

TENANT PROTECTION ORDINANCE

APRIL 2021



**PORTLAND
TENANTS
UNITED**

WHAT IS THE TENANT PROTECTION ORDINANCE AND WHY DO WE NEED IT?

Portland Tenants United (PTU) joins tenant activists [across the country](#) in demanding a remedy for landlord harassment and habitability issues. The proposed Tenant Protection Ordinance (TPO) addresses this growing crisis of harassment and [constructive evictions](#) by targeting landlords who act in bad faith.

There are two reasons Portlanders who rent their homes need this legislation to be enacted immediately. Over the last few years tenants locally and statewide have won a number of protections. These include Portland's relocation ordinance, the FAIR ordinance, and state legislation that banned most no-cause evictions and put a cap on rent increases. While these protections are crucial for supporting stability and livability for tenants, they also result in landlords adopting various strategies to push tenants to 'self-evict' and leave their rentals so that they can raise the rent, or in retaliation against tenants who assert their rights.

Many cities with strong renter protections (ex. [Santa Monica](#), [West Hollywood](#), [Berkeley](#)) recognized escalating harassment and constructive eviction behavior from landlords early on, and adopted policy to address it. The TPO is modeled off of the work of these cities. It creates an explicit list of landlord actions that define harassment and constructive eviction, and demands a robust Rental Services Office that can support tenants in addressing their housing issues.

Many tenants already experienced these issues prior to the pandemic, and the situation [has only become worse](#) over the past year as landlords are increasingly desperate to get around the state and federal eviction moratoriums. This is [a problem nationwide](#), with harassment and disinvestment becoming a valuable tool for landlords to get their tenants to leave. For these reasons, we call on Portland City Council to adopt the Tenant Protection Ordinance and establish the infrastructure needed to enforce it IMMEDIATELY, using federal COVID relief funding if necessary.

PTU SURVEY RESULTS

Our 2020 survey closed at the end of January 2021, and had 188 respondents.

Top five harassment/constructive eviction behaviors

- Maintenance has not been done—**30%**
- Amenities and services have been reduced—**17.5%**
- Rules are suddenly being enforced that were never enforced before—**16%**
- Landlord repeatedly asks about back rent—**14%**
- Landlord or manager has verbally or physically bullied the tenant—**14%**

***Additionally, 17 respondents were threatened with eviction illegally**

Top five recourses

- Wrote the landlord a letter—**38.8%**
- Contacted CAT, PTU, or another organization to learn about their rights—**24.4%**
- Contacted Legal Aid or another pro bono legal organization—**16.6%**
- Contacted the Rental Services Office—**16.6%**
- Contacted a private lawyer—**8.8%**

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DEFINING HARASSMENT

The definitions of tenant harassment are relatively consistent across the various jurisdictions that have these ordinances. Many of these tactics are already illegal under ORS 90, but grouping them together under the banner of “harassment” recognizes that they are conducted in bad faith, usually (though not always) with the intention for the tenant to “self-evict”. These are adapted from the Los Angeles ordinance, with several modifications.

Quality of Housing and Services

- Getting rid of housing services in the lease or contract
- Not making timely, complete, and necessary repairs and maintenance, or providing adequate notification about non-functioning essential services.
- Failing to follow industry health standards.
- Deliberately failing to uphold covenant of peaceful and quiet enjoyment.
- Threatening or engaging in acts that interfere with a tenant’s right to use and enjoy the rental unit.
- Threatening or engaging in an act that makes the rental unit unfit for human habitation.

Invasion of Privacy

- Abusing the right of access.
- Asking about the immigration status of a tenant or anyone else living in or planning on living in the rental unit.
- Disclosing or threatening to disclose the immigration status of a tenant to immigration authorities or otherwise.

Bullying

- Verbal abuse, including name-calling and profanity directed at tenants or guests.
- Physically harming a resident.
- Damaging a resident’s property.
- Harming or endangering residents’ pets or companion/service animals.
- Actions that create a reasonable fear that a tenant, their property, or their pets will be harmed.

Misinformation

- Communications that suggest a tenant is required to leave the unit when they are not legally required to do so.
- Slandering, libel, or otherwise sharing false information or maligning a tenant.
- Threatening eviction when there are no legal grounds for the eviction.
- Issuing an eviction or 72 hour notice on false charges.
- Not accepting payment required to be paid by the tenant that is made lawfully and using a method previously agreed upon by both parties.

