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RE: SB 608 - testimony

Dear Honorable Senator Fagen and other members of the Senate Housing Committee:

I am writing this letter in opposition to SB 608 as proposed.

I am not able to attend this hearing due to prior commitments, but I ask this written testimony be included in the record.

I am a native Oregonian, an attorney, and have been a tenant and a landlord for most of my life. I have represented both landlords and tenants in legal disputes. I have experience and perspective on lower-income housing that dates back to the 1960s. It is with that history that I make the following comments.

This legislation, although well-intentioned, will adversely impact the availability and affordability of rental housing in the State of Oregon, and if it is to be passed, must be modified to avoid unintended consequences.

SB 608 IS OVERBROAD

I would say 20% of tenants and landlords are bad. 80% need no additional legislation because they treat each other fairly. There is no need for rent-control or additional legislation against this majority. 80% of Oregon tenants do not need this protection because their landlords are not unreasonably raising their rent. There is no evidence that rents have ever increased annually by 7% on average anywhere in Oregon. A few isolated incidents of bad landlords raising rents beyond what their tenants could afford was the impetus behind this bill. Less than 20% of Oregon landlords caused the perceived need for SB 608 and are targeted by your legislation. Since that is the case, this legislation should be more narrowly tailored to those landlords.

Suggested changes:

1. Prohibit rent increases by 100% in any calendar year and prohibit rent increases issued in retaliation for tenant complaints.

2. Prohibit rental increases by more than 7% where the monthly rent is higher than \$1000 per month.

3. Permit rental increases to exceed 7% if necessary to cover annual increases in property taxes, utilities charges, and fire insurance premiums.

Unintended adverse effects of overbroad legislation:

1. Landlords who have voluntarily kept rents low will be harmed and will either raise rents above what they would ordinarily have charged their good tenants, or they will sell and the rental housing supply will decrease.
2. Landlords who cannot make a profit, and cannot cover on-going maintenance costs will sell or abandon their properties. This happened in New York, LA and San Francisco when rent control was imposed in those areas. Rents in those areas are the highest in the country.
3. The current proposed legislation does not take into consideration those landlords who have voluntarily kept their rents low for low-income tenants. 7% of a \$1000 or more monthly rent is still a hefty increase. 7% for tenants paying \$700 or less per month is insufficient to cover proposed increases in property taxes, payroll/transit taxes, health and fire insurance premiums, rental license fees, maintenance costs, and probably toll road expenses proposed in the City of Portland. Landlords and their maintenance crews cannot use public transportation to maintain rentals and they must also pay fuel and vehicle taxes, as well as vehicle maintenance and tolls proposed by Governor Brown. Some landlords pay utilities for tenants and Portland's water bills also subsidize the sewer system, making for some of the highest water bills in the country.
 - a. Paint, roofs, siding, furnaces, water heaters, dishwashers, refrigerators, garbage disposals, microwaves, and carpet, don't last forever and generally wear out in 10-20 years under normal usage. Add property taxes, fire insurance costs – higher for non-owner occupied, mortgage payment, (mortgage insurance is higher for non-owner occupied), rental license fee, garbage fees, and a landlord cannot charge less than \$1000 per month or they will not break even, let alone make a profit to feed their own family. Landlords have rentals to make money, not to break even. If landlords cannot make a profit, they either sell their rentals or stop maintaining them.

4. Landlords who voluntarily kept rents low and did not raise rents annually will be forced by this legislation to now do so. Landlords who do not keep their rents high risk inability to sell their property in the future for its full value because the rents will not support financing the sales price and the new owner cannot evict or raise rents to pay the sale price. Many landlords providing low rents rely upon the ability to make a profit when they sell the property. If there is no profit while the property is rented because the rents are low, and there is no ability to profit upon sale of the property, landlords will sell now or abandon their properties.
5. The opposition argument that a landlord can use rental increases to get around the ban on a 30-day no-cause notice is reactionary to a few bad landlords and does not reflect the conduct of a majority of landlords. Simple legislation preventing a landlord from doubling rent in one calendar year would prevent the harm sought to be addressed. Raising rent to retaliate against a tenant complaining about conditions is already addressed in ORLTA. A tenant can retaliate against the landlord with far greater damages than a rent increase that a tenant cannot afford to pay.

