

## **The Oregonian**

### **Portland landlords file lawsuit against the city over new housing rule**

*By Jessica Floum  
February 6, 2017*

Two Portland property owners on Monday made good on their promise to sue the City of Portland over a new policy that requires landlords to pay relocation assistance to tenants, arguing the rule violates both state and federal law.

Introduced by housing advocate and new Commissioner Chloe Eudaly, the rule requires landlords to pay from \$2,900 to \$4,500 to tenants they evict without cause, who are not offered lease renewal or who move after the landlord raises the rent by 10 percent or more in one year.

The lawsuit argues the rule conflicts with Oregon state laws prohibiting rent control and allowing no-cause evictions by "effectively" controlling the rent and "imposing significant financial burdens" on landlords. It also argued that the law's application to existing leases violates Oregon contract law.

Attorney John DiLorenzo is representing property owners Phillip E. Owen and Michael L. Feves. DiLorenzo has sued the City of Portland at least seven times, including in a recent case over misspent utility money that lasted more than five years and where DiLorenzo prevailed on about \$13 million worth of claims.

## **The Portland Tribune**

### **Smart transportation technology will require smart financing**

*By Jim Redden  
February 7, 2017*

Getting around the Portland region in the future will be much easier, much safer and much more environmentally responsible — if we can only figure out how to pay for it.

That was the message from a panel of experts on so-called Smart City transportation alternatives who appeared before the Westside Economic Alliance on Jan. 26. They told the economic development advocates from Washington and western Clackamas counties that emerging technologies hold the promise for fixing our congested roads and incomplete transit systems.

"Technologies open up options for looking at things differently," said Wilfred Pinfeld, CEO of Urban Systems Inc., who predicted that today's cars will be replaced by internet-connected, self-driving electric vehicles that will allow parking garages to be torn down for higher density developments.

But in response to a question from an audience member, Pinfeld admitted the costs and funding sources for such a complete transformation are unknown. He does not believe governments will pay for all of it, however.

"There are a lot of interesting financing models, but I don't think it will be a tax thing," Pinfold said.

One apparent option is advertising. Last week, Mayor Ted Wheeler and Commissioner Dan Saltzman announced that Portland is working with the private company CIVIQ Smartscales to provide internet-based multimodal transit information and other communication services throughout Portland. The project, which has yet to be finalized, will include a network of outdoor communication structures that also will be used for advertising to subsidize the cost.

"I'm very happy with the partnership with CIVIQ. It will make it easier for residents, especially those in East Portland, to get vital information about all their transportation options," said Saltzman, who is in charge of the Portland Bureau of Transportation.

The other two panelists at the breakfast forum were Skip Newberry, president and CEO of the Technology Association of Oregon, and Sara Stiles, public-sector account executive at Intel. They and Pinfold agreed that no matter how futuristic such ideas seem, pilot projects to prove they can work currently are underway in many cities around the world, including Portland.

According to Newberry, Portland also is working with TriMet on EBMobilePDX, a project to help people reach and finish trips on the transit system without using single-passenger cars. The idea was originally proposed in a U.S. Department of Transportation grant application that Portland failed to get, but is continuing to be researched anyway.

The panelists said such projects are part of building Smart Cities.

"What does 'Smart Cities' mean? It means cities that operate in ubiquitous and connected technologies, that focuses on data and communicating with residents, to improve the quality of life and government services," Newberry said.

According to Newberry, such research has started out focused on transportation problems in metropolitan areas because they are so severe. But he predicts it will expand to include all aspects of life in ways that cannot be foreseen now.

"Even the companies developing the technologies don't know what the next five years will bring," Newberry said.

Stiles said Intel is partnering with BMW on self-driving — or autonomous — cars, a technology that will be much safer than people driving themselves.

"As someone who drives to Seattle from Hillsboro a lot, I can't wait for autonomous cars," Stiles said.

At the same time, Stiles cautioned that right now, some of the technologies seem to be "solutions looking for problems."

Still, to many in the room, the ideas seemed a distant dream. Before sitting down for breakfast, many of the local elected officials and business leaders who gathered at the Embassy Suites Hotel in Tigard were talking about whether the 2017 Oregon Legislature would pass a transportation funding package to better maintain the region's roads and bridges. Some wondered whether the new Trump administration would increase the local match needed to receive federal highway and transit funds, making it even harder to increase their capacities.

