

Chair Jama, Co-Chair Anderson, and Committee Members:

My name is Betty Holladay and I am writing to support SB 611. I am a Willamette Law School graduate, a retired state employee, a member of the Portland Poor People's campaign and a renter. I am 73 years old, single, and have rented my entire life. I never earned enough money to buy a home. Even when I contemplated a purchase after my retirement in May of last year, the interest rates were so high it was actually cheaper for me to rent than to buy.

This rental market has only gotten worse with the decrease in affordable housing. While some decry the regulatory aspect of rental caps, I think that when we do not currently have a "free market" housing economy to set natural checks and balances, we must look to some regulation to stop the landlord price gouging that we are now seeing. Quite frankly, that price gouging is coming from out of state corporate landlords.

After 4 years of very reasonable rent increases – the highest being \$65 monthly, my own out of state corporate landlord rose my rent by \$125 a month effective last November. I was appalled. My research showed that my former property management company, Trinity Property Management, split off into Red Tail Residential creating a sister company. Red Tail owns 70 properties in 20 states. It wanted to raise rents to the maximum 9.9% at that time. My onsite property manager wanted to raise rents to 4%, but persuaded the company to settle for 6% - which for me was still high. I have collected stories from friends and they all tell the same tale – of highly increased rents from their nameless, faceless, out of state corporate landlords.

If the examples of personal stories and testimony is not enough to prove price gouging, I have attached articles describing an alleged rental software price-fixing scheme on the part of some corporate property managers. The Chair of the US Senate Committee on Banking, Housing, and Urban Affairs has called for a Federal Trade Commission investigation into this matter. Now, certain companies are also being investigated by the US Department of Justice. Finally, there is an anti-trust lawsuit filed by a Portland-based law firm in US District Court for the Western District of Washington State against some of the same companies being investigated. While these are national efforts, they extend to companies with properties in Oregon. No one is immune from the nationwide trend of very high (and unreasonable) rents.

SB 611 attempts to modify past 2019 legislation and reset the formula for rental caps. No one anticipated such high inflation in the future. This bill reduces the maximum amount to be charged to 8% - a reasonable figure that allows for the cost of inflation and one that has been upheld by the US Supreme Court as providing a "reasonable rate of return" for landlords. Average rents for Oregon in 2022 have been listed by landlord advocates at 5% by Multi-Family Northwest and then 6% by an Oregon Rental Housing Association representative. An 8% rental cap is more than generous. I personally am advocating for a 5% rental cap based upon the average rent amounts provided by the landlord representatives.

I heartily support lowering the age of the building on which rental caps may be applied. Newer properties are seeing rent increases which can be as excessive of up to 50%. Concurrently, I support raising the amount of relocation payments as one month's rent may not be sufficient to cover moving costs for no-cause evictions.

I encourage passage of this bill to the House Floor. It is fair and just. It will not be in time to prevent a move for me – unless by some miracle my landlords decide to go back to past rent increase trends. Let me be clear, I am middle class. I have a relatively good retirement income and still I am squeezed like everyone else in this rental market. While my home address is Lake Oswego, again let me be clear – I am not wealthy. I moved here to escape the rising Portland rents and enjoyed reasonable rents up until last year. No one is immune from this insidious disease that sucks the life blood from renters. Stop the bleeding now. Thank you.

Betty Holladay
Lake Oswego, OR



5 Takeaways From Our Investigation Into RealPage's Rent-Setting Algorithm



Photo illustration by Lisa Larson-Walker/ProPublica

Software from real estate tech firm RealPage may be pushing rents higher as landlords seek greater profits.

by **Sophia Kovatch**

Oct. 28, 2022, 7 a.m. EDT

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Nationwide, rent was up by 9% in September compared to the previous year. That's the first time in 2022 that rent increases were in the single digits, down from an 18% increase in March, according to an analysis by the real estate company Redfin.

