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JANUARY 2022

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RHJ RENTAL HOUSING JOURNAL

INSIGHT FOR RENTAL HOUSING PROFESSIONALS

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Published in association with Multifamily NW and Rental Housing Alliance Oregon

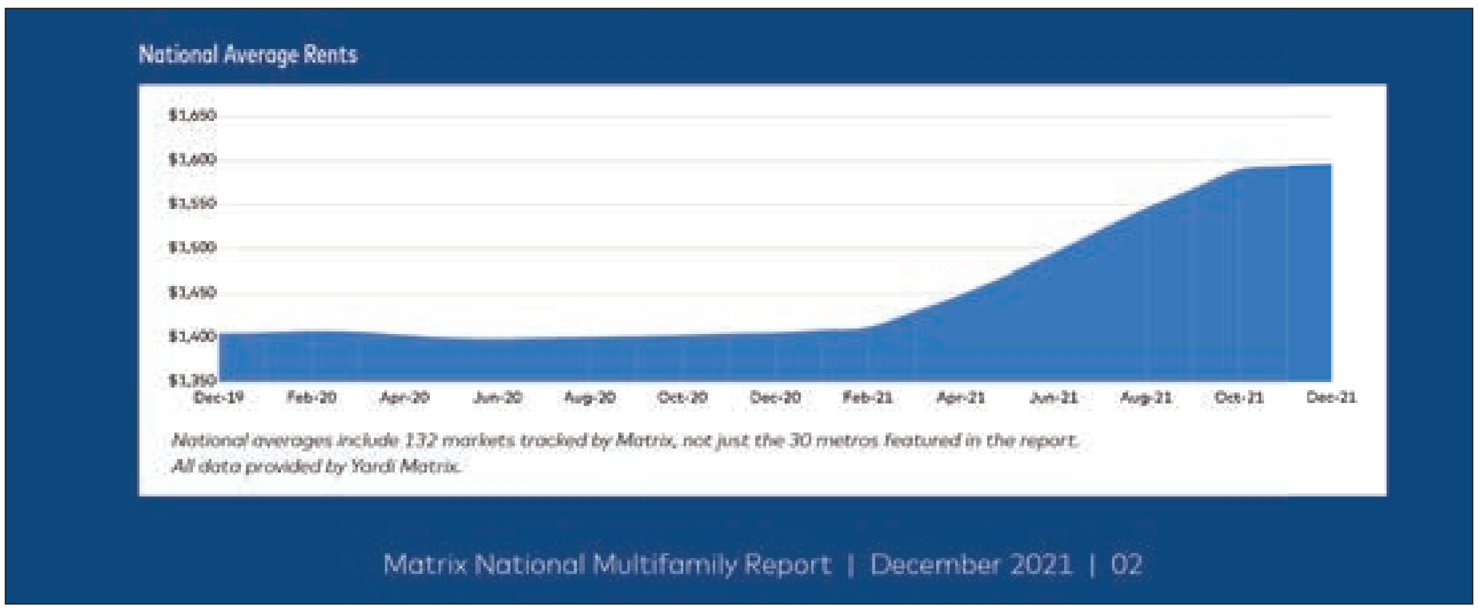
What's Ahead for Multifamily After Record '21?

By John R. Triplett

Multifamily rent growth had a record year in 2021, with many factors contributing to the unprecedented growth that led to the average asking rent growing by $190 during the year, according to Yardi Matrix.

Expectations for 2022 continue strong for multifamily but not at the level of 2021, as rents cooled near the end of the year.

"The multifamily market closed the book on 2021 with strong performance, a good end to a year that featured robust demand and record annual rent growth. Although a repeat of 2021 is not likely, many of the trends that led to the stellar performance remain intact," Yardi Matrix writes in the report.



Highlights of the report:

- "U.S. multifamily rents rose modestly in December, increasing by $2 to a record $1,594, closing the book on an extraordinary year in which asking rents rose by 13.5 percent year-over-year. Rent growth in 2021 was more than double any previous year recorded by Matrix.
- "Although we expect rent growth to decelerate in 2022, it should be a strong year nonetheless by historical standards, closer to the 5 percent annual increases recorded in the middle of the past decade. Demand for apartments remains robust, and the national occupancy rate has been at or near record highs for the last six months.
- "Single-family rentals also remain in high demand, with the national occupancy rate up 0.4 percent year-over-year through December. Single-family rental asking rents rose 13.8 percent in 2021," the report says.