Rules and Treatment

- Discriminating, as defined in federal, state, or local housing law.
- Making new rules for which the landlord cannot establish a legitimate, non-discriminatory business case.
- Not providing reasonable documentation of a violation warning, or any violation that goes on a tenant's record.
- Pre-textual evictions: suddenly enforcing many rules that were not enforced before, or enforcing only for certain tenants. This provision covers but is not limited to:
 - Items placed on porches or balconies
 - Noise or odor complaints, especially if it cannot be proven that they originated from another tenant or neighbor
 - House guests
 - Pets

Construction Projects

- Not notifying tenants of anticipated scope of work and timelines for large projects.
- Failing to provide a mitigation plan to deal with the impacts of construction that involves tenants directly in the creation of the mitigation plan.
- Failing to offer reasonable accommodation and compensation to account for construction impacts.
- Not offering contingency accommodations and compensation if the timeline of a construction project changes

Consequences

PTU proposes a fine of up to \$10,000 for violating the Tenant Protection Ordinance, extending to \$15,000 if the resident is elderly or disabled. Tenants would also have the option to pursue legal action if the issue isn't able to be resolved through this process, including punitive damages.



(Photo Credit: Evan Wellington)

MILEPOST 5

Milepost 5 is an affordable housing complex for artists in Motavilla. PTU helped residents there organize to deal with a number of issues that the TPO would address. These include failing to do basic maintenance, not notifying tenants before entering their units, not providing janitorial and security services, and blaming tenants for maintenance issues. Although organizing with PTU allowed Milepost 5 residents to [enjoy some significant wins](#), a policy like the TPO would have made the process much easier, and more possible for people without the resources to organize.

HARASSMENT IN PORTLAND

Tenant harassment is not an unfamiliar issue to Portland renters, and it has increased during the pandemic in response to increased protections. In a [Portland State University study](#) from July of 2020, 22% of all renters and 32% of BIPOC renters surveyed reported harassment from their landlords. As outlined above, PTU's 2020 survey also found many instances of harassment behaviors, with little resolution.



OTTO

Otto had lived in their Portland apartment for three years when it was sold. The new management had plans to remodel and rebrand—plans that didn't include Otto and their fellow tenants. Otto's landlords served the building with termination notices in December 2020, during the eviction moratorium. None of the tenants responded. The landlord made offers to the other residents to move out before the termination was effective, but not to Otto. Around this time Otto made repair requests for holes in the ceiling and wall and received a one-word reply, "No." Meanwhile, extensive construction on the building began. The construction noise would be "encouragement," the owner said, for the current tenants to leave. The landlord removed a chimney from inside Otto's home, and there was a worker banging on the walls so

hard that many of the photos fell off the wall. The workers didn't clean up the sediment they had created by removing the chimney, and the basement started accumulating water, to the point that there was 2" of water under Otto's apartment. Extensive mold started growing in the closets and on the walls.

Over the past few months the quality of life for the remaining tenants has continued to deteriorate. The water in some apartments is so contaminated from construction and old pipes being disrupted that it comes out orange. When the water was tested for lead, the levels came back at 1,860.00, 125 times the EPA standard of 15.00. Workers are omnipresent at the building, sometimes staying as late as midnight, and Otto has no privacy. They've heard workers talking to each other about when tenants leave and return home. One of their neighbors – who has been sexually harassed by the workers – had her door unlocked by a worker while she was in the shower. On another occasion a worker was seen urinating into a stagnant puddle in front of the laundry room door, directly beneath the tenants' bathroom and bedroom windows.

In early March, Otto was locked out of their storage area without notice. When Otto asked the landlords about it a couple days later they were avoidant, stating that they would give them a new storage area, but they never did. Otto was served another termination notice on March 5th, along with a notice of rent increase should they fail to move. They also received a 30-day move out offer in response to their demand letter for retroactive reduced rent. Otto has since moved out of this home, after enduring months of stress and disruption.

OLIVIA

Olivia and her partner live in an 8-unit house in NW Portland that was built in 1904. After new owners purchased the building in late 2020 they immediately notified her of their plans to convert all units to Airbnbs, and that they already have a portfolio of Airbnbs. Within weeks and without notice they began demolishing the walls of the four vacant units. The extreme noise and vibrations made being at home horrible for Olivia's household. On November 16th, an unknown manager began shutting off water to the building with only an hour's notice. This went on almost everyday between November 16th and December 1st. The construction disturbed the ancient pipes so that rust and debris started appearing in the water. Additionally, since this initial event the water has not functioned properly or consistently.