While supply and demand, high mortgage interest rates and other economic factors are certainly at play in rising rents, an investigation by ProPublica found another key factor: a rental pricing software owned by real estate tech firm RealPage. Here's what we learned.

How RealPage's Rent-Setting Algorithm Works

The software collects tons of data from its clients, many of whom price tens of thousands of units. All together, RealPage says its rent-setting

algorithm holds lease transaction data for more than 13 million units across the country.

Each day, the software recommends a new price for every available unit. To determine the new rate, it draws from competitor data on the actual rent tenants paid, as opposed to the publicly advertised rent.

The use of private competitor data — though it is aggregated and anonymized — to set prices is one of the concerns experts raised. The practice could allow RealPage to stifle rental competition, they said, driving up rents across the country and, potentially, even violating antitrust laws. Experts said that RealPage also sponsors meetings that gather competitors together to talk about pricing, which could also be a warning sign of collusion.

What You Need to Know About RealPage

1. Landlords use RealPage to make more money. RealPage boasts that it helps landlords outperform the market by up to 7% — that is, its software users can expect better-than-market-average revenues, even in weak markets. Greystar, the largest property manager in the U.S., outperformed its markets by 4.8% in one downturn, according to RealPage materials.

RealPage promises streamlined apartment pricing and flexible options for renters, but the true benefit for landlords is just how far the software will push rents up — far beyond what most property managers are willing to do manually.

2. RealPage believes it is driving rents higher across the country. A now-deleted video showed a RealPage executive saying in 2021 that the company's software was a driver of double-digit rent increases across the country. Another executive said most property managers would be hesitant to raise rents by double digits without the assistance of the software.

Take this example from Seattle: In a RealPage-priced building in a downtown Seattle ZIP code, rent rose by 33% in one year for a couple living in a one-bedroom apartment. In a non-algorithm-priced building in the same ZIP code, rent for another tenant's studio rose by just 3.9% over a similar period.

Property managers don't have to accept the software's recommendations — they are free to reject the algorithm's price if they feel it's too high or low. But overall, about 90% of recommendations are implemented, former employees said.

3. RealPage discourages landlords from bargaining with tenants over rents. One of the developers of RealPage's price-setting software said leasing agents have "too much empathy" with renters, which can lead them to hesitate to seek the highest rents. The software automates rent-setting calculations, leading to more revenue for landlords and property management companies.

This may be why RealPage discourages bargaining with tenants about rent. When you take the human element out of the equation, profits seem to soar.

4. Critics say RealPage may encourage pricing collusion among landlords. When RealPage acquired LRO, its main pricing competitor, in 2017, the Department of Justice's antitrust division investigated the deal. The merger ultimately proceeded, doubling the number of units RealPage priced — and expanding its cache of data.

Legal experts have raised concerns that RealPage's software could be facilitating collusion among clients in places where many of them use it to set rents. In particular, the company's User Group — a forum for clients to work together and suggest software improvements — could be an "antitrust red flag," they said. The group has more than 1,000 members and two subcommittees on pricing, which meet in private at annual conferences.

Days after ProPublica released its investigation into RealPage, a group of renters filed a lawsuit alleging that nine of the largest property management firms in the U.S. are working together to artificially inflate rents, violating federal law.

5. RealPage says it uses data in a “legally compliant” way. The company told ProPublica that it “uses aggregated market data from a variety of sources in a legally compliant manner.”

RealPage noted that landlords who use employees to manually set prices “typically” conduct phone surveys to check competitors’ rents, which the company says could result in anti-competitive behavior.

“RealPage’s revenue management solutions prioritize a property’s own internal supply/demand dynamics over external factors such as competitors’ rents,” a company statement said, “and therefore help eliminate the risk of collusion that could occur with manual pricing.”

The statement said RealPage’s software also helps prevent rents from reaching unaffordable levels because it detects drops in demand, like those that happen seasonally, and can respond to them by lowering rents.

