

MEMORANDUM

To: Planning & Sustainability Commission, City of Portland
From: Community Alliance of Tenants
Date: March 13, 2015
Subject: Comments re: Proposed Comprehensive Plan from a Tenants' Rights Perspective
Attached: Quality Rental Housing Work Group Recommendations
Multnomah County Health Department Issue Brief on the Health Effects on End of Tenancy Notice

Community Alliance of Tenants (CAT) would like to express appreciation to the City of Portland for your efforts to advance equitable community planning and increase housing affordability for all residents of Portland, regardless of background, income, or age. Rising costs and changing neighborhoods have impacted the ability for many renters to stay in inner Portland neighborhoods. Formed in 1996, CAT is Oregon's only statewide, grassroots, tenant controlled, tenants' rights organization. Our mission is to educate and empower tenants to demand and obtain safe, stable and affordable rental housing in Oregon. CAT addresses the impact of Oregon's decreasing supply of safe, affordable housing and absence of meaningful protections for tenants from unjust evictions and unsafe housing conditions. It is only fair that everyone has a safe, decent, affordable place to live.

We respectfully submit this memo, which we hope can provide perspective for the Planning and Sustainability Commission to consider "renters" as a key indicator population by which to evaluate the Comprehensive Plan. The Plan provides the overarching policy framework for city infrastructure for decades to come. Portland's renters are a significant part of Portland's population and play an important role when ensuring a diverse mix of housing options at various stages of life. As such, we implore you to elevate the fair access to quality housing, as a function of the city's infrastructure through the Comprehensive Plan. Also, attached are two community-vetted documents which are useful background and offer implementation guidance 1) Quality Rental Housing Work Group Recommendations and 2) Multnomah County Health Department Issue Brief on the Health Effects on End of Tenancy Notice.

The State of Oregon Land Use Program provides implementation guidelines for local jurisdictions in *Goal 10, Housing* in which - considering the impact on low-income households includes "coordination of the development of urban facilities and services to disperse low income housing throughout a planning area" (OAR 660-015-0000(10)).¹ The intention behind this language in Goal 10, and later through Oregon Revised Statute was to prevent exclusionary zoning practices by any single jurisdiction, and can be a valuable tool in addressing concentrated poverty and racial segregation.² It is incumbent upon Portland's Comprehensive

¹ OAR 660-015-0000(10) Oregon's Statewide Planning Goals and Guidelines, Goal 10: Housing, <http://www.oregon.gov/LCD/docs/goals/goal10.pdf>

² Orfield, Myron. "Land Use and Housing Policies to Reduce Concentrated Poverty and Racial Segregation" *Fordham Urban Law Journal* Vol. 33 pp. 101-159. (July 2006)

Plan to deliver this intention, seeking to house low income Portlanders in areas of opportunity at prices commensurate with their ability to pay. However the reality is that concentrated poverty persists in Portland, particularly in areas which see the lowest average rents, also indicated by lower average incomes and educational attainment, and fewer or disconnected infrastructural investments such as transit and pedestrian facilities.

Both the City's Housing and Planning and Sustainability bureaus have articulated a desire to provide equitable housing for communities of color, low income residents, older adults, people with disabilities, and those with diverse household configurations. It is important for coordination to occur between land use policy and housing provision, and we look forward to watching these conversations develop.

An equitable city requires the careful consideration of renters, who make up an increasing share of Portlanders, and are also more sensitive to shifts in the market. Six in 10 Americans believes that government should be doing more to ensure there are both sufficient affordable quality rental housing and homes to buy.³ Renters are underrepresented in current City public involvement efforts for various plans or projects. The absence of renters' perspectives precludes the diversity of income, race, ethnicity, and age that renters often bring. If renters were able to maintain stable tenure in neighborhoods of their own choosing, they may be more apt to participate in neighborhood planning as homeowners do. Moreover, the benefits of housing stability, and advancing policies and programs that target stability,⁴ are linked to equitable outcomes such as improved health, educational attainment, and increased social capital.

Renters Profile

Renters currently make up 48% of Portland residents.⁵ Portland's renters are found throughout the city, although are most prevalent in the Central City areas. This is most likely because of the greatest numbers and density of high rise multi-family buildings on both west and east sides of the river. However, other neighborhoods, particularly those in East and North Portland also have significant numbers of multi-family market rate structures, housing a large number of low income Portlanders.

