



SPECIAL SECTION: Pages B1-B8



METRO

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CDC Eviction Moratorium Offers No Help for Landlords

RENTAL HOUSING JOURNAL

A new nationwide eviction moratorium has been ordered through the Centers for Disease Control (CDC) to halt residential evictions through the end of December.

However, the new ban on evictions of tenants does not offer any relief for landlords to be able to recoup unpaid rent.

“We are disappointed that the administration has chosen to enact a federal eviction moratorium without the existence of dedicated, long-term funding for rental and unemployment assistance,” said National Multifamily Housing Council President Doug Bibby in a statement.

“An eviction moratorium will ultimately harm the very people it aims to help by making it impossible for housing providers, particularly small owners, to meet their financial

See ‘CDC’ on Page A-11

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Rent Prices Continue to Fall Across Portland Metro Region

RENTAL HOUSING JOURNAL

While rents held steady in Portland proper during August, they are continuing to fall across the metro area, according to the latest report from Apartment List.

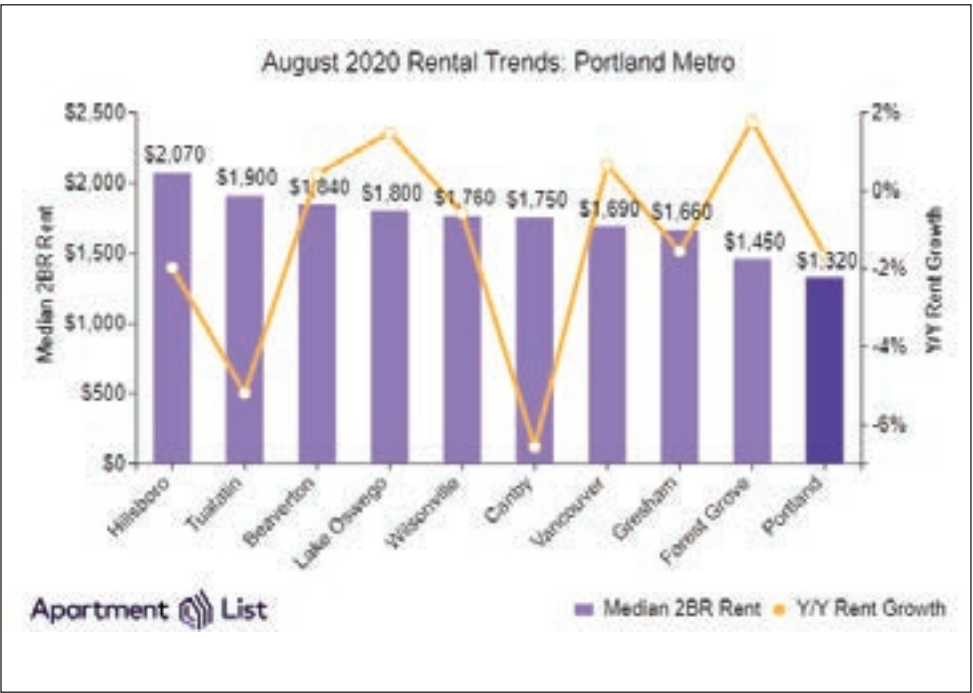
Rent prices have been decreasing not just in Portland over the past year, but across the entire metro.

Of the largest 10 cities in the Portland metro for which Apartment List has data, six have seen prices drop.

Portland proper has the lowest rents in the metro. While those rents held steady during August, they are down moderately by 1.6 percent year-over-year.

Median rents in Portland are \$1,119 for a one-bedroom apartment and \$1,320 for a two-bedroom.

See ‘Rents’ on Page A-12



Why Does the CARES Act Seem So Uncaring Toward Landlords?

BY DAVID PICKRON

Landlords, it's time we all pay very close attention.

A second devastating wave of trouble is thundering toward us, and it is imperative that you know how to protect yourselves and your investments.

On July 26, 2020, the 120 days of eviction relief provided by the CARES Act expired. With that, landlords across the United States were given the green light to start the eviction process for non-payment of rent, with the caveat of having to use a special 30-day notice as required by the act.

We are seeing that landlords are generating notices with \$4,000-\$8,000 demands for the last several months of unpaid rent, begging

See ‘Why’ on Page A-14

Governor Extends Foreclosure Moratorium

Oregon Governor Kate Brown has extended the state's foreclosure moratorium to December 21, 2020; however, she has not yet extended the evictions moratorium set to expire September 30.

See Full Story on Page A-11

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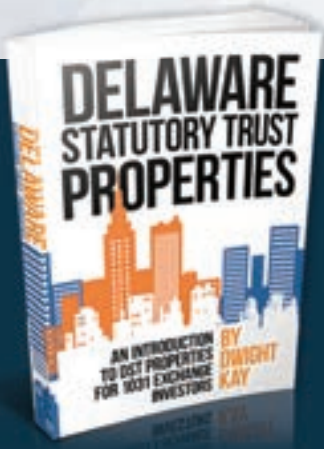
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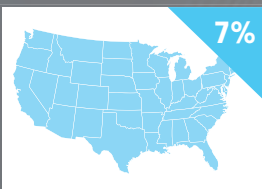
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Can I Cash Out a Portion of My 1031 Exchange Proceeds?

The Ins-and-Outs of a Partial 1031 Exchange

By **ORRIN BARROW**
VICE PRESIDENT, **KAY PROPERTIES AND INVESTMENTS, LLC**

Many investors that come to Kay Properties are looking for a full tax deferment utilizing a like kind exchange. A full tax deferment under IRC Section 1031 consists of buying a replacement property for equal or greater value than that of your relinquished value of the property. For example, if an investor sells their property for a net sales price of \$1,000,000 in order to have full tax deferment under Section 1031, the investor has to buy at least \$1,000,000 worth of total real estate as replacement property.

However, many investors are unaware that they are not fully obligated to use 100 percent of their proceeds in order to still do a 1031 exchange. For example, if an investor sold for \$1,000,000 they can actually take \$200,000 out of their exchange to increase their liquidity and only pay capital gains and depreciation recapture taxes on that portion of their exchange, the \$200,000 that they peeled off. The \$200,000 is then deducted from what the investor has to replace, leaving the investor with needing to purchase only \$800,000 of replacement property to defer the bulk of their taxes due.

The liquid cash that the investor has available is now taxable but can be used for a variety of different reasons. Many investors have a large part of their net worth captured inside of their real estate holdings. They understand the value of a 1031 exchange but still want the option of having cash set aside for a rainy day.

During the Covid-19 pandemic, we saw certain investors decided to complete a partial exchange rather than a full exchange so that they could have some additional liquid funds to possibly weather a more severe economic downturn.

It is prudent for investors to understand 1031 exchange rules to complete a partial exchange.

When engaging in a 1031 exchange an investor has 45 days from the date of the recorded closing to identify properties and 180 days from the date of a recorded closing to close on their replacement property. Once an investor’s 1031 proceeds are transferred to their accommodator/qualified intermediary account they have the 45-day identification timeline to remove the proceeds that they want to liquidate from the accommodator account. If the funds remain in the accommodator account past the 45th day, the investors proceeds will remain with the accommodator until the 180th day.

Investors need to be aware of when to remove their funds from their accommodator account in order to complete a partial 1031 exchange and how much their estimated tax obligation will be before considering completing a partial exchange. Remember, if your tax obligation from a partial exchange outweighs the proceeds you are left with, it may be prudent to do a full exchange.

