

To: LCDC

Via E-mail for OHNA Rulemaking Record

From: Al Johnson

Re: OHNA Rulemaking

- Your charge
- Getting “areas of opportunity” right

Date: November 7, 2025

You have a daunting task before you. I respectfully urge you to make yourselves proud of yourselves. It won't be easy.

A few words about your charge:

As you consider the proposed rules and the voluminous testimony about their complexity, their undue focus on packing more people into the places where they have been packed for too long already, and the risks of unintended or illegal consequences, please keep in mind the fundamental charge you have been given by Oregon's land use statutes and goals, taken as a whole.

Those statutes and goals, since the adoption of SB 100 in 1973 and the goals in 1974, have consistently required that the all residential areas within Oregon's UGBs should become both “Areas of Opportunity” and “Climate-Friendly and Equitable Communities.”

Oregon's carefully balanced land use framework sets aside the vast majority of the state for nonurban uses, reserving only a tiny percentage on which the people of Oregon are expected to meet their needs for housing. Let's not shrink that area further by disincentivizing equitable, affordable, climate-friendly housing throughout our urban areas.

Oregon's land use goals and statutes do not contemplate an inner archipelago of little UUGBs (Ultra-Urban Growth Boundaries) inside our already tightly-constrained UGBs, and they do not contemplate a regulatory regime which denies affordable and equitable access to areas of opportunity and homeownership throughout our urban areas. Properly implemented, they would be part of the solution, not part of the problem, described in books like Applebaum's **Stuck** (Random House, 2025, excerpts below), Bach's **High Desert, Higher Costs: Bend and the Housing Crisis in the American West** (OSU Press, 2025), Colburn's **Homelessness is a Housing Problem** (U of Cal Press, 2022), Gray's **Arbitrary Lines** (Island Press 2022), and Rothstein's **Color of Law** (Norton 2017).

Unfortunately, they have not been properly implemented, as I have detailed in earlier memos. Housing has always been second to other priorities, in particular the avoidance of “sprawl,” which in Oregon has come to mean even the kind of incremental, contiguous, tree-ring, master-planned, climate-friendly complete community that would, if the Urbanization Goal were properly applied, result in creation of new areas of opportunity with housing supplies that matched with the needs of all Oregonians.

A few more words about “areas of opportunity” and “opportunity mapping.”

I worry that the proposed rules effectively invert the meaning of “areas of opportunity” and threaten to exacerbate the historical exclusion and concentration of Oregon's historically burdened populations near

sources of harm—industrial areas, railroad tracks, dumps, noisy streets, etc.

As the materials appended below make clear, “areas of opportunity” are generally places from which unfavored populations have been excluded. In Oregon, that means almost all of our urban areas except the areas to which we have historically relegated our less fortunate fellow citizens.

They are not the places to which the excluded populations were confined or to which they were displaced, which have a history of separate and unequal treatment by public and private actors alike. That should end. Those places and those who wish to live and work there need and deserve investment, protection against gentrification, and meaningful opportunities to remain and thrive. Those areas should be considered areas of protection, investment, restitution, repair, enhancement, and restoration. But only when that has actually been done, not when it has been planned, proposed, or promised, can such areas be considered areas of opportunity. Any analysis or mapping which assumes otherwise will be misleading and highly damaging to those it purports to assist.

Areas of opportunity should also not be confused with “opportunity zones” or “blighted areas” designated under state and federal statutes. Those terms and urban renewal and investment programs have become parodies of their dictionary meanings.



From **STUCK** – Yoni Appelbaum, Editor, The Atlantic, March 2025:

THE IDEA that people should be able to choose their own communities—instead of being stuck where they are born—is a distinctly American innovation. It is the foundation for the country’s prosperity and democracy, and it just may be America’s most profound contribution to the world.

Today, America is often described as suffering from a housing crisis, but that’s not quite right. In many parts of the country, housing is cheap and abundant, but good jobs and good schools are

scarce. Other areas are rich in opportunities but short on affordable homes. That holds true even within individual cities, neighborhood by neighborhood.

