL</u>: **Chair LaMont** asks for roll call. **Present: Tammy Baney (via phone), John Epstein, Mike Fieldman, Francisco López, Nancy McLaughlin and Chair LaMont. Absent: Jeana Woolley.**

III. PUBLIC COMMENT: Cathey Briggs, Executive Director, Oregon ON, states the feedback she has been getting on the OHSI program is that the OHCS staff has been very responsive in trying to adapt to the changing environment.

IV. APPROVAL OF MINUTES

A. Chair LaMont asks if there are any corrections to the December 3, 2010 Minutes. There being no corrections, the Motion was read:

MOTION: Epstein moves that the Housing Council approve the Minutes of the December 3, 2010 Council meeting.

VOTE: In a roll call vote the motion passes. Members Present: Tammy Baney (via phone), John Epstein, Mike Fieldman, Francisco López, Nancy McLaughlin and Chair LaMont. Absent: Jeana Woolley.

V. RESIDENTIAL CONSENT CALENDAR:

Roberto Franco, Single Family Section Manager, reports that the department has close to 110 reservations, which is approximately $15.7M, and that there will probably need to be a second issue in April or May.

VI. NEW BUSINESS:

A. *NSP-2 Funding Policy.* **Rich Malloy,** NSP & Policy Coordinator, and **Roberto Franco,** Single Family Section Manager. **Malloy** explains that the department is facing a challenge with NSP2. A major component is that $1.28M of NSP2 funds has been allocated for projects that would fund permanent supportive housing for homeless persons. In addition to that, some of the agency's own money has been leveraged: $2M in Trust Fund and $1.15M in the General Housing Account. The plan is to get these funds out and to do as many homeless units as possible. For some of these projects, the total amount of combined money is well over $400,000. The agency's policy is that if a project has more than $200,000 from any one source, or greater than $400,000 from all sources, it needs to come before Council for approval. The NSP acquisitions are often times in a short timeframe, within 60 days of when they have to close, so a quick approval process is needed. $1.7M of the NSP allocation does need to go to the homeless population. With these projects there is little or no time to negotiate. Often there are 2 units in one project and then another 4 in a project across the street. If these units can be packaged together, approved and funded, the department would be able to close the deal. The request before Council today is to authorize the Director, through the department's Finance Committee, to approve these projects as they come through. **Franco** adds that under the RFAs there is review and scoring criteria to make sure that the project does meet the department's financial requirements and that they meet the minimum years in the term of affordability. There is also a review team and he assures Council that there is a process in place that looks at the financial feasibility of the programs for each proposal received. **Crager** states that the Finance Committee reviews all grant and loan requests before they are presented to Council. With this action Council would be approving an up-to amount of NSP2 funds for the committee to have discretion to approve those. **LaMont** says she does not have a problem with it, but she would like to have a report given to the Council at each meeting about the funding until the funds are used up. **Crager** says that could be put on the Consent Calendar. **Epstein** points out that Trust Funds are used for a lot of other things. **Franco** explains that when the proposal was submitted to HUD for NSP for the creation of permanent supportive housing nearly two years ago, it was budgeted as part of the Trust Fund in a specific amount dedicated to this program.

MOTION: Epstein moves that the Housing Council authorize the Department Director to approve funding requests submitted under the NSP2 Request for Applications to create permanent supportive housing for homeless persons in NSP2 designated areas. The total funding available for the mentioned RFA, including NSP2, Trust Fund and GHAP funds is $3,434,655. Approval of funding requests is subject to applications meeting all the RFA requirements and funding review criteria and the recommendation from the OHCS Finance Committee.

VOTE: In a roll call vote the motion passes. Members present: Tammy Baney (via phone), John Epstein, Mike Fieldman, Francisco López, Nancy McLaughlin and Chair LaMont. Absent: Jeana Woolley.

Crager asks Franco to mention the projects that have come forward to the Finance Committee at this point. **Franco** states that the department funded a 4-plex in Bend with HousingWorks under this proposal, and they have a second proposal for another duplex. In a few weeks the department will be getting a proposal for another 20 units.

VII. <u>SPECIAL REPORTS</u>:

A. *Oregon Hunger Task Force Update.* **Patti Whitney-Wise**, Executive Director of the Oregon Hunger Task Force and Partners for a Hunger-Free Oregon, gives the following update:

- *Summer Food Service Program* (handout) is a federal USDA program that helps provide meals for children during the summer months when they are out of school and do not have access to free and reduced priced meals. Two years ago they heard from a lot of areas that schools were going to be closing their summer schools down, so they began to work with the business community and put together a package of mini-grants that they were able to give out throughout the state. That program was repeated again this year. They were able to raise more money to pass through to mini-grants this year - $126,000 that went to 52 organizations in 22 counties. It resulted in the leveraging of federal dollars of over $597,000, which equaled a 4 to 1 return on money invested in those communities. One of the things they have learned over the two years of providing mini-grants is the technical staff have decided to redesign the way they are delivering services in Oregon. The mini-grant process is a way to provide more technical assistance. As a result, they are serving a lot more children.
- *State Legislative Agenda* (handout). They usually have their final agenda out in November, but they are struggling with how to put forward a meaningful legislative agenda when they have a $3.5B hole in the budget. They have been working on re-messaging their issues. They focused a lot on preserving programs this year versus expanding them. In order to end hunger, they have to end poverty. They are talking more about funding streams this session. She distributes a list of accomplishments in a timeline format. **McLaughlin** asks if she is familiar with the Ashland Food Project, which is made up of volunteers, with leaders by neighborhoods. People sign up to participate, they are provided with a bright green shopping bag, and every other month the bag is filled and taken to the neighborhood leader's home. It goes on all year long so it is a constant supply of food and is incredibly successful and easy. **Whitney-Wise** states that it is a wonderful way to supplement. **Fieldman** comments that the mini-grants have been helpful in his area this last summer.

Epstein asks if what she does is more policy and grant administration, as opposed to day-to-day actions. **Whitney-Wise** says yes. **Epstein** asks if the task force is a non-profit, but part of OHCS. **Whitney-**

Wise explains that they are unique in the country, which has been true for many years. The task force was created in 1989. For a number of years they operated in a relationship with OHCS. They oversee the appointment of members of the task force. Money has been raised through tapping state agencies for small pots of money to help fund the base work of the task force. As the years have gone on, they became a fiscal project of the Oregon Food Bank and were able to use their 501(c)(3) status to raise additional target dollars to help fund the food stamp outreach coordination. As the need for emergency food continued to grow in Oregon, the food bank could no longer let them use their status. In 2006 they met with OHCS to try and figure out what they could do. A decision was made that a non-profit would be created to provide the staffing support as the task force grew to do these special projects. The entity was named Partners for a Hunger-Free Oregon. The board must be approved by the task force and is created to support the work of the task force.

B. *Period of Housing Affordability.* ***Rick*** **Crager** explains that the period of affordability has been a policy discussion. John Epstein has been the leader as it relates to how that fits into the strategic plan. Betty Markey has done a lot of research and has put together a staff proposal, which has been sent to the department's partners, asking for comments on the policy by January 31. The intent is to bring that back to Council at the February meeting for consideration and to be able to provide any input received from our partners. Janet Byrd was been invited to provide insight into this issue.

Janet Byrd, Director of Neighborhood Partnerships and Housing Alliance, explains that the Housing Alliance is a statewide coalition of more than 50 nonprofit organizations, local governments, housing authorities, community action agencies and other allied organizations, such as Partners for a Hunger-Free Oregon and Ecumenical Ministries, who are committed to increasing the availability of affordable housing throughout Oregon's communities. She says the Housing Alliance strongly endorses the department's proposal to ensure that housing developed with the support of state controlled resources remains affordable for the longest possible time. They believe the memo that came out from Director Merced on January 6th stated the case well. She says there is the opportunity to learn from the history of state and federal investments in affordable housing. The landscape is different than in the past, and they feel like they have a bigger field and can take advantage of the changed landscape, new partners, and new abilities. They also have an obligation, given the state budget situation and the current need, to really push to maximize the impact of these investments. The Housing Alliance has worked very hard in conjunction with the department and other partners to preserve existing affordable housing. They will be pushing for lottery backed bonds on their legislative agenda to continue the preservation of affordable housing stock. A lot of the value comes from the land and the location, and they know that the people that live there are particularly vulnerable. She says they do not see anything that makes them believe the situation 40 years from now will be any different, so they want to push that limit as far as they can.

She says the Housing Alliance has a few specific suggestions for the policy draft. They strongly believe that permanent affordability is the most desirable outcome. They would like to push the department to take a step further than the draft policy and make 60 years the minimum standard of affordability, and offer preference to owners and developers who go further than that. They do not mean to discourage participation for for-profits. Looking at the experience of the City of Portland, which implemented a 60-year period of affordability in 1998, that policy has not curtailed participation by for-profits. They do feel that the 60-year period effectively levels the playing field for non-profits and housing authorities who are looking for that and so this balances the equation.

Second, the draft memo that came out from the director wanted to allow prepayments at 40 years or 50 years in certain circumstances. They believe that the way the administrative rule works and the policy works is that the director always has the ability to waive requirements given circumstances that warrant a waiver. They would rather see the department not assume that it is automatically a right of an owner and developer, but acknowledge that the ability to waive requirements would continue.

Third, the proposal calculated a simple interest to charge on the value of the state's investment. They would suggest that any recapture formula look at the true value of the investment that the state makes at the beginning. For example, some percentage of equity; some percentage of shared appreciation. They want something that will look at the actual value that has been generated over time.

Fourth, in conjunction with the preservation agenda, if owners are offered section 8 contracts or other federal grant subsidy contracts, they believe they should be required to accept those and to renew those federal subsidies as long as they are offered. There is language in the City of Portland ordinance that does that. They had a brief discussion with the department about the final point. The department was proposing that 4 percent tax credit and bond deals be exempted, and there is some good, sound thinking behind that recommendation, but they would like to have further conversations and discussions about that.

They have just completed their documents they do each session that document housing need by county. They know that one in four Oregon households cannot afford their housing, looking at the HUD standards of affordability and what people should be paying. They know that kids in almost every classroom in Oregon are experiencing homelessness and their futures are threatened as a result. They believe that the unprecedented need they are seeing in communities require that they take these aggressive steps to be sure they are getting the maximum impact from state investment. The department has done good work in putting together a proposal and they commend OHCS for taking that step.

She distributes a copy of the Housing Alliance's legislative agenda. She says the Housing Alliance had hoped to join with the department and support them in fairly aggressive requests to expand emergency housing assistance and lottery-backed bonds for preservation; however, it is hard to know how aggressive they can be with the current budget situation. They believe the preservation agenda is essential, given the fact that federal funds that went into homelessness prevention are being lost. The HPRP funds essentially supplemented the Emergency Housing Account by $15M. They are concerned about the impact on the homelessness prevention system. They need to keep a development pipeline open and have to keep meeting the unmet needs in communities. They are also hoping to extend the sunset on the OAHTC and the Farmworker Housing Tax Credit and to support the department's request for some amendments to those. They have a range of other bills they are supporting that deal with protecting tenants who are the innocent bystanders in the foreclosure proceedings and subject to eviction, utility cut-offs and some small housing keeping items that will support community land trusts and help protect the public investment that has gone into properties. They are optimistic that they will be able to make some progress and hold ground in the upcoming session.

C. *CFC Priority Rating Update.* **Bill Carpenter,** Information Services Division Administrator, distributes a copy of the 2010 CFC Needs Analysis Assessment and gives the following overview: The CFC distribution goals for some funds include a 30% set-aside for department priorities, which were preservation. In 2010, 55% were for projects in urban entitlement areas and 45% for properties in rural areas. In the CFC for 2010, nearly 70% of the funds, nearly $24M, were awarded to urban areas and 30%, just over $10M, were awarded to rural areas. The data source is from the American Community Survey. There is an appeals process in the CFC. Last year three appeals were received and one was approved. Some appeals were on data issues and some were on policy issues, so the appeals process was divided into those groups. This year there were no policy appeals, they were all data. From his perspective, generally the needs analysis seems to work; it helps the department fine tune its priorities. There is the difficulty that this was started as the financial markets for bonds and tax credit programs became very difficult. It is unlikely that we can do anything to really channel dollars into most of areas with the highest needs. For the 2011 Needs Analysis, if the ranking comes in at 1.00 or higher then they will be a priority one. If they are between .85 and 1.00, they are a priority two, and below a .85 is a priority three. 12 of the 36 counties were priority threes, 16 were priority ones. The workforce priorities are the only ones that were updated for the 2011 CFC. There were also special priorities for special needs populations, which are updated every two years, so will be updated again in the 2012 round. We now have data for all areas of the state, which was an issue that Scott Cooper felt very strongly about. **LaMont** asks if he saw much difference in the above 1.00 category changes. **Carpenter**: says no, they were nearly identical to last year. **McLaughlin** asks when the 2010 census data will be available. **Carpenter** says in about another year. **McLaughlin** asks what the speculation is about the definition of "rural." **Carpenter** replies that there is a lot of legislative activity about that. There are metropolitan statistical areas that are a standard designation, and there is a great deal of discussion about creating micro-politan statistical data areas for small population centers. For example, Ontario would be a micro-politan area. **Fieldman** adds that there is a third federal designation called frontier communities, which has to do with the population density of an area. **Carpenter** points out that even after the census people decide, there are federal agencies that decide whether or not to use them.

