

**Date:** July 6, 2021  
**To:** Housing Policy Board  
**From:** Renters Protection Committee

### **Mission**

The Renters Protection Committee was formed by the Housing Policy Board in August, 2019 to: “identify priority tools and strategies to protect renters and prevent displacement in areas with changing housing market conditions in Eugene.” Added were priorities:

1. Consider strategies for increasing tenant and landlord awareness of rights, responsibilities and resources
2. Consider challenges and strategic related to application fees and processes (pet rent, security deposits/refunds, screening, housing navigators)
3. Consider creation of supports (for deposits, first and last months’ rent) and explore potential programs
4. Explore options to address housing quality and condition concerns raised through renter survey
5. Identify priorities for rental housing data and consider strategies for compiling and analyzing data

### **Membership**

Members of the committee, appointed by The Housing Policy Board, are:

Julia Boss (former renter; past instructor on the history of US housing policy and suburban development; member Housing Policy Board))

Norton Cabell, chair (private market landlord, chair of the Housing Policy Board)

Jason Evans (property manager, owner go Trio Property Management)

Rick Guerra, resigned end of 2020 (member of Human Rights Commission)

Alicia Jones (family peer support at The Child Center)

Jackie Low (case manager at St. Vincent de Paul)

Tim Morris, appointed in April, 2021 (current renter and tenant advocate, Executive Director of Springfield Eugene Tenant Association)

Nigel Moseby (advocate for those experiencing homelessness)

Jim Straub (property manager, owner of Acorn Property Management, former legislative director of Oregon Rental Housing Association)

Darren Stone, appointed in February 2021 to replace Sarah Vail (Professional Property Manager, Principal Broker, Former Fair Housing Instructor, St. Vincent de Paul Second Chance Housing Instructor, Sponsors, Inc. Board Member)

Sarah Vail, resigned in December 2020 (principal of Jennings Group Inc.)

John VanLandingham (attorney with Oregon Law Center)

Primary city staff support in 2019 and 2020 was Stephanie Jennings. Primary support since has been Joshua Berman.

### **Summary of meetings**

The committee met seven times in 2019 and early 2020, then took a nine-month break because of the pandemic. The earliest meetings focused on education and financial support for tenants, both because these subjects were less controversial and because the committee wanted to send some recommendations to the Affordable Housing Trust Fund Advisory Committee. The latter was done, the primary recommendations being to fund resources—especially a help line—to tenants and to fund one-time financial assistance for rent and deposits through existing programs. The later meetings included discussions of the screening process, non-financial support for tenants, and a presentation by Matthew Tschabold from the Portland Housing Bureau regarding Portland’s new FAIR ordinance. No specific recommendations were proposed or made at any of these meetings.

Late in 2020, it was decided to reconvene, and the committee has been meeting monthly since January. Two subcommittees were formed. A tenant subcommittee (consisting of Julia Boss [chair], Rick Guerra, Alicia Jones, Jackie Low, Tim Morris, and Nigel Moseby) was formed to determine priorities for tenants. They reviewed Portland’s FAIR ordinance and looked at other problem areas not addressed by that ordinance. The result was a list of thirteen recommendations (see attached). A landlord subcommittee was then formed (Jason Evans, Darren Stone, Jim Straub) to respond to those recommendations. After a review of their response they were asked to take a second look, which they did, not with reacting to the tenant proposals, but with their own recommendations (see attached).

All agreed that the root of Eugene’s housing problem is a lack of housing affordable to those in lower income brackets; too many (mostly low income) tenants chasing too few (affordable to them) apartments.

But after extensive discussion it became clear to all that the two sides could agree on little else.

Attached are the reports from the two subcommittees.

## PROTECTING EUGENE RENTERS IN TRANSITION

### Recommendations from the RPC Tenant Priorities Subcommittee

Presented to the Renters Protections Committee March 7, 2021; updated June 3, 2021 and June 30, 2021

**KEY RECOMMENDATION:** Eugene has become a city where the majority of residents are renters, and where the majority of renters are now identified as “housing cost burdened.” Landlord-tenant regulation is the tool the city can best use to protect renters during a time of major changes in Eugene’s housing market as well as during renters’ individual housing transitions. The city should address through regulation landlord and property-manager practices that currently constrain renters’ ability to access housing or to move from one housing situation to another.