Olivia notified the new owners about the problem in early December, and a few days later they attempted to deliver a Notice of Termination for Qualifying Landlord Reasons, which was prohibited under the County's eviction moratorium. After almost two months, the owners claimed their Notice of Termination was "ineffective" and withdrew it. Since then Olivia's right to quiet enjoyment has suffered greatly. Rowdy construction crews yell back and forth outside her windows, and have no regard for the building's common spaces, including laundry and storage. Olivia and her partner can often hear the owners and their many team members and managers talking about them right outside their windows. They have even recorded one of the owner's associates telling a plumber that "we don't want [the remaining tenants] to return to their units." Additionally, the contractor was not lead-safe certified and produced false documents to tenants suggesting they were.

The ongoing construction has created cracks and holes in the walls and ceilings, and the owners refused to repair a leak in the ceiling that opened up on November 4th and recurred on January 6th. Olivia sent letters to their offices officially asking for repairs to be made, but they refused to make the repairs and suggested that Olivia and her partner leave, adding that they paid a lot of money for the building. They eventually did leave, and have been living in a month-to-month rental because they are having difficulty securing a long-term rental.

JOE

In early 2021, EkoLiving property management issued Joe a for-cause termination on for failure to pick up pet waste. Their evidence was an extremely grainy still taken from their CCTV system. The person in the photo was unidentifiable, and the dog was not the color or size of Joe's dog.

At the time of the notice, Joe was several months behind on rent due to financial impact from the pandemic. In addition, the only clause regarding pet waste in the lease stipulates that the first warning will be an informal warning. After Joe sought legal counsel the property manager lessened the harassment towards her, yet continue to harass other tenants to the point that almost all of the building's residents intend to move out.



DEBORAH

Deborah is an elderly, disabled, section 8 tenant and former foster parent, and had been living with her adult daughter (her caretaker) and chihuahua in her Cully area home for over seven years. When her garage door broke she asked her landlord to fix it, which started a bullying and harassment campaign that lasted for months until she and her daughter eventually moved out.

Instead of assuming responsibility and paying for the relatively minor repair, the landlord told her that she should find another place to live and not “play the disability card.” He threatened to get her kicked out of the Section 8 program, shared privileged information with the neighbors to turn them against her, and harassed her with incessant

and inappropriate text messages at all hours of the day and night. He “inspected” the property several times over just a few weeks, desperate to find a reason to evict her rather than assume his responsibility as a landlord. When Deborah called the housing inspector, he issued an eviction notice over the 20-year old rugs, telling the housing inspector that this is what she gets for “calling the cops.”



THE YARDS

The Yards is an affordable housing complex in downtown Portland owned by Home Forward and managed by Income Property Management. PTU helped residents there organize and form a union to deal with a number of issues including concerns that the TPO would address. These include reducing amenities like security, failing to deal with repair requests and issues of mold and vermin, and retaliation against tenants through intimidation and evictions on false premises. Tenants at the Yards were able to enjoy some wins, and [one tenant was able to](#)

[file a lawsuit over retaliation](#), but only by receiving significant support and resources. The TPO would make it easier for all tenants to deal with these types of challenges. (Photo Credit: Home Forward)

HARASSMENT CASES IN OTHER CITIES

According to Elena Popp, executive director of the Eviction Defense Network in Los Angeles, harassment takes many forms and often flies under the radar. “Landlords are very invested in getting tenants out, especially rent-controlled tenants,” she told Courthouse News ([Ottaway, 2019](#)). Where tenants are protected from eviction, their landlords may resort to other methods of removal. This is why cities across the west coast have responded by implementing anti-harassment legislation. In several cities this has included empowering the City Attorney to pursue legal action against the most egregious offenders. In Santa Monica, the City has created a partnership between the division that takes and investigates harassment complaints and the code enforcement division, so inspectors are trained to recognize bad faith behavior.

In 2015, the San Francisco District Attorney filed a lawsuit against a landlord that was notorious for tenant harassment and illegal evictions. The landlord owned 50 units in the city. Some common harassment behavior included “surveillance cameras in the common areas and elaborate ‘house rules’ governing such things as pets, use of storage rooms, backyard access, parking rights, laundry, and storage of large items such as bicycles. Gas, electric, and cable services got shut off. Rent checks were not cashed, and the landlord then claims payment was not received,” as well as retaliation against tenants. The landlord was known for buying older apartment buildings with tenants protected by rent control, which are cheaper to buy, and forcing them out in order to raise the rent ([Dineen, 2015](#)).