As a result, many Americans are stranded in communities with flat or declining prospects, and lack the practical ability to move across the tracks, the state, or the country—to choose where they want to live. Those who do move are typically heading not to the places where opportunities are abundant, but to those where housing is cheap. Only the affluent and well educated are exempt from this situation; the freedom to choose one's city or community has become a privilege of class.

The sclerosis that afflicts the U.S.—more and more each year, each decade—is not the result of technology gone awry or a reactionary movement or any of the other culprits that are often invoked to explain our biggest national problems. The exclusion that has left so many Americans feeling trapped and hopeless traces back, instead, to the self-serving actions of a privileged group who say that inclusion, diversity, and social equality are among their highest values.

Reviving mobility offers us the best hope of restoring the American promise. But it is largely self-described progressives who stand in the way.

Mobility was not always uncontested, of course. Waves of immigrants faced discrimination from those who had come only slightly before, turned away from communities just because they were Irish, or Italian, or Jewish. Laws excluded the Chinese, and vigilantes hounded them from their homes. Women seldom enjoyed the full privilege of mobility, constrained by social strictures, legal barriers, and physical dangers. And even after the end of slavery, Black Americans had to fight at every turn to move around, and toward opportunity, in the face of segregation and racist violence. But by the end of the 19th century, mobility was a deeply ingrained habit throughout the United States.

That habit has now been lost, and the toll is enormous. By one estimate, the decline in mobility is costing the American economy nearly \$2 trillion each year in lost productivity. The personal costs may be even greater, albeit sometimes harder to recognize.

Zoning may have been adopted, eventually, by well-meaning urban planners, but the process began in 1885 in Modesto, California, where bigoted local officials were looking for a tool to push out Chinese residents. The federal courts would not allow them to segregate their city by race, but they hit on a workaround, confining laundries—whose proprietors were overwhelmingly Chinese and generally lived in their shops—to the city's Chinatown. Over the ensuing decades, other cities embraced the approach, discovering that segregating land by its uses and the size of the buildings it could hold was a potent means of segregating populations by race, ethnicity, and income.

U.C.L.A. Law Review

Awarding Racial Segregation: The Low-Income Housing Tax Credit As A New Racially Restrictive Covenant

Jessica Xu

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Measures to Reduce Racial and Economic Segregation within LIHTC

To address the racial segregation that LIHTC perpetuates, the LIHTC program should be restructured to (1) discourage or disincentivize racial segregation, (2) require that each LIHTC proposal articulate its impact on racial segregation in the surrounding communities, and (3) create an oversight committee to conduct an independent analysis on a proposed LIHTC project's impact on racial segregation in the surrounding community and approve or deny QAPs accordingly. Because states currently have varying approaches to how their respective LIHTC regulations address racial segregation, it is crucial to have uniform federal regulations to discourage racial segregation.

First, housing finance agencies should avoid practices that encourage developers to concentrate affordable housing opportunities in higher poverty or racially segregated neighborhoods. An important public policy objective of federal rent subsidy programs, including LIHTC, is to overcome historic patterns of racial segregation. Therefore, state housing finance agencies that facilitate the LIHTC program should develop QAPs that do not encourage discrimination, but instead, actively use tax credits to create affordable housing options in neighborhoods with better educational and job opportunities. In doing so, LIHTC would contribute to desegregation and provide low-income, minority families with opportunities to move to areas that could potentially and measurably improve their lives. Some states already avoid concentrating public housing. For example, North Carolina, Texas, Alabama, and New Hampshire have mandatory restrictions that prohibit increases in racial and economic concentration. In addition, North Carolina, Louisiana, Massachusetts, Nevada, West Virginia, and Maine use QAP scoring to discourage racial and economic concentrations.

Second, Congress should require that each QAP articulate its impact on racial segregation in the surrounding communities. In 2008, Congress required the IRS and state housing finance agencies to report racial and ethnic occupancy data in all LIHTC developments. These data collection efforts should be expanded to include the racial impact to the surrounding areas. Because the erection of LIHTC properties has implications for racial segregation, the QAPs should attempt to address these dynamics. While it may be difficult, QAPs should be expected to address the impact the LIHTC program would have on the surrounding neighborhood composition with regard to racial segregation.