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Portland’s New FAIR Housing Ordinance

By Ron Garcia

The City Council of Portland is now slated to pass its “Fair Access in Rentals” (FAIR) Act to become law on March 1, 2020. However, Portland landlords should instead understand this new ordinance to read as: “Forcibly Accepting Increased Risk.”

This new statute restricts and governs:

1. How tenant screening must be conducted, as well as how vacancies must be advertised and filled, and
2. How much landlords can collect for tenant security deposits and how those funds must be allocated towards damages upon termination, as well as new mandates on handling termination notices (including 72-hour late notifications).

The requirements in this ordinance will substantially change most

See ‘Portland’s’ on Page 6

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Eugene Rents Flat in January

APARTMENT LIST

Eugene rents have remained flat over the past month, although they have increased marginally, by 0.5 percent year-over-year, according to the most recent report from Apartment List.

Currently, median rents in Eugene are \$821 for a one-bedroom apartment and \$1,092 for a two-bedroom.

Eugene’s year-over-year rent growth lags the state average of 1.2 percent, as well as the national average of 1.6 percent.

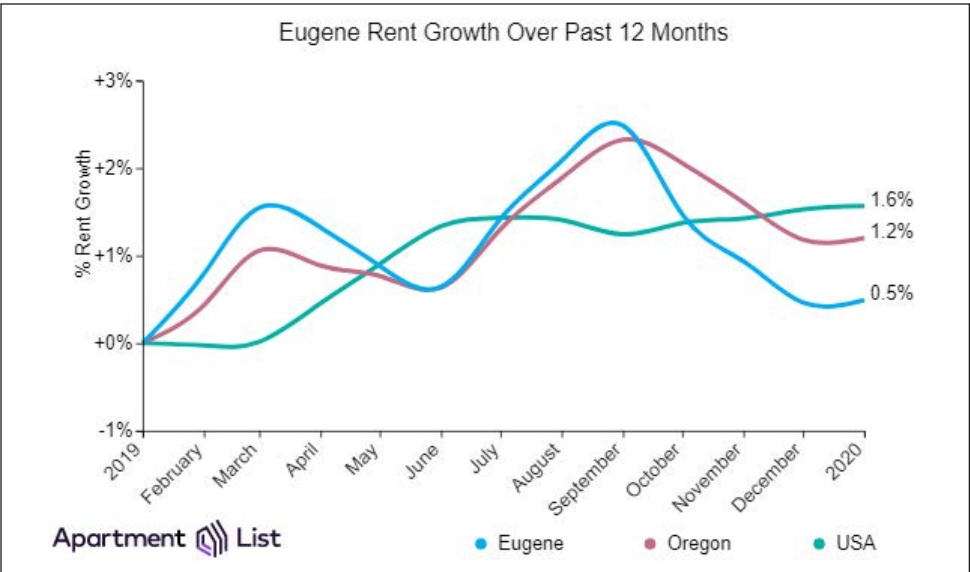
CORVALLIS RENTS UNCHANGED

Corvallis rents have remained flat over the past month, but are up slightly by 1.4 percent year-over-year.

Median rents in Corvallis stand at \$828 for a one-bedroom apartment and \$1,039 for a two-bedroom.

SALEM RENTS DOWN YEAR-OVER-YEAR

Salem rent trends were flat over the past month and have decreased moderately by 1.3 percent year-over-year.



Median rents in Salem stand at \$809 for a one-bedroom apartment and \$1,063 for a two-bedroom.

RENTS HAVE RISEN IN 9 OF THE 10 LARGEST CITIES IN OREGON

Oregon as a whole logged rent growth of 1.2 percent over the past year. Here’s a look at how rents compare across some of the largest cities in the state.

• Hillsboro is the most expensive of all Oregon’s major cities, with a median two-bedroom rent of \$2,050.

• Beaverton has been experiencing the fastest growth (+3.4 percent).

• Bend, Hillsboro, and Corvallis have all experienced year-over-year growth above the state average (2.8 percent, 2.0 percent, and 1.4 percent, respectively).

