

## The Oregonian

# Proposed tenant protections could draw lawsuit, limit affordable housing supply

*By Jessica Floum  
February 1, 2017*

Sonia Peters, 76, works hard to maintain the Southeast Portland duplex that she owns and rents. Each time a tenant calls with a concern, she visits the property to see how she can help.

Recently, she found herself in court after she struggled to evict two tenants who removed trees on her property after she told them they couldn't, demanded she replace carpeting after their cat peed on it and had previous eviction records, she said.

Peters lost her just-cause eviction case. Now, she's worried about a proposed policy that would require landlords to pay \$2,900 to \$4,500 to tenants that they evict without cause or whose rents they increase by 10 percent or more in a year.

The Portland City Council will vote on Thursday on whether to immediately enact the tenant protection policy introduced by new Commissioner Chloe Eudaly.

The rule could go into effect just over a week after Eudaly first disclosed her plan and would last throughout the housing emergency set to expire in October. For it to take effect Thursday would require a unanimous council vote.

Margot Black, organizer and founder of renter advocacy group Portland Tenants United, said Tuesday that the rule is a good first step to protect tenants in a city with escalating rents, a short supply of apartments and no landlord-tenant office where renters can get help.

If approved, the rule would trigger a lawsuit by upset landlords that could block or delay some or all of its provisions, attorney John DiLorenzo said.

If the rule takes effect, Portland landlords will have to go through the just-cause eviction process if they want a tenant out and don't want to help pay moving costs. Eudaly's policy will require landlords to pay that money for all no-cause evictions, said her policy director, Jamey Duhamel.

Eudaly and her staff have not decided, however, whether the policy will apply to landlords who have already given their tenants 90 days' notice in the previous 89 days.

"It's a nuanced situation and a lot of lawyers aren't agreeing so we'll just keep talking about it until we come to a decision that's defensible in court," Duhamel said.

Multifamily NW, an association of companies that own or manage many rental homes and apartments in Portland, intends to sue the city if it passes the ordinance, DiLorenzo said. He asserts that the proposal conflicts with Oregon state law that prohibits rent control measures.

Eudaly said the ordinance does not infringe on landlords' rights to raise rents, but instead requires landlords to share the financial burden when they "choose to cause an economic displacement".

"We feel very confident that this is highly defensible in court," she said.

DiLorenzo has sued the City of Portland at least seven times, including a case over misspent utility money that dragged out for more than five years and cost the city roughly \$13 million.

He said Eudaly's office failed to consult with landlords about "unintended consequences" before drafting the ordinance. He also argued that Eudaly's office rushed her proposal.

"I don't believe any of this has been drafted in a collaborative process at all," DiLorenzo said.

DiLorenzo provided The Oregonian/OregonLive a list of potential hardships that he said could result if the city requires landlords to pay tenants hit with no-cause evictions or 10 percent rent hikes \$2,900 to \$4,500 to help them relocate.

Homeowners who wish to move back into a home they own would have to pay those fees, he complained. Landlords who need to raise rents by 10 percent to cover the costs of necessary repairs also would face them, he said. So would landlords like Peters who want problem tenants out for good reason but face challenges in documenting the just cause, he said.

Eudaly called the hypothetical scenarios DiLorenzo posed "misinformation to rile up opposition."

"The landlord lobby likes to conjure up these bad tenant boogeymen," Eudaly said. "I don't believe in policy-making based on personal anecdote and I certainly don't believe on policy-making based on fantasy or myth."

Eudaly said she's considering exempting "mom and pop" landlords like Peters who only own one property.

Still, Peters said a set cost doesn't make sense since rents vary so widely. A landlord could end up paying more than they're receiving in rent, she said.

"Is she crazy?" Peters said. "What if there is something renters have done wrong?"

Eudaly also plans to exempt landlords who rent their primary residence for a short-term period with the intention of returning, Duhamel said. The policy as drafted already exempts week-to-week rentals and landlords that rent out rooms in the place they live.