D. *Update on LC 632(SB 150), Expanding Access to Housing in Rural Oregon.* **Bill Carpenter**, Information Services Division Administrator, and **Betty Markey**, Senior Policy Advisor. **Markey** states that low-income areas of the state seem to have some of the highest cost of housing and not a lot of housing available to the workforce, so that those who work in the community are unable to live there as well. Lower income workers may travel longer distances, or spend a high percentage of their income for housing. This is seen in some of the coastal communities, as well as other rural areas of the state. To increase this problem, there were single family rental properties being sold for homeownership. Affordable housing in these communities is often in poor condition. The median incomes in these communities are quite low. 60% of median income in Lincoln County is equivalent to just over 40% AMI in the Portland area. Housing costs in both areas are the same, however. In some areas the private market has not developed any new housing for quite a few years. The cost to develop is high and what they would have to charge for rent to pay for the operating expenses and to pay debt service would not keep the housing affordable to the workforce. We have not been able to assist with OHCS resources develop housing. State and federal programs have a 60% AMI limit. A two-person working household that makes minimum wage makes more than 60% of AMI, so they do not qualify for the housing. To help communities maintain and attract the workers, we cannot change the federal programs, but Senate Bill 150 was an attempt to try and change the state program. It would have allowed state tax credit, grant and loan programs to support projects serving up to 120% AMI in select communities. After putting the concept together, the department began gathering data to demonstrate support for the bill and discovered that the income issues existed in more areas of the state than had been anticipated.

Carpenter adds that they did think about the type of data while putting the legislative concept together, but the data was not available in most cases at that point. He refers to a table that shows minimum wages versus income. It indicates that for one and two persons, both working full-time in minimum wage jobs, they actually made more money than what qualifies for the 60% income level. We were expecting to see a larger difference than what the data showed. He says this is a statewide phenomenon. Using a new data source from the Department of Employment and the data from the American

Community Survey, we were able to put together charts in a number of communities in the state showing income levels. There has been discussion about places like Ashland and Bend and the coast that the lowest income workers have to commute the longest distances, due to the housing in the areas being so expensive. When we started reviewing the data, we found that for almost all communities in Oregon, with a couple of exceptions, the commute patterns and income levels look the same. So regardless of income, the same percentage of workers are commuting similar distances. This was a surprise. Based on this new information, the department will be pulling this bill. **Markey** says they will try and work with some of the community leaders to find out what their issue is and determine if the department needs to be doing more rehab in those communities, and try to find out if they have other data information we can use. **Crager** states that the intent will not be to abandon this, just pull the bill at this time. We want to convene a variety of leaders and partners to tackle this problem thoroughly and figure out what is the best way to address it. **LaMont** says she finds it interesting that some of the other communities like Brookings, Redmond and Bend, are even higher than what Ashland is. The data still does show a need for affordable workforce housing. **Epstein** asks what the band of the population is between 60% - 120%. He says he would guess in urban areas there would be a higher percentage of people that are above 120%. In rural there will not be a large percentage over 120%. Maybe the band you look at then is if there is a big bubble between 60% and 120% who are trying to get into housing, that is eating up a lot of their income. Those are the workers that are really getting crunched. **Carpenter** says he looked at that a little, not exhaustively, and he thinks he is right and it was found near resort areas. **Epstein** suggests that may be distorted by second home owners.

VIII. <u>OLD BUSINESS:</u>

A. *OHCS Charges.* **Nancy Cain,** Chief Financial Officer, and **Dave Summers,** MultiFamily Section Manager. **Cain** explains that the department sent out a letter to partners asking for their input on the charges and fees. She points out that there is a summary of the fees and some copies of written responses in Council's packet. A conference call with all parties who made comments has been held. Based upon those comments, an internal group met to make recommendations on how, or if, the department should change any of the fees. The last time the fees were revised was in 2006. When there is a gap like that, some fees can increase more drastically than you would want them to increase. Therefore, the department has determined that it will do an annual review of all fees. She gives the following overview of the suggested changes:

- *CFC Application Charge*: What we heard is that by increasing the application fee we were adding impediments to applying for the funds. It was suggested that we keep the current application charge and have an added charge for those that get funded. We will charge a higher amount than we were originally planning for those that get funding.
- *Farmworker Housing Tax Credit Application Fee:* This is a new charge. We were proposing a tiered application charge. There was concern that not all the applicants would be aware of the charge. If we did have a charge it was suggested that we have a flat fee. So we chose $200 that would be assessed if an applicant received funding. The amount was the lower of our recommended amounts. We will implement this charge for the 2011 applications. In the notice of availability, there was a notice that an undetermined application fee might be charged.
- *Charges for Construction Analyst*: In the first round this was referred to as a construction "inspector," which seemed to create some confusion around the role of this position. The industry recognizes the need for increased verification that we are meeting the construction standards that will allow these developments to offer a long-term, sustainable product. **Summers** comments that for the 2011 CFC, the department has initiated a construction inspection requirement for all of the projects. Sponsors will be required to contract with third-party, qualified construction inspectors, who have envelope consultant level experience and skill. They will be putting reports together based

on the scope of work and those reports will funnel in through the construction analyst. They will have both construction and purchasing experience so that they can identify if there is an issue that needs to be raised up to our staff architect's level.

Cain continues:

- *Risk Sharing Monitoring Charge*: This $45 per unit charge would only apply to risk share projects. This was a fee that was approved in 2006, but due to circumstances at the time it was not adopted. Our circumstances have not changed much, many projects are still facing financial difficulty, but during this past year we were able to refund some of the bonds in the indenture, creating a savings of about 80 basis points on interest rates for 23 of the projects. We feel this is an appropriate time to implement the charge. There was also some concern about whether or not these were built into the budgets for the projects. It is my understanding that when we underwrite we do so with increases in all types of expenditures including our fees.
- *Charge for Late Submission of Asset and Property Management Monitoring Charges*: This is another new charge. One of the things we want to look at, but have not fully developed, is the possibility of an incentive fee and how that would benefit the department. Normally you offer an incentive because you need the cash and you would have to use other cash. That is not the case right now.
- *Charge for Late Submittal of Certification of Continuing Compliance:* Two of the concerns were if there was enough time to file, and rural areas without mail delivery. That was resolved by the fact that these requests are submitted electronically.
- *Charges for Restructuring of Debt/Changes to Agreements:* In Council's packet there are some specific example scenarios to give more information to partners. It was recommended by the Council and our partners that we consider a flat charge. She says she would rather not do that at this point, because many of the items are requests not for our benefit, but for the benefit of the project owner or sponsor. Consideration of a flat fee would be something we could consider in the annual review process. We did hear our partner input and did make changes. With the new process of reviewing these annually, even where we made no changes to our original recommendation, we have not set those recommendations aside.

LaMont asks if the construction analyst would be a new position or would it be contracted out. **Summers** says that it would be a new limited duration, in-house position. **Crager** adds that, in terms of the limited duration, the department does not have the authority to create permanent positions. We can administratively if we can demonstrate that we have the dollars and the need. If we want to get it permanently approved we have to take it to the Governor and the Legislature. **LaMont** asks if they are looking at a new position, would they look at some of the other existing projects. **Crager** responds that this position has been proposed to have enough fee to pay for the new projects that are coming in. In terms of expanded duties, that has not been built into this proposal. **Summers** adds that they requested feedback from the sponsors on the physical condition of all the projects that the department invested in. This individual would be well-suited to assist the department's Asset and Property Management group to evaluate condition of projects, identify projects that need to be inspected, and then help try and formulate some strategies to work with the project. **Epstein** asks where the revenue numbers come from. **Cain** states that this is from what we expect to bring in during the biennium. **Epstein** says his perception is that late charges are totally valid as long as people are given a reasonable timeframe to submit the documentation. They should get items in on time and if they don't, they should pay a late charge. He says he does not think you incentivize for coming in early, unless you want to spread out internal workload and not get everything coming in at the same deadline. If they are late you are spending time on phone calls and sending letters trying to chase them down, and you should not have to do that. We get charged for legal fees and $40 an hour is a reasonable rate. **Cain** states that they would be responsible to pay the DOJ charges, in addition to the $40. **Epstein** agrees that it is a reasonable charge. He says he is sure there was a lot of discussion around the construction analyst, and we are bringing the analyst in because the industry themselves have not policed well. We are trying to make sure that we use our money prudently. He says he thinks what the department is doing on the CFC is fair, and raising the monitoring fees would also probably have a lot of discussion around it. **Crager** says to keep in mind that that was approved in 2006, and since that time there have been significant refundings around those projects that have created savings for them. **Epstein** comments that this agency does not get a lot of state funding, so it covers its own overhead, and the staff should be spending their time on more important things than chasing down late paperwork. We need to motivate people to not be late. He says it may be worth a discussion that the project's size be scaled to assess the construction analyst fee, because someone analyzing a 4-plex will not spend as much time as on a 100 unit high rise. Perhaps use a sliding scale, or cut off. He says the one he is debating on is the risk sharing, and that it does need to be raised, but maybe over time so people can get ready for it.

Fieldman asks what the construction analyst is going to analyze if the independent third party gets the standards and the project is meeting all the standards. He says it seems like a duplication and wonders what value we would be getting. **Summers** responds that we have to have someone that is available to take on the work load when there is an issue with construction or specifications. **Fieldman** asks if he has a sense of how many issues they will get. **Summers** explains that the department has sent out a survey to try and judge where the projects are from a physical standpoint. So far, they have determined that a project is either an A, B or C. C being those with demonstrated issues that probably need to be fixed, potential life-safety issues for tenants. They are now at a 30% queue into that level. He thinks they will find that there is a variety of knowledge bases across the state from architectural and contractor partners based on what would be occurring best practices. The vendor that the department has contracted with for the best practices document is based out of Vancouver, BC. They gained the majority of their experience working within the condominium construction defect problem that their area experienced. The local government decreed that an envelope consultant had to be connected with every rehab of a condo project. Where that is happening, there was a general increase in knowledge of what the architects and contractors needed to do on these projects to make them secure. He is hoping that the department can take the best practices and through the inspectors in the field and analysts in-house, this information can be made well known to everyone we are working with. He says he thinks they can make a big difference in the next generation of projects. **Epstein** asks who the envelope consultants are paid by. **Summers** says the sponsor. **Epstein** asks if the department is creating an approved list of whom the envelope people have to be. **Summers** answers yes. The department used this model with the ARRA projects where there was a third party inspector, except that on that occasion a long-term monitoring pool was funded with funds from each project. Then we contracted with inspectors directly. We are going to see how this works this year to see if we think we are getting the allegiance to the best practices and accurate and timely information. If we believe that there is more alliance to the sponsor than to the project, next year we may change the structure to where we find a way to contract directly. **Epstein** asks if this is on projects of a certain size/dollar commitment. **Summers** responds that if they had 3 or 4 group homes, they might not require the third-party inspector, if it is more residential construction. **Epstein** asks if there is a cut-off if they are bringing in a third party. If so, that would make more of an argument for having an analyst. **Fieldman** asks what authority the third-party inspector would have in requiring changes, and if they find something that the contractor is not doing, do they have the authority to say that it needs to be done? **Summers** says the sponsor still is controlling the project. **Fieldman** asks what the value or added benefit would be to having analysis at the state level. **Summers** says that construction is an extremely complex, technical field, as is architectural design, and he does not have anyone on staff, besides one architect, who has the skills to evaluate this information. It is something of a scarce resource issue. **Crager** adds that with the construction inspector they have the standards in which they want the sponsor to comply with, and we all assume our sponsors will adhere to that, but that is not a guarantee. Someone has to be looking at that information and ensuring that it is being complied with, and there may be a need to intervene. **Cain** says it is our oversight responsibility that we are fulfilling. **Epstein** states that he would recommend tiering on that. **Cain** says she would recommend that for this one year we keep the $2,200. In the annual reviews we will look at that issue. There is a certain amount of work that is the same regardless of the size of the project. We do have authority to waive fees, which does not say that we will. **McLaughlin** comments that some of the smaller projects are the most time-consuming because they don't have the expertise. She thinks they should go with it for a year and then take a look at it. **Cain** states that the fee is an allowable expense of most of the programs and we have discussed that part of the implementation of these fees is that we and the RADs will work with the applicants to make sure that these fees are built into the project budget. If Council wants to have a per unit or tiered plan, she would like to take that to partners for comment and bring that to the next meeting, or perhaps look at that for the 2012 CFC. **Fieldman** says the flat fee puts the smaller projects at a disadvantage. **Cain** comments that part of the review is a cost per unit amount, and we certainly could exclude that fee from that calculation. **Summers** states that that would be outside of the evaluation.

LaMont announces that she would like to hear public comment at this time, and will come back after the comment to vote.

PUBLIC COMMENTS:

Peter Hainley, Executive Director, CASA of Oregon, and a board member of Oregon ON, comments that the department has covered most of the issues that were brought up in their letter. In 2009 the department first started talking to them about budget issues coming up and he called it "Team Clarity." Understanding the budget first was the key to coming up with some of the solutions. He says he appreciates the opportunity to have comment on this and to have their issues taken seriously. On some the department did not take their advice, which is okay. Number 7 is still evolving. The third one, the construction analyst, is the one they spent most of their time discussing. They know the issue and support trying to find solutions to it. They want to ensure that they are getting at the right solution and that they are really adding value to the projects. It is an envelope and underwriting issue. There is currently an architect, construction lender, project manager, and now adding a third party and this new position. They want to know what value is being added. Things have been clarified a lot more and they are talking specifically envelope issues. He says he would like to see a few more folks brought in on this. There are some underlying issues and issues around how much is this new person going to be directing the work and does it become a public works project and does that then kick in a whole new layer of requirements. We could experiment with it for a year. His industry is wanting to participate and bring in any of their folks that would need to take a look at this.

