## SENATE COMMITTEE ON PUBLIC AFFAIRS

April 9, 1999 Hearing Room 50

1:00 P.M. Tapes 33 - 34

**MEMBERS PRESENT: Sen. Gene Derfler, Chair** 

Sen. Eileen Qutub

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Joan Dukes, Vice-Chair

Sen. Charles Starr

STAFF PRESENT: Brian E. Smith, Administrator

Rachel E. Halupowski, Administrative Support

MEASURE/ISSUES HEARD: HB 2636A Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
<b>TAPE 33, A</b>		
000	Chair Derfler	Opens meeting at 1:00 p.m. and opens public hearing on HB 2636A.
<u>HB 2636A I</u>	PUBLIC HEARING	
012		Staff presents (EXHIBIT A).
013	John DiLorenzo, Jr.	Attorney, Portland. States he is appearing on behalf of Harsch Investment Corporation owned by the Schnitzer family. Presents <b>(EXHIBIT B)</b> . States that when a local government exercises it powers of eminent domain, the property owner has many rights. States that those rights include the right of the property owner to question the validity and necessity of condemning a property for a

		particular purpose. States that the local government exercising condemnation must make an advanced deposit in an amount to justly compensate the owner. States that the property owner has the right to require a jury to set the amount of just compensation and, should the jury award compensation which exceeds the highest written offer in settlement, the owner is entitled to an award of costs and attorney fees. States that, should a local government abandon an action to condemn a property, the owner is entitled to reasonable costs and attorney's fees. States that if property is acquired through condemnation by the local government, and it is not used in the designated time for the public purpose for which it was acquired, the owner may repurchase the property. States that none of these protections are present in the City of Portland's Replacement Housing Ordinance.
065	DiLorenzo, Jr.	States page 13 of the Cityís Affordable Housing Ordinance, City Code 30.01.050, subsection A, requires that owners of federal preservation projects who have decided to opt out of federally subsidized programs must provide the city with 90 days notice. States that during that period, the owner may not sell or contract to sell the property. States that HB 2636A would still require notice, but would prevent a local government from imposing a prohibition on the sale of the property. States that those owners who do opt out are required to provide 120 day notice to the tenants. States that during that 120 days, the owners are not allowed to take action which can cause any tenant to become involuntarily displaced.
101	Chair Derfler	Asks how long Housing and Urban Development (HUD) contracts last.
102	DiLorenzo, Jr.	States HUD contracts are for 20 years, but there are opportunities to renew the contracts. States that once a contract expires, HUD is not enthusiastic about these project-based contracts and they currently provide for one year renewals at rental amounts negotiated by HUD. States that if an owner elects not to renew the contract and not to accept the offer made by HUD the provisions come into play.
114	Chair Derfler	States both the owner and HUD need to agree. Asks if there are contracts that take place after the HUD contracts end.
119	DiLorenzo, Jr.	States that once the HUD contract is up, the owner can devote the property to any use the owner pleases. States that currently HUD is encouraging owners to opt out of contracts because they do not have the funds to purchase additional properties. States that if HUD encourages the owners to opt out, the provisions would be in place. States that during the 120 day notice period the owner may not receive more than the portion of rent which the tenant was previously paying under the Section 8 agreement. States this could result in the owneris rental income being slashed by 2/3 for four months. Explains that Section B of the cityis ordinance states that even though the city has not made an offer, the owner who opts out of the Section 8 program would still need to deposit \$1,000 for the first person in each household and \$200 for each additional person. States the funds go to the City Relocation Fund. States that HB 2636A would prohibit this.
137	Chair Derfler	Asks if this is part of the HUD contract or if this occurs after the contract ends.
138	DiLorenzo, Jr.	States once a contract ends, if an owner refuses to accept a one year renewal from HUD, the owner must give the city notice. States if the city does not give

