

The Oregonian

Editorial: Eudaly's Proposed Tenant Protections Miss the Mark

*By The Oregonian Editorial Board
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Portland's elected officials are doing their part to promote the \$652.8 million regional housing bond going to voters this November. They have contributed to the campaign, offered their heartfelt support in public meetings and signed on as official endorsers for the bond.

But if they really want to help get and keep families housed, they should focus on how their own policies stand in the way. Because regardless of the bond's success or failure, the duration and severity of this housing crisis hinge on whether leaders encourage the market as a whole to add more housing or quash it.

Unfortunately, a sweeping proposal being developed by Portland City Commissioner Chloe Eudaly falls squarely in the latter category.

Eudaly announced months ago that her office was looking at the process with which landlords screen potential tenants. The intent, policy director Jamey Duhamel told The Oregonian/OregonLive Editorial Board, is to ensure fair rental practices while helping needy renters, whose monthly income, criminal background, or credit history would typically turn off potential landlords.

The motivation seems understandable. The method, however, leaves much to be desired. Eudaly's eight-page proposal as currently drafted is heavy-handed, overly complicated and forces so much financial and legal risk onto landlords that many may opt to leave the rental business altogether. And the bigger question remains: How do these policies make housing any more affordable?

Among the many concerns in the latest version released: landlords aren't allowed to require that applicants show a monthly income of more than twice the monthly rent, even though three times monthly rent is more typical as assurance that a tenant can afford the payments.

Landlords must go through an extensive and confusing matrix of questions in evaluating whether an applicant's criminal history merits a denial. And landlords must issue a written explanation to tenants who are denied after being vetted. The "notice of denial" must detail the reasons for turning down the applicant and establish that they are "highly and substantially more probably to be true than not that the applicant as a tenant will adversely affect the substantial, legitimate, non-discriminatory interest of the landlord."

It's not just a daunting set of poorly-written requirements. It's also an invitation to rejected applicants to sue.

Duhamel said Eudaly's office is focusing on how to "fine-tune" the proposal, which is tentatively scheduled to go before the City Council next month, to ease the administrative burden. But the flaws in the policy aren't going to be fixed by fine-tuning. The problems are baked into the fundamental assumptions underlying the policy.

For example, the screening proposal seems to assert that the city - not landlords - should get to decide how much financial risk landlords should bear. Citizens have not and should not hand

over that kind of authority to city commissioners who believe their policy choices trump an individual's financial autonomy.

It also fails to consider that there are many landlords and affordable-housing groups that already accept tenants with criminal histories or credit problems. They do so not by following a rigid list of criteria but after considering the mix of tenants or other location-specific issues that make a tenant more suitable in one building than another.

And it neglects to address the underlying reason that people are struggling to find affordable places to live - a lack of housing on every income level caused by years of underbuilding. Instead, such onerous mandates on landlords - with limited ways to protect against the risk - could prompt some to drastically raise rent when units become vacant or take the property out of the rental market entirely.

Duhamel said that, in her opinion, only a handful of landlords would likely get out of the business altogether, dismissing "what if" concerns as "fearmongering." But she acknowledges the city has no data on how a previous policy - mandatory relocation assistance to tenants whose leases are not renewed - may have affected the rental market.

Others, who admittedly represent the landlord viewpoint, say it has definitely led to the loss of many rentals. Since the beginning of the year, 30 landlords who used the Garcia Group property management firm decided to sell their properties, owner Ron Garcia told The Oregonian/OregonLive Editorial Board. That's a tenth of the ownership portfolio, he said, and many of the properties were condos or single-family homes that likely went to buyers seeking to own, rather than rent, the property.

The region's housing crisis is real with thousands of homeless people living on the street and many more on the brink as wages don't keep pace with rent. But landlords' screening policies aren't the reason Portland is in a housing crisis. Leaders should focus on the true culprit - the need for more housing at all income levels - and make sure they don't unwittingly become an accomplice.

Further Reading (linked below)

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