

# 06

HOUSING INSIGHTS

## Portland Evictions, Pt III: Looking Back, Looking Around, Looking Ahead

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It has now been more than two years since the start of pandemic-related disruptions in March of 2020. We began this grueling journey with massive job loss and housing insecurity, as well as sickness and fear. To address this we saw the government step in with pandemic relief checks, emergency rental assistance, and moratoriums on evictions.

We have seen the hottest job market in years coupled with soaring price increases in nearly every sector, including a frothy seller's market in residential real estate. Today brings us rising interest rates and the stock market signaling a possible bear market ahead, with signs of now tapering housing demand – all on top of wave after wave of Covid-19 variants. The last two years seem to have compressed decades worth of change. With these cumulative variables it can be hard to keep up with which direction the economy and housing market are headed.

In this third article covering the impact of Covid-19 on evictions, we will look at two things: Firstly, we will give an overview and update on how Multnomah County has handled the evictions before and during the pandemic, as well as how it compares to the evictions in neighboring states. Secondly, we will address concerns and ideas for a petition for proposed legislation, the Eviction Representation for All act, considering potential ramifications and alternative options.

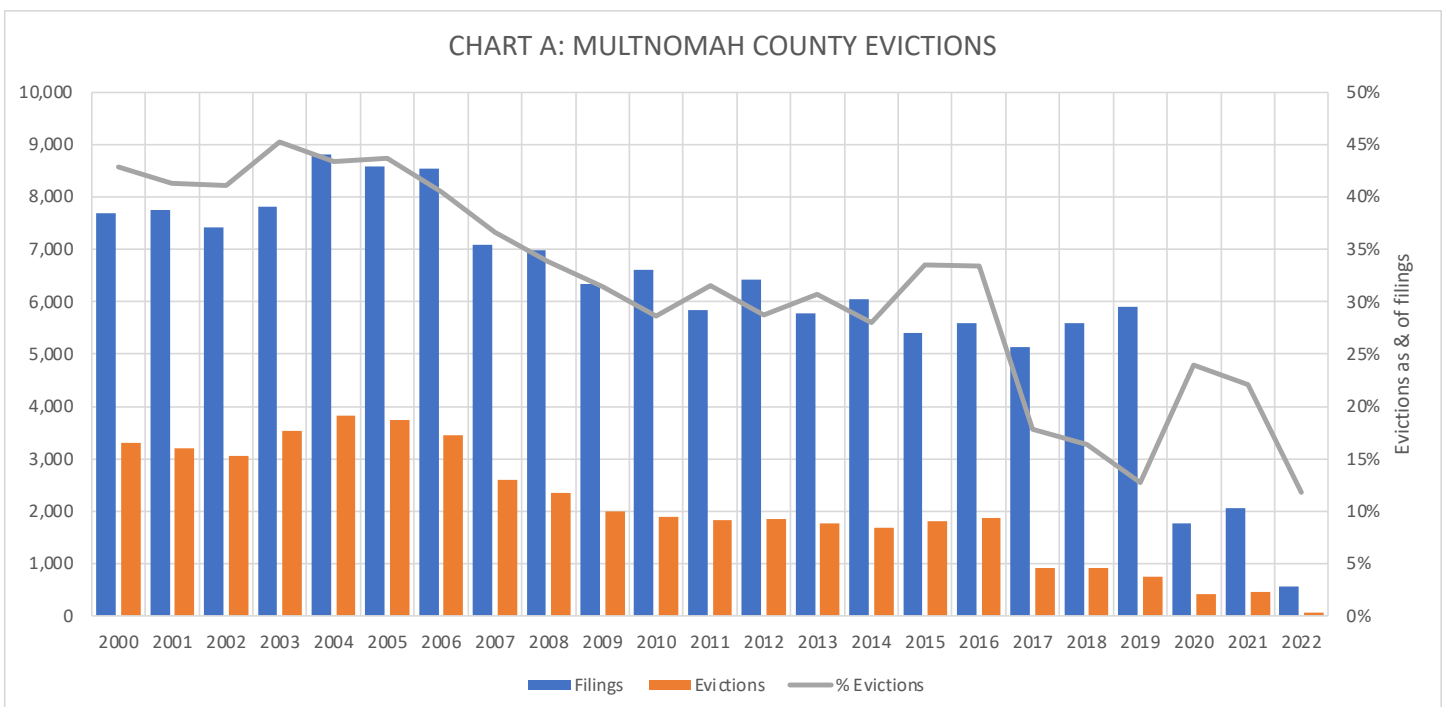
PSU recently did a study of evictions in Oregon, Washington, California, Colorado, and Nevada to compare the handling of evictions and effect of eviction moratoriums across different cities. Overall, the general trend has been that filings and evictions dropped off sharply at the beginning of the pandemic but were not completely eradicated – so even though there were strict moratoriums in place, there have still been people in every county being evicted during the pandemic.

