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2022 Fair Housing Fair Celebrates Virtually

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Top 10 Reasons You Should Belong to RHA Oregon

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INSIGHT FOR RENTAL HOUSING PROFESSIONALS

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What if Tenant Doesn’t Report Dead Smoke Detector?

By HANK ROSSI

Dear Landlord Hank: Who is responsible for replacing a dead smoke detector — tenant or landlord? If the landlord is, what actions can I take, as landlord, if the tenants know about it and won’t replace it? — Travis

Dear Landlord Travis: This question comes down in part to your lease. Is the responsibility for a working smoke detector clearly defined as the tenants’ responsibility? My lease indicates the tenant is responsible for smoke detector batteries and, if the detector is not working, for notifying the landlord.

If smoke-detector responsibility is not addressed in the lease, then, in my opinion, you can’t blame the tenant for its functionality. If tenants are responsible for batteries and it is a dead detector, then I as the landlord would buy new ones and install them.

If the lease states the smoke detectors are clearly the tenants’ responsibility, I would talk to them and then put a seven-day notice on non-compliance on their door, since they are in default on the lease and could be evicted.

This is a serious issue for the health and safety of your tenants, not to mention that your property could be at serious risk of fire with no warning.

Portable Cooling Devices & ORLTA: How SB 1536 Will Affect You

By BRADLEY S. KRAUS
PARTNER, WARREN ALLEN LLP

The 2022 legislative session has concluded. When compared to the sessions of the past two years—and the flurry of new laws landlords have had thrown at them arising from the same—this session seemed less noteworthy. However, the legislature did pass SB 1536, a bipartisan piece of legislation amending the Oregon Residential Landlord and Tenant Act. This law tackles restrictions on the use of “portable cooling devices” from May to September of each year and imposes new requirements that housing provide cooling devices in new construction.

As you can imagine, this law was reactive to the unprecedented heat wave the Pacific Northwest experienced in the summer of 2021. Prior to SB 1536, the ORLTA had little discussion about air conditioners within the same, unless it was provided for by the landlord (at which time the landlord would have an obligation to maintain the same). From a definitional



perspective, SB 1536 defines “portable cooling devices” as “air conditioners and evaporative coolers, including devices mounted in a window or that are designed to sit on the floor.” Notably, this does not include devices whose installation or use would require alteration to the dwelling unit. Senate Bill 1536 prohibits landlords from restricting tenants from installing

See ‘Portable’ on Page 8

Judge Halts Ban on ‘Love Letters’



RENTAL HOUSING JOURNAL

A federal judge in Oregon has issued a preliminary injunction prohibiting enforcement of an Oregon law against what are called “love letters” between buyers and sellers of real estate.

In his court order, District Judge Marco A. Hernández says Oregon’s House Bill 2550 “likely violates” the First Amendment rights of real estate agents. “It is not in the public interest to enforce a law that is likely unconstitutional, even one aimed at the laudable goal of reducing unlawful discrimination in housing,” the judge said in his legal opinion.

The Pacific Legal Foundation filed a lawsuit on behalf

See ‘Judge’ on Page 6

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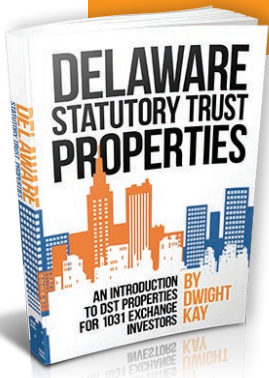
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Kay Properties is a national Delaware Statutory Trust (DST) investment firm. The www.kpi1031.com platform provides access to the marketplace of DSTs from over 25 different sponsor companies, custom DSTs only available to Kay clients, independent advice on DST sponsor companies, full due diligence and vetting on each DST (typically 20-40 DSTs) and a DST secondary market. Kay Properties team members collectively have over 150 years of real estate experience, are licensed in all 50 states, and have participated in over \$30 Billion of DST 1031 investments.

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Why Real Estate Syndication Is Important for Delaware Statutory Trust 1031 Exchange Real Estate Investors

By **Matt McFarland**
Vice President Kay Properties

Delaware Statutory Trust 1031 exchanges have never been more popular, and one of the reasons behind this growth and investor appeal is the power and flexibility of real estate syndication. Real Estate syndication is a major underlying principle for how a Delaware Statutory Trust 1031 investment is structured, and why they continue to grow as an alternative investment for accredited investors.

