Commission on Housing Affordability
Minutes for February 26, 2021
Electronic Webinar - Via Zoom

Members Present	**Representing**
Senator Jacob Anderegg	Senator
Representative Joel Briscoe	Representative
Representative Steve Waldrip	Representative
Andrew Johnston	Salt Lake City Council
Ben Hart	Economic Development
Beth Holbrook	UTA
Casey Cameron	DWS Executive Director
Chris Condie	Lehi City Council
Chris Gamvroulas	Utah Homebuilders Association
Jacey Skinner	Salt Lake Chamber
Janice Kimball	Housing Connect
Jeff Jones	Summit County Economic Development
Matt Dahl	Utah Redevelopment Association
Michele Weaver	Rural Community Assistance Corporation
Mike Akerlow	Community Development Corporation of Utah
Mike Gallegos	Salt Lake County
Mike Ostermiller	Summit County Economic Development

Absent Members
Grant Whitaker
Julie Humberstone

Staff Present	
Jonathan Hardy	Director, HCD
Jess Peterson	HCD
Keith Heaton	HCD
David Fields	HCD

Visitors
Peter Asplund

Welcome and Introductions
The Commission on Housing Affordability Board meeting was held electronically via Zoom on: February 26, 2021. Senator Jacob Anderegg called to order at 12:03pm.

Senator Anderegg: (see attached)
Let's get right to it, on line 60-74, we made a couple of changes and the first is, we are focused on the grant of real property to projects of area median target to 50% with paying no more than 31% of the households income and there was an addition on line 68, which came from the league of cities and towns where they'd like to have it because of the projects being affordable housing and is going to be with, at least 20% of affordable housing units. In essence most of the developments we see will go up to 20%.

Matt Dahl: I think this is a great section and I appreciate all the work that's been done on this, I was wondering on the reference line 65-66 about municipalities are still subject to 10-8-2(4) and often times when we're granting anything that has a monetary value, including land, we have to go through the process outline of 10-8-2(3) and I wasn't sure if this reference was implying that you wouldn't have to go through with 10-8-2(3), so I wondered if it would be useful to explicitly say that we do have to follow 10-8-2(4) and not have to follow 10-8-2(3).

Senator Anderegg: That's probably a good catch.

Peter Asplund: I could use some expertise on the right section and see whatever the right mix is of what we should be subject to and what not.

Matt Dahl: 10-8-2(4) says when you get rid o f a substantial piece of property, you have to have a public hearing on it. 10-8-2(3) says that you have to do an analysis about the difference in value and sorts of things and since this already establishes if you hit the 20% of housing uits being affordable, it is sort of that threshold then I'm fine with 10-8-2(4) being in there, I just think that we need to say that 10-8-2(3) is no longer necessary.

Peter Asplud: Ok, great, thanks.

Mike Akerlow: I just had a couple clarifications, in this first section on line 62, you did say there is no more than 50% AMI, line 68 it does say at various income levels, does that mean the land can only be granted at those at 50% AMI or below, I'm confused if that first section is really a definition of affordable housing and the second section is, you have to do at least 20% various incomes?

Peter Asplund: The way I read it is, at least 20% have to be affordable housing units among various income levels but 20% will be affordable and that's defined as the 50%

Senator Anderegg: So those ones that are affordable housing units will be tailored for 50% or lower AMI.

Mike Akerlow: Perfect, I just had one more thing and would love to hear input from the commission, 30% has kind of been an industry standard for many, many years and we have just noticed with our clients that 30% is becoming increasingly difficult, because of cost of living, going higher incomes is not increasing as fast so in our office, we have bumped it up to 35% and I'd like to see if there's any discussion on increasing that amount, I think that in particular, that also relates to Rep. Waldrip's program and just wondering if some of his clients, if it would help to raise that household's ratio?

Senator Anderegg: We could, I was just following the ratio level guidelines but I don't care if we change it, I just want to make sure it's effective.

Mike Gallegos: In reply to Mikes comment, I think changing what's been accepted as the practice but hope it won't for stall this bill when looking at making those changes but other than that, I agree with him, the cost has increased the cost of living, it is more than 30%.

Senator Anderegg: So 35% would be a good recommendation?

Mike Akerlow: I think that would be a good place.

Mike Gallegos: I would be ok with that too. I have a question for Peter on this section for 20% or more of units being affordable, the minimum, does that meet the public benefit requirement?

Peter Asplund: I'm not sure, I think this 20% idea is suggested and I may be guessing here but suggested by the league of cities and towns. What public provision are you thinking of?