## OVERVIEW AND PROCESS

### Overview.

Members of the Tenant Priorities/FAIR Ordinance Review Subcommittee of the Renters Protections Committee met twice via Zoom, on February 19, 2021, and February 24, 2021, to discuss priorities for renters in Eugene and Lane County. Subcommittee members: Julia Boss (chair), Rick Guerra, Alicia Jones, Jackie Low, Tim Morris, Nigel Moseby. Subcommittee members further reviewed this document in May 2021 and again in June 2021 at the request of Norton Cabell, chair of the Renters Protections Committee.<sup>1</sup>

Participants drew from professional experience in property management and nonprofit affordable housing and social services support, as well as personal experience as renters in Eugene/Springfield and in other markets. Priorities were further shaped in response to issues frequently reported to local nonprofit service providers, as well as public information made available by the Springfield-Eugene Tenant Association. Data on renter income and income/rent ratios is drawn from the Eugene-Springfield 2020 Consolidated Plan, available at <https://www.eugene-or.gov/4300/2020-Consolidated-Plan-Process>. Data on renters’ reported experiences also draws on the Housing Policy Board’s 2019 Renters Experiences Survey, available at [https://www.eugene-or.gov/DocumentCenter/View/52932/Renters-Survey-Summary-Report\\_Final\\_201908291411478618](https://www.eugene-or.gov/DocumentCenter/View/52932/Renters-Survey-Summary-Report_Final_201908291411478618) and, for the value of homelessness prevention and current strains on city resources to support the unhoused, the 2018 Lane County Shelter Feasibility Study (the “TAC Report”), available at [https://www.eugene-or.gov/DocumentCenter/View/45881/TAC-Report\\_Final](https://www.eugene-or.gov/DocumentCenter/View/45881/TAC-Report_Final).

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<sup>1</sup> Rick Guerra, who was serving on the RPC as liaison from the Human Rights Commission, resigned from the Renters Protections Committee after leaving the HRC in April.

In responding to the Renters Protections Committee’s original objective (“Protect renters and vulnerable populations, prevent displacement”) and work plan (“Identify priority tools and strategies to protect renters and prevent displacement in areas with changing housing market conditions in Eugene”), the subcommittee identified regulation as a crucial tool the City of Eugene can use to protect renters in the short term.

As directed by the Chair of the RPC, the tenant priorities subcommittee reviewed the implementing rules for Portland’s FAIR Ordinance and related documents to identify action items where regulations would have significant potential to protect renters in Eugene and Lane County. The subcommittee also discussed issues that we identified as priorities for local renters that are not addressed in the Portland FAIR Ordinance; this list includes some items that Portland has addressed via regulation separate from the FAIR Ordinance. Our review is not an exhaustive summary of all Eugene renter needs. The subcommittee has prioritized items where (1) local practices are out of step with broader national trends and especially with trends in markets like Eugene and Springfield, characterized by high demand and high rents in proportion to local incomes, and (2) regulatory changes could significantly benefit renters while not adding—and in some cases actually decreasing—administrative burden for landlords. Proposed solutions will have greatest potential to protect the low- and moderate-income renters who are at highest risk of becoming unhoused or experiencing other long-term consequences of sustained financial stress and housing insecurity.

The committee paid particular attention to the move-in/move-out stages, because this is the phase of the rental experience when renters are most vulnerable to becoming unhoused and because local landlord and property-manager practices now constrain renter households’ ability to change housing in a time of overall housing crisis. These practices externalize costs to the City in multiple ways: (1) Where screening requirements are out of sync with the reality of local rents and local incomes, renter households can’t move to right-size their housing, contributing to a suboptimal use of the City’s total rental housing stock and thus to more people in shelters or on streets. (2) Where renters who are trying to make the jump from subsidized or supportive housing to market housing are constrained by high deposit requirements or landlords using credit scores arbitrarily to deny an application where an applicant meets other screening criteria, those renters remain in subsidized or supportive-housing units that could otherwise serve to move other Eugenians in housing crisis one step further in their journey from unsheltered to permanently housed. And (3) where current property-manager reference practices artificially narrow the timeframe for a housing search to 30 days, renter households that would otherwise be at little risk of homelessness can find themselves unhoused; 30 days is simply not long enough to find new housing in Eugene. The TAC Report stresses the need for measures that prevent people from falling into homelessness. By implementing the regulatory recommendations below, the City can prevent some Eugene renters from becoming unhoused, and can free resources to dedicate to those who are currently unhoused.