“A lot of people still don’t know about the potential benefits of the 1031 DST syndication structure. Last year, we helped our clients complete more than \$600 million of equity investments in these 1031 DST vehicles,” explained Dwight Kay, the founder and CEO of Kay Properties who is a prolific author on the subject including authoring multiple white papers and what some consider to be the first book ever published on the subject.

What is Syndication and How Does it Work within the Real Estate Investment Arena

Generally speaking, syndication is the process of organizing a group of individual investors or an organization for the purpose of collectively investing in an asset that requires a significant amount of capital. When applied to the world of real estate investments, syndication refers to the process of organizing a collection of investors to combine their financial resources in order to purchase one or more real estate assets. Real estate syndication means investors are issued beneficial interests or shares of real estate. Profits and losses are usually split according to their respective percentage ownership interests.

The concept of syndication is especially relevant when discussing Delaware Statutory Trusts because not only do DSTs qualify for 1031 exchanges as outlined in Revenue Ruling 2004-86 of the Internal Revenue Code Traditional 1031 exchanges often involve a sole investor exchanging investment real estate into another like-kind real estate asset. A Delaware Statutory Trust 1031 exchange allows multiple investors to own real estate for their 1031 exchange or cash investments. In addition, unlike other group investment structures such as Tenant in commons (TICs) which limit the number of investors to 35, DSTs allow for a much higher number of investors (typically up to 499 investors), creating an ideal choice for investors who want to access larger and potentially more diverse real estate assets.

What are the Benefits of a Delaware Statutory Trust Syndication?

Benefit #1: Passive Ownership

One of the most attractive aspects of DST 1031 exchange investments to many investors is that they eliminate the challenges associated with active ownership and management. In DST investments, a sponsor creates the DST and has the responsibility of managing the entire business and assets of the trust. These responsibilities can include the following:

- Underwriting the real estate deal
- Conducting all the due diligence on the property (ies)
- Arranging the necessary financing - although some DST 1031 investments are debt free with no loans on them

Key Takeaways:

- How does Delaware Statutory Trust Syndication benefit investors?
- Why can Real Estate Syndication via a DST potentially reduce risk for investors*?
- What is the Portfolio Optimization and Diversification Theory?
- How do real estate syndication and DST investments can help investors access larger real estate assets

- Creating a business plan for the property (ies)
- Finding a property management team.
- Coordinating investor relations and potential monthly distribution checks to investors.

In this way, the Delaware Statutory Trust syndication provides investors a passive ownership structure.

According to Kay, in exchange for giving up active management, the passive investor of a DST 1031 property will typically receive 100 percent of the pro-rata portion of any potential principal pay-down from the loan on the property, thereby potentially building equity. In addition, DST 1031 properties are structured so that the investors in the DST receive 100 percent of their pro-rata portion of the potential rental income generated by the property’s tenants.

“Furthermore, although appreciation is never guaranteed, DST 1031 investors receive 100 percent of their pro-rata portion of any potential net appreciation of the property over the hold period,” said Kay.

Benefit #2: Access to Larger, Institutional Grade Assets

Another attractive element for investors of syndicated Delaware Statutory Trust 1031 exchanges is that they provide investors within the trust the opportunity to access large, institutional grade real estate assets that would otherwise potentially be outside of an individual investor’s price point. With a typical investment minimum investment of \$100,000, individual investors in a DST can purchase an ownership interest in large industrial distribution centers, medical buildings, self-storage facilities, and even large \$50 million-plus apartment communities. In this way, the syndication structure of Delaware Statutory Trust 1031 exchanges allows investors to access a level of real estate that they oftentimes would not have been able to buy before.