Matt Dahl: That's the 10-8-2(3) I was talking about, I think if we remove that then it doesn't matter.

Chris Gamvroulas: I don't know that we want to touch that 31% because this is a definition, I think it might have the unintended consequence that, if you're going to do affordable housing units now, you can charge more because someone's paying 35% of their income, when it really should be about 30% of the area median income, so I wouldn't touch that definition, I think it will have an unintended consequence of pushing the rent up.

Senator Anderegg: Now that I've been thinking about it, that was my question, being a previous mortgage lender and doing a lot of evaluation of people's debt to income ratio, pushing the housing costs higher is actually a greater burden on the household. In fact moving it down to 31% and lower means of their total income, we're going to require less of their total income ratio to go to housing, so I don't think we want to go up to 35% and I know prices are increasing but it's the exact opposite benefit, so if prices increase, the less percentage you require, the less amount of their income is going to that and can be offset by the value of the grant and the deed restriction. I'm open to have more conversations on it but I just don't think the mathematics work out going higher.

Michele Weaver: I see and agree with both sides of it, it's getting nearly impossible putting someone into a house, basically we won't have anyone in homes because they can't meet that 30% threshold because incomes are not increasing to cover those payments but I also see that you don't want to increase the burden on the household but again I think that we're shooting ourselves in the foot if we can't even get people into homes because they can't meet that 30% threshold.

Senator Anderegg: But here's the deal, 30% threshold is a factor of what they earn.

Michele Weaver: I understand that but if incomes are not increasing, then what are they going to do, live at the road home?

Senator Anderegg: I don't think you're understanding. Say if you're making $10,000, 31% is $3,100, if you're making $20,000, 31% is $6,200 so its proportional to the amount of money you have, that you're making, it's not a factor of what costs in the market are doing, its looking at your debt to income ratios.

Michele Weaver: I understand that, I was a mortgage lender too for 20 years, but what I'm saying is that, if the price of the unit, are we going to lower the monthly payment to meet that 30%, are we going to put more investment in to meet that 30%?

Chris Gamvroulas: Can I answer that from a developers stand point, moving that language to 35% means I charge 5% and I get more rent so that language in there for the developer says, 50% AMI, I can now charge this person for their housing 35% of their income, so it will have the opposite effect and as a developer, if that says 30%, now I have to rent to them based upon their income at 50% AMI and only charge them as much as 30% for their housing, so it will have the opposite effect.

Rep. Steve Waldrip: Can I ask a question on that where it says utilities, how do you figure that into the equation, what do you use to estimate that?

Senator Anderegg: I think it would be a rolling annual average, that's how we used to do it.

Rep. Steve Waldrip: I guess I'm thinking I'm a new development, how would you do that?

Jonathan Hardy: we have under writing standards that capture that and we're really talking about under writing criteria, this is just a way to decide how much of a subsidy is covering a benefit and I agree with what the Senator is saying, the lower we make this and what we're telling communities is don't contribute real properties unless you're getting this benefit out of it and the lower we lower that standard, the more affordable it is for people.

Peter Asplund: I was just going to say, this is the standard for donating the land and getting these units built, this isn't a qualification for a renter to qualify.

Senator Anderegg: That makes sense but what I don't want to do is, in essence put into statute that somethings not workable.

Rep. Steve Waldrip: What I'm hearing you say is that sets the threshold for the developer's price, it doesn't set a threshold for people choosing to move in and getting loans approved, etc.

Senator Anderegg: Here is the idea quite literally is, we've never had a scenario to grant this type of in mass land, which in my mind as a developer, should probably cut their costs by 25-30% right off the top but how do we guarantee that those savings are passed on but if we ultimately say 25% of an entire project or more has to be area median income folks of 50% or lower, then we're saying ok, pencil this out. So if I'm taking your total project costs with LIHTC, Olene Walker, RDA's etc. now granting the land, my hope is that we're going to be getting people down to about 50% or more on the total project which then based upon the number of projects and you have to have at least 20% or more, then you could pencil it out, so you're setting the number of units based upon that over 20% up to a workable amount but limiting it to 31% of any individuals debt to income ratio going towards housing including utilities, so what that does then is they should be able to pencil that out above 20% units, just how many units have to be at whatever the percentage is, they are paying market rate on the difference of that and the remaining portion of it whatever that may be of those units can have those costs savings with deed restrictions pass through, that's how I see this working.

