

Greg Winterrowd, Winterbrook Planning
The Other Side of the River: Using Land Use Planning to Create a Regional Fair Share of Housing

THE THIRD PILLAR OF SUSTAINABILITY

Cascadia Collaborative: Bridging to the Future
 Joint Conference of the Oregon & Washington Chapters of the
 American Planning Association
 Portland, Oregon / October 20, 2011

The Third Pillar of Sustainability Social Equity

Sustainable communities must also: Promote equitable, affordable housing. Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation.

Affordable Housing Project in Downtown Portland

Statewide Planning Goal 10 - Housing

Sets minimum housing mix and density standards for the Portland region, and requires that approval standards for needed housing be clear and objective.

State and Federal Housing Law

Federal housing law works with Statewide Planning Goal 10 to require cities and counties in Oregon to provide for their regional fair share of housing opportunities.

A Tale of Two (Inner Suburban) Cities

Both cities have transit access to major employment centers –
 Both cities required by Goal 10 Housing to plan for 10 units per acre

Both cities are planning for transit-oriented mixed use development

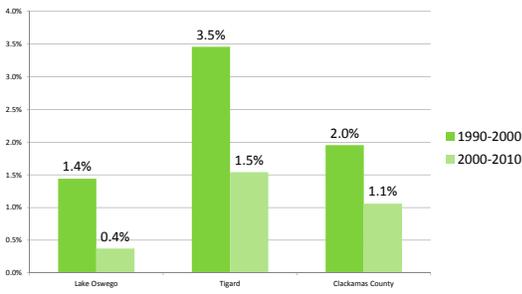


Some important differences

- Population growth
- Housing cost vs. income
- Latino population

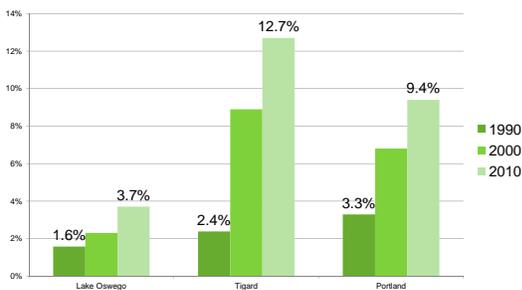


Comparative Population Growth Rates



Household income
 Tigard 72%
 Lake Oswego 49%
 VS.
 Home Value
 Tigard 233%
 Lake Oswego 256%

Latino Population Growth



To understand these demographic differences, we need to take

A Step Back in Time ...



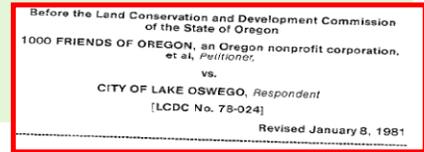
1978 Letter from Tigard to Lake Oswego

Responding to Lake Oswego's policy to limit population growth within its urban service boundary to 49,000 through the Year 2000:

"a successful growth suppression policy in Lake Oswego is almost certain to cause a corresponding increasing in the growth rate of close 'substitute' communities ... including Tigard."

1000 Friends v. Lake Oswego (1981)

Confirmed the Goal 10 principle that each metropolitan city must accept its regional fair share of housing and population growth ... and zone enough land for needed housing under clear and objective approval standards



1979 and 1984 LO Comp Plan

- In 1979, the plan projected that there would be 54,000 people living in the USB by the Year 2000
- In 1984, the plan estimated that the USB would accommodate about 50,000 by the Year 2000

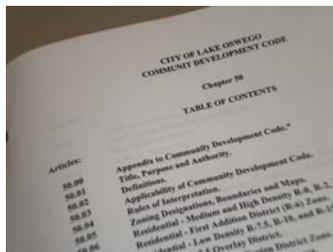
In 2008, there were an estimated 43,412 people within the Lake Oswego USB.

So What Happened?

Could the Oregon Department of Land Conservation and Development and Metro have done more?