3 Reasons Why You Should Consider Trash Valet Service at Your Property

KEEPE

Have you been thinking about adding a trash-valet service at your property? In the race to attract renters, properties are continually trying to find new ways to make life easier for renters and improve the condition of the property.

Trash-valet service is one of the most requested services by renters, and it has some serious benefits for properties as well.

ABOUT TRASH VALET SERVICE?

Trash-valet service eliminates the need for big dumpsters placed all over the property and keeps the property looking

See ‘3 Reasons’ on Page 7





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Five Things to Remember When Deciding to do a 1031 Exchange

**By Dwight Kay
and the Kay Properties Team**

A 1031 exchange is a legal way for investors to defer their capital gains taxes on the sale of real estate held for investment or business purposes. It allows one to defer taxes on a property sale as long as they follow specific 1031 rules and guidelines. In other words, you have the potential to keep all your profits working for you with the purchase of your next investment property, without the IRS coming after you looking for their share of the pie. Here are five things to remember before a 1031 exchange.

1. Taxes are Applicable in a Non-1031 Exchange

When an investor sells a property that has gone up in value this results in several types of taxes. These include capital gains taxes, which the investor must pay if they sell the asset at a price higher than they initially paid for it. Federal capital gains are taxed at 15-20% of the increase in value, while state capital gains are taxed between 0- 13.3% of the increase in value.

Depreciation recapture taxes are taxes due when the seller had claimed depreciation expenses on the sold property. Depreciation recapture is currently taxed at 25% of the amount you have depreciated over the years. Other taxes incurred on property sales include the 3.8% Medicare surtax.

All these taxes are able to be deferred if you do a 1031 exchange. But if you choose to sell your property without a 1031 exchange, ensure you consult a reputable attorney and CPA so you can know what your full tax bill will be when

adding up federal capital gains, state capital gains, depreciation recapture and the medicare surtax.

2. You Need a Qualified Intermediary

A 1031 exchange isn't as simple as selling and reinvesting in another property. You must first transfer the relinquished property to an intermediary or an accommodator so they can execute the sale on your behalf. This is a process whereby your sale contract is assigned to the qualified intermediary and when the property closes your funds are then wired to your account at the qualified intermediary. From there you will instruct which properties you would like the qualified intermediary to purchase on your behalf. Kay Properties is not a qualified intermediary however we work with many throughout the country so if you would like a referral please let us know.

3. You Can Only Purchase a Like-Kind Asset

For you to defer taxes via a 1031 exchange, you must reinvest the profits from the sale in like-kind property. In other words, if you sell a property held for investment or business purposes in a 1031 exchange, the replacement property must be of the same character. For example, you could sell an apartment building and purchase a commercial building or you could sell a rental home and purchase a DST 1031 investment.

4. Remember Deadlines

1031 exchanges are subject to deadlines. If you sell a property today, you're expected to have

identified the replacement property within the next 45 days and reinvested the proceeds in it within 180 days. But if you'd already identified the replacement property, you can reinvest immediately.

5. Understand Your Options

Once investors have decided to do a 1031 exchange they should consider their options. First, they could purchase another type of investment property that they would manage on their own. Second, they could purchase a triple net lease property whereby a national tenant such as Walgreens or FedEx has leased the property for typically 10-15 years. The problem with the triple net leased properties is that it causes investors to place a large portion of their net worth into a single property which could be disastrous (think Blockbuster Video). Third, if the investor is wanting to get out of active management and the day to day issues of dealing with tenants, toilets and trash as well as they are wanting to diversify their investments into multiple properties then a DST 1031 exchange may be a solution. The DST (or Delaware Statutory Trust) is a type of property whereby the management is handled by a third party trustee and since the typical minimum investment of a 1031 DST offering is \$100,000 investors are able to purchase a diversified portfolio of Delaware statutory trust properties that may include a piece of Walgreens for 100k, piece of a FedEx distribution warehouse for 100k and a piece of a 800 unit portfolio of multifamily properties located throughout the south east and Texas*.

If you are interested in learning more about your 1031 exchange options please get in touch with us today to learn more.