According to Oregon Rental Assistance, “If your application is closed, denied, or paid in an amount that is less than is owed, your landlord can move forward with the eviction process” (Worried about eviction, n.d.). This means that people who did not apply for or were denied emergency assistance were still vulnerable to eviction. Another thing to account for in the evictions that were processed during the moratorium is that eviction proceedings that were filed just before the pandemic began were not impacted, as it can take months for an

eviction to process through the legal system.

For a while, there was worry about an anticipated “tidal wave” of evictions once the moratoriums ended. However, we have not yet seen this take place. While the rate of evictions has picked up in 2022 for counties that have available data, they are not yet back to pre-pandemic levels, as we can see in Chart A, showing the numbers of filings and evictions over time in Multnomah County.

In Oregon the slowed pace of evictions is likely at least partially attributable to further legislation with SB 891, which extended the repayment period due date to February 28th. During this time, tenants may have been able to pay this back rent, or they may have had it negotiated or forgiven by their landlords. However, it is likely that there will be people who were not able to accrue enough money to pay back what is due, as there are people at all income levels living paycheck to paycheck. Because of this, we may see an eviction spike this summer as people file for eviction and go through the legal process. Alternatively, there may be a spike in the amount of personal debt if people choose to pay this back rent with a personal loan or credit card, kicking their financial burden further down the road.



Over the last twenty-two years, the rate of evictions in Multnomah County has been tapering off as seen in Chart A, as the state, county, and City of Portland all continue to pass laws over time prioritizing tenant rights. In 2004, evictions in Multnomah County reached their peak at 3,825 per year. For comparison, in 2019 there were just 750. From 2000-2019, Multnomah County has averaged 6,765 eviction filings per year, and of those an average of 33% have resulted in an eviction. This gives us an average of 2,236 evictions per year for normal, non-pandemic times.

It appears that our commitment to protecting tenants is only strengthening. The Eviction Representation For All (ERA) campaign is advocating for all eviction hearings to have free legal counsel for the defendant – while this is required in criminal proceedings, eviction is a civil proceeding where parties can privately hire an attorney - if they are able and willing to pay for one. This campaign is seeking to get on the ballot this fall through the initiative petition process of gathering signatures. Similar laws have been passed in seven major US cities, and 2021 saw Washington become the first to adopt such a policy as a state-wide law (Zielinski, 2022).

While more protection for tenants is a good thing, the ERA plan is not without flaws. It is popular in Portland to endorse plans to protect renters; however this misses opportunities to think critically and identify opportunities for improvement of those plans, which in this case lacks practical operationalization. The ERA plan has great intention behind it to help people remain housed; it stands to reason that if you are struggling to pay rent you would also not have the finances needed to retain an attorney to ensure you get a fair deal in court. But there are some other issues at play, and other ways that the problem of housing insecurity could be addressed.

The ERA petition is proposed to be funded by a .75% increase in capital gains tax, which will effect real estate owners who have the resources to lobby against this proposal currently backed by tenants and tenants' rights groups. From a legal perspective, there is the long-shot possibility of this creating precedent through statutory law for free court appointed defense for other civil suits, including frivolous suits. Additionally, there are already free legal clinics in Portland; it could be a better idea to increase funding to the resources already available if there is not enough to cover the demand.

