

## Hindsight is 2020: Educating the Industry on the 2020 Election

*By: Sam Gilboard*

For the first time in more than 50 years, housing has emerged as a centerpiece issue in the U.S. presidential debate. It's therefore incumbent on the industry and all rental housing professionals to understand how proposed housing plans and past performance will affect the future of the apartment industry.



America is unquestionably entrenched in an affordable housing crisis. Low production of new homes fails to match present demand, let alone future needs. Challenging barriers and high construction costs mean even higher rents and higher sales prices, and self-defeating housing mandates, while well-intentioned, continue to pop up at all levels of government, further exacerbating the strain felt by housing providers across the country.

One thing is clear: 2019 has been anything but quiet for the rental housing industry and all that transpired will surely define the political and housing agenda in 2020. Anticipating and understanding these issues will be critical to a housing provider's ability to meet America's rental housing needs.

This begins with our nation's future chief executive. As the 2020 Presidential Election draws near, candidates will be focusing on the biggest issues from around the country. Housing providers in the United States must be cognizant of each candidates' platform, not just as it relates to housing, but also economic growth, climate change and criminal justice. Housing is intrinsically linked to these issues.

Not only are policy platforms vital to understanding the candidates' true impacts on the rental housing industry, but so are their backgrounds. Their experience with housing, as a public servant or private citizen, helps us better understand how current policy is shaped and where future policy may be headed.

### **A Deeper Dive**

Senator Bernie Sanders (D-Vt.) has credited his lower-middle-class upbringing as motivation for his years of public service. He says his family lived in a rent-controlled apartment building in Brooklyn and struggled to balance expenses like rent, clothing and food. Undoubtedly, Senator Sanders has drawn from his personal experience, proposing a national rent cap of no more than 3 percent or 1.5 times the Consumer Price Index in his housing strategy. Rent control measures were prevalent in 2019, most notably the statewide legislation enacted in Oregon, California and New York. Yet, rent control continues to distort the housing market, act as a disincentive to develop new rental housing and hurts the very community it claims to help.

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Senator Elizabeth Warren (D-Mass.), a staunch crusader against whom she considers “corporate landlords,” has introduced policy that targets housing executives, but has the potential to interfere with onsite staff’s ability to manage day-to-day operations. Among other measures, Sen. Warren places the impetus on states to limit the eviction powers of housing providers or risk losing valuable federal grants. This carrot and stick maneuvering can create deep divides between a municipality and the housing providers on which it depends. Nationally, both Sen. Warren and Sen. Sanders call for “just cause” eviction measures that would cripple the abilities of housing providers to manage their properties, maintain safe communities and retain rule-following residents. As a practical matter, just cause eviction laws foster an adversarial relationship between rental property owners and their residents by inhibiting owners from acting on resident complaints and delaying the removal of residents who are engaging in criminal behavior or otherwise infringing on other residents’ rights.

Eviction restrictions have been highlighted as a core component of multiple candidates’ housing plans and, in almost all cases, would have the effect of prolonging the eviction process and adding to the increased legal and administrative costs to housing providers that are passed through to other renters. Yet, they will fail to address the root cause of most evictions: Cost-burdened renters’ ongoing financial challenges. Senator Cory Booker (D-N.J.) will leverage federal funds to incentivize states to promote right-to-counsel legislation for residents facing eviction actions, a move also supported by candidates Senator Michael Bennet (D-Colo.) and Senator Amy Klobuchar (D-Minn.).

Unfortunately, some candidates continue to push a false narrative that generates friction between housing provider and resident and, ultimately, is harmful to business. Housing providers are not in the business of evicting their residents. They are an integral part of the communities in which they live and work who invest in and provide professionally managed housing of good quality to renters. Eviction actions are a last-resort measure, only taken after all other options to remedy an issue with a resident have been exhausted.

Source of income legislation, the mandatory acceptance of any lawful form of rent payment, persisted in 2019, threatening housing providers with required participation in the Section 8 Housing Choice Voucher (HCV) program. While lauded because of the housing opportunities it provides to low-income families, the voluntary program is still riddled with burdensome requirements that reduce participation by housing providers. Still, some candidates refuse to accept the inefficiencies that contribute to the overall lack of participating housing providers, instead pledging to work with Congress to require HCV acceptance. This year, the Department of Housing and Urban Development (HUD) has made renewed efforts to reform the HCV program and expand its assistance to communities that need it most. Most recently, HUD awarded over \$130 million to Public Housing Authorities (PHA) as part of its Mainstream Housing Choice Voucher program, which provides housing assistance to non-elderly persons with disabilities.

### **Addressing New Supply**

Luckily, candidates recognize that solving the housing crisis is about more than just keeping residents in homes. It is about building enough homes, both affordably and sustainably, for residents to comfortably live. With more than 328,000 new apartment homes needed annually to meet demand (a number the industry has only managed twice since 1989), candidates are responding with proposals that will establish a construction-friendly environment for housing developers.

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Mayor Peter Buttigieg of South Bend, Ind., will support federal housing grant programs like the National Housing Trust Fund and the Capital Magnet Fund and invest \$430 billion to support the construction and preservation of low-income housing across the United States. Senators Warren, Booker and former Housing and Urban Development Secretary Julian Castro have also called for expanded funding to these grant programs to increase the nation's housing stock by up to 3 million new units.

Additional solutions for mitigating the housing shortage address the local barriers to construction that impede development in cities and towns across the United States. This includes local zoning policy and regulation that increase the cost of construction, thereby affecting the subsequent affordability of the property. The National Apartment Association (NAA) is encouraged by candidates' plans to tie federal grant money to efforts made in municipalities that reduce local hurdles that might otherwise discourage new development. President Trump established the White House Council on Eliminating Regulatory Barriers to Affordable Housing, which will identify and remedy overly prescriptive local development requirements. NAA participates in the Council, highlighting the serious consequences of barriers to housing construction and the responsible solutions needed to tackle the problem. Ultimately, new development eases the burden placed on existing housing and any efforts made that increase the supply of new housing should be applauded by the industry.

