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# Should Landlord Have a Copy of Tenant's Renters' Insurance Policy?

By Hank Rossi

**Dear Landlord Hank:** We require renters' insurance at our rental property.



In the past we have not asked for a copy of this. Do you think it is wise to attain a copy for our records

to prove the tenant followed through on this? After researching online, it seems like a mixed bag of answers for or against. Thank you! – Megan

**Hi, Landlady Megan:** If you require renters' insurance at your property, I would definitely put in your lease that this is required to be purchased at the tenant's expense and required to be kept in force for the duration of the lease.

Then I would get a copy for yourself along with contact info for the agency selling the policy so you could contact them to make sure the policy is in place.

Each week Hank Rossi answers questions from landlords and property managers across the country in his "Dear Landlord Hank" blog in the digital magazine Rental Housing Journal.



ECRWSS POSTAL CUSTON

# Oregon Landlords Can Raise Rent 14.6 Percent Next Year

RENTAL HOUSING JOURNAL

Oregon landlords can raise rent as much as 14.6 percent next year under the state's new rent-control law, but landlords are unlikely to increase rents that much.

This statewide cap applies to housing that's at least 15 years old. Newer rentals aren't part of it.

Meanwhile, Gov. Kate Brown said in a statement it may be time to review the state's rent-control law next year. Brown signed the rent-control bill into law in 2019, the first of its kind in the nation. It caps rent increases annually at 7 percent, plus the average consumer price index measure of inflation.

In response to the new number, Brown's office put out a statement saying in part, "The governor is deeply concerned about the maximum rental increases that will be allowed under Oregon law in 2023, and she urges the legislature to prioritize action to mitigate future increases.

"In 2019, the Legislature established the

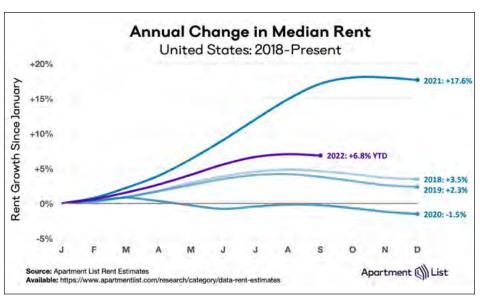


formula for our current maximum annual rent increases through Senate Bill 608, tying allowable increases to changes in key markers of inflation. While this was the right policy move at the time, when rent increases

were not a primary factor driving measures of inflation (and CPI was under 2 percent), with today's inflation rates it makes sense to re-examine state law.

See 'Landlords' on Page 4

# National Rents Dip for 2nd Month



## RENTAL HOUSING JOURNAL

National rents declined by 0.2 percent over the course of September, marking the first time this year that the national median rent has declined month-over-month, according to the September report from Apartment List. Rents fell in 69 of the 100 largest cities.

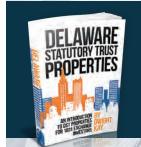
"The timing of this slight dip in rents is consistent with a seasonal trend that was typical in pre-pandemic years. Assuming that trend continues, it is likely that rents will continue falling in the coming months as we enter the winter slow season for the rental market," the report says.

Apartment List points out that the recent

See 'Rent' on Page 8



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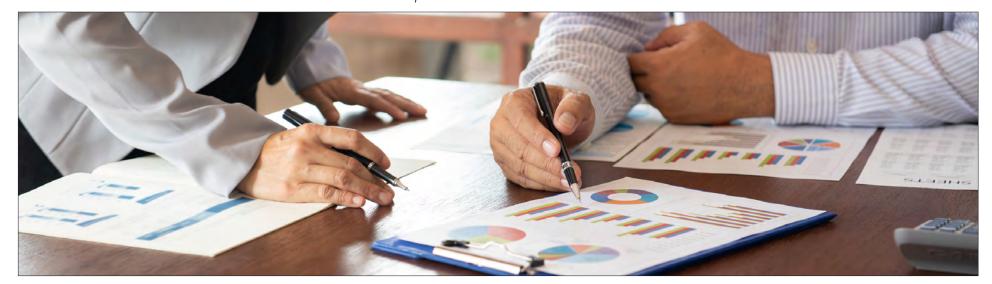


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# How to Plan Your Delaware Statutory Trust to Remove the Stress of a 1031 Exchange

# By Matt McFarland, Senior Vice President, Kay Properties and Investments

Any investor who is considering selling a piece of investment real estate will undoubtedly consider a 1031 Exchange.

