



Portland Housing Bureau

Mayor Ted Wheeler • Interim Director Shannon Callahan

Rental Services Commission (RSC)

September 28, 2018

2:30 – 5:00 p.m.

Portland Housing Bureau, Suite 500

421 SW 6th Ave.

Portland, OR 97204

September 28, 2018 Meeting Minutes (Approved)

Full audio recordings of all RSC meetings – as well as all documents discussed – are available on the PHB website here:

<https://www.portlandoregon.gov/phb/76570>.

Members Present: Margot Black, Ian Davie, Laura Golino de Lovato, Jessica Greenlee, Allen Hines, Katrina Holland, Deborah Imse, Yoni Kahn-Jochnowitz, Mike Nuss, Leah Sykes

Members Excused/Absent: (*excused*): Christian Bryant, Christina Dirks, Allen Hines, Raul Preciado Mendez

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

Agenda Item	Discussion Highlights	Outcomes / Next Steps
Call to Order, Roll Call, Minutes	Co-Chair Katrina Holland called the meeting to order. Quorum was reached.	
Staff Update	<u>0:40 – 2:00</u> Andrés gave an update on the regularly-scheduled meetings for October and November, informing the Commission that we would be looking at rescheduling both.	
Draft Update	<u>2:03 – 38:05</u> <u>2:03 – 5:22</u> Jamey Duhamel gave an update on the latest draft of the security deposit policy (dated September 27) , which she describes as still “actively in development.” She added that Commissioner Eudaly’s office is still in conversation with landlords, housing providers, and tenant advocates, and expressed their commitment to developing a policy that works for as many people as possible.	

Jamey stressed that the revision dated September 27 had not been vetted or thoroughly reviewed. It was proposed by industry representatives working through One App Oregon, with the goal of relieving what they see as administrative burdens posed by the [draft dated September 20](#).

5:22 – 12:40

Jamey gave an overview of key differences between the two policies, which focused largely on the individualized assessment, and how the September 27th draft aims to lessen some of the administrative burden created by this part of the policy.

13:40 – 28:26

Each commissioner gave an initial round of input regarding their concerns with the policy, which included:

- Income-to-rent ratio (2x v. 2.5x), with and without utilities
- Inclusion of written and oral supplemental documentation
- Choosing between guarantor and additional deposit
- Notice of denial that's a separate form, and not just part of credit history
- Length of verifiable family assistance (length of tenancy, v. 3 months)
- Applicants with no or low credit score

28:26 – 38:05

Yoni Kahn-Jochowitz offered comments on the Fair Housing Legal Regime and the HUD Criminal History Memo, reminding commissioners that it is illegal to have a blanket ban on criminal history, and that housing providers are required to consider a reasonable look-back period. He said that the disparate impact on Communities of Color created by criminal history was valid for credit history as well.

Mike Nuss suggested adding language that specifies “so long as applicant provides rental payment history” to deal with concerns over “no or low credit score.”

Leah Sykes suggested taking sections 2 – 5 and 8 out of the individualized assessment and putting them separately in another category specific to reasonable accommodation requests.

Public Testimony

41:40 – 1:21:27

Dan Hayes expressed his opposition to the proposed policy. He is chiefly concerned about the increased risk of litigation for those in property management. He believes the proposal will cause costs to go up for housing providers, which will be passed on to tenants with increased rents. He urged the authors of the policy to provide more flexibility for landlords with a set of screening criteria that allows them to mitigate risk. He also stressed the importance of training for both landlords and tenants, saying that educating both parties was necessary to support this legislation. In response to Ian Davies’ question about specific parts of the policy that would cause more litigation, Dan answered that owners will sue “for just about anything” if a property manager puts a tenant in a property and causes damage or doesn’t pay rent.

Ken Schriver is a member of the Board of the Rental Housing Alliance Oregon, but offered his personal perspective as a landlord. He addressed concerns about income-to-rent ratios, saying that tenants with lower incomes are always one crisis away from a missed rent payment. He says 2x – 2.5x rent is acceptable to him, but wouldn’t be acceptable to many of his colleagues. He suggests a ratio of 2.5x base rent. He says he could live with all of the standards *except* no or low credit score – he thinks this needs more work. As currently written, screening fee can’t exceed 10% of the average professional screening rate, so he would be able to pass on the cost of a \$35 fee from an outside screening service, but not charge more than \$3.50 if he did it himself. He says that number should be 110%.

Linzy Quevner, a tenant at the Wimbledon, offered testimony from the tenant perspective. After the landlord of the house she had rented for 15 years passed away, she put down a \$150 deposit to hold the apartment she wanted. She met the income-to-rent ratio and was told there wouldn’t be a problem. She was then told she would have to have a co-signer with a score of 700 or better and an income four times her rent, due to \$700 of credit card debt from six years ago. She was also told that the doctor’s note she had provided for her service dog wasn’t adequate documentation, and was asked to put down a deposit that would be returned once the correct paperwork was received. The management still hasn’t sent her doctor the documentation they say they require, so now she’s paying pet rent for a service animal. She asked how landlords and property managers could be held accountable, stressing that we can’t all spend our time getting a lawyer.

Roz Roseman voiced her appreciation for the new draft, and said she would like to achieve equity goals without increasing the administrative burden on landlords. She said this burden would put landlords like her – with one or two units – out of the rental business. She feels that having government impose rules she describes as “onerous” will not increase the housing supply. The income and reference portions of the policy in particular strike her as too high-risk for landlords like her, and she is concerned that this path to equitable housing could actually increase the housing shortage.