BAN ON NO CAUSE EVICTIONS

1. Portland's ban on no-cause evictions without payment of relocation assistance payment by the landlord is flawed and should not be adopted as a model. There is no repercussion to the tenant who collects the payment and then refuses to vacate after 90 days. There is no requirement that the tenant pay the money back, or pay the landlord's legal expenses, or for a judgment against the tenant who refuses to move. There is no landlord relief when a tenant trashes a rental unit, particularly when the landlord pays the tenant to move.
2. Good landlords use no-cause evictions to remove problem tenants that still pay rent, such as drug dealers, accused sex offenders, suspected, but perhaps unconvicted thieves and neighborhood bullies. These suspicions are often confirmed only after eviction and the neighborhood crime rate and complaints drop significantly, if not completely. Neighbors are often scared and therefore unwilling to testify in court for an eviction case because they fear, and rightfully so, retaliation by the tenant. Even after trial in Portland, Judges will give tenants who have lost for-cause evictions an additional 30 days to move, and in that time, plus the pre-trial notice time, and the post-judgment time that runs after trial before the tenant can be removed, the problem tenant can cause a lot of trouble for neighbors. Police will testify where drugs are evident, but if the police do not have evidence to support a criminal conviction, will it support an eviction?

Real Life Examples:

- a. I had a tenant who rented his backyard out to homeless campers for \$200 a night, without bathroom facilities and with a substantial increase in crime in the neighborhood. I had no way to prove this in court without neighbor's testimony. The tenant cleaned out the homeless people every time I issued a 24- hour notice to inspect. Finally the homeless people caused a fire, and burned the house down. Even then the tenant remained living in a motor home on the property and would not move until I evicted him for violating Portland City Code against such camping. If I could have evicted this tenant for no cause when the neighbor informed me of the homeless camp, it is likely the house would not have been burned down and would still be a rental now. Instead, the remaining structure was torn down, the property sold and it is vacant land at this time. Result: permanent loss of a Portland rental home.

- b. I recently represented a landlord, a single first-grade school teacher, who wanted to retire and sell her rental home for her retirement nest egg. Even though she had a previous agreement with her tenant of 8 years that he would move out when she retired, she had to pay him \$4200 after giving him 90 days notice to move. The tenant waited until the last hour to vacate, didn't pay the last month's rent, left the school teacher with a huge amount of trash and debris to remove, including used syringes, and the conditions inside the home will require thousands of dollars to put the home back in habitable condition and thousands more to put it in salable condition. The \$4200 went to drugs instead of relocation expenses and the school teacher now depletes her retirement fund with the cost to repair her home. The tenant is gone, there is no way to get a Judgment for damages or the last month's rent against him, and even if the landlord could obtain a judgment, it is unlikely the tenant will be able to pay the Judgment. To make matters worse, the tenant had a 5 year old son who was obviously exposed to drug use and unsanitary conditions. It is unclear if the tenant's actions were retaliatory or on-going, but if you are going to place restrictions on a landlord's right to evict, you must impose criminal penalties against tenants who destroy the landlord's property during the eviction period and have no money to pay for repairs. Owner told all of her friends about her experience. Result: Owner's friends who were rental owners or were thinking about buying a rental home to supplement their school teacher income have changed their minds. Permanent loss of owner's rental home, and permanent elimination of other potential Portland landlords

- c. I represented another landlord who had a rent-paying tenant who used the owner's property for drug user house. Neighbors were scared of the tenant's "guests" and would not testify. The City of Portland cited the

property for code violations, but the tenants would not permit the landlord on the premises to cure the code violations. The landlord gave a 24 hour notice, but all proof of drug use was hidden by the day of the inspection. The tenant was afraid of the tenants and felt threatened, but had no proof that would support a for cause eviction. The landlord was afraid of the tenants. Other attorneys required a \$5000 retainer from the landlord with no guarantee of an eviction. The landlord could not afford this, plus his mortgage, plus the fees imposed by the City for the Code violations, even though the tenant was paying rent. The landlord also did not have \$4500 to pay the tenant to move. If the landlord could have issued a no cause notice and be certain of getting possession this problem could have been solved simply and relatively quickly without involving neighbors, police and City inspectors to testify in court. It was only because the City of Portland inspector was willing to testify about code violations that we were able to evict these tenants. They caused thousands of dollars of damages to the interior of the premises that are largely uncollectible. Result: Permanent elimination of rental property – owner sold out after making repairs.