No State Review Since 1994 –
DLCD no longer reviews for clear and objective standards

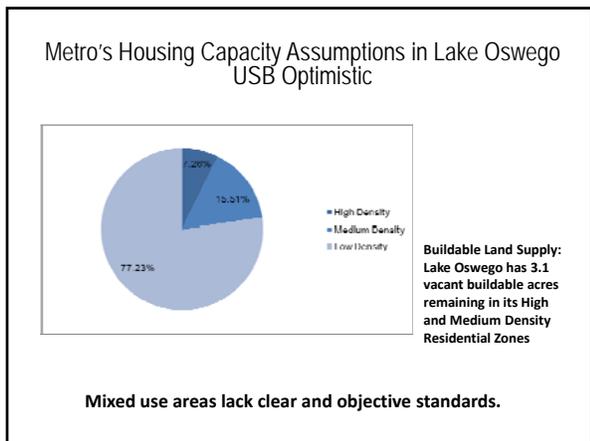
Lake Oswego - substantial amendments to the Development Code, neighborhood plans, and Sensitive Lands regulations ... *not* clear and objective.



Metro's Role (OAR 660-007-0050)



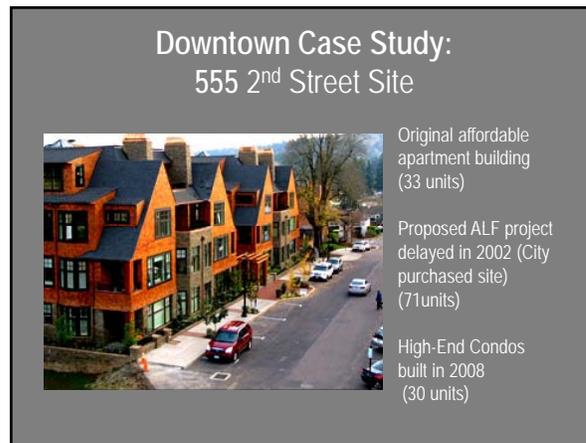
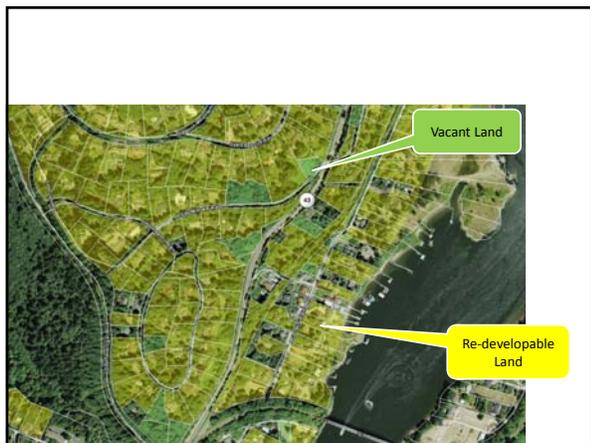
- (1) At each periodic review of the Metro UGB, Metro shall ... determine whether the buildable land within the UGB satisfies housing needs by type and density for the region's long-range population and housing projections.
- (2) Metro shall ensure that needed housing is provided for on a regional basis through coordinated comprehensive plans.



Infill is an Uncertain Process in Lake Oswego

On buildable residential land where housing is permitted under clear and objective standards, **the maximum permitted density within the Lake Oswego USB is 5.5 dwelling units per net buildable acre – well below the Goal 10 standard or 10 du / nba.**

Metro does not review for clear and objective standards in local zoning ... which makes a difference when it comes to providing certainty for affordable housing.



