

Policies and Procedures – Inquiries and Complaints of Housing Law Violation

Housing Accountability and Production Office (HAPO)

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Section 1 – Purpose

The Housing Accountability and Production Office (HAPO), established by Senate Bill 1537 (2024), partners with housing developers and local governments to navigate the complexities of state housing laws related to land use and permitting. HAPO also assists in identifying state funding and navigating processes related to housing production.

This document outlines HAPO's policies and procedures for receiving and processing inquiries under Section 1 and complaints alleging violation of Housing Law as described in Section 2 of Senate Bill 1537 (SB 1537). The purpose of this document is to provide staff with defined procedures for consistent and timely processing of inquiries and complaints in accordance with statute. The policies and procedures apply to all HAPO staff working on inquiry and complaint processing.

Section 2 – Goals for Responding to Inquiries and Complaints

1. All inquiries and complaints to HAPO and responses from HAPO are tracked, ensuring accountability for HAPO staff and facilitating reporting.
2. Responses and guidance will be shared both with housing developers and local governments, where applicable and possible, for transparency and fairness among parties in the development review process.
3. HAPO will provide options for complainants to be anonymous to the extent possible under the public records laws, while also clearly communicating that anonymity may not be possible for some investigation and enforcement processes.
4. All websites, forms, and communications will comply with DLCD's Accessibility Guidance.
5. Housing Law Complaints:
 - a. HAPO will seek to mediate and resolve housing law questions and issues through early informal engagement with housing developers and local governments whenever possible.
 - b. HAPO will prioritize voluntary compliance by local governments to resolve complaints (SB 1537, Section 1(4)).
 - c. Review of and action on complaints are not necessarily based on the order in which they are received. HAPO may prioritize responses on case-specific factors.
6. HAPO is committed to providing an equitable, accessible and transparent process.

Section 3 – Inquiries to HAPO

1. HAPO will provide an intake form for local governments, Tribal nations, developers and property owners, community partners, and other interested parties to submit inquiries to the office.
 - a. Inquiries submitted through the intake form will assist HAPO in providing expedited guidance and response.
 - b. HAPO can also be reached by email (DLCD.HAPO@DLCD.oregon.gov) and by phone.

2. The intake form will prioritize a user-friendly experience and 'box selection' responses when possible. It will utilize a branching logic system to determine what type of information is requested from users.
3. HAPO will use the data collected by the inquiry intake form to assess which pathway the inquiry will follow through to a closed-out status (see diagram in Appendix A).
4. Information regarding the potential housing law violation, project specifications, location and other critical data will be collected to determine HAPO assignments and expedite the process where possible.
5. Once an inquiry is submitted, an automated response will be sent to the submitter to inform them that their inquiry has been received, and that they will receive follow-up correspondence within five business days.
6. If necessary, a follow-up email may be sent if there is critical information missing to make a determination of the correct pathway the inquiry should follow.
7. Once all necessary information has been collected through the intake form and subsequent outreach, a pathway determination and assignment will occur. Those pathways are defined below

3.1 – Navigation of State Funding, Resources, and Processes

1. Local governments, Tribal nations, developers and property owners, community partners, and other interested parties may request informal guidance from HAPO on:
 - a. Identification of state funding and resources to assist in housing production;
 - b. Navigation of state processes and requirements related to housing production.
2. If an inquiry does not fall under the aforementioned categories, or if another State agency is better poised to assist with the specific inquiry, HAPO will connect the inquirer with the relevant State agency (SB 1537 Section 1(2)(f)).
3. HAPO will engage with the inquirer to understand the nature of the inquiry and the needs of the inquirer through written and verbal communication.
4. HAPO will conduct the necessary research and exploration to identify relevant State financial resources, technical assistance, training, advisory groups or any other relevant resources that may assist with the production of housing units. (SB 1537 Section 1(2)(f)).
5. HAPO will provide the inquirer with a comprehensive summary of the research conducted and potential next steps.
6. Due to the imprecise nature of housing navigation, HAPO may follow-up periodically with the inquirer. Additionally, HAPO will collect data around applications submitted based on the research summary provided, success in securing state resources and finally, completion of housing developments.