"Our goal is not to burden landlords," Eudaly said. "If a tenant is expected to come up with three times rent to move, we'd hope a property owner would have to do the same."

Eudaly said her office has spoken with several landlords who expressed their support for her tenant protection plan.

Her staff did not consult DiLorenzo or Multifamily NW because she does not believe they have real solutions, she said.

"If they're coming to testify on Thursday, I'm all ears," Eudaly said. "I'm so excited to hear what their solutions are."

Commissioner Nick Fish called Eudaly's proposal a "thoughtful compromise," considering that she advocated rent control during her campaign and won handily. He also urged landlords to come up with alternative solutions to the housing emergency.

"If there is a different and better approach I want to hear it," Fish said. "If we have to fight this in court, so be it."

Commissioner Dan Saltzman said he thinks the emergency ordinance, which requires five votes, will pass Thursday. His chief concern is the effect economic displacement has on children and their education.

Mayor Ted Wheeler has already said he supports Eudaly's proposals. Commissioner Amanda Fritz declined to comment.

University of Oregon economics professor Tim Duy said the policy could reduce the will to build affordable housing or cause property owners to charge higher rents to make up for the added cost of helping tenants relocate.

"Fundamentally what we need to do is bring more supply to the market," Duy said. "This will then be a very counterproductive approach."

Duy acknowledged that Portland faces a "very real challenge" when it comes to housing affordability, but said the best solution is to increase supply.

The policy is intended to give tenants protections where they have none, Duhamel said.

The city lacks enforcement mechanism for tenants' rights, said Black, Portland Tenants United leader. The new policy is no exception.

If landlords fail to pay relocation costs after the policy takes effect, tenants would have to sue the landlords in small claims court to get the money, Duhamel said.

"It's the same enforcement mechanism tenants have for everything," Black said. "It's why we need an office of landlord and tenant affairs."

Mayor Ted Wheeler promised during his campaign and again in December to create an Office of Landlord Tenant-Affairs within Portland's Housing Bureau, which he currently manages. He did not say when that would happen.

The proposed tenant protection, Black said, is a good first step to protect tenants from retaliatory no-cause evictions. She hopes the

prospect of court costs for landlords who break the rule will also deter landlords from evicting renters, she said.

## **Portland outreach, officials use lessons from last snowstorm to hone homeless strategy**

*By Molly Harbarger  
January 31, 2017*

More volunteers. More outreach to people who don't want to come out from the cold. More attention paid.

As Portland gears up this week for Day 28 of severe weather so far this winter, the tragedy of the last snowstorm that left four people dead of hypothermia has pushed government, social service agencies and grassroots groups to re-evaluate their approach.

Free Hot Soup, whose volunteers bring homeless people hot meals every day, started a spreadsheet that tracks which shelters need extra food. Boots on the Ground PDX, another volunteer-run outreach group, is working directly with city and county officials to help the official effort and helping make sure grassroots and contracted organizations avoid duplicating services.

Ree Kaarhus, Boots on the Ground leader, said she and other outreach groups have had dozens of volunteers ask how they can help. She plans to put them to work now.

"Our goal is to really not have anybody freeze to death this time," Kaarhus said.

The new storm predicted to hit Thursday night isn't expected to bring the weeks of frigid temperatures or the foot of snow that early January's storm did. The Portland Building and a Multnomah County building in Gresham both opened as temporary emergency shelters, because churches, community centers and full-time shelters overflowed. On the busiest day, 748 people sought shelter -- those are on top of people who already have six-month or permanent shelter.

Leaders at the American Legion Post 134 on Northeast Alberta took it upon themselves to house people and deliver cold-weather gear and meals to homeless people to fill the need. They will decide Tuesday whether to do the same for this storm.

Portland Mayor Ted Wheeler and Multnomah County Chairwoman Deborah Kafoury called on residents to help keep an eye on homeless people and call for help if needed.

Almost 50 people disrupted a City Council meeting last week to protest the deaths, carrying a tiny coffin to symbolize a stillborn baby delivered on the streets by a homeless woman. They said Wheeler failed to do everything possible to keep homeless people sheltered and alive.

