



Portland Housing Bureau

Mayor Ted Wheeler • Interim Director Shannon Callahan

Rental Services Commission (RSC)

July 17, 2018

2:30 – 5:00 p.m.

Portland Housing Bureau, Suite 500

421 SW 6th Ave.

Portland, OR 97204

July 17, 2018 Meeting Minutes (approved)

- ✓ = RSC member action item
- ▶ = PHB staff member action item

Note: Meeting minutes are intended as a meeting summary that records the members present, all motions, resolutions, votes taken, and the general substance of any discussion. If a more detailed record is necessary, [full audio recordings of all RSC meetings are available online](#).

Members Present: Margot Black, Christian Bryant, Ian Davie Christina Dirks, Laura Golino de Lovato, Allen Hines, Jessica Greenlee, Katrina Holland (via phone), Yoni Kahn-Jochowitz, Michael Nuss, Leah Sykes

Members Excused/Absent: Deborah Imse and Raul Preciado-Mendez (both excused)

Staff Present: Jamey Duhamel, Stacy Jeffries, Andrés Oswill, Matthew Tschabold

All RSC meeting materials are archived on the website at <https://www.portlandoregon.gov/phb/76347>.

Agenda Item	Discussion Highlights	Outcomes / Next Steps
Call to Order, Roll Call, Minutes	<p>Christian Bryant, Co-Chair of the Rental Services Commission, called the meeting to order.</p> <p>Quorum was reached.</p> <p>Approval of the June meeting minutes was deferred to the August meeting, since not all commissioners had reviewed them.</p>	
Staff Update	<p>1:55 – 11:55</p> <p>Andrés Oswill referenced the RSC briefing he created as a high-level overview of policies and programs related to rental services.</p> <p>In response to a request for updates on the expungement pilot, Andrés informed the Commission that there are none at this time. Council has directed the Housing Bureau to develop the program, but steps have not yet been taken. The Bureau is treating this</p>	

	<p>project as a true pilot, and will clearly define what it hopes to accomplish and what performance indicators will be measured across the program to determine its success. Andrés turned the remainder of the update over to Matthew Tschabold, who gave an overview of legislation to add a rental registration requirement for the City of Portland.</p> <p>This will be a base registration requirement added to the 2018 business income tax return, due next year at the same time businesses file their taxes with the city. There will be no fee per unit and no penalty for non-compliance during the first year. During that year, the Mayor’s Office would like the Bureau—in cooperation with the RSC—to develop a policy framework for what the system should look like, what appropriate fee levels are, and what services should be matched with those fee levels.</p> <p>Matthew noted that the procurement process for software can take a long time, and that the Bureau is also considering doing something in-house, which can be quicker, depending on the requirements of the system. He can’t say at this point what kind of system we’ll have, or when it will be implemented, but the Mayor’s intention is to start applying some kind of per-unit fee for the 2019 tax filing due April 2020. (The Bureau will be using the Revenue Division’s tax filing system in the interim.)</p> <p>Katrina Holland asked if there would be any interface with Metro, and said they were looking at a registration system for the entire tri-county area. Matthew said we would engage with them to get a better sense of what they’re thinking.</p>	
<p>Security Deposit Action Items</p>	<p>11:56 – 38:30</p> <p>Andrés gave an update of where the Commission was in the process of discussing security deposits: There has been an initial hearing, a work session, and now the final hearing, which will be used to assess commissioners’ positions so that staff can determine what the opinions will be and begin drafting a letter to Council.</p> <p>The action item list commissioners have was developed during the work session and reviewed by the Rules and Bylaws Committee, with subsequent updates indicated. Andrés has also grouped the action items by topic. The action items were sent to Jamey Duhamel in Commissioner Eudaly’s office, and responses and feedback have been provided.</p> <p>Margot Black asked how additional changes could be introduced and incorporated.</p>	

Christian Bryant replied that we could incorporate last-minute changes into any letter submitted to Council, since letters are more than just majority opinion.

Yoni Kahn-Johnowitz pointed out that there is a review period for opinions drafted by PHB staff, during which additions and updates can be made, and that individual commission members can also write their own opinion letters if they feel their concerns are not addressed.

Andrés noted that, in terms of process moving forward, items brought up during the work session have a greater chance of being reviewed by the entire Commission and gaining broader support.