A 1031 Exchange refers to the IRS code that allows significant tax advantages for investors. How? When you sell an investment property and you have a profit, you normally are required to pay capital gains tax. A 1031 Exchange allows you to sell your investment real estate and reinvest the proceeds in a "like-kind" property, which defers any capital gains and other related taxes.

This doesn't mean you are eliminating any of these taxes, rather you are able to defer them until a later date. However, any investor who has completed a 1031 exchange knows that one of the biggest hurdles to clear is the many time constraints and tight closing windows the IRS imposes when it comes to like-kind exchange investing.

The entire 1031 Exchange process must be completed within 180 days. The clock starts ticking day one after your relinquished property is sold and the funds are escrowed with Qualified Intermediary (QI).

On a side note, it is essential you never hold the proceeds from the sale outside of a QI. If you touch the funds at any time during the process, you eliminate your eligibility for a 1031 exchange and you have to pay all of the capital gains and other related taxes.

As an expert 1031 Exchange professional, I can tell you that it is the initial 45-day identification period that causes the most stress, as an investor is required to formally identify the property (or properties) they intend to purchase within a matter of about 6 weeks. More specifically, in order to avoid any tax liability, you must identify a property or properties that are of equal or greater value than the relinquished property. You can identify up to 3 separate properties with no regard to their value (3 property rule), or you can identify an unlimited number of properties that do not exceed more than 200% of the value of the relinquished property (200% rule).

Here's a quick summary of the 1031 Exchange rules

investors should keep in mind when considering selling a piece of investment property:

- Entire 1031 Exchange process must be completed within 180 days
- Day 1 Sell your property; proceeds are escrowed with a Qualified Intermediary (QI)
- Day 45 Identify a property(s); you must notify your QI of the identified property(s)
- Day 180 Close on new property; you must close within 180 days after the first sale
- · Maintain equal or greater amount of equity
- · Maintain equal or greater amount of debt

# PLAN AHEAD TO REDUCE THE 45-DAY IDENTIFICATION STRESS

One of the best ways to mitigate the stress of this short time window is to begin searching and selecting potential like-kind properties before you officially close on your relinquished property and the 45-day time clock starts ticking.

When it comes to Delaware Statutory Trust properties, the underlying real estate that is a part of a particular offering is acquired and owned by the trust before it is ever accessible to 1031 exchange investors to consider as an option. This "pre-packaged" element of DSTs affords investors who are in the process of a 1031 Exchange the luxury of a quick and seamless close of their purchase of a DST property.

Another great benefit of DSTs for 1031 Exchange investors is that they can make a great backup or contingency plan. Real estate deals fall apart all the time, and if your replacement property in a 1031 Exchange falls apart for any number of reasons, you could be in a tight spot. Using a DST as an "identified" property makes a great contingency plan if your initial deal does fall through.

However, it is important to remember that even though the Real Estate Sponsor Company has completed their due diligence and acquired a particular property for one of their DSTs does not mitigate the need for an investor to conduct their own due diligence on the various DSTs.

Make sure to look at current DST properties offered on the

www.kpi1031.com marketplace.

All 1031 exchange investors, with the help of their Kay Properties' Registered Representative, will assess the various opportunities to ascertain the best potential solution for their particular situation and/or circumstance.

# WHEN IS THE BEST TIME TO START THE DST SELECTION PROCESS?

In most cases, the most opportune time to begin the screening process is about 30 days before you are scheduled to close on your relinquished or downleg property. The reason for this is simple – DST investments have a finite shelf life or a limited time in which they are 'open' for investment. DST offerings are capped at a specific value and as soon as the last dollar is invested, that particular DST offering is no longer available for further investment.

In my experience, DST offerings are typically available for purchase for about 1-3 months. In many cases, it would be an improper allocation of one's time to begin the selection process 3-6 months out, as most of the opportunities considered will be sold out by the time they have the capital to invest as part of their 1031 exchange. Within 30 days, many of the opportunities will likely be viable options for one to consider as reservation can be made for one's allocation.

In a perfect scenario, an investor has decided exactly which DSTs they are purchasing before they close on their relinquished property. This grants them the ability to quickly close on their DST investments as soon as the funds from the sale become available and successfully complete their 1031 exchange just a few days into their 45-day identification period.