The report says the economy should remain strong based on higher wages, the continued opening up of the economy, easing of supply-chain issues and the wealth built up by some consumers during the pandemic.

At the same time, inflation and a new wave of COVID-19 may keep the growth to a moderate level.

"Consumers' financial health should continue to feed growth of new households, while the rapid increase in home prices will funnel much of that demand to multifamily and single-family rentals," the report says.

"The pandemic continues to affect commerce and travel, and the future of migration remains unknown, but clearly the shift to the South and West will endure."

Yardi Matrix researches and reports on multifamily, office and self-storage properties across the United States, serving the needs of a variety of industry professionals. Yardi Matrix Multifamily provides accurate data on 18+ million units, covering more than 90 percent of the U.S. population. Contact the company at (480) 663-1149.

5 Ways to Enhance Your Leasing Process

By Ciera Moraga
Mark-Taylor Residential

Exceptional multifamily living always begins with the leasing process. Guests become pleased residents when 5-star service starts from the very first inquiry about your community.

Leasing teams have the unique opportunity to be the "face" of your community. When leasing-team members initially reflect company values and establish high standards of service, it sets the guest up to have an excellent residency.

Here are five best practices of our leasing teams:

1. Early bird gets the worm

Searching for a new home often requires time-consuming and stress-inducing work. That is why we strive to make the process as seamless as possible for prospective residents. When a prospective resident shows interest in a Mark-Taylor community digitally or over the phone, our leasing teams get back to them swiftly, prepared with detailed information about the community and neighborhood.

The significance of leasing teams' response time cannot be underestimated; at times, it can be the differentiating factor in a resident's living choice. We support the response process through innovative technology that captures,

See '5 Strategies' on Page 6

Sponsored Content

Delaware Statutory Trusts & Investing Across Real Estate Market Cycles

By Jason Salmon | Senior Vice President, Kay Properties & Investments

Key Takeaways:

- What are the Four Stages of a Real Estate Cycle?
- What are some Current Macro Real Estate Trends Impacting Investment Real Estate?
- Why Should Delaware Statutory Trust Investors Be Aware of Current Real Estate Trends?

One of the common topics that frequently pops up in investment conversations these days involves questions about what stage of the "real estate cycle" is the market currently in, and how does the current real estate market cycle impact the world of Delaware Statutory Trust 1031 exchanges?

The first caveat that must be iterated here is that nobody can predict the future of any market, and there are always material risks associated with investing in real estate, which investors should carefully consider with their own tax and legal advisors. However, by taking a closer look at typical real estate cycles and why these cycles are important to understand, investors can be better prepared for the future, and maybe recognize why more and more real estate owners are selling their properties and moving into DST 1031 exchanges.

What is a Real Estate Cycle?

A market cycle basically refers to the periodic ebbs and flows that occur in the economy and across individual sectors, such as technology, stocks and bonds, and real estate. Real estate cycles typically include a wave pattern that moves across the four phases of trough, expansion, peak, and contraction. Understanding the real estate cycle can help people anticipate shifts in the market and make more informed decisions relating to their real estate asset, whether it's single-family home, multifamily building, commercial building, or net leased property.

Understanding the Four Real Estate Cycles:

- Trough/Recession: In the recession phase, supply has over-exceeded demand, and demand drops—causing downward pressure on values, high vacancy rates and negative rent growth. Anyone who owned real estate during the "Great Recession" faced dramatic events such as loan defaults, massive layoffs, and vacated homes that owners abandoned after property values plummeted. Still, some speculative investors look at this cycle phase as a good time to buy as property values will be at rock bottom. Some of the advantages of buying real estate during recessions include lower prices, less competition, and many sellers might be more willing to offer provisions as improvements and amenities. If successfully executed, a buyer who purchases during a trough or recession will wait and hold the investment property until the real estate cycle circles back, and the downturn is over—as the market begins to recover and eventually expand.
- Recovery/Expansion: English theologian and historian Thomas Fuller once famously said, "It's always darkest before the dawn", which many real estate investors apply to the earliest moments of a recovery. In the recovery phase, the real estate market begins at a low point from the recession and gradually rises in strength. Some people who invest in the recovery phase look at Core real estate assets that will generate stable income with very low risk. These assets include a NNN property with a long-term lease or a fully leased office building in a prime location. Other assets that savvy investors target during a recovery phase of real estate investment include value-add real estate, and opportunistic investments like distressed properties or even raw land. While many people have a hard time identifying when the trough stage segues into the recovery phase, experts look at trends like gradual occupancy increases or growing demand to identify when the recovery stage has begun. The recovery phase is a popular time for real estate investment and speculation since prices of properties are typically high, which helps the potential for a solid return upon the sale of the asset.
- Peak: The peak phase will be when supply catches up with and even exceeds demand pushing prices up. During this phase, assets are fully priced, and some real estate investors feel eager to sell at attractive prices and reap profits. However, the peak market can also be a good time for savvy investors to refinance any leverage while interest rates are low and fixed.
- Contraction: The contraction phase generally occurs after the business cycle peaks, but before it becomes a trough. If growth stalls or becomes negative, it can fall into a recession, which is usually defined as two consecutive quarters of negative growth. During this period, investors need to act very cautiously while simultaneously monitoring the market for opportunities - because while contraction cycles can be difficult, they can also coincide with some great opportunities. For example, in a recessionary environment, the worst-performing assets are those that are highly leveraged, very speculative, and fraught with risk. For many years, Kay Properties has avoided the sectors of hospitality, senior care, and oil & gas for this exact reason.