2009 Lake Oswego Review

"Ideally, Lake Oswego would have a full range of owner-occupied and rental housing units ... subject to a clear, predictable review processes ... Lake Oswego prides itself on being a sustainable community. Clearly, **removing regulatory barriers to housing choices is an important part of being a sustainable community.**"
Scott Siegel, *Lake Oswego Review*, 10/29/09

Metro should

- **Avoid overly optimistic assumptions regarding refill (infill and redevelopment)**
- **Ensure that federal funding of regional transportation projects is equitable**
- **Avoid reliance on abstract zoning categories to determine local Goal 10 compliance**
- **Avoid reliance on its transportation model for determining housing unit capacity**

DLCD should

- **Review all local land use regulations to ensure that clear and objective standards apply to buildable land for needed housing**

Lake Oswego should Add a Third Leg – Affordable Housing – to Its Sustainability Program

To meet its regional housing obligations under Goal 10, Lake Oswego should:

- **Adopt clear and objective standards for higher density redevelopment in Downtown, Town Centers**
- **Ensure that affordable measurable affordable housing objectives are built in Foothills redevelopment plans**
- **Upzone Lower Density infill areas to encourage more affordable attached and small lot detached single family housing for moderate-income workers**



Guatemalan farmworkers just outside the LO UGB

Thank You

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Housing Land Advocates

Presents

The Other Side of the River:
Using Land Use Planning to Create a Regional Fair Share of
Housing

Cascadia Collaborative: Bridging to the Future
Joint Conference of the Oregon & Washington Chapters of the American Planning Association
Portland, Oregon / October 20, 2010

Panel:
Jennifer Bragar, Moderator, Housing Land Advocates Board Member and Attorney
Steve Fredrickson, Attorney at the Northwest Justice Project
Greg Winterowd, Winterbrook Planning
Tom Cusack, Retired Oregon HUD Field Office Director

Joint Conference of the Oregon & Washington
Chapters of the American Planning Association
Portland, Oregon - October 19-21, 2011

The Other Side of the River: Using Land Use
Planning to Create a Regional Fair Share of
Housing

Communities of Opportunity &
Affirmatively Furthering Fair Housing

Steve Fredrickson
Northwest Justice Project
October 20, 2011

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Washington Growth
Management Act
Planning Goals - RCW 36.70A.020

(4) Housing. Encourage the availability of
affordable housing to all economic
segments of the population of this state,
promote a variety of residential densities
and housing types, and encourage
preservation of existing housing stock.

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Comprehensive Plans
Mandatory Elements
RCW 36.70A.070

(2) A housing element:

- (a) inventory housing needs;
- (b) goals for the preservation,
improvement, and development of housing;
- (c) identify sufficient land for all types of
housing;
- (d) make adequate provisions for existing
and projected needs of all economic segments
of the community.

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Affordable Housing Incentive Programs
Low-Income Housing Units
RCW 36.70A.540

(1)(a) An affordable housing incentive program
may include:

- (i) Density bonuses within the urban growth
area; (ii) Height and bulk bonuses; (iii) Fee
waivers or exemptions; (iv) Parking reductions;
or (v) Expedited permitting.

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Non-Discrimination Against
Affordable Housing Developments;
RCW 36.130

(1) A city, county, or other local governmental
entity or agency may not adopt, impose, or
enforce requirements on an affordable housing
development that are different than the
requirements imposed on housing
developments generally.

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Communities of Opportunity The Kirwan Institute

The "Communities of Opportunity" model advocates for a fair investment in all of a region's people and neighborhoods -- to improve the life outcomes of all citizens, and to improve the health of the entire region.

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Place and Life Outcomes

Where you live is more important than what you live in...

Housing -- in particular its location -- is the primary mechanism for accessing opportunity in our society

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Place and Life Outcomes

Housing location determines the quality of schools children attend, the quality of public services they receive, access to employment and transportation, exposure to health risks, access to health care, etc.

For those living in high poverty neighborhoods, these factors can significantly inhibit life outcomes.

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Opportunity Mapping

Opportunity mapping is a research tool used to understand the dynamics of "opportunity" within metropolitan areas

The purpose of opportunity mapping is to illustrate where opportunity rich communities exist (and assess who has access to these communities)

Also, to understand what needs to be remedied in opportunity poor communities

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Opportunity Segregation in King County

Although opportunity is not as spatially segregated in King County as regions in the Northeast or Midwest, significant disparities still exist, e.g.,

Housing affordability

Subsidized housing siting and poverty, race, jobs, growth, etc.