Other Reasons Rent Is So High

Although RealPage’s software is affecting rental prices in markets across the country, it’s far from the only factor in increasing rents. Here are some other things that help explain why rent is so high.

1. Private equity-owned rentals: Since 2011, there’s been a steady increase in the number of rental units owned by private equity-backed firms, according to reporting by ProPublica. These property management firms aim to increase short-term profits by increasing rents, cutting costs, or both. By 2021, more than half of the top 35 apartment building owners were backed by private equity, likely contributing to higher rents around the country.

2. High cost of homebuying: Property values in many markets escalated steeply in the years after the Great Recession. More recently, average interest rates on 30-year fixed-rate mortgages in the U.S. have soared, now surpassing 7% — nearly double what they were this time last year. Both trends have slowed homebuying, pushing rental demand and prices higher.

3. Slow, expensive construction: Supply chain issues have slowed housing construction, reducing the rental supply as demand increases. As inflation affects every sector of the economy, the costs of labor and materials go up, making it hard to build housing people can afford. The nation has lagged in constructing the new housing units needed in most years since the Great Recession.

4. Supply and demand: With more people forced to rent, there simply aren't enough rental units to go around — especially in some markets that saw an influx of new renters during the pandemic. Higher competition for rentals drives prices up.

[Heather Vogell](#) contributed reporting.

Sophia Kovatch

Sophia Kovatch is an Audience Editor, SEO with ProPublica.

Regulation

Senator Seeks Antitrust Review of Apartment Price-Setting Software

The chair of a Senate committee wants the Federal Trade Commission to examine software sold by Texas-based RealPage after a ProPublica investigation revealed possible collusion.

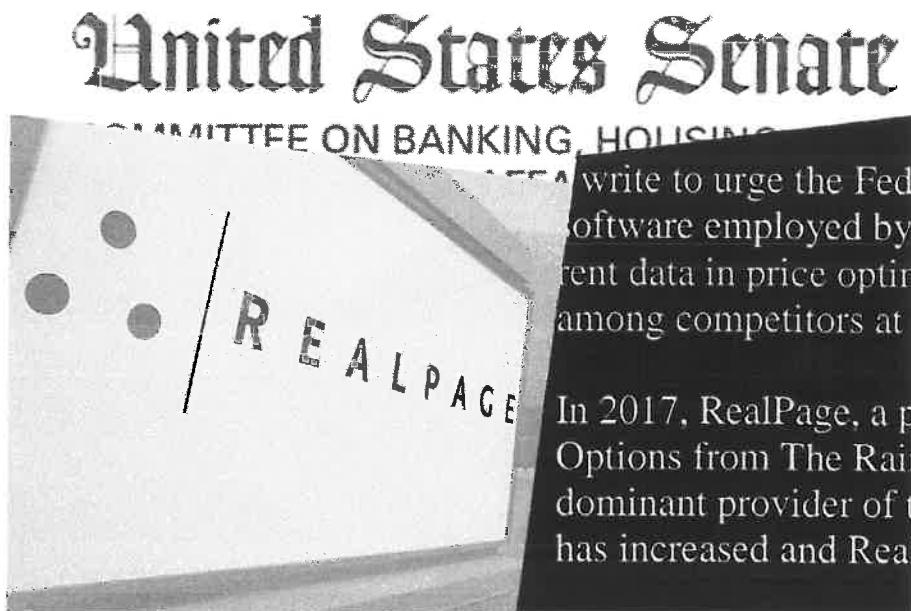


Photo illustration by Lisa Larson-Walker/ProPublica. Photo by Sipa USA via AP Images

by Heather Vogell

Nov. 1, 2022, 2:10 p.m. EDT

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The chair of a U.S. Senate committee asked the Federal Trade Commission on Tuesday to review whether a Texas-based property tech company's rent-setting software violates antitrust laws.