While this cycle pattern is widely accepted to view the real estate market over the long-term, there are many variables that come into play with real estate. For example, real estate is a highly localized industry with different conditions in every state, market, and sub-market making real estate a constantly moving target.

Record-breaking expansion cycle and DST Investment Opportunities

Timing investments correctly may potentially help to increase returns. Yet getting market timing exactly right is never easy unless you happen to be a fortune teller. Right now, the length of the current economic expansion has many people suspecting that we are close to a peak market cycle. However, others suggest current slow and steady growth may be sustainable, and there doesn't appear to be anything imminent that could derail that pattern. The peak could very well turn out to be more of a plateau than the beginning of the end. Even if there is a contraction or trough ahead, it could be a slight downturn rather than a sharp drop off a cliff. There are numerous variables that contribute to the shape of market cycles that range from Fed monetary policy to market bubbles that pop, such as the housing and Dot. com booms that caused the last two recessions.

But real estate experts point to several macro real estate trends that suggest it might be a good time for investment property owners to consider selling their buildings and consider DST 1031 investments. Even if we cannot know if we are currently experiencing a peak in the real estate market cycle, many real estate investors have seen their properties appreciate significantly and recognize an opportunity to sell and potentially unlock trapped equity.

Some Macro Real Estate Trends That Could Benefit DST Investors

Macro Real Estate Trend #1: Low Inventory

According to the National Association of Realtors, inventory of available homes was down nearly 30% in 2021 compared to a year ago, multifamily buildings are attracting institutional real estate investors, and according to real estate firm CBRE in is first quarter 2021 report on the industrial and logistics market, demand for this type of asset is through the roof, after nearly 100 million square feet was absorbed during the first quarter – the third highest absorption rate on record.

- How This Could Benefit DST Investors? Whether you are talking about a multifamily apartment building or a single-family home, low inventory means higher selling prices and shorter sales cycle – all good news for the seller's position. However, this low inventory could also cause trouble for a seller who will find it hard to purchase a replacement property to avoid a large capital gains tax bill at the end of their sale. The DST marketplace allows sellers to easily find a 1031 like-kind exchange for nearly every level of transaction, providing sellers a strategy to not only defer their capital gains taxes but also gain access to a much more diversified portfolio with monthly cash flow potential. DST 1031 specialty advisory firms like Kay Properties & Investments has access to the largest menu of DST 1031 exchange properties in the nation and works with more than 25 different sponsor companies.

Macro Real Estate Trend #2: Rising Real Estate Asset Prices

While real estate prices have slowed slightly in recent months, they have still grown by nearly 20% compared to last year, and according to a recent report on net leased real estate points out that net leased real estate is experiencing its highest level of demand in history, with billions of dollars flooding in from seemingly everywhere.

- How Could This Benefit DST Investors? Rising real estate prices might indicate the real estate cycle is nearing its peak, and so it could be a good opportunity for investors to sell their multifamily investment buildings. However, selling in an expansion market cycle could trigger a significant capital gains tax bill! DST 1031 exchange investments help sellers defer their capital gains taxes while gaining access to institutional quality real estate assets with the potential for monthly income. DST 1031 exchanges can be structured with leverage for replacing debt, or all-cash/debt-free eliminating the risk of lender foreclosure.

Macro Real Estate Trend #3: Low Interest Rates

With historically low interest rates in place, buyers are more motivated and capable of financing investment property more quickly.