Potential to protect the most vulnerable renters is greatest when the solutions are implemented in concert, and we urge that further review under City Council supervision would

include considering the possible negative consequences of selective implementation. (For example, a very tight cap on security deposits—if combined with “first-come, first-served” application processing, easing of screening criteria, and an ROI process that allows renters to obtain a reference prior to giving 30-day notice—benefits people from communities that face discrimination. A tight cap on security deposits—if combined with batch processing, strict screening criteria, and references refused until after renters have given 30-day notice—could have negative impacts on Eugene’s most vulnerable renters.)

Some of the recommendations below will reflect existing best practices among local landlords. Standardizing those best practices across the Eugene-area market would ultimately benefit both tenants and landlords. And while the subcommittee does not oppose city-funded housing navigators or third-party tenant support organizations, we stress that regulatory change is a more effective tool to benefit all renters in our community. As Eugene adjusts to being a majority-renter municipality (see 2020 Consolidated Plan), taking reasonable steps to protect renters benefits the city as a whole.

### **Process.**

For action items drawn from the FAIR Ordinance, the subcommittee discussed the following three questions:

- (1) Would addressing this issue/current practice be a high/medium/low priority for Eugene/Springfield tenants?
- (2) Are the solutions proposed in Portland’s FAIR Ordinance something tenants would like to see implemented in Eugene/Springfield?
- (3) Would a different solution for the identified issue/current practice be more appropriate or practicable in Eugene/Springfield, given differences in market conditions and/or in city/county resources for oversight?

For action items not addressed in the FAIR Ordinance, the subcommittee discussed the following three questions:

- (1) Would addressing this issue/current practice be a high/medium/low priority for Eugene/Springfield tenants?
- (2) What solution(s) would be practicable in Eugene/Springfield, given local market conditions (including increasing percentage of tenants who are not students as Eugene/Springfield become renter-majority housing markets) and city/ county resources for oversight?

## PROPOSED REGULATORY ACTION ITEMS

### Pre-application/advertising.

**Advance advertising.** Regulation would follow FAIR Ordinance to require advertising a unit for 72 hours before the application window opens. *Protects renters as part of a fair first-come, first-served application process (discussed below).*

### Application and screening.

**Process applications in the order received.** Regulation would require landlord or property manager to process applications in the order received (first-come, first-served); no batch screening. *Protects renters by ensuring fair access to housing for the first tenant who meets screening standards; advances fair housing agenda by preventing “cherry-picking”; mitigates against unnecessary processing of screening fee payments.*

**Loosen minimum income screening standards.** The subcommittee recommends a regulation that allows landlord to require a household’s applicant(s) to show monthly gross income up to but not greater than 2.0 times amount of rent. This recommendation follows the spirit of the Portland FAIR Ordinance guidelines but would be simpler to implement. *Protects renters by improving access to housing for lower- and moderate-income tenants. Reflects existing disparity between local incomes and local prices for rental housing as reported in the 2020 Eugene-Springfield Consolidated Plan: “Households paying more than 30% of household income are considered to have a ‘housing cost burden’. A majority of all renters in Eugene (55%) and slightly under half of all renters in Springfield (48%) are considered housing cost burdened.” [emphasis added]*

**Implement financially responsible/non-financially responsible rental application categories.** Regulation would follow the FAIR Ordinance in creating separate categories for financially responsible applicants and non-financially responsible applicants. *Protects renters by lowering barriers to housing access for households where one or more members do not meet all financial screening criteria; expands future housing opportunities by allowing non-financially responsible tenants to build rental history; offers housing stability that is not available to non-financially-responsible household members when they are treated as “temporary occupants.”*

**Lower credit score and other credit screening requirements for applicants who meet other screening criteria.** Follow FAIR Ordinance on credit screening, including that applicant may not be denied for credit score higher than 500, and that screening should exclude medical debt and educational debt. *Protects renters by lowering barriers to housing access; recognizes that credit score does not correlate with present ability to pay rent.*

**Prioritize applicants with mobility disabilities for defined accessible units:** Regulation would define accessible units (e.g., following FAIR Ordinance in using Oregon Structural Building Code’s “Accessible Dwelling Unit”), require units to be identified in advertising, and would allow mobility-disabled applicants to advance ahead of other applicants. *Protects renters who have mobility disabilities by allowing them to move up the priority list when an accessible unit is available.*