But Kaarhus said that she felt the city and county response has been better coordinated and more integrated with grassroots efforts than in years past.

"I truly feel like the city and county took those deaths as personally as we did," she said.

Even if the storm isn't as bad, lessons from the last bout are informing new strategies going forward.

Multnomah County's building in Gresham will open Tuesday night and remain open through Saturday morning. Gresham often hits freezing temperatures before downtown Portland, so county officials are adjusting how services are deployed to protect the sizable homeless population there.

Portland's severe weather shelters will open Wednesday through Saturday morning.

Michael Cox, spokesman for Wheeler, said outreach and city workers also changed how they check on people who refuse to come inside during freezing weather.

Instead of offering blankets and food, then moving on, outreach teams will check back every few hours to make sure the people who refuse shelter still want to be outside and are alive and safe.

The four men and women who died in January were alone at the time, some of whom previously refused help from their families. The mother of the stillborn baby was had severe mental illness, police said.

Cox said outreach workers can't be in every parking garage or know someone is hiding in the woods, but that the city has created software to better organize and deploy volunteers and staff to reach more people.

"The larger point remains that people by and large have a decision to make for themselves if they come inside and under what circumstances," Cox said. "You cannot force somebody into shelter or into treatment except for some very narrow prescribed circumstances."

Denis Theriault, spokesman for the city and county's joint homeless service office A Home For Everyone, said that the county sent surveys to everyone involved in the January storm's homeless response to gather feedback on what worked and what didn't. He said part of the goal is to prevent more deaths.

"There's a lot of work that goes into figuring out where people are and why people don't show up on the radar," Theriault said.

## **Portland auditor's independence proposal deserves unanimous City Council support: Editorial Agenda 2017**

*By The Oregonian Editorial Board  
January 31, 2017*

It wasn't the first shot directed at the Portland City Auditor from former Mayor Charlie Hales. But when Hales demanded last year that Auditor Mary Hull Caballero, an elected official like him, submit a budget request with cuts that no other elected official faced, he sent a clear message of his lack of regard for her office.

That's not surprising, considering the many clashes between Hales and Hull Caballero, whose office is tasked with holding city government accountable. Among them: Hales' unprofessional tirade when the auditor and her staff proposed tightening lobbying rules and Hales' dismissive treatment of her office's ombudsman division, which investigates citizens' complaints against city bureaus.

But Hull Caballero should thank Hales for one thing: His behavior highlights exactly why her proposal to increase the auditor's independence from the rest of city government is so necessary and deserves to go before voters for their consideration. City commissioners, including new Mayor Ted Wheeler, are to decide Wednesday whether to put on the May ballot a measure to expand the auditor's authority and enshrine the ombudsman's office in the city charter.

Under the proposal, the auditor would gain greater autonomy in hiring decisions and procuring goods and services. The office would also be able to seek outside legal advice instead of relying on the city attorney who advises the same bureaus that the auditor may be scrutinizing. And the auditor would submit her budget request to the mayor and City Council for their consideration as opposed to a process that's more the opposite. It also seeks to put into charter the ombudsman office, helping protect the division from being disbanded by a simple Council vote.

The proposal, however, has a few hurdles to clear before going before voters. Among them: amendments offered by Commissioners Dan Saltzman and Amanda Fritz which appear to only weaken the office. Saltzman questioned whether the ombudsman function should be specifically included in the city charter, noting few positions are specified. Fritz proposed, among other things, removing the requirement that the city auditor be credentialed as a certified public accountant, certified internal auditor or certified management accountant.

Their colleagues should reject both ideas. The ombudsman, a function of the office for the past 16 years, has proven its vital role in the city time and again. Among other things, Portlanders no longer have to shell out as much as \$1,300 to appeal permit denials or other city decisions, thanks to work by the ombudsman's office. The ombudsman's office also discovered a serious flaw in the city's 911 system, identified the lack of conflicts-of-interest disclosures on powerful advisory committees and handles hundreds of complaints every year that come in from citizens.

