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**Testimony of Deborah Ibonwa, Maine Equal Justice
In support of LD 1673 “An Act To Create a Comprehensive Permit Process
for the Construction of Affordable Housing”**

Good afternoon, Senator Daughtry, Representative Sylvester and members of the Committee on Labor and Housing. My name is Deborah Ibonwa, and I am a Policy and Legal Advocate at Maine Equal Justice (MEJ). We are a civil legal services organization, and work with and for people with low income, seeking solutions to poverty through legislative advocacy, administrative advocacy, and legal representation. Thank you for the opportunity to testify today in support of LD 1673.

MEJ supports this bill because it will expedite the creation of affordable housing. In Maine, we are facing a housing crisis that stems, in huge part, from the challenges of building the housing that we need. Currently, the approval processes for new housing in municipalities are designed with many barriers. Lengthy processes like these keep developers from even proposing new housing and this worsens the homelessness level in Maine in a time where people need to be housed more than ever.

I. What LD 1673 Does:

- Establishes housing goals for all municipalities, defined as towns providing between 10-16% of affordable housing, depending on the level of affordable housing stock in that area, or towns having at least 1.5% of land area zoned for low and moderate-income housing

- Enables affordable housing developers to submit project applications for comprehensive permits to create affordable housing to local zoning boards of appeals
- Gives local boards of appeals the power to waive all local restrictions if necessary to meet the town's housing goal
- Establishes an Affordable Housing Committee that would review appeals for denials of affordable housing projects at the local level. This process would include public hearings and notification to each town whenever an appeal is made based on a denial in that area.
- Decisions made by municipalities that have met their housing goals are not subject to an appeal to the Affordable Housing Committee.
- Provides incentives to Towns to meet their housing goals.

II. Why the Committee Should Vote in Favor of LD 1673

A. Maine is in the Midst of an Affordable Housing Crisis

Even before the pandemic, thousands of Mainers struggled month in and month out to afford rent and stay housed, as well as to find housing. Currently in Maine, the National Low Income Housing Coalition estimates that Maine has 54 housing units for every 100 extremely low-income families (whose incomes are at or below the poverty guideline or 30% of their area median income (AMI))¹. We have a shortage of 19,031 affordable rental homes,² and as of January 2020, Maine had about 2,097 people experiencing homelessness on any given day.³ Of that total, 260 were family households, 103 were Veterans, 139 were unaccompanied young adults (aged 18-24), and 248 were individuals experiencing chronic homelessness.⁴

The pandemic has pushed Maine's housing affordability problems to a crisis point. While Maine's low-income tenants have been suffering in the recession and the pandemic, business has been booming in Maine's real estate market. Property values have increased during the pandemic in every county across the State. The Maine

¹ National Low Income Housing Coalition, *2021 Maine Housing Profile*. (Updated on 03/16/2021). <https://legislature.maine.gov/doc/6960>

² National Low Income Housing Coalition, *Housing Needs by State: Maine*. Accessed on (Jan. 23, 2022). <https://nlihc.org/housing-needs-by-state/maine>.

³ United States Interagency Council on Homelessness, *Maine Homelessness Statistics*. Accessed on (Jan. 23, 2022). [https://www.usich.gov/homelessness-statistics/me/#:~:text=As%20of%20January%202020%2C%20Maine,and%20Urban%20Development%20\(HUD\)](https://www.usich.gov/homelessness-statistics/me/#:~:text=As%20of%20January%202020%2C%20Maine,and%20Urban%20Development%20(HUD)).

⁴ Ibid.

Association of Realtors reported a 22% increase in median sales price between Fall 2019 and Fall 2020, with a 27% increase in the number of units sold.⁵ Recent data has shown that the typical “winter slow down” in Maine’s real estate activity isn’t happening this year.⁶ Gains are expected to continue, fueled in part by out-of-state buyers moving to Maine.⁷

While so many people are buying new Maine homes, many Mainers are struggling to stay in theirs. Increasing property values are linked to gentrification. Gentrification is a process which displaces low-income community members, usually renters, when more affluent people move in. Gentrification is spurred by speculation in the real estate market which incentivizes landlords to raise rents and/or evict tenants to pursue higher-end development. This is occurring not only in Maine’s cities, but also in rural parts of the State.⁸ We must confront the fact that gains for some result in losses for others and take steps to end the rental housing crisis.

Maine’s tenants are in desperate need of affordable housing. The largest rental assistance program in the U.S., the Section 8 Housing Choice Voucher Program, only funds vouchers for 1 in every 5 families who are eligible for it. In Maine, there are 25,742 families on the waitlist for the program. The patchwork of other state and federally funded voucher programs serve only narrow subsets of Maine’s renter population.