Cathey Briggs, Executive Director of Oregon ON, comments that this process caught them by surprise and they have had to respond quickly. She was happy to hear Nancy say that in the future the department would have an annual review process. They take these issues seriously. They have all learned a lot. They would have a lot to contribute to the conversation. It would be great to have a decision-tree or scenario discussions. Who trumps who? On the charges for restructuring debt, how does that apply to year-15 projects? **Cain** says that at this point in time, restructuring at the 15th year, projects would not incur these charges. **END OF PUBLIC COMMENTS.**

Cain says that before Council is the department's proposal and she asks that Council approve the charges as written, with instructions to revisit certain aspects of the fees at the next annual review. **López** comments that he likes the idea of using scenarios so that people will understand better, and he thinks that should be included in the explanation. He says he would also like the policy that the department uses for waivers be outlined. With partners' feedback, Victor sent a memo on December 8th asking for comments, and he asks how that is being pursued. He says he wants to be sure the feedback requests have been going to everyone. **Cain** states that the December 8th memo went out to partners, and they received the three written responses that Council has copies of. As a result of those, they held a follow-up partner call last Friday. The goal is having the annual reviews and following a prescribed process, and making sure that there is significant time for that interaction to occur. The department will also review who receives the information to make sure that we update and ensure that we get input from everyone who has a stake in the process. **López** asks what the projected revenue that these fees will generate is. **Cain** responds that the original was over $200,000 a biennium. Some of those will be reduced because some of the fees were reduced and deferred. **López** states that the period of feedback was less than a month and when you include the holidays, he was surprised that the timeframe was so quick. **Joyce** explains that the department has an electronic list that consists of nearly 1,000 people. It was included in the Director's Message and she contacted several of the members of the budget group and shared that this was coming and to be prepared. The timing was difficult in terms of the holidays. On the other hand, the department needed to have these in place for the next round of funding. **López** says his concern is that we create these groups to provide feedback to the department and he does not want to rush to a decision. He is not opposed to the fees, he is opposed to not getting enough feedback from members of the community at large. **Cain** states that that is also a concern of the department, so the timeframes in the future will allow more time. This will also incorporate meetings with partners so these issues can be discussed. **Joyce** comments that Rick and Nancy have been working on ways by which to engage stakeholders more effectively in decision making. **Merced** says they did hear the issue around establishing a decision-tree, which he thinks is a good idea. The liability issue is one that is worthy of a continued discussion. **LaMont** states that the support of having a specific time that the changes will be coming out and looking at them would be a good thing to do. **Crager** says they have a draft of that and they can bring that to Council so they can get an idea of what they are looking at in the future. **López** responds that he thinks it would be helpful to have a report on the process and how this is going. Council's role in monitoring this is very important, and he would like that included as an agenda item. **LaMont** says that feedback on how we are connecting with our partners is something that is part of our goal.

> **MOTION: McLaughlin moves that the Housing Council approve the OHCS Charges and Fees as written and discussed, with follow-up with the partners regarding decision timing, doing an annual review and, in particular, with number three (*Charges for Construction Analyst*) to see how that works.**

> **VOTE: In a roll call vote the motion passes. Members Present: John Epstein, Mike Fieldman, Francisco López, Nancy McLaughlin and Chair LaMont. Absent: Baney and Woolley.**

Fieldman asks what the option would be of approving the Charges for Construction Analyst for just a year. **Crager** says that all fees will be subject to an annual review.

IX. <u>REPORTS:</u>

A. *Legislative Update.* **Lisa Joyce**, Policy and Communication Manager, says the department has a smaller number of legislative bills going forward, and gives the following report:

- She is attempting to get clarification on the OAHTC Program Modification, which does have a fiscal impact with the increased utilization of the credit.
- There are bills to extend the sunset on the OAHTC and the Farmworker Housing Tax Credit.
- An area of controversy has been around SB152 with regard to the Oregon Hunger Relief Task Force. The statute requires the department to fund the administrative expenses of the task force. The department has not been receiving a line-item budget for that, so has asked to be relieved of that expectation. A compromise has been reached to add a clause "subject to funds available." This will assure that the department will fund the task force only when resources have been allocated.
- There is going to be a tax credit committee this time. With regard to the Farmworker Housing Tax Credit, there will be a celebration of everything they have accomplished through the Farmworker Housing Facilitation Team on April 1.

B. *Oregon Homeownership Stabilization Initiative (OHSI).* **Mike Kaplan**, Administrator of OHSI, reports the following:

- The application for the Mortgage Payment Assistance program closed at midnight on January 14. Over 19,000 had started applications, about 15,500 completed them. The disparity is that a lot started the application and realized they were ineligible for the program. They were pleased with the completion rate. The application process itself was found to be relatively easy to navigate. The intake requirements to the application was a two-step process. The first was the on-line application and the second is that the homeowner is to provide supporting documentation to an intake agency in their county. They expect the meetings at the intake agencies to continue into next week.
- As outreach reports are being compiled, they are pleased with what measures were taken in each county. In some of the smaller counties they were able to send a letter to every single homeowner in that county to let them know about the program. Word did get out and homeowners were aware of the program.
- In terms of lessons learned, foreclosure prevention programs are a document management exercise. Making sure the homeowners get the right documents in the right format has been the biggest challenge for both the department and its partners. As they move forward, they will put a lot of thought and effort into making sure future programs address that issue. Overall our partner agencies did a wonderful job and worked incredibly hard.
- Current projections indicate that 5,000 to 6,000 statewide will make it through the approval process and then move on to the underwriting stage. Reviews will be done to make sure they are correct and then they will be forwarded to the servicers so they have a chance to review the clients they will be assisting.

McLaughlin asks about the program they were talking to Treasury about. **Kaplan** says that is the refinancing pilot project in Deschutes and Jackson Counties. They are on the verge of submitting the third iteration of that effort to Treasury. Treasury has continued to be flexible in working with the department on that program. The concerns they have raised are valid and the department is working to create a model that they will be comfortable with. He says they are cautiously optimistic. **Epstein** says he heard a news story on NPR about the program, and their take was that it was starting very slowly, and that some counties were drastically undersubscribed. **Kaplan** states that he heard the same story. The skepticism was certainly there, but he thinks the story was a week or two late. That skepticism had largely disappeared by the time the story hit the air. **Epstein** asks if the 5,000 to 6,000 who are eligible will be going through the lottery process. **Kaplan** explains that they have 15,500 who have completed the application. Of that they expect somewhere between 5,000 to 6,000 to be eligible. The drawings that were discussed will be done county-by-county. They are currently evaluating what the capacity to serve is going to be. They are starting to see what actual mortgage payments will be. They have reserved $20,000 per applicant, but they may find that the loan payments for a year do not reach that amount. **McLaughlin** comments that the National Housing Law Project publication had a table in an article that showed how all the states were doing, and Oregon was displayed prominently. **Kaplan** says that being a second round state, Oregon is on the verge of taking the lead even ahead of the first round states in terms of launching its program statewide. People from other states are now asking what Oregon is doing. He says they are looking forward to actually making mortgage payments relatively soon. **LaMont** says that is quite an accomplishment. **Crager** adds that Mike and his staff have been incredible.

Merced introduces Diana Koppes as the department's new Asset and Property Management Division Administrator.

C. *Report of the Chief Financial Officer.* **Nancy Cain** offers the following report:

- She received a letter from the State Treasurer regarding the Dodd-Frank Act, which modified the Securities and Exchange Act. It is relevant to the department in that we are a municipal issuer, and many requirements of the SEC do not apply to us. The requirements apply to our underwriters. One of the critical potential issues facing us is that municipal advisors will be required to register with the US Securities and Exchange Commission. When the proposed rule first came out, many dismissed the fact that Commission members would have to register. There has been some discussion about members of boards, commissions and even housing councils that would have to not only register, but meet requirements of a municipal financial advisor. Since it is still being worked out, she says she was not going to concern Council with this. However, the State Treasurer did issue a letter in response. Some of our bond counsels are also addressing this issue with the SEC. She says she would not be alarmed at this point. All 50 states and local municipalities are objecting to this particular rule.
- She is anxiously awaiting the budget which will be released on February 1st. She has been asked to compare two different scenarios. One is that the general fund budget will be based upon the 2009-2011 legislatively approved budget, less the reductions that we took in general fund, which is about $11M. The second was a 25% reduction, which would take us down below $9M.
- In the single-family loan program, eight loans were purchased this week, along with two more next week. There are just under 100 reservations for about $15M. The department is about halfway through the funds and is looking at scheduling the next sale in May. One of the surprises to her is that they have received more selections for the Rate Advantage, which is a lower interest rate, than for the Cash Advantage program, which is down-payment assistance.

Crager comments that at the next Council meeting there will be a report on the Document Recording Fee and where the projections are going. They still remain very positive. Last time we were $2M above what the budgeted projection was. We are already having some discussion about allocations and plans for the dollars. Nancy has done a great job outlining the money, where the dollars are being allocated, and their status. **Merced** says it is also worth noting that Senator Merkley is in the state promoting, among other things, another first time homebuyer tax credit.

D. *Report of the Deputy Director.* **Rick Crager** states that he is going to have Shelly Cullin give an update on the conduit program and a couple of the projects that Council is familiar with and some plans around that. **Shelly Cullin**, Senior Loan Officer, explains that with the market collapse there were a couple of projects that stalled. One of those was a portfolio of three Section 8 properties: Stewart Terrace, Indian Creek and Villa West. At the time that Council approved those in September of 2008 for the conduit, LIHTC, OAHTC, and Housing Preservation money. After the collapse, we had a borrower that did not have an equity investor; however, the lender has stuck with the projects. In September of 2009, we came before the Council when we got the ARRA money and these projects were awarded tax credit assistance program funds (TCAP). Guardian was going to come in and be the equity investor at a very low yield, so this money was to replace the loss in yield. Since that time, we did not have our 30-year rehabilitation standard. We will be revisiting the properties, which is criteria of the lender, US Bank. The sponsor has found an equity investor so we believe that WNC will be in the deal. We will get $.62 on the dollar at this point. We will get a 30-year rehab on the properties. Because we are increasing the scope of rehab, the project cost will increase. When you have tax exempt bonds and 4% tax credits you have to have at least 50% of your project financed with bonds based on the eligible basis of tax credits. Council will need to approve an increase in the conduit amount, which may need to happen via a conference call in early March, since Council does not have a March meeting.

- *Period of Affordability.* **Crager** distributes a memo from Victor regarding the proposed affordability period, outlining the proposal that is being made, along with comments from Tom Walsh & Co., and the Housing Alliance. He says that he and Betty Markey spoke with John Epstein prior to finalizing the memo, who gave them some great suggestions on modifications. Betty did some additional research on the states, per Council's request. Most states give preferential points to those that are suggesting longer affordability terms. There are a few others that have standard affordability periods. This may be something they want to highlight as an option. There would be a prepayment option in year 40 and year 50 that would need to be documented in agreements going forward. In the early 80's the documents that were generated were very vague as to the prepayment option which has created a lot of issues for the department. The department is proposing the calculation that Betty came up with in terms of the payback of the grant dollars with some simple interest compounded, and there is a suggestion of looking at the value of the property as well. **Betty Markey**, Senior Policy Advisor, says that most of the states have offered points for longer years, although not as long as we are suggesting. A couple states had done a longer period of time. Another reason for not applying it to just bonds and 4%s is the fact that applicants could go to someone else to get that bonding authority. To be competitive in the market we probably do not want to keep putting additional requirements on it. Most of the projects that have come in for bond and 4%s, especially for preservation, have received other subsidy from the department. In that case they would fall under the proposal of the 60-year affordability. **Crager** adds that their intent is to give until January 31st to collect partner input, and they will provide that input to Council prior to the February meeting, at which time they will give Council a recommendation based on what they have heard.

LaMont says the 60 years doesn't bother her and asks if the units would be viable at that time and what happens at that point in time. She says if someone were to purchase a unit right now that is 30 years old, and put 60 years on it, she doesn't know that the housing is designed to last that long. She asks if the sponsors would be stuck at that point. **Markey** says she thinks that was part of the reason for the 40-50 years so they could potentially buy out at an earlier time period. That was also the reason for the director having discretion to waive if the property had deteriorated to a point where it is no longer feasible to keep them. **LaMont** says that in some of the Rural Development programs, if you keep a unit for so many years then you are not required to pay so much back. She doesn't want the department to require the whole grant, plus interest, to be paid back. If you have paid on a unit for 40 years, then you should only pay back a portion. **Epstein** states that the theory behind that is to encourage people to keep it affordable for 60 years, but the option was if you do not keep it affordable for 60 years, and you want out, we want to get enough money back to replace the affordable unit we lose. **LaMont** says she understands that, and if you were looking at new construction she would agree with that. **Markey** says she is correct and that is where the director would have the ability to waive the repayment. There could be some acquisition rehabs that have been repaid and are of quality in year 40. In that case if someone wanted to buy out they should compensate to replace those units. **LaMont** says she would rather see it set in stone that the department is looking at some parameters. **Crager** states that they can work on that and when they come back to Council, address that.