It is always advised for investors to speak with their CPA and attorney for all tax and legal advice prior to deciding to complete any 1031 or partial 1031 exchange

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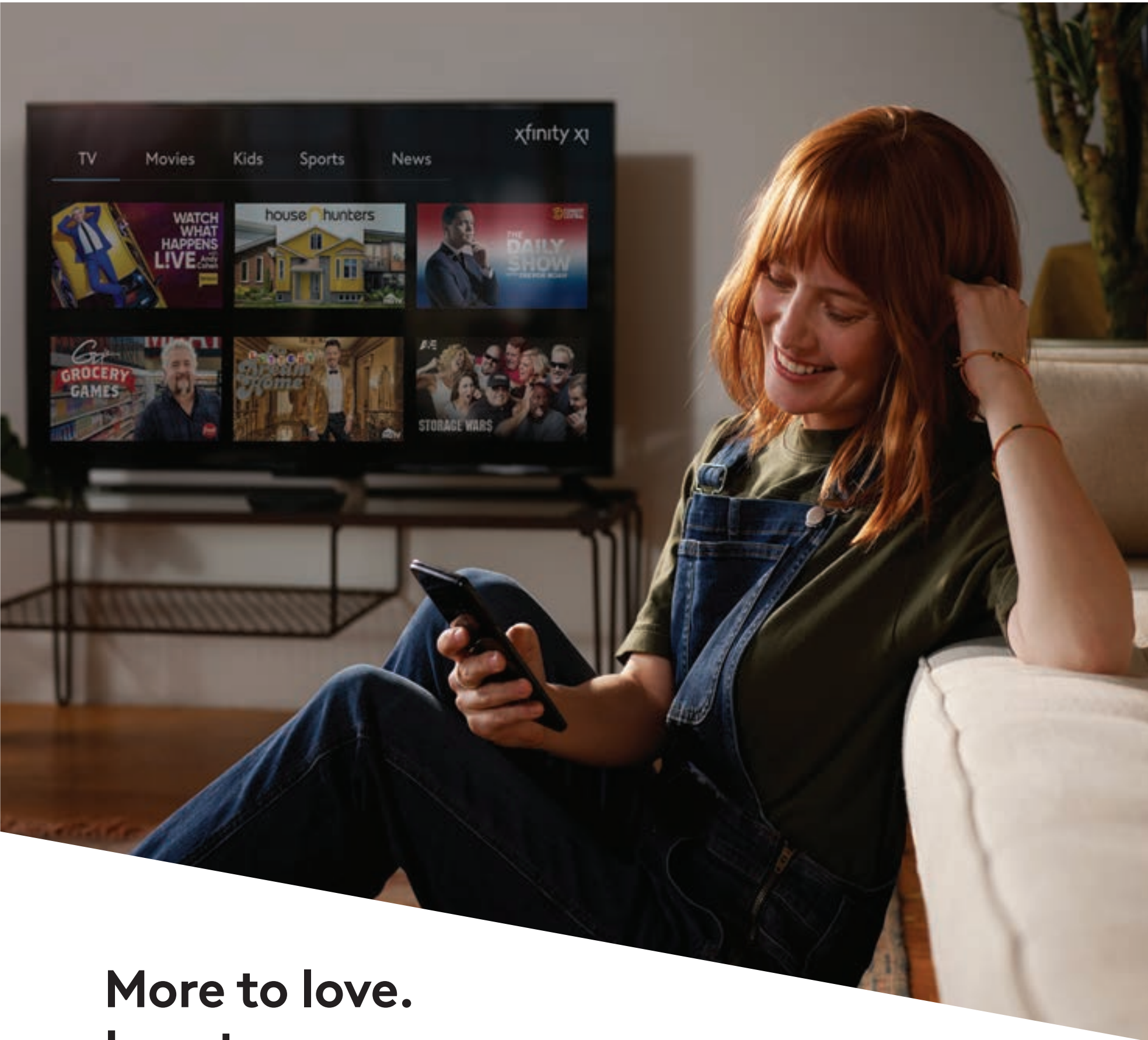
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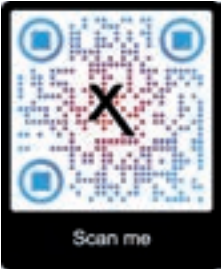
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RHA Oregon President's Message

Forces are Looming That Will Make Lives of Small Landlords Even More Difficult

I do not have a “back-to-school” message this month, as it appears that a majority of Oregon students won’t be going back in the traditional sense. So, I will call this my “back-to-legislative-session” message instead.

To begin – thank you! Thank you to all the members of Rental Housing Alliance Oregon, as well as all the other landlords who have taken part in the RHA and Multifamily NW surveys over the past few months. Your feedback has helped generate quantitative and qualitative data characterizing the impact of the Oregon eviction moratorium.

Unfortunately, there are still forces at work that will make the lives of small landlords even more difficult. While the state was able to allocate \$55 million in emergency rental relief for those with incomes under 80 percent of Area Median Income (AMI), this is likely less than 20 percent of what is needed to make up for all the unpaid rents since April. Do not expect a bailout for landlords. It is particularly frustrating that the federal government appears to have an approach like our state: evictions should be banned, but there are no funds forthcoming to keep tenants in place.

And it is likely to get worse. Oregon Speaker of the House Tina Kotek announced in mid-August, “My top

priority for September is making sure we can extend the eviction and foreclosure protections for another six months.” It is not yet clear what the legislation to accomplish this would include, but at RHA Oregon, we are doing all we can to make our legislators aware that even if the eviction moratorium is extended, there are certain items that need be addressed:

- Even if the moratorium is extended, rent payments must begin again in October as was agreed to in HB 4213 during the July special legislative session.
- Tenants who are unable to pay rent because of COVID-19 should have access to rental vouchers so that their landlords may pay their ongoing expenses.
- Small landlords are disproportionately affected by the inability of tenants to pay rents. For those who own just one to four units (most of our members), rent losses can run between 25 percent and 100 percent of monthly income.
- There must be a means test for tenants who do not pay rent, just as there was for recipients of the state’s \$500 Emergency Check Program. One of the most common frustrations expressed by our members in our surveys has involved tenants who

have the means to pay their rent but choose not to because of the moratorium.

- The same exceptions for terminating lease agreements that were allowed under 2019’s SB608 legislation should be allowed now, including the termination of fixed-term agreements that have reached (or exceeded) the original termination date.
- “Rent forgiveness” is unconstitutional. Full stop.

The current eviction moratorium is scheduled to end on Sept. 30, 2020. All landlords who have rents owed should prepare to communicate with their tenants to arrange for repayment by March 31, 2021, as is outlined in the HB4213 legislation passed in July. I encourage you to visit the COVID-19 resources page on the RHA Oregon website for more information. Also, please watch your email for up-to-date information from RHA Oregon. I anticipate that we will be calling on you to provide written testimony regarding any proposed legislation. If you are not a member of RHA Oregon, now would be a really good time to join so that your voice may be included in our lobbying efforts!

Ken Schriver
President, Rental Housing Alliance Oregon



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Security Deposit vs. Move-In Fee: Which is Better?

RENTAL HOUSING JOURNAL

One of the biggest risks with managing a rental property is having to deal with property damage by existing or outgoing renters.

Over the years, security deposits have been the preferred option by property managers when it comes to compensating for property damages caused by tenants.

But in recent years, property managers are beginning to adopt a new strategy, known as the apartment move-in fee. As a renter or property manager seeking to adopt either of the methods, it is important that you know first-hand what they mean and their pros and cons.

WHAT IS A SECURITY DEPOSIT?