Need to look at opportunity comprehensively (opportunity mapping) to better understand these dynamics

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Community Opportunity Mapping

The Kirwan Institute has undertaken opportunity mapping projects in a number of states, including:

Connecticut

Florida

Maryland

Massachusetts

Ohio

Texas

Washington

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Education

| EDUCATION | DESCRIPTION |
|--|---|
| Reading Proficiency Scores 07-08 | Test scores for neighborhood schools |
| Math Proficiency Scores 07-08 | Test scores for neighborhood schools |
| Graduation Rates 07-08 | Percentage of students graduating |
| Student Poverty or Economic Disadvantage 07-08 | Percentage of economically disadvantaged students |
| Teacher Qualifications 07-08 | Percentage of Highly Qualified Teachers (HQT) |
| Adult Educational Attainment | Highest level of education attained by adults |

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Economic Opportunity and Mobility

| ECONOMIC OPPORTUNITY AND MOBILITY | DESCRIPTION |
|---|---|
| Proximity to employment | Number of jobs within 5 miles of census tract centroids |
| Economic climate 1 | Change in number of jobs within 5 miles of census tract centroids |
| Economic climate 2 | Business creation within 5 miles |
| Percentage of Population on Public Assistance | Percentage of people on public assistance |
| Unemployment Rate | Percentage of workforce unemployed |
| Mean Commute Time | Average work commute of census tract workers |

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Housing and Neighborhoods

| HOUSING AND NEIGHBORHOODS | DESCRIPTION |
|----------------------------|--|
| Crime Rates (if available) | Crime index for Part 1 offenses |
| Home Ownership Rate | Percentage of residence ownership by census tract |
| Residential Vacancy Rate | Percentage of vacant houses by census tract |
| Property appreciation | Percentage change in average home price from 2002-2007 |
| Neighborhood Poverty Rate | Percentage of people below poverty for whom the poverty level has been determined by census tracts |
| Population change | Population change since 2000 |

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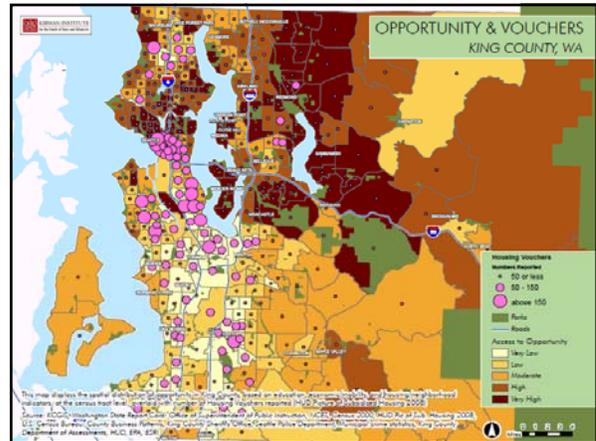
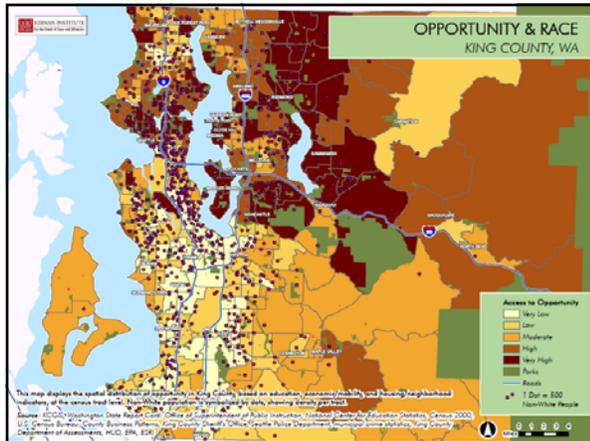
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Housing and Neighborhoods, cont.

| HOUSING AND NEIGHBORHOODS | DESCRIPTION |
|--|---|
| Proximity to Toxic Waste Sites and Superfund Sites | Census tracts are ranked based on their distance from these facilities and the amount of toxic waste released |
| Proximity to park and open spaces | Percentage of area in square miles in each census tract |

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The "Affirmatively Furthering" Mandate

Since 1968, the Fair Housing Act has required that HUD and other federal agencies engaged in housing and urban development, as well as grantees that they fund, act in an affirmative way to further fair housing.

