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MEMORANDUM

TO: Ariel Nelson, Oregon Housing and Community Services

FROM: Michael E. Schrader
Scott E. Schickli

CC: Dee Carlson, Oregon Department of Justice

DATE: February 26, 2018

RE: House Bill 4808

In our role as Bond Counsel to Oregon Housing, you have requested our views on House Bill 4048-A2 and the proposed elimination of the property management licensing requirements for certain types of housing projects. Among our primary concerns are the following:

- Tax exempt bonds can be issued to finance affordable residential rental housing projects under Section 142(d) of the Internal Revenue Code. Although some basic services may be provided in residential rental facilities for seniors, to preserve the tax exemption, it is important that the services provided do not rise to the level of frequent or continual nursing, medical or psychiatric care. *See* Rev. Rul. 98-47. To preserve the tax exemption, it is important that in the area of senior housing to maintain a clear distinction between residential housing and healthcare facilities. We believe that the licensing of property managers helps maintain this distinction for federal tax purposes.
- The use of tax exempt bonds and federal low income housing tax credits impose affordability monitoring and reporting requirements on projects financed with these resources. Failure to satisfy these requirements can result in the loss of tax exempt status of interest and the loss of tax credits. Competent, licensed property managers with expertise in affordable housing are essential in ensuring that these requirements are satisfied, preserving affordability and maintaining these projects.
- The Oregon Constitution requires the State to be able to exercise “operational control” over projects funded with LIFT program dollars. The elimination of the licensing requirements for the property managers of certain affordable projects would diminish the State’s ability to exercise this operational control and may result in such projects being ineligible for LIFT funding.