3.2 – Questions and Conflicts Regarding Housing Law (Land Use Regulations and Building Codes)

1. Intended to address technical inquiries related to interpretation and application of housing laws. Housing laws are statutes and rules that apply to housing development or the permitting or division of land for housing. Housing laws include certain sections and associated rules of ORS 92, ORS 197, ORS 197A, ORS 215, ORS 227, ORS 455, as defined in Section 1 (5)(a) in Senate Bill 1537 (2024).
2. Inquiries are expected to primarily come from housing developers and local governments. General examples include:

- a. Project-specific questions from housing developers about the applicability of building code requirements or consistency of local land use regulations with state law
 - b. Questions from local government planners about interpretation of state land use law, either as part of development review or updating land use regulations
 - c. Questions from building officials on applying or interpreting building codes
3. A key purpose of this process is to address conflicts and complaints with an informal response whenever possible.
4. HAPO reviews inquiries and corresponds with inquirer for more information if necessary.
 - a. Building code inquiries processed by BCD staff.
 - b. Land use inquiries processed by DLCD staff.
5. Informal response
 - a. Objective is to provide a timely, brief written response to the inquiry
 - b. When inquiry involves a conflict, the response will focus on what actions may be taken to resolve the matter
 - c. Response may be shared with other affected parties if necessary to resolve a complaint and if agreed to by inquirer, though records will be provided to the public consistent with the requirements of the public records laws
6. Process outcomes:
 - a. Inquirer may be directed to SB 1537 Section 2 Housing Law Violation Allegation process if a complaint is not resolved with an informal response
 - b. HAPO staff may refer or connect local governments with technical assistance resources if instances of non-compliance with state land use law are found in the local government's land use regulations or procedures during the informal response process
 - c. Once an informal response is provided, no further action is obligated for HAPO unless a complaint under SB 1537 Section 2 is filed

3.3 – Allegation of Housing Law Violations

Allegation Receipt

1. Allegations will be submitted through HAPO's intake form.
2. Complainant is responsible for providing information and formally filing an allegation. HAPO staff can assist in navigating complainants to the allegation intake process and explaining the allegation process and procedures.
3. Allegation intake form contents to include:
 - a. Allegation information: Who is the complainant; Which Housing Law(s) are Violated; Narrative describing the alleged violation; Supporting Materials; Project information if allegation is related to a specific development project
 - b. Complainant to confirm and agree to the following: Statements and information provided are factual and accurate; complaint materials are subject to public records law with no expectation of anonymity LUBA appeal or private litigation limits HAPO participation as described in SB 1537 Section 2 (2)(c), with an obligation for complainant to notify HAPO if those are pursued
4. Allegation will be accepted for Credibility Review if required information is provided online.

Credibility Review

1. All allegations to HAPO undergo pre-screen to review:
 - a. Is the allegation related to 'Housing Law' as defined in SB 1537?

- b. Is it a Land Use Law violation or Building Code violation?
 - c. Is the submitted information sufficient to explain the alleged housing law violation?
- 2. Pre-screen results:
 - a. Passes pre-screen
 - i. HAPO – Building Code Division (BCD) lead if allegation involves Building Code violation
 - ii. HAPO – Department of Land Conservation and Development (DLCD) lead if allegation involves Land Use Law violation
 - b. Does not pass pre-screen
 - i. HAPO staff notify complainant that allegation is not in HAPO purview or does not contain sufficient information for review, includes explanation that allegation may be pursued via another submittal. Complainant can contact HAPO staff if there are questions about rejected allegations.
- 3. Land Use Law Credibility Review
 - a. Review standard: The office shall investigate suspected violations of housing laws or violations credibly alleged consistent with SB 1537 Section 2 (2)(a)
 - b. Land Use Law Credibility Review led by HAPO - DLCD staff. Review will assess the specifics of what has been submitted for review to the local government, what response or decision has been provided by the local government, and the degree to which the materials credibly show a local government committing a violation or being out of compliance with housing land use laws.
- 4. Building Code Credibility Review
 - a. Review standard: The office shall investigate suspected violations of housing laws or violations credibly alleged consistent with SB 1537 Section 2 (2)(a)
 - b. Building Code Credibility Review led by HAPO - BCD; reviews submitted materials
- 5. Credibility Review Process Outcomes
 - a. If there is a credible allegation of housing law violation; the complaint moves to Investigation
 - b. If there is not a credible allegation of housing law, HAPO staff will notify the complainant that facts of the complaint preclude further action from HAPO; complainant can contact HAPO staff if there are questions about rejected allegation
- 6. Timeline expectations
 - a. Pre-screen: within 3 business days from allegation receipt
 - b. Credibility review: within 5 business days from conclusion of prescreen