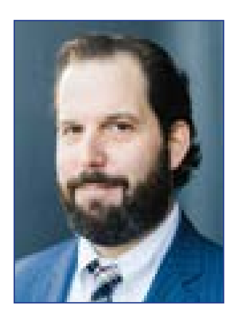
- How Could This Benefit DST Investors? According to the Quantity Theory of Money, any time the money circulation increases (either through government spending or lower interest rates) inflationary pressures tend to surface. DST 1031 properties may potentially help investors reduce the negative effects of inflation. For example, many DST investments have access to properties that have historically shorter lease terms that allow the investor to pass along any inflationary pressures to their tenants. On the other hand, most single-tenant net leased investment properties commonly have 20–25-year leases that generates flat to minuscule rental increases over the course of the lease term. Over time this flat rental structure could be devastated by inflationary pressures.

Today's Real Estate Cycle Could Be a Good Time to 1031 Exchange into DST Properties

There is no doubt that mature market cycles are fueling an increase in property sales and 1031 tax deferred exchanges. Property owners who believe values may be at or near peak see it as a good time to take chips off the table and sell real estate that has experienced good appreciation. DST Properties are blessed by the IRS for use in a 1031 tax-deferred exchange. Individuals also have an opportunity to reinvest proceeds into a variety of different property types and geographic markets. For example, Kay Properties has DST opportunities with a minimum investment amount of $100,000 for investors with offerings that span multifamily, self-storage, net lease (NNN), industrial and medical office properties.

The Delaware Statutory Trust 1031 exchange vehicle can be a potentially smart strategy for investors who want to take advantage of the current real estate trends and leverage the tax deferral aspects of the 1031 exchange process.

About the Author



Jason Salmon is Senior Vice President Managing Director of Real Estate Analytics for Kay Properties & Investments New York City office where he applies his more than 20 years of commercial real estate and financial advisory experience in assisting thousands of property owners as they navigate their 1031 exchange transactions and direct acquisitions of securitized real estate investments. He is considered one of commercial real estate industry's leading experts in providing high-net-worth clients DST 1031 exchange investment strategies, tax advantaged exit strategies and estate planning solutions.

Jason takes his deep and diverse expertise in identifying good real estate investment opportunities across multiple sectors including commercial, industrial, medical, and multifamily and combines it with Kay Properties & Investments' dynamic platform that includes a full menu of DST properties and a complete team of 1031 exchange experts to provide his clients the best advisory and execution practices in the industry.

This is the Year for You to Become Involved in Governance of the Housing Industry

By Michael Havlik, CPM®
Deputy Executive Director, Multifamily NW

As housing providers ring in the New Year, it is apparent that that the fallout of the COVID-19 public health emergency will have long-lasting and widespread impact on our industry.

While unemployment is at record lows, many of you are struggling to hire and retain employees. Further, many are straining to operate in a legal environment that has been altered multiple times in a single year.

Housing-related responses to the COVID-19 pandemic were arbitrary, often misrepresented, and made communications between housing providers and residents nearly impossible during a pandemic when it was never more critical. Our concern for the operating environment facing housing providers cannot be understated.

With these immediate priorities dominating our thoughts, it can be difficult to see the broader landscape of challenges to housing providers. The industry is being reshaped by political forces with little thought given to supply and affordability of housing, The toxic attitudes expressed toward housing providers at our state- and local-level governing bodies are clearly designed to drive housing providers away from participating in the civic process, and away from the profession of providing housing.

Now, after what has felt like a nonstop series of special sessions, emergency board meetings and regular legislative sessions, the six-week 2022 Oregon legislative session is quickly approaching. We do not know if lawmakers will hold fast to a commitment to refrain from making major changes to ORS Chapter 90, or if we will see an avalanche of bills targeting the rental industry as we have during each legislative session of recent memory.

What do we recommend that Housing Providers do?

- **Contact your representative:** Your representative needs to know what you are experiencing, and you need to know what they are thinking. Make this the year you contact them more than once with personal stories about the impact of existing laws and the consequences of proposed legislation. Your elected leaders can only hear you if you are communicating. Click here to find your legislators: https://www.oregonlegislature.gov/findyourlegislator/leg-districts.html.
- **Stay informed:** Keeping updated on elections and proposed legislation, through your industry association, will be key in 2022. Be sure to pay attention to local races, ballot measures and local rulemaking as well. Those regulations often have a negative impact on the industry. Frequently, ideas implemented at the local level are viewed as proven to work and get adopted at the state level.
- **Vote**: How have your interests been represented over the past three years? The people we vote into office matter. Are they experienced, well-rounded, collaborative and fair? Do they have the temperament to study issues deeply and vote consistent with their constituency, or will they simply fall in line with an influential party leader? Register to vote at www.Oregonvotes.org. April 26th is the registration deadline for the May 17th election.