Keeping these points in mind should not only greatly mitigate most of the stress associated with a 1031 exchange, they will also help you to potentially begin accruing cash flow immediately from their investments (a luxury afforded through the quick and seamless purchase of a DST relative to a traditional real estate transaction, which may stretch on for months).

For more information on the 1031 exchange and DST selection process, please reach out to your Kay Properties Registered Representative or visit www.kpi1031.com for more resources.

## About Kay Properties and www.kpi1031.com

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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# What SB 891's Conclusion Means for You

By Bradley S. Kraus Partner, Warren Allen LLP

As the calendar turned to October, another important date has come and gone. I have previously covered Senate Bill 891 in depth, and readers may recall that October 1, 2022 was built into SB 891 as the sunset date for many of the bill's provisions and changes to the Oregon Residential Landlord and Tenant Act. While a few provisions remain related to screening from the former law, SB 891's departure brings back many of the normal rules and procedures landlords were familiar with prior to the COVID-19 restrictions frequently covered in this article series.

One of the largest changes landlords should be aware of is with respect to non-payment notices and timelines. COVID-19 saw changes to ORS 90.394, requiring non-payment notices to be 10 days long (along with the requirement of additional disclosures in the notice). Those changes have now sunset, and landlords can return to providing only 72 hours' notice for their non-payment-of-rent notices. As a reminder, non-payment notices can only include full units of rent (partial payments are problematic) and may only be served on or after the eighth day of the rental period.

Landlords also no longer need to provide the SB 891 disclosures to which they have grown accustomed. However, landlords should also be aware of, and take stock of, any prior evictions they have/had pending, and how they should proceed with them. As a reminder, many cases from months prior were set over until October if/when the tenant provided



documentation that they had applied for rent assistance. Many landlords received that rent assistance, but any evictions related to those cases did not simply go away. In other words, they still must be disposed of through paper filings, or they remain on the court docket. If landlords had eviction cases in which they received rent assistance covering the amount stated in the notice, it is imperative that they dismiss that

case as SB 891 previously required.

Many landlords have current cases in which they are either (a) still waiting on rent assistance or (b) have a case setover that is currently on the docket. Those landlords may proceed with their case when that date arrives as normal. While tenants may still apply for rent assistance, landlords are no longer required to pause and/or delay their non-payment eviction matters (in fact, they haven't been required to do so after June 30).

Finally, landlords should be aware of the court docket situation in larger counties, and what they may mean going forward in the coming months. Many counties have dockets that are packed with setovers related to SB 891. As the court has only so much docket space to set cases, any eviction filings that occur within October could be delayed. This will result in first appearance dates that are more removed from the filing date. While unfortunate, it is a practical reality of what SB 891 required in months past. Going forward, as more cases resolve, those delays will subside, and landlord/tenant law will return to what it was pre-COVID (or as I call it, "in the before time . . . in the long, long ago").

Bradley S. Kraus is an attorney and 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.

# Landlords Can Raise Rent, But Not Until 2023

Continued from Page 1

"Because the limit announced does not take effect until 2023, the governor believes the legislature can and should take this up during the 2023 session. It's important for Oregon renters and landlords to note that the maximum allowable increase announced today does not take effect until 2023. For the remainder of the calendar year, landlords are still bound to the 2022 maximum increase amount of 9.9 percent," the governor said in the statement.

LANDLORDS WILL NOT BE ABLE TO RAISE RENTS
THAT MUCH

"I'm sure it sounds like, to a lot of people, that's a big hike," said Christian Bryant, president of the Portland Area Rental Owners Association, to kgw.com. He also teaches people the rental business.

Bryant said he understands the concern but does not believe most landlords who could raise rents 14.6 percent

next year will do so.

But he added, "The way it's set up right now is if you're a landlord, you're a business. And if your costs go up, (like) at a restaurant or the Home Depot, they charge the end user more."

The Oregon Office of Economic Analysis is responsible for calculating and publishing, by September 30 of each year, the maximum annual rent increase percentage allowed by statute.







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From the Desk of the Executive Director

# Weather the Changing Times Through Education

By Ron Garcia

I was once told that there are two forms of motivation in life: positive and negative. So, if you only operate on positive energy, you are missing out on 50 percent of your available resources.