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This "affirmatively furthering" duty requires HUD to "do more than simply not discriminate itself; it reflects the desire to have HUD use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases."

NAACP v. Sec'y of Hous. & Urban Development, 817 F.2d 149, 155 (1st Cir. 1987)

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Analysis of Impediments (AI)

In order to certify that it has affirmatively furthered fair housing, a jurisdiction must conduct an analysis of impediments to fair housing (AI), take appropriate actions to overcome the impediments identified in the analysis, and maintain records reflecting action and analysis.

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U.S. ex rel. ADC, Inc. v. Westchester County, New York
2009 WL 455269 (S.D.N.Y. 2009)

The court found that Westchester County, NY violated the False Claims Act by knowingly making false certifications to affirmatively further fair housing when its Analyses of Impediments to Fair Housing did not identify impediments on the basis of race.

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The plaintiffs in *Westchester* alleged that the county received more than \$50 million in federal housing and development funds during a six-year period by falsely certifying AFFH.

The court ruling in *Westchester* resulted in a settlement in August 2009 for \$62.5 million.

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Advocacy Opportunities
County & City Comprehensive Plans
State, County, & City Consolidated Plans & AIs

Prohibiting Section 8 Discrimination

Public Housing Authority Plans

Section 8 Administrative Plans

Low Income Housing Tax Credit Qualified Allocation Plan

State Housing Trust Fund Allocations

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Acknowledgements

Kirwan Institute for the Study of Race & Ethnicity, The Ohio State University

The Future of Fair Housing: Report of the National Commission on Fair Housing & Equal Opportunity, December, 2008

Massachusetts DHCD Affirmative Fair Housing Policy, April, 2009

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Metro Affordable Housing Planning: Problems, Missed Opportunities, Next Steps

Presented At The Other Side of the River:
Using Land Use Planning to Create a Regional Fair Share of Housing

TOM CUSACK,
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<http://www.oregonhousing.blogspot.com>

Needed Housing, Goal 10

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ORS 197.295 (3)

*“Government assisted housing” means housing that is financed in whole or part by either a federal or state housing agency or a housing authority as defined in ORS 456.005, or housing that is occupied by a tenant or tenants who benefit from rent supplements or **housing vouchers** provided by either a federal or state housing agency or a local housing authority.*

Scope of HUD Vouchers, Portland Metro

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- Portland Metro 3 Counties, Est. **12,000 vouchers**, \$7 M per month. (+1,800 vouchers, \$940k per month in Vancouver/Clark County)

| HA Name | Clackamas County | Multnomah | Washington | 3 County Total |
|-------------|------------------|-------------|--------------|----------------|
| Vouchers | 1,441 | 7,864 | 2,662 | 11,967 |
| Monthly HAP | \$ 837,359 | \$4,570,928 | \$ 1,532,116 | \$ 6,940,403 |

Need for Gov't Assisted, Including Vouchers

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- Since Vouchers are by far the **largest** source of government assisted housing in Metro, (except MID tax deduction), for the eligible population (<50% MFI and <30% MFI) there should be a **substantial** focus on
 - The *locality specific* need for additional vouchers to cover difference between market rents and renter incomes and the cost for these vouchers.
 - The reduction in otherwise affordable unit supply because of occupancy of these units by higher income households.
 - The count of *income restricted units* that remain **available** to households at these income levels.
 - The *locations* where vouchers are in use, including project based vouchers.