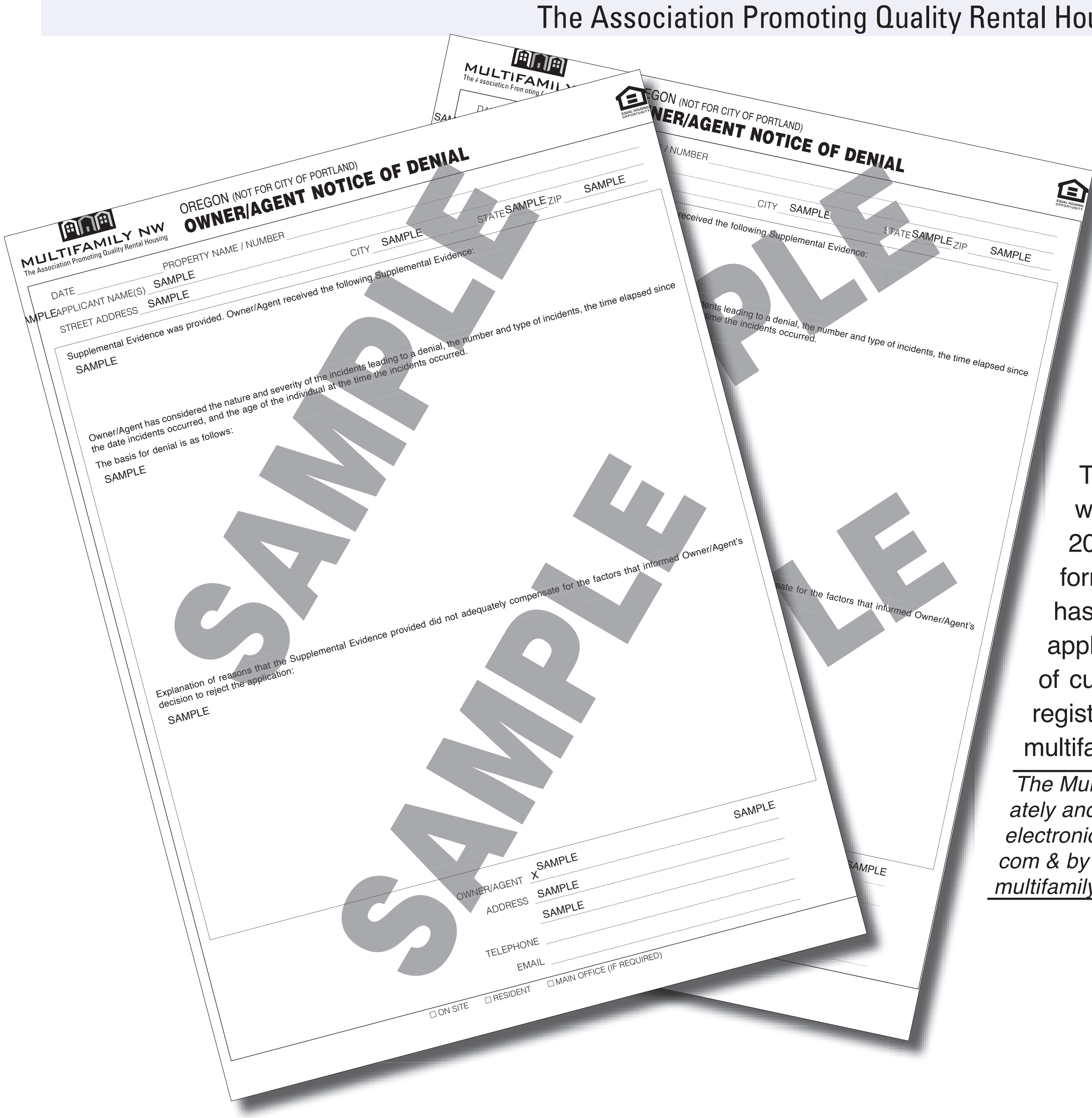
This is the year to get involved. The legislative session begins next month. We all need to get prepared.

As we've been reminded repeatedly, "You're either at the table, or you're on the menu."