Better than blanket legislation with unintended consequences you could:

- a. Prohibit retaliatory no-cause evictions. This is already in statute, but perhaps it could be strengthened to address tenant concerns.
- b. Prohibit no-cause evictions for more than 50% of occupants in multi-family housing units with more than 20 rental units within a six-month period. Require 90-days notice for more than 20 no-cause evictions from one multi-family structure in a one-year period.
- c. Exempt evictions from units with four or fewer residential units from the ban on no-cause evictions.
- d. Exempt evictions from larger multi-housing units if the landlord provides substitute housing at the original rent rate elsewhere.
- e. If you require a landlord pay relocation expenses to a tenant as a condition to issuing a no-cause notice, and the tenant fails to move, or fails to pay rent in the interim, or damages the rental unit in retaliation, the landlord should be entitled to a judgment for the amount paid or the amount of damages, or criminal charges should lie against a tenant who causes or permits such damages to occur while the property is in the tenant's possession. Even California provides for a money judgment against tenants for damages proven during an eviction trial. Oregon requires a landlord bring a separate lawsuit to obtain a money judgment against a bad tenant.
- f. Create a trust fund to reimburse landlords who rent to low-income people or keep monthly rent below whatever threshold the legislature deems affordable, to pay for repairs for damages caused by such tenants beyond normal wear and tear. In my experience, low-income tenants can cause far more damage and leave behind far

more garbage than their rent will pay to repair and clean up. Because they are often indigent tenants, a judgment for damages is useless.

- g. Require tenants take classes on tenant's duties in exchange for prohibition on no cause evictions. This could be an online course given by Portland Housing Center. Simple things like how to clean, vacuum, properly use garbage disposal, not use toilet as garbage can, properly separate recycling from garbage, etc.

ADDRESS THE CAUSE OF HIGH RENTS AND NO CAUSE EVICTIONS

Increase supply and rents will go down or at least stabilize.

Landlords are not to blame for rental housing shortage:

Portland has witnessed drastic rent increases largely caused by the 2007 recession. Many former homeowners became renters when they lost their homes to foreclosure. These people purchased with adjustable rate mortgages, they lost their jobs, they had the usual medical, divorce, or substance abuse problems that caused them to be foreclosed. Dodd Frank was enacted making it very difficult for most of these people to get financing to purchase another home. They became renters, adding to those already coming to Portland for work. Portland saw a boom in the construction of upper end apartment buildings due to demand and easing of building restrictions by the City. Inclusionary zoning regulations ended that boom. The costs of building, including system development charges, maintenance costs, utilities and taxes continue to rise – with those costs being reflected in rent rates. Other factors cause rents in certain geographic areas to increase, such as the urban growth boundary and costs of commuting. The City of Portland recently sold the Columbia Villa public housing projects because the City could not afford to maintain the properties and they had become a liability. If they were not a liability, this committee should ask the City why it sold the Villa when there was such a great need, if the City could do so without financial loss. If the City cannot feasibly run low income housing when it does not pay taxes as private landlords must, the legislature must understand that private landlords certainly cannot be required to restrict its rents when all other expenses have no similar limit.