Kay Properties and Investments, LLC is a national Delaware Statutory Trust (DST) investment firm with offices in Los Angeles, San Diego, San Francisco, Seattle, New York City and Washington DC. Kay Properties team members collectively have over 114 years of real estate experience, are licensed in all 50 states, and have participated in over \$9 Billion of DST real estate. Our clients have the ability to participate in private, exclusively available, DST properties as well as those presented to the wider DST marketplace; with the exception of those that fail our due-diligence process.



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There are material risks associated with investing in real estate, Delaware Statutory Trust (DST) properties and real estate securities including illiquidity, tenant vacancies, general market

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Lack of New Construction Underlying Cause of Oregon Housing Affordability Crisis

RENTAL HOUSING JOURNAL

The Oregon housing affordability crisis that rose in the last decade is tied to the lack of new housing construction over the past 10 years, according to the Oregon Office of Economic Analysis report.

“While much of the attention is paid to rising housing costs, we know they are the symptom and not the cause of the disease. The chief underlying cause is the ongoing low levels of new construction this decade,” the report says.

“On a population-growth-adjusted basis, Oregon built fewer new housing units this decade than we have since at least World War II. With data going back nearly 60 years, never have we built fewer new units on a sustained basis than we did in the 2010s.

“It is both a near-term concern in that it makes it harder for our neighbors to make ends meet, and it is a long-term risk to the outlook of young, working-age households that cannot afford to move here in the first place,” the report says.

OREGON HOUSING AFFORDABILITY AND MEDIAN HOUSEHOLD INCOME

The report also pointed out that despite the housing issues, growth of income was



good in the past decade.

“For the first time in at least 50 years, Oregon’s median household income is higher than (the national median). And assuming another solid year of income gains in 2019, Oregon will end the decade with inflation-adjusted household

incomes somewhere around 13 percent higher than they ever have been before,” the report said.

OREGON EMPLOYMENT WAS UNEVEN ACROSS THE STATE

Portland’s growth has “been

transformational, as it outpaced all but a few other metro areas” in terms of things like increases in educational attainment, household income gains, and growth in the number of high-wage jobs, the report says.

The urban-rural divide increased in the past decade.

“Rural Oregon overall basically spent half the decade seeing no gains, but has seen solid growth the past handful of years. That said, just nine of Oregon’s 23 rural counties have more jobs today than they did last decade. Encouragingly, rural Oregon has very few places in permanent demographic or economic decline relative to patterns seen throughout the country,” the report says.

OREGON HOUSE AFFORDABILITY REPORT SUMMARY

Josh Lehner of the Oregon Office of Economic Analysis writes, “All told, the 2010s were a bad economic decade. We spent much of the past 10 years simply digging our way out of the Great Recession, which means we underperformed overall. That said, we are ending the decade in great shape and with an economy that has rarely been better. It’s a low bar to overcome, but taken as a whole, the 2020s should be better.”

How Lenient Should I Be with a Long-Term Tenant?

Dear Landlord Hank:

I have a tenant that has been in one of my units for 14 years. Pays rent on time and does cut the grass, but that is about all.

In the last year he has been trying to help two young women that are on drugs to get clean; they are also on probation. He knows he can’t have anyone live in his apartment who is not on the lease, but he hides the women so no one will know. I



have given him two written notice,s but he disregards the warnings. He states they just come to visit and are not living there.

He has been such a good tenant and I don’t want to make him move, but what to do? I can’t prove anyone else lives there except for the tenant. One of these women even picked my lock and I found her in

my bathroom one morning. I should have called the police but I just chased her out and informed my tenant about it. She claims the door was unlocked, but she still had no right to come in through the gate and then my BACK DOOR. It seems to me my tenant is pushing me into a corner to dare me. Any suggestions?

— Adele

Hi Adele,

It’s great to have a long-term tenant, but sometimes the tenant thinks you’ll be lenient or forgiving due to the length of stay, etc.

This tenant is putting you at risk by

inviting known criminals to your property (sounds like you live in a duplex?), and, as you know, drug addicts support their habit by stealing.