Benefit #3: The Potential to Reduce Risk Through Greater Diversification*

A third advantage of the Delaware Statutory Trust syndication structure compared to a normal 1031 exchange is that it increases the ability of investors to invest in multiple properties, thus potentially reducing individual risk. Beyond the ability to allow investors to participate in multiple investment properties, DST syndications also allow investors to invest in multiple asset classes (multifamily, commercial buildings, self-storage, medical facilities, industrial distribution centers, etc.) as well as in multiple geographic locations. Portfolio optimization and diversification was first recognized by Nobel-Prize winning economist Harry Markowitz, and continues to be one of the most proven economic theories for success today, including its application in Delaware Statutory Trust 1031 exchanges. * It is important to note however that diversification does not guarantee

profits or protection against losses and that investors should read each DST offerings Private Placement Memorandum (PPM) paying attention to the risk factors prior to considering a DST investment.

Obviously, as with all forms of real estate investments, there is an underlying level of risk that investors should be aware of including things like economic downturns, vacancies, tenant repairs, etc. Investors should not invest in DST investments or real estate syndications if they are unable to sustain the loss of their invested principal.

Benefit #4: Ability to Work with and Learn from Syndication Experts

Commercial real estate investing requires years of experience and lots of resources. Even for experienced investors, the ability to source, inspect, underwrite, and close on large institutional properties within a 1031 exchange timeline is often beyond their reach. However, for Delaware Statutory Trust syndications, the investor can work with highly specialized team members at Kay Properties & Investments. Kay Properties is a national Delaware Statutory Trust expert advisory firm. They have created the www.kpi1031.com platform that provides investors access to the marketplace of DSTs from more than 25 different DST sponsor companies. In addition, they have custom DSTs available only to Kay Properties clients and provide investors independent advice on DST sponsor companies as well as full due diligence and vetting on each DST investment.

About the Author:

Matthew McFarland is vice president and DST 1031 specialist with Kay Properties & Investments, where he works out of the Kay Properties’ headquarters in Los Angeles, helping clients with their 1031 exchanges and direct investments.

Prior to joining Kay Properties, Matt worked at a national commercial real estate tenant representation firm where he helped national firms find Class A and Class B space in commercial office, industrial, and flex spaces throughout Southern California.

Since joining Kay Properties, Matt has participated in over 1,000 transactions and over \$6 Billion worth of real estate. Matt works hand in hand with all the Kay Properties’ Senior Vice Presidents, educating clients on what particular investments make sense for their situation.

A graduate of the University of California, Los Angeles, Matt holds a Bachelor of Science in Physiological Science from the UCLA Department of Integrative Biology and Physiology.





MULTIFAMILY NW
The Association Promoting Quality Rental Housing

April is National Fair Housing Month

By **DEBORAH IMSE, MPA**
EXECUTIVE DIRECTOR, MULTIFAMILY NW

Every year, Multifamily NW celebrates National Fair Housing Month with the largest Fair Housing Fair on the West Coast! We are excited that the April 13 Fair Housing Fair, virtual again this year, carries the virtual momentum that annually allows every participant from across the Northwest convenient access to a full day of Fair Housing education.

National Fair Housing Month recognizes the passage of the Fair Housing Act on April 11, 1968. The Fair Housing Act is a national law that prohibits discrimination in the rental, sale, and financing of housing based on race, color, national origin and religion. In 1974 the additional protected class of sex (gender) was added to the Fair Housing Act. Fast forward to 1988 and the latest federal protected classes of the Fair Housing Act were added for disability and familial status. In addition to the seven federal protected classes, the State of Oregon includes the protected classes of marital status, sexual orientation, gender identity, domestic violence survivor and source of income (including Section 8 Housing Choice Vouchers).

Despite the 54 years since the original Fair Housing Act was signed by President Lyndon Johnson, discrimination

still occurs in the sale, rental and financing of housing. Multifamily NW and its members are dedicated to ending discrimination through compliance education and outreach, advising elected officials on public policy, providing the industry with the most up-to-date forms, and tracking trends in non-compliance with fair housing regulation.

The latest data from the National Fair Housing Alliance gives a glimpse into suspected noncompliance with 28,712 complaints reported in 2020; 72 percent of those occurred in rental housing, and the reminder in real estate sales, mortgage lending, homeowners insurance, and other housing-related transactions. The types of complaints break down as follows:

- Disability — 52 percent
- Race — 13 percent
- Other — 13 percent
- Familial Status — 7 percent
- Sex — 6 percent
- National Origin — 5 percent
- Color — 3 percent
- Religion — 1 percent

The “other” category of complaints includes sources of income, gender identity, marital status, victims of

domestic violence, military/veterans’ status, and other retaliatory conduct.

