



City of Portland Remote Rental Housing Advisory Committee

March 22, 2021 5:30 pm to 7:30 pm
Meredith Cook, Tenant Representative, Co-Chair / Regan Sweeney, Landlord Legal Representative, Co-Chair

ZOOM MEETING INSTRUCTIONS:

The Rental Housing Advisory Committee will hold a remote meeting on Monday, March 22, 2021 at 5:30 pm. This meeting will take place remotely using Zoom. Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403-A, that authorizes cities and towns to conduct meetings online. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day. Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85340446296>

For public comment, you will need to use the “raise your hand” feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

To join via Telephone dial:

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US: +13017158592,,85340446296# or +13126266799,,85340446296#

Webinar ID: 853 4044 6296

1. Review and Approval of the Minutes of the February 22, 2021 meeting.
 - a. Draft Minutes from the February 22, 2021 Meeting
 2. Update on changes in RHAC Membership
 3. Update on SMLA v. City of Portland lawsuit
 4. Finalize Work Plan Memo to the Housing and Economic Development Committee
 - a. Work Plan Memo to the Housing and Economic Development Committee.
- Public Comment - Members of the public will be given an opportunity to address the Committee. Any person wishing to address the Committee shall give their name and address, and, if applicable, organization represented, and restrict comments to three (3) minutes.
5.
 - a. *NOTE: The Rental Housing Advisory Committee is not a grievance committee or complaint forum for landlord-tenant issues or dispute resolution. The duties of the Committee are: (1) to provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues; and (2) to identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.*
 6. Other Business.

7. Adjournment
8. Next Meeting Monday, April 26, 2021

Rental Housing Advisory Committee
Minutes of Remote Meeting held on February 22, 2021

Committee attendance: Aaron Berger, Meredith Cook, Nora Graves, Wendy Harmon, Travis Heynen, Katherine McGovern, Regan Sweeney, and Amy Carole

Absent: Crow Norlander

Staff attendance: Mary Davis and Victoria Volent

Item 1: Review and Approval of the Minutes of the January 25, 2021 Meeting

Motion by Meredith Cook to move for adoption of the minutes from the January 25th meeting. Motion seconded by Amy Carole and the minutes were approved 8-0.

Item 2: Discussion and approval of memo to HEDC re: RHAC

Regan began the discussion and thanked Amy for the work putting the memo to the Housing and Economic Development Committee (HEDC) together. Amy thanked everyone who provided input and explained that she looked for areas of commonality and differences to encapsulate all comments.

Regan indicated he would like to move the memo “as is” to the HEDC and asked the RHAC for comments, revisions, questions.

Travis- Regarding the recommendation for a comprehensive study of the rental market, he believes one was done two years ago. Maybe a study could be done in the future.

Mary explained that the City completed a rental market study in the last few years per the request of the Housing Committee. City staff are hoping the new data being collected in the Rental Registration Program will assist with gathering this type of information.

Nora- Talked about working on policy proposals for 30 to 90 days after the pandemic is over. Regan indicated something could be added to the work plan about protections for after the pandemic.

Wendy inquired if sending this on, are we saying this is agreed upon by all members?

Regan indicated he sees it as more of a summary of varying backgrounds and viewpoints, not that everyone on the committee agrees with it. Something could be added clarifying that point.

Wendy would like to know how many large property owners there are, large being “300 or more” units (both owners and property managers). Wonders if this is something the City could provide.

Mary indicated that staff could ask the Assessor’s Office to break down properties by size; indicated that she would be hesitant to ask Housing Safety or Rental Registration at this time because they are busy working to get the new rent control ordinance and Rent Board up and running. A report from the assessor may be just as well.

Wendy clarified that she is curious about the make-up for the City. Who owns 500 units or more? How many small landlords there are? This would help us as we make decisions as to who we are targeting. She would also like to see who is registering units and how many units are being managed by property managers.

Mary agreed that staff will see what information can be pulled together

Meredith indicated that she sees the memo not as policy recommendations but suggestions on things the RHAC might work on.

Regan agreed to add an introductory paragraph that explains that the memo is an overview of the members and not recommendations on behalf of any members.

Travis indicated some concerns with the language presented on the proposed policy regarding negative credit reporting, believes from a landlord perspective, the language should be tweaked. Credit reporting, there are ways for landlords to report positive rent payments that benefit tenants and he thinks it is something that the RHAC could educate landlords on and the benefits to tenants.

