REPRESENTATIVE ANNESSA HARTMAN (SHE/HER)
HOUSE DISTRICT 40

OREGON HOUSE OF REPRESENTATIVES

In response to issues that constituents have contacted my office about, I'm interested in exploring eight concepts related to tenant and landlord rights and housing production.

1. Tenants' Rights to Water Testing Results

First, I want to fix an issue I've heard about in the House Agriculture Committee regarding water testing results. Currently, in many parts of the state, municipal water providers are only required to send the results of water quality reports to the property owner, regardless of whether someone is renting the property.

I would like to require that reports from municipal utilities and the state related to water quality go to both the property owner and the property itself, allowing landlords and tenants to get information about safe drinking water. Additionally, these reports should be in English and Spanish.

2. Domestic Well Water Safety Testing Requirements

Second, I would like to address a similar issue when residential properties have domestic wells. Water quality is just as important to tenants living in properties served by domestic wells, but there is no requirement for landlords to test the tap water from these properties or to disclose drinking water test results with prospective tenants.

This concept will explore requiring landlords to test tap water from the residential buildings they rent out and regularly report the results to prospective tenants and the state. These suggestions should apply to all housing, including mobile homes and farmworker housing.

3. Including Water Quality in Habitability Standards

Third, I would like to explore expanding Oregon's statute regarding the habitability of residential properties to include standards for what does or does not qualify as "habitable" water quality. As a part of this, we need to ensure that tenants are apprised of the quality of the water coming out of their faucets during and before their tenancy.

4. Habitability Before Rentability

The fourth concept addresses the fact that Oregon does not require rental units to be habitable before landlords rent them to tenants. Under Oregon law, units are inhabitable if they are "clean, sanitary, and free from all accumulations of debris, filth, rubbish and garbage," and have "floors, walls, ceilings, stairways and railings maintained in good repair." ORS 90.320(1)(f),(h).

While Oregon statute requires landlords to "maintain" apartments in a habitable condition "during a tenancy," there is no requirement that apartments be "habitable" before the tenancy begins. Tenants may have legal recourse *after* moving into an uninhabitable apartment, but there is nothing allowing them to reject an apartment's condition on the basis that an apartment is not habitable because the tenancy has to begin before the protections apply.

When tied with the increase in hold deposits described below, this has led to cases where people have to choose between living in squalor or forfeiting an entire month's rent.

I want to require that units be habitable before a tenancy begins and allow tenants to reject non-conforming, uninhabitable apartments, regardless of any prior contract.

5. Hold Deposit Guardrails

Fifth, I want to address the trend I've seen where, in the wake of the Legislature's efforts to clamp down on landlords who were charging predatory security deposits, corporate landlords are now requiring prospective tenants to pay a "hold deposit" in an amount equal to the first month's rent in order to secure a unit.

If the tenant's plans change or the landlord's unit does not meet Oregon's standards for habitability and the tenant does not want to move in, the landlord can keep the entirety of that "hold deposit."

This allows predatory landlords to pressure prospective tenants into signing lease agreements they otherwise wouldn't if an entire month's payment wasn't on the line. I will seek to find a limit acceptable to all stakeholders while focusing on holding bad actors accountable and protecting low-income tenants.

6. Tenants Rights Over Squatters Rights

The sixth concept will fix a loophole in our housing laws that gives squatters more rights than tenants if they do not use force to enter a property. There's someone in my district who became a first-time homeowner through an auction without realizing that the home was occupied by Nazi squatters. Because the squatters did not forcibly enter the property, and there was never a landlord-tenant relationship between the homeowner and the squatter, the landlord could not use the normal eviction process.

In these cases, landlords have to go through a separate civil process called ejectment, which can take months longer than a normal eviction. Many landlords don't realize they need to use this process, and try to remove squatters through the eviction process, wasting time, money, and sometimes requiring them to pay the squatters' legal fees.

The reason landlords can't use the normal eviction process, sometimes referred to as a "Forcible Entry and Detainer" (FED) complaint, is that by statute, FED complaints are only available if the squatter forcibly entered the property or the squatter/tenant is "unlawfully holding" the property "by force." *Aldrich v. Forbes,* 237 Or. 559, 391 P.2d 748 (1964); ORS 105.110; 105.115.

By statute, "unlawful holding by force" includes a list of instances that qualify, most of which do not require actual physical force, but all of which require a landlord-tenant relationship. ORS 105.115. This list includes eviction actions for failure to pay rent, expiration of a lease without a written lease or agreement, and failure of a former owner to leave a property that has been foreclosed on.

This concept considers amending ORS 105.115 to allow for FED evictions in the case of squatters who have not forcibly entered the properties in which they reside. This will permit landlords to use the standard eviction forms and processes for these circumstances, ensuring that squatters are not afforded more protections than tenants.

7. Stopping Discrimination Against Homeless Youth

The seventh component comes from a young homeless constituent of mine, Delephine, who alerted me to the fact that we have no protections to prevent housing discrimination against homeless youth.

While ORS 109.697 grants homeless minors who meet certain criteria the possibility of entering housing contracts without parental consent, there aren't any laws that protect these minors from age-based discriminatory practices. This has resulted in housing providers laughing at, degrading, and lying to my constituents about unit availability.

This concept would amend ORS 659A.421(2) to add age or status as an emancipated minor to the list of prohibited forms of discrimination in housing.

8. Prefabricated Small Home Fix

Finally, I want to fix an unintended consequence of HB 2423 from 2019, which related to small home building codes and intended to broaden the Oregon state building code to allow for more flexibility in building small homes (defined as homes under 400 sq. ft. in HB 2423). However, upon implementation, one sentence (specifically the portion below in red) was amended in ORS 455.010.6A, which ***limits*** the ability to build small homes. ORS 455.010.6A defines prefabricated structures and reads as follows:

> *"Prefabricated structure" means a building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site. "Prefabricated structure" does not include a manufactured dwelling or a small home as defined in section 2, chapter 401, Oregon Laws 2019.*

A prefabricated home builder in my district built several homes under 400 sq. ft. before 2019 that met the same building code (Oregon Residential Specialty Code) as a typical site-built home. With the implementation of HB 2423, they can no longer prefabricate small homes. All small homes must now be built on site. This is a redundant policy that provides no benefits to building small homes.

In short, the fact that our manufacturers can't build prefabricated homes under 400 sq. ft. limits what they can build, reduces affordable housing stock and hurts business. This one line in the ORS is a redundant policy that even state building code managers are unsure of the reasoning. By restricting the means of building small homes (meaning prefabrication), the state has made it more challenging to provide small, affordable homes at a time when Oregon is facing a severe housing crisis. I would like to delete this single line in the ORS to help expand the ability to build affordable housing.