These are real results for Portlanders who don't necessarily have the time or wherewithal to navigate or challenge the city's bizarrely confusing process. This isn't about merely preserving a position. It's about preserving citizens' rights and access to their government.

Commissioners should also chuck Fritz's proposal to remove the credentialing requirement. The change would only invite disaster for an office that has served as such an effective check on government because of its steadfast professionalism. Auditor after auditor has come to this office over the years with a background and ethic shaped by the high standards, expertise and principles demanded by such licensing. Taking away that minimum requirement risks politicizing an office whose best work is done with the public's interest - not personal interest - in mind.

While the main event on Wednesday will be the council's expected approval of the proposal which, Commissioner Nick Fish hailed as "one of the most important reform measures" in his tenure, there's another win that deserves mentioning. The proposal reflects the collaboration and collegiality between the auditor and Mayor Ted Wheeler to find a solution that met both of their goals. For example, while Hull Caballero initially wanted to include the Independent Police Review division in the amendment, she agreed to delete it from her proposal to allow Wheeler, the police commissioner, more latitude in restructuring police oversight. That cooperation stands in stark contrast to Hales' attitude. It not only helps create good policy but gives Portlanders more confidence in their government.

That confidence could only be amplified by a 5-0 vote by city commissioners to forward the proposal to voters - without the Saltzman and Fritz amendments. That unanimity would speak volumes about the sincerity of each commissioner's commitment to the value of an independent auditor. So too, does anything less than that.

## **Willamette Week**

### **WTF Is Up With the Roads in This Town? Any Plans to Ever Maybe Get Them Fixed?**

*By Marty Smith  
February 1, 2017*

#### **WTF is up with the roads in this town? Who is in charge of this? Any plans to ever maybe get them fixed? —Pothole Peeved**

I don't mean to give you a hard time, Peeved, but street repair (and how to pay for it) has been THE major controversy in local politics for at least three years. It's sort of like you just poked your head up to ask, "So, what's up with this Donald Trump guy?"

Anyway, the short answer is, we're shitty people who make bad choices and deserve lousy roads. The slightly longer answer is, everyone wants well-maintained streets, but nobody seems able to find a way to pay for them.

You may have heard some distant clamor about something called a "street fee" briefly drowning out the bubbling of your bong a couple years ago, but it was a political nonstarter. (Not so coincidentally, the two guys who came up with it, Portland Mayor Charlie Hales and City Commissioner Steve Novick, are no longer in office.)

What about all the money the Bureau of Transportation gets from parking fees, parking tickets and the state gas tax? Unfortunately, that turns out to cover only about a third of the agency's budget.

We recently approved a city gas tax that will help. But the \$16 million it will raise annually will mostly keep streets that need fixing (cheap) from deteriorating into streets that need replacing (expensive). In other words, it'll keep the \$1.3 billion tab for getting all our streets to goal condition from getting any bigger, but it won't pay it down very fast.

If it's any consolation, lots of other cities are having the same problem. While there was a 2000 study that ranked our roads ninth-worst in the nation, these days we don't even crack the bottom 20. Near the worst in 2017? Cash-flush San Francisco. If it can't pay the paving bill, what hope does Portland have?

Perhaps Trump's vaunted trillion-dollar infrastructure package will contain help for our streets—as long as we send a tribute of 12 undocumented virgins every year, to prove we're over the "sanctuary city" thing.

## The Portland Mercury

### Trumped Towers

*By Dirk VanderHart*

*February 1, 2017*

IN A PORTLAND that's rapidly pricing out its poorest residents, the orange and gray high-rise being planned at NW Raleigh and 14th promises a booster shot of affordability.

Set in the bustling Pearl District, the 93-unit, 12-story project touts a price structure strikingly different from the upscale condos that often define the area. Nearly half of the building's units will be affordable to households making just 30 percent of the city's median family income (\$19,800 per year for a family of three), with 40 of them set aside to house homeless families. The remaining units will be priced for people who make 50 or 60 percent of Portland's median income.