As the Deputy Executive Director for Multifamily NW, Michael Havlik brings 29 years of industry experience in market rate and affordable housing. A native Oregonian, Michael obtained his undergrad degree from University of Portland,and an MBA from the University of Notre Dame. He is a licensed Principal Broker in Oregon, and a Certified Property Manager®. He served as Past President of Multifamily NW in 2003 and was nominated for the ACE Awards Regional Property Manager of the Year in 2015.

MULTIFAMILY NW

The Association Promoting Quality Rental Housing



MULTIFAMILY NW
The Association Promoting Quality Rental Housing

OREGON (NOT FOR CITY OF PORTLAND)
OWNER/AGENT NOTICE OF DENIAL

DATE
PROPERTY NAME / NUMBER
APPLICANT NAME(S) SAMPLE
CITY SAMPLE STATE SAMPLE ZIP SAMPLE
STREET ADDRESS SAMPLE

Supplemental Evidence was provided. Owner/Agent received the following Supplemental Evidence:
SAMPLE

Owner/Agent has considered the nature and severity of the incidents leading to a denial, the number and type of incidents, the time elapsed since the date incidents occurred, and the age of the individual at the time the incidents occurred.
The basis for denial is as follows:
SAMPLE

Explanation of reasons that the Supplemental Evidence provided did not adequately compensate for the factors that informed Owner/Agent's decision to reject the application:
SAMPLE

SAMPLE
OWNER/AGENT X SAMPLE
ADDRESS SAMPLE
SAMPLE
TELEPHONE
EMAIL
☐ ON SITE ☐ RESIDENT ☐ MAIN OFFICE (IF REQUIRED)

FORM OF THE MONTH

M112 OR Owner/Agent Notice of Denial

This is a brand new form created for compliance with Oregon's SB 291, which passed in June 2021 and took effect in January 2022. This form is required for use when a housing provider has considered supplemental evidence for an application that was denied. If you're not sure of current screening and application regulations, register for a landlord/tenant law class at www.multifamilynw.org.

The Multifamily NW Forms Collection is available immediately and electronically at www.RentalFormsCenter.com, via electronic subscription software through www.tenanttech.com & by mail or pick-up of printed triplicate forms at www.multifamilynw.org.

Multifamily NW Schedule

JANUARY 13	**WEBINAR: HR ANSWERS - MANAGING CHANGE**	**8:00 AM - 9:00 AM**
JANUARY 14	**WEBINAR: IT'S THE LAW: SCREENING JUST GOT HARDER**	**12:00 PM - 1:00 PM**
JANUARY 14	**VIRTUAL ROUND TABLE: NAA DESIGNATION Q&A**	**1:30 PM - 2:30 PM**
JANUARY 18	**WEBINAR: LANDLORD TENANT LAW 1-PART A**	**10:00 AM - 12:00 PM**
JANUARY 18	**WA IT'S THE LAW**	**12:00 PM - 1:00 PM**
JANUARY 19-28	**VIRTUAL CERTIFIED APARTMENT MANAGER (CAM) COURSE SERIES**	
JANUARY 19-28	**VIRTUAL CERTIFIED APARTMENT SUPPLIER (CAS) COURSE SERIES**	
JANUARY 25	**WEBINAR: LANDLORD TENANT LAW 1-PART B**	**10:00 AM - 12:00 PM**
JANUARY 25	**AFFORDABLE AFTERNOONS WITH ADAM-AFFORDABLE HOUSING NEW LAWS UPDATE**	**12:30 PM - 1:30 PM**
FEBRUARY 1	**WEBINAR: LANDLORD TENANT LAW 2-PART A**	**10:00 AM - 12:00 PM**
FEBRUARY 8	**WEBINAR: LANDLORD TENANT LAW 2-PART B**	**10:00 AM - 12:00 PM**
FEBRUARY 15	**WEBINAR: ADVANCED LANDLORD/TENANT LAW**	**10:00 AM - 12:00 PM**

From the Desk of the Executive Director

Oregon Property Rights, Version 2.2

By Ron Garcia

As we turn the page to 2022, rental housing providers throughout Oregon should recognize and acknowledge that what this year's calendar click means for them is that their business has been modified, and we all need a new mental software called "Oregon Property Rights, Version 2.2."

In 2021 there were five new laws passed by the State Legislature that upended the rental housing industry. Four of the bills came with expiration dates, yet three of those succeeding bills extended the prior dates upon their en-action. Only one of the bills that passed was not an emergency measure.