Do you have a lease with this person or is he living month-to-month?

I would talk to him and tell him that you are not renewing his lease and expect him to move out by whatever date is consistent with your current rental agreement. I would also hand him the notice in person.

If he doesn’t move as requested, then you may have to evict. You are the boss and you don’t want to feel uncomfortable in your own home. Good luck.



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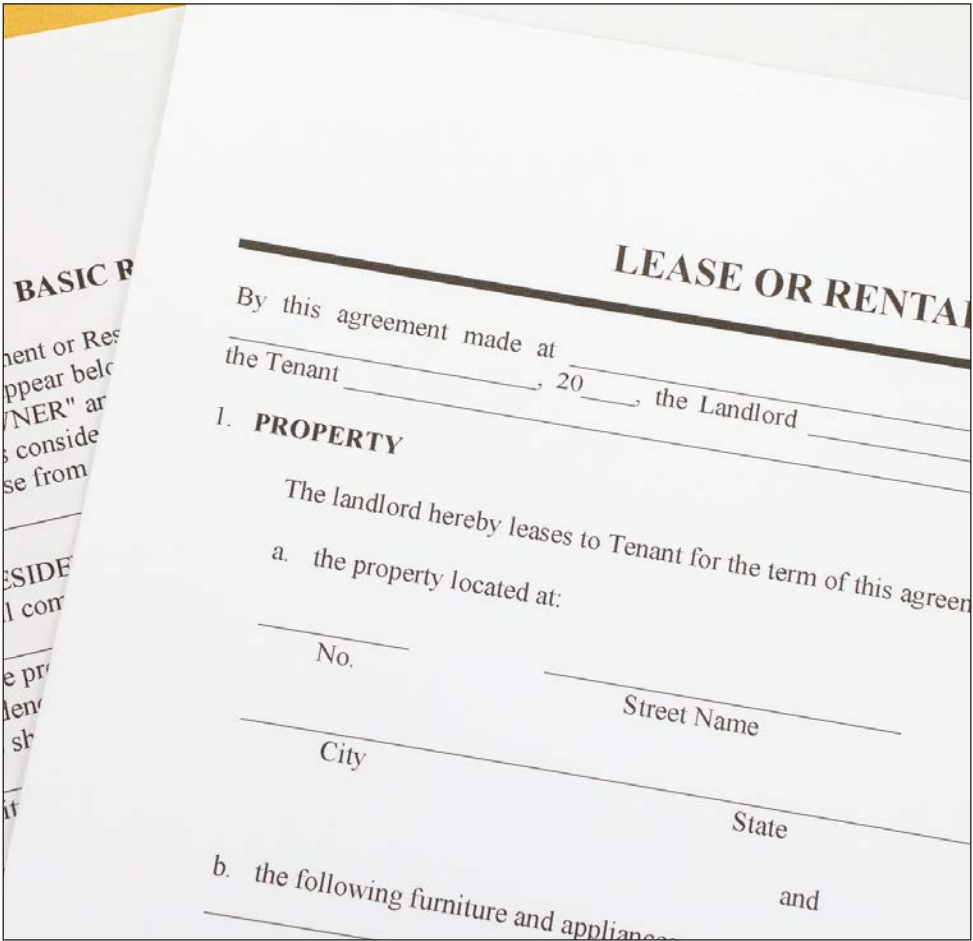


Portland’s New FAIR Housing Ordinance

Continued from Page 1

industry-wide accepted practices for advertisements, screening criteria, rental and management policies, termination procedures and for the final accounting resolutions on all residential income properties in the city of Portland. The goals of this ordinance are to lower the barrier of entry to housing-burdened populations and to restrict the amount of money for which a tenant would otherwise be liable, in order to pay for damages incurred to the unit. There is no attempt at parity between a landlord’s and a tenant’s rights within this act. There is no adjustments for any size or price of rental units. The penalty provisions of any violation in the statute include “actual damages” sought by the tenant – a provision that allows for an open-ended interpretation of potentially huge and cascading claims.

