

## Willamette Week

# Ted Wheeler Can't Ban No-Cause Evictions in Portland Without a Change to Oregon Law, State Lawyers Say

*By Julia Comnes*  
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For months, legal authorities have been weighing in on whether the city of Portland can legally enact a city ordinance that would ban no-cause evictions—where landlords don't have to offer a reason for telling a renter to get out.

According to Oregon state law, landlords can end month-to-month tenancies without cause so long as tenants are given prior written notice.

But during his campaign, Mayor-elect Ted Wheeler pledged to restrict the practice even without action from the legislature. And the renters rights group Portland Tenants United has argued that a city law banning no-cause evictions would be legal in a housing emergency like the one Portland is experiencing.

But another authority has weighed in: the State of Oregon Legislative Counsel, the lawyers who provide advice for Oregon legislators. The counsel's office has issued two separate opinions to state legislators on the issue, one on whether Portland could pass a law by itself, the other on the more general questions of whether cities around the state could.

The legal conclusion? Portland (and other cities) can't ban no-cause evictions without violating Oregon state law.

"A city ordinance prohibiting landlords from terminating residential month-to-month tenancy would directly conflict with ORS 90.427 and eliminate a permission expressly granted to landlords under state law," the opinion by Legislative Counsel Dexter Johnson reads.

"Therefore, we conclude that a local government does not have the authority to prohibit termination of month-to-month tenancies without cause."

Only the courts can definitively decide whether laws pass legal muster, but the legislative opinion will determine the political outlines of a fight over what the state should do to protect tenants.

House Speaker Tina Kotek, who requested one of the opinions, has said that in the next legislative session she will seek to end no-cause evictions across the state and impose a cap on rent increases at least for now.

The restriction of no-cause evictions was a significant part of mayor-elect Ted Wheeler's platform during his campaign this spring, despite questions over whether those restrictions would pass legal muster.

"I made the just-cause eviction process the centerpiece of my tenant bill of rights because I do believe we have the legal authority to implement it," he told WW in May. "Admittedly, it will probably have to be clarified in the courts; that's the way it works in America."

The opinion notes that since a Portland ordinance hasn't been drafted yet, there are limits on what the legal opinion. "Rather, this opinion provides an analysis of the broader legal principles," the opinion reads.

**UPDATE, 7:30 pm:** Margot Black, an organizer with Portland Tenants United, responds that multiple provisions in the group's proposed "Tenants' Bill of Rights" could effectively end no-cause evictions without a change of state law.

"Things that are not preempted by state law: registration of landlords, recording of all termination notices including for-cause, without-cause, etc. and requiring landlords pay relocation," Black writes.