A security deposit is a refundable sum of money a renter or tenant pays to the property manager or landlord when moving into a rental property. It is usually one to two months’ rent, depending on city or state regulations. Also, landlords or managers can legally use the security deposit, or deduct from it, to pay for damages to the property caused by the tenant, or if the tenant skips paying rent and moves out.

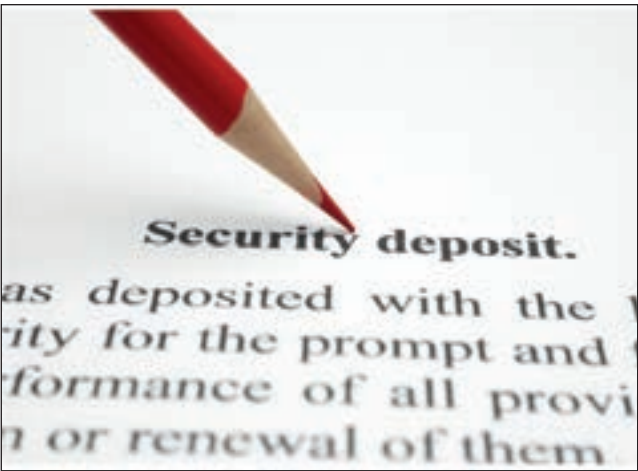
Pros:

Instills sense of responsibility in your tenants: Due to the costly nature of security deposits, renters are more likely to maintain their apartments to avoid losing their security deposits when they move out.

Added protection of your investment: Collecting a security deposit give your investment an additional sense of protection, since you can use a tenants’ security deposit to fix your property.

Cons:

State laws on security deposits can be complex: For states like Illinois, accessing security deposits made by your tenants involves paperwork and restrictions that can lead to serious fines if you break any of the rules.



Potential tenants may be hesitant to pay: If your rental property is in a low-income area, potential renters may hesitate to release a month or two in rent in the name of a security deposit.

May lead to disagreements over move-out inspections: Tenants may not agree with your findings during a move-out inspection, leading to prolonged arguments or even lawsuits.

WHAT IS A MOVE-IN FEE?

A move-in fee is paid by a tenant to a landlord or property manager upon signing their new lease.

The fee serves to cover the costs of accommodating and processing new tenants, such as changing directories and reprogramming security systems. A move-in fee is always non-refundable.

Also remember, if the damage is b d you can always go after the tenant in court, just like you would if damage is over the amount kept as a security deposit.

Pros:

More attractive for your tenants: Since move-in fees are usually 30 percent to 50 percent of a month’s rent, it

will be easy for your potential tenants to agree to it.

No state regulations: In states like Illinois, where state laws require landlords to deposit the money received as security deposit into a separate account, this may delay your access to the money for repairs. With move-in fees, you can easily use the money for repairs or whatever you deem fit.

Non-refundable: Move-in fees are generally non-refundable, whether the tenant trashes the property or not. You do not need to hand it b ck to a tenant upon their moving out.

Cons:

No incentive: When tenants have no security deposit or worthy sum of money on the line, they are more likely not to be careful with your property or worry about small damages.

Lower fee: Since move-in fee are generally 30 percent or more of a month’s rent, it may not be able to cover the cost of serious repair issues. Due to its lower amount, you may need to file a lawsuit for more money, leading to additional delay and stress.

WHICH IS BEST FOR YOU?

You should b se your decision on your location and the method that has worked best in the past.

If your property is in a jurisdiction like Chicago, where there are strict security-deposit regulations and penalties, then collecting a move-in fee may be your best bet.

But if your property is in a location with straightforward security-deposit laws, you should opt for a security deposit.

Most importantly, you should continue with a security deposit if you have had positive experiences about the process.

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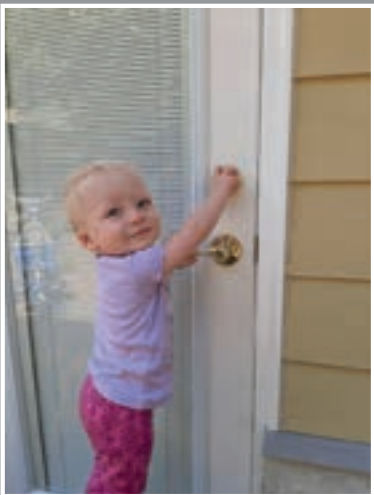
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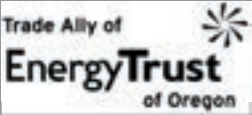
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Does Your Chimney Smoke?

Doesn't your chimney know that smoking is bad for its health and for the health of those who live in the home or apartment?

If your chimney smokes (i.e., the smoke is not being allowed to pass through it to the outside), then gases that are created by the fire are trapped inside the chamber (flue) of the chimney. This can speed up the deterioration of the chimney. Also, these same gases back up into the home and are unhealthy for human consumption — not what you want to make a habit of breathing.

To help prevent this, check the following basics:

1. Ensure that the damper is open before you light and burn the fire, thus opening the passage

- the smoke travels out. Close the damper after the fire is completely out to prevent wind and air from coming down the chimney from outside.
2. A gust of wind, or a constantly blowing wind, can blow smoke back in. A wind cap (or wind directional cap) can often help this.
 3. In many apartment complexes, there are two or more flues going into the same chimney. When this is the case, the smoke going through these flues can get mixed together at the top and be pushed or sucked back down into a neighboring apartment.

In this case, a chimney professional can recommend a flue extension or other structural remedy.

Here are a couple more things that can help a chimney to quit smoking (unfortunately, the patch doesn't work on brick or metal):

CLEANINGS:

If smoke is not getting out of the chimney when the fire is burning, a common thing that is usually checked for is: "Is the chimney dirty?" A dirty chimney can plug up the passage and prevent the smoke from going up. Also the buildup itself (creosote, the buildup of smoke and gases left on the chamber walls from burning wood) can burn and smell, thus emitting a smell or even smoke from the fireplace.

So, regular cleanings are recommended.

BURNING FUELS:

Burning good hard wood should be encouraged and recommended, as this is the best wood for burning and is the cleanest. Buildup from this type of wood is minimal and a regular cleaning handles it easily.

Unfortunately, the fuels that are most commonly used are the worst in regard to how they burn and the buildup that they leave.

Presto logs and other "logs" sold in grocery stores burn very cold in comparison to regular hard wood. This causes a much faster buildup of creosote and thus requires more thorough and frequent cleaning. The same is true for burning trash in the fireplace and should be discouraged and avoided.

Finally we would also like to recommend that you avoid using store-bought "chimney cleaning logs" of any sort. The chemicals in these logs may in fact loosen the creosote buildup inside your chimney, but these loosened particles fall into a very dangerous spot. Above the damper in your fireplace, either brick or metal, is the area where these particles gather once loosened from the flue.

A professional chimney sweep uses a vacuum to remove these particles from this area above the damper after it is brushed down with a brush. However, a "chimney cleaning log" does not remove these particles from this area once they have fallen there. So there they remain, right above the fire, waiting to heat up and catch fire.

Here is what the Chimney Safety Institute of America (CSIA) has to say about these "chimney cleaning logs:"

"It is the consensus of qualified experts that chimney maintenance is best achieved through annual inspections and mechanical sweeping by trained, professional chimney sweeps as frequently as needed. Chimney inspection often reveals hidden problems with chimney structure that could be potentially hazardous. Mechanical sweeping of chimneys not only removes layers of creosote from the chimney surface, it removes the resulting loose soot and creosote from the chimney, fireplace or wood stove. ... If chimney cleaning products perform as claimed and cause debris in the chimney to fall, that debris still needs to be removed from the smoke shelf."

— From: CSIA'S Position on the Chimney Sweeping Log. See the CSIA's website at www.csia.org for more information.