Commissioner Chloe Eudaly has been pursuing this law for nearly two years. Mayor Ted Wheeler’s Residential Services Commission (RESC) supported its progress and provided a forum for it to develop within the Portland Housing Bureau. It should be noted that the RESC is made up of 14 commissioners, only five of which are “landlord representatives. Of those five seats, two commissioners resigned in 2018 because their perspectives were summarily dismissed by the board (I was one of those members). In 2019, three more of the landlord commissioners resigned for the same reason. The result is that the Portland City Council’s housing policies are being created by stakeholders



that are radically against landlord rights and whose agenda is to impose new social policies that require private citizens to fund public-housing policies. The law is cumbersome, confusing, and purposely constructed to penalize landlords for not following the very detailed procedures it introduces.

The FAIR. ordinance joins with the Portland Relocation Ordinance and the

Oregon State rent-control law (HB608), each serving to limit the amount of rent increases and to prevent owners from terminating tenancies. With these new rules, FAIR designed to regulate the selection of tenants and minimize the costs to repair damages, the burden of liability on Portland rental property owners has skyrocketed. And as a result, this new law fundamentally changes the basic relationship between landlords and tenants by assuming that without a host of new policies, all tenants are subject to exploitation.

The just-adopted rules of the FAIR ordinance can now be found on the city of Portland’s website. Ironically, while it is slated to become law in just weeks, a massive amount of training still needs to be conducted to sort out all of the complexities. Experts all agree that this could take months to bring all industry professionals up to date, and will certainly add to the confusion and difficulties in compliance. Cynical as it sounds, the city has been making this law up as they go, and they have added in many caveats and nuances for an array of issues that have created a tangled mess of red tape.

Provisions for refunding interest incurred on tenant security deposits (which already exist in state law) are now parsed out in a new and imposing accounting scheme. Forcing landlords to do in-home final inspections within five days of sending out a late notice for non-payment for rent is not only onerous and time-consuming, it’s also intrusive and insulting to any tenant who has ever gotten just five days behind on a rent payment. Requiring landlords to itemize and place a cost valuation on every fixture, appliance, equipment and personal property in line with a city-approved depreciation schedule, and requiring a signed mutual agreement between the tenant and landlord prior to possession, is cumbersome and arbitrary (and substantially more onerous for larger single family homes than, say a one-bedroom apartment). It also raises anticipated disputes, i.e. what if the tenant doesn’t sign the form and yet is still required (by the law) to be allowed to rent the property?

The sheer volume of change and the additional requirements and restrictions inherent in this law will be challenging, and it will add considerable time allocations for documentation and ‘risk management.’

There are many other conflicts inherent in this ordinance. For example, carpet cleaning (as authorized and approved by state law to be a tenant expense) now must be limited to “discrete impacted areas” and not for other areas of the dwelling unit. Tell me – what does that actually mean and how will it play out in every single move-out? Requiring the rental agreement to have the name, address and phone number of the actual bank branch holding the deposit seems excessive. Which Citibank do you go to?

The increased amount of administrative oversight regulated in this ordinance is excessive. As a long-time professional property manager, I have long promoted the claim that everyone deserves affordable and safe housing. Tenant relations is an integral part of my business and our company works tirelessly to address the needs, concerns, fairness and habitability issues that rise up daily in managing rental housing. Yet even on our best days, with great tenants, we can be subject to questions, suspicions or accusations, etc. when things don’t go as well as someone likes. Creating overreaching laws that do little for the majority of people they serve and which create intimidating conflict unnecessarily just does not seem like good public policy.

At the end of the day, however, when new laws are enacted, our job is to understand them and work diligently on their compliance. The sheer volume of change and the additional requirements and restrictions inherent in this law will be challenging and it will add considerable time allocations for documentation and “risk management.” I certainly believe professional property managers will handle the process and create new best practices to adapt. However, I also believe prices to manage rental units will need to go up in order to accommodate these mandates, further burdening the rental-property owners who are shouldering the weight. Will we now start seeing every owner raise every rent to its maximum rate every year in order to recover their costs? Time will tell.

