

Rosenberg Corey

From: Brian Cox <bcox@coxassociates.info>
Sent: Tuesday, May 02, 2017 12:31 PM
To: SHS Exhibits
Subject: Testimony re: HB 2004-A

Dear Committee-Members:

How bad do we have to make our housing market before the legislature recognizes it can't legislate an economic fix on the backs of landlords? How many unfunded mandates do you suppose Oregonians can tolerate? My landlord clients are terrified of this bill – the economic consequences that could wipe out profits for small landlords - with most [ironically] giving reasons for their concern that benefit tenants [notwithstanding rhetoric to the contrary]. If you want to do one single thing to drive mom and pop property owners out of the market [currently a significant portion of the market representing the retirement savings for a significant number of Oregonians] and create an even tighter housing market for tenants, keep adding restrictions and fees such as those proposed in HB 4002-A. I'm already seeing landlords selling units to avoid the possible effects of passage.

I write you with a very real sense of urgency to address recently-proposed changes to Oregon's *Residential Landlord and Tenant Act*, with the hope that my perspective - gained from years (decades) of experience as a tenant's lawyer, a landlord's lawyer, a property manager's lawyer, and as a residential and commercial landlord - allows the alarm in my message to be heard. Operating on the knowledge that landlords own property to make money by renting to tenants and that, therefore, landlords WANT to rent to tenants, I also accept that removing no-cause termination notices and imposing rent control are both designed to benefit Oregonian's who rent or lease their housing. Unfortunately - as is often the case - both propositions carry a *very high* likelihood of creating unintended consequences working against the interests of the very Oregonians they are designed to serve. Please allow me to explain these unintended but easily-foreseeable (and -avoidable) consequences:

Reduction of Rental Inventory: with 27 years of daily experience with landlord-tenant law in Oregon, I've noticed a very substantial 'up-tick' in/after the last 2-3 legislative cycles in the number of small rental property owners who no longer want to be landlords and sell their properties, with the predictable outcome that many of these properties come out of the rental inventory, and - by far - the greatest impact falling on the vast majority of small property owners (vs. mega-landlords). As an attorney, a landlord and a property owner and manager, I hear the same answers explaining this choice: the dual specter of rent control and the loss of owner management of their own properties created by the elimination of no-cause eviction notices. As a rental property purchaser (and lawyer routinely handling these transactions), I note the diminishing inventory of available rental property for purchase, with a notable shift to 'mega-landlord' properties.

Rent Control: The specter of rent control first arose with the legislative changes eliminating rent increases after the first year of tenancy and then allowing rent increases only after 90 days' notice, and more recently in Portland, as an outright cap on rent increases. After holding rents steady during the recent years of a 'stale' market' throughout Oregon, many landlords either sold their property and left the market or are for the first time raising their rents, only to be met with legislative-imposed financial disincentives to owning residential rental property. Though rent control is emotionally-popular (and populist), rent control makes little economic sense. From Nobel-prize winning economists to tenant advocate leaders themselves, rent control has proven to be a failure and actually detrimental to tenants as well as landlords. Touting an unproven 'new and improved version' of rent control does nothing to allay these concerns. To say that profitability has gone down for most small landlords - remembering those 'small' landlords represent the vast majority of the Oregon housing market

- is almost as much an understatement as it is to say that those same class of owners are leaving the market in droves.

'Rebound' Rent Increases: If current legislation limiting rent increases to 5% per year is passed, this will effectively guarantee that all landlords will automatically raise rents by the full 5% per year out of fear that if they don't increase rent this year, they won't be able to raise rent as much as they need to next year, regardless of actual market conditions. In my personal experience - that increase will exceed my customary annual increases, but will be necessary to 'hedge' against the cap. There will also be concerns that landlords will not be able to cover the cost of doing business and so will speculatively raise rents in advance to meet their costs. My recollection is that EVERY client and owner I've spoken with since the inception of this bill expressed their perceived need and intention to maximize increases if this legislation is passed 'just in case.'

Early Termination of Tenancies: With the recent imposition of the 90-day rent increase requirement, many owners are asking tenants to leave before the 1st year of tenancy is up to avoid this requirement. Worse than that, many owners and managers are stating that they are no longer willing to take a risk on an applicant that has 'iffy' credit or no rental history. This, too, is a sentiment expressed by a substantial number of my clients and property owners. As a result, many of Oregon's most needy tenants who could previously find housing now can't.