		an offer then the owner, for 120 days, cannot raise the rent and must deposit \$1,000 for each household and \$200 for each additional person into the City Relocation Fund.
148	Chair Derfler	Asks if the rent subsidies are gone.
149	DiLorenzo, Jr.	States that is correct. States the owner is only getting 1/3 of the rents and that is only if the owner wins. States that if the city wants to buy the property and the owner opts out, the relocation fee is \$30,000 for each apartment unit in the building. States HB 2636A would prevent this result. States there are local subsidy programs that give the Portland Development Commission instructions for affordability contracts. States HB 2636A does not affect those sections.
175	Chair Derfler	Asks, if the owners renew for one year, does the HUD subsidy continue.
176	DiLorenzo, Jr.	States the subsidies would continue.
177	Chair Derfler	Asks if the city participates in that process or if it is up to HUD to renew.
178	DiLorenzo, Jr.	States that the city does not participate in that process. States HB 2636A has been carefully crafted to only affect the portions of the Replacement Housing Ordinance which the city has adopted as a way around the condemnation laws. States that HB 2636A does not prevent local government from entering into the market, buying property, acting as a federal delegate, nor does it prevent them from exercising its condemnation rights.
194	Chair Derfler	Asks on what basis a city can use the condemnation law to condemn.
196	DiLorenzo, Jr.	States condemnation is always open to the cities as an option. States the only question with condemnation is valuation of the property. States the Harsh Investment Corporation owns and operates more than 4,000 dwelling units in six states. States the City of Portland now places obligations on the owners. States that as the contracts expire, HUD is under pressure to cut subsidies. States his clients are willing to accept the requirements to give notice to the city should they opt out. States that if the Schnitzers are forced to abandon Section 8 contracts, or the contracts expire and they are unwilling to renew, they would be forced to pay \$13,530,000 (based on the \$30,000 per unit fine) if they were unwilling to sell to the city. States that the tenant relocation cost alone would be \$2 million. States this is not the proper way to treat people who have, in good faith, provided low-income housing for years.
250	DiLorenzo, Jr.	States the ñ7 amendments were written to show good faith and willingness to move forward and work with local governments. States the ñ7 amendments propose a change in the 30 day notice period to 90 days. States they would like a new subsection added to clarify that the preemptive effect of the legislation does not prohibit a local government from adopting ordinances which would impose financial penalties on property owners. States the ñ7 amendments will not prohibit the local governments from adopting ordinances which would provide alternative methods for determining property values. States HB 2636A is based

		on trust. Urges the committee to pass HB 2636A with the ñ7 amendments.
300	DiLorenzo, Jr.	States the long-term housing problems need help from the private sector to find solutions and the City of Portland needs to work with the private sector to regain trust. States if HB 2636A is enacted, it will assure that government contracts are fulfilled as promised. States that when a local government oversteps its bounds, especially in a constitutionally protected area, it is incumbent upon the legislature to intervene.
350	DiLorenzo, Jr.	States that no one doubts the need for low-income housing. States that punishing the people who have made low-income housing available is not prudent. Asks the committee to approve HB 2636A to help reestablish trust between the private sector and the city government.
377	Rep. Debra Kafoury	House District 18. States that since HB 2636A was heard in the House, the Governor's office has convened a working group consisting of the opponents and proponents of this bill, and they are currently in negotiations. Urges the committee to allow the City of Portland, the landlords, and the tenants to work out the issues. Explains that the state has no alternative to the Portland Housing Ordinance and no alternative to preserve these expiring HUD contracts. Explains the state has not offered additional funding to help construct or find housing for the 4700 Portland residents at risk of being displaced from their homes. Asks the committee not to pass HB 2636A. States, at the request of the city, she has introduced HB 3211 which would give any city in Oregon the ability to provide property tax abatement to these landlords to encourage them to maintain affordable housing.
<b>TAPE 34</b> , <i>A</i>	A	Π
006	Rep. Randy Leonard	House District 21. States that there has been little discussion about the impact of HB 2636A on the residents of low-income and affordable housing. States there is a shortage of housing for disabled and senior citizens and if there is no affordable housing there is nowhere for them to turn for help. Reads a passage from Tom Brokawis book "The Greatest Generation." States the book is about World War Two and includes personal stories from that era.
056	Rep. Leonard	Asks what is right for men and women in the twilight of their lives. States there are concerns from one side but those concerns need to be worked out while retaining low-income housing. States the city has moved toward resolving those objections. Urges the committee to consider the residents and reject removing the ordinance the city has passed.