Article submitted by Portland Chimney and Masonry Inc.



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FORM OF THE MONTH

Emergency COVID-19 Balance Reminder M176 OR-WA



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OREGON
**EMERGENCY COVID-19 BALANCE
REMINDER** (NOT A BILL OR INVOICE)



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RESIDENT NAME(S) _____

UNIT NUMBER _____ STREET ADDRESS _____

CITY _____ STATE _____ ZIP _____

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This is not a bill or an invoice. This is not an attempt to collect a debt. Eviction for nonpayment is not allowed before September 30, 2020. However, the following amount(s) are past due and outstanding on your account:

CHARGE	AMOUNT	DATE/DESCRIPTION
<input type="checkbox"/> Rent	\$ _____	_____
<input type="checkbox"/> Pet rent	\$ _____	_____
<input type="checkbox"/> Garage	\$ _____	_____
<input type="checkbox"/> Parking	\$ _____	_____
<input type="checkbox"/> Storage	\$ _____	_____
<input type="checkbox"/> Utilities	\$ _____	_____
<input type="checkbox"/> NSF fees	\$ _____	_____
<input type="checkbox"/> Noncompliance fees	\$ _____	_____
<input type="checkbox"/> Deposit(s)	\$ _____	_____
<input type="checkbox"/> Resident-caused damages	\$ _____	_____
<input type="checkbox"/> _____	\$ _____	_____
<input type="checkbox"/> _____	\$ _____	_____
TOTAL \$	_____	_____

ADDITIONAL INFORMATION:

OWNER/AGENT ☒ _____

ADDRESS _____

TELEPHONE _____

EMAIL _____

☐ ON SITE ☐ RESIDENT ☐ MAIN OFFICE (IF REQUIRED)

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This new form was updated as of July 1st for compliance with HB 4213. It is related to the existing Notification of Balance Due, with specific language for ongoing communication with your residents, keeping them updated on any balances owed during the COVID-19 pandemic.

Multifamily NW Schedule

Register for online events at MultifamilyNW.org

SEPTEMBER 2

WEBINAR: SEPTEMBER
LANDLORD STUDY HALL - LIFECYCLE
OF A TENANCY
6:30 PM - 8:00 PM

SEPTEMBER 4

WEBINAR: SPECTRUM BOOTH IDEAS
Q&A ROUNDTABLE
10:00 AM - 11:00 AM

SEPTEMBER 9

WEBINAR: HR ISSUES - EMPLOYEE
ENGAGEMENT
12:00 PM - 1:00 PM

SEPTEMBER 11

WEBINAR: IT'S THE LAW: PORTLAND'S
RENTER PROTECTIONS ORDINANCE
12:00 PM - 1:00 PM

SEPTEMBER 14 TO SEPTEMBER 18

SPECTRUM ROCKS VIRTUAL
CONFERENCE
8:00 AM – 5:00PM

SEPTEMBER 22

WEBINAR: WA IT'S THE LAW DO YOU
KNOW WHAT'S IN YOUR LEASE?
12:00 PM - 1:00 PM

SEPTEMBER 28

WEBINAR: LANDLORD TENANT LAW
1-PART A
10:00 AM - 12:00 PM

OCTOBER 5

WEBINAR: LANDLORD TENANT LAW
1-PART B
10:00 AM - 12:00 PM

OCTOBER 7

WEBINAR: OCTOBER LANDLORD
STUDY HALL - REASONABLE
ACCOMMODATIONS
6:30 PM - 8:00 PM

OCTOBER 8

WEBINAR: LEASING ONLINE WITH
CONFIDENCE
10:00 AM - 12:00 PM

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5 Ways to Help You Spot Fake Landlord References

RENTAL HOUSING JOURNAL

One of the most crucial aspects in tenant screening is that of checking your prospective tenant's landlord references.

Unfortunately, some tenants have been known to make up references or list friends or family members as previous landlords.

There are even companies that hire themselves out to pose as landlords.

As a property manager, you are bound to receive landlord references day in and day out.

Some are beautifully written testimonials to the incredible nature of these individuals looking to rent, while others are simply fake, with bogus testimonials about the tenants.

Here are five ways in which you can spot fake references.

No. 1 - CALL THE REFERENCES YOURSELF

For starters, on most landlord references, they will provide a phone number.

One of the first things you can do to tell if the reference is a fake is to call the number inquiring about a rental. If it is fake, the number either won't work or will lead to a completely different person or place.

In rare instances, a fake number does lead to an individual, but they may seem to be either untruthful or not detailed in their answers.

No. 2 - CHECK ON THE NAME

Go online and Google the reference's name and look

them up on social-media platforms.

Check to see if this person is tied to the potential tenant through tagged pictures and/or posts. If there is a lot of overlap in the people's profiles, these individuals may have a personal relationship and not a tenant/landlord relationship.

No. 3 - LOOK AT TAX RECORDS

The tax records for all property owners are in the public domain. All you have to do is look up the records for the address where the applicant claims to have lived.

The name on the tax record should match the name you've been given. Double-check that the property hasn't been sold, but otherwise this is a great way to spot a fake.



No. 4 - ANALYZE A REFERENCE'S ANSWERS

It's best to always fall back on your knowledge as a landlord and analyze the answers that the potentially fake landlord reference has given you.

If their answers are vague and don't have details then it's likely that they aren't a real landlord and are instead a friend or family member of the person who is trying to rent from you.

No. 5 - ASK FOR ADVICE

Landlords tend to have the same frustrations, interests, and problems.

It wouldn't be at all unusual for you as a property manager to ask for some advice from another landlord while calling for a reference. Ask for their procedure for getting rid of a tenant who doesn't pay, for instance.

A real landlord will have an actual answer, even if they're not interested in spending much time on the phone with you. A fake, on the other hand, will likely have nothing specific to say. This can help you further determine whether the person on the other line is a real landlord, or someone just posing as such.

IN CONCLUSION

As a property manager, a significant part of your job involves filling properties with quality, long-term tenants. Including thorough reference verification as part of your screening process, such as the strategies above, can help you avoid costly mistakes and keep you a few steps ahead of the game.



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Foreclosure Moratorium Extended to End of Year

RENTAL HOUSING JOURNAL

Oregon Governor Kate Brown has extended the state’s foreclosure moratorium to December 21, 2020; however, she has not yet extended the evictions moratorium set to expire September 30.

Executive Order 20-37 will extend House Bill 4204’s current moratorium on foreclosures, as allowed by that legislation.

“Every Oregonian deserves a warm, dry, safe, affordable, and accessible place to call home,” Brown said in a release. “That’s especially true during a pandemic, when physical distancing and limiting trips away from home are critical to stopping the spread of COVID-19. Extending the moratorium on foreclosures will ensure that more Oregonians do not lose their homes this year, and that businesses can continue to provide vital goods and services to our communities.”

While the executive order will provide homeowners and business owners certainty through the end of the year, “it is not a long-term solution. The governor’s office will be working with landlords, lenders, and other stakeholders in the coming weeks to craft a solution for the legislature to consider.”

NO DECISION YET ON EVICTION MORATORIUM

The release said Brown is “also continuing to have conversations with community leaders and stakeholders to look at options surrounding a moratorium for evictions for renters, which does not expire until September 30.”

Brown said in the release, “I’d like to thank legislators for taking action with me this summer to help Oregon renters, as well as homeowners, and business owners. As this crisis continues, I am confident that lawmakers will again take action to help Oregonians struggling to pay rent and mortgage payments.”

The Legislature’s Emergency Board allocated \$55 million for rent assistance through December, and \$20 million for affordable housing operating support for OHCS partners.

