

2013 LEGISLATIVE UPDATE: Landlord Tenant Coalition Meetings Wrap Up

Landlord-Tenant Coalition

The Landlord Tenant Coalition wrapped up our last meeting on January 22nd following the opening of the Oregon Legislative Session on January 14th. Among those in attendance were representatives of Lane County Legal Aid, Community Alliance of Tenants, Rental Housing Association of Greater Portland, City of Corvallis, Oregon Rental Housing Association, Legal Aid Services of Oregon, Oregon Law Center, Metro Multifamily Housing Association, and a few private parties.

Prior to our January 22nd Coalition meeting, the entire Oregon Rental Housing Association Board of Directors on January 18th met to discuss how to move forward with negotiations. At that time, we considered the following proposals:

- Non-compliance fees proposed by ORHA - The most recent counter-proposal from tenant advocates allowed for the following non-compliance fees: unauthorized pets, smoking in smoke-free areas, smoke alarm and carbon monoxide alarm tampering, dishonored checks, late payment of utilities, failure to clean up pet waste/garbage/rubbish, and parking violation or improper use of vehicles. The fee for each was proposed as a “stair-step” approach, where fees would increase for failure to comply in each subsequent substantially similar violation during the same tenancy. In each initial instance, landlords would be required to issue a written warning. If the tenant failed to comply with the written warning, a non-compliance fee of \$50 would be assessed. Then, if the non-compliance continued and/or there was a substantially similar violation during the same tenancy, the non-compliance fee would increase to \$50 plus 5% of the monthly rent. Along with the fees comes several tenant protections: the initial warning mentioned above, that the landlord cannot assess the fee AND evict for the same violation, the fee be billed within the same rental period, and landlords cannot take the fee out of the following month’s rent.
The only exception to the above stair-stepped fee approach is the smoke alarm and carbon monoxide alarm tampering fee, which could still be assessed the \$250 fee level.
In the alternative, a landlord could simply choose not to pursue a non-compliance fee at all and instead move towards an eviction for failure to comply with the rental agreement. In this case, a landlord would issue a for-cause notice and, if the tenant did not comply, file an eviction.
- Renters’ Insurance – Essentially, landlords would be able to require it from all tenants above a certain income level with a few restrictions about when/how landlords can file claims against tenants’ insurance.
- Restricting the use of prior evictions, arrests, and criminal convictions in screening - Landlords would be unable to consider during the screening process evictions five years or older, any dismissed evictions at any time, any arrests that did not lead to a conviction, and criminal convictions for conduct that would adversely affect the landlord or tenants’ property or the health, safety or rights of peaceful enjoyment of the premises of other residents.
This proposal may seem like a significant concession by landlords. However, we want to be very clear about what this DOESN’T prevent us from considering during the screening process. Nothing about this proposal prevents landlords from denying an application under any other appropriate screening criteria, including denying an application based on a poor rental reference

from a landlord who has filed an eviction against the applicant. (In other words, if an applicant has an eviction five years or older, nothing will prevent landlords from contacting the landlord who did that eviction to get a rental reference. If that reference is poor, the landlord could deny based on that, **not** the eviction.) Furthermore, we can still deny applications based on unpaid judgments for evictions or convictions. Finally, we concur that it is a best practice not to consider arrests that did not lead to a conviction. After all, we live in a country where one is innocent until proven guilty, and that certainly includes applicants.

- Guests – The proposal on the table attempted to clarify who is and is not a guest (and who stops being a guest if permission is revoked). Current landlord tenant law does not define guests. The aim of the proposal is to clarify that when someone is not a guest and is there without permission, they are trespassing.

The ORHA board debated these points at some length and after extensive discussion, the entire board voted unanimously to move forward in approval of the above proposals. Going into the Coalition meeting on January 22nd, the ORHA board and Legislative Director were in complete agreement that a Coalition bill based on the proposals referenced-above would be in our mutual interest.