In other words: One of the city's hottest neighborhoods is slated to get a sizeable influx of cheap housing—and until November 8, everything was going great.

But with the election of Donald Trump, the Raleigh tower is staring down nearly two million uncertainties. The project's suddenly facing a big funding shortfall and isn't sure where it will come up with the money.

"After the election, everyone freaked out," says Sarah Stevenson, executive director of Innovative Housing, Inc., the nonprofit selected by the City of Portland to develop the building. "The whole market has chilled, and investors aren't even looking at new deals."

Stevenson's organization is far from alone. Overnight, Trump's surprise victory dramatically altered the landscape for affordable housing projects across the country, creating big holes in funding where none existed before.

The reason is Trump's campaign promise to reduce the federal corporate tax rate from 35 percent. The pledge has yet to be sketched out in any detail, but it's already got firms

speculating about lower tax bills. That, in turn, makes them less interested in the tax benefits to be gleaned from investing in affordable housing.

Experts say the ultimate fallout could mean billions of federal dollars that once went to affordable housing every year will disappear. In Oregon, housing officials are scrambling to arrive at a strategy for assisting jeopardized projects.

“The bottom line is you will get less housing, and it will be harder to serve lower-income families,” says Michael Novogradac, managing partner at San Francisco-based accounting and consulting firm Novogradac and Company. “There’s no silver lining to having less funds available.”

The financing of affordable housing is complicated. For our purposes, you just need to understand that many projects are reliant on federal Low Income Housing Tax Credits (LIHTCs).

The credits are awarded by states to housing developers, who then sell them for millions to banks and other entities keen on reducing their tax bills. That sales price can cover between 30 and 70 percent of a project. It is necessary money—but it’s now harder to come by.

In the case of the Raleigh project, Innovative Housing was allotted \$1.27 million in tax credits from state housing officials. Those credits can be claimed every year for 10 years, meaning a face value of \$12.7 million.

Before Trump’s victory, Innovative Housing was counting on a lot more than that. The market for housing tax credits was surging, and Stevenson says she was close to inking a deal to sell the credits for around \$14 million—roughly 42 percent of her project’s \$33 million price tag.

With Trump in office, the same deal’s no longer on the table. Stevenson says her organization is planning to sell the credits for as low as 90 cents apiece, which would net roughly \$11.4 million.

How Innovative Housing makes up the difference isn’t yet clear. The project’s already being financed with \$10.7 million in urban renewal money from the City of Portland, and there’s no more where that came from. The nonprofit has performed “value engineering” to reduce construction costs, but it’s not enough.

“We think our gap is about \$1.8 million,” Stevenson says. “That is the number we are working to fill.”

The Raleigh project is big, but it’s just one of 27 that the Portland Housing Bureau has in the pipeline, according to PHB Director Kurt Creager. Many of those might now require more city funding.

“We budgeted many of these projects with a cushion, so a downdraft in the market doesn’t necessarily kill the deal,” Creager says. “It does mean we have to dig a little deeper.”

The largest of PHB’s incoming housing projects—a two-building, 379-unit development in Southwest Portland’s Riverplace neighborhood—is among those facing holes, Creager says. A spokesperson for BRIDGE Housing, which is developing the project, declined to go into specifics of a potential shortfall. The project is slated to add 203 affordable units.

Another 59-unit Northeast Portland project geared toward Native American residents is now planning for a gap of more than \$2 million, its backers say.

State officials are scrambling to piece together solutions. Oregon’s Housing and Community Services agency anticipates that 33 forthcoming affordable housing projects statewide might be a collective \$35 million short of necessary funds due to reduced interest in tax credits.

In response, officials called a special meeting on January 27, in which they considered several strategies to close the gaps—including putting tax credits earmarked for future projects toward papering over existing holes. Such a move might be unprecedented in Oregon, according to Housing and Community Services spokesperson Ariel Nelson.