Mike Akerlow: I just wanted to present this, that 30-31% is national standard but I just don't think it works anymore and is not the reality, I get Chris's point but I wanted to bring it up for discussion because it's becoming increasingly difficult for people to find housing when that ratio is there.

Senator Anderegg: To that point then, so if project costs are going at what, 9.5, 12% or whatever it's been going at over the last year or two, but cost of living, your increase of income and I think the average state wide is 2.5%, so we're out pacing inflation to hard cost development vs. cost to affordable to pay, we're out pacing it by 4 times at least, so the question is in my mind, in order to meet what you just said Mike, we should actually lower the percentage of debt to income ratio in order to say, we still have less money than we did, and I'm an economist but the purchasing power parody of that dollar is less because the cost on that new project are 4 times greater than what my cost of living allowance is. In essence to accomplish what you're wanting under your concern, instead of going to 35% which is the exact opposite, you should actually go down, that's how I see it.

Mike Akerlow: So you're an economist and I'm a liberal arts major, so that blew me away but I think you're right, good stuff.

Senator Anderegg: So we want to limit the amount of money that a person 50% area median income and we're really talking about people who are making $21,000 a year for a family of four, so the percentage lower, that means less amount plus their rent and utilities but we're kind of grasping at straws because we don't want to pencil it so low that in order to meet that, they have to have more units than the project can carry, right?

Rep. Steve Waldrip: Yeah, it's an inverse proportion so the lower we set this bar, the lower the developer can require someone to pay and doesn't precludes from somebody coming in and paying for

40% of their AGI and this is setting the bar for the developers return which the lower we set that, the more affordable the housing is as we set it up higher, they get more clearance but then makes the bar higher for someone to jump over.

Senator Anderegg: So I'm going to recommend we keep it at 31% for now and I would love to have additional input, we're not going to have this in committee until Tuesday morning so we have a few days still to work on if we need to change anything.

Jeff Jones: I think we should keep it at 30% on rental projects and if this sections is also addressing ownership product, then we ought to spell out the formula of what's included in that for example, estimated down payment, property taxes, annual insurance, private mortgage insurance and the big one in my neck of the woods, are HOA fees because that can have a dramatic effect on the overall affordability on the project and maybe we spell the formula out for both rental and ownership. The other comment I had is when we say household, are we talking about households adjusting by family size with regards to the income threshold?

Jonathan Hardy: Any median income is calculated by household size.

Jeff Jones: right, but what I'm getting at is, if it's based on a family of four and then we have a single person that buying that particular unit, the rent should be reduced based upon the family size and not to where that p regardless of family size would be paying that particular rent threshold.

Senator Anderegg: Jonathan, would you be able to work through what you guys do to be able to make recommendations based upon this, maybe we need to get a little more specific, what do you think?

Jonathan Hardy: Peter, correct me if I'm wrong, is it for multi-family rental housing, is really kind of how this is written and contemplated, so if we need to be more specific about that and I realize what you're saying Jeff, we should have some standard if we're talking about a single family development and ownership opportunities but should really be written for multi-family rental housing, so I don't know if we can put that more in the definition.

Peter Asplund: It's kind of standard what we've used in other places of the code for that idea and it's such a new thing to have here I don't know whether we want it relatively general, to see if it gets going or if we really want to get into the weeds and make it very, very specific when no one's tried it yet.

Jeff Jones: I think the worst thing is just to have confusion on what it means, so let's just clean it up and define what those things are, in market to be honest anyone that's below 60% AMI probably isn't going to purchase a unit.

Rep. Steve Waldrip: Correct me if I'm wrong and this is probably a question for Jonathan, if this is for rental units, the pricing of that rental unit would be determined by taking each of the household sizes and matching that to 50% of the area median income as the family size grows so I think for that, its structured perfectly because that will be the cap and for that purpose, it works very well because that will set the rent prices and then whatever size family that comes in, they would pay X amount of dollars of rent which is established by this formula.

Jonathan Hardy: It should be rental housing, the concept of a 30year deed restriction doesn't make sense in an ownership opportunity and it really is geared toward rental housing which I would support but if we want to put some extra definition into affordable housing unit means a rental housing unit, maybe that covers it, I agree we don't want to get to specific but this is really for underwriting a multi-family rental project.

Jeff Jones: I think we should say so, if that's what it is.

Rep. Steve Waldrip: I agree but the formula doesn't need to change because the formula works great.