At the January 22nd Coalition meeting, landlord and tenant advocates were able to reach agreement on non-compliance fees, renters' insurance, restricting the use of evictions and criminal offenses in screening, and some minor housekeeping issues. Unfortunately, negotiations broke down at that point. As we began to discuss the issue of guests, Metro Multifamily Housing (MMH) expressed deep dissent regarding the ability to trespass people from their properties, particularly large, multiplex complexes. In a nutshell, MMH maintains that they now have the right to trespass anyone from their property at any time. This most often comes up when someone is evicted from a multiplex (say, for non-payment of rent) and then comes back on the property, often to visit friends/tenants there. MMH maintains they have the right to disallow this. Tenant advocates, on the other hand, maintain that current residents have the absolute right to invite guests to their property (including previously evicted tenants as guests) and that those guests have the right of ingress/egress through the common areas in order to get to the current tenant's unit. The proposal on the table would protect the right of current tenants to have guests, including the right of ingress/egress for all guests, **as long as those guests are acting appropriately.**

We were unable to reach resolution on this issue at the final coalition meeting. As it currently stands, we understand that MMH and tenant advocates will continue to negotiate behind the scenes. It is unknown at this time, however, whether a Coalition bill can be agreed upon and will move forward. MMH has made it clear that they want the ingress/egress portion of the guest provision removed, and we anticipate they will withdraw from the Coalition if it is not. If MMH withdraws, the renters' insurance provision will be withdrawn with them. If this occurs, ORHA will have to determine whether the remaining bill is beneficial enough to move forward. We will keep you updated as the matter develops.

In the meantime, ORHA will provide regular updates about all bills (including the Coalition bill if it moves forward) that pertain to landlord tenant law in Oregon. The State of Oregon's official webpage also has a wealth of information on their Legislature's website. Just log-on to www.oregon.gov and click on the "Legislature" link. From there, the link "Contact information and answers to frequently asked questions" is especially informative. On both pages, you'll find facts about the makeup of the

Legislature, a calendar of events, a district map, how to find and/or write your legislator, and even a kids' page.

“Housing Choice Act of 2013” – The Section 8 Bill

Many of you know that Oregon State Representative Tina Kotek has been sworn in as House Speaker. This is a tremendously powerful position in the Oregon Legislature. While more than 1,200 bills have been introduced this legislative session, and the House Speaker and President of the Senate often have several of their own, Speaker Kotek only has one this session, the Housing Choice Act of 2013 (otherwise known as “the Section 8 bill”). The ORHA does not currently support this bill. However, the ORHA board unanimously agreed and our Section 8 online survey showed overwhelming support for refraining from opposing the bill outright. In the current political climate in Salem, we are developing a working relationship with Speaker Kotek. In fact, in a recent meeting with our Legislative Director, Speaker Kotek commented favorably about ORHA noting our great depth of experience, working knowledge of landlord tenant law and issues, and willingness to sit at the table and talk with her.

Speaker Kotek asked to meet with the ORHA Legislative Director and ORHA’s Lobbyist Shawn Miller on January 23rd. This was a brain-storming meeting, not meant as a negotiation but again to sit down and reasonably assess where we are as landlords with her proposed bill. We made several requests at this meeting for us to look more favorably on this bill:

- A sunset clause in four years. This will do several things. First, every law that brings major change should contain the opportunity for review of the law’s implementation. If the bill passes and is implemented into law, is the law working at the four year mark? Is it benefiting the people it purported to benefit? Are there unforeseen consequences? Second, the bill currently proposes a monetary mitigation fund that would reimburse landlords for damages. With the state’s current financial environment, what assurance do we have that future legislatures won’t raid this fund. A sunset clause is the only sure way to enforce the needed review and be sure the law continues to operate as originally envisioned.
- Create a Housing Choice Advisory Committee consisting of landlord representatives, Housing Authority officials and government officials. Again, such a board would ensure that any programs resulting from this bill are administrated properly, and it would also serve as an appeal board for individuals affected by changes set forth by this bill.
- Although we ran out of time at this meeting, at our next meeting we intend to suggest an exemption for landlords with five or fewer rentals.

As this bill is Speaker Kotek’s sole personal bill this legislative session, we expect it to move forward with support. ORHA will continue to meet with Speaker Kotek, not necessarily to support the bill but to ensure our voice as landlords from across the state of Oregon is heard by her.