In April, the Emergency Board also allocated \$12 million in emergency funding for safe-shelter and rental assistance.

Congress has also passed about \$82 million in housing support and other housing-related services for Oregonians, including funds for rental and utility assistance.



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CDC Eviction Moratorium Offers No Help for Landlords

Continued from Page 1

obligations and continue to provide shelter to their residents,” Bibby said.

OWNERS FACE FINANCIAL CRISIS

“Without direct rental assistance, rents cannot be paid, and owners face a financial crisis of their own by not being able to maintain properties and pay their mortgages or property taxes,” said National Apartment Association President & CEO Bob Pinnegar in a release.

“This action risks creating a cascade that will further harm the economy, amplify the housing-affordability crisis and destroy the rental-housing industry. This global housing crisis cannot be blamed on the rental-housing industry, nor can the industry bear the brunt of the pandemic alone. We need balanced, reasonable solutions for all Americans,” Pinnegar said.

Bibby added, “Not only does an eviction moratorium not address renters’ real financial needs, a protracted eviction

moratorium does nothing to address the financial pressures and obligations of rental-property owners. Without mortgage-forbearance protections and protections from other property-level financial obligations such as property taxes, insurance payments, and utility service, the stability of the entire rental-housing sector is thrown into question.”

MORATORIUM DECISIONS SHOULD BE LEFT TO STATE AND LOCAL OFFICIALS

“We believe renter protections are best left to state and local officials, who better know their housing markets and can tailor protections to the varied and unique eviction laws and judicial processes across jurisdictions,” Bibby said.

At the federal level, Bibby said, “We agree with Secretary (Steve) Mnuchin, Speaker (Nancy) Pelosi and Leader (Chuck) Schumer that policymakers need to come back and negotiate a strong rental-assistance program.”



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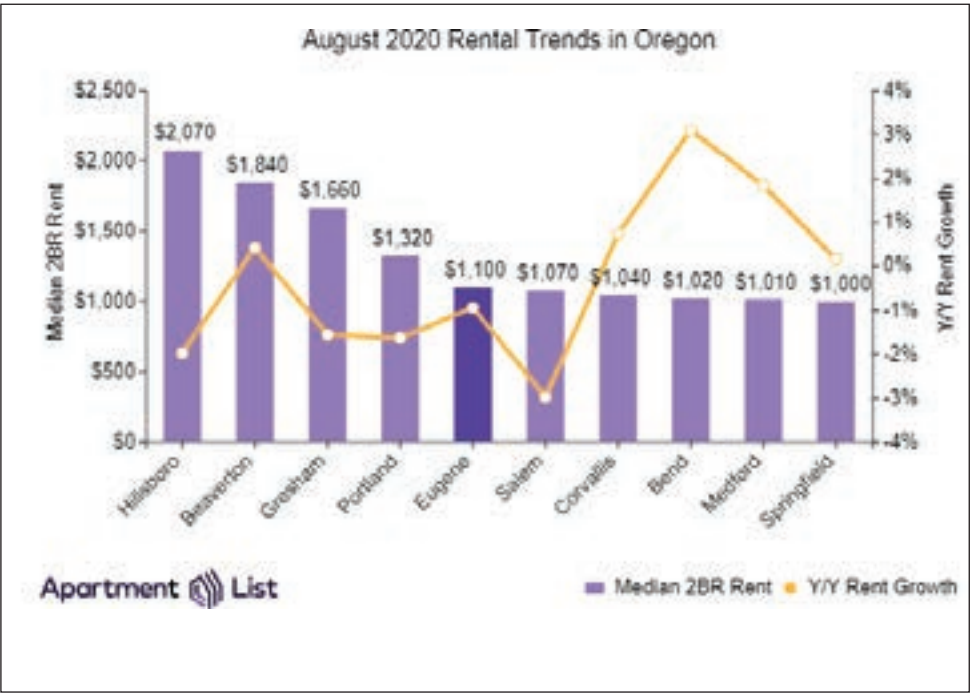


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Rents Continue to Fall Across Portland Metro

Continued from Page 1

Portland’s year-over-year rent growth lags the state average of -0.4 percent, as well as the national average of 0.3 percent.

Here’s a look at how rents compare across some of the largest cities in the metro

- Forest Grove has seen the fastest rent growth in the metro, with a year-over-year increase of 1.8 percent. The median two-bedroom there costs \$1,453, while one-bedrooms go for \$1,232.

- Hillsboro has the most expensive rents of the largest cities in the Portland metro, with a two-bedroom median of \$2,068; rents increased 0.6 percent over the past month but fell 2.0 percent over the past year.

Although rents across cities in Oregon have been significantly decreasing, the state’s growth as a whole has held steady over the past year.

Rents have fallen by 1.0 percent in Eugene and 3.0 percent in Salem.