In addition to the annual Fair Housing Fair celebration in April, Multifamily NW offers regular Fair Housing educational opportunities for members and the general public. There is always an upcoming class for your team members to better understand Fair Housing compliance through the myriad of examples surrounding the seven federal protected classes and statewide additional protections, including local and municipal fair housing laws. Upholding such laws is just one of the many responsibilities of a professional housing provider.

During the last two years, Oregon has created new tenant protections in HB 2704, SB 291 and SB 1536. Multifamily NW represented the industry, helping to ensure these new laws delivered the desired protections with minimal confusion or unintended consequences.

- HB 2703 added permanent Fair Housing curriculum to the mandated 3-hour Law and Rule Required Course (LARRC) that all licensed brokers and property managers must take to renew licensure every two years.

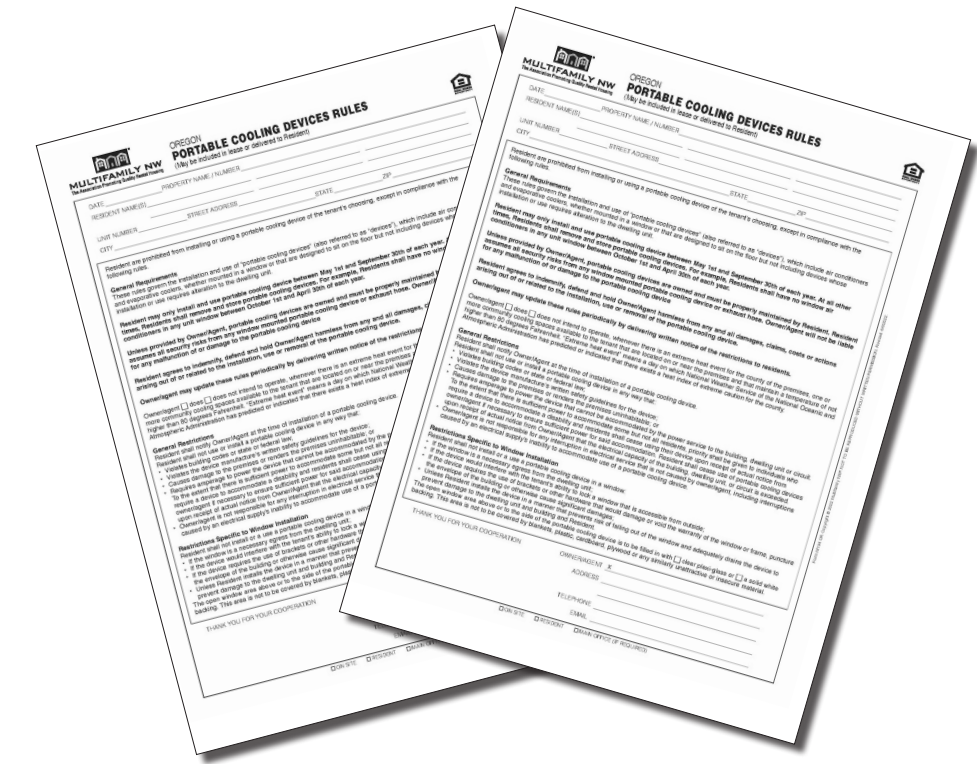
See ‘Fair’ on Page 5

FORM OF THE MONTH

M194 OR Portable Cooling Device Rules

This is a brand-new form for statewide rules that govern the installation and use of portable cooling devices, which include air conditioners and evaporative coolers, whether mounted in a window or that are designed to sit on the floor but not including devices whose installation or use requires alteration to the dwelling unit. This form was created for compliance with SB 1536 that took effect on March 24, 2022. For Oregon properties, this form replaces the M050 Air Conditioner Addendum.

