

Community Law

METROPOLITAN PUBLIC DEFENDER

February 17, 2024

My name is Lee Wyatt. I have been an attorney for over 35 years. I am a staff attorney with Metropolitan Public Defender's Community Law Division. Thank you deeply for your time and commitment to serving all Oregonians and for allowing me to testify today.

First, I ask that you refer to the letters of Leslie Nelson and Ariel Test; they are each the chief of sections of attorneys within MPD/CLD. Along with other important legal representation for indigent folks in Clackamas, Washington and Multnomah Counties, the attorneys of MPD/CLD go to the landlord-tenant courts on pretty much a daily basis. We support and guide our clients through one of the most stressful times in their lives. We challenge the claims of alleged material violations of rental agreements, negotiate and convey rental assistance provided by community partners, and provide the court with the relevant facts it needs to apply the landlord tenant statutes fairly.

I OPPOSE HB2305 BECAUSE IT ISN'T NEEDED: Landlords can (and do!) use the laws on the books to force a tenant to shape up or ship out.

Proponent Jodi Nelson testified HB2305 would give a "small measure of control." Others testified HB2305 would allow the landlord "to exit" or "remove" a bad tenant and "let us have some control." (Zachary Sundsten, Paul Jacobsen and Robert Vandecar, respectively.)

What I see is: Landlords already have a drastically disproportionately large amount of control, knowledge and resources compared to their tenants. And landlords are very good at using those controls that are already in the Statutes.

What I see is: Landlords seeming to wait for months after sending a Notice of Termination before filing their eviction case. This raises the amount owed until it has soared far beyond the funding limits of every community partner with rental assistance. Then? The tenant has no choice but to move out AND ALSO be burdened with \$10,000 and even \$20,000 of eviction debt on their shoulders and credit reports. And getting the next landlord to see what was really going on there is nigh impossible. And there is nothing preventing such use of the statutes.

I OPPOSE HB2305 BECAUSE THE LANGUAGE AS WRITTEN COULD BE EASILY ABUSED.

From what I have seen, and as proponent Jason Lavery testimony's pointed out: "corporate landlords and companies [] don't have the same level of personal investment, [] are not local, and [] are not invested in their communities." I think he would agree with me that those kinds of landlords are more likely to learn how to and then exploit the provisions of HB2305 unfairly.

Nancy Nichols testified to you: "No owner wants to push out someone for a couple minor violations" Unfortunately, that is exactly what I do see: landlords who use hyperbole, exaggeration and downright lies to get a tenant evicted who complained to the housing inspector and got the landlord in trouble.

I OPPOSE HB2305 BECAUSE IT SPEEDS UP THE EVICTION PROCESS WHILE ALSO STRIPPING TENANTS OF THE COUNTERWEIGHT OF OUR LEGAL SUPPORT.

HB2305 wipes away even more of the short time frame in which indigent folk have to seek, find and benefit from the legal support. And it is exactly that legal support for tenants that would otherwise scrutinize any and all of HB2305's requisite three supposed violations.

What I see is: There is already so little time or point out factual flaws to the landlord so as to rightly and justly protect the tenant.

I OPPOSE HB2305 BECAUSE IT WILL NOT PROTECT PROPERTY FROM BEING DESTROYED

Many proponents shared the same sentiment as Sharon Waterman. She testified HB2305 would "ensure landlords have the tools to keep their property from being destroyed." But no law and no one can ensure a tenant does not destroy property.

The mirror of the bad landlord is, of course, the bad tenant. To try to regulate or legislate tenants to be patient, kind, generous, and peaceful is not only inappropriate, but also futile.

I OPPOSE HB2305 BECAUSE MANY TENANTS ARE ALREADY THE LOSERS IN OUR SYSTEM

Certainly those voicing support for HB2305 have also voiced their own vulnerability and hardship: Fred Purdy testified the longer it takes to evict (destructive tenants) the more his hardship in retirement worsens. Another testified it can feel that destructive tenants know more about "the system" or can "play the system."

As an indigent tenant attorney, I accept that to try to regulate or legislate landlords to be patient, kind, generous, and peaceful, is not only inappropriate, but also futile. What we can do, and what legislation by the people and for the people should seek to do, is place protections around the most vulnerable; they need it the most.

Over 35 years of intense, intimate interactions with the indigent, the poor and the literal outcasts of our society has unveiled to me what my clients' lives are really like. I genuinely wish there were CLEs for attorneys to help understand the daily life and the mindset of the desperately poor. Here is a mini-lesson: when poor people catch a break because a bill is paid for them, they will not put the money they were holding for that same bill in some kind of piggy bank or splurge account. They have no "extra" money just because money was given to others on their behalf. Life merely remains *just barely* less dire than it was before. Having to pay rent sometimes means you are handing over all the money you have to pay for food for the month.

What I see is: Landlords inflating the cost to repair "damages" and keeping security deposits even when there was only normal wear and tear. If landlord's don't think their contracts are protecting them, they can and should change their contract, not burden this Committee or the legislature to do it for them.

What I see is: Tenants saddled with late fees and other charges that keep them from being able to pay back the rent they owe. Tenants who have lost their job or cannot get a job because their criminal record from decades ago keeps them from being able to pass a rental application background and watch \$45 in application fees go down the drain again and again.

HB2305 WILL NOT SOLVE THE PROBLEM COMPLAINED ABOUT

Other testimony agreed with Bruce Flint's support of HB2305 "to help not only owners but tenants trying to live in a safe and quiet community." HB2305 will not prevent strife between neighbors or stop neighbors gossiping and judging those around them.

Josephine Shotola testified HB2305 as "giv[ing] the landlords a bit of flexibility in deciding to continue to put up with that tenant, or to terminate the tenancy."

What I see is: Landlords using hyperbole, exaggeration and downright lies as a basis for a material violation. And it works because the burden of proof is so low for landlords and the risk so high for tenants.

SOME TESTIMONY IS INACCURATE

Daniela Flora's testimony claiming that during the eviction process "the tenant does not make a rent payment" distorts the genesis of that particular part of the statute and mischaracterizes why tenants do not "pay something to show some effort." If an eviction process has been triggered.

What I see is: Tenants who *want* to make a rent payment "during this time" (after the Landlord gives Notice of Termination through closing of eviction case) are prohibited from doing so by the Landlords who put that language in the statutes in the first place.

Daniela Flora also testified "tenants have gotten used to [sic] not paying the rent since there were so many protections during COVID-19." I know of no supporting research or examined evidence in either Oregon's or the entire Nation's rental crisis for this statement.

What I see is: The indigent in our communities are still trying to get back up on their feet after COVID. COVID knocked them down so far that even a minor financial glitch throws them back into the financial crisis.

SUMMING UP: I have taken lots of time and space to say what Elizabeth Kinevey-Gump, a landlord who testified to you in **opposition** of HB2305 said so well and much briefer: "I believe we [landlords] already have more than enough rights, while tenants are frequently taken advantage of by bad actors. I think this [HB2305] could be abused too easily if passed."

Thank you kindly.

Lee Wyatt
OSB 983808