"FOMO" is the new acronym for this phenomenon: Fear Of Missing Out. I remember when COVID-19 first hit, I stood in a Safeway parking lot at 5:00 a.m. waiting for it to open so I could get my allotment of toilet paper. Fear can not only drive us crazy, but it can also drive us into action.

Yet acting on fear shouldn't mean falling into reactive spasms of despair. Taking action against threats (or challenges) can be specific and planned; it should be preventive as well as prescriptive. While it may be a "negative motivator," it need not be "positively debilitating."

I think it's time for rental property owners in Oregon, particularly self-managing landlords, to take action. Our industry has seen a dynamic shift in the last three years, and the forecast on the horizon only shows more change is headed our way.

Regulations that strengthen tenant protections along with legislation that stiffens penalties and increases liabilities are the new norm. And it's not just proposed rent relief or houselessness solutions that are being levied on rental property owners, it's



also habitability and environmental issues with increasingly higher standards – from mold to cooling units to safety violations – all posing new challenges.

We should also take into consideration social issues of fairness to rent-burdened groups who have been disproportionally affected from obtaining and keeping housing through systemic prejudices claimed to be built into the system (like application fees or criminal backgrounds or mobility hardships).

And what about security deposits? Or the

perceived retaliation against tenants who insist on repairs? These are among a few reasons that lawmakers are now funding free legal aid to tenants who face evictions, even though there are no equivalent social services offered to the housing providers who face the financial realities of damages and lost revenues.

These changes are real, but the landlords should not view them hysterically as the end-times for our industry. Blaming tenants or politicians or lawyers won't make housing any safer, nor make our business more sustainable. As the climate changes, so too

must we adapt.

So, what action do I recommend? I found a few wise quotes that help me answer this:

"Fear is the main source of superstition," said Bertrand Russell.

And "superstition is, always has been and forever will be, the foe of progress and the enemy of education," said Robert Ingersoll.

"Education," adds Nelson Mandela, "is the most powerful weapon which you can use to change the world."

I will continue to be a rental housing provider regardless of the changing tides. It is my business. To stay in business, I cannot submit to fear, prejudice, or superstition. On the contrary, I must double-down on my commitment to stay ahead of the changes so I can maintain a clear perspective and make informed decisions and strategic plans which will help me not to just cope, but to thrive! How do I do this?

The answer is easy: EDUCATION. Go to every class you can find and sign up for it! Check the website at rhaoregon.org for schedules and invest in your future. It's the best thing you can do for yourself, your tenants and your bottom line.

Ron Garcia is Executive Director of Public Policy for Rental Housing Alliance, Oregon. He can be reached at ron@rhaoregon.org.

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# How Do You Handle Relay Operator Calls?

## By The Fair Housing Institute

Although not frequent, relay-operator calls do come into leasing offices from callers who have hearing issues. What are your policies and procedures when it comes to how to navigate these types of calls? Do they comply with fair housing laws? Does everyone on your staff have sufficient training to avoid a fair housing complaint?

### WHAT ARE RELAY OPERATOR CALLS?

While technology is evolving to help people with communication disabilities, the use of relay-operator calls still exists. Relay-operator calls are a service used by deaf or hard-of-hearing individuals. It employs a communication assistant, or relay operator, who relays the call between two parties by reading out what the hard-of-hearing or deaf individual types using a specific machine while typing back whatever the speaking individual says. While this form of communication can be helpful, it is also time-consuming, posing a problem for a very busy leasing office.

### FAIR HOUSING RELAY-OPERATOR TESTING

A recent testing campaign shared some pretty concerning results. Nearly half of the properties tested did not know how to correctly respond to or handle relay-operator calls. Even worse were some of the comments that were recorded, such as, "I don't have time for this," or "I don't know what this is about," followed by the leasing agent hanging up the phone.

As a result of this campaign, multiple lawsuits were filed, since refusing to talk to a relay operator and provide information is discriminatory and is considered denying access to housing because of a disability.

## Proper Fair Housing Training Is a Must

The relay-operator testing campaign clearly highlights the need for training. That training needs to target specific situations like this. Training should include practicing the many different situations that can arise when handling a relay-operator call.

For example, how would you or your staff handle being on a relay call and having another prospect walk into the leasing office looking for information? The easy thing may seem to



be to tell the relay operator that they will have to call back, but that could be perceived as discrimination, that the leasing agent would rather work with a person without disabilities. Best practices would be to quickly and respectfully tell the person who walked in that you are on a call that may take some time and that you will be with them as soon as possible.