Katie suggested that a sentence be added to the memo to clarify what the RHAC is looking for from the HEDC.

Regan asked that any comments be emailed directly to Amy.

Aaron explained that he believes the RHAC is looking for cooperation of any kind, RHAC is asking for cooperation as how to best approach the HEDC with ideas.

Wendy talked about the last HEDC meeting regarding RHAC and thought it seemed like they would not be providing much guidance until the Rent Board is up and running. RHAC should ask the HEDC how to move forward.

Item 3: Update on status of SMLA v. City of Portland lawsuit contesting citizen initiative

Regan provided an update on the lawsuit to stop the implementation of the Rent Control Ordinance and indicated that this is something the RHAC should be tracking.

Katie indicated that Pine Tree Legal (PTLA) filed an amicus brief and she will provide a copy for the RHAC.

Meredith asked that the Court Documents be shared with the group. Regan will forward the legal brief them to Mary to forward to the group.

The Committee had a brief discussion of the proceedings.

Item 4: Discussion of NH landlord/tenant mediation program and potential adaptability to Portland.

Regan reviewed a mediation program beginning in the New Hampshire court system and suggests this might be something good for the RHAC to discuss.

Wendy mentioned that there is a mediation process through the tenant eviction process.

Regan clarified that you only receive mediation if you go to court and it takes time. NH is offering it earlier in the situation. There may be some benefits.

Aaron indicated he thinks the idea is interesting.

Regan suggested that finding trained mediators who would volunteer for this might be an issue.

Katie explained that the new eviction process has more cases being mediated.

The question was asked about the process to become a mediator.

Wendy indicated that this was a great idea, but we should wait to see what the Rent Board (RB) will do.

Regan responded that a mediation program could be up and running sooner than the RB.

Nora indicated that the mediation idea is interesting enough that the RHAC might want to flush it out.

Meredith indicated she is okay with moving forward with the idea.

Aaron indicated that it is a simple program that might be able to get up and running before the RB but it may take a while to get Council approval.

Regan- Any thought on providing information to the HEDC?

Amy suggested that it be included in the work plan memo to the HEDC as an idea the RHAC is interested in.

Mary explained that the former Housing Committee looked into this in 2016 and 2017 and she agreed to provide the staff memos regarding mediation and costs.

Item 5: Public Comment

The meeting was opened to public comment.

Brent Adler- Inquired about the purpose of the RHAC and asked if this was a forum for Housing Safety issues and discussions. How does one become involved in the RHAC?

Regan reviewed the process establishing the RHAC and talked about the differences between RHAC and the Rent Board.

The public comment period was closed.

Item 6: Other Business

Mary Davis apologized for providing incorrect information regarding RHAC member terms and indicated that there are four seats that will be turning over. Everyone one that is on the RHAC can apply and interview with the City Council's Nominating Committee again. The City Clerk will posting a notice of vacancies.

Regan asked if the RHAC membership will stay the same until April. Mary confirmed that the current terms end at the end of March.

A discussion regarding the next meeting date occurred. Several members indicated they would like to meet less often until receiving more direction on the work plan. It was decided that the March meeting would remain on the calendar and that the RHAC would review the final version of the work plan memo before it is forwarded to the HEDC.

Motion by Aaron Berger to adjourn, seconded by Meredith Cook and passed 8-0.

The meeting was adjourned at 6:38 PM. Respectfully submitted by Victoria Volent and Mary Davis

MEMORANDUM

FROM: Rental Housing Advisory Committee

TO: Housing and Economic Development Committee

DATE: March __, 2021

SUBJECT: RHAC Committee Member Feedback

INTRODUCTION:

What follows is a memo compiling and summarizing the views of the individual Rental Housing Advisory Committee (RHAC) members, provided at the Housing and Economic Development Committee's (HEDC) request. RHAC members were asked for their thoughts on the committee in general, and some potential ideas to explore in committee. Though this memo lists several potential ideas suggested by members, it should be noted that they are provided as examples only, and their inclusion herein does not mean that the RHAC officially recommends or endorses any of them. The RHAC expects to consider these and other ideas over the coming year and looks forward to working closely with the HEDC.

MEMO:

While the RHAC is composed of a diverse group of people with varying backgrounds amidst tenant and landlord relationships, the common thread is clear: the betterment of the relationship and communication between tenants and landlords in Portland.