- *Strategic Plan.* He has been working with Nancy McLaughlin, who has been terrific in working on her strategic initiative. They are trying to develop a framework around the Council in which they can collect stakeholder and partner input into their process of recommended policy. They had drafted a framework and Nancy wanted them to have a fresh perspective and the opportunity to not get stuck in a formalized process to where Council could reach out to a variety of partners, stakeholders and even out of state people. They spoke with John VanLandingham, who is a member of the LCDC commission, and they have a policy framework that he shared with us that was similar to what Nancy was talking about. It allowed them to create workgroups that would focus on specific issues. They will try and model that a bit more to fit into Council's structure to create maximum flexibility. They hope to be able to share that framework with Council at the next meeting. **McLaughlin** says she has served on enough task forces, councils and committees to know that once you get locked into those it is very tough to get out. She says Council may find that it wants some outside expertise that is not in the normal realm of the people that they would be talking to.
- *MultiFamily Workgroup.* **Crager** says the MultiFamily Workgroup has met before trying to come up with a list of key things that are problematic. It was a good process with a lot of people around the table coming up with ideas. His intent is to bring a report back to the Council with the outcome of that workgroup.
- *Business Processes.* Victor has asked him to look at places that the department can be more effective and efficient in its business operations. Some of the steps taken are as follows: The department created a budget workgroup last year that recommended the department map its processes. As a state agency, we are required to have an internal audit function within the department. Other agencies are starting to look at whether there is a more effective way to do that, either through contracting or restructuring. The department has entered into a contract with a firm to reevaluate that function. The MultiFamily section combined the housing finance section and the housing resource section. At the time it was necessary because we had to cut staff. Those sections have a lot of processes that need to be looked at carefully and outlined. We are in the early stages of that and his intent is to try and get those processes road mapped and then start looking at areas for duplications, and things that no longer need to be done. The department is looking at ways to continue to be more efficient in the use of state resources and at the same time be more efficient with partners and make it easier on them.

E. *Report of the Director.* **Victor Merced** says that while the economics of the state are driving efficiencies and streamlining, the department would still be looking for those. We owe it to ourselves, the agency and our partners if we are going to implement fees to help support our structure.

He attended a meeting with the Governor, along with four other directors from ODOT, Economic Development, DLCD and DEQ. The Governor has asked them to be part of his regional solution center think tank for the state. It goes back to the Governor's original concept of community solutions teams. He has eliminated the Economic Revitalization Team and renamed it the Regional Solutions Team, and he wants to create centers in different parts of the state to regionalize economic development and job creation to take advantage of the state's natural resources and economic opportunities. Job creation is his number one priority. We will continue to refine our model so that he will understand that we are certainly on board with his vision. The main premise of the solution center is that economic development comes from the local communities. So the local communities will have advisory committees made up of a convener for the Governor, a mayor, business leader, university president, county commissioner, and a foundation person. That is all being coordinated by a Regional Solution Coordinator. The advisory team are the five he mentioned, with opportunities for Forestry, Agriculture and Water. The team will set general priorities for the region, and the coordinator will be responsible for staffing the steering committee and coordinating agency. When there are projects that are identified that address the regional job creation issue and economic development, the coordinator will work with agency directors and local staff to see how to bring resources to the table. He says the think tank will be looking at ways to integrate resources and helping to implement the local projects. The RADs will have a very important role in all of this as well. **McLaughlin** asks how soon they will start the Regional Solutions project. **Merced** says it will be soon; they are still hiring regional staff. **LaMont** asks how many regions there will be. **Merced** responds that they didn't say, but under ERT there were five, so that may be the model to follow.

F. *Report of the Chair.* **Maggie LaMont** said she enjoyed the public input at today's meeting and the discussions on charges. She likes the suggestion of hearing back more on the process of being more involved with our partners. She says she would like Council to review its goals and thinks Council did a good job of setting those. She would like Council to set a specific agenda item for goals. Whatever floats to the top of having activity can be updated. It is a motivator if it is on the agenda. **Crager** says they will get the updates that Council had for the framework for the strategic plan. **LaMont** says she would like to do it more frequently than once a year.

X. FUTURE AGENDA ITEMS. McLaughlin agreed to submit names of one or two tax credit investors to report to Council.

Chair LaMont adjourns the meeting at 12:40 p.m.

Maggie LaMont, Chair DATE
Oregon State Housing Council

Victor Merced, Director DATE
Oregon Housing & Community Services

Oregon
Theodore R. Kulongoski, Governor

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Memo

To: Finance Committee / State Housing Council

From: Debie Zitzelberger, Loan Officer
Multifamily Housing Section

Date: February 3, 2010

Re: **Manufactured Dwelling Park Preservation Program – $600,000 Grant Request**

Project Name:	**Anchor Mobile Home Park**	**No. of Units:**	43 spaces
Project Address:	95691 Saunders Creek Rd, Gold Beach	**Population:**	Family
Project County:	Curry County	**Construction Type:**	Acq/Renovation
Owner Name:	Saunders Creek Homeowners Cooperative	**Years Affordable:**	Perpetuity
Sponsor Contact:	Kate Rambo (Coop President)	**Consultant:**	CASA
Lender:	CASA of Oregon & Rural Community Assistance Corp (RCAC)	**Ongoing TA Provider:**	CASA
Lender Contact:	Lisa Rogers & Josh Griff	**Property Manager:**	TBD
MDPP Request:	$600,000 grant		

<u>MDPP Program Overview</u>: In 2009 the Legislature passed Senate Bill 5535 enabling OHCS to administer the Manufactured Dwelling Parks Preservation Fund. The Department of Administrative Services is authorized to issue lottery bonds for OHCS to provide assistance to community organizations or tenant groups in acquiring manufactured dwelling parks to preserve the affordable housing and stabilize communities. The Program requires that 60% of the park spaces be occupied by residents at or below 80% of the area median income for a minimum affordability period of 20 years.

<u>Project Description</u>

- Anchor Mobile Home Park is a 5 acre manufactured home park located on Saunders Creek Road in Gold Beach and was built in 1973 and a double-wide section was built in 1983.
- There are 43 platted spaces, 27 designed for single-wide and 16 designed for double-wide homes.
- Of the 43 spaces, one is occupied by a manager's unit 2 spaces are vacant. Upon conversion, property management will be contracted and the manager's unit will pay space rent. All residents own their own home, the park does not own/rent any homes.
- The Park is served by private well water and a private septic sewer system. A well water analysis was completed in February 2011 and identified no findings. The well water is inspected on an annual basis. The 3 septic tanks were inspected and found the tank in good condition but recommended inlet and outlet. Report recommended the 3 tank be pumped annually. Renovation budget includes upgrades to septic system to address findings.
- The park improvements include a water tank enclosure, a pump shed, and a garden equipment shed. These will be upgraded as part of the renovation.
- It is anticipated that the Park has an estimated life of 40+ years overall and a remaining economic life of 40 years, assuming the upgrades and renovations are completed.
- The seller has maintained a high occupancy level in the park with only 2 vacant spaces. With the acquisition of the Park by the resident Cooperative, occupancy is expected to increase to full occupancy as it will be the only known resident-owned cooperative in the area.

Park Space Rent

Units	Current Rent/Mo.	Proposed Rent/Mo	Single/ Double	Proposed Mo. Total Income
3	0	252	sw	$756
1	215	252	sw	$252
21	245	252	sw	$5,292
1	250	252	sw	$252
14	260	273	dw	$3,822
2	265	273	dw	$546
1	295	273	dw	$273
43	TOTAL			$11,193

- All occupied spaces are resident owned/occupied homes. The Park does not own or rent any of the homes.
- MDPP income restrictions are 60% of the residents must be at or below 80% of Area Median Income (AMI), which limits rents to no more than $760 for a 1 bedroom unit and $912 for a 2-bedroom unit in Curry County for 2010. Eighty percent (80%) AMI for Curry County is $32,400 for a 2 person household, $36,480 for a 3 person household, and $40,480 for a 4 person household for 2010.
- At purchase, the Cooperative will adjust the rents to all the residents in the park to bring rent consistency throughout the Park.
- Rural Community Assistance Corp (RCAC) is underwriting the loan assuming a stabilized occupancy of 41 and the park currently meets those assumptions.
- Current rent levels are at the lower end of market rate rents and will be increased by approximately $7-$25 depending on the lot size when the residents' purchase the park to support the proposed new debt.

Sources & Uses

Sources		Uses	
Primary-CASA debt	$500,000	Purchase	$900,000
Subord-RCAC debt	$175,096	Renovations	$230,745
MDPP grant	$600,000	Soft Costs	$144,351
TOTAL	**$1,275,096**	**TOTAL**	**$1,275,096**

- The purchase price of $900,000 is higher than the As-Is appraised value of $725,000 due to Seller refusing to reduce their price any further. The original purchase price was $1,000,000; upon receiving the Appraisal, CASA was able to renegotiate the price down to $900,000. CASA felt any further attempts to renegotiate a lower price would jeopardize the residents ability to complete the purchase on the Park.
- CASA's is relying upon the As Is Market Value of $750,000 to size their loan. CASA's underwriting guidelines allow up to 110% LTV. In first position, CASA's $500,000 has an LTV of 66.7% which is well within their underwriting guidelines.
- RCAC's underwriting guidelines allow up to 25% of the purchase price but not to exceed $1,000,000. At $175,096, the loan is approximately 19% of the purchase price (23% of the As Is value) and within RCACs guidelines.
- The Appraisal concludes an As-Is Fair Market Value of $750,000 as of October 22, 2010; and a Hypothetical Value that assumes the budgeted capital repairs and maintenance have been completed resulting in a Fair Market Value Upon Completion of $1,025,000.
- Total debt for the project is $675,096, resulting in a Loan to Value (LTV) on an "As-Is" basis of 90% and an LTV on an "as-completed" basis of 66%, which is well below RCAS's and CASA's LTV guidelines for manufactured home park financing.
- Park residents are very low income and will not be required to provide their own resources to fund the renovation of the park.

Use of MDPP, RCAC and CASA funds shown below:

Uses	Cost	MDPP Funds	RCAC Funds	CASA Funds
Purchase Price	$900,000	$600,000	$175,096	$124,904
Predevelopment	$138,351			$138,351
Closing Costs	$6,000			$6,000
Capital Improvement Reserves	$230,745			$230,745
TOTALS	**$1,275,096**	**$600,000**	**$175,096**	**$500,000**

- The "As Is" Value is $750,000. OHCS resources are less than the As Is value and will not be used to subsidize a higher than As Is purchase price. CASA and RCAC resources will be used to subsidize the difference between the OHCS grant amount and the purchase price.

Proposed Renovations: Below is a breakdown of the renovations and cost estimates based on a site evaluation provided by Inspections Unlimited after a site inspection of the property and review of the physical assessment reports.

Signage	$4,500
Electrical Meter Base	$31,476
Well Casing/Wellhead seal	$4,500
Water Storage & Treatment	$750
Sewer Lines	$35,815
Septic Tanks	$2,460
Leach Fields	$53,600
Effluent Pump	$2,400
Telephone/Cable Network	$6,450
Street Surface/Seal Coat	$4,300
Curbing	$7,534
Street Drainage	$46,690
Pedestrian Bridge	$3,480
Street Lighting	$5,169
Mailboxes	$4,245
Well House Rehab	$2,100
Maintenance Building Rehab	$10,500
Enclosures	$4,776
TOTAL	**$230,745**

Project Cash Flow/Debt Service: Annual operating budget.

Stabilized Occupancy Income	$134,316
5% Vacancy (= 3 spaces)	(6,716)
Effective Gross Income	$127,600
Expenses	(76,650)
Net Operating Income	$50,950
Annual Principal & Interest	(46,294)
Net Cash Flow	$4,656
Debt Service Coverage Ratio (DSCR)	1.100

- The above Cash Flow/Debt Service is projected at a stabilized occupancy level. Currently the Park is at stabilized occupancy with only 2 vacant spaces.
- Resident membership fees are set at $500 per occupied space. The membership fee can be paid over time and is generally held in a reserve account by the Cooperative as it is considered a liability on their books (if a

member leaves, their $500 is refunded). Residents remain responsible for costs associated with their individual homes.

- A percentage of the net cash flow will remain with the property management company in the Cooperative's client trust account, with the balance deposited in the Cooperative's operating reserve account.
- CASA primary debt: $500,000 at 5.75%*, 10 year term, 30 year amortization, monthly payment of $2,918. *(*The interest rate includes .75% to be applied towards the ongoing technical assistance fee as recommended by ROC USA rather than have the Park pay a "technical assistance fee" out of their operating expenses.)*
- RCAC subordinate debt: $175,096 at 5.0%, 10 year term (with the option to extend 5 years if necessary), 30 year amortization, monthly payments of $940.
- MDPP funds are in the form of grant resources and not included in DSCR.

Market The Appraisal described Curry County market place as driven by retirement age people moving to the southwest Oregon coast. 2009 PSU Population Research Center report shows nearly 30% of Curry County's population are ages 65 and over. Anchor Mobile Home Park is representative of the existing residential properties available to accommodate the growing number of older adults residing in the County. An initial resident survey completed by CASA on June 23, 2010, estimates 74% of the residents are age 55 and older and the percentage is expected to climb. The resident survey also confirms approximately 77% of the residents earn less than 80% of area median income. Upon acquisition, CASA will work with the Cooperative to develop a marketing plan to include such strategies as development of a web site presence, signage at the property, and identification of a local real estate broker who specializes in manufactured home sales. Anecdotal historic information indicates Anchor Mobile Home Park's occupancy has been fairly stable with an average tenure for residents living in the park as 8 years and vacancy has averaged 2 unoccupied spaces (under 5%).

Cooperative, RCAC and CASA Background

Saunders Creek Homeowners Cooperative (the Cooperative) was formed in September 2010, as a manufactured dwelling park nonprofit cooperative under ORS 62.803. In partnership with CASA, residents were organized into a Cooperative with the intent to purchase the Park. The Cooperative has executed a contract with CASA to provide ongoing Pre-Purchase and Post-Purchase Technical Assistance, Training and Property Management. The Cooperative currently has 29 members for a 73% participation by the total residents in the park. In preparation for resident purchase of Anchor MHP, CASA provided the residents with Technical Assistance and Training to form a legal Cooperative under Oregon Statute. The residents received assistance incorporating as a non-profit manufactured dwelling park cooperative; guidance through the resident ownership conversion process; election of an interim Board of Directors to represent the Cooperative; preparation for seller/owner negotiations; template legal documents to form the ownership entity, upon purchase - assistance with preparing the Business Plan for operating the park, assistance in preparing financing proposals, and assistance with meeting lenders due diligence requirements. After purchase, CASA will provide extensive post-purchase technical assistance to mitigate lender risk and to provide newly-formed Cooperatives with all the resources and trainings they will need to operate their communities successfully.