The City's Gentrification Risk Study reports census tracts that have at least 46.5 percent renters, indicate a vulnerability for displacement. The concentration of renters suggests the opportunity for property owners and developers to gain greater profits from disinvested areas, by taking advantage of the "rent-gap" or investment speculation.⁶ Renters are also more sensitive to shifts in property values than are homeowners. When rapid turnover of property ownership occurs, rents rise. With no rent controls required in Portland for market rate units, rising costs go unchecked. The Risk Study also includes factors such as income and

³ How Housing Matters National Survey, MacArthur Foundation. (April 2014)

⁴ FY 2010-15 Strategic Plan. "Goal 3: Utilizing Housing as a Platform for Improving Quality of Life." HUD

⁵ American Community Survey, 2013 (5 yr est.)

⁶ Smith, Neil. (2005) Gentrification and the Rent Gap. *Annals of the Association of Geographers*. 77(3), 462-465.

educational attainment, which are often methodological indicators used to find spatial patterns of concentrations of poverty. The price sensitivity of renters make them a key demographic indicator in a housing market, particularly those of the lowest incomes. As Portland's rental vacancy rates continue at historic lows, low income renters bear the brunt of a tight market.

Special attention should be paid to renters who are very low-income (50% of area median income), extremely low-income (30% area median income), and households below. These are families that are least price elastic, in which rent increases of as little as \$10, or shifts in utility prices after unseasonably hot or cold weather can cause devastating cost burdens. The National Low-Income Housing Coalition (2014) reports that in order for a family of four to rent a 2-bedroom apartment in the Portland region, which averages at \$922, that family must earn at least \$17.73 an hour to afford that apartment. In actuality, the mean wage of renters in Portland is only \$15.06 an hour, meaning they could only afford an apartment which rents for \$783. This gap indicates a lack of affordability in Portland's rental market, requiring additional measures to be taken to provide relief to those of the lowest incomes. Another NLIHC report⁷ states that for every 100 extremely low income residents (30% AMI and below) in the Portland metro region, only 22 affordable and available rental housing units exist. Despite recent housing construction, the severe housing shortage for low-income renters will continue unless drastic measures are taken. Additionally, a recent Multifamily Market Analysis from Portland State's Center for Real Estate (February 2015) reports a widening affordability gap due to the predominance of expensive luxury in new construction, and that this trend is expected to continue.

Current Challenges Faced by Renters in Dynamic Neighborhoods

No-Cause Evictions

In private month-to-month rental agreements, the landlord and tenant are both not required to give a reason for ending a tenancy; either party may terminate the tenancy with at least 30 days written notice. If the tenant has been in the housing for over one year, 60 days' notice is required. The right for a landlord to end an eviction in this manner is referred to as a no-cause eviction (ORS 90.427).⁸

There is uncertainty surrounding the number and scale of no-cause evictions in the City of Portland. This is due to inconsistent and unreliable data collection methods for evictions. Despite uncertainty about the frequency of no-cause evictions in Portland, what is certain in the literature is that evictions disproportionately impact the poor, women, and communities of color.

A recent survey conducted by CAT found that 68% of tenants reporting no-cause eviction were women. Even though American Indian or Alaskan Native callers only made up 4.1% of 211 Renters' Hotline callers in February 2013, they made up 18% of callers reporting eviction. In other cities throughout the U.S., this pattern is consistent. In a recent study in Milwaukee, Wisconsin, poor black women are disproportionately at risk for eviction; making up 30% of those

⁷ National Low Income Housing Coalition. "Housing Spotlight." Vol. 5 Issue 1. March 2015

⁸ See ORS 90.427. Termination of periodic tenancies: <http://www.oregonlaws.org/ors/90.427>

evicted, but only 9.6% of the population.⁹ Prior to just-cause eviction controls being passed in Oakland, “[F]our out of five ‘30 day-no Cause’ evictions (78%) [were] minority households.”¹⁰

No cause evictions can significantly contribute to destabilizing renters’ housing and lead to habitability issues inside their homes. When a landlord can evict for no cause, the threat of such an eviction limits tenant ability to protect their rights, even though retaliation is illegal in Oregon (ORS 90.385). Many tenants who live in substandard housing complain that the threat or fear of a retaliatory no-cause eviction is the most significant barrier for requesting and/or obtaining important repairs. A lack of maintenance and repairs can lead to uninhabitable living conditions and property disinvestment, which has been historically observed in Portland as the early indicators of the cycle of gentrification and displacement.¹¹ This current situation makes it easy for landlords to evict tenants and turnover a building in order to collect higher rents as a neighborhood becomes gentrified.