**Rapid return of screening fee if unit is gone before applicant reaches the front of the line:** Return immediately on applicant’s request, no more than 60 days. *Protects renters by facilitating rapid return of screening fees to applicant who doesn’t advance for a specific unit; reduces burden on applicants to track fees currently held by landlords or property management companies for 6 months or more.*

### Condition report.

**Landlord to prepare property condition report at move-in.** Regulation would follow FAIR Ordinance PHB Landlord Move-in Checklist in requiring landlord to provide in the rental agreement a list of landlord-provided fixtures, appliances, equipment, or personal property, including description, condition, and replacement cost. The subcommittee encourages a guideline that would require the property condition report to include photographs and to cover age/date last replaced for appliances, carpets, and the like, potentially extending to include formal depreciation schedules. Regulation would encourage tenants to document, including via photographs, any discrepancies between actual condition and reported condition or to prepare a parallel condition report. *Requirement to prepare baseline condition report protects renters by clarifying in advance the starting point for assessments regarding repairs or replacements at move-out. Making a landlord-prepared condition report the default reduces burden on incoming tenants and draws on information landlord already has or can obtain during the prior tenant’s move-out inspection; ultimately the landlord’s administrative role would be simply to update an existing document when properties change over.*

### Security deposits and security deposit withholdings.

**Establish ceiling for security deposit: no greater than one month’s rent.** Regulation would place a limit or ceiling on the amount of security deposits; the subcommittee recommends one month’s rent as the limit. Nearly all U.S. states that regulate the amount of security deposits use a limit of 1-2 months’ rent. Some high-rental-cost cities also regulate security deposits, including Seattle (1 month) and Portland (1.5 months). Some Eugene and Springfield tenants currently report security deposits of up to 6 months’ rent. *Ceiling on security deposit consistent with national and high-cost-urban markets protects renters by reducing financial burden.*

**Itemize and document withholdings from security deposit.** Regulation would broadly mirror FAIR Ordinance in requiring landlord to document, including with photographs, any

withholdings for replacement (with charge to tenant linked to depreciated value of replaced item) or repairs necessary to return property to condition at move-in, documenting cost of labor if over \$200 and fixing labor costs at local market or reasonable standard. *Transparent reporting protects renters by encouraging fair handling of repairs and/or replacements rather than all-or-nothing “return deposit/keep deposit” behaviors; documentation requirement (especially photos paired with the photos required at move-in) reduces disputes, benefiting both tenants and landlords; itemization of cost associated with specific damages serves tenant-education function and encourages better care of rental properties.*

#### **Lease renewals and landlord references.**

**Require landlords/property managers to distribute, together with lease, a tenant-education document on tenant rights under Oregon’s SB 608.** The subcommittee recognized that lease renewal processes are in flux as landlords and tenants learn their rights and obligations under SB 608. A regulation would require landlords to deliver an explainer document (similar to the existing “Rental Housing Code Covers the Basics” document) providing information on tenants’ rights under SB 608, especially covering tenants’ rights as they near the end of an initial 12-month lease, and identifying resources for tenants who have questions or concerns. *Protects renters by helping them to understand their rights and options under initial lease and later, when an initial or subsequent 12-month lease term ends.*

**Create a structure requiring landlord, at tenant request, to provide a reference for a tenant who has not yet given notice.** Regulation might (1) create a mechanism for a tenant to request a general “renter report” describing rental history and would (2) require creation of an ROI form or template a tenant could use to give their current landlord specific permission to deliver a reference to an identified new potential landlord, even though the tenant has not given 30-days’ notice. *ROI requirement protects renters’ privacy and protects landlords by documenting tenant’s specific permission to provide information; ability to obtain a current landlord reference in an application for new housing—without having first to give notice—protects renters by allowing them to shop for housing in a tight market over a longer period than 30 days; allowing the longer shopping period especially benefits lower-income tenants and tenants belonging to marginalized groups, who may face higher barriers when they try to obtain new housing.*



May 11, 2021

The Housing Provider/Fair Ordinance Review Subcommittee (Subcommittee) reconvened at the request of the Renters Protection Committee (RPC) chair Norton Cabell to reconsider the recommendations of the Tenant Priorities/FAIR Ordinance Review Subcommittee dated March 7, 2021. The Subcommittee met on 4/19, 4/26, 5/3, and 5/10 via Zoom. The Subcommittee members included: Darren Stone, Jason Evans, Jim Straub, and Michael Havlik (as contributor).

