

## Summary of Changes to Portland Relocation Ordinance

March 8, 2018

On March 7, 2018, the City of Portland made its relocation Ordinance permanent. Portland City Code (PCC) 30.01.085 was originally adopted in October of 2015 as an emergency measure to create additional protections for tenants within the City, including extending the required notice period to 90-days for end of tenancy (also known as “no cause”) termination notices without stated cause and increases of housing costs of 5% or more. Since then, the Ordinance has been amended numerous times, most notably in February of 2017 when the City required most landlords to pay relocation assistance to tenants given end of tenancy notices or an aggregate rent increase of 10% or more in any 12-month period.

In addition to making the Ordinance permanent, the City made numerous other changes. The exemption for owners of a single rental dwelling within the City was removed and the following twelve highly specific exemptions from the relocation fee requirements were implemented:

1. Rental Agreements for week-to-week tenancies;
2. Tenants that occupy the same Dwelling Unit as the Landlord;
3. Tenants that occupy one Dwelling Unit in a Duplex where the Landlord's principal residence is the second Dwelling Unit in the same Duplex;
4. Tenants that occupy an Accessory Dwelling Unit that is subject to the Act in the City of Portland so long as the owner of the Accessory Dwelling Unit lives on the site;
5. A Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence of not more than 3 years;
6. A Landlord that temporarily rents out the Landlord's principal residence during the Landlord's absence due to active duty military service;
7. A Dwelling Unit where the Landlord is terminating the Rental Agreement in order for an immediate family member to occupy the Dwelling Unit;
8. A Dwelling Unit regulated as affordable housing by a federal, state or local government for a period of at least 60 years;

9. A Dwelling Unit that is subject to and in compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
10. A Dwelling Unit rendered uninhabitable not due to the action or inaction of a Landlord or Tenant;
11. A Dwelling Unit rented for less than 6 months with appropriate verification of the submission of a demolition permit prior to the Tenant renting the Dwelling Unit;
12. A Dwelling Unit where the Landlord has provided a fixed term tenancy and notified the Tenant prior to occupancy, of the Landlord's intent to sell or permanently convert the Dwelling Unit to a use other than as a Dwelling Unit subject to the Act.

It is extremely important to note that these exemptions are only available to landlords AFTER the landlord completes and submits the required exemption reporting forms to the Portland Housing Bureau.

As revised, these narrow exemptions appear to extend to companies managing such properties on behalf of an exempt owner.

Additionally ALL landlords must provide tenants with a description of their rights and the relocation amount that the tenant may be specifically entitled to under the Ordinance every time that a landlord:

- a. Serves a termination notice without stated cause,
- b. Serves a notice of increase of rent of 10% or greater (in the aggregate) within a 12 month period, and
- c. Makes a relocation assistance payment.

Upon making a relocation payment as described above, Landlords must give notice of that payment to the Portland Housing Bureau (PHB) within 30 days of making the payment (beginning May 1, 2018).

Please see attached Relocation Exemption Application Form, Relocation Acknowledgement Letter, Relocation Payment Form, all created by the PHB for use as described above.

Additional changes to the Ordinance applied to the following items:

*Fixed term tenancies.* Expiring fixed-term tenancies (i.e. leases that expire automatically at the end of a specified term) must be renewed on "substantially the same terms except for the amount of Rent or Associated Housing Costs terminates" or relocation fees apply and are subject to the provisions regarding rent increases.

*Concessions.* Expiration of Rent concessions is not a considered a substantial change to a

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Rental Agreement.

*Sale of dwelling.* For landlords selling a dwelling to a buyer subject to federal mortgage financing, the required 90-day end of tenancy notice may be reduced to accommodate the federal 60-day occupancy requirement if the landlord pays the tenant any required relocation assistance before the termination date. This narrow exception to the 90-day rule of course does not affect any other applicable notice period required by state or federal law. This new provision is particularly important to residential home buyers, sellers, and their agents.

The severe penalty provisions for failure “to comply with any of the requirements” of the Ordinance remain unchanged. The penalties for failure to comply with any requirement can include payment to the tenant for up to 3 times the monthly rent as well as actual damages, relocation assistance, and reasonable attorney fees and costs. Consequently, even minor infractions, such as a late submission of notice to PHB of a relocation payment made, could cost landlords thousands of dollars.

This update recaps the major changes to the Ordinance but is not intended as a complete description of all the changes, the requirements of the Ordinance, or its potential impacts. This update is not legal advice and should not be relied upon as such. This update does not cover every situation and members are strongly encouraged to obtain advice from an attorney when dealing with the Ordinance.

Very truly yours,

GREENSPOON MARDER LLP

A handwritten signature in black ink, consisting of a stylized, cursive name followed by a long horizontal line extending to the right.

Leah Sykes, Esq.