“We haven’t done this before, and the agency is really just exploring ways to be responsive,” Nelson says.

How seriously Trump’s tax plan will ultimately affect affordable housing funding is an open question—partly because no one knows what the plan looks like. Even if the new administration follows through with campaign promises—slashing corporate taxes to 25, 20, or even 15 percent—Novogradac says he anticipates Congress would be willing to accept fixes that make housing an attractive investment again.

If there are such fixes, though, they’ll take time. That’s not something the Raleigh development has a lot of.

Stevenson is keen on getting the project underway in coming months, noting that construction costs are rising all the time. So are interest rates, which would make borrowing money in the future to close a funding gap more expensive.

And then there’s the actual land Innovative Housing plans to build on. The city purchased the quarter-acre plot from Hoyt Street Properties for \$1.3 million in 2015. But there was a catch to the deal [PDF]: If construction doesn’t commence building on the plot within three years of the sale, the city has to sell the land back.

“I have that [date] sort of printed on the inside of my eyelids,” Creager says. Then, talking about the nature of housing projects generally, he adds: “This is like a constantly evolving Rubik’s cube where the colors on each side are always changing.”

## Hall Monitor: Cleaning the Baton

*By Dirk VanderHart  
February 1, 2017*

AFTER REPEAT outbursts at City Hall last week, I wrote online that Ted Wheeler’s honeymoon as mayor was over.

Wheeler’s office promptly pointed out something to me: The mayor’s actual honeymoon involved snowshoeing to the North Pole.

“An easy honeymoon was never a necessity,” I was told.

It’s an apt observation. It also doesn’t change the situation at hand. Weeks after Wheeler convened his first-ever Portland City Council meeting, attendees are already lobbing profanities and shoe-horning testimony about heavy-handed policing into council items about, say, technology projects.

It turns out the baton former Mayor Charlie Hales passed to Wheeler wasn’t magically wiped clean in transit. Instead, from the earliest days of his administration, it looks as though Wheeler’s also going to grapple with a combative band of council attendees sensitive to any misstep they perceive in the mayor’s governance style.

“You screw around one minute, and we will shut you down every week!” council chambers mainstay Joe Walsh screamed at Wheeler during the January 25 meeting. “You’re a tyrant just like Charlie!”

Those aren’t empty threats, of course. Wheeler was forced to recess last week’s meeting twice because of disruptions—including a symbolic funeral for a baby found stillborn in the arms of a homeless mother earlier this year.

That might mean Wheeler and the rest of city council are in for a long four years. But there are signs of hope, too.

First, Wheeler isn’t as guarded as Hales was. As a contingent of demonstrators occupied council chambers last week after shutting down the meeting, Wheeler made a solo appearance to suggest a deal: He’d meet with them to address concerns after the council meeting, if they’d allow it to go forward. Otherwise, he’d have cops clear the chambers.

It worked, sort of. Sure, there were more outbursts, but when Wheeler did meet the skeptical crowd—which pressed him on police overreactions, help for the homeless, and more—most seemed impressed by this new mayor’s openness.

There’s also a non-Wheeler force who might have a positive effect on council meetings going forward: new Commissioner Chloe Eudaly.

Eudaly, remember, comes to office fresh from a role as a renters’ rights activist. Now that she wields considerable power, she’s bringing that sensibility to bear with promising results.

Last week, for instance, audience members became upset at an item that would improve roadways near new developments in Northwest Portland. Officials said the fixes would be great for bikes and runners. People in the crowd wondered why the cash wasn’t instead going toward homelessness—or at least to the needier east side.

Eudaly swooped in, spurring helpful clarity that the roads money couldn’t just be shunted to housing. Then she calmed the crowd by acknowledging something: Their concerns were valid.

“When we’re in the middle of a housing emergency and we have thousands of people on the street,” she said, “talking about making a street safer for people who run marathons is going to incite the type of response we saw here today.”

To which activist Jessie Sponberg, who’d been laying into Wheeler all morning, responded: “We love you, Chloe!”