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Sandi Baxter,  
Chief of Police  
555 NE 15th Street  
Bend, OR 97701

***Re: Trespassers at the Bethlehem Inn***

Dear Chief Baxter:

I represent the Bethlehem Inn, a nonprofit, emergency shelter whose mission is to deliver the social and psychological services - medical, geriatric, educational, counseling, and the like - necessary to change the conditions which led its clients to become homeless. To do so, it is necessary that the Bethlehem Inn provide a safe, secure, and accountable environment for its clients to connect to community resources.

I understand that the Bethlehem Inn has called to ask that the Bend Police Department remove loud and belligerent clients who have been asked to leave, but that some officers have refused to help, citing the landlord/tenant act's requirement of a 30-day notice before the eviction of a tenant. I also understand that the department has asked for clarification concerning the applicability of the landlord/tenant act.

I write to provide that clarity because the matter is important. The safety of the clients - many of whom are children - depends upon the ability of caseworkers to maintain a structured, safe environment free of those who are dangerous or unpredictable. And, of course, the effectiveness of the program depends upon the ability of caseworkers - in the face of a client who fails to comply with his action plan developed with Deschutes County Mental Health - to follow through with the one consequence the caseworkers have at their disposal: making the violator leave. It also influences the effectiveness of probations that require that the probationer remain at the Bethlehem Inn - a term of probation given on the Court's understanding that the program is very helpful, structured, unforgiving, and able to provide an immediate consequence for dangerous behavior or noncompliance with the action plan: discharge.

The Bethlehem Inn is not a landlord; it is a social services agency, and the Landlord Tenant Act, which includes ORS 90.110(1), specifically excludes the arrangement created when a homeless person goes there – or is sent there by the Court.

#### 90.110 Exclusions from application of this chapter.

Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

**(1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service**, but not including residence in off-campus nondormitory housing.

A more detailed understanding of the Bethlehem Inn's program may be helpful. Before clients enter the facility, one of the caseworkers will conduct an interview and an evaluation. A drug test will determine if they are sober. If they are not, they will not be allowed to enter until they are. No sex offenders are permitted.

An office is maintained at the Bethlehem Inn for Deschutes County Mental Health. A Deschutes County Mental Health Worker is on site three times per week. The DCMH worker conducts mental health assessments. That worker, along with the Bethlehem Inn caseworkers, will prepare an action plan for the client. The plan will include direction to the applicable community services. The DCMH worker attends staff meetings, going through the progress of each client and re-evaluating the client's needs for services. The client's ability to stay at the Inn will depend upon his or her compliance with the action plan.

The clients must keep appointments with the agencies to which they have been directed. They must, for example, keep their appointments with DCMH, and they must take their medications, as verified through DCMH. If they are on probation, they must comply with the terms of their probation. They must look for work. They may be directed to sign up for a GED course or for Work Source.

When homeless persons arrive at the Bethlehem Inn, they are provided with the enclosed Bethlehem Inn Rules and Guidelines. You will see that it contains a great number of rules – around 50. Besides directly prohibiting some of the conduct that may have led to their homelessness, these rules, and compliance with these rules, are also necessary to create the structured conditions needed to make changes. The rules also create the environment necessary for the safety of the residents and staff. But to be effective, the rules in this highly structured environment must be enforceable – enforceable immediately. Some highlights:

- The clients (to avoid stigma, they are not normally referred to as “clients,” but as “residents”) must turn in their key every morning before 8:30 am and must check-in at the front desk between 4:30- 6 p.m. every day.
- Meals and wake up: Monday through Friday wake-up is at 6am, continental breakfast 5 – 7 am. Saturday & Sunday wakeup at 8 am, breakfast 8-9 am. Sunday through Thursday lights out at 10 pm. Friday & Saturday lights out at 11pm.
- To ensure confidentiality of other residents staying at the Inn, residents may not have visitors at the Bethlehem Inn.
- Residents must “treat staff, Deschutes county workers, volunteers and fellow residents with the utmost of respect. Abusive language or aggressive actions toward any of the above parties will not be tolerated in any form.”
- There can buy no drugs, alcohol or weapons; no physical threats or harm to others.
- The view of beds is not to be obstructed. Bunks are not to be shadowed or tented with any items. No items are to be placed on empty beds. These items will be confiscated.
- Residents are only permitted in their assigned rooms and lounges, and are not to be in any other resident’s room for any reason. Residents are not allowed in the opposite sexes’ room/area at any time, for any reason. Failure to comply will result in an eviction.
- Residents are not to be in any of the areas occupied by the families program for the safety and security of residents enrolled in the program. Failure to comply results in an immediate eviction.
- Residents will be assigned chores, and they must keep their rooms clean. They must maintain their personal hygiene.

The clients are to pay five dollars per day, unless doing so would be impractical. They get breakfast, dinner, and a sack lunch.

Of course, it is of the greatest importance that the staff be able to maintain a safe environment by removing a client when, in their professional judgment, they determine that the client presents a safety risk to staff or to the other residents. But they are sometimes unable to do so by themselves. If the circumstances demand, in the interests of safety, that the police help, then the staff needs to know – and the clients need to understand – that police help will come and will be effective. Without this both the safety of the residents and the necessary structure of the program are seriously undermined.

And the department may help. This is not an apartment complex. It is a private, nonprofit institution whose principal purpose is the provision of the social and psychological services needed to get its clients out from under bridges and securely under roofs. The residency is incidental to that purpose, just as residency in a drug rehabilitation program is incidental to its purpose. Under ORS 90.110(1), the landlord tenant act does not apply. When officers help to remove someone who has been

asked to leave and is presenting a hazard to staff and other residents, they are not helping to evict someone, they are removing a trespasser.

I hope that we can talk by phone in the next few days so that I can answer any questions you may have and otherwise discuss how the Bethlehem Inn and the Bend Police Department can work together to keep the Bethlehem Inn a safe place. Managing Director Chris Clouart and I could meet with you, as well. I spent years with the Arizona Attorney General's Office providing tort defense, including defense of civil rights cases, for the Arizona Department of Public Safety – the state police – and my wife continues to represent sheriff departments in southern Arizona from her desk here in Bend, so I hope I will bring to the discussion some understanding of any concerns you may have.

I look forward to speaking with you.

Very truly yours,

Roger W. Perry

Cc: client  
Enc.