Since its inception in 1988, *CASA of Oregon* (CASA) has focused on the development and rehabilitation of affordable housing for farmworkers and other low-income populations through Oregon. CASA's work in manufactured housing began with assistance to farmers in acquiring manufactured housing for their employees. In 2004, as the issues surrounding manufactured housing parks came to the forefront in Oregon, CASA began discussions with various stakeholders involved in preserving manufactured housing parks. In May 2008, CASA became one of nine Certified Technical Assistance Providers (CTAP) under the national ROC USA Network, and receiving a capacity building grant of $50,000. As a member of the ROC USA Network, CASA delivers pre- and post-purchase technical assistance, training, and assistance with securing financing to help manufactured home owners in Oregon buy their communities and secure their economic futures through resident ownership. To date, CASA has successfully converted two manufactured housing parks into resident-owned communities.

Established in 1978, *Rural Community Assistance Corp* (RCAC) is a certified Community Development Financial Institution, lending for affordable housing development, environmental infrastructure and community facilities in rural areas. RCAC provides technical assistance and training for manufactured home communities converting to resident-owned cooperatives and is a Certified Technical Assistance Provider in the ROC USA Network, who's mission is to develop quality resident-ownership of manufactured home communities. RCAC has successfully converted six manufactured housing communities to resident ownership, including two in Washington under the ROC USA banner.

OHCS Comments

- CASA is a long-standing partner with OHCS and has extensive experience in developing affordable housing in Oregon; including assisting manufactured homeowners in purchasing their own parks.
- The MDPP Program requires ongoing technical assistance by a 3rd party for a 20 year term. CASA is an experienced provider of technical assistance appropriate to assist park residents own and operate their own park
- CASA has conducted an existing resident survey and found 1 household under 30% AMI, 11 households under 50% AMI, 11 households under 80% AMI, 7 households over 80% AMI and 12 households have not responded to survey. Based on the preliminary resident survey conducted by CASA, the existing tenant population meets the MDPP restriction of 60% of the spaces (25 spaces) must be occupied by residents at or below 80% AMI. Of the 40 occupied spaces, 23 households currently qualify; with 12 households yet to report. No tenant relocation is anticipated in the Park.
- Saunders Creek Homeowners Cooperative will execute the MDPP Grant Agreement which will obligate them to a minimum 20 year affordability period, which meets the Program restrictions. MDPP minimum affordability period is 20 years.
- The proposed renovations and projected cash flow structure will ensure that the Park will be adequately maintained beyond the 20 year affordability period without seeking further resources from OHCS.
- By the residents forming a Cooperative to own their park, the residents of Anchor Mobile Home Park will not only be able to control their site rents to keep the affordable, they will be able to ensure that Anchor Mobile Home Park remains a park in perpetuity and serves as an ongoing affordable housing option in the community.

RECOMMENDED MOTION: To approve a grant award of up to $600,000 from Manufactured Dwelling Park Preservation resources to Saunders Creek Homeowners Cooperative to acquire and renovate Anchor Mobile Home Park in Gold Beach, Oregon.

Finance Committee Comments: Finance Committee members asked about the proposed process for current residents selling their home and the criteria for new buyers and asked for further clarification on the financing structure. The motion was approved as written.

Memorandum

To: Housing Council

From: Betty Markey
Senior Policy Advisor

Date: February 18, 2011

Requested Action: Housing Council adopt the described long term affordability policy.

RECOMMENDED MOTION Adopt the long term affordability policy as described below:

RECOMMENDED POLICY:

- Owners of rental housing developments receiving OHCS grant or loan resources (excluding projects funded solely with bond/4% tax credits), will be required to maintain the property as affordable for a minimum of 60 years. Affordability terms will be secured by a deed restriction.
- Owners of developments where rental assistance contracts are due to expire must apply for and if approved, accept rental assistance contract renewals.
- On LIHTC projects with subordinate loans, OHCS will not unreasonably withhold adjustments to the affordability requirements as it relates to the term or rent levels in order to maintain status of such debt as a loan and avoid triggering such debt as a grant. Modifications will be allowed to the extent necessary such that all subordinate loans can demonstrate ability to be repaid or refinanced at maturity.
- Other exceptions or modifications will be subject to approval by the director and may include recapture of invested funding and appreciation.

Background:
During the past year, Oregon Housing and Community Services has examined the possibility of adopting a standard long term affordability period that would apply to all projects that receive grant or loan resources from OHCS. Currently federal and state housing development resources awarded through OHCS carry minimum affordability terms. Depending on the program, the terms range from 10 to 30 years depending on the funding source. Many sponsors have agreed to extend affordability for a longer term and we are seeing an average commitment of 50 years since 2000. Still a growing number of projects with shorter terms have reached the end of their affordability period and have been released from their regulatory requirements.

In order to prevent the continual loss of affordable housing, the opt-outs by owners and to protect the housing needs of lower income tenants, OHCS is proposing to increase the length of time owners must comply with rent and income restrictions. OHCS originally proposed the following standardized policy.

> Owners receiving OHCS grant or loan (excluding bond financed loans), resources will be required to maintain the property as affordable for 60 years. Property owners will have the opportunity to buy out of the affordability at years 40 or 50. To incentivize the owner to retain the property as affordable over the long term, the amount of repayment will reduce over time.
>
> - After 40 years, one hundred percent of the OHCS subsidy will be due at a 'to-be-determined" interest rate.
> - After 50 years, 100 percent of the OHCS subsidy will also be due, but the "to be determined interest" rate will be lower.
> - At 60 years, repayment of OHCS subsidy will be forgiven.

On January 6, 2011, a technical advisory outlining the proposed policy was made available to our housing partners. The advisory provided partners the opportunity to share their thoughts on the policy and provide alternative suggestions through January 31, 2011. The proposed policy was also discussed at the January 21, 2011, State Housing Council meeting. Since the issuance of the technical advisory the department has received several comments and suggestions for improvement.

Summary of Comments
Ten responses were received from individuals and organizations outlining a variety of modifications to improve the policy. A spread sheet summarizing these comments follows along with copies of the written comments that were received. Some of the recurring recommendations we heard were to:

- Require a minimum term of 60 years and provide a preference for applicants that agree to a term greater than 60 years.
- Apply the long term affordability policy to all OHCS financed projects including those projects solely financed with bond and 4% credits.
- Eliminate the automatic option to buy out of the affordability at year 40 or 50.
- Provide that recapture of investment should take into account not only the original investment but should include either shared appreciation or the value of the land

over time, or at end of the affordability term provide a purchase option to OHCS or a designee.
- Caution OHCS on the mechanics of implementing a 60 year term so as not to create a potential tax liability for LIHTC projects. This might occur if repayment were forgiven at the end of the term.
- Provide, on LIHTC projects, some assurance to modify the term of the rent restriction or rent levels to the extent necessary to ensure the net operating income is satisfactory to demonstrate repayment or refinancing of subordinate debt. Subordinate loans must show ability to be repaid in order to avoid triggering grant status of these funds and an income tax liability.
- Point out concern that some properties may not physically last for a 60 year term.
- Require owners to renew their project based rental assistance contracts when due to expire.

Evaluation of Comments and Recommended Revisions

OHCS has taken all of the comments into consideration and is recommending the incorporation of several, but not all, of the comments into a revised proposal. The recommended policy has been revised to reflect the following suggestions.

- Require a minimum 60 year period of affordability.
- Eliminate the automatic 40 or 50 year option to "buy out" of the affordability requirements. In cases where physical or market conditions may prohibit a property from maintaining long-term affordability, the OHCS director will have the discretion to modify terms of this policy or require repayment.
- Require owners of properties with project based rental assistance contracts to apply for and accept contract renewals when their current contracts are due to expire.
- Agree that modification of the affordability term or rent limitations may be needed on some LIHTC projects with subordinate debt to assure that these loans are considered bona fide loans for federal income tax purposes. Such modifications will be provided only to the extent necessary to assure the ability to repay or refinance the debt to avoid triggering a loan into a grant.

OHCS does not recommend applying the 60 year term of affordability to developments financed solely with OHCS bond financing and 4% tax credits. These projects currently have a 30 year affordability term and will remain exempt from the extended term. This will permit the department's bond program to remain competitive in the market. The 60 year affordability policy however, will apply to bond/4% projects receiving other grant and loan gap subsidies. Historically bond/4% projects that serve the lowest income households have required other department gap subsidies and therefore these properties will carry the 60 year affordability term.

Implementation of Affordability Policy

Once adopted, this affordability term will apply to all new funding awards. These are typically subsidies provided through the Consolidated Funding Cycles, requests for proposals, or other application processes. They include grants and low interest or deferred payment loans received from the Housing Trust Fund, HOME program, General

Housing Account, Low Income Weatherization, Preservation Funds and other available grant programs.

The timeline for enacting the policy is as follows.

- The affordability policy will apply to all new long term bond financed multifamily applications received after date of adoption.
- The policy will apply to Consolidated Funding Cycle awards beginning with the 2012 cycle.

This policy will not apply to projects receiving solely OHCS bond financing but will apply to bond financed projects that receive grant or loan gap subsidies. For programs with short range goals, such as the predevelopment loans or other specific initiatives which would not be consistent with a 60 year affordability term, the 60 year affordability term may not apply.

On an annual basis, the department will provide a report to Housing Council identifying developments where modifications related to the affordability period were approved by the director

Recommended Policy and Motion
The recommended policy and motion are on found on the front page of this report.

Proposed Policy on Long Term Affordability
Summary of Comments

	50 year term	60 year term	Preference for projects with greater than 60 years	Apply to bond/4% projects	Eliminate option to terminate at year 40 and 50	Owners must accept rental assistance contact renewals	Re-examine recapture formula	Other comments/emphasis/concerns	Director discretion to modify terms
Housing Alliance		X	X	X	X	X	Base recapture on value of initial investment, perhaps as percentage of original equity	Provide a purchase option to OHCS or a designee at end of affordability term	X
Housing Development Center		X		X			Four reasons early buy out does not protect public investment. Impact on residents, loss of prime locations near services, accelerating land property values and increased replacement cost.	Affordability requirements secured by deed restrictions. OHCS should have input for making decisions for modifying terms.	
Oregon Housing Acquisition Project		X	X			X	Recapture at a compounded interest rate that is higher than the 2% or 3% proposed. Apply to prepayment and incorporate method to recapture portion of the increase in land value over time	Immediate recapture of OHCS investment if owner willfully underutilizes rental assistance. Policy should explicitly state long term use does not disqualify owner from future consideration of OHCS resources to recapitalize.	
Portland Housing Bureau		X						60 year term initiated in Portland has not impacted participation by nonprofits or for profits.	
Jonathan Trutt		X		X				Ensure mechanics of 60 year affordability does not create potential tax issues for LIHTC partnerships.	
Doug Blomgren							Forgiveness at end of affordability term could result in loans beings considered grants thus triggering tax liability for partnership	Subordinate loans must show ability to be repaid or refinanced to avoid taxable income to partnership. 60 year term may prohibit available net operating income to demonstrate repayment ability or refinancing of debt, thus triggering grant status of funds and tax liability.	
Charlie Harris	X			X					
OregonON		X	X	X	X	X	Recapture formula should allow public to benefit proportionately from initial investment and property appreciation.	Supports Housing Alliance recommendations	X
Jennings Pitts								Concern that 60 year term will limit sufficient income to pay off soft second debt and trigger tax liability. Concern wood frame construction will not last 60 years in some areas such as the coast. Building and maintaining for 60 years will be more expensive.	
Tom Walsh		X	X	X					
OHCS revision		**X**			X	X	**60 year affordability term.** **On LIHTC projects with subordinate loans, OHCS will agree to adjust affordability term or number of units subject to affordability requirements to the extent necessary so subordinate loans can be repaid or refinanced at maturity. This exception will apply only when repayment or refinancing is necessary to demonstrate such loans constituted bona fide debt for federal income tax purposes.** **Other exceptions subject to approval by director**		X

Oregon Housing Council
January 21, 2011

Comments on Proposed New Term of Affordability for OHCS Multifamily Programs

Chair LaMont, Director Merced, and members of the Housing Council

My name is Janet Byrd. I'm the Director of Neighborhood Partnerships, a non profit organization that provides leadership and management to efforts to create opportunity for low-income people in Oregon and Southwest Washington. I also serve as the convener of the Housing Alliance, and it is in that role that I appear here today.

As you may know, the Housing Alliance is a statewide coalition of more than fifty non-profit organizations, local governments, housing authorities, community action agencies and others who are committed to increasing the availability of affordable housing throughout Oregon's communities. We know that affordable housing allows people the opportunity to build better lives. Ensuring that hardworking Oregonians can afford housing and still have money to provide food and medicine for their families will contribute to a better future for all of us.

I want to begin by acknowledging the work that HCS staff has done, and the leadership they have shown, in developing and proposing that the Department adopt a long term affordability policy. I would also like to thank you for the opportunity to comment today as you begin the process of receiving and reviewing feedback from your partners.

The Housing Alliance strongly endorses the Department's proposal to ensure that all housing developed with the support of state-controlled resources remains affordable for the longest possible time. The memo from Director Merced on January 6, 2011 states the case well: we must prolong the impact of the state's investment, and we must prevent the continual loss of affordable housing.