Some members were hoping for more a Landlord/Tenant commission that would help resolve landlord-tenant conflicts by hearing cases and issuing decisions and orders. Others were hoping for a more policy driven committee to help meet the needs of our diverse community in an equitable and sustainable way.

Regardless, the issue in Portland remains – navigating how to live here can be confusing and difficult. Securing housing in Portland is marked with fear and uncertainty for many due to high rents and stories in the media of absent landlords not taking responsibility for their buildings. We need to cultivate a culture of affordability and caring, not only for buildings, but also for tenant wellbeing. Homeless, immigrant and service-industry workers in Portland deserve to live in this vibrant community, especially given how much they give to Portland. We not only want to advocate for policies that would improve the lives of all Portland renters, primarily low-income and homeless Portlanders, but also help the City of Portland streamline the guidelines for landlords and tenants, helping educate participants on compliance for rental programs, and bring their voice to the table.

Currently as a group, the RHAC is not truly representative of landlords in Portland (i.e. bigger developers and rental property owners) and we feel we're set up in more of an adversarial way, without much information on comprehensive data regarding the current rental market. These are all barriers to forward progress of our committee. The RHAC should be acting with the HEDC and City Council to promptly and substantively address concerns from the community and mitigate tensions between landlords and tenants, especially during this current climate.

The RHAC has several ideas for ways we can work together to help create some positive change in the community, including but not limited to:

- Recommend to City Council a formal comprehensive study of rental market so all parties can make informed decisions on where and how to focus efforts to aid tenants
- Work with Health Homes to update no smoking notices to include cannabis, as no smoking means no smoking of any kind.
- Create website notices of city ordinances for landlords and tenants (i.e. \$30 maximum application fee, easy to understand information regarding violations and correction) that is up-to-date and easy to read for both parties. Maybe include a button on Portland's homepage for direct link to the latest information.
- Work with city and community lenders on a city guaranteed loan program with low interest rates or 10-year forgiveness for rental property owners regarding their property taxes or to repair items such as windows, decks and doors.
- Work with the city on no late fees or penalties for tenants or landlords after any moratorium is lifted.
- Work with the city zoning department to help disseminate information via virtual workshops regarding the application process for property owners to add accessory units to their property.
- Work on policy proposals. Some ideas for policy include:
 - a moratorium on evictions, late fees or legal actions as well as no rent increases during the pandemic and for 30-90 days after the State of Emergency has been lifted
 - recommending no negative credit reporting for tenants impacted by COVID
 - create educational materials for landlords and tenants on positive rent payment credit reporting
 - making affordable housing accessible for those who have or who are experiencing homelessness
 - increasing the requirements of the inclusionary zoning ordinance
 - an ordinance to require landlords to disclose to tenants the reason their application for housing is denied
 - building bridges with landlords and case managers to help Portlanders get and stay housed, helping keep people from becoming homeless
 - amend the ordinance creating the RHAC to enable the group to host educational events

- lobby the Housing Safety Office for increased tenant outreach and enforcement

Also for the HEDC's consideration, attached is information on a landlord/tenant mediation program that the New Hampshire courts recently launched. As with the other ideas mentioned in this memo, its inclusion here is not an indication that the committee recommends its implementation. It is included for informational purposes, and as an example of measures other places are taking to assist tenants and landlords with the challenging conditions created by the pandemic.

Given the diverse background of committee members, it is important to note that some committee members were not fully on board with some of the policy ideas. While there was consensus on a majority of the policy proposal ideas, the committee is interested in working on not only the suggestions noted within but other ideas as well.

We see the myriad of challenges facing the City of Portland's residents – both tenants and landlords – and we'd love to work with you to help solve them, through cooperation and direction across the various boards and committees.

Attachments: WMUR-9 Article on NH Courts' Landlord/Tenant Mediation Program
Info from NH Courts on Landlord/Tenant Mediation Program

New program aims to keep landlord-tenant disputes out of court

Pandemic causes backlog of eviction cases

By: Andy Hershberger, News Reporter with WMUR Channel 9 in Manchester, NH

MANCHESTER, N.H. — A new program is launching in the New Hampshire Circuit Court system that could help settle landlord-tenant disputes that have been exacerbated because of the COVID-19 pandemic.

Officials said the pandemic has caused a backlog of such cases, and the hope is that the pilot program will head off a surge in landlord-tenant cases that could flood the court.

The Emergency Mediation Project started Monday and is designed to help these disputes settle without a hearing before a judge.