Investigation

- 1. Building Code violation investigated by HAPO, BCD leads
 - a. BCD staff contacts local government and complainant
 - b. Investigates materials received
 - c. Issues Final Investigation Report
- 2. Land Use violation investigated by HAPO, DLCD leads
 - a. Notice of investigation sent to Local Government
 - i. Report with background description of what HAPO is investigating
 - ii. Outlines process under SB 1537 Section 2
 - iii. Identify action(s) the local government may take that would resolve the allegation, including any pending local government land use decisions
 - iv. Copies of allegation materials

- b. Invitation provided for local government staff to meet with HAPO staff, and relevant state agency staff, during response time
 - c. Investigation Report sent to Local Government and Complainant - report has background info, findings of fact, and outcomes; can be Actual Violation, Potential Violation, or No Violation
- 3. Investigation Process Outcomes
 - a. Actual or Potential Violation was or is being committed - investigation report serves as notice under SB 1537 Section 2(3) and provides the required voluntary remedies and notice of authority that may be invoked under Senate Bill Section 2(4)
 - b. Local government offers voluntary compliance
 - i. Outcome is an available option at any point during Investigation process once notice is received
 - ii. May be exercised prior to or following issuance of Final Investigation Report
 - iii. Offer must be in writing from person with authority commensurate to the proposed voluntary compliance action
 - c. Notice of No Violation – Final Investigation Report informing that a violation has not occurred

Violation and Local Government Response

- 1. Where HAPO determines there is a potential violation or actual violation, BCD staff will lead the violation process related to Building Code violation of housing laws, and DLCD staff will lead the violation process related to Land Use law violation of housing laws.
- 2. Written Notice
 - a. Final Investigation Report with finding of violation under SB 1537 Section 2(2) will serve as the required written notice under Section 2(3).
 - b. Specifies the violation
 - c. Lists any authority under Section 2 that HAPO intends to invoke if the violation continues or is not remedied, including that no authority under Section 2(4) will occur earlier than 60 days from after written notice
 - d. Invitation to address or remedy the suspected violation through mediation, the execution of a compliance agreement to voluntarily remedy the situation, the adoption of suitable HAPO model codes, and/or other remedies suitable to the specific violation
- 3. Violation Process Outcomes
 - a. Local government offers voluntary remedy as described in notice; offer must be in writing from person with authority commensurate to the proposed voluntary compliance action
 - b. Escalation; HAPO proceeds with action(s) under Section 2(4). Pursuing an action(s) under Section 2(4) will be authorized by HAPO Manager and Director of DLCD or Administrator of BCD, as applicable
 - c. Closed; HAPO has determined that the violation has been remedied through means other than voluntary compliance or escalation and has otherwise determined that there will be no further action on the violation.
 - i. Courtesy notice sent to local government and complainant
 - ii. Record status becomes Closed
- 4. Violation Process Notes
 - a. Process during violation is open-ended. HAPO may engage individually or together with the local government, complainant, and other relevant parties.

- b. Timeline expectations: No applicable timelines other than statutory preclusion of Section 2(4) actions earlier than 60 days from notice