And when some of the members hadn't shown up as the panel discussion was starting, WEA President Mike Morey said he assumed they were stuck in traffic.

# Suit says no-cause eviction policy is illegal

*By Jim Redden  
February 6, 2017*

Landlords were always going to challenge anything the City Council did to limit rent increases and no-cause evictions.

So it was no surprise that landlord lobbyist and attorney John DiLorenzo filed suit to block the newly approved tenant relocation payment requirement on Monday. It was filed on behalf of two small Portland landlords and claims the ordinance enacted Thursday violates the statewide ban on local rent control measures, among other things.

You can read the suit [here](#).

The bigger surprise was that new Commissioner Chloe Eudaly proposed that measure instead of the rent freeze platform she ran on last year. In her upstart campaign against incumbent Steve Novick, Eudaly repeatedly said she would introduce a measure to immediately freeze rents under the Housing State of Emergency previously declared by the council. Novick opposed it, arguing it was prohibited by the existing statewide ban against local rent control measures and would decrease the supply of new housing.

Even though voters backed Eudaly over Novick by a surprisingly wide margin, she quickly backed off the rent freeze proposal after the City Attorney's Office told her it was illegal and she realized the rest of the council was against it. But although some of Eudaly's supporters were disappointed and criticized her on social media, she had an alternative.

In response to a question from Oregon House Speaker Tina Kotek, D-Portland, the Legislative Council issued an opinion last year saying local governments can legally require landlords to pay relocation costs for tenants evicted for no stated fault of their own.

So barely a month in office, last Thursday Eudaly convinced the council to unanimously approve a new policy requiring landlords to pay relocation costs ranging from \$2,900 to \$4,500 to tenants subject to no-cause evictions. The payments also apply to tenants who chose to move if their rent is raised 10 percent or more in 12 months.

"I've been living and breathing affordable housing and tenants rights issues for the past two years," Eudaly said of the measure. "It's what inspired me to run for City Council and in no small part why I was elected, because the fact is that the majority of Portlanders support rent stabilization and tenants' protections."

Despite the legislative council opinion, DiLorenzo argues the policy is illegal. He believes the requirement will effectively end no-cause evictions, creating a de facto form of rent control prohibited by the statewide ban.

In addition, because the requirement applies to existing landlord-tenant agreement and no-cause evictions issued within the past 89 days, DiLorenzo says it illegally interferes with existing contracts.

And DiLorenzo also argues it will have unintended consequences, including prompting landlords to raise rents to cover the relocation costs.

DiLorenzo filed the suit in Multnomah County Circuit Court as soon as he could after getting his hands on the final, amended version of the ordinance. It asks the court to block the policy from taking effect, and believes it could be heard within 15 days.

But the case might not be resolved before the 2017 Oregon Legislature renders it moot. Kotek has introduced a bill to repeal the statewide rental control ban, which the council and affordable housing advocates support. Landlords oppose it, including the Multifamily Northwest organization, which DiLorenzo represents.

Even if that happens, the new policy may be revised before too long, anyway. It expires in October when the current Housing State of Emergency declared by the council expires, unless it is extended. And despite the unanimous vote, the council admits it might create problems that need to be addressed. In response to a proposal from Commissioner Nick Fish, a work group of landlords, tenants and others will be formed to evaluate how the policy works and propose any improvements.

Depending on how much leeway the Legislature gives the council, restrictions on evictions can get even more complicated. The landlord-tenant laws in Seattle are a good example. There, the city has defined 18 reasons landlords can legally evict tenants. They range from repeated late rent payments to seriously damaging property and engaging in criminal behavior. If the landlords do not notify tenants of the reason or reasons they are being evicted, the city can impose a civil penalty of up to \$2,500 and the tenants can sue them for up to \$3,000, including costs and moving fees.

Perhaps surprisingly, Seattle landlords can legally evict tenants if they have obtained permits for major renovations. Such renovation projects are thought to be a major cause of the no-cause evictions in Portland that will require the payment of relocation costs.

## **Willamette Week**

### **Landlords Will Ask Judge to Halt New Portland Rules Making Them Pay Tenants' Moving Costs**

*By Rachel Monahan  
February 6, 2017*

Two landlords filed suit Monday over City Hall's new requirement that Portland landlords pay tenants' moving costs in cases where they evict for no cause or raise the rent by 10 percent within a single 12-month period.