***“The role of the Renters Protections Committee is to identify priority tools and strategies to protect renters and prevent displacement in areas with changing housing market conditions in Eugene.”***

Priority Tools - After reviewing the RPC charge as well as reviewing the data, noted below, the Subcommittee recommends the establishment of a city resource (Housing Navigator) who would be unbiased for all parties involved, similar to Corvallis. The Subcommittee withdraws its recommendation of using any specific subcontractor, as they have shown in many cases to have built-in conflicts of interest.

Strategies - Additionally we cannot recommend an adoption of any FAIR ordinances in Eugene. It would not be responsible for this Subcommittee to recommend local law changes that would risk damage to applicants or residents and potentially result in legal liability for the City of Eugene, based on what is currently occurring in other jurisdictions.

Fair Ordinances change housing market conditions for the worse. We continue to hear of an inordinate number of housing providers of single family and multiplex properties that are moving their properties into the short term rental pool or selling due to the increase in legal restrictions that are not equitable and the recent drastic increase in housing values. Additionally, it is being noted that due to the increased value of multiplexes, with higher frequency than before, buyers are moving into and occupying property that had previously been part of the available rental supply.

Private, informal housing arrangements are an important component of the continuum of housing in Oregon. Given the supply shortage of rental housing, rather than discouraging market participation, we should be setting policy that encourages new housing providers to enter the market. Because these types of ordinances are so new to our markets, the negative impact on supply is largely anecdotal.

We believe the RPC should thoroughly investigate the impacts of FAIR-like ordinances on supply, should they proceed with the ordinances contrary to our recommendations.

The Subcommittee re-evaluated our common objectives by:

1. Reviewing the initial charge of the Renters Protection Committee

2. Reviewing The Housing Policy Board 2019 Renters' Experience Survey Summary:  
[https://www.eugene-or.gov/DocumentCenter/View/52932/Renters-Survey-Summary-Report\\_Final\\_201908291411478618?bidId=](https://www.eugene-or.gov/DocumentCenter/View/52932/Renters-Survey-Summary-Report_Final_201908291411478618?bidId=)
3. Reviewing The Tenant Priorities/FAIR Ordinance Review Subcommittee's recommendations
4. Considering the effectiveness of proposed items
5. Considering the effects on renters and housing providers
6. Considering an impartial Tenant resources for Tenant advocacy (The City of Eugene)

The Subcommittee started this reevaluation with the initial charge as indicated in the September 11, 2019 Housing Policy Board, Renter Protections Committee Agenda and noted on the City of Eugene website, "*The role of the Renters Protections Committee is to identify priority tools and strategies to protect renters and prevent displacement in areas with changing housing market conditions in Eugene.*" Keeping that in mind the committee reviewed The HPB "Renters Experience Survey" (Survey) summary that was listed as a Resource and noted and linked to above.

<https://www.eugene-or.gov/DocumentCenter/View/47532/1-September-11-2019>  
<https://www.eugene-or.gov/4264/Renters-Protections-Committee>

### **Survey Analysis**

The Housing Policy Board's Renter Protections Task Team developed and designed a survey, which was administered city-wide online in 2019.

The survey contains data from Listening Sessions combined with data from the completion of a 17-question survey. Raw data from the survey was requested during this review, unfortunately it was not made available.

#### **Survey Data**

Survey Responses	851 total
Listening Session participants	112 (it is unclear if these are included in the 851)

#### **Employment of Respondents**

Employed full time	60% - <b>511</b>
Employed part-time	20% - <b>170</b>
Unemployed	18% - <b>153</b> (this is high in relation to the city. Eugene 5.0% National 4.7% as noted in a Google search on May 3, 2021)

#### **Student Status**

Full-Time Students	13% - <b>111</b>
Part-time students	3% - <b>26</b>

#### **Affordability / Feelings about their rental arrangements**

Unsatisfied with Rental Home 56% - **477**

Rent too high	51% - <b>434</b>
Experienced a rent increase	51% - <b>434</b>
Rent increase too much	15% - <b>128</b>

Rent Burden

According to the report, the median renter household in Eugene has an income of \$26,000, with 58% paying more than 30% of their income for rent. Note that the Actual 2021 Area Median Income (AMI) for Lane County, Oregon is \$71,200.