Another pitfall that proper training can help you avoid is over-explaining or offering information without it being requested. For instance, just because you are talking to a hard-of-hearing or deaf person, you do not need to launch into describing your units that accommodate their disability. Go about your regular presentation and only offer this information if asked.

Work with your team to brainstorm other situations that might arise and work together to find fair housing-friendly solutions.

## AVOID A COMPLAINT BY BEING COMPLIANT

Remembering to treat every person that walks in, calls, or

contacts your leasing office the same way will aid greatly in maintaining compliance.

Although relay-operator calls may take a considerable amount of time, and we may already be very busy, these calls need to be handled in a timely and respectful manner.

Be sure to give all the same information that you would for any other call, regardless of how long it might take, so as to avoid a possible fair housing complaint.

Even though the technology is changing and relay calls may be happening less frequently, proper protocols on how to handle them still need to be part of your fair housing training program.

In 2005, The Fair Housing Institute was founded as a company with one goal: to provide educational and entertaining fair-housing compliance training at an affordable price at the click of a button. Learn more at the Fair Housing Institute's website:

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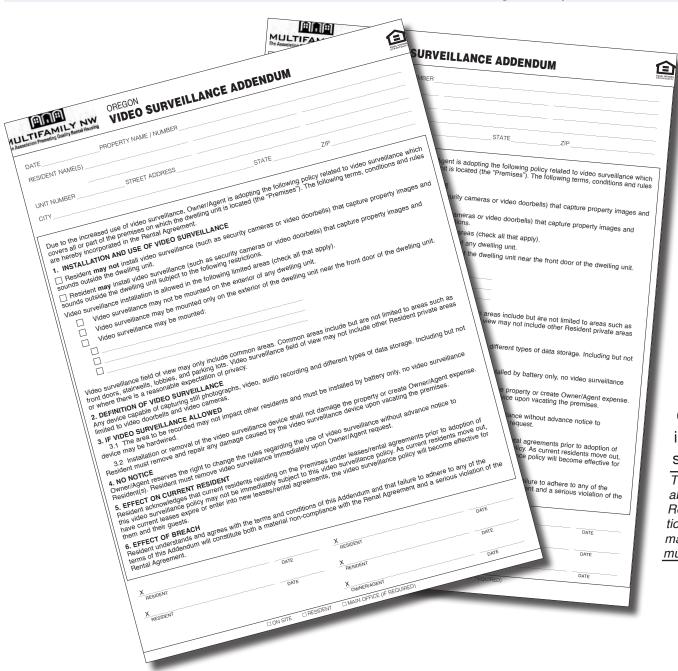
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| Multifamily NW Schedule |   |                     |
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| OCTOBER 5               | WEBINAR: LANDLORD STUDY HALL - FAIR HOUSING                                 | 6:30 PM - 8:00 PM   |
| OCTOBER 11              | WEBINAR: OREGON LANDLORD TENANT LAW - INDIVIDUALIZED ASSESSMENT             | 10:00 AM - 11:00 AM |
| OCTOBER 14              | WEBINAR: IT'S THE LAW: FAIR HOUSING TRENDS                                  | 12:00 PM - 1:00 PM  |
| OCTOBER 18              | FALL 2022 APARTMENT REPORT BREAKFAST  | 7:30 AM - 9:00 AM   |
| OCTOBER 18              | WEBINAR: OREGON LANDLORD TENANT LAW - LEASE FUNDAMENTALS                    | 10:00 AM - 11:00 AM |
| OCTOBER 20              | WEBINAR: HR ANSWERS - UNCOVERING OUR BLIND SPOTS                            | 3:30 PM - 4:30 PM   |
| OCTOBER 25              | WEBINAR: OREGON LANDLORD TENANT LAW-ESSENTIAL LEASE ADDENDA                 | 10:00 AM - 11:00 AM |
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| OCTOBER 27              | CAMT: PLUMBING PART II  | 9:00 AM - 5:00 PM   |
| OCTOBER 27              | INTERACTIVE WEBINAR: FUNDAMENTALS OF PROPERTY MANAGEMENT                    | 10:00 AM - 12:00 PM |
| OCTOBER 27              | SOUTHERN WILLAMETTE VALLEY HALLOWEEN PARTY                                  | 5:00 PM - 9:00 PM   |
| NOVEMBER 1              | WEBINAR: OREGON LANDLORD TENANT LAW-FEES, FAIR HOUSING, TENANT RULES        | 10:00 AM - 11:00 AM |
| NOVEMBER 7              | PRISM 2022  |                     |
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# St. Paul Rolls Back Key Aspect of Rent Control Law

RENTAL HOUSING JOURNAL

The St. Paul (Minnesota) City Council has rolled back some key provisions of the city's rent control ordinance, once described as the strictest in the nation.