Senator Anderegg: Ok, let's move on to inclusionary housing ordinances and let me start by saying this section is still in the bill, I modified it at the request of the Utah city of leagues and towns thinking I had gotten Chris Gamvroulas and the home builders on board and my understanding is, that they don't like this inclusionary housing component, so we're still having conversations on this section and the speaker of the house really wants us to address this in this bill. I think right now in the bill that you're looking at was I believe a nod from the league of cities and towns but as of this morning, I've been told they met and now we have several cities popping up with major concerns, even more than what we have in the bill here so I'm balancing what everyone wants and unless anyone has a direct input right now that will solve all of our problems, we'll need to continue to have conversations whether it stays in the bill or not.

Michele Weaver: I had a few things I wanted to ask about this but on line 98 and my question is, what about cities and counties that are not required to do a plan because a lot of my rural areas are not required to do a plan and we don't need to address this now, it's just a thought of mine and on line 122 a voluntary inclusionary housing program, I read this as if you're a non-profit developer then you don't qualify for these offsets, so to me this is a big one because why would non-profit developer get a waive in the fees, just because they are already doing god's work, as I call it but doesn't mean that they also shouldn't get the same benefits.

Senator Anderegg: those are good points and the truth is, this language is problematic for relators and developers, my understanding is this language was what the league had recommended, Cameron if you could give us an update?

Cameron Diehl: what we've learned over the last few days on the inclusionary zoning fees is that there are a lot of unanswered questions, even with the language that we were pulling together and trying to address some of the unanswered questions that we had on the initial version of the bill, what we heard loud and clear from the cities early today, was that this is an important policy to get right in order to balance the needs of the developers, residents and public entities, so our thought was to make the time to get it right and make it top priority of the commission after the session and get language that makes policy and program workable for all parties otherwise you run the risk of enacting something in the statue, therefor it doesn't move the needle and our initial review was to answer the questions from the original version and I know there are concerns from the development community, and our intent was to find that right balance and at this point, it doesn't look like we've done that so our recommendation would be to figure this out at a top priority after the session.

Chris Gamvroulas: I agree with Cameron.

Senator Anderegg: you believe we should put this at the top of the agenda after the session?

Chris Gamvroulas: I do Senator, I think Cameron's right. We proposed some brief language that we got back, mostly we were comfortable with and the most important thing he said was, if we enact something that no one uses then we really haven't don't a good job.

Senator Anderegg: I got word back that the speaker really wanted this in the bill, so have you had conversations with the speaker, can we get a blessing to put this as higher priorities going into next year and remove this from the bill at this point, what do you want to do?

Rep. Steve Waldrip: I'll talk to them today but let me just say, I think there may be a feeling that the speaker may have on the hearing on the fees bill, and may be a feeling that the developer on the private side didn't win a lot this session, and I can't speak for them but that's just the sense I've got.

Senator Anderegg: Ok, I'll wait to hear from Steve but at this point I'm looking at pulling out 10-8-601 from this current version, but I'm waiting to hear back from you, so let me know, so let's move on. I wanted to point out on line 235, I left in the requirements for both moving from three to four and then again on line 286, going from four to five, I left that in for now, pending if we can get house bill 82 passed and quite literally, Rep Ray Ward and I are presenting to the majority caucus in the Senate on Monday, so for now Cameron, I'm leaving it in here. The next major sections are powers of the executive director lines 547 - 559 the aware of predevelopment grants, the creation or financial support of a mediation program, which is mediation for the renters and also for rural grants on lines 583 – 610 and for the affordable housing pilot program starting on line 612 which is also important to the speaker and Rep. Waldrip and Rep Waldrip if you'd like to share your thoughts on this.

Rep. Steve Waldrip: We've been working very hard on this provision so I think it's going to be very good for our State and our teachers and with a coupe commitments this morning, we now have the votes to get it out of the committee.

Senator Anderegg: With those commitments, are you going to have an amendment or a second sub?

Rep. Steve Waldrip: I do want to do an amendment to do the rural program so that will be the one change and will be down in the expenditure portion, we're going to commit 35% of the program to the rural school districts so we make sure to balance everything.

Michele Weaver: I just wanted to say thank you for including the 35% in the bill.

Senator Anderegg: Just so everyone on the call knows that I wanted to point out that the RDA section is missing because we took it out, and if theres no questions, comments or concerns then we'll move on to lines 802-805 the economic development zones tax credit, Peter can you update us on this?

Peter Asplund: So this is where if there's going to be a big economic development award to accompany, will the company and local community address the increase pressure on housing in that community, so when possibly saying in the rule making or how you qualify for tax credit that you'll include really big incentives and also the local government and business entity that's getting the award will do something to address the pressure on housing.