Later this week, the landlords will also be seeking an injunction to halt the law from going into effect, says attorney John DiLorenzo, who brought the suit on behalf of two city landlords, Phillip E. Owen and Michael Feves.

"We believe the City Council has exceeded the City's home rule authority in enacting this ordinance," says DiLorenzo in statement. "We also believe Council members have not contemplated many negative consequences of this ordinance that will now, unfortunately, affect the community."

Commissioner Chloe Eudaly and Mayor Ted Wheeler, both of whom are new to council and ran on platforms of protecting Portland tenants, sponsored the city legislation.

It was approved unanimously on Thursday and enacted through an emergency ordinance, meaning it took effect immediately.

The rule includes exemptions for landlords who own only a single rental property, those who are returning to their own home after three years of absence or less, and week-to-week rentals.

## The Portland Mercury

### Portland Landlords Just Sued to Kill New Renter Protections

*By Dirk VanderHart*

*February 6, 2017*

As promised, Portland landlords are attempting to dismantle brand new renter protections Portland City Council adopted unanimously last week at the urging of City Commissioner Chloe Eudaly and Mayor Ted Wheeler. Now, a court battle housing activists have been itching for for months is fast approaching.

In a complaint filed earlier today [PDF], two local landlords, Phillip Owen and Michael Feves, are asking a judge to declare the city's new law unlawful and put a stop to it. The landlords say the protections violate Oregon law, the state and US constitutions, and the city's own rules.

A quick reminder: The law council put into effect last week forces landlords to pay between \$2,900 and \$4,500 in relocation costs when they hike rents by 10 percent or evict tenants without cause. There are exemptions for week-to-week rentals, landlords that manage only one unit, and landlords who live with their tenants.

The new law has been pushed hard by renters' rights advocates, but is detested by landlords, who argued repeatedly last week it would spiral into a series of hellish unintended consequences—like creepy tenants who harass children being allowed to stay in their place, and landlords allowing buildings to languish.

The lawsuit takes a different tack. As expected, landlords' attorney John DiLorenzo argues in the suit that penalizing landlords for a rent hike amounts to rent control, which is preempted by state law. And he says landlords like Owen and Feves are less able to protect their "responsible" tenants under the law, since they'll now want to avoid no-cause evictions.

"By requiring the payment of significant penalty amounts for relocation assistance, the Ordinance conflicts with paramount state law as follows: (a) by effectively controlling the rent that may be charged for a dwelling... and (b) by substantially burdening and preventing landlords' ability to use no-cause terminations to promote tenant welfare and safety," the suit reads.

It says the two landlords suing the city want to continue to "adjust rent prices to mark them to the market," use no-cause evictions "to remove problem tenants," and choose not to renew expiring leases (which is treated the same as a no-cause eviction under the new law).

DiLorenzo in the past has acknowledged problematic occurrences under the existing system—including Northeast Portland's Normandy Apartments, where tenants were hit recently with 100 percent rent increase—but says the city should have tailored its law to those extreme circumstances.

Some additional claims:

- that the new law violates the state and federal constitutions, because it applies to existing leases, and so "unconstitutionally impairs contracts."
- that the law is "unduly oppressive" to landlords, and violates due process protections.
- that the city flouted its own procedures when, during last week's six-hour hearing, city commissioners came up with amendments to the proposal, but didn't specifically hammer out the language of those changes. DiLorenzo and his clients say that by allowing the City Attorney's Office to write the actual language of those changes, the city violated both its city code and its charter.

There's little surprising in the lawsuit, which landlords had assured the city they would file if council passed the new protections. A central question now will be whether the plaintiffs can win an order stopping the city from enforcing the law while the court case plays out.

DiLorenzo tells the Mercury he'll be filing a motion at some point soon to try and halt enforcement. That could happen a couple ways—either by the landlords filing for a temporary restraining order, which could halt the law for 10 days until a hearing on whether an injunction is warranted.

"The other process would just be to get an agreement with the city to maybe not enforce it until we had a hearing," DiLorenzo says. He notes, though, that it's unclear if there will be an appetite to go that route. "I don't think Commissioner Eudaly would be very happy about that," DiLorenzo says.