We have an opportunity to learn from the history of state and federal investments in affordable housing. Unlike forty years ago, when HUD and HCS made their initial substantial investments in conjunction with private partners, today we can take advantage of a changed landscape and the multitude of capable partners working in affordable housing. We also have an obligation, especially in this time of unprecedented need and severely limited resources, to push ourselves and our partners even harder than usual to apply these lessons and to garner the maximum public benefit from all public investments.

The Housing Alliance and its members have worked hard in cooperation with the Department to preserve the housing that was created in earlier waves with twenty, thirty, and forty year use restrictions. Some of that housing has been lost to the affordable stock, some preserved only at a

HOUSING ALLIANCE

Contact us
Public Affairs Counsel
Mark Nelson, Erica Hagedorn
PO Box 12945 - Salem, OR 97309
(503) 363-7084
www.oregonhousingalliance.org

dear cost to taxpayers. Much of that housing continues in service today, and it represents an irreplaceable resource in our communities. We fear that housing developed and preserved today will be just as irreplaceable forty years from now, and we want to ensure that future generations continue to reap the benefit from today's public investments.

We have a few specific suggestions for the Council and the Department. First, we believe that permanent affordability is the most desirable outcome. So, we would take a step further than the draft policy, and make sixty years the minimum standard of affordability, with preference given to owners and developers who offer longer terms or who offer a purchase option to the state or a designee at the end of the term of affordability.

We do not mean to discourage participation by for-profits. If we look at the experience of the City of Portland, which adopted a 60 year affordability standard in 1998, the policy has not curtailed participation in the market by for-profit developers. While we expect you will hear concerns raised, we do not assume that the policy will prevent participation by for-profit developers in non-Portland projects. At the same time, this does effectively level the playing field for non-profit developers and housing authorities by rewarding the permanent affordability that they always bring to developments.

Our second change is closely related. While we recognize that occasionally circumstances will warrant a property being removed from service, or that affordability restrictions might need to be lifted, we would recommend that the policy not provide an automatic option to terminate restrictions at 40 or 50 years. The Director typically has the discretion to waive policy or grant exemption under administrative rule, so any circumstances that warranted an early exit could be considered.

Third, we would recalculate the recapture formulas to be based on the value of the initial investment, perhaps as a percentage of the original equity. The value of these investments is closely tied to their locations, and the appreciation in underlying land values. Recapture formulas should ensure that the state benefit proportionally.

Fourth, we would ask that the affordability requirements include a provision that owners will accept rental subsidy contracts if and when offered. We know that federal rent subsidy allows us to serve the very lowest income households, and we cannot allow the loss of that resource.

Finally, we would ask that the Department revisit the question of exempting all developments that are only using 4% LIHTC and/or bonds.

The Housing Alliance has just completed our summaries of housing need by county, and I've provided samples to you for a few counties. We know that one in four Oregon households cannot afford their housing. We know that kids in almost every classroom in Oregon are experiencing homelessness, and that their future is threatened as a result. This step towards longer affordability periods tied to infusion of state resources is the right one to take, and is especially important and timely given the scarcity of state resources and the dire needs of hardworking residents in all of Oregon's communities.

In conclusion, we'd like to once again commend Director Merced and the Department staff for advancing this proposal. We look forward to seeing a final proposal emerge soon, and we recommend the Department take even further steps to ensure that the investments we make today in affordable housing continue to reap benefits for future generations.

Thank you for your service, and for your consideration.

HOUSING ALLIANCE

How can we protect people affected by the economic downturn in Deschutes County?

We know housing gives people an opportunity to build better lives. Our communities are better and stronger when everyone has a safe and affordable place to call home. In Deschutes County, the recession has left our neighbors at risk of foreclosure and homelessness.

Quick Facts

Nearly half of renters in Oregon are unable to afford a two-bedroom apartment at fair market rents.

The 2009–2010 school year at least one child in almost every classroom in Oregon experienced homelessness.

A worker earning minimum wage in Oregon had to work more than ten hours a day, seven days a week just to afford a two bedroom apartment in Oregon.

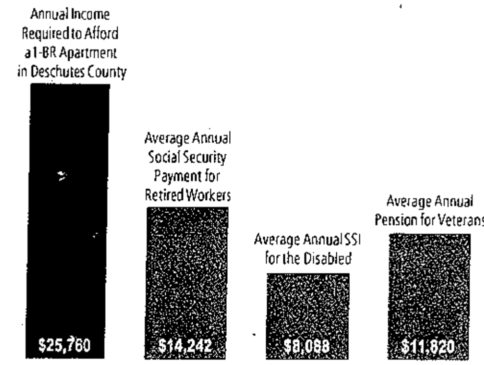
Too many Oregonians continue to struggle with unemployment. For all of the last twenty-three months (since February 2009) more than one in ten Oregonians have been unemployed.

Want to know more?

Call the Housing Alliance 503-226-3001 or visit online at oregonhousingalliance.org

HOMELESSNESS

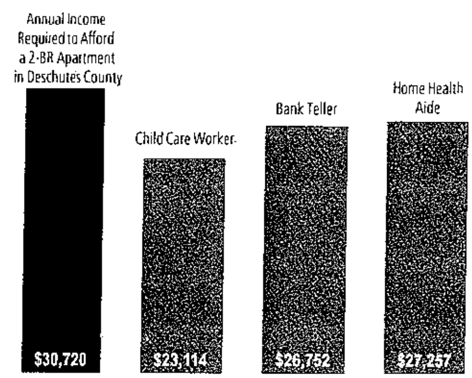
In Deschutes County, people on fixed incomes—seniors and people with disabilities—can't afford a one bedroom apartment at market rate. In Deschutes County, an average of one student in every classroom was homeless during the 2009–2010 school year.



Average Incomes of Deschutes County's Most Vulnerable Citizens

STRUGGLING TO RENT

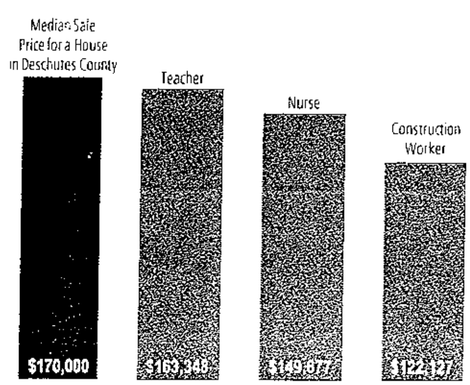
Deschutes County's hard-working families should not have to choose between rent, groceries and medicine. In Deschutes County, one out of every 7 poeple was unemployed in October 2010.



Average Incomes of Deschutes County's Working Families

STRUGGLING TO OWN

Despite the drop in housing prices, unemployment and a wave of foreclosures continue to make owning a home difficult for too many Oregonians. In Deschutes County, one out of every 11 loans were either in foreclosure or 90+ days delinquent as of January 2010.



Average Home Price that Deschutes County's Working Families Could Afford

How can we protect people affected by the economic downturn in Jackson County?

HOUSING ALLIANCE

We know housing gives people an opportunity to build better lives. Our communities are better and stronger when everyone has a safe and affordable place to call home. In Jackson County, the recession has left our neighbors at risk of foreclosure and homelessness.

Quick Facts

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Want to know more?

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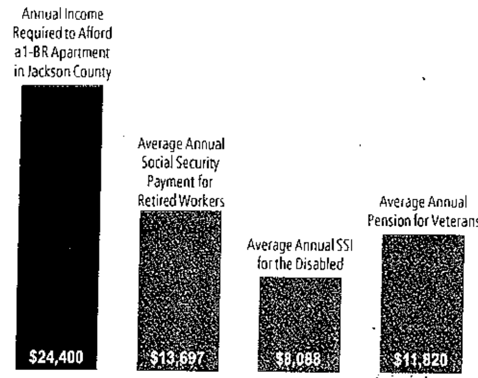
HOMELESSNESS

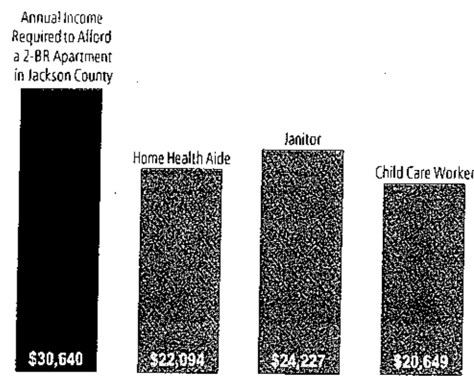
In Jackson County, people on fixed incomes—seniors and people with disabilities—can't afford a one bedroom apartment at market rate. In Jackson County, one in every 15 students was homeless during the 2009–2010 school year.



Average Incomes of Jackson County's Most Vulnerable Citizens

STRUGGLING TO RENT

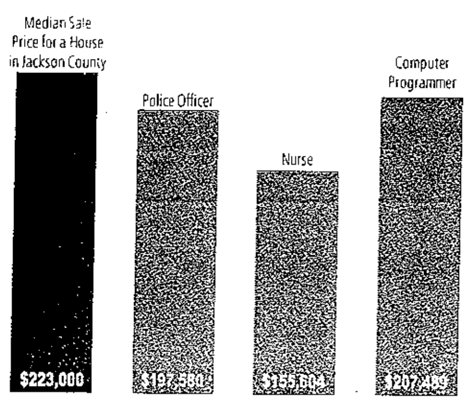
Jackson County's hard-working families should not have to choose between rent, groceries and medicine. In Jackson County, one out of every 9 people was unemployed in October 2010.



Average Incomes of Jackson County's Working Families

STRUGGLING TO OWN

Despite the drop in housing prices, homeownership continues to be out of reach for many. Foreclosures and high unemployment also place owning a home out of reach for too many Oregonians. In Jackson County, one out of every 14 loans were either in foreclosure or 90+ days delinquent as of January 2010.



Average Home Price that Jackson County's Working Families Could Afford

How can we protect people affected by the economic downturn in Multnomah County?

HOUSING ALLIANCE

We know housing gives people an opportunity to build better lives. Our communities are better and stronger when everyone has a safe and affordable place to call home. In Multnomah County, the recession has left our neighbors at risk of foreclosure and homelessness.

Quick Facts

...early half of renters in ...regon are unable to ...ford a two-bedroom apartment at fair market rents.

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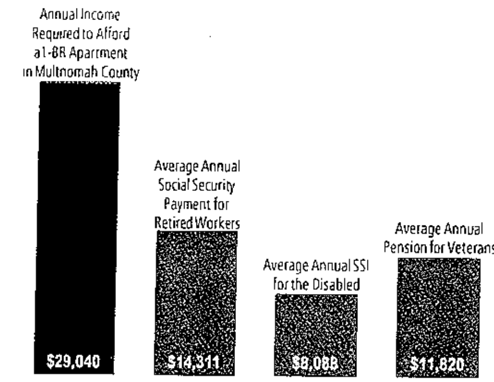
Want to know more?

Call the Housing Alliance ...503-226-3001 or visit online at oregonhousingalliance.org

HOMELESSNESS

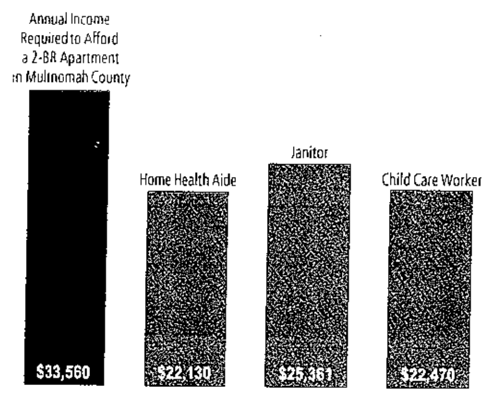
In Multnomah County, people on fixed incomes—seniors and people with disabilities—can't afford a one bedroom apartment at market rate. In Multnomah County, an average of one student in every classroom was homeless during the 2009–2010 school year.



Average Incomes of Multnomah County's Most Vulnerable Citizens

STRUGGLING TO RENT

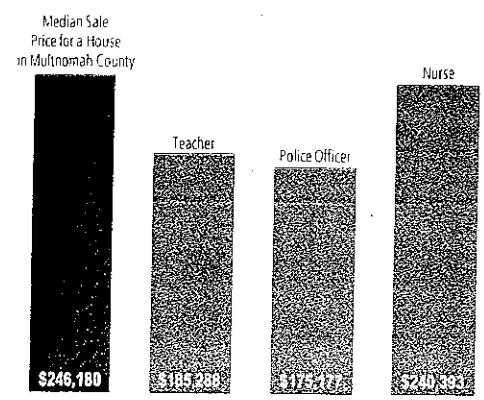
Multnomah County's hard-working families should not have to choose between rent, groceries and medicine. In Multnomah County, one out of every 11 people was unemployed in October 2010.



Average Incomes of Multnomah County's Working Families

STRUGGLING TO OWN

Despite the drop in housing prices, homeownership continues to be out of reach for many. Foreclosures and high unemployment also place owning a home out of reach for too many Oregonians. In Multnomah County, one out of every 21 loans were either in foreclosure or 90+ days delinquent as of January 2010.