"People come in, and they have the opportunity to talk to each other with the help of a trained, neutral third party, so they can come up with creative solutions during this and sort of talk about what's most important to them," said Margaret Huang, of the Office of Mediation and Arbitration.

There have several state and federal programs designed to prevent evictions during the pandemic. The latest from the Centers for Disease Control and Prevention is set to expire March 31. That's when Huang said things could get tricky.

"So, we think there are cases that are missing that would normally be filed during the period of time in which the moratorium has been in place that we think will re-enter the courts once the moratorium expires," she said.

Mediation will be offered for free, and the pilot program will start in Concord and Claremont. Huang said the program will hopefully handle about 12 cases a week and come up with rent or eviction solutions that work for both sides.

"We're hoping that not only will this settle cases, but it will also give people a sense of fairness and a resolution that really does benefit them," she said.

If it's successful, the program could expand to all circuit courts in the future.

Source: <https://www.wmur.com/article/new-program-aims-to-keep-landlord-tenant-disputes-out-of-court/35452321>

From the New Hampshire Judicial Branch website on Landlord/Tenant Procedure:

What's New? – On February 8, 2021, the Circuit Court is launching a landlord and tenant mediation pilot project in the Concord and Claremont Circuit Courts. Parties involved in eviction cases filed at the pilot courts will be referred to free, confidential and voluntary mediation sessions to their court hearings. All mediation sessions will be conducted remotely, using teleconferencing. Mediators are contracted through the New Hampshire Judicial Branch and are highly qualified professionals who facilitate discussions between parties and help promote a problem-solving atmosphere. Agreements in mediation can often be more flexible, and parties may discover solutions they did not know were available. If the parties reach an agreement, the mediator will help file it with the Court and likely will not need to return to court.

Source: <https://www.courts.state.nh.us/district/landlord.htm>

What is landlord/tenant (LT) mediation?

LT mediation offers parties an opportunity to discuss and, if you choose, resolve your cases with the help of a neutral third-party (a mediator) in a private forum. If the parties reach an agreement, you can file it with the Court and likely will not need to return to court. LT cases eligible for mediation include evictions, noise complaints, unpaid rent, security deposits, property damage/repairs, nonrenewal of leases, etc. As with other court processes after the case is filed, mediation is free to parties.

How do I go to landlord/tenant (LT) mediation?

Currently landlord-tenant mediation is *only available* if the case originates in Concord Circuit Court or Claremont Circuit Court. As long as mediation times are available, the court will automatically schedule the case for landlord/tenant mediation once the tenant files an appearance.

Do I have to go through mediation?

Participation in mediation is voluntary. While some landlord/tenant cases are automatically scheduled for mediation, if you do not wish to mediate, you can complete a landlord-tenant mediation opt-out form, file it in court, and serve a copy on the other party. You are also not required to settle and can end mediation at any time. If you do not want to try mediation or do not settle, you will have a hearing on your case.

Who is the mediator and what do they do?

A mediator is a neutral third party who meets with you and ensures each party has an opportunity to raise concerns and be heard. Though some mediators are attorneys, they will not offer legal advice. Rather, mediators facilitate discussions between parties and help promote a problem-solving atmosphere. LT mediators are contracted through the New Hampshire Judicial Branch and are highly qualified professionals with extensive training in landlord/tenant law, conflict resolution, communication skills, and ethics.

What does mediation look like?

In mediation, you will call into a private, confidential conference line. At the start of a mediation session, the mediator will explain the process and answer any questions raised. The mediator will ask each party to share your views and describe what you would like to have happen. The mediator will then explore ways to resolve the matter that are acceptable to both parties. If an agreement is reached, it will be put in writing. You may review it with an attorney and sign it later, or sign it at the end of mediation. If you choose to sign it, the agreement will be presented to a judge who will review it and, if acceptable, approve the agreement. If an agreement cannot be reached between parties, the Court will schedule you for a hearing.

Why mediate?

Agreements in mediation can often be more flexible, and parties may discover solutions they did not know were available. Additionally, unless otherwise agreed upon by both parties, mediation is confidential and cannot be shared with the Court. This means that not even the judge can know what was discussed during mediation.

How long should I expect mediation to take?

Most cases are resolved within 30 minutes.

How much does mediation cost?

There is no additional cost for mediation. Mediators are compensated by the Judicial Branch Office of Mediation and Arbitration.

Source: <https://www.courts.state.nh.us/adrp/district/llt/about.htm>