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		
APRIL 6	WEBINAR: HR ANSWERS - WHAT DOES IT MEAN TO SUPERVISE?	12:00 PM - 1:00 PM
APRIL 6	WEBINAR: LANDLORD STUDY HALL - ADVERTISING STRATEGIES WITH KATHRYN KING	6:30 PM - 8:00 PM
APRIL 8	WEBINAR: IT’S THE LAW: CRAZY BUT TRUE: USEFUL LEGAL STRATEGIES	12:00 PM - 1:00 PM
APRIL 8	WEBINAR: SB 1536 NEW PORTABLE AIR CONDITIONER RULES	9:00 AM - 10:00 AM
APRIL 11	WEBINAR: LANDLORD TENANT LAW 1-PART B	10:00 AM - 12:00 PM
APRIL 13	FAIR HOUSING FAIR 2022 VIRTUAL CONFERENCE	8:00 AM - 3:00 PM
APRIL 18	WEBINAR: LANDLORD TENANT LAW 2-PART A	10:00 AM - 12:00 PM
APRIL 21	SPRING 2022 APARTMENT REPORT BREAKFAST	7:30 AM - 9:00 AM
APRIL 21	WEBINAR: LAW AND RULE REQUIRED COURSE (LARRC)	1:00 PM - 4:00 PM
APRIL 25	WEBINAR: LANDLORD TENANT LAW 2-PART B	10:00 AM - 12:00 PM
APRIL 26	AFFORDABLE AFTERNOONS WITH ADAM-RENT INCREASES AFFORDABLE/SUBSIDIZED	10:00 AM - 12:00 PM
MAY 2	WEBINAR: ADVANCED LANDLORD/TENANT LAW	10:00 AM - 11:30 AM
MAY 4	WEBINAR: MAY LANDLORD STUDY HALL: PROPERTY INSPECTIONS & TURNOVER	6:30 PM - 8:00 PM

Fair Housing Fair a Virtual Event

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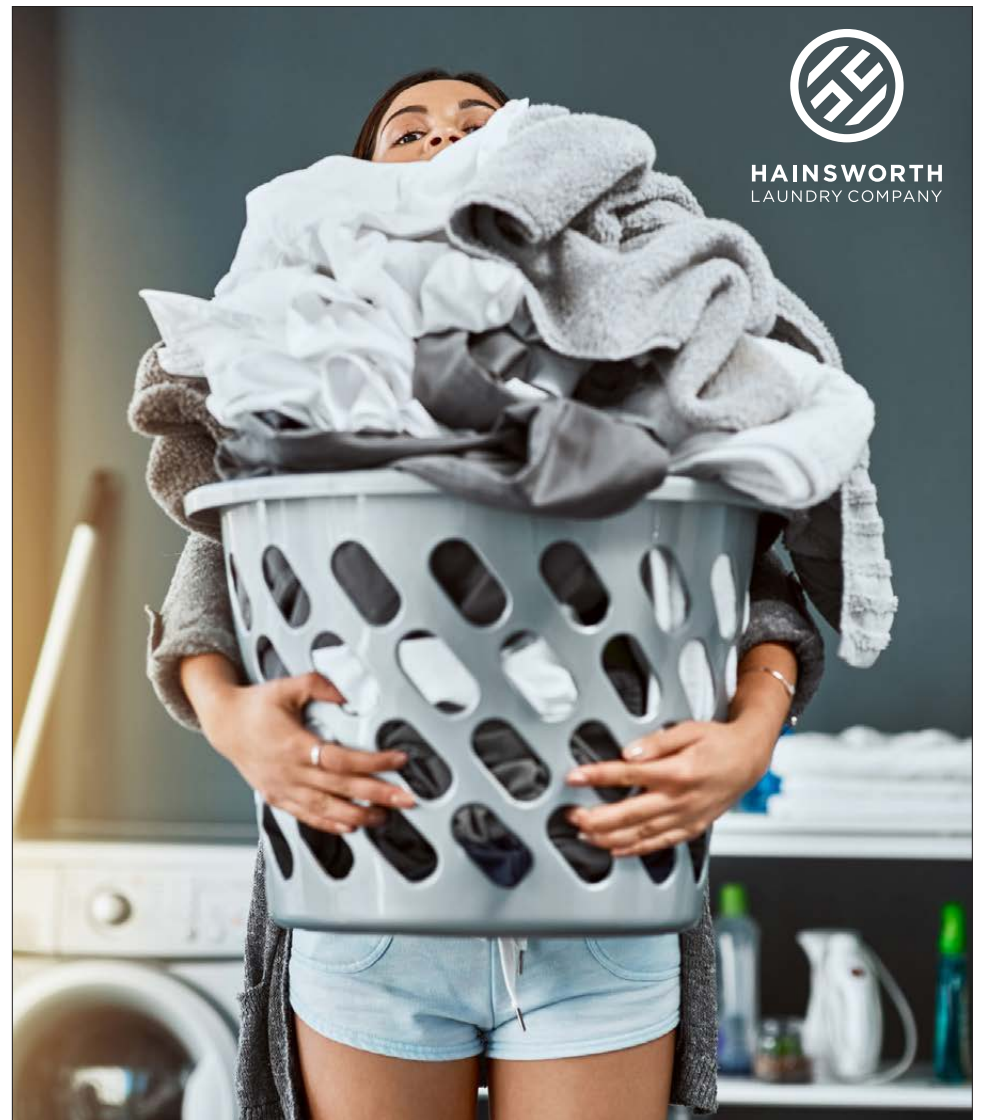
- SB 291 requires landlords to conduct individualized assessment and consider supplemental evidence from applicants before denying an application for housing on the basis of criminal history.
- SB 1536 is the Emergency Heat Relief bill, which establishes the right for tenants to install portable cooling devices in certain conditions.

