

## MEMORANDUM

To: Council President Bender, Council Member Ellison  
From: Colleen Ebinger and Joey Dobson, Minneapolis Advisory Committee on Housing Co-Chairs  
Date: 7/18/2019  
RE: Minneapolis Advisory Committee on Housing Feedback on Draft Renter Ordinances

This memo includes comments on your draft ordinances on security deposits and screening criteria from the members of the Minneapolis Advisory Committee on Housing. The Committee received background materials and copies of the draft ordinances at its meeting in June. At the July meeting, members were asked to come prepared to give specific comments about the drafts to share with you as you consider stakeholder feedback. This memo reflects the comments that were shared by committee members at the meetings held on June 13, 2019 and July 11, 2019, as well as supplemental comments submitted via email from members unable to attend the July meeting.

Members provided comments within several different categories, including: Security Deposits, Screening Criteria – Eviction History, Screening Criteria – Credit, Screening Criteria – Criminal History, Screening Criteria – Individual Assessment, and General/Other. The comments are broken down into those categories here and are divided into subcategories based on the type of feedback. The comments represent an exhaustive list of what was shared at the meeting and represent a range of opinions. Please feel free to reach out to us if you have any questions.

### **Security Deposits:**

#### *General Comments*

- Low-income people have a harder time coming up with a deposit. Payment options would help.
- Pet Deposit – landlords are charging monthly rent fees for pets.
- The ordinance seems reasonable.
- Security deposit for affordable housing at 50% AMI or lower should be regulated to reflect/accommodate low income individuals.
- Security Deposit ordinance removes the last tool for risk management and mitigation; too limiting. Predatory extreme practices should be limited and have license implications.
- Landlords are charging three to four times the amount of rent to move in North Minneapolis.

#### *Specific feedback on draft components*

- Security deposits are a tool for negotiation and some landlords may not be connected to nonprofit service providers.
- By limiting the amount of security deposits and allowing last month's rent, tenants will get less interest paid when security deposits are returned. It's never much, but why not limit the maximum entry rent to 1.5 times month's rent, with the half month rent applied to the last month?
- Installment option – should be for renters paying security deposit plus first month rent and last month rent, even if they are not connected to a nonprofit.

- I suggest removing the exception for landlords working with a nonprofit referral. While I understand the intent of helping place tenants, this would have the effect of making some of the most vulnerable tenants with the most restricted incomes pay the most to secure housing.

#### *Clarifying Questions*

- Make sure tenants are getting deposits back within 21 days (this is governed by state statute).
- How is damage defined? How is City enforcing state requirement that landlords provide a receipt for repair expenses incurred when the full security deposit is not returned?
- Must define “rent” for the sake of subsidized housing providers. Does “rent” refer to the rent paid on the unit or the rent paid by the tenant?
- I am in full support of this ordinance and the changes being proposed. How will this be enforced? Who gets paid to regulate and monitor this?
- How would the security deposit amount be determined for month-to-month leases? What research has the City done to identify potential unintended consequences of limiting security deposits?

#### *Alternatives or Supplemental Policy Ideas*

- Landlord mitigation fund.

### **Screening Criteria – Eviction History**

#### *General Comments*

- Limiting the eviction lookback period is important to protect renters because many renters are unable to access legal representation to prevent unfair evictions by predatory landlords.
- Fully support reducing the number of years a landlord can utilize eviction history in selecting tenants.
- Have seen good renters get UDs/judgments from bad landlords – this policy helps address that.

#### *Specific feedback on draft language*

- Consider including an exception if the renter is working with a nonprofit or can provide documentation that shows they took tenant classes, etc.
- Consider an exception if a family was evicted because a non-lease holder sold drugs and/or was the abuser in a Domestic Violence situation. Lease holder should still be approved.
- Non-payment and for-cause evictions are very different. Authors should consider giving property owners greater leeway to screen for for-cause which pose a different risk.
- Consider extending the limitation to evictions from other states.

#### *Alternatives or supplemental policy ideas*

- Change 3-year background requirement, use mediation instead of filing.
- Do not post evictions on housing record until there is a decision against the tenant.