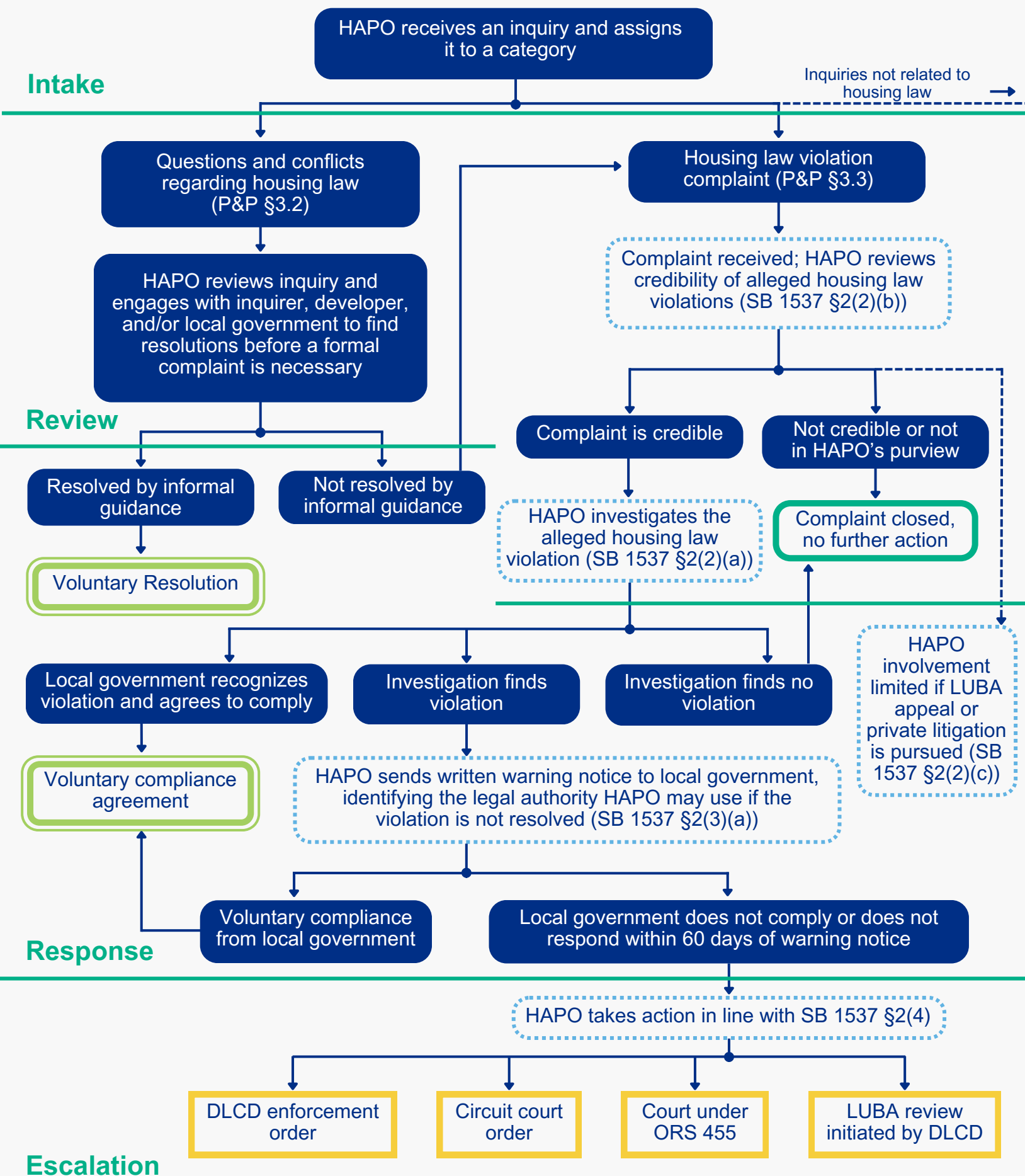
Escalation

1. At its discretion, HAPO may provide written notice to a local government that the office intends to pursue measures described in Section 2(4) (notice is not required by statute).
2. When HAPO exercises the measures in Section 2(4), HAPO - BCD staff will lead the process related to Building Code violation of housing laws, and HAPO - DLCD staff will lead the process related to Land Use law violation of housing laws.
3. Process Outcomes
 - a. Land Conservation and Development Commission (LCDC) Enforcement Order under Section 3 of SB 1537– applies only to Land Use Law violations
 - b. Court Order pursuant to ORS 455.160 – applies only to Building Code violations
 - c. LUBA appeal under ORS 197.090(2)(a)- applies only to Land Use Law violations for which LUBA has jurisdiction
 - d. Circuit Court Order
4. Process Outcomes: Closing Record
 - a. Upon initiation of any process in Section 2(4), allegation record will be closed in HAPO's tracking. The matter becomes subject to the proceedings of the enforcement process.
 - b. Resolution by voluntary compliance from the local government would be subject to allowance by LCDC, LUBA, or court, and not solely by HAPO.