Keeping Mainers in their homes is critical to support their economic security and personal wellbeing. Of all the things we can do to support families and individuals trying to rebuild their economic security post-pandemic, safe homes that are realistically affordable and don’t eat up the whole family budget are at the top of the

⁵ See Glenn Jordan, *Maine Home Sales Continue to Break Records Despite Pandemic*, Portland Press Herald (Dec. 22, 2020), <https://www.pressherald.com/2020/12/22/maine-home-sales-continue-to-break-records-despite-pandemic/>; Maine Association of Realtors, *State of Maine Single Family Home Sales*. (Updated Dec. 31, 2020). <https://www.mainerealtors.com/wp-content/uploads/2021/02/StateofMaine20Data.pdf>

⁶ Edward D. Murphy, *Maine’s Housing Market Defies Typical January Drop, Builds on Red-Hot 2020*, Portland Press Herald. (Feb. 19, 2021). <https://www.pressherald.com/2021/02/19/maines-housing-market-posts-more-big-gains-in-january/>.

⁷ Id.

⁸ University of Maine School of Marine Sciences, *Fishing Communities Need to Prepare For Gentrification Challenges*. (Aug. 23, 2016). <https://umaine.edu/marine/2016/08/23/fishing-communities-need-prepare-gentrification-challenges-say-umaine-researchers-2/>; Megan Mayhew Bergman, ‘*We Have No Market But Lots of Lobsters*’: *A Maine Lobsterwoman Fights For Her Livelihood*, The Guardian. (July 23, 2020). <https://www.theguardian.com/environment/2020/jul/23/maine-lobsterwoman-coronavirus-climate-change>.

list. We need more affordable housing, and as soon as possible. LD 1673 is a step in the right direction to produce quality, affordable homes throughout the state.

B. The Bill is Necessary Step Towards Addressing the Racial and Socioeconomic Exclusions, Disparities and Segregation that Local Zoning Laws Create in Our State.

Zoning policies that make it easier for developers to produce quality and affordable housing stock is crucial for minority racial groups. Black people make up 26% of the homeless population in Maine, while they only make up about 1% of Maine's population. This means that there is 26 times as many Black people of the total population. This is in comparison to the data in the U.S., where Black people make up 40% of the homeless population, which is three times as many Black people living in the U.S. Statewide, 58% of renters are Black, 40% are Asian while 27.8% are White, and 70% of Black people rent as opposed to 30% of Black people that own. Approximately 27% of renter households are extremely low income).⁹ Over 40% of households who rent pay more than 30% of their income in housing related costs. Maine renters' median household income is 51% below homeowner households (\$35,103 renter vs. \$71,913 owner). Severely cost burdened poor households are more likely than other renters to sacrifice other necessities like healthy food and healthcare to pay the rent, and to experience unstable housing situations like evictions.¹⁰

Accordingly, when the pandemic caused many to lose their jobs or to work without quality healthcare on the front lines, especially Black and Brown people who made up many of our essential workers, Black people represented 3% of Mainers with COVID during the pandemic despite making up ~1% of the total population.¹¹ Also, 16% of eviction households at Pine Tree Legal are people of color, and before the federal eviction moratoriums enacted during the pandemic, Black women had eviction filed against them at more than two times the rate of White renters. This is likely to be true again now that the moratoriums have been lifted.¹²

⁹ National Low Income Housing Coalition, *2021 Maine Housing Profile*. (Updated on 03/16/2021). <https://legislature.maine.gov/doc/6960>

¹⁰ Ibid.

¹¹ Maine Immigrants' Rights Coalition, *COVID-19 Racial and Ethnic Disparities*. (Updated on Jan. 7, 2022). <https://maineimmigrantrights.org/covid-19-racial-and-ethnic-disparities/>

¹² Yonah Freemark, *The Role of Race in Zoning: A History & Policy Review*. (Sept. 16, 2021). <https://legislature.maine.gov/doc/7081>

The disparity between the ability of White people to own a home and that of Black people to own a home is significantly worse than most parts of the country. In 2019, the homeownership rate for White people in the state was 73% in 2019, making wWite Mainers 43% more likely to own a home than Black people, only 30% of whom own a home, according to the National Association of Realtors' analysis of U.S. Census Bureau data.¹³ Hispanic homeownership in Maine was 55 percent and Asian-American ownership was 77 percent.¹⁴ In fact, racial ownership percentages in Maine overall were higher in 2021 than the nationwide averages except for the rate for Black people, which was 12% points lower. Maine also has a history of “redlining” and excluding people of color from purchasing homes in suburban areas, as well as discriminating against POC home purchasers in general.¹⁵ In fact Gerald Talbot, civil rights leader, and Maine’s first Black legislator, experienced this discrimination first-hand¹⁶ as did 41% of Black respondents to a National Association of Realtor’s study.¹⁷