Average Home Price that Multnomah County's Working Families Could Afford

Housing DEVELOPMENT CENTER

Building and Sustaining Affordable Housing

January 26, 2011

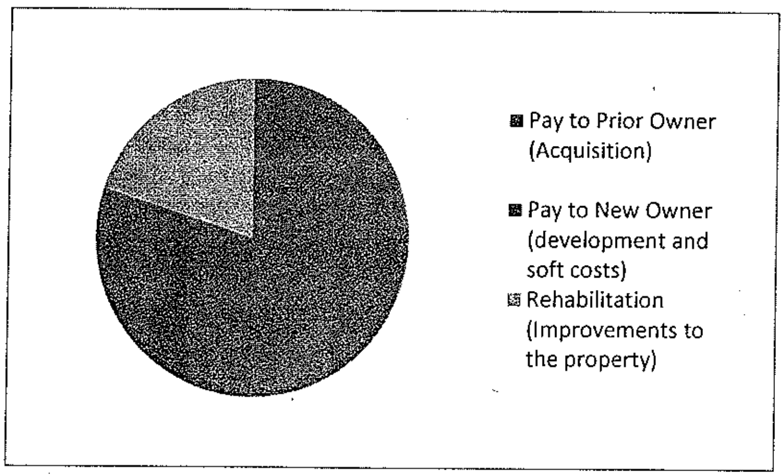
Victor Merced, Rick Crager, Lisa Joyce
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem OR 97301-1266

Dear Victor, Rick and Lisa:

I wanted to express my appreciation for your outreach efforts over the last months, including the Multifamily Work Group and most recently, your conversations about fee changes with industry members. At the most recent Multifamily Work Group, we discussed OHCS's proposal related to long term affordability requirements, and I am pleased to see you grappling with this important issue. I wanted to reiterate a few points I made at that meeting and provide some backup documentation.

At last year's Preservation forum, Larry Anderson, from Rural Development expressed the role of the public agency as being to help direct the use of public funds in Preservation – with as many of the available dollars as possible going toward rehabilitation of the property. My view is that long term affordability restrictions, which will place OHCS in the driver's seat on property transfers and sales, is a critical tool for reducing the property acquisition price of preservation in the future, allowing more of the available dollars to be directed to rehabilitation. While the percentage of costs in the chart below is approximate, the concept depicted holds true:

Use of Preservation Dollars



In evaluating the OHCS proposal, I am still concerned about the ability to buy out the public investment beginning at year 40 and would propose a 60 year minimum affordability period. There are four reasons I believe the early buyout approach does not protect the public investment:

- RESIDENTS: Particularly in Section 8 Preservation, our experience is that many of the residents are very elderly and fragile. Residents have developed long term social networks that help them survive. Indeed, even temporary relocations for rehabilitation have caused significant stress and likely accelerated health problems and deaths (see recent article by Northwest Pilot Project in Street Roots). A permanent move, regardless of rent vouchers disturbs these communities of support.

- LOSS OF LOCATION: Many (not all) affordable housing properties are located in central areas, close to transit and services such as grocery stores, libraries, schools and other amenities. Allowing affordable housing owners to change use of affordable housing in prime locations will generally move low income renters farther from these amenities. METRO has been evaluating the projected increase in combined housing and transportation costs over the next twenty years. Those with the lowest incomes would be most affected by increased transportation costs - having to travel longer distances to new locations where development opportunities exist.

- ACCELERATING VALUES: Land and property values are accelerating (at least in Portland) at a much greater level than the 3% interest proposed for a buyout of OHCS dollars at year 40. I compared property value increases for only three Preservation properties, so this is not an accurate representation of the whole state. However, for the Admiral Apartments (Downtown Portland), Walnut Park Apartments (Northeast Portland), and Chaucer Court (Downtown Portland), the average annual increase in land value over the last 13 years was 14% per year, or 182% over the last 13 years. This represents an average increase in land costs per unit of approximately $9,500 per unit over this 13 year period. We cannot predict the long term land value trends, but certainly, the potential for accelerating land costs continues. (See chart attached to this letter).

- CONSTRUCTION COSTS: (2008). The other factor in evaluating the cost to replace, rather than retain affordable housing is the cost of construction. While we have recently experienced a reduction in construction labor costs, many material costs have continued to escalate. In a 2008 article, market analysts Dupre and Scott (Seattle) reported that capital improvement costs rose more than 6% compounded annually over the past 10 years. (Dupre and Scott, 2008). "The Apartment Advisory," Vol. 31, No. 1, March 2008. Seattle, WA: Dupre + Scott Apartment Advisors. This escalation is almost double the proposed buyout provisions.

For all of these reasons, I encourage you to consider the longest term affordability period possible. We recognize that there will be times when the physical property does not warrant reinvestment, and either demolition and new construction onsite, or disposition of the property may be the best option. My hope is that OHCS will have a seat at the table for making those decisions. This will only happen with long term affordability requirements secured by deed restrictions. Thank you for allowing me to provide input on this important issue.

Sincerely,

Robin Boyce

Cc: Cathey Briggs – Oregon ON, Janet Byrd – Neighborhood Partnerships, Bill Van Vliet - NOAH

SAMPLE LAND AND BUILDING VALUE INCREASES

Property Name	Dollar Value		Dollar Change	Percent Increase	Percent Change per Year
	1997	2010		% change over 13 years	
Admiral Apartments	**(downtown Portland)**		**37**		
Land	378,000	587,980	209,980	56%	4%
Building	799,000	3,154,660	2,355,660	295%	23%
Real Property Value	1,177,000	3,742,640	2,565,640	218%	17%
Land Value Per Unit	10,216	15,891	5,675		
Walnut Park Apartments (NE Portland)			**38**		
Land	71,800	729,600	657,800	916%	70%
Building	1,139,400	1,540,620	401,220	35%	3%
Real Property Value	1,211,200	2,270,220	1,059,020	87%	7%
Land Value per Unit	1,889	19,200	17,311		
Chaucer Court (downtown Portland)			**84**		
Land	378,000	1,017,640	639,640	169%	13%
Building	2,814,000	6,921,770	4,107,770	146%	11%
Real Property Value	3,192,000	7,939,410	4,747,410	149%	11%
Land Value per Unit	4,500	12,115	7,615		
Average Increases			**159**		
Land	827,800	2,335,220	1,507,420	182%	14%
Building	4,752,400	11,617,050	6,864,650	144%	11%
Real Property Value	5,580,200	13,952,270	8,372,070	150%	12%
Land Value per Unit	5,206	14,687	9,481		

** All values based on Portland Maps Assessed Value*

Oregon Housing Acquisition Project

1020 SW Taylor Suite 585, Portland, OR 97205 ▪ 503.501.5688 ▪ PreserveOregonHousing.org

January 26, 2011

Mr. Victor Merced, Director
Oregon Housing & Community Services
725 Summer Street NE, Suite B
Salem, OR 97301-1266

Dear Mr. Merced,

Oregon Housing & Community Services has made preservation of federally assisted rental housing one of their highest priorities. Federal rental assistance programs bring over $50 million to the state each year providing modest rental homes for thousands of Oregon's very low income seniors, veterans and disabled citizens and working families. Without the federal rent assistance many of these low income Oregonians would be homeless and state and local government resources would be stretched to the limit.

Expiring subsidy contracts on thousands of affordable rental homes currently puts many low income families and seniors at risk. Preserving expiring use affordable housing and maintaining the flow of federal funds into the state makes sense, especially at a time when resources are so scarce. The cost to recapitalize and preserve Oregon's existing assisted properties today could have been far less had required affordability terms been 60 years or longer when these properties were originally developed years ago.

The Oregon Housing Acquisition Project strongly endorses the Department's proposal to extend the period of affordability for projects receiving state housing resources. As the Department's partner in the collaborative preservation initiative the OHAP Steering Committee has strongly advocated for extending current affordability requirements from the beginning. We believe Oregon can avoid repeating history by keeping all OHCS funded properties affordable for the long-term. We recommend the proposed policy go even further and offer the following suggestions for your consideration:

- We recommend the Department consider adopting a minimum 60-year affordability standard and offer the option for permanent affordability should developers be willing to accept it.
- We recommend the Department's proposed Repayment Scenario of OHCS Investment schedule provides a greater disincentive to early repayment by applying a higher interest rate with compounded interest. We also recommend the repayment schedule incorporates a method to recapture a portion of the increase in land value over time.

- We recommend the Department include a recapture provision requiring immediate repayment of grant and loan subsidy amounts in cases where project owners willfully underutilize rental assistance resulting in recapture of the assisted units by Rural Development or HUD.

- For properties having project-based rent subsidy contracts we recommend the Department include language in the Project Use Agreement requiring owners to accept rent assistance contract renewals when offered. This provision is required under HUD's Low Income Housing Preservation and Resident Homeownership Act Use Agreement.

- We recommend the Department's written policy explicitly states that long-term use restrictions will not disqualify projects from future consideration for OHCS resources for needed recapitalization as warranted by physical needs over time.

We compliment OHCS for taking the lead on developing this important proposed policy revision, especially Betty Markey who researched the affordability terms required by a number of other states and localities in drafting the proposed OHCS policy.

Respectfully submitted,

Rob Prasch
Preservation Director
Network for Oregon Affordable Housing

Cc: Lisa Joyce, Policy and Communication Manager
Betty Markey, Senior Policy Advisor

CITY OF
PORTLAND, OREGON
PORTLAND HOUSING BUREAU

Nick Fish, Commissioner
Margaret Van Vliet, Director
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January 21, 2011

Mr. Victor Merced, Director
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem, OR 97301-1266

Re: *Long Term Housing Affordability*

Dear Victor:

The City of Portland appreciates the opportunity to comment on this important policy matter. I commend OHCS for its interest in exploring tools to secure Oregon's limited stock of affordable rental housing for the long term.

There are good reasons to consider extending the required period of affordability for units financed with public resources. Although the Document Recording Fee has made new resources available for housing, the cost of developing units has been rising steadily. Even when the economic recovery takes hold in the state, most homeownership opportunities will be out of reach of households with incomes at or below median, placing additional pressure on the rental market. Low-wage working families, seniors, people with disabilities, and other low income households may struggle to afford market rate rents; our state already has one of the highest rates of rent burden in the nation. In this context, I believe that it is appropriate for government to take steps to preserve the affordability of publicly-subsidized housing.

If OHCS decides to adopt a policy of long-term affordability, the Portland Housing Bureau would be happy to share its experience and tools. You may know that the City of Portland's interest in maximizing the return on its investment of public resource led to the adoption in 1998 of a Preservation Ordinance that included a 60-year affordability requirement. See Ordinance No. 172749. The City had created a $32 million Housing Investment Fund for new affordable housing development in the early 1990s, and was preparing to invest millions more in the preservation of expiring use Section 8 multi-family properties. The City wanted to ensure that these significant public investments would secure a supply of affordable units for the long term. At the time, some members of the private development community voiced strong opposition to the 60-year affordability concept, and predicted that the City would have a hard time finding any firm that would be willing to respond to its semi-annual development RFPs. However, after the Ordinance passed, the City did not discern any diminution of interest in its funding. City RFPs have been consistently over-subscribed ever since.

The State is at a similar point. It has made major investments in Preservation in recent years, and intends to make more to preserve both federally-subsidized Section 8 and Rural Development properties and 15-year Tax Credit properties. If long-term affordability were in place, those new investments would secure a significant supply of affordable housing for Oregonians over the long term, as measured in unit years of affordability.

Portland has learned some lessons along the way. We know now that, if our goal is long-term affordability, we must manage the asset for the long term. We also have a clearer sense of the need for periodic capital investment to maintain the quality and functional integrity of the property. When a project comes in for additional investment, we extend the term of affordability out for 60 years.

I'd like to reiterate PHB's support for the state's adoption and implementation of a policy ensuring long-term affordability. Please know that you can count on us to share what we have learned from our own experience with the policy.

Thank you again for the opportunity to comment.

Respectfully submitted,

Margaret Van Vliet, Director
Portland Housing Bureau

cc. Betty Markey, OHCS Senior Policy Advisor
Lisa Joyce, OHCS Policy and Communication Manager
Janet Byrd, Neighborhood Partnerships

From: Jonathan Trutt [Trutt@NWHousing.org]
Sent: Wednesday, January 26, 2011 9:58 AM
To: Betty Markey; Lisa Joyce
Cc: Martha McLennan
Subject: 60 year affordability

Betty and Lisa,

Thanks for the opportunity to comment on this potential change in policy. NHA definitely appreciates the chance to participate in conversations that shape affordable housing's future in Oregon.

We strongly support the idea of 60-year affordability. Our suggestions are:

(1) Expand the requirement to cover all projects receiving OHCS funds. Currently there is an exception for projects that utilize only 4% LIHTCs. Though the 4% LIHTC market remains weakened by the current economic downturn, it's likely to rebound in upcoming years. It's entirely possible that future Section 8 Preservations will be accomplished solely with 4%s and no other OHCS sources of funding. Exempting these projects from the 60-year affordability requirement could therefore re-create the same Preservation situation—where we stand to lose many units with rental subsidy after only 30 years of affordability—that we're currently in.

(2) Ensure that the mechanics of enacting a 60-year affordable requirement don't create potential tax issues for LIHTC investors. I am no expert here, but my general sense is that there's lot of tax structuring flexibility if non-LIHTC funds are provided as grants to the project sponsor which are then loaned into the partnership. If, however, funds are loaned directly to LIHTC partnerships (as happened with TCAP) and they contain forgiveness / buyout provisions, there may be all sorts of tax issues with investors. (e.g. is it really debt? What kind of interest rate should the investor attach to the loan?) For simplicity's sake, we'd therefore suggest that the department continue its general policy of granting funds (i.e. GHAP, Trust Fund, HOME) to the sponsor and letting the sponsor loan those funds into the partnership.

Again, we appreciate the opportunity to comment.