Brief History

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- 1999: State Preemptive Anti Inclusionary Zoning Law Adopted
- 2001: Metro Adopted Ordinance Establishing Voluntary **LOCAL 5 year affordable housing targets** in FUNCTIONAL Plan [3.07.720]. Included local **reporting requirement** and identified annual gap of \$97 million to fund affordable housing production, 5 year goal of 9,047 units <50% MFI AND within that, 6,419 units for incomes below 30% MFI.
- PROBLEM: Local Governments “should” adopt targets; virtually NO follow up on reporting of progress.

Comment on 2001 Plan Voluntary Goals

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Ed Sullivan (2002), a Portland land-use attorney, said that Metro's plan is weak because "it estimated the need on a market-based approach, and what was left out of the equation was the lower end—people who really can't afford housing."

*Further, Sullivan said, from the start "it didn't set a very high bar. It only looked at 10 percent of the need." Sullivan also noted that the plan's emphasis on **voluntary compliance made unclear enforcement and requirements for local governments.***

HUD Report on Regional Approaches to Affordable Housing

Brief History (Con't)

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- **2007:** Metro adopted FUNCTIONAL PLAN changes [3,07,740] that required **LOCAL** reporting of changes in Affordable Housing Supply every two years, including preservation of affordable housing. **INCLUDES** requirements for reports on affordable housing in Centers.
- Existing voluntary housing affordable housing goals also remain in FUNCTIONAL PLAN
 - Problem: No reporting follow up; too much flex in counting. Incentives not clear/weak. Metro not original source of supply data, no one willing to do without Metro commitment to use data.
 - **2007** Metro suspends reporting requirements

Recent History, 2010-2011

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- **2010-2011: Metro projects huge increase in affordability problem, policy response inadequate:**
 - Investment in Centers/"Infrastructure"—if 71% of these projected units are in Portland how does that promote *regional* choice?
 - Whose the mayor of a "sub region"?
 - No recognition of affordability/availability problem/vouchers.
 - **NO** new LOCAL /Functional Plan goals, REGIONAL goal now in **Framework** plan, Chapter 1, Land Use:
 - **Reduce** the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation.

Recent History, 2010-2011 (Con't)

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- One Off H+T Index: good that it **focused on renters**, but problems
 - Includes income sources like food stamps in definition of income.
 - Standard set at 50%, higher than national H+T standard of 45%
 - Data **NOT** available for download, even on *Portland Pulse*.

Bottom Line:

1. **What's the Local incentive?**
2. **What happens if not achieved?**
3. **Claim victory if gas prices decreased?**
4. **Going to ever get+PUBLISH existing required reports?**
5. **How come no recognition of success of Project Based Vouchers in Multnomah? Little analysis of local "government assisted" /voucher need?**

Consistent Problems

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- All prior plans, little substantive attention to Fair Housing /Minority Issues, Government Assisted Need.
- Council history and MPAC structure make local housing goals with teeth seem highly unlikely.
- Metro process causes burnout.
- Portland happy [and should be recognized] for **out producing** it's fair share of affordable housing. [*Next Page*]. Portland "rocks" on use of project based vouchers, one of few tools that has been employed.

3 County LIHTC Awards, 2000-2011

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| 3 County Portland Metro LIHTC Allocations, 2000-2011 | | | | | | | |
|--|-----------|--------------|------------|--------------|-----------|------------|------------|
| Year | Clackamas | Multnomah | Washington | Total | Clackamas | Multnomah | Washington |
| 12 Years | 689 | 6,332 | 1,673 | 8,694 | 8% | 73% | 19% |
| AVG | 57 | 528 | 139 | 725 | 8% | 73% | 19% |

- Multnomah Received 73% of all LIHTC Awards
- City of Portland received **6,025 Units; 69% of All Units in these Counties**

Metro Cities, Growth in Renters 2000-2010

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- **ALSO**, In Metro Cities From 2000-2010,
- City of Portland Accounted for
 - **38%** of **All** Household Growth
 - **49%** of all **Renter** HH Growth
- Metro cities increase in renter households was **GREATER** than increase in owner occupied households; absolute numerical increase about the same:
 - **18.4 vs. 13.6%**
 - **37,000 each increase**

Moving Beyond the Past: Opportunities/Next Steps

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1. Outcome of Metro's HUD Sustainable Communities Planning grant application **will determine** IF there is , and/or scope of:
 - Regional Analysis of Impediments
 - Regional mobility counseling for voucher holders
 - Opportunity Maps (3 Metro Counties have projects in place or underway, Metro as repository of data?).
2. Revise H+T (HUD attempting national data standardization) and publish to the public Metro CT data and formulas used.