The move comes after ProPublica [published an investigation](#) Oct. 15 into RealPage's pricing software, which suggests new rents daily to landlords for all available units in a building. Critics say the software may be helping big landlords operate as a cartel to push rents above competitive levels in some markets.

"Alarmingly, recent reporting by ProPublica highlighted that RealPage's algorithm-based price optimization software, YieldStar, is being used by a growing number of property managers and landlords, potentially impacting pricing and the supply of homes in the rental market," said [the letter signed by U.S. Sen. Sherrod Brown](#), the Ohio Democrat who chairs the Senate Committee on Banking, Housing, and Urban Affairs. "Renters

should have the power to negotiate fairly priced housing, free from illicit collusion and deceptive pricing techniques.”

RealPage’s software applies a complex set of mathematical rules to a vast trove of data collected by the company from landlords who are its clients. That data includes the otherwise private data of nearby competitors.

“Troublingly, ProPublica reported that a former RealPage executive stated that the data could give insight into how competitors within a half-mile or mile radius are pricing their units,” said the letter, which was addressed to FTC chair Lina Khan.

RealPage has said the data fed into its pricing tool is anonymized and aggregated. It said the company “uses aggregated market data from a variety of sources in a legally compliant manner.”

In a statement Tuesday, the company said it had not seen the letter, “but we are always willing to engage with policy stakeholders to ensure they have the facts about the competitive dynamics of the housing market and the value and benefits that RealPage creates for renters and housing providers.”

Critics say the use of private data is one of the reasons the software invites scrutiny from antitrust enforcers such as the FTC. RealPage also claims its analytics “balance supply and demand to maximize revenue growth.” And the company organizes forums for competitors to meet and discuss aspects of its software, including its pricing algorithms. One legal expert told ProPublica that such collaborations “could raise an antitrust red flag.”

In one neighborhood in Seattle, ProPublica found, 70% of apartments were overseen by just 10 property managers, all of which used pricing software sold by RealPage in at least some of their buildings.

The Senate letter said the recent reporting on RealPage “raises serious concerns about collusion in the rental market.” It said “the FTC should review whether rent setting algorithms that analyze rent prices through the use of competitors’ private data, such as YieldStar, violate antitrust laws.”

RealPage said previously that its revenue management software prioritizes a property’s own internal supply and demand dynamics over external factors such as competitors’ rents. The software helps eliminate the risk of collusion that could occur with manual pricing, which often relies on phone surveys of competitor prices, the company said.

An FTC spokesperson said the agency does not comment on letters or requests from Congress.

The letter also raised concerns that the pricing software is potentially restricting the supply of apartments. It said that the national rental vacancy rate was just 5.6% at the end of 2021, the lowest since 1984. Even in the tight market, however, it said, there are reports that RealPage’s algorithm sometimes encourages property owners to keep units vacant or push tenants out to increase profits.

The letter cited ProPublica’s story, which quoted from a 2017 earnings call with RealPage’s then-CEO, Steve Winn. He explained how one large

property company found it could increase profits by raising rents and leaving more apartments vacant.

Winn has not responded to requests for comment.

“Intentionally holding units vacant, when there are so few homes available, decreases a consumer’s negotiating power and exacerbates the housing shortage,” the letter said.

RealPage’s influence over apartment pricing has grown substantially in recent years, following its 2017 acquisition of its biggest pricing competitor, software called Lease RentOptions, or LRO, from The Rainmaker Group. RealPage was pricing 1.5 million units at the time, and the purchase allowed it to double that number. The Department of Justice’s antitrust division took a close look at the merger, but allowed it to proceed.

By 2020, RealPage had expanded its number of clients to 31,700 across all its products, which also include accounting, lease management and other software. Private equity firm Thoma Bravo bought RealPage last year for \$10.2 billion. It now calls its pricing software AI Revenue Management.