Availability

71% described finding rental homes as competitive and stressful.

Access / Discrimination

About 1/3 of survey respondents indicated they felt they had experienced discrimination.

Quality

Unsatisfied with housing	77% - <b>661</b>
Habitability issues	38% - <b>251</b> (Of the 661 per the summary)

Stability

Inability to pay Rent Increase	<b>15%</b> - 128
No cause terminations	<b>11.7%</b> - 100
Rental home sold	<b>3.9%</b> - 33
Rental home foreclosed	<b>1.8%</b> - 15
Foreclosed + Sold	<b>5.6%</b> - <b>48</b> (compilation of the two above)

(Calculated numbers are in bold.)

**Survey Evaluation****Rent Affordability**

It seems unlikely that the sample population that responded to the study is representative of the City of Eugene, based on data for Lane County. Area Median Income for Lane County, as reported by Oregon Department of Housing and Community Services's OHCS, is \$71,200. Respondents in the study reported average income of \$26,000, which equates to the following Median Family Income (MFI) percentages for varying family sizes:

<u>Household Size</u>	<u>%MFI Approximation</u>
1	50%
2	45%
3	40%
4	35%

Using the OHCS's Affordability chart, in order for rents to be affordable to households for the AMI in the range of 35-50%, rents would have to be set in the following ranges, based on unit type:

Affordable Rents in the study Range

Unit Type	35% AMI	50% AMI	Market Rent*
Studio	\$436	\$476	\$810
1 Bed	\$467	\$623	\$1,037
2 Bed	\$560	\$668	\$1,102
3 Bed	\$647	\$801	\$1,487

\*Market Rents taken from MFNW Spring 2021 Apartment Report

Affordability at this level is unlikely to be provided by the private market. In fact, affordability at a 50% AMI and below is very difficult to accomplish even in Affordable Tax Credit buildings without direct rent subsidies attached to the units.

Further, it is unsurprising from the study that 51% of respondents found rent to be too high when only 60% of the respondents were working full time. What is surprising is that only 51% of respondents experienced a rent increase, as this is common practice in recent years for Housing Providers to increase rents in order to stay current with inflationary pressures, maintain the premises properly with increasing labor and materials costs, and avoid falling behind on rent rates while losing property value due to the new rent control. Perhaps the lack of rent increases correlates with the deferred maintenance reported.

**Availability**

71% experienced finding housing competitive and stressful, and this is likely a very widespread experience in a tight rental market. This is clearly a supply issue in the region. With 5.6% of respondents reporting that their housing was lost to Sale (Housing providers getting out of the business) or Foreclosure (financial infeasibility, perhaps from not raising the rent) supply should be a serious concern.

**Stability**

It would be unusual in any renter population that 11.7% would experience No-Cause notices, as this is extraordinarily high. It would be helpful for the Housing Policy Board to investigate the number of Court Evictions in Lane County on an annual basis that involve no-cause notices. In 2019, pre-pandemic, Lane County was averaging 139 FED Filings a month, which would include notices of all types. This would not reconcile with an 11.7% no cause rate for the entire renter population, and suggests that the sample is not representative.

**Access / Discrimination**

Illegal Housing Discrimination is a serious matter, and the fact that 1/3 of respondents believed they had experienced discrimination should not be taken lightly. There are mechanisms for addressing illegal discrimination in place now, and those respondents should report the cases. BOLI and the Fair Housing Council of Oregon are appropriate contacts.

Although this represents an interesting data point, investigating Fair Housing Complaints, or adopting rules pertaining to fair housing discrimination is not the purview of the Housing Policy Board.

Lack of reporting of Fair Housing violations or habitability issues due to concerns as noted in the survey do not justify implementation of more legislation. Other sectors of society have proven that education is more effective than punitive laws for changing behavior.

### **Quality**

Again, it would be unusual for 77% of any representative renter population to respond that they are unsatisfied by their housing. This suggests that there is a bias built into the surveyed population, and calls into question the validity of the results.

### **Survey Conclusion**

The argument that adopting any portion of Portland's FAIR Ordinances as a remedy to the City of Eugene's housing needs is entirely unpersuasive.

### **Affordability**

FAIR Ordinances do nothing to improve affordability. Based on the experience in Portland, these types of regulations actually drive-up housing costs due to the heavy compliance burdens.