James Wallace, who described himself as a small housing provider with ten single-family homes, says he’s shocked by the content of the proposed policy, and feels he won’t be able to do business in Portland under the stated criteria. He says the potential for litigation would be a minefield, and says it would put him out of

business. He sees his choices as either hiring a property management group – which will charge more than he’s charging now and force him to raise rents – or hiring a lawyer to back him up every time he processes an application. He says he rarely has issues with tenants, and wants to know when regular landlord-tenant law became unworkable. He says he sees “rewards for bad behavior” in this policy, and warned that there would be no single-family homes for rent in 2 – 3 years, because small providers won’t be able to function under this policy, but corporate owners will.

Joan Jones is a member of the Oregon Rental Alliance and has been a landlord for 44 years. She had questions and concerns in particular about the section on advertising vacant units, saying she’s always just advertised until the units were rented, and doesn’t see the need to require opening and closing dates. Jamey Duhamel assured her that the language specifying a closing date will be removed from the policy.

Alex Hofmann described himself as a “mom and pop” housing provider; he and his wife have an ownership interest in two rental homes. He expressed frustration that landlords are being cast as the bad guys in the current housing crisis. He has concerns about taking on tenants whose income is insufficient to cover the rent, and asked how landlords were supposed to verify payment histories provided by prospective tenants. He urged legislators to look for bolder solutions, such as having the city screen and create a pool of pre-qualified tenants that landlords could draw from, or providing an insurance policy for small landlords who make a good-faith effort to provide housing for tenants who are underqualified, so that if that one crisis happens, the rent still gets paid. He says the risk should be shared in a public-private partnership.

Becky Straus is a staff attorney with the Oregon Law Center, which provides free legal services to low-income Oregonians. She describes many of their clients as struggling low-income tenants, and says they will benefit from addressing security deposits and screening criteria. She says their clients face barriers from what she considers unfairly strict screening criteria. She has concerns that landlords will develop a blanket ban for criminal history in the absence of the individualized assessment piece of the policy, and reminded those present that such bans are a violation of the Fair Housing Act. She wants to focus on the language of the individualized assessment; specifically, she wants to make sure landlords provide a reason that the adverse piece of the application will harm their legitimate business interest.

Andrés Oswill read email testimony from Mark and Becky Chasse, who describe themselves as small Portland landlords. They see efforts around the proposed policy as misdirected, and caution that such legislation could make the housing crisis worse. One of them is a lawyer and the other a CPA, and their chief concern is that if new regulations are too difficult for them to navigate, then the majority of small Portland landlords will be facing serious obstacles, and will ultimately sell their few rental houses. The Chasses urged legislators to wait for the market to provide more affordability, for the vacant apartments that are currently under construction to be absorbed, and for the implementation of affordable housing ballot measures.

	<p>Katrina Holland addressed some of the issues brought up during public testimony concerning rent-burdened tenants and the disparate effect this situation has on Communities of Color.</p>	
<p>Further discussion on proposal (Commissioners' positions on policy)</p>	<p><u>1:21:27 – 2:13:04</u></p> <p>Commissioners engaged in a second round of discussion, voicing concerns about the following elements of the policy:</p> <ul style="list-style-type: none"> • Tightening the definition of “first-come, first-served” to include electronic v. regular mail, etc. • Income standards / 2X income-to-rent ratio • Additional deposit v. cosigner (tenant choice; amount of deposit) • Regarding convictions for crimes that are no longer illegal – a list should be provided; otherwise, you’re expecting landlords to act as attorneys • Examples of supplemental evidence for the individualized assessment section • Standardized screening criteria as written – still room for subjective, reactionary decision-making • Rental references: require landlords to give them without requiring 30-day notice from tenant • Effect of policy on screening fees • G(a)(9) and (10) (adverse accounts under \$1000 and property debt under \$500) – life events can easily propel tenants past those thresholds • Complexity of the housing crisis in Portland: affordability; stock; discrimination – How can we adjust industry norms to be more equitable? • How all of this ties in to the coordinated access system <p>Matthew Tschabold clarified that the Housing Bureau is aware of issues regarding coordinated access and preferences that some affordable housing providers have for priority communities (veterans, homeless individuals, families, etc.), and will be working on some language to submit to Commissioner Eudaly’s office.</p> <p>Jessica Greenlee responded to concerns about the policy’s effect on screening fees. She said her conversations with screening companies regarding the previous version of the policy revealed the two main cost drivers to be the individualized assessment and verifying release dates for criminal history. Since the volume of</p>	

	<p>individualized assessments would go down under this new version, she would expect the cost increase to be far less.</p> <p>Jamey Duhamel confirmed that screening companies who were consulted about the new version of the policy said fee increases would be far less than under the previous version.</p> <p>Margot Black wanted to verify that landlords who use standardized screening criteria would have to consider supplemental evidence from a prospective tenant if that evidence were submitted at the time of application (in effect triggering an individualized assessment); and Jamey Duhamel confirmed this was the case.</p>	
Wrap-up and next steps	<p><u>2:13:04 – 2:22:43</u></p> <p>Jamey Duhamel informed the Commission that a hearing on screening criteria and security deposits would <i>not</i> be held on October 18th as originally scheduled. At this point, a new date has not been set. She said she has been struggling to keep up with the volume of action items and matrix feedback requested from the Commission, and relayed concerns from Commissioner Eudaly that she is starting to feel beholden to the RSC’s timeline. Jamey suggested having a conversation about how both parties can better coordinate work on these policies moving forward.</p> <p>Mike Nuss asked that Commissioner Eudaly keep in mind that there is a process the Commission has to go through in order to provide feedback to Council, and that the Commission would be grateful if that process were taken into account once there is a final draft and a date has been set.</p>	
Good of the Order	<p>Co-Chair Katrina Holland adjourned the meeting at 5:01 pm.</p> <p>Next meeting: October 16, 2018</p>	