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Honorable Linda Newing
Mayor
City of Newcastle
12835 Newcastle Way, Suite 200
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September 16, 2022

By E-mail

RE: Bill 22-54 - Proposed Tenant Protection Policies

Mayor Newing and Councilmembers,

Thank you for allowing me the opportunity to highlight our concerns with the “tenant protection” ordinance as proposed.

If adopted, our members will face greater challenges as a result of more rules, regulations and barriers to housing creation. Rather than address the underlying root cause of housing affordability issues, supply, this proposal attempts to remedy the symptom, which does nothing to fix the long-term problem. In fact, based on what we’re seeing in Seattle, which has similar regulations in place, it has only exacerbated the problem causing housing providers to leave the industry altogether. In addition, landlords have been forced to increase rents to mitigate the risk of longer notification requirements.

Further, in the whereas clauses justifying the proposal included are multiple references to cost burdened and low-income renters. If the Council’s concern is to protect low-income housing and the programs affected by HUD area median income determination, this and any similar proposal should be tied to that specific type of housing rather than enacting a broad mandate encompassing market rate housing.

In addition, ARCH Resolution 2022-01 and the *Final Report and Recommendations for King County*, which this ordinance directly references, do not provide research or empirical data to support the conclusion that this proposal or the others they have suggested will in fact address cost burdened households, missed rent payments, help renters pay for units they cannot afford, nor create any more units that cater to these vulnerable populations.

While intended to be simple, reasonable, and effective, the proposed changes will do more harm than good toward Following is an overview of the issues to provide further clarity, balance and understanding:

Notice Requirements

The notice requirements under consideration are burdensome and do not take into account the realities of rental property operations. Housing providers do not know what operating costs, market conditions or other circumstances will exist four to six months in advance and to expect housing providers to effectively notice an accurate rent increase to a tenant in that time frame isn't feasible. For example, property taxes are posted once a year with approximately four months' notice. Further, insurance premiums change one to two times annually with only 30-60 days' notice. In addition, inflation is currently double the proposed minimum requirement of 3% for 120 days' notice. As such, housing providers will mitigate risk by estimating larger annual rent increases to protect actual rent at the time of the rent increase. This is occurring in Seattle now with their untested 6 months' notice for any rent increase.

Move-In Deposit Restrictions

Damage and other deposits are levied to offset costs incurred by housing providers should a tenant damage the property or quit paying their contractual obligation. If these deposits are too low, one of two things occur; 1) either the housing provider pays for it, or 2) the cost is born by others via future rent increases. Ultimately, these restrictions only serve to protect those that are responsible for these added costs. When providers incur these costs, it can have a number of impacts:

- Limits their ability to pay for other needed repairs or services
- Forces them to increase rents unilaterally or over time
- With enough market pressure or frequency, causes them to leave the market all together or at a minimum, stop pursuing new housing development projects solving the housing crisis in our region.

Damage and other deposits are designed to mitigate risk for housing providers, but don't solely exist for the benefit of the provider. The fees are used to offset costs incurred due to failure to pay, damage and other expenses, that although limited to a few bad actors, do occur. By requiring reasonable deposits to offset these costs, housing providers are also protecting their other tenants. Ultimately, if individuals who are responsible for these costs are not charged through these deposits, the costs will be absorbed by all tenants in the rental complex and in the case of single-family properties by other renters in the owner's portfolio. Similarly, the car insurance market faces similar consequences. When you pay for insurance, you are part of a larger risk pool and although individuals with claims have a higher deductible, everyone in the market pays, to some extent, for those who have added costs to the system.

Without the ability to charge reasonable fees to offset risk, the riskiest tenants will be pushed to the edges of the rental market rather than being allowed to participate, with reasonable accommodations.

Installments

Although installments seem to be a reasonable accommodation, they are counter to the intent and

design of deposits. Deposits and fees are assessed based on the risk level of a tenant and offering installments only extends the risk over a longer time period which also increases exposure for the housing provider. If the tenant is a financial risk and they default prior to the end of installments, the cost burden on the owner is higher. This is true of damage as well, which leaves the housing provider and other tenants responsible for these costs. Both of these proposals, although seemingly “fair” in theory, only shift the cost burden from those responsible to housing providers and ultimately fellow tenants. In the end, the rental housing market as a whole is impacted through higher rents and less units being developed.

