OREGON HOUSING AND COMMUNITY SERVICES

Hearing Officer's Report to Agency on Rulemaking Hearing

Date (of report):	**08/11/2025**
To:	**OHCS**
From:	**Greg Current**
Subject:	**Hearing Officer's Report on Rulemaking Hearing**
Hearing Date:	**06/18/2025**
Hearing Location:	**Teams Webinar**
Rule Number:	**813-410-0005 and 813-410-0010**
Rule Title:	**Moderate Income Revolving Loan program (MIRL)**

Rules Advisory Committee

Prior to filing the Notice of Proposed Rulemaking, OHCS convened a Rules Advisory Committee (RAC) on May 21, 2025, where it engaged with impacted community members and brought in their feedback to ensure negative impacts would be mitigated. The fiscal and economic impact statements were emailed and communicated with those involved in the development of these changes.

Public Hearing for Rulemaking

The rulemaking hearing on the proposed rules was convened at June 18, 2025 at 10:02 AM. A total of 48 were in attendance to the public hearing. Those in attendance were informed of the procedures for taking comments, while also being told the hearing was being recorded.

Summary of Oral Comments (Short Version):

In addition to the meeting facilitators, 48 people attended and three participants provided oral comments. No one had signed up to present oral comments, while one participant provided written comment during the meeting and another participant provided written comment after the public hearing.

Summary of Oral Comments (Long Version):

Three participants provided oral comments, which is covered below along with responses from OHCS Program staff:

1. **Steve Brooks - clarity requested**

In the context of for-sale housing. If a developer is building out a, you know, a planned development or subdivision, do the loans do or does the process require a separate loan from OHCS to the city and a separate grant from the city to the developer for each individual house or property? And as a follow up to that. We're assuming that the property owner will end up being the responsible party in terms of the fee in lieu payment through the property tax system and but it would be helpful to get some clarity on that. And in addition, there's been some confusion for developers regarding the treatment of the grant. In terms of whether that grant comes to the project as, essentially, an equity contribution or it needs to be treated as debt. That issue has come up from Lenders and other investors, as there's some issue internally for developers whether the payments have to be treated essentially as debt payments or accounting purposes, which affects the ability to raise capital.

OHCS Response

No—developers are not strictly required to submit a separate application for each individual single-family home. By default, each home should be submitted as its own project. However, if a Sponsoring Jurisdiction wishes to include multiple homes under a single application, they must clearly explain in the PLR how they will administer, track, and enforce affordability, pay fees, and ensure compliance across all properties. Which will have to be approved. Here is relevant guidance from the manual for additional context: Section 5.2 – Considerations for Land Divisions OHCS anticipates that, generally, developers will submit a separate Project Application for each lot on which they propose to develop an Eligible Housing Project. If Sponsoring Jurisdictions allow developers to submit applications for unsubdivided land that will later be subdivided as part of the project, they must plan for completion timing, responsibility for fee payment, valuation variance, long-term tracking of the lots, and other relevant factors. OHCS will approve a Program Loan Request for unsubdivided land only if the Sponsoring Jurisdiction has a clear plan to address these issues

In the cases of homeownership, yes, the homeowner will become the fee payer and it will be up to the Sponsoring Jurisdiction how to facilitate the notification between the project applicant and homebuyer when it comes to the responsibility of taking on the program fee.

We cannot provide specific direction regarding accounting systems. However, the statue establishing the parameters of the MIRL Program does clearly define that the Sponsoring Jurisdiction is the receiver of the loan from OHCS, and the funding received by the Developer from the Sponsoring Jurisdiction is a grant.

2. **Stef Kondor**

   Suggestions for middle income housing, multifamily middle income housing around Portland area. Have you guys thought about that or how are you working through kind of trying to figure out how to facilitate greater opportunity for middle income housing and the funding that's necessary?

   OHCS Response
   The MIRL Program is structured to allow for local Sponsoring Jurisdictions to incentivize low to middle housing development, specifically AMI 120% or below with flexibility for local community needs

3. **Steven Brooks**

   Whether we can collaborate with OHCS so that we can get review of like final proposed forms so that we can, you know, get your approval that the forms will be acceptable within the range of the kind of documentation you're going to require.

   OHCS Response
   OHCS will be releasing a MIRL toolkit with guidance and templates beginning July 2025-September 2025 that include required forms and recommendations for program guidance and best practices. For interested jurisdictions, there is now technical assistance available that can be requested via the MIRL Question and Comments Smartsheet.

4. **Parker Sammons**

Just seeking guidance on what happens if there is a tax increase that would affect the project during the loan repayment period and that's all.

OHCS Response
If there are tax increases during the exemption period that didn't exist at the time the assessor calculated the fee, that doesn't affect the amount of the program fee that is due from the fee payer, because the fee is calculated at a specific moment in the application process and should not change based on subsequent events. The program fee may only be impacted in Fire District fees are increased as the program is not exempt from those taxes. It then becomes the responsibility of the tax assessor to appropriately allocate the new fee. The Sponsoring Jurisdiction should then communicate the increase in Fire District fee to OHCS so the needed changes can be reflected in the amortization schedule.