In addition to understanding the basics of fair housing, there are many more best practices that housing providers may adopt to help ensure fair-housing compliance. These practices are integral to successful compliance. A good dose of consistent customer service is very effective as well. These best practices include:

- Provide a fair-housing policy statement to new employees and require them to receive FH training within 30 days of hire
- Budget for annual fair-housing training for all employees
- Include fair-housing discussions in regular staff meetings
- Post rental criteria at the property and on websites, and provide to all applicants
- Use third-party screening for all rental applications
- Formalize and document the appeals process for denials

- Display fair-housing posters in office/ leasing locations
- Train employees (including maintenance team) to recognize requests for reasonable accommodation, and have a clear, written procedure
- Review your website accessibility
- Conduct oversight on advertising, to ensure it is compliant with fair-housing regulations
- Consider self-testing of employees at periodic intervals

Compliance with fair housing and lowering industry complaints requires ongoing training, awareness of new regulations, and reinforcement of best practices on a periodic basis. Federal Housing and Urban Development (HUD) has created the gold standard for fair-housing compliance: Affirmatively Furthering Fair Housing. This calls on housing providers not only to simply not discriminate, it implores housing providers to take meaningful actions to overcome patterns of segregation and foster inclusive communities. In 1988, which was not that long ago, the status quo of rental criteria was to allow “adults only” communities excluding children and families, and those with disabilities denied consideration of reasonable accommodations to existing policies, creating disparate impact. Thank you for your support of fair-housing education!



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Judge Halts Ban on Buyer-Seller ‘Love Letters’

Continued from Page 1

of the Bend-based Total Real Estate Group, according to Oregon Public Broadcasting. They filed the lawsuit against Oregon Attorney General Ellen Rosenblum and Real Estate Commissioner Steve Strode, alleging that forbidding these communications violates First Amendment rights.

The “ruling preserves the opportunity of home buyers to speak freely to sellers and make the case why their purchase offers should win out,” Pacific Legal Foundation attorney Daniel Ortner said in a release. “ ‘Love letters’ communicate information that helps sellers select the best offer. The state cannot ban important speech because someone might misuse it.

“Oregon’s overly broad speech restriction is clearly not justified, and the decision is a major victory for free speech and economic opportunity.”

Last year, Oregon became the first state to pass a law banning real estate brokers from transmitting non-

customary communications between home buyers and sellers, fearing that so-called “love letters” might be used to discriminate in housing transactions—but without any evidence of such discrimination.

“For Total Real Estate Group, the ban on love letters harms their ability to match potential homebuyers with their dream homes. The letters often prompt sales below the top monetary offer, creating opportunities for first-time homeowners and giving sellers peace of mind that their home ends up in caring hands,” Pacific Legal Foundation said in the release.

“At a time when home sales have become a cutthroat business, every bargaining chip matters—to buyers, sellers, and the real estate companies in between.