Late Fee Cap

Capping late fees to 1.5% of monthly rent is simply unreasonable and provides no incentive for tenants to pay on time. For a \$1,200 rent payment, this equates to \$18, the price of a movie. Although we understand the concern that some tenants may find themselves in a cycle of late rent payments exacerbated by additional fees, lowering the maximum fee amount to an amount which provides no consequence, only allows late and missed payments to become the norm as tenants prioritize other expenses. Our members work with tenants to help them remain in their units and to ensure they are able to continue paying their contractual lease obligations through reasonable accommodations. This cap removes all incentives for them to continue this practice. Property owners and housing providers don't get to pay their mortgage, maintenance or other contracts without penalties, which are much higher than 1.5%. Under this proposal the city may be asking them to pay these higher costs if tenants default, thereby affecting their cash flow. In addition, if tenants are unable make monthly payments on time, it points to a larger problem that needs to be addressed and possibly mitigated through more reasonable and relevant late fees.

Summary

These regulations place a significant and unwarranted burden on housing providers – especially small landlords, which leads to unintended consequences including higher than expected rent increases and the stagnation or reversal of rental unit development at a time when supply is the biggest issue facing our region.

The following chart helps illustrate these points. Data is based on the recent rental housing activity in Seattle, where similar restrictions requirements and prohibitions have been adopted.

According to data provided by the City of Seattle through the Rental Registration and Inspection Ordinance (RRIO) report, between May 2021 and June 2022 there has been a loss of 3,363 properties and 9,519 units. More important is the loss of properties and units in the “50 units and less” size class of properties which accounts for 3,348 and 8,208 losses respectively.

These numbers are significant because many suburban communities do not produce or maintain properties larger than 50 units due to land use and zoning issues, so the loss of these properties provides a better equivalent for most communities around the state.

	May-21		Jun-22		Loss of Properties	Loss of Units
Size Class	Properties	Units	Properties	Units		
Single Unit	21,363	21,363	18,844	18,844	(2,519)	(2,519)
2 to 4 Units	4,598	12,007	4,126	10,808	(472)	(1,199)
5 to 20 Units	2,802	27,249	2,502	24,566	(300)	(2,683)
21 to 50 Units	836	26,298	779	24,491	(57)	(1,807)
51 to 99 Units	296	20,886	294	20,717	(2)	(169)
100 to 200 Units	174	24,423	160	22,357	(14)	(2,066)
200+ Units	93	26,658	94	27,582	1	924
TOTAL	30,162	158,884	26,799	149,365	(3,363)	(9,519)

While there may be a mix of factors that contribute to the property and unit losses, we maintain that more onerous restrictions, reporting requirements and prohibitions are responsible for a large part of the decline, especially with small developments, whose owners are generally not able or willing to continue operating under such conditions.

When reviewing larger unit properties like those of WMFHA members, it is important to note that development at any scale of 100 units plus, has a design, financing, review, permitting and construction lifecycle of 3-5 years, so they are not always a good barometer of the effect of these legal changes. We will likely begin to see the impact of these changes on larger properties in the next few years. In addition, when looking at the net gain or loss of properties and units in total, larger properties serve to mitigate the loss in other areas because they already had financial and contractual building obligations in place, regardless of the laws passed after their planning, design and construction phase. The Puget

Sound, specifically, and Washington State, generally, are in a housing crisis and replacing one unit type with another rather than adding 100s of new units year over year is not a sign of success.

We urge the Newcastle City Council to recognize the negative impacts the proposed “tenant protection” policy will have on the ability of housing providers to continue offering housing opportunities to your residents as well as the chilling effect, they would have on new rental housing creation.

As you hear testimony and receive letters, often emotional and heartbreaking, justifying this proposal and other tenant protections, please keep them in context. These examples, often anecdotal, represent only a small handful of situations out of thousands of units. I would also suggest that you request actual verifiable examples, in Newcastle, of the problems that proponents claim these proposals are intended to address and then compare the number against the totality of rental units in your city. Anyone claiming this is representative of a far-reaching problem are not taking the entire situation into account.

If Council chooses to pursue any or all of these options, we respectfully request consideration of a reasonable effective date of at least 30 days so properties have time to update their business practices and software systems to remain in compliance.

Thank you for consideration.

A handwritten signature in blue ink, appearing to read "C. Ryan Makinster", with a long horizontal flourish extending to the right.

Ryan Makinster

Director of Government Affairs

Washington Multi-Family Housing Association

CC: Deputy Mayor Ariana Sherlock
Councilor Tom Griffin
Councilor Chris Villaseñor
Councilor Pratima Lakhotia
Councilor Paul Charbonneau
Councilor Robert Clark