Opportunities/Next Steps /(Con't)

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4. I'd suggest focus on *local* plans, especially centers.
 - *However, Lake Oswego Foothills Framework 452 page plan document not encouraging, **Zero** mention of "affordable housing", except 2 mentions in citizen comments. "Senior housing" planned for 543 units, but **NO** family/workforce/government assisted housing.*
 - *Also discouraging, Metro May 2011 "State of Centers" Report does not mention rental housing anywhere in 114 page report. [Related posts [HERE](#) and [HERE](#)].*

Opportunities/Next Steps /(Con't)

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4. Opportunity Map Issues
 - Need COMMON elements and weighting.
 - **Data** and map layers need to be publically available, not in a *black box*.
 - Need to be linked to written housing location policies.
 - Linked to QAP within Metro region?
 - When does opportunity mapping become *redlining*?
 - Use of smaller area voucher payment standards can help BUT trade off is that fewer families could be served.

Opportunities/Next Steps /(Con't)

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5. Revisit Inclusionary Zoning for *rental* housing
6. Revisit creation of a unified Federal **Housing** advocacy, similar to unified Metro transportation advocacy.
7. Affordable housing supply database and local progress reports toward voluntary goals still **NOT publically available**. Need incentives to cause local governments to **WANT** to report.
8. **MORE focus on housing needs of renters.**

Resource Materials/Active Links

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1. [2001 Metro Ordinance](#) (Includes Findings of Fact/COL)
2. [2007 Metro Ordinance](#) (Includes Findings of Fact/COL)
3. [2011 Metro Ordinance](#) (Includes Findings of Fact/COL)
4. [Metro Code, 3.07 Urban Growth Management Functional Plan](#)
5. [Metro Framework Plan](#) (Chapter 1 has H+T goal).
6. [HUD Report, Regional Approaches to Affordable Housing](#) (Includes only Portland Metro Section, link on cover page is to full report).
7. My [December 29, 2009 Comments](#) to Metro Council

Resource Materials/Active Links (Con't)

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8. [Metro HUD Sustainable Communities Regional Planning Grant Full Application](#). FTP Site:LARGE [99 MB] file includes all Exhibits].
9. [Oct 6, 2011 Metro Draft UGB Expansion Ordinance, 11-1264](#), (Look for October 20, 2011 version with Findings of Fact, COL).
10. [Portland Pulse, Housing and Communities](#)
11. [Draft OHCS LIHTC 2012 Qualified Allocation Plan](#), October 21st public hearing, written comments due NLT November 4th.

Resource Materials/Active Links (Con't)

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12. [Lake Oswego Foothills District Framework Plan Draft](#).
13. [Metro "Centers" Report](#), May 2011.
14. [New York City Subsidized Housing Information Project](#) (With location of 171,000 units)
15. [Preserve Oregon Housing](#) (Database of Oregon HUD subsidized AND some other housing types, including RD and LIHTC).

Resource Materials/Active Links (Con't)

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15. Oregon Housing Blog:
<http://www.oregonhousing.blogspot.com>
(Keyword search "Metro"; and "[Metro Housing Watch](#)" link in right pane is to select video of prior Metro Council Meetings and other materials)
16. THIS PRESENTATION
<http://www.housepdx.com/presentations/housing/apaoctober2011.ppt> OR
<http://www.housepdx.com/pdfs/housing/apaoctober2011.pdf>