Ongoing housing discrimination: Section 8 and other protected classes

House Bill 2639¹² passed in the Oregon State Legislature in 2013, going into effect on July 1, 2014. The law makes it illegal to discriminate against renters who use the federal Section 8 voucher program. A limitation of this law is that it does not prevent landlords from turning down tenants based on financial or other reasons. It only outlaws blanket “No Section 8” policies that were frequently stated in rental housing advertisements.

Despite the new law, however, discriminatory practices may continue to be employed by landlords. For example, by simply raising rents above HUD fair market prices, landlords might deter Section 8 voucher holders from submitting rental applications. Such practices help to maintain patterns of concentrated poverty in neighborhoods throughout the city. This may limit the intended effectiveness of the law to open up opportunities for low income residents to access housing close to work, near good schools, and within thriving neighborhoods with active transportation infrastructure.

Because the law is only in its first year of implementation, it may be too soon to fully evaluate its impact on the rental market. Nevertheless, the city should be proactive in monitoring its effectiveness for improving access to opportunity for low income families.

Beyond tenants with Section 8 vouchers, other tenants who belong to “protected classes” under the federal Fair Housing Act continue to face disparities in their ability to find and keep affordable, safe, stable and healthy rental housing. Families with children and people with disabilities face high barriers to finding rental housing that suit their needs, even if their

⁹ Desmond, Matthew. “Eviction and the Reproduction of Urban Poverty.” AJS Volume 118 Number 1 (July 2012): pgs. 88-133.

¹⁰ East Bay Housing Organizations. “Pushed Out for No Reason: Oakland Senior and Disabled Residents at High Risk for Eviction.” Oakland, CA. (2002).

¹¹ Gibson, Karen. (2007) Bleeding Albina: A History of Community Disinvestment, 1940-2000. Transforming Anthropology. Transforming Anthropology. 15(1), 3-25.

¹² <https://olis.leg.state.or.us/liz/2013R1/Measures/Overview/HB2639>

particular landlord may not treat them in a discriminatory way. Additionally, immigrants, refugees, and tenants who don't speak English as a primary language are more likely to face challenges and be harassed or mistreated by landlords or neighbors, and they have significantly less access to the resources available to them, such as education about their rights, and legal representation, because of language and cultural barriers.

Speculative real estate practices

Land and real estate speculation are a major driving force in neighborhood change, especially in neighborhoods that have historically experienced disinvestment, depreciation of property values over time, and more recently have become desirable destinations for higher income households. Investors may enter into such neighborhoods and purchase cheap real estate, develop the property, and then sell it quickly for a high profit margin. According to some long-time homeowners in North Portland, they continue to encounter solicitors knocking on their doors who are interested in buying their homes, often times for cash below fair market value.

Increases in private and public capital investment in the form of real estate development and infrastructure improvements have contributed to gentrification and displacement of the historical residents of North Portland neighborhoods. Housing pressure and rising costs have hurt longtime homeowners and renters. Community presence and social capital diminish as homeowners succumb to enticing offers for their homes and renters fold under the pressures of rent increases.

Neighborhood turnover may also be facilitated by the proliferation of neglected, abandoned and vacant properties. Landlords who are not held accountable for their neglected properties contribute to habitability issues that negatively affect tenants. Furthermore, abandoned and vacant properties in a neighborhood drive property values down, creating the "rent gap" mentioned earlier, and ripen the market for speculative reinvestment and redevelopment.

Retail gentrification and displacement

Discussion of gentrification in Portland has largely focused on the residential aspect of neighborhood change, while little attention has gone into examining the role of retail. Retail establishments in a neighborhood are vital for offering goods and services to residents, as well as creating a quasi-public space in which some residents feel comfortable shopping, hanging out, and spending time.¹³ Because of their integral role in a neighborhood, retail establishments are important mechanisms for building social capital, reinforcing community presence, and reflecting back the cultural symbols of its residents.

We look at the Alberta neighborhood as a case for retail gentrification. Historically, the neighborhood had been a predominantly poor and majority Black neighborhood since the 1950s. Like most poor neighborhoods with Black residents, it suffered from housing discrimination, redlining, and disinvestment but began to gentrify in the mid to late 1990s.¹⁴

¹³ Sullivan, D.M. & Shaw, S.C. (2011). Retail gentrification and race: The case of Alberta Street in Portland, Oregon. *Urban Affairs Review*, 47(3), 413-432.