Eric Sten	Portland City Commissioner. Presents (EXHIBIT C). States there are 90 buildings for low-income housing in Portland, and 45 are owned by non-profit owners and 45 are owned by for-profit owners. States the closing of the Roosevelt Hotel lead to the city ordinance.
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Susan Emmons

		May 30, 1997 the Roosevelt Hotel gave a 90 day notice to all 58 tenants, some of whom have lived there for 20 years.
099	Chair Derfler	Asks if the residents needed to vacate the building or if they could make rental arrangements to continue living there.
100	Emmons	States all the residents needed to move because the owners were selling the building. States her organization begged the owners for two extra months and still used every day of the extension to get all the people relocated. States that in a 20 year period over 1,357 units of low-income housing have been lost. States that every year there is a net loss due to rent income, rent increases, and now private owners opting out. States that every resident at the Roosevelt Hotel received a Section 8 certificate through HUD from the Housing Authority of Portland (HAP). States that the earliest that HAP could get them into those building with the vouchers was mid-July.
120	Chair Derfler	Asks what is a voucher.
121	Emmons	Explains the voucher is a tenant based voucher that the residents can use to go shopping for new housing. States a one bedroom voucher is worth \$469 a month, a studio apartment voucher is worth \$398. Asks the committee to imagine her agency trying to find housing for the Roosevelt Hotel tenants in 45 days. States the Pearl Court opened up that fall offering one bedroom apartments for \$500 per month. States that the residents would need to pay 30 percent of their income: an extra \$31 for rent and utility bills that they did not previously pay. States, when asked, the residents said they could come up with the extra money by getting rid of their telephones or eating less. States that giving up phone or food is unacceptable.
140	Sen. Qutub	Asks why it took 45 days to relocate the residents.
143	Emmons	Explains that HAP had to wait for the money to come from HUD before they could authorize the vouchers. States that HAP is responsible for the paperwork.
149	Chair Derfler	Asks if they had anticipated that the Roosevelt Hotel would close.
154	Emmons	States they do have an inventory and a list of low-income housing, but the Roosevelt Hotel took them by surprise. States her organization believed the Roosevelt Hotel was going to renew for one more year. States the Roosevelt Hotel was facing the end of a 20 year contract, and the new buyer wanted to turn the Roosevelt Hotel into a boutique hotel. States 58 people were moved off the property, but because the building was not zoned correctly the new owner could not make the changes. States the hotel is now filled with higher paying tenants and no low-income housing. States the low-income housing recipients are decent people without pension plans and there is nowhere else for them to go. Urges the committee to defeat HB 2636A.
204	Sten	States it was good when government funding was more aggressive toward subsidized housing. States there is not adequate low-income housing in Portland. States much needs to be done to preserve the Section 8 contracts that currently

		exist for as long as possible. States it has been characterized, regularly, that this is an argument between the City of Portland and DiLorenzo. States the City of Portland is caught in the middle of the dispute between the of the property owners, residents, and taxpayers. States it is the taxpayers who pay 100 percent of the rent for 100 percent of the units, minus the amount the residents can afford to pay, and it is the taxpayers who pay off the mortgages for these units. States there is no one solution that will treat everyone equally. States the goal is to preserve housing and the Section 8 contracts. States that the city's ordinance only applies if HUD does not renew the contract. States the best process would be to give no punitive fines to the owners unless they turn down a full price offer from the City of Portland.
254	Sten	States that it is almost a guarantee that the city will not be able to purchase all these properties. States that relocation fees kick in when owners turn down a full price offer from the city. States the city has put a counteroffer on the table to eliminate the \$30,000 and substitute a condemnation process. States HB 2636A would not make it possible to do the condemnation process in the way they had intended. States the city can readjust the ordinance to address the concerns mentioned earlier. Asks the committee to table HB 2636A.
303	Sen. Qutub	Asks about the appraisal process and if the best use would be a low-income housing base. Asks if the appraisal would be based on 30 percent of the tenantsí income.
320	Sten	States he does not believe so. States that the cityís law mandates that the ordinance must be based on the highest and best use of the real estate. States the appraisal would depend on the property.
328	Sen. Qutub	Asks if the condemnation process is to get the market value appraised and then to come to a negotiated price.
339	Sten	States the ñ7 amendments will not prohibit the owner from opting out of the contract during the 90-day period. States he would propose a compromise that would retain a 90-day notice to the city, the owner would not be allowed to opt out during that 90 days, and at the end of the 90 days the city would either start a condemnation process or walk away.
354	Chair Derfler	States that if a lousy contract was made 20 years ago, no one should be penalized, especially when the contract was held in good faith. States it would have been better to meet with the owners a year before the contract expires. Asks why the city waited until the contracts expired to address these issues, when the city has a condemnation process.
376	Sten	States the contracts are between the federal government and the owners. States that last summer he was not aware of the expiration dates for the existing contracts. States the problem is national. States in San Francisco owners are mandated to pay \$50,000 per unit for relocation.
TAPE 33,	В	