Clearly, the lack of affordable units disproportionately impacts Black and Brown people and increases danger of eviction and worsening of public health, even during a global pandemic. Also, because many Black and Brown people cannot afford to buy single family homes, they are effectively excluded from living in areas that are in majority zoned for single family home use. MEJ, in fact, has heard reports from our community partners that assist our clients on the ground that people of color cannot move to areas where there is demand for a fresh workforce or where schools have better funding because those areas are zoned mostly for single family housing and people with low income cannot afford to buy single family homes. This cycle of facially-neutral yet exclusionary local zoning control prevents people with diverse income levels to live anywhere they want and ultimately creates racial and income segregation throughout the state.¹⁸ We need a

¹³Lori Valigra, *Survey: Black homeownership in Maine lags low nationwide mark*. (Feb. 17, 2021). <https://bangordailynews.com/2021/02/17/business/survey-black-homeownership-in-maine-lags-low-nationwide-mark/>

¹⁴ Ibid

¹⁵ Andy O’Brien, *A Brief History on Racism & Discrimination in Maine 1630 – 1970*. <https://legislature.maine.gov/doc/7456>

¹⁶ Ibid

¹⁷ Lori Valigra, *Survey: Black homeownership in Maine lags low nationwide mark*. (Feb. 17, 2021). <https://bangordailynews.com/2021/02/17/business/survey-black-homeownership-in-maine-lags-low-nationwide-mark/>

¹⁸ The use of racial covenants was prevalent until it was struck down by Court in *Shelley v. Cramer* in 1948, and legally banned with the enactment of the 1968 Fair Housing Act. Maine’s own Fair Housing Act was passed into law in 1965. When racial covenants were struck down in the mid-1960s cities began to use what are now modern-day exclusionary zoning regulations which are on their face racially neutral but cause disparate impact amongst communities. See Yonah Freemark, *The Role of Race in Zoning: A History & Policy Review*. (Sept. 16, 2021).

process that makes it easy for affordable apartments and affordable houses to be developed all throughout our state to start dismantling these exclusionary structures.

We have a serious lack of affordable housing, in large part because of exclusionary and overburdensome local zoning restrictions, that ultimately has disproportionate effects on people with low income and Black and Brown Mainers. Mainers have been pleading for this to be resolved for years, and *now* is the time for the State to take action to enable production of affordable housing for Mainers of all socioeconomic and racial backgrounds.

C. LD 1673 will Lessen the Regulatory Burden on Developers to Create Affordable Housing

1. The Comprehensive Permit Process

This bill will simplify the process for the development of affordable housing units. The bill will help create the development of affordable housing through a comprehensive permit application process that is equitable for residents, towns, and developers.

LD 1673 works with current zoning laws, rather than replacing existing zoning ordinances. It is centered around encouraging community development of affordable housing. It does not impact the approval processes for other types of housing or building developments.

LD 1673 requires communities to establish plans for meeting the full spectrum of their housing needs. This is accomplished through the use of a fair and equitable process that both recognizes each town's home rule, and each municipality's responsibility to play a part in creating housing that its low to moderate income residents can afford. The bill's fair housing goals establishes metrics to ensure that the amount of affordable housing stock in a city or town can meet the housing needs of its residents.

<https://www.urban.org/research/publication/role-race-zoning-history-policy-review>; Matt Mleczko, *Land use policy and zoning: what we know and how we can do better*. (Sept. 16, 2021). <https://legislature.maine.gov/doc/7081>; and Eben Simmons-Miller. *Resistance In "Pioneer T Resistance In "Pioneer Territory": The Maine NAACP and the Pursuit of Fair Housing Legislation*, p.88. (Jan. 1, 1997). <https://digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1285&context=mainehistoryjournal>

When it appears that a local board's decision was not consistent with local needs to meet fair housing goals and creates another barrier to the creation of affordable housing, LD 1673 creates a procedure where the decision can be appealed to a statewide Affordable Housing Appeals Committee. Towns that already meet LD 1673's fair housing goals cannot have their decisions concerning affordable housing appealed to this committee. The committee can overrule a local board's denial of a permit only if it finds that the denial was not consistent with local needs to meet fair housing goals.

This bill will help ensure that each affordable housing development has a timeline and application process to ensure that the project is moving along, and all the necessary steps are followed without delay. This bill will reduce the risk to developers in terms of money, time, and predictability for affordable developers, and LD 1673 will lessen the regulatory burden on developers to create affordable housing and thereby increase affordable housing stock for renters. It would prioritize mixed-income development and prevent creation of clusters of low-income housing built in potentially environmentally hazardous areas that can increase the health risk for residents, especially children.