### **Screening Criteria – Credit**

#### *General comments*

- Support – “I have not seen a connection between credit score and tenant success in the rental properties I own.”
- Credit Score minimum is too low. It does not recognize the financial risk to resident or the property.
- Landlords shouldn’t be able to screen out tenants for credit scores of any number.

- I agree with lowering the credit score. Also, medical bills and other judgments should be considered in the screening criteria.
- Agree with screening standards as written.
- Many landlords report not relying heavily on credit history; I fully support minimizing the requirement to the 500 credit score frame.
- I suggest prohibiting the use of credit score entirely. The financial institutions do not disclose their algorithms for determining credit scores, so they are not necessarily indicative of anything relevant to a tenant's ability to pay rent. The tenant's income and recent history of timely rent payments is a much more relevant and helpful indicator.

*Specific feedback on draft components*

- If the median credit score in "non-white zip codes" is 570, the proposed ordinance doesn't go far enough in protecting renters. Allowing screen-outs for scores less than 500 could screen out almost half the residents in these zip codes.
- Credit score criteria should start at a score of 500.

*Clarifying questions*

- Credit Score Cut-Off – council and staff should provide a data-driven choice for the credit score value. Clearly some value is a statistically meaningful threshold. It is not clear that 500 has any data behind it, and appears to be an arbitrary choice.
- Reinforcement of screening standards. If it shows up on the credit history pulled, what is the strategy to guarantee neutrality?

**Screening Criteria – Criminal History**

*General comments*

- Limiting the criminal history lookback period is necessary to protect renters, especially in light of the fact that our criminal justice system is inherently racist.
- The Department of Human Services holds criminal records for 15 years. This makes it impossible for people living with criminal records to find adequate and affordable housing. Background checks should go by the severity of the crime (no more than 10 years).
- Agree with the screening standard option as written. It is important to provide housing opportunities to ex-offenders so that they can be brought back into the community. Housing stability is a prerequisite for employment, education and personal and family success.
- Transparent data must be used to inform a legitimate legislative process.
- Many low-income tenants, particularly single parents with children who come home from school independently, believe the security of their building is of the utmost importance and want to ensure a safe space for their family. I am concerned that these broad prohibitions on use of criminal background, while well-intentioned, put an additional burden on low-income families that they may not desire or deserve.
- This provision is one helpful step toward addressing the ways that our society's racial bias ingrained in our law enforcement and judicial systems has ripple effects that disproportionately and unfairly harm people of color and Indigenous people.

*Specific feedback on draft components*

- I agree that these items may not be considered:
  - Any arrest in an inactive case that did not result in conviction

- Participation in or completion of a diversion or a deferral of judgement program
- Any conviction that has been vacated or expunged
- Any conviction for a crime that is no longer illegal
- Any conviction that was committed as a juvenile
- Criminal history standards limiting how far back they can go on a background check is reasonable. Five years is okay. 1/3 of adults has a criminal history.
- I would like to see clearer definitions for sex offender. I would also like to see a breakdown by the degree of sex offense. Will there be any exceptions for cases such as: high school dating, urinating outside, etc.
- How will the City aid landlords with concentrated population of previously incarcerated individuals due to screening?
- The severity and frequency of criminal offenses matters. While a person with one offense 6 years ago should reasonably be able to be accepted into a property, a person with 30 years of offenses and/or multiple evictions for cause is a different case and carries a greater likelihood of causing problems for the building residents and owner.

#### *Clarifying questions*

- How can the city reinforce the owners/managers not to consider items? Will a unified portal for screening be created that automatically eliminates such items?
- You mention diversion programs which data shows black and brown people are less likely to be given access to or offered; how is this accounted for? I support limiting the impact of criminal background.
- Why weren't some violent offenses (rape, homicide, etc) included as things that can be screened against? Should be included. If the city has rationale for excluding them, that should be shared.
- Does the City have data specific to Minneapolis as a whole that guided the research and led to these specific recommendations? If so, please share.
- How will a landlord know which crimes are no longer illegal? Will this require an attorney to review each prior offense? Will this increase application costs?
- What is the City doing to reduce racially discriminatory arrest practices by city police officers?

#### *Alternatives or supplemental policy ideas*

- We should have a pilot study to see how well these criteria would work rather than broad implementation. Where are the services to help those recently incarcerated move back into the housing market? Why does the City funding for affordable housing not include these criteria?