The changes are in response to a citizen-authored rent control ordinance that caps annual rent increases at three percent, which voters approved last fall.

With pressure from landlords and developers, the city voted 5-2 to change provisions to allow landlords to raise rents by eight percent plus inflation when a tenant moves out, according to reports.

The city's changes also allow a rent control exemption for any building constructed in the past or next 20 years, according to Minnesota Public Radio.

Developers and landlords had advocated for changes to the three percent cap, saying the strict rent control ordinance will discourage owners from making repairs and hinder new construction.

Technically, the three percent cap on annual rent increases will not change, but the council voted to make inflation an explicit reason for landlords to be granted an exemption under their "right to a reasonable return" on investment.

The council also approved new rules requiring landlords to inform tenants if their apartment is covered by rent control, and for tenants to be notified when their landlords apply for exemptions in order to give them time to appeal the increase, according to reports.

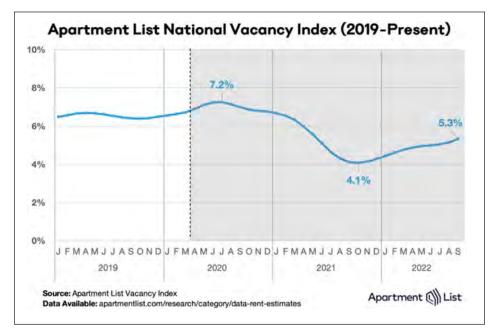
The changes will take effect on Jan. 1 2023

"This ordinance adds additional protections and notifications for tenants, it keeps the three percent annual increase, it provides more flexibility for property owners to reinvest in their property," said Chris Tolbert, the council member who proposed changes to the ordinance, to Minnesota Public Radio.

St. Paul Mayor Melvin Carter has said he'll sign the changes to the ordinance.

The citizen-authored rent control ordinance passed with 53 percent of the vote, however without city input.

Council members and city staff frequently voiced their frustration with the policy that was drafted and approved without their input and over the objections of most council members, who have advocated for more construction and government subsidies over administratively burdensome price controls



# Rent Dip a 'Notable Shift'

## Continued from Page 1

rent declines are in line with the normal seasonal trends pre-pandemic.

"But given how atypical the market has been for the past two and a half years, this month's return to pre-pandemic seasonality represents a notable shift," according to Apartment List's report.

"Last September, rents spiked by 1.9 percent month-over-month, as the market continued on an unprecedented stretch of record-setting rent growth which disrupted seasonal trends. In contrast, from 2017 to 2019, rents fell by an average of 0.3 percent in September, right in line with this month's decline. Assuming that this year's trajectory continues to follow normal seasonal trends, we can expect to see additional modest declines in the months ahead, as rental market activity slows during the winter months."

The slowing rent growth is being mirrored by continued easing on the supply side of the market, the report says.

"After bottoming out at 4.1 percent in October 2021, our national vacancy index has been on a trend of gradual easing. This month it rose to 5.3 percent and has shown nearly one full year of continued, albeit slow, improvements," the report says.

"It's worth noting, though, that rental vacancies are intertwined with housing availability in the for-sale market, and it's possible that spiking mortgage rates are dampening the rebound in the rental-vacancy rate. High interest rates can sideline potential first-time homebuyers and keep them in the rental market longer. Two years of sustained rent inflation may also be incentivizing renters to stay put and renew existing leases rather than looking for new ones."





# FALL APARTMENT REPORT BREAKFAST



## OCTOBER 18, 2022 7:30AM - 9:00AM OREGON CONVENTION CENTER

Members: \$65 ea or \$525 table of 10 Non-Member: \$95 or \$725 table of 10 Event Partners: \$2500 (4 available) TILBURY FERGUSON
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