Andrés then moved on to an item-by-item overview of the current security deposit action items:

Security Deposit Amount

- Clarify what/who determines the length of time for paying in installments.
- Clarify “a month’s Rent” for the security deposit cap.
- Remove reference to first month’s rent. The security deposit cap should be determined by if prepaid rent for the last month is required. (*revised*)

Security Deposit Repairs

- Define structural and non-structural items.
- Clarify contiguous area for carpet.
- Define basic cleaning and filth.
- Modify the depreciation table to account for sub-standard appliances that won’t last 27 years. This could disproportionately impact low-income tenants. (*revised*)
- Modify requirements to avoid requiring landlords to maintain documents going back 27 years. (*revised*)
- Avoid requiring landlords to serve as their own collections agency. (*revised*)

Fair Housing Considerations

- Add to ordinary wear and tear, that it will include wear and tear caused by something related to a tenant's disability.
- Add that ordinary wear and tear for households with pets or children should include ordinary wear and tear for them.
- Avoid defining ordinary wear and tear excessively, which could potentially violate Fair Housing law. *(revised)*
- Clarify that damage related to a modification for a tenant's disability can be charged, but damage related to an accommodation for a tenant's disability cannot be charged.
- Add existing federal language about reasonable accommodations that relate to modifications vs accommodations for their effect on security deposit to maintain legal consistency.

Condition Reports

- Modify to allow landlords to conduct a condition report prior to move-in to assess the unit before possible move-in related damages. *(revised)*
- Modify Condition Reports to account for when property managers correct deficiencies identified in the move-in report.
- Add that the landlord shall provide a condition report to the tenant for them to complete, along with instructions describing the condition report process.
- Modify so that in the event a tenant does not complete a Condition Report, and the landlord completes the report, the landlord *shall* complete a Condition Report and provide a copy to the tenant. *(revised)*
- Add that a landlord shall give adequate notice to the tenant of when the final walk-through inspection will occur.

	<p>Further Changes</p> <ul style="list-style-type: none"> • Modify payment of interest from interest-bearing accounts should allow for the landlord to deduct account-associated fees or maintenance costs. 	
<p>Security Deposit Positions</p>	<p>38:34 – 1:46:25</p> <p>There was in-depth discussion of the security deposit action items. Jamey Duhamel, Commissioner Eudaly’s Director of Policy, was also present to answer questions and provide clarification</p> <p>(Discussion ended at 1:18:36)</p> <p>After discussion, Andrés polled the group about their perspective on each action item, including changes that were made as a result of today’s discussion and any concerns that remained. The results of the polling are as follows:</p> <p>Security Deposit Amount</p> <ol style="list-style-type: none"> 1. Clarify that months begin from the date a rental agreement is signed. In favor: 9 (Christina, Allen, Leah, Ian, Christian, Katrina, Laura, Margot, Jessica) Abstain: 2 (Yoni, Mike) 2. Modify installments to be paid in equal payment amounts. In favor: 5 (Leah, Ian, Christian, Laura, Jessica) Against: 2 (Christina, Katrina) Abstain: 4 (Mike, Margot, Yoni, Allen) 3. Clarify “contract Rent” for the security deposit cap. In favor: 4 (Margot, Christina, Allen, Laura, Against: 3 (Leah, Christian, Jessica – this is already defined well by the state, could be confusing regarding subsidy amount, could add difficulty for landlords with property in and out of the City.) Abstain: 4 (Mike, Yoni, Ian, Katrina) 	

	<p>Security Deposit Repairs</p> <p>4. Define structural and non-structural items. In favor: 11 (Christina, Allen, Leah, Ian, Christian, Katrina, Laura, Margot, Jessica, Yoni, Mike – different language like “fixture” could be used to define)</p> <p>The discussion of security deposit positions was interrupted to make time for public testimony.</p>	
<p>Public Testimony</p>	<p>1:46:25 – 1:54:48</p> <p>Sammy Black gave testimony on security deposits drawn from his experience as a renter (7 years in Portland and 15 years in Oregon). In his estimation, he and his family consistently leave properties in as good or better shape than when they moved in, and when they do cause damage, they are direct in reporting it. He says they have never gotten back the full security deposit, and in some instances, the difference between the amount they expected to get back and the amount they received was pronounced (more than \$2K in the most recent case). He expressed support for the proposed reforms to security deposit legislation. His specific area of concern is depreciation and the value of objects over time, noting that a 27-year depreciation table assumes that an item is reduced in value by the same amount every year, making it close to zero after 27 years. However, if 3.6% per year is used as the depreciation amount, after 27 years you’re left with more than 37% of the original value. The security deposit policy as it’s currently written describes exponential decay; if items are supposed to decrease in value by the same amount every year, that would be straight-line (as opposed to exponential) depreciation.</p> <p>Anthony Bencivengo (representing Portland Tenants United) gave testimony on his personal experience with security deposits as a college student, renting a house occupied by successive generations of college students. He says his landlord did not return the previous tenants’ security deposit, citing damage that the tenants claim was there when they moved in. Anthony noted this was problematic for working-class college students on financial aid or work study who don’t have a lot of extra cash. Anthony says he did a thorough walk-through of the house with the landlord when he moved in, and was able to secure a signed addendum to the lease, with photographs included, detailing damages. Another walk-through was done before recent tenants moved out, and only minor deductions were made from the security deposit, most of which was returned. Anthony stressed that it was important when considering the</p>	