### **Context Clues**

For those candidates who have not released stand-alone policy, housing has been addressed through other platforms. As the United States contemplates its energy and environmental future, candidates have announced ambitious frameworks for healthier, more sustainable buildings. Sen. Bennet says he would like to see the carbon footprint of the nation's housing stock cut in half by 2040. Former Vice President Joe Biden wants to do it by 2035. Even Mayor Buttigieg and Sen. Sanders are preparing their supporters for a 100 percent clean energy future under their administrations.

These goals are extensive and would place great financial and regulatory burdens on the shoulders of owners of new and existing properties as they attempt to balance deep retrofits with housing affordability. Yet, the prevalence of these green strategies, coupled with similar sentiments expressed in cities and towns across the country, signals that this debate is here to stay. Therefore, candidates must ensure that compliance with these plans remains affordable and accessible to housing providers. That means increased federal funding for energy efficient retrofits, access to low-interest green loans for building upgrades and flexible exemptions from certain requirements must be in place. Candidates who can account for the investment required for such an undertaking truly understand the impact of their big campaign promises.

One campaign promise that could spell trouble for housing providers is Vice President Biden's broad pledge of "ensuring 100 percent of formerly incarcerated individuals have housing upon reentry." At face value, this proposal lacks nuance and will require greater definition from the Biden campaign, as well as input from the housing industry, before it is established. Not only does this policy fail to impose limits on its applicability, it completely disregards the rights of a housing provider to properly manage risk. Vice President Biden's team is expected to release independent housing policy in the coming weeks.

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### **Of Extreme Importance**

So far, election season has highlighted an immutable truth: Housing is an inescapable topic impacted by many of the policy proposals coming from the campaigns. It is so vitally important to the health of the apartment industry that all rental housing professionals understand the ramifications of these decisions. It is even more important that the housing industry remain a clear, distinct and educated voice during this election season. NAA encourages its members, affiliates and all interested housing professionals to ask questions, attend campaign events and dialogue with the candidates. Sound policy that strengthens the apartment industry and the livelihoods of America's 39 million renters can only be achieved when we engage.

### **Kansas City Adopts a Tenants Bill of Rights**

*By: Jared Brey*

A group of tenants in Kansas City, Missouri, is celebrating a victory after the city council approved legislation last week creating a tenants' bill of rights. The bill is a public resource that will help tenants navigate their relationship with landlords, and — just as critically, organizers say — an official expression of solidarity from the local governing body.



In Kansas City, the new Tenants Bill of Rights resolution notes, 46 percent of residents are renters, and 44 percent of renters are cost burdened, paying more than 30 percent of their income on rent. Around 34 evictions were filed per day in 2018 in Jackson County, according to the resolution, putting nearly 9,000 renter families at risk of homelessness and a host of related consequences for physical, mental, and financial health. The resolution acknowledges that racist policies like restrictive deed covenants and redlining created lasting inequalities in the housing market, and that tenants face discrimination based on “race, gender, sexuality, mental and physical ability, immigration status, country of origin, and much more.”

“The City Council believes that every person should have a safe, accessible, affordable home, and affirms, in partnership with grassroots tenant leadership and housing providers, its active commitment to tenant and housing provider rights now and in the future,” the resolution says.

The resolution is accompanied by an ordinance that implements new tenant protections, including:

- Prohibits landlords from refusing a tenant solely on the basis of past evictions, race, gender identity, and other non-discrimination rules,
- Prevents landlords from entering an apartment without giving the tenant at least 24 hours notice of when and with whom they plan to enter,
- Requires landlords to provide prospective tenants with information about utility providers and past utility usage so that tenants can get an estimate of utility costs,

## Kansas City Adopts a Tenants Bill of Rights (Cont'd)

- Requires that landlords tell tenants about any deficiencies or property citations issued in the previous two years,
- Creates a Rental Housing Assistance Unit to keep tenants apprised of rights, and in some cases to offer relocation assistance to low-income tenants in emergencies,
- Prohibits retaliation against tenants who report violations,
- And affirms tenants' right to organize and form tenants' associations.

The bill and the resolution were championed by Kansas City Mayor Quinton Lucas and approved by the city council with only a few dissenting votes, according to The Kansas City Star. But they were primarily the work of KC Tenants, an upstart group of activists and tenants that didn't even exist at the beginning of 2019. The group was formed by Tara Raghuvver, a native of Kansas City, Kansas, and an organizer with the national progressive group People's Action. Raghuvver was previously behind the Kansas City Eviction Project, which compiled data on evictions in the area. The Tenants' Bill of Rights was a priority for KC Tenants since its inception, and the group was able to make renters' rights a top issue in the local elections in the spring, when Lucas won the mayor's office.

The campaign survived a series of compromises. What passed last week was maybe 85 percent of what was in the bill when it was introduced earlier in the fall, which itself was about 85 percent of what KC Tenants was initially demanding, Raghuvver says. Compared versions of the resolution and ordinance show some evidence of the back and forth between advocates, the city, and landlords, some of whom were opposed to portions of the bill, according to local reports. A line in the resolution about racism in the housing market was removed from the final version, for example, and a provision of the ordinance was changed so that landlords would have to provide information about utilities, rather than producing an estimate of utility costs themselves. KC Tenants was also pushing for a right to counsel for people facing evictions and a ban on source-of-income discrimination to help tenants with housing choice vouchers, which didn't make it into the bill.



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