After ProPublica published its investigation, a group of tenants filed a lawsuit against RealPage and nine of the country’s biggest landlords, alleging they were colluding to artificially inflate rents.

A RealPage spokesperson has denied the allegations and said the company “will vigorously defend against the lawsuit.” She declined to comment further, saying the company does not comment on pending litigation.

Filed under —

Regulation

Heather Vogell

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Local News

Richardson-based RealPage Is Facing a DOJ Investigation Into Its Rent Pricing Software

The real estate software company RealPage has been accused of using its rent pricing software to help landlords inflate market rents. Now it faces 11 lawsuits and an investigation by the U.S. Department of Justice.

By Bethany Erickson | November 29, 2022 | 12:06 pm



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It's been more than a month since a ProPublica story brought to light how RealPage uses its proprietary rent management software in a way that suggests possible collusion with landlords to inflate rental rates. The Richardson-based real estate tech firm is now facing 11 class-action suits and an investigation by the U.S. Department of Justice's Antitrust Division.

The [report](#) was published October 15. By October 18, RealPage and eight other multifamily landlords—including Dallas-based Lincoln Property Co.—[were sued](#) for the first time by five plaintiffs from California and Washington. Since then, 10 more suits have been filed, all alleging that RealPage's YieldStar software allows landlords to artificially inflate rent prices.

YieldStar uses data analytics to suggest appropriate pricing based on apartment availability. But property managers can let units sit vacant and off the market, which the algorithm interprets as a supply crunch that warrants higher prices. The program allows landlords to see anonymized, aggregated data showing competitor pricing. Many property managers that use the software control thousands of apartment units in individual markets, and the ProPublica story alleges that RealPage executives and developers were aware of the impact YieldStar had on pricing.

According to a review of Pacer.gov, the 11 lawsuits have been filed in federal courts in California, Illinois, New York, and Washington. The bulk were filed between November 2 and 18, with two more filed right before the Thanksgiving holiday. The most recent came on November 23 in California Central District Court.

This month, Sen. Amy Klobucha (D-Minnesota), who chairs the Senate Subcommittee on Competition Policy, sent a letter to the DOJ's Antitrust Division asking that the agency investigate the matter.

"We are concerned that the use of this rate setting software essentially amounts to a cartel to artificially inflate rental rates in multifamily residential buildings," said the letter, which was also signed by Sen. Richard Durbin (D-Illinois) and Sen. Cory Booker (D-New Jersey).

Congressional leaders also sent two other letters to the DOJ and the Federal Trade Commission. By November 23, the DOJ had opened an investigation

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orted last week.

Citing an unnamed source, ProPublica said the matter has also renewed questions regarding the merger between RealPage and its largest competitor, Rainmaker Group, in 2017. That source said that some DOJ staff flagged the merger for further scrutiny then but were overruled by Trump appointees who chose not to challenge the merger in court.

"The investigation fell at a time when the DOJ's Antitrust Division was preparing to sue to block a proposed merger between AT&T and Time Warner, which promised to take up a lot of the division's resources," the report said. "It was a resource constraint issue he was trying to balance,' the source said of Makan Delrahim, the former assistant attorney general charged with overseeing the division at the time. In addition, RealPage did not have the same reach then as it does today, the source said."

Prosecutions for antitrust violations like price fixing fell to historic lows during the first three years of the Trump administration. Fines for violations also dropped dramatically. Those declines follow a reduction in staffing in the division, where attrition in all five criminal enforcement units fell by a fifth since Trump took office.

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Bethany Erickson is the senior digital editor for *D Magazine*. She's written about real estate, education policy, the stock market, and crime throughout her career, and sometimes all at the same time. She hates lima beans and 5 a.m. and takes SAT practice tests for fun.

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5/10/2021)

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RealPage Rent Price-Fixing Scheme – Nationwide

Do you or did you since 2016 rent an apartment maintained by a major property management company?

Attorneys are representing renters in a lawsuit fighting a scheme that artificially inflated apartment rental rates.