Jonathan Trutt
Housing Director
Northwest Housing Alternatives
503-654-1007 x 110

From: Douglas C. Blomgren [mailto:dblomgren@batemanseidel.com]
Sent: Tuesday, January 25, 2011 5:05 PM
To: david.summers@state.or.us
Subject:

Onto the technical advisory / affordability period.
The reduced interest rate for longer term affordability (and, therefore, I assume, maturity) gives us all some flexibility. I'm still concerned about whether the "buy down" structure helps the bona fide debt analysis. I am pretty confident, however, that the "phased forgiveness" described in the memo could result in all the 60-year term loans being considered grants which would then be taxable to the borrower as income. There's a bit of fuzziness on that issue since 60 years is such a long time, but generally speaking, a loan with provisions making it forgivable is not a loan—it's a grant and taxable income.

In most of these deals, state grants are structured, as you know, as a grant to the non-profit and then a loan from the non-profit to the partnership. If the loan is not respected as debt, the IRS will say that the grant was directly to the partnership and income tax will be owed (99.99% by the investor). The partnership (meaning the non-profit GP which has made guarantees for this kind of thing) would be obligated to pay out to the limited partner the money the LP owes in income tax. For instance, if an OHCSD "trust fund" grant of, say, $100,000, were analyzed this way, the result could be about a $35,000 hit to the partnership or the GP if the loan is not respected. (The structure is a bit different where the GP is a for-profit, of course).

One way in which the tax advisors get comfortable with these GP loans being "true debt" is to demonstrate in the projections that the rents which will be collected over time will be enough to permit repayment or refinancing of all the senior debt PLUS the GP loans. Often, the only way this projection is possible is to assume that at, say, year 30, the affordability restrictions go away and the partnership COULD rent the units out at market. By assuming higher rents for years 30-45, it is possible to conclude that the project can actually afford to repay the loan (if we have a term to maturity of 45 years).

As I mentioned in an earlier email, the City of Portland agreed to reduce its affordability requirement to 30 years recently on the RAC because, if it did not do so, we would not have been able to give the tax opinion.
Admittedly, this is generally a problem only where you are building units for those with very low incomes (in the 30-40 MFI range).

One consequence of a 60-year affordability period could be that, since GP loans might not be respected as debt, and as a consequence, more grants will be taxable income to the partnership, the project could require MORE state assistance to, essentially, pay the income tax hit.

I know we're supposed to supply comments by the 31st and I'll see what I can do. But I thought I'd just send some comments along this way.

Doug Blomgren
Bateman|Seidel

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www.batemanseidel.com

Often, the subsidies provided by OHCS for an affordable housing project are structured as grants to a sponsor which then lends the funds to a partnership or limited liability company which owns the project. In some cases, the sponsor is using grants from several sources—not just OHCS—as funding for substantial loans to the project owner. In other cases, local governments are making substantial subordinate loans directly to the project owner. For projects seeking to house very low income tenants, these subordinate loans—whether from the sponsor, a local government, or both—can sometimes exceed the amount of the senior mortgage from a commercial lender.

On most projects which make use of LIHTC financing, it is imperative that the owner be able to demonstrate that these subordinate loans constitute bona fide debt for federal income tax purposes. That is, the project sponsor must be able to show in its initial operating projections that the subordinate loans can be repaid or refinanced as they mature. If these loans are not considered bona fide debt, they could be characterized as taxable income to the partnership—a result which would effectively reduce the amount of the funding available for project purposes by 1/3 or more and create a need for an even larger public subsidy.

To ensure that the affordability requirements being proposed by OHCS do not have this unintended consequence, OHCS proposes to include the language set forth below in the affordability covenants applicable to OHCS-subsidized properties which make use of the LIHTC:

> At or within 6 months of the earliest maturity date applicable to any subordinate loan obligation secured by the project, the project owner may request that the affordability requirements set forth in this covenant be adjusted to the extent necessary such that all of the subordinate loans can be repaid or refinanced at maturity. If, and only if, the following items are established by reliable evidence submitted by the project owner, OHCS will reduce the period of affordability and/or the number of units which will be subject to the affordability requirements, but only to the extent demonstrated to be necessary to permit repayment or refinancing of the subordinate loans as they mature:
>
> 1. Due to the rent restrictions applicable to the project, the current and projected net operating income of the project is insufficient, using current underwriting standards of area lenders, to obtain a loan secured solely by the project in an amount sufficient to repay as they mature all subordinate loan obligations secured by the project; and
> 2. Due to the rent restrictions applicable to the project, the current and projected net operating income of the project is insufficient to permit a sale of the project for an amount sufficient to repay all subordinate loan obligations secured by the project.
>
> For the purposes of this provision, "reliable evidence" means operating projections reviewed by the project owner's accountants, an appraisal of value prepared by an appraiser using the Uniform Standards of Professional Appraisal Practice or other professionally prepared determination of value of the project, and such other documents as OHCSD may require in its reasonable discretion.

From: Charlie Harris [charris@casaoforegon.org]
Sent: Thursday, January 06, 2011 3:01 PM
To: Betty Markey; Lisa Joyce
Cc: Peter Hainley; Lisa Rogers; Van Landingham, John; Cathey Briggs; Leon Laptook
Subject: Proposed 60 yr affordability.

I think the affordability period should be 50 years. As you note, this would be more consistent with other QAPs around the country.

I also think that bond-financed and 4% LIHTC deals should be subject to whatever affordability period you come up with. What is the rationale for excluding those projects, since they also are receiving a pretty hefty government subsidy? (While I don't need a response to the period of affordability you arrive at, I would like to know why you propose to exempt these projects from this standard. All of the arguments presented for a lengthened affordability period apply equally well to these projects.)

I won't be able to be at the Jan. 19 MFH group meeting. This might be an appropriate topic of conversation for that meeting.

Please include these comments in your packet to the State Housing Council. Thanks.

Charlie Harris
Housing Program Manager
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Oregon Opportunity Network

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January 31, 2011

Betty Markey, Senior Policy Advisor
Lisa Joyce, Policy and Communication Manager
Oregon Housing and Community Services

Sent via e-mail:

Dear Betty and Lisa:

Thanks for the opportunity to provide comments on the Department's proposed Long Term Affordability Policy, and thanks for your thoughtful approach on this important issue. I attended the Housing Council on January 21, where Janet Byrd provided comments from the Housing Alliance in support of the proposal, with some suggested revisions. As a member of the Housing Alliance, Oregon ON supports the Housing Alliance recommendations – in particular that 60 year affordability should be the minimum requirement, and that there be a preference for longer periods of affordability and purchase options for the state or designee; that the recapture formula allows the public to benefit proportionately from the initial investment and property appreciation; and that the affordability provision require that owners accept rental subsidy contracts.

It was clear from the discussion at Housing Council regarding proposed changes to the Consolidated Funding Cycle and to OHCS fees, that OHCS is developing new construction standards, and will be raising the bar on project construction by requiring more oversight and investment into project design and construction. This increased investment makes an even more compelling argument for longer terms of affordability. Oregon ON members recognize that project sustainability over a 60 year and longer term requires adequate capitalization at the front end, as well as realistic underwriting, adequate operating and replacement reserves, and recognition that recapitalization at 30 years will be required. Generally the cost to replace units is greater than the cost to maintain units, so the State's effort to maintain and rehab units is, in most cases, the wise choice.

In regard to the issue of long term affordability and recapitalization, Chair LaMont raised the question at Housing Council of whether it was realistic to extend the term of affordability for acquisition and rehabilitation of projects that may be 30 years old at acquisition. I shared that concern with Tom Walsh, who has been very involved in OHCS's preservation and rehab efforts, and who supports extending the length of affordability. Tom said that his firm has learned that wood frame dwellings have about three 30-year life cycles before they are ready for demolition. His sense is that a refinance of a 30 year old building that includes a major rehabilitation can very fairly and rationally be expected to comply with the requirement of another 60 year of affordability. At the end of the building's next 30 year cycle, demolition *may* be the best option, but that the affordability requirement on the project should ensure that the site itself is not lost as an affordable housing location. Location matters in housing, and matters to low-income people in particular if it allows them access to necessary services. The siting and development of new affordable housing with the same locational advantages can be virtually impossible in many communities – both urban and rural, which is why it makes sense to retain an interest in and affordable housing location over the long term.

One of the strengths of the OHCS long term affordability proposal is that the policy proposes that the OHCS director has the discretion to recognize the unique circumstances of a project and property, and can modify the terms of the policy if needed. Ensuring that the "public," as represented by the OHCS Director, will be a key decision maker at critical junctures, both provides flexibility in the policy, but also provides assurance that a wise public investment will be made on behalf of the needs of residents for whom there may be few other housing options.

Thanks for advancing this issue for stakeholder input.

Sincerely,

Cathey Briggs

Cathey Briggs, Executive Director

JENNINGS PITTS
DEVELOPMENT LLC

January 31, 2011

OHCS
Period of Affordability Comments
Sent via email: *lisa.joyce*@state.or.us.

Dear Ms. Joyce:

I welcome the opportunity to provide input on the state's plan to extend the affordability period for affordable housing projects. I would ask that you consider two issues I have with extending the period to the 60 year mark as I have heard is being considered (as opposed to the 30 year requirement now in force).

THE TAX CONSEQUENCES

I have marketed tax credits nationally for my clients over the last several years, including one project a few years ago that received 22 LOIs. The tax credits awarded in 2010 were marketed to 6 different firms from all over the country. I offer that to provide perspective for the comments I wish to make. I have reviewed dozens of LOIs and proposed operating agreements (and I've attended multiple conferences around the country).

When tax credits are made available to direct investors or to firms re-marketing the credits, the total package offered is considered for the valuation of the tax credits. Among the criteria considered are: the PV/FV for the tax credits themselves, the risk associated with the sponsor and team (or lack of risk) together with the predictable tax losses (which are a significant consideration for many top tier investors).

Without belaboring the issues involved, the non-tax credit issues that influence the value of tax credits include the tax losses developed from the project over the period the for profit investor during the 15 years of association with the project (principally the soft debt losses and the depreciation schedule). In order for the "soft debt" to develop paper losses for tax purposes, the validity of the debt must be established via a tax opinion asserting that the debts are "bona fide" debt. The tax opinion requires that the project during its normal life expectancy will be able to generate sufficient cash flow to actually make the payments.

In some case, the assumptions that allow for the tax opinion require considering well into the future when the rent restrictions are satisfied and a projection can be made assuming market rents. As an example, a new project may project that in years 40-60 that the project as a market rate project (after the affordability requirement has been satisfied) will generate sufficient income to pay off the accumulated interest together with the principal for the soft debt.

In the event that the affordability is extended to something that approximates the anticipated life expectancy of the new construction, it greatly reduces or eliminates the tax implications for paper losses on an affordable community.

On the one hand, it may appear that demanding a longer period of affordability expands the unit count for future projects (after all, they can't leave the affordable sphere if they are required to be affordable longer). However, it may well be that the value of the resources provided by the state may not go as far with the changes proposed.

Kent Jennings 541 434-2114 | Greg Pitts 541 434-2133
488 East 11th Avenue | Eugene, OR 97401
Fax: 541 683-5983 | jenningspitts.com

Oregon is already not considered a top tier source of tax credits with the current state requirements. Adding on additional burdens will complicate the marketing of the tax credits, making the value even less.

BUILDING FOR 60 YEARS

It may be possible to build for and/or maintain projects for 60 years in some parts of the state. There are other places (particularly on the coast) that I think it may be a fantasy to expect that a wood frame building can legitimately be expected to last that long (particularly considering the typical standards required of affordable projects that will expect the project to survive for a considerable period after the affordability period).

In order for this concept to work, a very significant rehabilitation has to be planned for in year 30 or so. Some items that are normally not considered in a 30 year cycle, will likely appear in a 60 year plan.

n addition, it may be necessary to move the tenants out to accommodate the most cost effective re-hab work. Some sort of reserve to cover that contingency should be considered.

FINANCIAL IMPACTS

Both of the areas I have presented will demand that the projects develop additional money to resolve. If the initial value of the tax credits is reduced, fewer units can be built or more resources will need to be made available.

Building for a full 60 years requires significant planning at the initial stages, probably requiring different building materials then currently used. My suspicion is that these materials (say concrete and steel) will be more expensive then wood frame construction. If a complete rebuild is required under the plan, the annual costs associated with maintaining the property for 60 years disallows the prospect of the infusion of significant resources by a third party with the intent of beginning anew with a depreciation schedule based on the infusion of the capital.

In short, I don't think the solution offered to date for the problem as presented has the desired impact on the affordable community and the action proposed has the possibility of creating an even greater strain on the limited state resources dedicated to affordable housing.

Best regards,

Greg Pitts
Managing Member

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January 19, 2011

Oregon Housing Council
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem, Oregon 97301-1266

Re: Extended Affordability

Ladies and Gentlemen:

As you consider new standards for continuation of Oregon's stock of affordable housing, I urge your consideration of two items:

1. A minimum 60 yr. affordability requirement for *any* development receiving OHCS assistance, including LIHTC and bond financing; and
2. A preference for those sponsors who commit to a period of assured affordability *greater* than 60 years.

In the 38 years of your Department's existence, you have made a significant contribution to communities throughout Oregon. The one significant omission we all committed in the early 1970's was failing to recognize the consequences of tying affordability assurance to the life of the original financing – typically 30 years. In the past 5 years, considerable effort (with great success) has been devoted to preservation of some 350 affordable housing developments in every county in Oregon.

What we have learned is that a 60 year affordability requirement will work in the marketplace. Developers -- private, non-profit, and housing authorities -- as well as lenders and tax-credit investors will continue to participate. Communities will continue to be strengthened. And enormous public investment will be preserved.

In these difficult times, there is no greater message OHCS could send than to signify that it looks to the very long term. 60 years sends that message.

Sincerely,

Tom Walsh

Builders Since 1960