For the Property Management industry, I submit we should read this new ordinance as the City of Portland promoting “Frustrating Administrative Inflationary Rate-hikes.”

Ron Garcia is the Past President of the Rental Housing Alliance Oregon and is currently a candidate for the Oregon State House of Representative, District 37. His website it www.GoGarcia.org.

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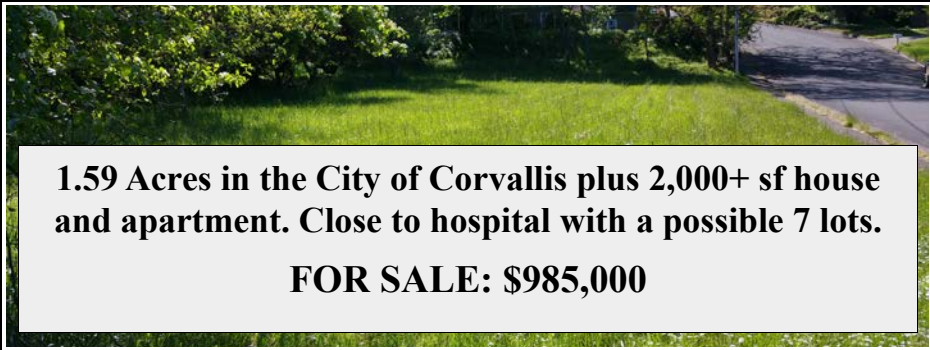
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3 Reasons Why You Should Consider Trash-Valet Service

Continued from Page 1

great. A trash-valet company will supply trash receptacles that residents place outside their doors on a set schedule, usually in the evening. Teams from the trash valet service will take the trash bins, empty them, and return them to the resident’s door. Usually this service is offered on weeknights only. There are several different kinds of trash bins that are designed to fit seamlessly into different styles of architecture. Indoor trash bins look like regular kitchen bins and can be easily placed in hallways. Others are designed for townhouse and condo rentals and are made to look like attractive outdoor benches that can sit near the door.

THE BENEFITS OF TRASH-VALET SERVICE

There are several big benefits for properties that switch to trash-valet service including:

Residents want it: One of the best reasons to switch to trash-valet service is that it’s something residents really want. You’ll attract more renters – and renters who are already in place will be more likely to renew their leases – because your property offers trash-valet services. It’s fantastic for senior renters, and parents and students love it too.

Keeps the property clean: Another big benefit of using a trash-valet service

is that it keeps garbage from building up on the property. No more overflowing dumpsters or huge eyesores in the middle of the property. No more trash blowing all over the property needing to be cleaned up. This saves you labor costs because you won’t need your maintenance team to patrol the grounds looking for and picking up stray trash. Trash is kept out of sight except for the hour or two in the evening when it’s being picked up. Residents are less likely to keep trash in their apartments instead of throwing it away if all they have to do is set it outside their doors.

Fewer pests: Pests can do a lot of damage to apartments, and nothing attracts pests like trash. From insects like roaches to animals like mice, squirrels, and raccoons, trash attracts a big range of pests. Without large dumpsters filled with trash, your property will attract fewer pests. It will also discourage stray animals from coming through the property looking to feed on some leftovers. When you don’t have so much trash out in the open you can cut back on pest control, and save money while still ensuring that the property looks great and that residents are happy.

The costs of trash-valet service are comparable to the cost of traditional trash management. But making the change will make your property look better, require less maintenance, and make residents very happy.

Apartment Jobs Almost 40% of Real Estate Jobs, NAA Says

NATIONAL APARTMENT ASSOCIATION

Nearly 40 percent of available real estate jobs across the United States were in the apartment sector during the fourth quarter of 2019, well above the longer-term average of 30 percent, according to the latest NAA (National Apartment Association) jobs report.

The National Apartment Association Education Institute Apartment Jobs Snapshot for the fourth quarter last year also shows property management positions were the most sought-after during the fourth quarter.

Leasing-consultant job openings had the largest growth in demand year-over-year with an increase of 0.8 percentage points.