LD 1673 would help make it easier for developers to build affordable housing throughout the state by streamlining the development process. Maine ranks fourth in the nation in restrictive land-use regulations and 8th in restrictive zoning.¹⁹

Affordable housing developments directly increase economic growth through construction jobs and expansion of the local tax base. In addition, the provision of affordable housing helps families maintain stability which is necessary for broader economic development. It is the responsibility of this committee and the state to pass measures that would increase affordable housing in Maine. That has never been clearer than in this moment of crisis where more people became homeless or faced and are facing eviction every day, which has led to a decrease in public health and decrease in workforce numbers throughout the State of Maine. MEJ has served clients who have experienced crises like this firsthand.

2. Example of Why Process Proposed by LD 1673 is Necessary

A recent example of the inequities and exclusionary effects of current local processes for approvals of affordable housing development is what happened in

¹⁹ Vanessa Brown Calder, *Zoning, Land-Use Planning, and Housing Affordability*. (Oct. 18, 2017). <https://www.cato.org/policy-analysis/zoning-land-use-planning-housing-affordability#new-evidence-on-the-effects-of-land-use-regulation>;

Cape Elizabeth in 2021. This project would have created a 46-unit building at affordable prices in the city but was canceled by the developer because residents petitioned to have a referendum to reverse the City Council's decision to enable the project through zoning regulation amendments.²⁰

It is just one example, but the production of affordable housing in towns such as Cape Elizabeth is urgent. Cape Elizabeth hasn't had any affordable housing development in 50 years, and the local residents will vote in this referendum which is scheduled for late 2022 to keep the area as is, which will continue to exclude people from different socioeconomic backgrounds. Maine State Housing Authority stated that "starting annual salaries for several careers in the region, including firefighters (\$29,650), teachers (\$43,340) and farming, fishing and forestry occupations (\$29,730). Median household income in Cape Elizabeth is \$123,116, according to the U.S. Census."²¹ On average, renters in Cape earn 41% less than the median household income, and Erik Jorgensen, the Government Relations Director at Maine State Housing Authority, said this about the situation in Cape Elizabeth: "if you're a typical member of the workforce, you probably don't have much of a chance to live in this community in the absence of a project that might provide affordable housing."²² Ultimately, the developer decided to cancel the project for affordable housing rather than to fight a political campaign with local residents. We must take these barriers away in order for affordable housing developers to produce affordable housing, especially at this time, and LD 1673's comprehensive permit application process would do this.

D. Conclusion

Traveling across Maine, it doesn't take long to notice the significant economic and racial segregation that persists in our state, much like the rest of the country. Low-income Mainers know especially what it's like to be forced to find housing in the most under-resourced communities, which often have substandard housing and limited economic opportunity. Research shows that mixed income communities are the healthiest communities.

Facilitation of affordable housing is important because studies clearly show that affordable housing developments indirectly attract new employers and/or businesses to town and creates access to better public services and economic opportunities. While zoning is usually thought of as a local issue, the state can set

²⁰ Kelly Bouchard, *Affordable housing proposal in town center divides Cape Elizabeth*. (June 28, 2021).

<https://www.pressherald.com/2021/06/28/affordable-housing-proposal-in-town-center-divides-cape-elizabeth/>

²¹ Ibid.

²² Ibid

sensible standards across Maine's communities and ensure that towns act proactively to meet affordable housing needs. LD 1673 would make this possible through its Affordable Housing Committee and prioritization of individual fair housing needs in each municipality.

This is not new, and this is of the most critical urgency. All over the country, states are taking steps toward removing zoning barriers that don't make sense and providing new incentives and technical support for communities to embrace change.²³ This includes New Hampshire, Massachusetts and Connecticut, all of which have established some form of a statewide committee that would review applications for affordable housing development.²⁴

Step by step, these changes will create more opportunity for people with diverse economic and racial backgrounds to live where they couldn't afford to before, and gain access to the educational and employment opportunities that every Mainer should have. For these reasons, and for Mainers who are experiencing the housing crisis the most, Maine Equal Justice *urges* this committee to vote in favor of LD 1673. I'm happy to answer any questions and can be available for the work session if helpful.

²³ Christian Britschgi, *2021 Was a Great Year for Zoning Reform*. (12.28.2021). <https://reason.com/2021/12/28/2021-was-a-great-year-for-zoning-reform/>,

²⁴ Brian Chen, *New Hampshire's Housing Appeals Board: A Surgical Approach to State Land-Use Intervention*. (May 11, 2021). <https://media4.manhattan-institute.org/sites/default/files/new-hampshires-housing-appeals-board-state-land-use-BC.pdf>