¹⁴ *Ibid.*

Alberta Street is the neighborhood's commercial corridor with 17 blocks of retail and while some Black businesses and institutions remain in operation, most of the new retail is White owned and caters to a largely White and mainstream clientele.¹⁵ According to Sullivan and Shaw, their study uncovered feelings of exclusion and resentment among some of the longtime Black residents in the Alberta neighborhood (2011). The findings support the importance of retail establishments in fostering neighborhood stability and identity.

Additionally, a discussion about retail in low income, communities of color and immigrant communities should also address the additional barriers faced by business owners from these communities to enter and build long-term success. One of the key determinants of success is access to capital, which historically has been denied to communities of color.

Policy Recommendations

1.0 Protect and Preserve Renters

1.1 Establish a rent regulation system to preserve and maintain affordable housing.

Consider simple language that expresses the intent to preserve rental affordability in Portland neighborhoods. The City should take a serious look into rent control options, such as solutions around the current state preemption, or ways to modify or impact state law regarding rent controls.

1.1.1 Policy Discussion

Rent regulation in the form of rent control, or rent stabilization, is a type of price control for housing. The tool would help to maintain affordability throughout the city. It has the potential to combat rising rents and ultimately stabilize neighborhoods experiencing rapid change due to capital investments and redevelopment projects. By regulating rent increases, rent control would be particularly effective for protecting vulnerable low income tenants from moving out of areas with increasing access to opportunity.

In the State of Oregon, however, rent control is prohibited at the local level.¹⁶ There is a misplaced, predominant belief that controls may cause market disruptions that would harm the affordable housing stock by increasing deferred maintenance of existing housing stock, leading to the abandonment of existing rental units, and creating a property tax shift from rental-owned to owner-occupied housing.

While the law currently limits the use of rent control in the State of Oregon, there are two exceptions that the City could consider as opportunities for establishing a rent control system. The City already exercises its authority in regard to the first exception by regulating rents on any residential property that has received benefits for the purpose of providing reduced rents for low income tenants.

¹⁵ *Ibid.*

¹⁶ See ORS 91.225. Local rent control prohibited: <http://www.oregonlaws.org/ors/91.225>

The second exception, however, allows cities to impose temporary rent controls when a natural or man-made disaster occurs that materially eliminates a significant portion of the rental housing supply; these controls must be removed when the rental housing supply is restored to substantially normal levels.¹⁷ This exception may be relevant to the City as it currently experiences an extreme shortage in affordable units and as redevelopment activities continue to exacerbate the number of affordable units available to low income tenants. Until the affordable housing stock is able to meet demand, the City may have the legal grounds for implementing a rent control system. This option may require further legal counsel to determine whether the City is in a situation of a “natural or man-made disaster” and to also determine what level of affordable housing supply would constitute “normal.”

1.2 Support Just-Cause Evictions and Rental Housing Inspections as part of Comprehensive Plan Housing Access policies.

Consider simple language that prohibits no-cause evictions. Probably the most key renter protection that would immediately support those at the lowest incomes, and create improved housing stability and habitability. Increased and enhanced rental housing inspections, including the “Right Size” recommendations by the Quality Rental Housing Workgroup, should also be prioritized to ensure stable and healthy rental housing.

1.2.1 Policy Discussion

In a no-cause eviction, a tenant currently has only two possible defenses, which are retaliation or discrimination. This creates an easy avenue for landlords to practice illegal retaliation and discrimination because either of these defenses is a difficult task and a burden placed on the tenant to prove. In contrast, in the case of a for-cause eviction, the landlord must give a valid reason for the eviction and a tenant has the right to many defenses to prevent eviction.

Because of the lack of protections in no-cause eviction controls, tenants on month-to-month tenancies are constantly at risk for arbitrary eviction. Ultimately, just-cause eviction controls are laws that protect renters by ensuring that landlords can only evict with proper cause, such as a tenant's failure to pay rent or destruction of property. As a result, a just-cause eviction ordinance can help to promote healthy and stable housing. It would also advance anti-displacement efforts throughout the city, especially in conjunction with a system of rent regulation.

The QRHWG “Right Size” recommendations provide details as to the importances of increased and enhanced inspections and education, to ensure rental housing habitability. A robust inspections and education program, along with evictions protections are essential to ensure healthy and stable housing for Portland renters, especially for those with low incomes.