Senator Anderegg: I'd like to point out that I'm going to remove this section from the code for now, not because it's not important but because the Governor and Lt. Governor came and talked to me and got commitments from them that this also, right behind inclusionary zoning, this will be one of the items that we address this coming session and they do think it's valid to look at this but we need to do it more from a comprehensive standpoint.

Chris Gamvroulas: This is likely to be the most impactful thing that this bill could do, the pressure on cities is to do economic development and they'll literally give away the store, cities in the south west valley were bidding between 10 -14 million dollars to get a Costco in their jurisdiction and were bidding against each other and turning down housing and wanting to incentivize industrial development, it is the real driver and I agree we want to make sure we get it right, I think it ought to be in because I don't think there's anything more we can do that would be more impactful than to have these entities like GOED and ECDU to have to think about housing upfront.

Ben Hart: I would very much disagree with Chris, when you're talking about RDA's and local tax increment and the examples he brought up are actually in local RDA tax increment, from our stand point this wouldn't harm local incentives but would absolutely shut down the state incentives, and just shows we need to do a much better job at educating people on what the state incentive is and what it does so with this big of a step, I think would shut down one of the biggest economic facilitators in the state.

Senator Anderegg: This is the political realm we live in and I made a personal commitment to Lt. Governor Henderson that I would remove this from the bill for now but with her assurance that this will be an item that we dive very deeply into this coming session. Lines 866 and below you'll see the fiscal note has changed, Rep. Waldrip if you can walk us through that.

Rep. Steve Waldrip: So the 20 million is a wash and the reason why, the easiest and most straight forward way to get district funds into the pilot program was to divert some funds that we were putting into the education rainy day fund, essentially those will get an off ramp on their way to the rainy day fund and the districts come in, they will replace those funds in the education rainy day fund, so it's a dollar for a dollar and the easiest way that Jonathan Ball and John Fellows came up with to get things to the right place in the right way, without having to do more code adjustments or any kind of slide of hand stuff.

Senator Anderegg: So that everyone understands, Jonathan Ball is our Chief of the Executive Director of Fiscal Analyst office and Jonathan Fellows is our Chief Attorney of our legal counsel so when Rep. Waldrip had this idea on the pilot program and how to fund it and since we already had the 80 million dollar portions going into the rainy day, what this does is crate a restricted account but it's a separate offset that can be tied to those monies that the districts will put in, so this is the back stop.
Let's move on to lines 889-910, that's the rest and nothing has changed except for one little bit that Peter is going to change for ongoing funds versus one time funds.

Peter Asplund: Yes, we're going to take out that one time fund and it will be on going instead.

Senator Anderegg: Ok, that's our bill, are there any other questions.

Matt Dahl: I just want to say thank you for the work that was put into this.

Andrew Johnston: I agree with the thanks with the work that's been done in the last week or so, I do want to bring up again, I know there's probably a lot of discussion about funding in general and we'll have to look at it. We had talked about doing endorsement with Senator Kitchens for appropriations request and do we still need to look at that as a committee?

Senator Anderegg: Normally as a chair of the appropriations committee, we're a little behind on the budgeting process, I still haven't gone through our budgets with the approached chairs, so I don't know exactly what they're going to allot us, we certainly have more one time one than we thought we did to begin with, so let me see and get back with you.

Janice Kimball: Is there any harm in us voting in support of the bill even just as a committee?

Senator Anderegg: If you'd like to, I just don't ultimately know what the numbers will be but it doesn't hurt us to do that.

Janice Kimball: I'd like to make that motion.

Senator Anderegg: *((The motion before us is to: As a commission take a position in support to Senator Kitchen's efforts to get 15 million dollars of infused capital into the Olene Walker Housing Loan Fund))* Motion carries. Motion passes.

Incorporating the changes we discussed today, a motion made from my co-chair.

Rep. Waldrip: Motion to approve the bill with the commission's full support to be presented in committee on Tuesday morning with additional, potential input on those small things we discussed.

Andrew Johnston: Just to clarify, we're pulling the inclusionary zoning piece and pulling the tying economic development and housing piece and the GOED, it's as is right now?

Senator Anderegg: Yes and the grants potion, we may add some language to indicate that its multi-family rental housing and not ownership property, those would be the changes.
Motion passes.
Thank you commission members and I appreciate your time.

Motion to adjourn by Jonathan Hardy at 1:13pm