### **Availability**

FAIR Ordinances do not incentivize development, and therefore impede the production of new supply. The City of Eugene should be very concerned that 5.6% of respondents reported their housing sold or foreclosed. This indicates that housing providers are leaving the market already, and those remaining will not respond favorably to additional regulatory burden.

### **Quality**

None of the FAIR Ordinances have the impact of improving the physical quality of rental housing.

### **Tenant Priorities/FAIR Ordinance Review Subcommittee's recommendations review**

Based on the survey, the City of Eugene should study, or commission a study, on effective strategies to increase the supply of affordable and middle housing through direct development, public/private partnerships, and incentivizing private development.

To directly address Mr. Cabell's request that the Subcommittee review the Tenant Priorities Subcommittee's recommendations again, further review has only led to our increased certainty that the proposed action items from the Tenants' Priorities subcommittee are unresponsive to the root cause(s) of Eugene's housing crisis and renter instability and do not protect renters in a meaningful way. To the degree that their propositions undermine the growth of the much needed rental inventory, the Tenants' Priorities Subcommittee's recommendation only exacerbates the root cause(s) of the problems that Eugene renters face.

### **National Perspective**

The Hoyte Advisory Services and The National Apartment Association published a 2020 Barriers to apartment construction that underscored the problematic impacts of FAIR in Portland:

*“In addition to the state legislation, Portland faces a number of other regulations including security deposit rules and allowance of households to choose adult tenants with no financial responsibility. The new rules are so complicated and punishing that some landlords are not bothering with security deposits at all, instead hoping to have a better chance of recouping damages through legal action. The Fair Access in Renting (FAIR) Ordinance passed in 2019 creating a first come – first served system for rental applications, caps the income-to-rent ratio that can be required for tenants and encourages landlords to use minimally restrictive credit, rental history and criminal records to deny rental applications. Leasing may require complicated Individual Assessments with appeal periods. Material ambiguities in the law and severe monetary penalties for landlords have dramatically enhanced liability for landlords, forcing them to re-write management contracts and making the market difficult for small landlords.*

*The 2019 legislative changes were significant, notably creating a significantly higher tenant & affordable housing score as well as a higher political complexity score (significant state influence), and eased somewhat the density scores. Survey respondents also noted higher community resistance to new supply this year. The tenant score in fact became one of the most restrictive in the country, driving the overall Portland ranking from 11 to 32 of 58 markets.”*

### **Summary**

As noted above the role of the Renters Protections Committee is to identify priority tools and strategies to protect renters and prevent displacement in areas with changing housing market conditions in Eugene. The Subcommittee is frustrated that the RPC continues to look toward Portland’s FAIR ordinance as a viable solution for Eugene when the ordinance is currently under litigation in Portland and a more benign version of FAIR ruled unconstitutional in Federal Court. Additionally, if the Housing Policy Board 2019 Renters Experience Survey Summary is to be considered a non-biased survey and representative of all sectors of the Eugene rental market, then FAIR still does not solve the issue the data represents as factual. In brief, for multiple reasons, Landlord Tenant Law should stay at the State level.

As it was mentioned that City Councilors are wanting a recommendation from the RCP, this Subcommittee believes that recommending having an unbiased resource for tenants to contact for education regarding their circumstances as well as guidance on their options will help directly. Our understanding is that the City already has a surplus of funds from the per unit Housing Provider fee. This is revenue from the Rental Housing Code Ordinance created by the Housing Policy Board. Additionally, there is already staffing that is partially trained in housing issues and helps “by providing resources for property owner/managers and renters.” There are many benefits to this that should be explored further. The Subcommittee also strongly recommends addressing housing availability on all levels within the city. Not having enough housing creates unnecessary homelessness, stress, and issues. As part of the RPC’s charge to protect and prevent displacement, these recommendations appear just. If the Renter’s Protection Committee is serious about supporting renters in Eugene, it MUST summon the

courage to tell the City Council the truth about this crisis and ask that the City take up meaningful strategies to increase inventory and address the problem at its source.

<https://www.eugene-or.gov/845/Rental-Housing-Code>

Attachments:

St Paul Preliminary Injunction Order 4.19.21

Oregon Housing and Community Services Area Median Income Lane County

Multifamily NW Spring Apartment Report

Impediments to Development NAA