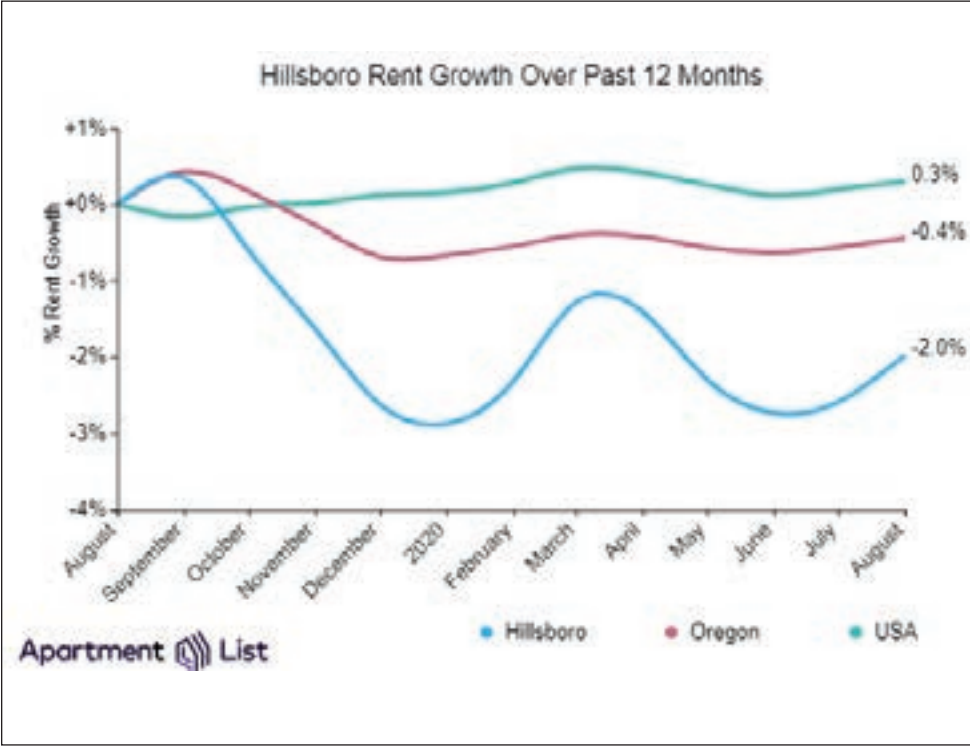
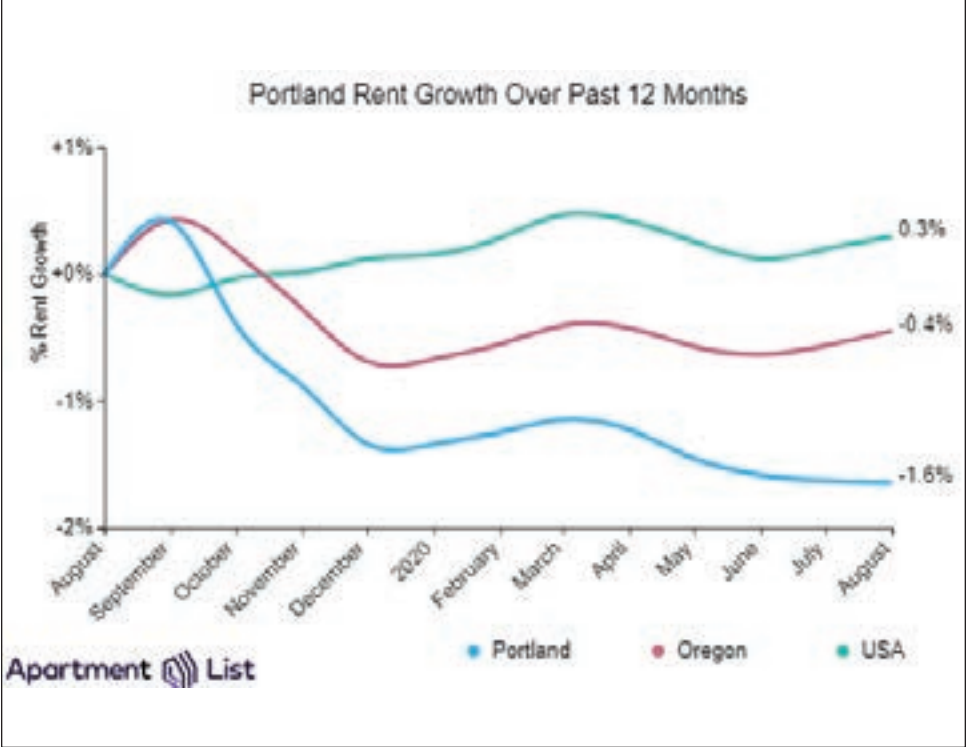
City	Median 1BR Rent	Median 2BR Rent	M/M Rent Growth	Y/Y Rent Growth
Portland	\$1,120	\$1,320	0	-1.6%
Vancouver	\$1,430	\$1,690	0.3%	0.6%
Gresham	\$1,410	\$1,660	0.1%	-1.6%
Hillsboro	\$1,750	\$2,070	0.6%	-2%
Beaverton	\$1,560	\$1,840	0.3%	0.4%
Lake Oswego	\$1,520	\$1,800	0.1%	1.5%
Tualatin	\$1,610	\$1,900	0.8%	-5.2%
Forest Grove	\$1,230	\$1,450	0	1.8%
Wilsonville	\$1,490	\$1,760	1.3%	-0.6%
Canby	\$1,490	\$1,750	0.5%	-6.6%
Gladstone	\$1,530	\$1,800	0.2%	2%
Fairview	\$1,530	\$1,810	0.3%	-0.8%

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Occupancy Issues During COVID-19: Occupants, Sublessors, and Squatters

By **BRADLEY S. KRAUS, ATTORNEY AT LAW**

One of the most common issues I have encountered in my time as a landlords’ attorney is dealing with unauthorized individuals living in my clients’ properties. These issues have only increased with COVID-19. If you have been a landlord long enough, you have likely heard individuals utter the words “squatter’s rights” or some other formulation of the phrase. Such rights do not exist in the Oregon Residential Landlord and Tenant Act. Oddly enough though, without a strong rental agreement, arguing that some individual is living in the premises without your consent can also be the most difficult tenant default to prove.

The above point is clearer when you think about how to prove someone is actually “living” somewhere. After all, it would be awkward—and illegal—to set up cameras in your tenants’ leased premises. It is important to remember that the phrase “unauthorized occupant” appears nowhere in the ORLTA. Therefore, landlords are left with what their rental agreement defines as an “unauthorized occupant” in framing the default under the ORLTA.

If you have a solid rental agreement from any reputable company, it will likely contain a prohibition against individuals occupying the premises without the consent of the landlord. If you think you have an unauthorized occupant, your first



step is to analyze the amount of time your rental agreement allows someone to stay or visit the premises before becoming an unauthorized occupant. That is the easy part; proving someone lives somewhere—as opposed to a tenant having a friend visiting—can prove daunting.

Before considering whether to serve a notice for upon a tenant for an unauthorized occupant, you should confer with your attorney about your chances of success, should such an issue be challenged. The question I ask my clients is, “how do you know he/she/they live there?” A hunch simply will not do. Seeing someone every couple of days also likely will not suffice—after all, your tenants can have friends visit. However, if you see the unauthorized occupant’s car parked overnight—arriving at night,

leaving in the morning—or if this new individual begins receiving packages at the premises, such evidence may be useable.

Subletting is a similar issue as unauthorized occupants. There are no express prohibitions in the residential portion of the ORLTA against subletting. Hence, the same rules and potential proof issues apply to subletting issues. Ensuring your rental agreement contains an express prohibition against assignment, and subletting is the first step. Proving that you have a sublessor is the largest hurdle in the race. With the advent of sites like AirBnB and Craigslist, if your premises is listed on one of these sites—as they often are—such evidence will be useful as you and your attorney navigate a way forward.

Finally, I have encountered many situations during COVID-19 where tenants simply abandon a dwelling unit, and random people appear to take their place. If this issue arises, you may have rights under the unauthorized possessor statute—ORS 90.403—of the ORLTA. If you satisfy the elements listed therein, a 24-hour notice directed at the unauthorized possessor can get you on track to recover your property as quickly as the law allows.

Many individuals will cry “no-harm-no-foul” when it comes to the aforementioned situations. However, landlords have the right, and an obligation—not only to the owners of the properties they manage, but also their other tenants—to know who is living within their properties. The outbreak of COVID-19 does not change these rights or obligations, and nothing in House Bill 4213 or any other eviction moratoriums prohibit taking action to address the above issues.

Bradley S. Kraus is an attorney at Warren Allen LLP. His primary practice area is landlord/tenant law, but he also assists clients with various litigation matters, probate matters, real estate disputes, and family law matters. A native of New Ulm, Minnesota, he continues to root for Minnesota sports teams in his free time. You can reach Kraus via email at kraus@warrenallen.com, or by phone at 503-255-8795.



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Why Does the CARES Act Seem So Uncaring?

Continued from Page 1

the question that if these renters couldn't afford \$1,000-a-month rent, what makes us think they can come up with \$4,000 to make the landlord whole? It appears that tenants interpreted the eviction moratorium as "we do not have to pay rent," which could not be further from the truth.

So, what happens now?

Over the next 30 days, if the CARES Act is not extended, thousands of people in your area face being evicted and receiving a judgment against them for thousands of dollars.

These costly judgments had to come from somewhere, to help the landlords who have carried their loans and their unpaying tenants for months. For many landlords, the burden was too great, and they did not survive carrying these unexpected costs.

The CARES Act gave businesses large PPP loans to cover employee pay, and some individuals who were unemployed collected more than they would have if they worked, all to help people cover their expenses. What did the struggling landlord get from the CARES Act? Nothing but their properties "seized" by the federal government if they had a loan backed by Fannie Mae or other government-backed loan (something the landlord did not ask for) and told they could not make decisions for properties

they own. This has resulted in landlords who are financially stretched and a pool of potential tenants that are not all that dependable.

COVID-19 has had a significant impact on our society but it is by no means the first time that people have endured challenging situations.