001	Sten	States the condemnation process is longer than the other process which would have the city look at the property and either make an offer or not within 90 days. States the condemnation processes almost never go to trial because either side can lose depending on the evaluation, so these cases are generally settled. States that if condemnation is better he is willing to take that approach. Asks, at this time, to give notice to the tenants and protect the HUD contracts.
)13	Chair Derfler	States he takes issue with changing the rules when a contract is ending. States the city had the condemnation process and did not need to change any 20 year contracts as they expired.
)19	Sten	States the owner has the right to opt out, but the city's issue comes into play if the city is able to buy the building and the owner chooses not to sell.
032	Chair Derfler	Asks if there is a way to help the owners so that during the 120 days they do not lose money, due to the reduction in rent.
)34	Sten	States it has been characterized as the owners taking a cut in rent. States the 120- day notice only kicks in when the city decides it will not buy a property, and it is the tenants that are given 120 days notice. Believes the cut in rent is a red herring, and the owner is paid for those days.
)43	Sen. Wilde	Asks for a description of the word "developed."
)48	Sten	States "developed" would describe the building as being built and made available through HUD. States the typical financing came from owner's equity, a first mortgage generally guaranteed by the State of Oregon, and mortgage payments made by the federal government.
)54	Sen. Wilde	States that in Portland, 63 percent of all HUD projects are Section 8, which receive greater than market rent. Asks why any owner would opt out when getting higher-than-market rent.
)59	Sten	States about ‡ of the 88 properties are owned by private property owners. States many owners will not opt out, the city will not be able to buy all the properties, but some will opt out and some will be sold to the city. States there may be 10 to 12 properties that the city may buy. States the preemption in HB 2636A could eliminate subsidies in the future.
)79	Sen. Wilde	Asks what the federal government, or our congressional representatives have done to remedy the low-income situation in Oregon.
)86	Sten	States, historically, not enough. States HUD is promoting a bill now to make more money available to preserve these properties. States that HUD is trying to stretch their budget. States the Oregon delegation is supporting bills that promote preserving low-income housing.
)98	Sen. Wilde	States that the rents for Pearl Court have risen. Asks if the city was involved in

