



April 14, 2025

To: Portland City Council Housing and Homelessness Committee
CC: Council President Elana Pirtle-Guiney

RE: Ordinance 2025-045 – Algorithmic Pricing Software

Dear Chair Avalos and Members of the Committee,

On behalf of the Home Building Association of Greater Portland, I'm writing to express serious concern with Ordinance 2025-045, which proposes new restrictions on the use of algorithmic pricing tools in rental housing. HBA represents an industry that provides a broad range of housing production and housing types, including owner occupied and rental. While we share the Council's concern with price fixing and collusion—both of which are already illegal under state and federal law—this ordinance presents a far broader regulatory overreach that could have dire consequences for Portland's housing supply.

Let's be clear: Portland is in the midst of a severe housing crisis. Every regulatory barrier we add—especially those that create new legal risks—only serves to disincentivize housing investment and suppress badly needed housing production. This ordinance, as written, does exactly that.

Private Right of Action Could Deter Investment Entirely

A significant concern is the creation of a private right of action that allows for damages of *\$10,000 per month* per violation. That scale of penalty—coupled with the vague and expansive language in the ordinance—creates a significant legal threat for housing providers. A landlord could face ruinous lawsuits based on demand letters with little or no evidence. Worse the impact of this legislation will be felt not necessarily by bad actors but by ordinary citizens simply attempting to advocate for themselves through the innocent usage of rent estimating software tools that purport to use publicly available data. That's an incredible deterrent to attracting any form of investment into Portland's housing market.

It's worth noting that existing penalties under this chapter of City Code are largely capped at \$250 per violation plus actual damages

Overbroad Definitions

The definitions in the current draft are also problematic. For instance:

- The penalties are based on tiers -- landlords with 1 to 5 units, landlords with 6 to 15 units, and landlords with over 16 units. But the ordinance doesn't define which legal entity is the "landlord" and whether the units counted are just in Portland or far beyond.
- The term "affected dwelling units" is defined so broadly that landlords could be penalized even if their rent data was scraped by a pricing tool they never used.
- Common ownership structures—such as family members owning properties through different LLCs—could trigger violations simply by maintaining a spreadsheet of historical rent data across properties.

Even well-meaning landlords using free online rent estimate tools (like Zillow or Google) could unknowingly run afoul of this ordinance without realizing those tools might incorporate aggregated market data. If the city's goal is fairness and transparency, it must avoid building traps for those trying to operate in good faith.

Policy Focus Should Be on Housing Production, Not New Legal Liability

We urge the Council to refocus on the policies that will truly stabilize rents: accelerating housing production, streamlining permitting, reducing fees, and eliminating regulatory bottlenecks. These are the actions that will increase supply and improve affordability across income levels.

If the Council is determined to move forward with this ordinance, we strongly recommend:

1. Removing the private right of action entirely.
2. Clearly defining "competitors" as landlords without any overlapping ownership interest.
3. Narrowing the ordinance so that it only applies to landlords who actually use rent-setting tools—not to those who are passively affected by them.

Portland cannot regulate its way out of a housing shortage. But we can build our way out—if we focus on addressing the significant cost and supply issues that are a direct result of already heavily burdensome city policies. The Home Building Association of Greater Portland stands ready to support bold, effective action to increase housing supply and lower costs for all Portlanders.

Sincerely,



Isaac Ambruso
Deputy Director of Public Policy
Home Building Association of Greater Portland