Conversion To Leases: Lacking the availability of 'no-cause eviction notices, landlords will very likely shift to leases, as converting to 'lease only' will allow landlords to both raise rents on and 'lock in' their new/incoming tenants. Tenants will be locked into leases and lose their ability to move on a relatively-short notice until their lease term ends or converts to a month-to-month tenancy. Many tenants - believing they can move whenever they want - will become 'disqualified' for future tenancies once they move early and breach their lease (often, on the mistaken belief that security deposit is the landlord's only recourse).

Degrading Tenant Quality of Life: As many forms of unacceptable, disruptive, harassing or even stalking behavior are hard to prove, landlords often use 'no cause' termination notices to enhance and protect our tenants' livability of their rental properties. These notices are especially helpful when the 'offending' party isn't clearly violating the rental agreement, but they are still creating a serious livability issue for the other tenants. Removing 'no cause' notices removes this relatively-innocuous tool, leaving innocent tenants 'locked in' to neighboring tenants who play their music late at night (hard to prove / enforce), deal drugs (hard to prove / enforce - even when observing scores of five-minute 'visits'), verbally harass or terrorize their neighbors (hard to prove / enforce), or engage in other forms of unacceptable activity that may prove hard to establish in court but which create very negative consequences to neighboring tenants.

More 'Disqualified' Tenants: Currently, many tenant problems are addressed by issuing an 'offending' tenant a no-cause termination notice. Often, this approach serves neighboring tenants adversely affected by the 'offending' tenant who do not want to make reports out of fear of retaliation by the 'offending' neighbor. Sometimes, these notices are given to avoid retaliation against the landlord or landlord's family. Often, a 'no-cause' termination notice is issued as a 'gentler' way to move a tenant without adversely affecting their future ability to obtain housing, much more so if the tenant receives public assistance for their housing (to avoid the tenant's loss of public benefit that typically occurs when evicted 'for cause').

I - like most 'small' landlords - make very little profit income from my rental properties, instead choosing to keep my rent low and in line with market rent in the community, hoping to utilize the tax benefits of ownership, while waiting/hoping for a source of retirement income once our rental properties are fully-owned. The return on these investments is small enough that the decision to leave or stay out of the market becomes easy if/when rent control and protected / imposed tenancies come to be. Because of the proposed legislation, many of my clients are now selling, many voice their intention to sell, and everyone I know/speak with about owning rental properties say 'not in Portland!' now that rent control and tenant relocation fees rule (rue) the day.

Imposing rent control, limiting rent increases, removing ‘no cause’ evictions and locking in tenancies in a one-sided tenant-favored equation not only creates an unfunded mandate burdened on the backs of landlords but also removes many of the incentives for rental property ownership in Oregon (for example: one month’s ‘relocation assistance’ for one unit exceeds a year’s profit on a number of my units combined - since we’re part of the ‘mom and pop’ legion of property owners). Given that the vast majority of Oregon rental properties are owned by ‘mom and pop’ owners trying to save for their retirement and families, imposing rent control and/or further limits on a landlord’s ability to manage properties will surely serve to further degrade the ownership base and rental property inventory in Oregon, as well as the long-term stability of Oregon’s rental housing market.

Oregon has long enjoyed a relatively balanced approach to landlord-tenant law, resulting from the years of hard work and collaborative process between landlord and tenant advocates. Unfortunately, that process has been side-tracked and eschewed for the message of tenant dooms-day speakers using examples and pockets of individual inequities to justify state-wide action. In the Legislator’s rush to help, don’t do the wrong thing when trying to do something and end up throwing the baby out with the bath water and causing reductions in already-scarce affordable housing. I urge you to instead look at how to beef up scrutiny, education and enforcement of existing laws to protect renters, subsidize more housing for those in need [based on the broad taxpayer base, not just landlords] and vote ‘no’ on the elimination of no-cause termination notices and on rent control - they’re bad for Oregonians - landlords and tenants alike.

Your Action and Well-Considered Vote Will Be Appreciated

Brian Cox



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