This summer the Oakland City Attorney sued three landlords for harassing and trying to illegally evict tenants, under the City’s newly implemented anti-harassment ordinance. Despite increased tenant protections in place because of the coronavirus pandemic, many tenants found themselves in vulnerable positions. This specific lawsuit charges the landlords with “flouting dozens of city notices to fix their properties, exposing tenants to unsafe conditions, and hiring men to intimidate at least one tenant after learning she was transgender” ([Hansen, 2020](#)).

The City of Santa Monica has taken a number of actions against landlords, ranging from lawsuits in response to harassment and filing criminal charges. In one case a landlord was accused of fraud and battery, which carry criminal penalties, but was also charged with multiple counts of tenant harassment ([Farrell, 2019](#)). In another case the City sued a landlord for revoking parking passes for tenants with disabilities without cause, allegedly to force them out so the landlord could raise the rent on the rent controlled apartments. The City cannot defend tenants in eviction court but it is empowered to sue landlords for violating tenant harassment statutes ([Simpson, 2015](#)).

In Santa Monica, tenants can use anti-harassment statutes to sue a landlord through private action. Nearly a decade ago, four tenants gathered together to sue their landlord for neglecting the property, refusing to address mold, termites, and leaking gas, and broken plumbing, verbally berating them, and engaging in other acts that made it impossible for them to have peace in their home. As in many harassment cases, the tenants allege that the harassment is intended to force them out of their rent controlled apartments so the landlord can raise the rent ([Ashley, 2012](#)).

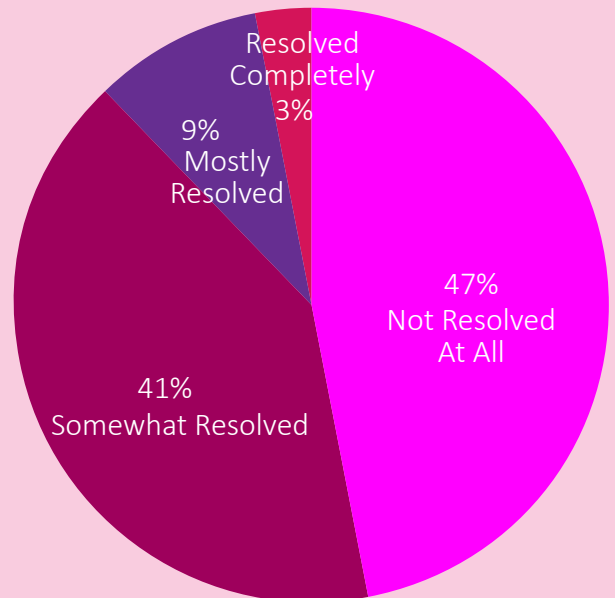
THE NEED FOR A STRONG RENTAL SERVICES OFFICE (RSO)

In most municipalities with similar legislation there is a government entity that processes harassment cases, with the court system as a last recourse. In Santa Monica complaints are filed with the City Attorney's office, which then investigates and fines landlords when applicable. Occasionally the City Attorney will take direct legal action against egregious offenders. These widely publicized cases are thought to have a deterrent on bad-faith landlord behavior. In Los Angeles, the City Attorney's Dispute Resolution mediation program is expected to be the first stop for a harassment complaint. In West Hollywood the City Mediator's office is first, followed by the Legal Service Division and then the City Prosecutor. This structure greatly lowers the barrier for tenants, many of whom don't have the time or financial resources to take their landlord to court (a situation where the landlord will always have the "repeat player advantage"). It also reduces the burden on the court system. This kind of government accountability is thought to create a deterrent to bad faith landlord behavior.

A commitment to addressing tenant harassment requires a robust government entity with the capacity to register and investigate complaints. Currently Portland has the Rental Services Office (RSO), which provides know-your-rights information and directs tenants to outside resources like Legal Aid and the Fair Housing Council of Oregon. Following the model of the aforementioned cities in California, PTU proposes that the RSO bolster its in-house mediation program, and liaise with the City Attorney's Office to create a process to manage tenant harassment and constructive eviction complaints. Education and outreach, along with regular communications to both tenants and landlords, is an essential component of this policy's success.

We also propose that the RSO implement [a rent escrow account program](#). This is a mechanism that incentivizes the performance of timely repairs by calculating reduced rental value, and allowing the tenant to pay the balance into the escrow account until the repairs are made. This model is currently in place in Los Angeles. Finally, we suggest that the RSO form a close working relationship with code enforcement officers, so that they are able to recognize constructive eviction conditions.

RESOLUTION OF TENANT ISSUES



OF THE 15 TENANTS WHO CONTACTED THE RSO, THE SUCCESS RATES ARE:

