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Honorable Breean Beggs
City Council President
City of Spokane
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December 2, 2022

By E-mail

RE: ORD C36330- Establishing a local program for assisting landlords and tenants in Spokane

Council President Beggs and Councilmembers,

I am writing you on behalf of the Washington Multi-Family Housing Association and the 124 properties encompassing 12,000 units we represent, although my comments pertain to the industry as a whole, in the City of Spokane. Thank you for allowing me the opportunity to highlight our concerns with the “tenant assistance” ordinance as proposed. Please note my use of that term, rather than the program title “local program for assisting landlords and tenants” as this proposal has little to nothing in the way of landlord assistance.

Before commenting on our concerns with the ordinance itself, I would like to highlight the problems inherent with the process that has been undertaken to draft and consider this ordinance. There is has been almost no stakeholder engagement with housing providers and what little engagement occurred over 3 years ago with limited representation by the industry which was disproportionate to the representation by tenant advocates and social service organizations.

Beyond that, there has been zero engagement with the industry on this specific ordinance language or the programs and regulations it proposes. At the November 21, 2022 City Council Briefing Session and the November 28, 2022 City Council meeting it was implied in comments made by some council members that housing providers were included in discussions of this ordinance and that it was a compromise by stakeholders which I can only assume were misstatements or a misunderstanding of the process. I reached out to our members as well as other interested trade associations and none of them have been engaged in any discussions regarding this proposal nor were any aware of the implied compromises discussed with housing providers.

The lack of engagement in drafting and promoting this ordinance is obvious in the many facial problems with the ordinance such as possible conflict with the Federal Fair Housing Act, and current Spokane laws as well as the many unintended consequences inherent in this ordinance as drafted.

This, however, is easily remedied. We ask that council postpone consideration of this ordinance until there has been adequate time to engage *all stakeholders* to find common ground and a workable solution to the council's concerns.

In furtherance of this request I would like to highlight some of the concerns we have with the ordinance itself.

Business licensing and registration

- Landlords and investors operate under LLCs which are already required to register as businesses in the city.
 - Bad actors, which are few and not documented with any statistics by ordinance sponsor, can continue to disobey the law. This only punishes good actors and has no new substantive enforcement mechanism to address bad actors
 - This system seems only created to levy a fee to support the city's efforts to regulate an already highly regulated industry
 - Any fee assessed will be passed on tenants, increasing rent, in contradiction to city's stated goals
- Bad actors are already known by the city through the existing complaint line at the city's building department and the office of the Attorney General also has several programs to resolve landlord/tenant disputes
 - A redundant program with no justification presented to date
- Rental housing is already highly regulated and compliance is an integral part of owner, employee and staff training and the proposed program is redundant
 - This additional burden, that has not been justified, will only add a time burden which ultimately adds to cost
- It is in the best interest of managed properties, like our members', to maintain compliance with the Residential Landlord Tenant Act and the bad actors that seem to be the target of this effort are more likely to be the very owners exempted through the 3-unit exemption rather than the multiple unit properties under management

Universal Background and Credit Checks

- The development of this program is left to an advisory group with very little prescriptive controls in this legislation
 - The pass it and see how it will be implemented is bad public policy and is one more example of this ordinance being written and eventually implemented with little to no input from the regulated industry, housing providers
- The Federal Fair Housing Act rules are very prescriptive and there is no assurance that this program will comply with them
- Housing providers already must abide by the Federal Fair Housing Act which limits the criminal records items that can be used to deny an applicant

- This includes a process for applicants to dispute records issues or work with housing providers to mitigate negative records
- Criminal background and credit checks are contracted through 3rd parties to ensure fair criteria for all applicants to comply with the Federal Fair Housing Act
 - If the cities proposed universal background check and our “best practices” background checks are in conflict, it will require a judgement by our staff which will open housing providers up to civil and financial liability
 - An additional cost that will ultimately be born by all tenants in increased rent
- Managed and most other properties already have contracts, as well as integrated systems for processing background and credit checks, this will just create a redundant burden which will add cost

Residential Rental Property Mitigation Fund

- Only applies to government and non-profit supported low-income housing units
 - Does nothing to mitigate damages for tenants that are not low income but may have qualified through city program rather than current best practices for credit and criminal background check further encouraging housing providers to run separate background and credit checks
 - Any problems created by bad behaving tenants will be born by their neighbors through daily living situations
 - Any problems created by tenants who cause damage or are not financially qualified for their unit will be born by other tenants through increased future rent

Overall

- These regulations place a significant and unwarranted burden on housing providers – especially small landlords, which leads to unintended consequences including rent increases and the stagnation or reversal of rental unit development at a time when supply is the biggest issue facing our region
- There is nothing to encourage housing providers to use the city’s background and credit check system and properties will continue to use best practices which will add cost, a cost that will ultimately go back into higher rents

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 further regulate the industry 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 increased rents to mitigate the risk of inadequate credit and criminal background checks and cover the cost of increased regulatory burden.

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 Spokane 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.

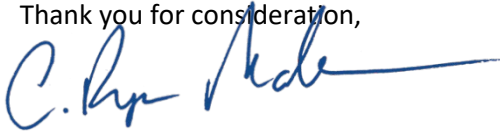
As you hear testimony and receive letters, often emotional and heartbreaking, justifying this proposal and other tenant protections, please keep them in context. These examples, often anecdotal, represent only a small handful of situations out of tens of thousands of units. I would also suggest that you request actual verifiable examples, in Spokane, 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.

In addition, there is a more direct example of the loss of rental housing due to very similar regulations adopted in Portland Oregon. In a report (attached) by Econorthwest, released March 3, 2022, after these types of regulations were adopted, the number of single family detached rental units in the City of Portland declined from 27,656 units in 2017 to 23,669 in 2020, a loss of 3,987 units.

Although we believe the ordinance as drafted has significant problems and will do nothing to help alleviate the housing crisis, we are willing to work with the council and all stakeholders to find practical solutions to address the problems this proposal is purported to address.

Due to these concerns, we respectfully request, at a minimum, the council postpone consideration of the ordinance until a full and transparent dialogue with *all stakeholder* can be undertaken.

Thank you for consideration,



Ryan Makinster

Director of Government Affairs

CC: Councilor Jonathan Bingle
Councilor Michael Cathcart
Councilor Betsy Wilkerson
Councilor Lori Kinnear
Councilor Zach Zappone
Councilor Karen Stratton