Overall, job openings in the apartment sector comprised 39.9 percent of positions available in the real estate sector, increasing 6.4 percentage points year-over-year.

Dallas, Los Angeles, Washington D.C., Seattle and San Francisco ranked as the top markets for apartment jobs available during the fourth quarter. In December, San Antonio, Houston, Denver, Dallas, and Nashville ranked the highest in concentration of available apartment positions as measured against the entire real estate sector. Demand for

apartments in Dallas and San Antonio has been solid, supported by robust job growth. As of November, Dallas and San Antonio saw an increase in employment by 3.2 percent, according to the U.S. Bureau of Labor Statistics.

Since 2014, leasing-consultant and maintenance-supervisor positions had the greatest increase in demand, up by 1.9 percentage points. Denver and Austin had the highest location quotients, meaning demand in these markets was three times the U.S. average.

Organizational skills had the greatest rise in demand among the many baseline skills required in the apartment industry, increasing 8.1 percentage points. Experience with Yardi Software and writing also saw a significant increase in the percentage of jobs requiring these skills since 2014.

The apartment sector often competes with the hospitality and retail sectors for talent with similar experience and skills. Customer service, communication, and organizational skills are among the most desired skills across all three sectors.

During the fourth quarter, Seattle was the only market especially challenged by a competing sector with a high concentration of both apartment jobs and retail jobs available there.

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RHA Oregon President’s Message

Celebrating Our Many Volunteers

The last weekend of January I attended a leadership training course put on by the American Chemical Society, of which I am a longtime member. All the trainees were volunteers who serve the society in various capacities.

One of the sessions I attended was “Engaging and Motivating Volunteers.” In that course, I gained several new insights into the process of involving volunteers to accomplish an organization’s goals. One of the key takeaways for me was learning of the different ways that volunteers are motivated.

There are five motivating factors:

- 1. Social engagement
- 2. Values affirmation
- 3. Career advancement
- 4. Gaining experience
- 5. Personal fulfillment

Each of these factors has its own weighting for different individuals. That weighting may change over time; a younger volunteer may be more driven by career advancement and gaining experience than a retiree. However, this is not always the case.

Volunteer opportunities can be divided into two types: “Positional,” and “Project.”

Examples of **positional volunteer opportunities** at

RHA are officer, board, and committee chair positions. These positions are defined in our by-laws.

Since December we have published a notice of proposed change to the by-laws that will allow us more flexibility in filling all the seats on our board. Please attend the February Dinner meeting and vote on this change! We had 15 active board members for most of 2019 and 17 board members going into 2020, of which four (the maximum allowed by the current bylaws) are affiliate members. Assuming the amendment passes, we expect to make three more appointments, including one additional affiliate member. This will bring our board to the maximum size of 20, which will strengthen all aspects of our organization.

Project opportunities differ from positional opportunities in that volunteers are assigned a specific task, usually short-term. Rental Housing Alliance has many project opportunities such as “help set up for our annual picnic” or “send an email to the City Council” or “help serve meals at Portland Family Homeless Solutions.”

Keep an eye out for that last one – we will be scheduling a regular meal each month at PFHS in the Lents neighborhood. This is an opportunity for all Portland landlords to contribute a small amount of time to an organization that assists some of our most vulnerable

community members.

RHA has a long history of volunteerism. We would not be as strong as we are without the thousands of hours of volunteer time contributed by our members. I have met many of you who have volunteered for positional opportunities like serving on the board, as well as project opportunities like teaching a class or setting up for our Starry Night fundraiser.

Each year, the board of directors nominates one of our members for the Al Moulton & Sharon Fleming-Barrett Award, named after two past members who were devoted volunteers not only for RHA, but for the broader community as well. Although I never had the opportunity to meet Al or Sharon, I am thrilled that our organization recognized them for their volunteer efforts and continues to recognize an outstanding volunteer from within our membership. This award will be given at our February dinner meeting, so there is another great reason to attend!

Our board members and committee chairs will be reaching out in the months ahead to ask for volunteers for several projects. I look forward to working alongside you in these endeavors!

— Ken Schriver
RHA Oregon President

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