“Prospective buyers commonly use so-called ‘love letters’ to move sellers’ hearts—and sales—in their direction,” the Pacific Legal Foundation said. “These conversations give less-privileged buyers a chance at their dream home, which might otherwise be out of reach, while helping sellers ensure their homes are well-

loved. Buying a home is not like buying a pair of pants; it can be a highly personal and emotional transaction for buyers and sellers. Such letters help ensure that all of these other factors are taken into account.

“These letters are also integral to the work of Oregon-based Total Real Estate Group, a mid-sized real estate firm with brokers throughout Oregon and Southern Washington. As many as 75 percent of the firm’s offers have some form of love letter or broker-written cover letter that allows buyers to go beyond the financial offer to tell sellers why they love a home and how they’ll use it.”

As one of the firm’s brokers puts it, ‘Without a love letter, it feels like an incomplete offer.’”

“And they work. The letters often prompt sales below a seller’s asking price, create many first-time homeowners, and give sellers peace of mind that their home ends up in caring hands rather than an out-of-state, house-flipping investor or developer,” the foundation said in the release.

Rent Growth Picks Up Steam After Winter Cooldown

RENTAL HOUSING JOURNAL

Even though rents are growing more slowly than in 2021, national rents in March were up 0.8 percent over the previous month, according to the latest report from Apartment List.

Over the first three months of 2022, rents have increased by a total of 1.8 percent, “but we’re just beginning to enter the busy season for the rental market, when the bulk of annual rent growth typically occurs,” write Chris Salviati, Igor Popov, Rob Warnock, and Lilla Szini in the April report.

Rent growth has slowed down notably since last summer, “but it still appears that we’re on track for another year of above-average growth.”

With the exception of December, rents continued to trend upward through the winter slow season, and “growth is now accelerating as we enter the spring and summer months, when rental activity is normally at its peak. Even if prices don’t rise as rapidly as they did in 2021, we’re already seeing signs that this year will continue to bring rent growth well in excess of the pre-pandemic trend,” the report says.

The vacancy index shows that rental market tightness is continuing to ease.

“Our vacancy index has now slowly ticked up for seven consecutive months and currently stands at 4.6 percent.

“Although the recent vacancy increase has been modest and gradual, it represents an important inflection point,

signaling that tightness in the rental market is finally beginning to ease. However, the vacancy situation still remains historically tight.

“Over the past seven months, our vacancy index has been increasing by an average of 0.1 percent per month. If that pace continues, we won’t hit a vacancy rate of 6 percent – the pre-pandemic norm – until next summer. Nonetheless, the gradual increase in vacancies in recent months has likely been contributing to the slowdown in rent growth,” the report says.

“As we enter the spring and summer months, rental activity is likely to pick up, and rent growth is likely to accelerate. Despite a recent cool-down, many American renters are likely to remain burdened throughout 2022 by historically high housing costs,” the report says.





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From the Desk of the Executive Director

Top 10 Reasons You Should Belong to RHA Oregon

By RON GARCIA
EXECUTIVE DIRECTOR OF PUBLIC POLICY

Sometimes I get asked, “Why should I join the Rental Housing Alliance Oregon?” My normal reply is, “If you are a rental housing provider in Oregon, why aren’t you ALREADY a member?!” I know it’s a sassy retort, and I have resolved to be more patient this year. Therefore I would like to share with you all the Top 10 Reasons for being a member of Rental Housing Alliance Oregon. (Happy Spring!)

1. Rental Housing Alliance Oregon is a community of business peers who are open and available to share best practices. Landlords have many questions and “never-had-this-happen-before” experiences. One conversation with a fellow landlord can save hours of grief and potentially thousands of dollars.
2. Building and maintaining professional business and vendor relationships is critical to your success. As a small landlord, we realize that most of the time we don’t need to know about bedbugs or water restoration services or emergency electrical solutions. But when the moment occurs and the drama quickly unfolds, we would rather contact someone we know (and trust) than Google someone we don’t know (and rely on a stranger’s review).
3. All careers evolve, and those of rental property owners are no different. How can we formulate a growth, succession, or exit strategy? It may be the time to buy a property. It may be the time to sell a property. It may be the time to leverage your holdings, or it may be the time to