People deal every day with illness, cancer, and other diseases and disabilities that are terribly unfortunate. In the past, tenants who have struggled with these types of issues have leaned on family, savings, or churches to help them make ends meet. With the CARES Act, the landlords were the ones forced to carry the bill. We have been beat up enough and the struggle is not over. The current pool of potential applicants in the next 30 days will have evictions and judgments against them that can hurt you. Here is how to protect yourselves:

1. Call your screening company and make sure they search for eviction records in your local jurisdiction and in the jurisdictions your applicant has lived. Credit bureaus removed eviction and judgment data from their reports last year, so the only way you can find a civil eviction record is for your screening company to go right to the court. Keep in mind, since these are off the credit bureaus, these evictions will not affect credit scores.



2. Ask for proof of payment of rent for the last four months, through bank statements or canceled checks. Do not fall for "they were living with family and did not have to pay rent."
3. Give good landlord verifications. What that means is when you are asked about a current or former tenant, stick to fact-based answers, and stay away from sharing your personal, biased opinion of the people. A factual question you can answer and provide backup for is "Has your current tenant paid his or her last few months of rent?" It's a simple question with a simple answer of yes or no. We need to protect each other so no one gets hurt again, and that can happen when we ask for and provide good landlord verifications.

Right now, the collection companies are salivating over these new, large judgments to collect on. If you rent to a person who has a judgment, chances are they will be garnished at every job to which they apply, leaving them with less money to pay you rent. With the "free-money" mentality and the ability to obtain a residence after their first eviction, they might consider making their smaller car

payment over their larger rent payment and take a chance that a second eviction won't hurt them either. As a landlord, you don't want to experience the pain all over again.

I do not want to see any fellow landlord be victimized again. We are good people who have been responsible enough to be able to provide housing across this country to millions of people. For the most part we are all not rich, but rather are living simple responsible lives, trying to get ahead a little and raise our families. More than ever we must band together to survive in an environment that has been stacked against us by our legislatures and tenants. Together we can weather the storm and come out of this a stronger and more unified group.

The secret to being successful in this business is finding the right tenant, or what I call "business partner," and proper screening is one way to beat the challenges ahead.

David Pickron is President of Rent Perfect and a fellow landlord who manages several short- and long-term rentals. He is a private investigator and teaches organizations across the country the importance of proper screening. His platform, Rent Perfect, was built to help the small landlord find success.

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Apartment Construction Down to 5-Year National Low

RENTAL HOUSING JOURNAL

New apartment construction across the country is starting to mirror the downward trend following the 2008 crisis, down 12 percent and hitting a five-year low for buildings of 50 units or more, according to a report from Rent Café.

The COVID-19 pandemic is further complicating an already-visible slowdown in apartment construction since its 2018 peak. The report says:

- Apartment construction is down, with around 283,000 new units expected to hit the market this year, considerably fewer than the 2018 peak.
- The San Jose metro is expected to double the number of projected units added last year, while Miami sees the biggest drop in new apartments year-over-year. Despite doubling its apartment construction, Silicon Valley is adding a relatively low number for a giant tech hub, 5,800 units.
- Overshadowing the New York metro for the third consecutive year, the Dallas-Fort Worth area is first in the nation in terms of apartment construction, set to complete 19,300 new units by the end of 2020.
- Thirteen of the 20 most active large metros are expected to complete fewer units compared to last year. Miami metro is experiencing the biggest drop, 53 percent, down from a whopping 12,500 deliveries in 2019.
- At the city level, Austin leads nationwide with the most apartment

completions at 3,800 apartments, followed by San Antonio, Denver, and Charlotte. Brooklyn rounds out the top five, having delivered around 2,100 units, on par with Chicago.

“The down trend is mainly due to the slower pace of construction, as a result of a shortage of available construction crews, funding and permits, along with

some temporary h ns on construction projects in certain states,” the Rent Café report says. “With projects dragging and some new projects hitting pause, many U.S. metros are likely to see fewer new apartments in the coming years.”

“As the United States begins to recover from its steepest economic downturn in history, the construction industry is faced

with unprecedented levels of uncertainty,” said Doug Ressler, manager of business intelligence at Yardi Matrix.

“How that uncertainty and broader macroeconomic conditions will affect the industry to date, and the shape of the recovery to come, depends on multiple factors.”

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www.multifamilynw.org/events/spectrum-2020

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MONDAY, SEPT. 14, 2020

TOPIC	EDUCATION TRACK(S)	START	END	RELATED SPEAKERS
Asbestos	Maintenance	8 a.m.	8:50 a.m.	Clint Arp
Fair Housing and the History of Discrimination in Oregon	Legal/Fair Housing	10 a.m.	10:50 a.m.	Louise Dix, Diane Hess
Marketing 101	Marketing	11 a.m.	11:50 a.m.	Aaron Sawyer
Opportunity Rocks — How a Rock Star Performance Equals Rock Star Results	Association/Membership	Noon	1 p.m.	Marvelless Mark
Litigation Matters That Matter	Property Management	1 p.m.	1:50 p.m.	Bradley Kraus
Property Management Agreements	Leadership, Legal/Fair Housing	2 p.m.	2:50 p.m.	Nathan Pogue
Tips & Tricks and Q&A	Leasing	3 p.m.	3:50 p.m.	Scott Runkel

TUESDAY, SEPT. 15, 2020

TOPIC	EDUCATION TRACK(S)	START	END	RELATED SPEAKERS
Protecting Your Assets from Mold and Poor Indoor Air Quality	Maintenance	8 a.m.	8:50 a.m.	Mark Ritacco
Feedforward, Not Feedback	Association/Membership	9 a.m.	9:50 a.m.	Joe Hirsch
Top 10 Mistakes Landlords Make	Legal/Fair Housing	10 a.m.	10:50 a.m.	Leah Sykes
Marketing and Recruiting	Marketing	11 a.m.	11:50 a.m.	John Hart
CoStar Presents Oregon’s State of the Market	Property Management	1 p.m.	1:50 p.m.	Emily Anderer
Conflict Resolution	Leadership	2 p.m.	2:50 p.m.	Mary Hennessy
Leasing Marketing Online — SOMEONE NOTICE ME!	Leasing	3 p.m.	3:50 p.m.	Brandy Guthery

WEDNESDAY, SEPT. 16, 2020

TOPIC	EDUCATION TRACK(S)	START	END	RELATED SPEAKERS
Inventory Management with Expense Control	Maintenance	8 a.m.	8:50 a.m.	Zach Howell
Noise, Nuisance and Nonsense: A Virtual Mock Trial	Legal/Fair Housing	10 a.m.	10:50 a.m.	Jeffrey Bennett, Bradley Kraus
Phishing & Other Scams	Marketing	11 a.m.	11:50 a.m.	Keith Allen
The Power of Resilience in Cultivating Healthy Leaders and a Healthy Team	Keynotes	Noon	1 p.m.	Saundra Dalton
Insurance Liabilities and Security	Property Management	1 p.m.	1:50 p.m.	Larry Johnson, David Raske
Leadership During Challenging Times	Leadership	2 p.m.	2:50 p.m.	Laura Jacobson
Interviewing Online	Leasing	3 p.m.	3:50 p.m.	Alicia Vennes