### **Screening – Individualized Assessment**

#### *General comments*

- Like the individualized assessment option and believe it is critical to include. However, any subjective assessment always opens a door to bias. Landlords would still need to comply with Fair Housing law but bias is often really difficult to prove. So – how do we, in or beyond this policy, address the reality that allowing subjective screening will result in some discrimination?
- This provision needs much more clarity in order to be workable. I am concerned that this option opens the door for implicit racial bias to impact decision-making in a way that undercuts the purpose of this ordinance. As currently drafted, I suggest removing this option.

### *Specific feedback on draft components*

- This is not a viable solution as it opens managers up to Fair Housing complaints because it is not uniform. Fair Housing law and modern management practices look at data consistently.
- Alternative forms of ID should be accepted if the future tenant is undocumented.
- How to assure that the time needed to process an individualized assessment is not a barrier? Owner/Manager can justify the loss of opportunity due to time/waiting, i.e. somebody else came and “passed” the screening faster.
- One area of concern I do have is with the “individualized assessment option” alternative to the specific crimes outlined. My fear is that this option could lead to racial bias (implicit or explicit) and I would suggest a clear list of statutory crimes and look-back periods in order to be rejected on a rental application. This approach also has some flaws but I think could be less prone to racial bias.

### *Clarifying questions*

- Could still use more guidance/direction/information on this.
- The language of this option is confusing. Could this option be a way to circumvent the standard option? How would the information used to make decisions be verified and confirmed to be non-discriminatory to applicants?
- This option is not well-defined and raised multiple practical questions, such as:
  - What must be included?
  - What is the process for an applicant who feels the assessment was poorly done or insincere?
  - How is this enforced?
- How would a landlord determine whether they were using individualized assessments or not? At what point does this need to be communicated? Do they need to consistently use one option?
- How would the use of this option be monitored? It seems very challenging to prevent a landlord from using inappropriate, irrelevant information as part of this assessment.

### **General/Other**

#### *General comments*

- Agree with screening standards as written.
- Higher insurance costs or more costly financing will lead to overall rent increases. Perhaps more discussion with insurers and mortgage lenders could refine the ordinance so the increases would be less likely.
- We need more housing vouchers.
- Mental health housing case manager – for wrap around housing services, including housing vouchers from crisis emergencies.
- There is a lack of data on what are the barriers that we are trying to solve and will this solution even resolve the challenge.
- There has been no analysis of potential impact on affordability and costs.
- An applicant who has multiple evictions three or more years old, multiple criminal records just prior to the 3 and 5 years lookback limit, and low credit is likely to be a riskier tenant given a broad and long-term pattern of challenges. This ordinance should distinguish between one or two background issues versus multiple and ongoing issues.

- If this is intended to be enforced via licensing, the City should think about unintended consequences of landlords getting licenses revoked and the tenants suffering possible eviction or uncertainty as a result (i.e. Khan and Frenz).
- The barriers to accessing housing the proposed ordinances are designed to reduce are the very same barriers often cited by many of our families searching for housing. This is especially true regarding security deposits. Therefore, I generally support the efforts as proposed.
- Overall, I think the ordinance will be valuable to help address some of the housing inequities that current exist.
- These two ordinances are a helpful first step to address our city's housing crisis.

*Clarifying questions*

- Applicability – the ordinance is unclear in the present language if it applies to:
  - Affordable housing providers with government subsidy
  - Landlords who contract to provide subsidized housing (e.g. Section 8)
  - The public housing authority
- Fair Housing law does not apply to owner-occupied duplexes. Will there be any exclusions to these ordinances?
- Does the City actually have the capacity to enforce this? Who will do it? How much will it cost?
- Are there any discrepancies between this ordinance and state law?
- How would the market be affected by these ordinances? Developers may choose not to build, given these additional constraints, and local owners may sell to national investors who upgrade units and raise rents.

*Alternatives or supplemental policy ideas*

- Where are the renter training and supports for expungements, credit repair? They should accompany or go ahead of these massive market changes.
- Where is the risk mitigation funding to incentivize managers taking greater risk?
- We need to implement OneApp in Minnesota to lower barriers.
- The City should consider a pilot project for these ordinances to be able to benchmark and measure success.