The purpose of bringing this up today is not to explain these laws, but rather to emphasize to all property owners in the state that their business models need to be adjusted accordingly, and they are on notice for their need to become aware of and stay up-to-date on all the changing rules.

Like so many issues today, language and labels are markers of social change that modify our behaviors. We are no longer "landlords with property rights being challenged by tenant activists." We are: "Rental Housing Providers responsible for implementing regulations that provide Tenant Protections."

If that does not make sense to you now, or if it irritates you today when reading it, I suggest copying the phrase down and putting it up on a wall where you can see it daily and reflect on what it means. It may have a direct impact on your success as a rental property investor as we proceed into the new year.

So, what does all this mean for our organization at Rental Housing Alliance Oregon? It means that we have our work cut out for us and are excited to be of service! We have adopted a new tag line:

RHA Oregon has been improving the CRAFT of Rental Housing Providers since 1927.

Community * Resources * Advocacy * Forms * Training

To follow in that order, here are a few of our newer campaigns we are working on in 2022:

1. RHA Oregon Member's Community Giving Fund

We know that big things come in small packages. We know that small details matter. Our goal is to support our members who want to support others. This year, we will donate $100 to our members' submission if they meet a criterion: To reward someone, fix something, encourage someone, offer sympathy, for food or shelter or transportation, to pay a utility bill, say "thank you," or for children's or caregivers' supplies.

2. The Landlord Hotline

Perhaps our biggest change is facing the facts that with increased complexities come higher risks in understanding and implementing actions between owners and residents, and RHA Oregon staff are simply not qualified to give legal advice. We are excited to offer a connection of owners with professionals to provide mentoring and answers, and we're eager to see this program grow and proud of its mission with "Landlords Helping Landlords."

3. Our Legislative Impact

RHA Oregon is a major contributor to state and local government housing policies and we support goodlandlordpac.com. As tenant-protection regulation has become the dominant narrative in shaping housing laws, our input is sought to add balance and provide guidelines. In 2021 we spent hundreds of hours on personal calls and meetings with City Council members, State House and Senate Representatives, the State Supreme Court Justice, and the Governor and her staff. In 2022, we have added a new membership category called "Designated Members" (owners represented by a professional property manager). Our intent is to add their voice to our efforts, because it is true that the size of our footprint matters.

4. Updated Forms Videos

We have had so many major revisions on various forms this year that it's hard to keep up. Using old forms just because you have them in a drawer is not a good idea. With updates come questions, of course. We have traditionally offered a class called Landlording 101. But with so much action, it's no longer enough. This year we added a Forms Video Instruction Series on our website to help owners understand and use them. As they change, we will endeavor to keep these videos current for our members. Also, in 2022 we are working on new delivery systems to improve the distribution of RHA Oregon forms and make them easier to use.

5.Training Classes on Zoom

We all know the pandemic showed us how to meet and conduct business in a virtual setting. I have taught classes on Zoom this year to as many as 300 attendees and to as few as 3 attendees. Rental Housing Alliance Oregon remarkably offered 117 classes in 2021. This coming year our goal is to tap the skills and knowledge of all of our various vendors and professional property managers in the training classes. Some will be free; some will have modest pricing. All of them are critical to being a successful rental housing provider. It is simply not enough to own a good rental property or have good tenants in place. An adage says this: "Those who don't read are no better off than those who can't read." I implore you to improve your housing literacy – sign up for classes (even if you think you know it already)! And, even better, if you know it – teach it. Call our office and offer your insights to teach a class. We welcome your knowledge.

Happy New Year! May 2022 be your best ever.

5 Strategies to Enhance Your Leasing Process

Continued from Page 1

sorts, and pushes leads to our team members.

In addition, our training and development team coaches leasing-team members on best practices for efficiently responding to prospective residents.

2. A warm welcome sets the tone

Creating a place that truly feels like home starts the moment that a guest walks through the front door. Our leasing teams greet our residents and guests as if they have arrived at home, even before they choose to live at the community. A warm smile and standing approach, combined with a welcoming statement such as, "Good morning and welcome to the community. How may I assist you today?" sets the tone for the community presentation and beyond.

3. Give your guest undivided attention

Providing guests with full, undivided attention is a simple yet profoundly important to-do for leasing teams. In order to feel welcomed into your community, guests must feel listened and attended to during their visit. Use attentive nonverbal behavior – make eye contact, remember names, and welcome questions, comments, and concerns.