5. **Stef Kondor**

How do you make sure that these properties can stay afloat and that they're well conceived and that they are a long term going concern with restricted rents for middle income families?

OHCS Response
It is up to the sponsoring jurisdiction to determine the viability and sustainability of the project and agree on a mechanism to ensure affordability with the project applicant. OHCS is responsible for reviewing the eligible projects need for funding.

6. **Parker Sammons**

Great to have your official math on it rather than us having to just use HUD's formula and expand out to 120%. I would really love to see published up to 120% AMI income levels.

OHCS Reponse
OHCS will be posting the updated AMI limits on the MIRL website very soon and these limits will also be available in the Proforma template offered by OHCS.

7. **Stef Kondor – LIFT suggestion**
If you are able to on a blended basis, go up to 80% AMI in these LIHTC deals, you're (1) leveraging more resources for the deal that aren't state funding.

(2) you're able to serve a wider population and reach middle income residents, and (3) you're able to use the LIHTC, which is leveraging resources that are, you know, in place that should be using income averaging so somebody needs to work with the DOJ to reconcile that LIFT language to go up to 80% AM so that's another way that you can do affordable housing and middle income housing, even outside of the MIRL.

OHCS Response
Thank you for your comments. In regard to LIHTC and LIFT, we will give this feedback to OHCS teams internally.

8. **Stef Kondor**

What other resources or programs could be contemplated (for Middle Income)? If the state has some kind of plan for going out regionally. To educate, you know, the different locations about this opportunity.

And how you will work with them to bring them along, because there will be apprehension and maybe a lack of understanding and how the program works and how they can participate, and they may not have capacity.

OHCS Response
As it relates to education and accessibility regarding MIRL, The OHCS MIRL team is planning to do outreach, engagement and education regarding MIRL beginning July of 2025. This will include a toolkit with resources to stand up a MIRL program, guidance and templates and 1:1 technical support.

9. **Parker Sammons**

Rrequesting outreach directly to local tax assessors. Will there be any preference for non-profit developers in this space?

OHCS Response
OHCS will continue to collaborate with local tax assessors to ensure the MIRL Program feasibility and cohesiveness with local implementation. The MIRL Program legislation does not have specific preferences in regard to developers, and projects loans will be allocated on a first come first serve basis. However, local

Jurisdictions may consider adding this type of preference in their local implementations.

Written Comments:

One person provided a written comment after the hearing via email on June 30, 2025.

Amanda D'Souza, Development Programs Manager, City of Eugene.

Thank you for the opportunity to provide comments on the Moderate-Income Revolving Loan Fund. We appreciate the State's interest in supporting the development of moderate-income households in Oregon.

We have reviewed the administrative rules and manual for the program and have the following comments:

- Our understanding is that the loaned funds may be counted as "funds of a public agency," and may be factored into whether the project is required to pay prevailing wage. Understanding that this may raise project costs by 10-20%, we expect that this would likely negatively impact the financial feasibility of these housing projects even with the availability of the loan.
- Requiring City Council approval of each application after being provisionally approved by OHCS and City staff adds time and risk to the program application process. It takes time to get on City Council's agenda, and prepare the materials. There is also a risk that the City Council might not approve an application after it's already been provisionally approved. Is it necessary for the elected body to approve each application? Could they delegate approval to somebody else?
- We are not sure the 5% allowance to the Sponsoring Jurisdiction will cover the true costs of implementing the program, given the process outlined by the rules and in the manual. This would be particularly true for smaller projects (in which the 5% allowance would be relatively small but processing time is the same as a larger project).
- Without seeing examples of compliance monitoring plan or annual report requirements, it's hard to determine how much staff it will take to implement these steps.
    - To simplify compliance monitoring for moderate-income housing programs, staff have been considering whether to just require capped rents and not income-verification. Given the overall housing crisis, we are theorizing that getting more

moderate-income housing into the supply would be beneficial to the whole community, even if not income-verified. Would OHCS consider this type of approach?

- We are considering whether it might be simpler to utilize the state statutes that authorize the MUPTE (ORS 307.600) to create a moderate-income incentive program, as there may be more flexibility allowed within that tool.
    - We understand why they are needed, but requiring a Phase 1 environmental assessment and an appraisal could be burdens to using the program.
    - In addition, there's quite a bit of administrative effort that goes into setting up the program (e.g. multiple IGAs) that factor in to our consideration of the program.
    - Our understanding is that the City would be on the hook for the loan if the project were to fall through.

OHCS Response

In SB 1537 it is legislatively mandated that the project is approved by passing a project specific ordinance and OHCS does acknowledge the additional time that adds to the process. Please refer to your local council for any potential flexibility in obtaining advance approval.

For this program the unit affordability is rooted in the area median income for the jurisdiction therefore the price must be set at or below 120% AMI. The local program has the flexibility to add additional affordability and/or eligibility requirements. SB 1537 does also require income verification upon initial approval of the renter or homeowner

The hearing was adjourned at _____ time. The public comment period closed at ______ (time) on ____________ (date).