- find a compatible management company. These processes don’t occur overnight. They can take years to unfold. Networking and knowing professional brokers, managers, exchange companies and accountants becomes extraordinarily valuable as time goes by.
4. There are different rules in different cities nowadays. What applies in Portland is not always the same as what applies in Multnomah County, let alone Beaverton or Salem or Springfield or Enterprise! Having a website where a landlords can go for answers on confusing or conflicting reports is not only reassuring, but is also essential.
5. One problem that doesn’t seem like it’s going away anytime soon, is that just when we think we understand the rules, the local, county, metro or state governments change them! The RHA Oregon Landlord Hotline is a service members can use to get their questions answered by experienced members who are “landlords helping landlords.” Additionally, many calls are answered by professional property managers who freely donate their time and experience to help our members. It’s another “touch point” between our membership that is not found elsewhere.
6. It is no secret that rental property owners throughout the state of Oregon have seen many of their rights erode with recent legislation. Changes on evictions, rent control, screening guidelines, and even rent collection during the pandemic are the new normal. Having a

professional lobbyist and an executive director for public policy who are both well known in the state capitol helps to keep the tides at bay during legislative sessions.

7. A question we hear often is, “How can I just stay informed on what is really happening in the rental market?” RHA Oregon provides continual, relevant training classes, both in-person and on-video and through Zoom. The classes are taught by industry experts, lawyers, elected officials and community-action groups, just to name a few.
8. Rental Housing Alliance Oregon is famous for providing up-to-date rental forms written by the two most active landlord attorneys in the state of Oregon. Order online, or on the phone to be mailed out, or for next-day-pickup availability (delivered right to your car!) at the RHA Oregon office.
9. The Monthly Update Newsletter is a time-tested asset to all rental housing providers. It is sent via email and available in print at the

RHA Oregon office. It has excellent content, relevant advertising by seasoned vendors, along with a vendor directory to use when you need services.

10. Social, charitable and family events. We have monthly dinner meetings featuring great speakers in fine venues around the Portland Metro area. We have the annual Starry Night Charity Auction in July where members mingle, enjoy wine and beer, and bid on great items where 100 percent of the proceeds are donated to various causes. And we have the Summer Picnic at Oaks Park, where our members and families enjoy fun booths, a great barbecue meal and discounts on amusement park rides. Plus we have the annual Toy Drive Giveaway at our December Christmas Party.

Make 2022 the year you join to improve your CRAFT as a rental housing provider. It’s the least expensive professional decision you can make!

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5 REASONS TO USE RENTEGRATION

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Portable Cooling Devices and Effect of SB 1536

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or using portable cooling devices in most circumstances.

There are several standards to be found within SB 1536 to which tenants will need to adhere. First, the installation and use of the portable cooling device cannot violate building codes, damage the premises, or make it uninhabitable, or require electrical power that cannot be accommodated by service to the building or dwelling unit. Landlords can also require that the portable cooling device be installed or removed by the landlord or their agent, be inspected and serviced by the landlord or their agent, and finally, require that it be removed from October 1 through April 30.

There are additional restrictions allowed for portable cooling devices installed in the window. The window-installed device cannot impede necessary egress from the dwelling, interfere with the ability to lock a window, or damage the housing unit. Finally, the window-installed unit must be installed so that it is not at risk of falling. In the event the resident installs the portable cooling device (as opposed to the landlord), the landlord is immune from liability for claims of damages, injury, or death caused by a device installed by the renter. In essence, the landlord will be able to maintain some oversight over the device—and install it themselves as detailed above, should they desire—but

doing so removes this liability exception.

Finally, with respect to new construction, cooling devices are now required. In buildings where permits are issued on or after April 1, 2024, the dwelling units must have cooling facilities that provide cooling in at least one room, not including a bathroom, which conform to applicable law at the time of installation and are maintained in good working order. This can include central AC or a portable air conditioning device provided by the landlord.

The impacts of global warming are upon us. The temperatures during the summer months continue to rise. The extreme temperatures felt in 2021 may be an outlier, but similar heat waves will continue. Senate Bill 1536 became effective March 24, 2022, with input from both sides of the aisle, and Multifamily NW. As the summer months approach, landlords should handle any requests related to AC units with the above in mind and reach out to counsel if they have any questions about their rights and obligations.

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. You can reach him at kraus@warrenallen.com or at 503-255-8795.



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