



Oregon

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To: Senator Kayse Jama, SD-24
Chair of the Senate Committee on Housing and Development
Senator Dick Anderson, SD-5
Vice-Chair of the Senate Committee on Housing and Development
Members of the Senate Committee on Housing and Development



From: Brenda Bateman, Director
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Ethan Stuckmayer, Housing Division Manager

Date: February 16, 2024

Subject: **SB 1537 Implementation - Housing Accountability & Production Office**

The purpose of this memorandum is to establish, in writing, the commitments by the Department of Land Conservation and Development (DLCD) in the establishment and operation of the Housing Accountability and Production Office proposed in SB 1537. The department is committed to establishing and implementing this office in a manner that provides opportunities for local governments, Tribal nations, developers and property owners, community partners, and other interested parties to share input into how the office meets its statutory responsibilities – increasing housing production and the correct implementation of housing production laws.

Per SB 1537, DLCD, in conjunction with the Department of Consumer and Business Services (DCBS), has been tasked with establishing a Housing Production and Accountability Office (HAPO) to support local governments in facilitating and increasing housing development to meet the needs of Oregon communities. Consistent with this mission, DLCD offers the following commitments to assure local governments, Tribal nations, developers and property owners, community members, and other interested parties of our intention to ground implementation of HAPO on the tenets of collaboration, transparency, and engagement:

“Collaboration first, enforcement last” approach: As specified in SB 1537, DLCD commits to implementing HAPO so that financial and technical support and assistance to cities and developers is emphasized as the preferred approach to compliance with state housing law. HAPO intends to serve as a technical resource for cities and developers, engaging with them to overcome barriers to housing production and affordability in a way that recognizes local challenges and constraints, whether in planning, engagement, technical, or financial support. DLCD’s commitment is to prioritize partnership and engagement with local jurisdictions, and that this principle will form the framework from which HAPO operates. Only once opportunities for assistance, education, funding, and mediation have been considered will HAPO contemplate pursuing an enforcement action for a specific complaint or for a continued pattern and practice of noncompliance with state housing law.

Development and implementation of HAPO: In coordination with the DCBS, DLCD commits to creating regular opportunities for taking comments from local governments, Tribal nations, developers and property owners, community partners, and other interested parties on the standup and implementation of HAPO. DLCD understands that this input is critical to the ultimate success and efficacy of the office. Specifically, DLCD intends to hold pre-implementation meetings with local governments and other interested parties to inform the creation and rollout of HAPO. It should be noted however that DLCD and DCBS have only had preliminary conversations about how this coordination and additional engagement opportunities might take place. The agencies do not yet have a specific engagement plan as those conversations will start in earnest if the bill is adopted. In addition, once HAPO is operational, DLCD will periodically consider changes to the program based on the needs of local governments, Tribal nations, developers and property owners, community partners, and other interested parties – feedback and changes will be assessed through the framework and objective of the office, increasing housing production and the correct implementation of housing production laws. To that end, DLCD will hold at least two meetings per year for the explicit purpose of providing updates on implementation and to provide a forum for questions and input about the work of the office.

Duplicative enforcement: To address concerns about the exercise of enforcement authority in instances of overlapping authority, DLCD commits that the department will not simultaneously pursue an appeal to the Land Conservation and Development Commission (LCDC) and an enforcement action by HAPO to address the same instance of a violation to state housing laws. However, this commitment does not preclude HAPO or any other program at DLCD from commenting on or engaging in the matter, offering technical assistance, or advising parties on how to comply with state housing law. Furthermore, in cases involving non-housing issues that may affect compliance with state housing law such as natural hazard or resource land concerns, any DLCD program may pursue any enforcement actions deemed necessary to ensure consistency with applicable statutes and rules.

Sharing data and information about best practices to facilitate housing production: DLCD intends for HAPO to be both a generator and repository of information about how to address both state and local actions or decision-making that may create barriers to housing production. This work will include, but is not limited to, what barriers or issues should be prioritized for educational efforts and technical assistance, including funding, as well as recommendations on better alignment between state agency programs, local capacity and constraints, and Tribal governments' capacity and constraints. The overall goal would be to use collected data and information to inform regular conversations about creative and strategic solutions to the barriers and challenges of facilitating housing production.