CASE STATUS

Active

DEFENDANT(S)

RealPage, Inc.

ATTORNEYS

Steve W. Berman (<https://www.hbsslaw.com/attorneys/steve-berman>)

FILE DATE

12/02/2022

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PRACTICE AREAS

Antitrust Litigation

(<https://www.hbsslaw.com/practices/antitrust-litigation>)

Consumer Rights

(<https://www.hbsslaw.com/practices/consumer-rights>)

COURT

U.S. District Court for the Western District of Washington

CASE NUMBER

2:22-cv-01712

RELATED DOCUMENTS

Complaint (<https://www.hbsslaw.com/sites/default/files/case-downloads/realpage-rent-price-fixing-scheme/2022-12-02-class-action-complaint.pdf>) 12/02/22

Hagens Berman has filed a class-action lawsuit on behalf of renters who have been harmed by a scheme perpetrated by some of the largest residential real estate companies. The lawsuit states these leasing companies colluded to artificially increase the price of rent, basing leases above competitive levels. **In this scheme, renters lose**, and leases are adjusted to rates beyond what a free market would bear. We believe in upholding tenants' rights. ()

HOW DO I KNOW IF I'M AFFECTED?

The residential real estate companies under investigation maintain properties across the U.S. If your apartment is maintained by one of the following companies, or another large property management company,

Companies under investigation: (#)

- AvalonBay Communities
- Avenue5 Residential
- BH Management Services
- Bozzuto Management
- Camden Property
- CONAM Management
- Cortland Partners
- Cushman & Wakefield
- CWS Apartment Homes
- Equity Residential
- Essex Property Trust
- FPI Management
- Greystar Real Estate Partners
- Highmark Residential
- Irvine Company
- Lincoln Property
- Mid-America Apartment Communities
- Mission Rock Residential
- Morgan Group
- Morgan Properties
- Prometheus Real Estate Group
- RPM Living
- Sares Regis Group Operating
- Security Properties
- Thrive Communities Management
- UDR
- ZRS Management
- Other

YOUR TENANT RIGHTS

Your rights as a renter include a fair price for your apartment, and we believe these companies have violated federal laws in artificially raising the price of rent. You may have rights under antitrust laws to compensation for your losses due to this scheme.

RENTAL PRICE SCHEME EXPLAINED

Our legal team believes that beginning in 2016, these leasing giants began to work together to **increase lease prices for renters**. Instead of using an independent pricing metric and supply decisions, they agreed to use a third-party pricing and data collection service, RealPage, to make unit-specific lease adjustments. RealPage also allows participating lessors to coordinate supply levels to **avoid price competition**. They made these changes in lockstep, forcing leases higher in a scheme designed to imprison renters.

HOW CAN A CLASS ACTION HELP?

Through a class-action lawsuit, individual renters can collectively bring claims against large corporations who would otherwise have the upper hand. A class-action lawsuit seeks to level the playing field, bringing strength to **collective action** to change corrupt practices. Though these measures do not bring immediate relief, they are a time-tested method of **holding companies accountable for wrongdoing**.

NATIONAL LAW FIRM

Hagens Berman is home to some of the most well-respected and successful lawyers representing plaintiffs in class actions, and the firm has achieved \$325 billion in settlements since its founding in 1993. The firm has taken on major institutions for fraudulent billing and predatory behavior, including in the mortgage market, in Big Tech, and against utility companies, product manufacturers and other negligent parties. Your claim will be handled by attorneys experienced in this area of law.

NO COST TO YOU

There is no cost or fee whatsoever involved in joining this case. In the event Hagens Berman or any other firm obtains a settlement that provides benefits to class members, the court will decide a reasonable fee to be awarded to the legal team. In no case will any class member ever be asked to pay any out-of-pocket sum.

CASE TIMELINE

2022

DEC 2

Complaint filed

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