		the development of the Pearl District and how much it cost.
109	Sten	States that Portland is providing funds and is involved in the development and it may end up costing around \$50 million, once the project is completed.
113	Sen. Wilde	States that Portland funds this project. States that the idea was to provide affordable housing, and yet it is stated in testimony that the housing development will not be affordable for the poor.
117	Emmons	States it is affordable to low-income people with the vouchers. States the vouchers cannot purchase the housing in the marketplace, the vouchers are for the housing being built for low-income housing. States that Pearl Court is affordable, but not affordable to people of very low income.
132	Sten	States that congressional funding levels have dropped, and that funding from congress is not meeting earlier commitments made with Oregon. States that he has only been involved with affordable housing for 90 days. Explains that the subsidy requirements for Portland need to be affordable for 50 to 60 percent of median income which matches the state requirement. States the people who typically live in these buildings are at 30 percent of median income.
147	Chair Derfler	States that once you have made an agreement it is not right to go back and change your mind at the end of the contract. States it makes no sense when the condemnation process can be used legally.
165	Sten	Agrees and states that the sum result of Portlandís ordinance does not stop the owner from opting out or selling, but imposes a penalty if the owner decides to convert the building. Asks the committee to give the City of Portland time to write amendments to the bill.
195	Sharon Fleming- Barrett	Legislative Consultant and Director, Oregon Apartment Association. Presents <b>(EXHIBIT E)</b> . States the Portland ordinance struck terror into the hearts of landlords. States her members are terrified to be involved in subsidized housing since Portland passed this ordinance. States her organization does not advocate putting people in the street. States her organization co-sponsored SB 939 which will appropriate large sums to the Housing Trust Fund. Supports HB 3211 which allows tax credits for providing affordable housing. States the positive solutions will encourage development and participation in these programs. Asks the committee to pass HB 2636A as amended.
245	Paul Romain	Harsch Investments. Explains how Portland came up with incentives to start up affordable housing, mostly by looking to other states as a model. States the original housing deals started with the owner putting up equity and getting less of a return on the equity, with the risk of property depreciation. States rents are based on the mortgages on the property.
295	Romain	Explains that the state will not allow property owners to refinance mortgages, even though rents decrease when mortgage payments decrease. Believes the effect of Portlandís ordinance will result in property owners being weary of the city and government. Urges passage of HB 2636A. Believes the credits,

		incentives, and financing alternatives should be worked on to provide more low- income housing.
346	Sen. Wilde	States that he would have more sympathy with Fleming-Barrettis argument if her association had been involved in a negative way and not supported the "dirty dozen landlord list" program. States that program was equally as unconstitutional and vindictive. States he would appreciate it if she was more even-handed in the future with the constitutional rights of others.
361	Fleming-Barrett	Gives her apologies for her earlier involvement with the City of Portland.
394	Madeline Olson	Assistant Administrator, Mental Health and Developmental Disability Services Division. Presents (EXHIBIT F). Opposes HB 2636A. Concerned that the mentally ill and disabled residents will be left homeless and ultimately will become part of the state hospital system.
425	David Cottonware	Elders in Action, Portland. States he is a subsidy resident. States that he lives on a fixed-income of less than \$700 per month. States that if HB 2636A passes many seniors will be living on the street. Strongly opposes HB 2636A.
TAPE 34,	B	Л
021	Anita Rodgers	Co-Director, Community Alliance of Tenants (CAT). Presents <b>(EXHIBIT G)</b> . States that CAT was one of five organizations that advocated for the Portland Affordable Housing Preservation Ordinance. States the preservation process took over a year and incorporated input from all sides to ensure that the major issues from all involved were addressed. States the key issue for CAT was tenant relocation assistance. States it is not possible for elderly and disabled people to find affordable housing and it is imperative that they receive the necessary assistance to find new homes as well as adequate notice periods of when their current housing will end. States the Section 8 contract is the most valuable housing resource Portland has. States that Section 8 allows tenants with no income a home. States the Section 8 contract cannot be replaced and the city does not have the funding to offer deep subsidies. Opposes HB 2636A.
076	Chair Derfler	Asks why the agency would wait until the 20 year contracts are up to start the process. Asks if she is anticipating the issues a year or two in advance.
085	Rodgers	States the city has been proactive in negotiating with owners to avoid crisis situations. States that the city, not CAT, has the power of negotiation with the owners. States that in these situations, the tenants need to be protected.
096	Janet Byrd	Director, Oregon Housing Now Coalition. Presents (EXHIBIT H). States she was involved with LIPRA: Low-Income Housing Preservation and Resident Home Ownership Act. States that the act preempted owners rights to prepay their federally assisted mortgages and opt out of their Section 8 contract. States, in 1990, the federal government took away the owner's right to prepay and, instead, promised to help finance these Section 8 buildings. States she worked extensively with the City of Portland and other local governments to make LIPRA work. States that in 1996, congressional funding for the LIPRA program

