



February 9, 2018

Representative Paul Holvey, Chair
House Committee on Business and Labor
900 Court St. NE
Salem, OR 97301

RE: Clair Company, Inc. Testimony – HB 4086

Thank you, Chair Holvey and members of the House Committee on Business and Labor, for your time dedicated to the workgroup regarding third-party specialized inspectors and the legislative concept and HB 4086 that followed. Thank you for your continued leadership in working toward a solution that is best for Oregon. Clair Company, Inc., located at 525 NW Second Street, Corvallis, Oregon, is a licensed Building Inspection & Plan Review Provider under ORS 455.457. Clair Company has been providing building inspection and plan review services to jurisdictions and municipalities across Oregon for over 25 years. We currently provide full and partial services to 22 jurisdictions, which increases and decreases as the needs in the jurisdictions change with the economy, construction season, municipality staffing levels (retirements, medical leave), etc.

We oppose HB 4086 as currently written. We want to allow cities and counties to contract for specialized electrical or plumbing inspectors, but are gravely concerned with the application of provisions requiring the building official to be employed directly by a municipality. We believe that the bill, as introduced, will have a significant adverse impact on Oregon jurisdictions, municipalities, homeowners and businesses.

The current model of third party professional technical assistance to jurisdictions has worked in Oregon for nearly 40 years, and shouldn't be changed without a clear understanding of the policy goals of the proposed legislation and how application of the proposed statute changes will affect local jurisdictions.

While we agree that municipalities need to maintain control over all of their programs, this can be accomplished through appropriate contract language and administration. In each jurisdiction we serve, either full service or overflow, we report through one or more employees to assure appropriate oversight and direction for all portions of the program. We are concerned that if the current bill language were to go into effect, smaller, more rural jurisdictions who lack budget or the workload to support a full time certified and qualified building official position would be robbed of having a highly qualified building official providing guidance at a local level. They will in turn be forced to appoint another staff member to act in the capacity of the Building Official and sit through the two-day class to obtain State certification. Without a complete understanding of the complexities and safety issues of construction codes, the Planner, Public Works Director, Janitor or other designated staff member now appointed as the Building Official will be susceptible to issuing decisions and direction to staff based on public and political pressures instead of a sound code and life safety basis.



When decisions that are inconsistent or conflicts with adopted codes are made, it places the personally certified inspector or plans examiner in a position of either following the State Code as required by their certification and risking personnel action for not following the direction of the Building Official, or following that direction and risking investigation and sanctions by BCD that will end their career. This is not a fair or tenable position for any certified person, but will be reality for many inspectors and plans examiners across the State whether employed by the jurisdiction or through a contract should the bill pass as written.

For the past 40 years, municipalities in Oregon have utilized third party companies to provide professional technical building inspection and plan review services to serve their citizens and maintain a building inspection program at a local level. These local programs are delegated from the State as outlined in OAR 918-20-0070. As stated in Section (2) *The purpose of these rules is to encourage municipalities to assume responsibility for the administration and enforcement of building inspection programs to the fullest possible extent. Each municipality is responsible for developing an independent operating plan that describes the manner in which the municipality will administer and enforce its building inspection program. Municipalities are encouraged to develop operating plans that meet the identified needs of their individual communities. The intent of the division is to cooperate with municipalities to obtain and maintain authority to administer and enforce efficient, effective, timely and acceptable building inspection programs.* Local jurisdictions contract with third party companies because they are fully vetted by the State and required by their licensing to follow the administrative rules and statutes, including all direction and interpretations provided by BCD. By serving several smaller communities at once, these companies can employ highly qualified and certified staff that each small jurisdiction could not support on their own. This model works because it provides all jurisdictions access to highly technical professional staff when they need them. Requiring that Specialized Plumbing and Electrical inspectors or Building Officials be an employee of the jurisdiction in order to provide the needed professional services to a jurisdiction eliminates local jurisdictions access to those needed services and does not align with the stated purpose of OAR 918-20-0070. Clair specifically has been providing third party services to jurisdictions for over 25 years with no enforcement actions.

With so many questions still unanswered and other options available to address the issue through appropriate contract language and administration, why would we pass legislation that cripples a system that is working and providing highly trained and qualified staff to local jurisdictions across the State? This 2018 short session is not the time to take up this issue of making wholesale changes to many local building inspection programs by requiring the Building Official to be a jurisdictional employee.

Clair Company, Inc., together with Northwest Code Professionals, worked with legislators to introduce HB 2907 during the 2017 legislative session in order to address the shortage of available qualified specialized electrical and plumbing inspectors, a simple fix to a real issue for many jurisdictions across the State. HB 2907 died in 2017, primarily due to questions raised about a jurisdiction's constitutional authority to contract for services – an issue entirely unrelated to the bill we introduced. The work group that was convened in the interim has confirmed that allowing local governments to contract for specialized building inspectors is good policy – which has been fully explored and vetted by this committee and the work group. Testimony and feedback from the stakeholders and participants



regarding that issue in this bill are in agreement. The narrow issue regarding the shortage of specialized inspectors has been vetted, and is ready for this short session with a simple fix. We would ask that this language found in Section 4 of the bill be made part of the emergency declaration and implementation not delayed to 2020.

We oppose HB 4086 as introduced. We are pleading for your help, and ask for your support in the simple fix regarding specialized electrical and plumbing inspectors, and ask that the committee adopt an amendment to HB 4086 to address only that issue and make it effective upon passage during this short session. A number of rule making changes and the statutory change in 2013 have slowly forced other companies like ours out of business. We provide a great service to cities and counties, and have for decades with a stellar record. Please don't pass any more bills that might jeopardize our business and the critical service our clients rely on. Our employees are just like the contractors, tradespeople or government workers weighing in on this bill... we want to keep doing the good work we do. Please do not pass legislation that cripples a system that is working and providing highly trained and qualified staff to local jurisdictions across the State based alleged problems or without substantiated legal analysis.

Respectfully,

Millie Hicks and David Flemings