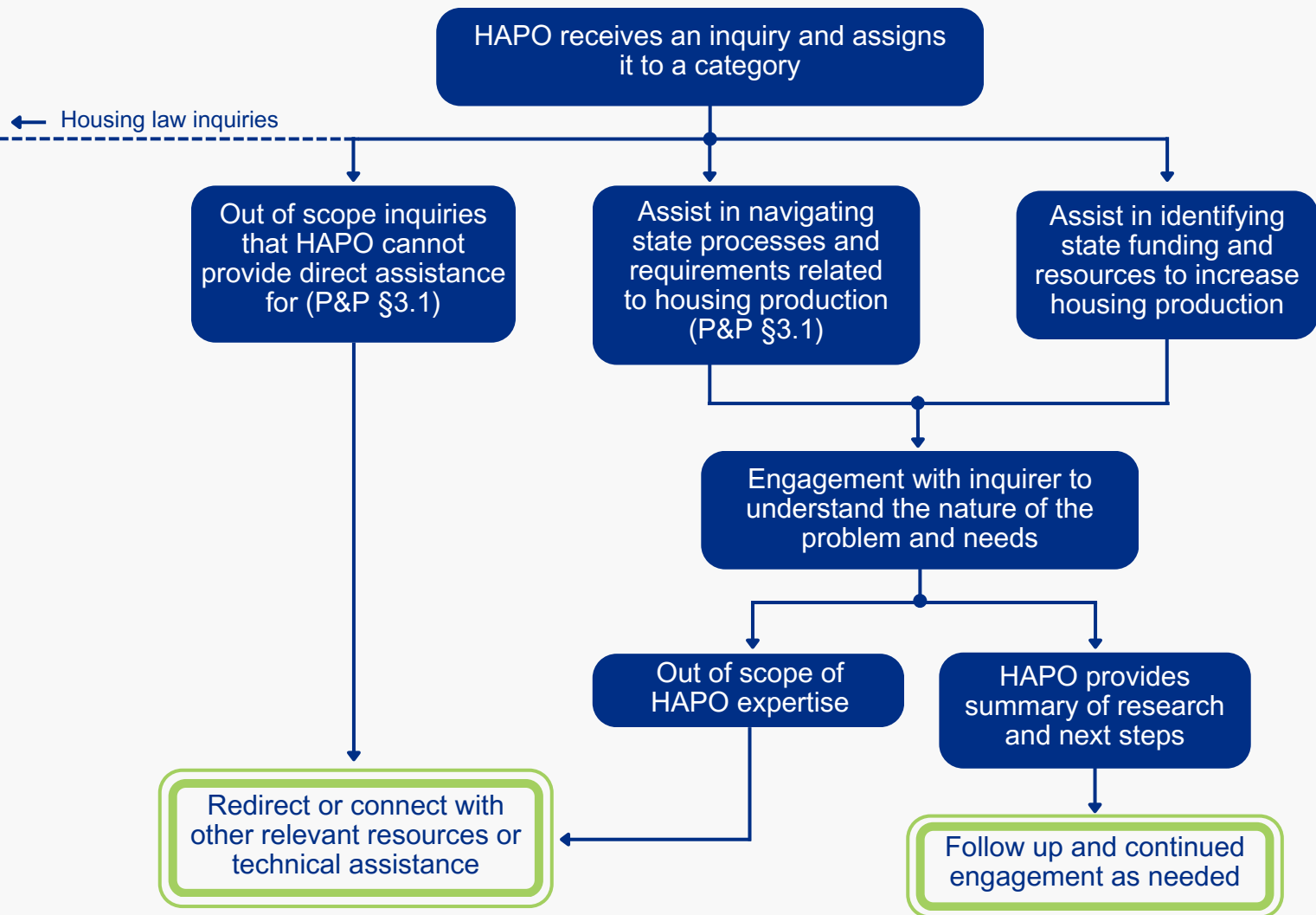
Other Allegation Review Procedures

1. The HAPO allegation tracking system will provide notifications at each processing point and outcome.
2. A complainant retains ability to pursue LUBA appeal or Private Litigation at any point during the process. If this occurs, HAPO's involvement will be limited to the actions listed in SB 1537 Section 2(2)(c).
3. HAPO may group and process separate allegations collectively to the extent that the allegations involve the same local government and alleged violation.
4. HAPO may parse an allegation if the complaint involves violations of both building code and land use regulations.
5. Complainant can withdraw allegation at any point during the process. HAPO may continue responding to a withdrawn allegation if review process prior to withdraw has complied credible allegations that a housing law violation exists.

HAPO Policies and Procedures for Inquiries and Complaints



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Key:

Processes required by statute

Enforcement-related outcomes

Collaborative outcomes

Outcome requires no further action