KEYNOTE SPEAKERS

MARK KAMP AKA MARVELLESS MARK

Joe Hirsch

Dr. Saundra Dalton-Smith

Felecia Hatcher

Dr. Sherene McHenry



THURSDAY, SEPT. 17, 2020

TOPIC	EDUCATION TRACK(S)	START	END	RELATED SPEAKERS
COVID-Cleaning	Maintenance	8 a.m.	8:50 a.m.	Barb Casey
COVID Law Hot Topics	Legal/Fair Housing	10 a.m.	11 a.m.	Marcel Gesmundo
How to Put Your Best Foot Forward	Marketing, Property Management	11 a.m.	11:50 a.m.	Shawntel Campbell
Diversity & Inclusion — Who Gets to be an Innovator	Keynotes	Noon	1 p.m.	Felecia Hatcher
Electrical Upgrades	Property Management	1 p.m.	2 p.m.	Trina Latshaw
Equal Pay Act / Paid Sick Leave	Leadership	2 p.m.	3 p.m.	Kevin Swan
Leasing as a Timeless Practice	Leasing	3 p.m.	3:50 p.m.	Jessica Blakely

FRIDAY, SEPT. 18, 2020

TOPIC	EDUCATION TRACK(S)	START	END	RELATED SPEAKERS
Common Plumbing Repairs — When to Call in the Big Guns	Maintenance	8 a.m.	8:50 a.m.	Will Hayes
Supersize Your Impact	Association/Membership	9 a.m.	10 a.m.	Sherene McHenry
Fair Housing and Advanced Reasonable Accommodations	Legal/Fair Housing	10 a.m.	11 a.m.	Louise Dix, Diane Hess
Roundtable — COVID Communication	Leadership	11 a.m.	Noon	Jeff Denson, CPM, Maureen McNabb
Best Practices — Carpet, Vinyl and Tile, Oh My. Where Should We Put What?	Property Management	1 p.m.	1:50 p.m.	Art Mendibles
Looking Ahead for Staffing Success	Leadership	2 p.m.	2:50 p.m.	Laurie Grenya
The NEW Apartment Tour: Virtual & Self-Guided	Leasing	3 p.m.	3:50 p.m.	Esther Bonardi

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DEAN MCCLEERY Property Manager C & R Real Estate Services Inc. <i>Nominated By: Eve Henderson</i>	JOSE LUIS VAZQUEZ Maintenance Supervisor Guardian Real Estate Services LLC <i>Nominated By: Hollie Forsman</i>	MATTIE McMENAMIN Leasing Agent GMC Properties <i>Nominated By: Korah Young</i>	

We believe every site employee is an asset to the industry and are all deserving of recognition.

Congratulations to All!



You Can Help Prevent Child Window-Fall Injuries

Child window falls are a constant risk, and landlords and property owners as well as tenants can take steps to reduce the tragic number of deaths and injuries that occur across the United States each year.

Stop At 4 is a campaign by Tualatin Valley Fire & Rescue and other interested groups to address concerns of injury prevention specialists who are alarmed at the high number of children entering the trauma system in Oregon from falling out of elevated windows during warm and mild weather.

While relatively few children die from window falls, one child, Parker Reck, did lose his life in 2009. The campaign is dedicated to the memory of Parker.

WHY SAFEGUARD WINDOWS?

Home window falls for children ages five and under is a significant and under-reported problem across the United States. Safe Kids Worldwide reports that an average of eight children ages five and under die and 3,300 others suffer severe injury each year. Prevention professionals believe the number is vastly under-reported because these statistics are drawn from state trauma data that is inconsistently gathered across the nation, and also due to the large number of children suffering injuries that do not reach the tracking threshold requiring activation of the trauma system.



Several common factors contribute to the majority of child window falls, making them predictable, and therefore, preventable.

Windows are a natural and useful part of any home or apartment, but they can present danger in certain circumstances.

Those are:

- When windows are more than six feet above the ground outside (even lower heights can be dangerous depending on the surface below).
- When windows have ledges or sills that children can climb on.
- When attractive views are outside of a window (for example, the view from a child’s bedroom window of the street where other kids might play).
- When furniture is positioned too close, allowing children to climb on the furniture and become too close to the window.
- When the window opens more than four inches (this is the same space restriction applied to stair balusters, deck railings, or other railings in a home). Limiting devices are available to keep a window from opening more than four inches.

WHAT CAN YOU DO TO PREVENT CHILD WINDOW FALLS?

To prevent child window falls, consider each of these prevention tips:

- Put window safety devices on any window in an elevated position or with hard surfaces below it.
- Place window safety devices on any window that has been designed with ledges or other features that allow children the ability to climb

near it.

- Put window safety devices on any window that overlooks what a child might find attractive (views of parks, streets, play areas, friends, etc.).
- Position furniture away from windows so children cannot use it to climb near windows.
- Place window safety devices on all windows that present a fall risk. Children are not only at risk in their own rooms. Many children have fallen from the window of a parent’s room or other rooms in the house.

IN CONCLUSION

With regulatory elements in place, and evidence that child home window falls needlessly take lives and cause injury each year, solutions can be formulated. Yet, to date, consistent prevention strategies and understanding by property managers and emergency responders has been limited.

By understanding the background issues leading to child window falls, and the code development that is intended to facilitate solutions, housing of any type should be equipped with the appropriate safety measures to protect young children from injuries and death related to window falls.

For more information, please visit www.StopAt4.com or call 503-805-8482 or 503-512-9159.

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How Poor Key Security Hurts the Resident Experience

By CARL HANLY, CAS

Over the past several months, the COVID-19 crisis has transformed the place people call home into a classroom, a workplace, a gym, and more. With people spending more time at home, it's more important than ever for multifamily communities to provide a positive living experience for their residents.

That may seem challenging, considering that many amenities have been temporarily closed. The good news is that a reputation.com report revealed that one of multifamily renters' must-haves isn't a pool or gym — it's safety.

Safety is likely already a priority at your community. After all, you've probably implemented other security measures such as steel doors, cameras, or guards. But failing to properly secure and track keys could be hurting your resident experience in three areas:

1. EMPLOYEE-RESIDENT RELATIONSHIPS

Employees are a big part of the resident experience. It's critical for them to handle keys in a way that respects residents' private lives and personal property. If they abuse their access to keys in any way, such as by entering someone's home without proper notification, you risk break-

ing residents' trust.

2. REPUTATION

In an Entrata study, 94% of respondents said they read online reviews when searching for an apartment. Since security is one of renters' top priorities, reviews describing poor key management practices — like keys being lost or stolen — won't do your property any favors.

3. PROFITABILITY

If your community were to experience an incident that damaged its reputation, not only would it be difficult to acquire new residents, but also your reduced profit margins would make it more difficult to create a good living experience for the residents you do have.

HOW TO IMPROVE KEY SECURITY

To ensure key management issues don't interfere with your property's employee-resident relationships, reputation, and profitability, follow these best practices:

- Avoid keeping keys on a pegboard or in a simple metal lockbox. Instead, secure keys in an electronic key control system consisting of steel drawers or a tamper-proof panel.

- Track when apartment keys are removed and returned. Implement checks and balances to prevent someone from manipulating the key log.
- Set time limits on when employees can access keys.
- Never leave keys unattended or in easily accessible places.
- Routinely train employees on your key control policies.
- Notify residents by text or email when the key to their home is checked out. Some electronic key control systems can do this automatically.
- Monitor online reviews for complaints related to security concerns involving keys.

By taking the time to review your key control practices, you can protect your residents and help residents feel safe in the place they call home/work/classroom/gym.

Carl Hanly, CAS, is a regional manager with KeyTrak, Inc. He is actively involved in the National Apartment Association's National Suppliers Council. For more information, visit keytrak.com.





Key control protects more than just keys.

Discover how to improve your property's key security. Connect with us at the Multifamily NW: Spectrum virtual conference, visit keytrak.com/spectrum, or call 866.294.1147.



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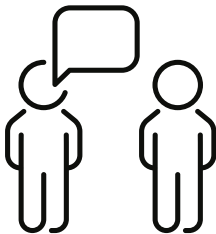
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