It is also common practice in law for a lawyer to take a case on contingency; that is, if they believe the person who wishes to retain them has a valid case, they will argue the case for little or no cost, with the plaintiff ordered to cover the defendant's legal fees as a part of the judgement. Another option would be instead of putting the money into the court system, beefing up programs that are again already in place for emergency rental assistance cash grants, keeping people from beginning the laborious and expensive evictions process in the first place. Lastly, if this proposal were to go through, property owners would likely raise rents to mitigate their increased legal risk. This would then perpetuate a cycle of unaffordability that leads to evictions.

One issue is where all these extra legal defenders for evictions would come from, as according to OPB, we already don't have enough public defenders to handle our criminal caseload. According to their article, "Oregon needs about 1,900 public defenders... but the state has fewer than 600, a 69% deficit. That's according to a new report by the American Bar Association. Advocates say the crisis is actually longstanding and has steadily worsened. The latest report echoes a 2019 report by the Sixth Amendment Center that found Oregon's system for public defense was essentially unconstitutional" (Frost, 2022). This issue is becoming so bad that Oregon is in danger of a lawsuit for not upholding the constitution. Additionally, "For the last several months, some criminal defendants in counties such as Lane, Washington and Multnomah counties have been in custody without an attorney because of a shortage of public defenders." The right to an attorney in a criminal trial is protected by the Sixth Amendment; as such, fully funding and staffing our criminal defense attorneys should be prioritized first as a protection of people's constitutional rights, over any program to provide free counsel in civil cases.

According to Portland Mercury, "ERA estimates the 0.75 percent tax will collect between \$10 million to \$12 million annually... [and that] In December 2021, 75 percent of all evictions filed in local courts were for nonpayment" (Zielinski, 2022). While \$10-12 million dollars may seem like a lot of money, when we consider from our earlier analysis of Chart A that our average number of eviction filings per year in Multnomah is 6,765, that provides funds of between \$1,400-1,700 per household facing eviction. ERA states on their website that their program "creates well-paying and rewarding

work for tenant lawyers” (Eviction representation for all, n.d.), but the numbers are not adding up – there will either need to be more funding to implement this program for everyone who faces an eviction, or not everyone will be able to get the same service, which could lead to inequitable distribution of these services.

What if instead of providing free legal services, we took this money and put it into programs that already work – emergency rental assistance cash grants? Even with free legal counsel, people would still legally be evicted for nonpayment, and they would still face the burden of getting work off or finding childcare to come to court, and there is still great fear and emotional turmoil in going through the legal process. Cash grants would bypass all of those issues, and the pandemic taught us that cash payments, no questions asked, work. People who truly needed the stimulus check found financial reprieve; people who didn’t need it put the money back into the economy. As covered in Part I of this evictions series, according to Portland Homeless Family Solutions which provides temporary housing specifically for families with children as well as emergency grants, “The average investment to prevent a family from experiencing homelessness is only \$1,200 per family” (Homelessness Prevention, n.d). It seems almost coincidental that the funds per household available from the proposed ERA bill are \$1,400-1,700 per household – that is, enough in cash grants to prevent eviction for nonpayment for everyone, every year.

Overall, we can see that housing is not a simple issue to solve and touches on multiple other sectors, and that we need to continue to think creatively and critically about reducing housing insecurity. Stay tuned for the final chapter in the eviction series this summer.

## RESOURCES

1. Eviction representation for all. Eviction Representation for All. (n.d.). Retrieved June 3, 2022, from <https://www.eratenants.org/>
2. Frost, A. (2022, March 3). Oregon facing severe shortage of public defense attorneys. opb. Retrieved June 3, 2022, from <https://www.opb.org/article/2022/02/04/oregon-facing-severe-shortage-of-public-defense-attorneys/>
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