2.0 Anti-Displacement Measures

2.1 Regulate speculation in the real estate market.

¹⁷ Ibid

The City of Portland should create a system of penalties, including taxes and fees, for development or investment activity that focuses on profit generation *without* benefits to existing residents,¹⁸ as a disincentive to develop for displacement.

2.1.1 Policy Discussion

Implementing real estate speculation regulation would stabilize residents (renters and homeowners) and small business owners in dynamic neighborhoods that are already experiencing the negative impacts of gentrification and displacement. With decreased pressure to raise property values too quickly, dynamic neighborhoods and residents would have time to build wealth, maintain social networks, and develop stable neighborhoods of opportunity for current residents.

Traditionally, one way to accomplish this is through a Real Estate Transfer Tax on all commercial and residential property sales above a certain threshold while also including exemptions for property sales below a certain threshold, so as to avoid penalizing low-income property and homeowners. The State of Oregon, however, currently preempts local authority for implementing a Real Estate Transfer Tax. Despite this legal barrier, the City faces an opportunity to think creatively about how the current development fee system could better stabilize dynamic neighborhoods from speculative real estate activities. Washington County is currently the only local jurisdiction in Oregon with a real estate transfer tax of 0.1 percent on the sale of real property, which contributes to the county's general fund. Other cities have explored the option of an Anti-Speculation Tax, which could target specific transactions and speculative practices by investors and landowners, without affecting or bearing a cost to current homeowners who intend to use the property as their primary home, not for specifically speculative or profit-driven purposes.

2.2 Promote retail stability by requiring retail impact assessments (RIAs) and supporting innovative financing models.

Retail and commercial development can result in a wide range of economic, social, environmental, and transportation effects on various geographic scales depending on the size of the development. Traditional impact assessments focus primarily on environmental impacts, while traditional retail impact assessments focus more on economic impacts, such as trade lost or diverted. A more comprehensive retail impact assessment, however, may be a useful tool for evaluating the impact of a retail or commercial development in dynamic neighborhoods especially by looking at a wider range of impacts such as loss of social capital and cohesion.

2.2.1 Policy Discussion

The Scottish government has developed a model for conducting a comprehensive retail impact assessment that also considers the social implications of a retail or commercial development.¹⁹ This area of evaluation looks at demographic and behavioural change as well as the implications for shopper profiles for existing and new retail centers and the role of social

¹⁸ Causa Justa. (2014). Development Without Displacement: Resisting gentrification in the Bay Area.

¹⁹ The Scottish Government. (2007). Town Centre and Retail Methodologies: Retail Impact Assessment. Accessible from: <http://www.gov.scot/Publications/2007/12/24105030/7>

inclusion and exclusion. These may be reflected in changes in diversity or variety of shopping opportunities, as well as closures of local/small businesses.

In addition to evaluating impacts of retail or commercial development, there must also be a strategy to stabilize local/small businesses especially those identified as minority-owned and serving the needs of the existing neighborhood population. This may be done in the form of providing greater access to capital so that these businesses may keep their doors in open as rents and service demands may be on the rise in their neighborhood. One innovative strategy for implementing this would be to incentivize local financial institutions to invest in minority-owned, community-based businesses that are integral to community and neighborhood life. The G8 offers a model that might be adaptable for such a purpose called Impact Investing.²⁰ Other strategies for promoting retail stability would also include supporting community development credit unions or resident-owned financial institutions that promote cooperative ownership, cycle investments into the local community, and who can provide or partner with organizations throughout the city to provide business development training and support to minority-owned businesses.²¹

2.3 Community Benefits with Development

Include strong language that creates community benefit for existing residents when significant public or private development occurs in a neighborhood. See Community Based Anti-Displacement Recommendations (February 2015) for details.

3. Renters and Civic Engagement

3.1 Integrate renters in a meaningful way, in city plans and projects.

Include language in Equity policies that prioritizes renters as an underrepresented voice in local decision making and planning. CAT is one of only a handful of Community Based Organizations to actively educate, engage and empower renters to participate in public processes that have impacts on their lives. We have found that often the City's public processes lack in their ability to successfully engage these communities in an effective, culturally-specific way. Please see the "Community-Based Anti-Displacement Recommendations" letter that CAT signed onto and was submitted to the PSC in February 2015, for more specifics in this area.