	<p>elements of this law to focus on what will protect vulnerable groups like immigrant tenants, tenants with families, and tenants living on the margins in the most fragile economic situations.</p>	
<p>Security Deposit Positions Continued</p> <p><i>*Screening Criteria Presentation postponed until August 21st meeting due to time constraints</i></p>	<p>1:54:49 – 2:41:33</p> <p>Christian Bryant asked Andrés Oswill for clarification on process; specifically, he wanted to know how the Commission’s timeline would be impacted if the August 21st meeting was canceled.</p> <p>Andrés does not think the Commission would be able to submit a recommendation letter on screening criteria and security deposits before that policy goes to Council if the August meeting is canceled. At this point, the Commission will need to push the screening criteria presentation to the next meeting, since we’re running low on time and still only at the beginning of the security deposit action item list. Even with the August meeting, Andrés feels the timeline will be tight.</p> <p>The discussion regarding security deposit positions resumed, with the following results (concerns noted):</p> <p>Security Deposit Repairs (continued)</p> <ol style="list-style-type: none"> 5. Section B should apply to affordable housing providers who receive a public subsidy. In favor: 5 (Christina, Allen, Leah, Laura, Margot – concern that exempting private affordable housing providers could lead to misuse.) Abstain: 6 (Ian, Yoni, Katrina, Christian, Mike, Jessica – concern that providers, if not exempt, will raise their security deposits to the cap which might be higher than their current practices.) 6. Modify contiguous area to include flooring, not just carpet In favor: 5 (Christina, Allen, Laura, Mike, Katrina) Against: 4 (Leah, Christian, Mike, Jessica) Abstain: 2 (Yoni, Ian) 7. Define basic cleaning and filth. In favor: 5 (Christina, Allen, Katrina, Laura, Margot) Abstain: 6 (Leah, Yoni, Ian, Christian, Mike, Jessica) 	

	<p>8. Modify the depreciation table to depreciate faster than 27 years than certain items. In favor: 5 (Christina, Allen, Margot, Laura, Katrina – this accounts for sub-standard appliances that won't last 27 years. Depreciation should reflect the life of an item. A longer depreciation line could disproportionately impact low-income tenants.) Against: 2 (Jessica, Christian) Abstain: 3 (Ian, Leah, Mike)</p> <p>9. Remove requirements linking item's value to landlord's documentation of the item. In favor: 5 (Leah, Ian, Christian, Mike, Jessica – concern about what happens when the landlord did not purchase an item and was not given documentation by a previous owner. This law would effectively be a retroactive requirement.) Against: 4 (Christina, Allen, Margot, Katrina – the policy already allows assessing value by identifying comparable make and model items.) Abstain: 1 (Laura)</p> <p>10. Clarify depreciation should be along a straight line, and not exponential In favor: 10 (Christina, Allen, Leah, Ian, Christian, Katrina, Laura, Margot, Jessica, Mike)</p> <p>11. Modify the number of installment periods for damages to be decided by an amount, rather than tenant's timeline In favor: 4 (Leah, Christian, Mike, Jessica) Against: 6 (Christina, Allen, Ian, Katrina, Laura, Margot)</p> <p>Condition Reports</p> <p>12. Modify condition report process to allow a landlord to do an inspection prior to move-in to set a baseline or move-in related damage. In favor: 5 (Ian, Leah, Christian, Mike, Jessica) Abstain: 4 (Margot, Allen, Laura, Katrina)</p> <p>13. Remove "subsequently amended and initialed by the Tenant" and replace with "repaired by landlord during tenancy" In favor: 8 (Allen, Leah, Ian, Christian, Laura, Margot, Jessica, Mike) Abstain: 1 (Katrina)</p>	
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Next Steps	The discussion on security deposit positions ran significantly over time, leaving no time to discuss next steps.	
Good of the Order	The meeting was adjourned at 5:15 p.m.	