Portland's inclusionary zoning codes, rent control and no-cause eviction ordinances have had an adverse impact on the number of rental units being built and have not resulted in the desired additional affordable units intended by these enactments. Rents have risen since the implementation of Portland's Inclusionary Zoning ordinance, largely because the supply of rental units is dwindling. Few larger new housing developments have been commenced by for-profits companies since this ordinance was implemented. Non-profits are still adding housing units, but they would have done so without inclusionary zoning regulations. This trend shows that mandating low-income housing does not create low-income housing, but instead reduces the number of multi-family rental units, causing an overall shortage of rentals, resulting in overall higher rents in Portland. We are repeating the mistakes made in New York, Los Angeles and San Francisco where rents are out of

control in spite of rent control. Tenants rarely vacate their rentals in those areas because they don't want to give up their rent controlled unit. That causes further depletion of the supply of available rental units and inversely causes higher rents among available units. Supply and demand plus hard costs dictate rent charged by landlords.

CONCLUSION

Capping a landlords ability to raise rents to address hard costs, will result in a landlord's inability to maintain properties and the result will be like other locations where rent control occurred: Ghettos, un-maintained rentals, abandoned rentals, or torn down rentals. Limiting the landlord's ability to raise rents assures that landlords will have to raise rents annually by the maximum amount permitted, even when they had not done so in the past, to assure they can pay for unanticipated expenses and sell for highest value in the future. I personally have not raised rents on some tenants for years because the taxes and expenses are fairly stable and the tenants are low income. If this bill passes as proposed, I am left with no choice but to raise their rent annually because I have to be certain the rent will cover long-term maintenance costs as well as increasing taxes, new taxes, assessments, City rental registration fees and legal expenses. If the tenants cannot afford the rent that is required to pay these expenses, I will have no choice but to sell and the State of Oregon will lose additional rentals.

Incentives are better than blanket rent control:

- a. Give landlords who voluntarily rent to low-income households a reduction in property taxes.
- b. Give landlords who voluntarily rent to low-income households an exemption from the ban on no-cause evictions.
- c. Give landlords who voluntarily rent to low-income households the right to require low-income tenants to attend Portland Housing Center's classes for how to be a good tenant.
- d. Provide a trust fund to pay for repair of damages caused by low-income tenants beyond normal wear and tear.

This is a complex issue, but I have a unique and long-term perspective that I hope you will hear and consider.

More rentals equals lower rents. High rents are caused by lack of supply. Developers will build where they can profit the most. Purchasers of rentals will not pay as much for units subject to rent control.

People who are in rent-controlled units never move because they don't want to lose their cheap rent and they can't move to new units because new units are more expensive. This exacerbates the supply issue.

Landlords will start rents at the highest possible amount because they know they will be unable to raise rents later.

Unintended consequences of SB 608:

1. Many Portland landlords sold their rental houses due to the Portland rent controls. Rental control State-wide will have the same effect State-wide.
2. The ban on no-cause evictions prevents owners from selling their property for its highest value because their market will be limited to investors who wish to be landlords in a rent-controlled state. This may actually be a taking or otherwise unconstitutional.
3. In my experience, the best way to get rid of a problem tenant was through a no-cause eviction. Frees neighbors and other tenants from retaliation by the bad tenant. It will make it difficult for an evicted tenant to find other housing, because a for-cause eviction is far more detrimental than a no-cause eviction.

Incentives in lieu of rent-control or ban on no-cause evictions:

1. Property tax relief for voluntary low rents.
2. For cause evictions need to be given faster relief in court with no authority to Judges to extend the right of possession if landlord succeeds at trial.
3. Criminal sanctions against tenants who willfully and maliciously damage rental unit, especially while eviction is pending.

I thank you for allowing me to put this on the record and it is my hope I have added to the discussion as you move forward. The question you are faced with solving is not an easy or simple one. When government needs to subsidize builders or provide tax incentives in order to have affordable housing it simply transfers those costs to the taxpayers. By targeting incentives to help keep rents lower than the market might bear you create incentive not to raise rents and to keep the low-income housing inventory greater than it otherwise would be.

But by using punitive and restrictive measures you simply create an environment where it makes far more sense to convert multi-family complexes to condominiums and to sell smaller units as attached-family housing. There must be a return on investment or no reasonable person will spend the money to provide housing in the first place. You add in proposed legislation to eliminate the benefit of Measure 50 on business properties and you all but assure much like in former Soviet countries that the government will be the sole provider of low-income housing. That never has worked exceptionally well.

Thank you,

/s/ Melinda B. Wilde

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