		was stopped and Congress restored the rights of the owner to prepay.
146	Byrd	States the city empowered the Portland Development Commission to act as a buyer for low-income housing so that the city and the property owners could close a sale in 90 days. States the city needed leverage to get owners to the table on time. States many owners have opted out when no relocation was needed. States that relocation is a timely process and tenants need time to retain their vouchers and look for housing. States that in the early transitions, tenants had 15 days to relocate and this is not an adequate amount of time for seniors. States that in 1998 Congress restored the requirement that owners give 150 to 270 days notice prior to prepayment, and extended notice to tenants to one year prior to an opt out.
183	Fran Landfair	Elders in Action. Opposes HB 2636A because there is a critical housing shortage at this time.
184		Staff presents (EXHIBIT I).
197	Theresa Flowers	Elders in Action, Commission Board for HUD Housing. Opposes HB 2636A. States she lives in HUD housing and believes she would be homeless without it. States she has lived in HUD housing for 15 years.
240	Lou Hodges	Elders in Action. States she has never heard that the Harsch Investment Corporation was losing money on these contracts. States she is living in HAP housing and she is mentally disabled. States that if there is a problem in her "diverse community" there is a close knit relationship among the residents of her building. States her building is perfect for the elderly and disabled. Asks the committee to forget about HB 2636A if money is not being lost.
274	Vicki Hersen	Director Operations, Elders in Action. States her non-profit agencyís mission is to assure a vibrant community through the active involvement of elderly adults. States her organization has been advocating for affordable and accessible housing for senior and disabled citizens for years. States that Portlandís Preservation Ordinance was well researched before being passed unanimously by the Portland City Council in 1998. States that HB 2636A would nullify the months of effort by citizens, officials, and housing experts. States the ordinance created an excellent tool to alleviate some of the housing problems and kept the elderly from losing their homes. States the owners can sell, she just prefers they sell to the city.
324	Sen. Qutub	States it would be impossible for the City of Portland to buy all of these buildings. States if the city could afford all the housing there would be no need for HB 2636A.
348	Hersen	States there are options with other buyers. States she just wants to be sure the buildings are sold with the intent to keep them as low-income housing. States that in the United States Congress, House Rule 425, known as the Housing Preservation Matching Grant of 1999, has been introduced to authorize the secretary of HUD to subsidize affordable housing for low-income families.

376	Chair Derfler	Closes the public hearing and opens work session on HB 2636A.
<u>HB 2636</u>	A WORK SESSION	
385	Chair Derfler	States the city has the right of condemnation and a contract and should not be changed when the contract runs out.
390	Sen. Wilde	States the bill in present form recognizes the condemnation rights of the city. States that HB 2636A excludes penalties from being imposed on property owners.
400	Sen. Wilde	MOTION: Moves TO ADOPT the -7 amendments dated 4/9/99 to HB 2636A.
		VOTE: 3-0 EXCUSED: 2 ñ Dukes, Starr
	Chair Derfler	Hearing no objection, declares the motion CARRIED.
405	Sen. Wilde	MOTION: Moves HB 2636A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0
		AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 ñ Dukes, Starr
	Chair Derfler	
	Chair Derfler	EXCUSED: 2 ñ Dukes, Starr

Submitted By, Reviewed By,

Rachel E. Halupowski, Brian E. Smith,

Administrative Support Administrator

## EXHIBIT SUMMARY

- A ñ HB 2636-A, hand-engrossed bill, staff, 2 pp
- B ñ HB 2636-A, written testimony, John DiLorenzo, Jr., 41 pp
- C ñ HB 2636-A, written testimony, Erik Sten, 9 pp
- D ñ HB 2636-A, written testimony and affordable housing inventory, Susan Emmons, 111 pp
- E ñ HB 2636-A, written testimony, Sharon Fleming-Barrett, 2 pp
- F ñ HB 2636-A, written testimony, Madeline Olson, 2 pp
- G ñ HB 2636-A, written testimony, Anita Rodgers, 1 p
- H ñ HB 2636-A, written testimony, Janet Byrd, 2 pp
- I ñ HB 2636-A, written testimony, staff, 13 pp