4. Fit your community to their needs

Leasing must focus on the guest, not just the community. It our goal to deliver what residents and prospective residents want and need in a home.

To help accomplish this goal, leasing-team members must ask the right questions to personalize their presentation toward the guest's personal preferences.

If a guest works remotely from home, we make sure to show them our common working spaces. If a guest enjoys exercise, we show them our fitness center and tell them about our on-site exercise classes. This customer-centric mindset is key.

5. Seal the deal with follow-up

Following up is another checkpoint in the leasing process that cannot be skipped. Guests return to their busy lives after they visit your community; a prompt and friendly follow-up message is convenient for the guest and keeps the community top-of-mind. If the guest chooses not to live at the community, it is an opportune time to ask for feedback that will make you better than yesterday.

Ciera Moraga is the associate managing director of multifamily investments at Mark-Taylor Residential. She provides strategic direction for a large portfolio of Mark-Taylor luxury communities across Arizona. She utilizes her expertise to lead her communities to achieve optimal operational success, while staying true to Mark-Taylor's exceptional standards of service.

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Senate Bill 891: More Changes to Ring in New Year

By Bradley S. Kraus
Partner, Warren Allen LLP

Happy New Year to everyone! As we turned the page on another (and hopefully final) year of COVID-related changes, another was made last month. Oregon's December special session ushered in another set of changes to the landlord-tenant world, this time modifying prior tenant protections with the passage of Senate Bill 891. While many of the rules remain the same, the timelines have been tweaked, meaning more potential delays for landlords.

The largest change made within SB 891 is the changing of timelines related to a landlord's ability to act. Previously, Senate Bill 278 required a landlord to incur a 60-day stay period (90 days in certain localities) if/when a tenant provided documentation evidencing that the tenant had applied for rental assistance. Once this 60/90-day stay period was up, the landlord no longer had to wait, and could either (a) serve a non-payment notice, or (b) continue forward with an eviction action, depending on the posture of the particular non-payment situation. Those rules have now changed.

Senate Bill 891 now places a stay on the landlord's ability to act until the tenant's rental-assistance application is no longer pending. More specifically, if "on or before June 30, 2022," a tenant has provided documentation to the landlord that they have applied for rental assistance, then a landlord is prohibited from:

- Serving a termination notice for non-payment, or
- Filing or continuing an eviction action based upon non-payment.

These changes once again (and unfortunately) pass the problems related to rent assistance on to landlords. Once a tenant's application is no longer pending, the landlord thereafter has options depending on the result—either dismiss the case or, if the application was denied, proceed accordingly. But landlords continue to have obligations related to mortgage payments, taxes, etc., and while larger landlords may be able to absorb further delays, small landlords and business owners cannot.

Another important change made within SB 891 is to the disclosures required in your non-payment notices. Landlords should ensure that their forms are up to date, as old forms containing the old SB 278 disclosures are no longer valid, if served post-SB 891 enactment. Any notices served prior to SB 891, but expiring thereafter, remain valid with the old disclosures, however. The law applies to prospective notices served, not retroactively.

On a positive note, courts are becoming very flexible in dealing with SB 891 issues. At the first appearance in an FED action, many landlords are faced with allegations that they were provided documentation by tenants. Landlords may not know what they received, as they likely expect something more formal from rent-assistance agencies. Many of these documents that qualify as "documentation" look very bare-bones (and, at times, simply thrown together in a Word document). Due to the same, courts have been very willing to allow the parties more time to explore the facts and do the right thing. I anticipate this continuing as we navigate these new laws.

Non-payment cases in Oregon continue to rise in complexity. The shifting legislative and legal landscape will no doubt contain more changes in the future. For the time being, landlords are encouraged to reach out to competent counsel if they receive any documents from their tenant. While it may look like nothing, the document you have could actually be rental-assistance documentation, which could affect your rights moving forward.

Bradley S. Kraus is a partner 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. You can reach him at kraus@warrenallen.com or at 503-255-8795.

Upcoming Events

2022
January - June

MULTIFAMILY NW®
The Association Promoting Quality Rental Housing

MARCH 09 — ***Reverse Trade Show***
Oregon Convention Center

MARCH 17 — ***Spring Apartment Report Breakfast***
Oregon Convention Center

APRIL 13 — ***Fair Housing Fair***
Virtual Event

MAY 12 — ***Maintenance Fair***
Oregon Convention Center

For detailed information: ***MultifamilyNW.org***