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1 February 2016

House Committee on Human Services

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To: Chair Keny-Guyer and members of the House Committee on Human Services and Housing

RE: Testimony regarding HB4001

Dear Chair Keny-Guyer and Members of the House Committee on Human Services and Housing,

Thank you for taking the time to read my testimony.

Introduction

My name is Clifford Hockley and I am the President of Bluestone & Hockley Real Estate Services, a property management company that manages properties from Portland down the I-5 corridor to Salem, Oregon. We manage single-family homes, apartments, condominiums, condominium associations and commercial properties and have been in business since 1972. We manage about 330 properties for 250 clients of which 150 own rental houses or condominiums and 30 own apartment properties. The balance is made up of condominium associations and commercial properties. I have been with Bluestone & Hockley for 29 years.

Increased development cost structure

In that time we have seen rents fluctuate up and down. Typically high rents are a response to lack of rental supply. New construction and the cost of building new properties tends to be more expensive due to higher labor and material costs, updated codes and the high cost of land. Additionally, depending on the economic cycle we are in, the cost of land increases exponentially due to the urban growth boundaries.

As new apartments enter the market, older apartments tend to be upgraded in order to compete. To offset the cost of the upgrading, rents increase as well. As Oregon, specifically Portland's economy has rebounded and many new people have moved to the Portland Metro area to fill new jobs, there have been housing shortages that have created significant demand, which exceed the existing supply. Apartment developers have responded to the demand by building new units. These units are expensive to build, especially as you go up.



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The Bill proposes

- **HB 4001** matches Portland's 90 day rent increase notice requirement (and the reasons for the increase) and adds the requirement that a 90 day notice be given for termination of tenancy after the first year of occupancy.
- Additionally it requires that Landlords pay the tenant relocation assistance of one month's rent at the delivery of the termination notice.
- Creates the presumption of retaliatory actions between landlord and tenant within 6 months after a tenant's report regarding maintenance.
- Adds new language regarding unreasonable harassment of a tenant by a landlord (not defined).

Focused response

- Ninety day (90 day) notices give tenants more notice to move out than the present 30 or 60 day notices, allowing them to assemble more funds to move. Landlords do not get 90 day notices from tenants to prepare for tenant move outs.
- Asking the landlord to pay for the tenant's to move seems an extreme position for the legislature to take. Landlords need to make 12 monthly mortgage payments. They need 12 months of income to pay the bills that rental property creates.

Landlords typically pay for property maintenance, advertising, property cleaning, landscaping, water, sewer, storm water, property taxes, property insurance, earthquake insurance, onsite property management, and off site property management. Landlords also need to maintain a reserve for capital improvements, like painting, tuck pointing, and asphalt repairs and replacement, roof repairs and replacement, carpeting and blind replacement. **Tenants do wear out properties.**

Landlords must invest a significant amount of money when tenants move; it can cost up to a month's rent to clean and paint a unit and there is a vacancy loss as the landlord goes into the marketplace to replace the tenant that has moved out.

Most landlords make between 5-10% return on their investment. Taking month's free rent out of the income stream means no return to a landlord. *For example, if a rental house rents for \$1200 a month or \$14,400 a year, typical operating expenses are 40% a year and mortgage payments are 45% a year, the landlord ends up with an annual 5% profit of \$725. Asking a landlord to pay \$1200 towards the move out of a tenant does not make economic sense.* If this section were to be adopted, landlords with existing tenants would need to be grandfathered in so they can be financially prepared if this law requires them to pay for tenant relocation. Additionally, legislators would need to be prepared for rents to increase even more to take into consideration the additional financial burden the relocation reimbursement would cause.

- Additionally having a landlord pay a tenant one month's rent is taxable as income. The IRS and the State of Oregon will want to tax it at the tenant's tax rate and the landlord will need to send



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tenants a 1099. According to Eileen Day, CPA for Holmes & Company LLP, in addition to the administrative burden of issuing a 1099, other issues that could arise for the landlord are:

- Requirements to secure and maintain a Form W-9 prior to payment to the tenant
- Requirements to timely make and report withholdings
- Additional correspondence with the tenant in the event an incorrect taxpayer identification number is provided ("B" Notices) – the landlord may not receive a CP2100 or CP2100A Notice – and therefore have a "B" Notice requirement that may not be known until more than one year after the payment.
- Adherence to Oregon unclaimed property rules

An issue that could arise for the tenant would be, if the tenant does not request any withholdings on the amount received, the tenant may incur an unplanned tax bill when filing their return.

Passing a law that rebates tenants one month's rent will significantly reduce the number of investors interested in maintaining rental housing (which we desperately need). This is not the goal the legislature is trying to accomplish.

- This bill requires the landlord to pay for moving expenses at the end of almost all rentals (with the exception of when a tenant gives notice), since it requires the landlord to give a 90 day notice at the end of a 1 year lease contract, and it calls for rental reimbursement at the end of all 90 day notices. If I were a tenant I would wait for a landlord to give me notice so they can help pay me to move.

As Tim Duy, Economic professor at the University of Oregon pointed out in a June 9, 2015 Willamette Week Article:

"Has rent control really been effective at solving their problems? No. You think you're helping people, but you are constraining the stock of affordable housing, creating more demand that increases the rents even more".

<http://www.wweek.com/portland/article-24870-the-5-myths-about-portland-apartments.html>

Finally, interpretation of the language regarding harassment and retaliation is ambiguous. The interpretation lies in the eye of the beholder. It is impossible to gauge harassment and retaliation and it gives tenants a free pass to penalize landlords.

Bluestone & Hockley has had cases of tenants intentionally damaging their units (and then reporting it to city inspectors) in an effort to delay move out. In this way, tenants harass their landlords and neighbors. This language does not preserve housing stock, or even protect tenants. It is a weapon tenants can use against landlords. The Portland 90 day notice process is a reasonable approach for asking tenants to leave or increase their rent.



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As Professor Tim Duy pointed out, rent control is not the answer to creating affordable housing stock. Flexibility with zoning, reduction of system development fees and increasing the urban growth zones will reduce the cost of housing construction, much like the next downturn in the economy will. Development is a healthy process and making a profit with new development is critical to allowing the removal of old out of date structures. The building of new structures that increase the quality of housing stock will grind to a halt with the adoption of rent control regulations envisioned in this new law.

Sincerely,

Bluestone & Hockley Real Estate Services

Clifford A. Hockley
President



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