

May 6, 2025

To: Oregon Department of Land Conservation and Development

RE: OHNA: HAWG - HPS and Acceleration Program Compliance Pathways

We provide feedback on the HPS and Acceleration Program Compliance Pathway proposal presented at the April 23, 2025, HAWG meeting.

Acceleration Program Compliance Pathway

Although we are providing feedback on the HPS Compliance Pathway proposal below, we want to elevate our comments on the Acceleration Program, as this is where our most significant concerns lie. We are particularly concerned by the absence of clearly defined expectations or consequences at this stage of the process.

As noted in our [March 26, 2025 letter](#), we continue to believe that “it is crucial that...rebuttable presumptions in the HPS stage are directly reflected in the accountability stage... This alignment would encourage cities to adopt effective state-recommended actions early on, rather than waiting for a mid-point review that may or may not result in referral to the acceleration program, and thus, may or may not result in actually being required to implement these preferred actions.” We are concerned about the proposed system that relies entirely on staff discretion in the content of the acceleration agreement, and therefore (a) would require infusions of political capital to adequately empower DLCD and (b) wouldn't offer the predictability required to give local leaders an incentive to advocate for their local plan (as opposed to advocating against a state plan).

The problem identified by staff with a predefined compliance pathway -- as we understand it, that no predefined checklist can fully anticipate every possible barrier to housing -- also exists in the HPS. [Staff's April 17 proposal](#) found a good way to address this problem in the HPS: it offers a list of actions to address “a set of common and meaningful ‘key needs’” in Part I, alongside reference back to the “base rules” in Part II for additional strategies and actions, recognizing that Part I cannot and is not “inclusive of all housing needs that a local government is likely to identify in the CHN.” It seems that a similar design could also work in the accountability stage.

A predefined list of zoning and land use actions in the accountability stage might echo those in the HPS stage but go into more detail, as described on p. 7 of the April 17 memo. This list of actions could and should be the first stop shop in at least the audit process - especially the standard audit. For example, has the city done all of the things DLCD considers to be good practice for any key needs they are not meeting? If so - did the city do them well or do they need to be refined? And, if actions on the list have not been adopted by the city - the city will need to collaborate with DLCD on how best to do so. This relates the two processes to each other in a consistent and predictable way. This structure would also provide cities with an incentive to adopt strategies that the state has identified as impactful early on. Additionally, it would serve as a backstop should creative strategies attempted in an HPS (thanks to a rebutted presumption) eventually fail to bear fruit.

In terms of the need for discretion for more complex and nuanced scenarios, staff should keep in mind that the "comprehensive" audit type was conceived as a way for staff, at their discretion, to focus the state's attention on more nuanced fair housing challenges that will never be anticipated by a checklist. This process would be an important complement to predefined requirements.

With all of this, **we strongly urge the state to develop a clear set of expectations that cities can anticipate if referred into the acceleration program** - even if it isn't a direct continuation of the HPS strategies. There must be some level of objectivity and transparency for cities ahead of this stage of the process for the program as a whole to be effective. **As well, this needs to be prioritized as a topic for an upcoming HAWG meeting**, which, based on the most recently provided list of dates and topics, is not the case. It is key that this be given the time and attention it deserves within the HAWG and OHNA engagement process before being finalized.

HPS Compliance Pathway

Support:

- We appreciate that our feedback against the use of a "pick one" methodology is reflected in the latest proposal. The proposed approach acknowledges the complexity of housing issues and, by extension, housing production strategies - and maintains flexibility for cities to select combinations of actions best suited to their unique contexts.
- Although the proposal does not explicitly use impact ratings or points, we value the multi-layered approach to strategy selection, which implicitly recognizes the varying effectiveness and relevance of different strategies.
- Based on the current information, we are generally supportive of the proposed categories and their alignment with key housing needs, as well as the focus on land use-based policies. We also appreciate that the criteria for defining the proposed strategies appear responsive to the varying capacities of cities, which aligns with our March 26, 2025 feedback on Adoption Ready Actions. This responsiveness is especially important within the proposed rebuttable presumption framework.

Areas for additional consideration:

- As noted in our March 26, 2025 letter, we remain cautiously supportive of the use of rebuttable presumptions but are concerned about the potential for misuse. The state must ensure these presumptions do not become a default loophole for cities to claim infeasibility or lack of capacity. To prevent this, clear and consistent criteria for acceptable alternatives must be established to avoid the adoption of watered-down, ineffective substitutes.
- Building on the above, we want to emphasize the importance of ensuring that both the selected strategies and the criteria for their implementation or rebuttal are clearly aligned with the specific housing challenges they are meant to address. This was echoed during the April 23 HAWG meeting by several members, including Shannon Vilhauer of Habitat for Humanity Oregon, who noted that simply increasing "Development Intensity Bonuses (ZI-1)" does not inherently achieve the goal of expanding "housing with wealth-building opportunities" (just as one example). To

avoid such disconnects, DLCD should provide clearer definitions of what constitutes acceptable use of rebuttable presumptions. Doing so will help cities propose meaningful strategies to meet these expectations for both state-recommended actions and rebuttals, and will give DLCD a transparent, objective basis for evaluating both pathways, ultimately setting cities up for success while reducing the risk of ineffective or symbolic compliance.

- We will continue to evaluate and provide feedback on the proposed actions, individually and collectively, to ensure they are effectively addressing the stated needs.
- We encourage the establishment of a system for regular review and refinement of rebuttable actions to ensure they remain:
 - **Effective** - Are cities adopting them seeing progress toward housing targets?
 - **Useful** - Are most cities adopting or rebutting them, and why?
 - **Evergreen** - How can these strategies evolve to remain relevant beyond the initial rounds of HPS submissions?

Again, we thank DLCD staff and the consultant team for their thoughtful and thorough work on these topics. We look forward to continuing the discussion and seeing the next steps.

Please reach out if a meeting would be helpful to discuss this further.

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Submitted in Partnership with:



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