Conclusion:

Thank you for the opportunity to comment on this important planning document. We hope this letter will provide valuable insight into the types of challenges that renters face as they struggle to find and keep healthy, safe, stable and affordable rental housing. On behalf of the 1000+

²⁰ Vacarro, J. (2014). Impact Investing for Everyone: A blueprint for retail impact investing. Accessible from: <http://www.socialimpactinvestment.org/reports/Triodos-Bank-report-on-Impact-investing.pdf>

²¹ PolicyLink. (2002). Equitable Development Toolkit: Resident-Owned CDFIs. Accessible from: <http://www.policylink.org/sites/default/files/resident-owned-cdfis.pdf>

renters members in Portland, we believe the tenant voice plays a critical role in planning for an equitable, inclusive and sustainable Portland over the next 20 years.

Sincerely

A handwritten signature in black ink, appearing to read "Justin Buri". The signature is written in a cursive, flowing style with a prominent initial "J".

Justin Buri
Executive Director
Community Alliance of Tenants



Issue Brief

Public Health

Health Effects of End of Tenancy Notice

September 11, 2013

Background:

The Oregon Landlord Tenant Act (State Chapter 90) states that in a month-to-month rental, the landlord and tenant are not required to give a reason or cause for ending a tenancy and that either party may terminate the tenancy with at least 30 days written notice if the renter has lived in the rental unit for less than a year. The right for a landlord to end an eviction in this manner is legally known as a no cause eviction.¹ In a no cause eviction, a tenant has two possible defenses, which are retaliation or discrimination. No cause evictions create a simple avenue for landlords to practice illegal retaliation and discrimination because either of these defenses is a difficult task. In contrast, in the case of a for-cause eviction, the landlord must give a valid reason for the eviction and a tenant has the right to many defenses to prevent eviction. Because of the lack of protections in no cause eviction controls, tenants on month-to-month tenancies are constantly at risk for arbitrary eviction. Many tenants put off asking their landlords for necessary repairs because they fear eviction and therefore remain in unsafe and unhealthy housing in order to maintain some stability for their families. Just cause eviction controls (JCEC) are laws that protect renters by ensuring that landlords can only evict with proper cause, such as a tenant's failure to pay rent or destruction of property. As a result, JCEC promote healthy and stable housing.

Review of Existing Research:

The Health Department conducted a review of current research examining the health effects of no cause eviction and retaliation on renters in Multnomah County. Based on this review, the Health Department identified the following concerns about no-cause eviction and its impacts on healthy housing:

- The number of tenants who receive no cause evictions are underrepresented in the court's record-keeping process.
- Discrimination and retaliation are the only defenses available for a no cause eviction and are difficult to prove.
- Tenants on month-to-month leases who have lived in their property for less than a year are afraid to ask for repairs because they fear eviction.
- When tenants are afraid to ask for repairs, they often remain in unhealthy housing.
- Numerous studies show that low-income communities, women, and minorities make up a large number of individuals evicted.
- Children are vulnerable to the health effects affected by no-cause eviction.
- The abuse of no case evictions places monetary burdens on low-income people and on society.
- By providing families with greater residential stability, just-cause eviction can reduce stress and adverse health conditions.

¹ See ORS 90.427.

The number of tenants who receive no cause evictions are underrepresented in the court's record-keeping process.

A forcible entry detainer (FED) is a court action by a landlord against a tenant to remove the tenant from the rented dwelling. FED records do not accurately depict the severity of the no-cause issue. Out of 2,166 evictions over a four-month period, 4.7% filed in Multnomah County courts were no cause evictions. However, data collected from a recent survey by the local tenant advocacy organization, Community Alliance of Tenants, demonstrates that 89% of callers who received a no cause eviction reported that they did not receive a FED notice, and 86% of those callers did not believe their no cause eviction was justified. Additionally, 50% of people that called 211, local phone service connecting people with community resources and social services, in February 2013 indicated that they had a housing issue, and 11% of those callers reported experiencing no cause eviction.

FED data reports no demographic information and therefore fails to tell the story of who is being evicted and why these evictions are happening. "In the actual legal process, tenants move out and give up the battle at many different stages," so there is no way to accurately depict the gravity of the hidden problem of no cause evictions.ⁱ

Discrimination and retaliation are the only defenses available for a no cause eviction and are difficult to prove.

Testimonials from tenants reveal that after asking for repairs, it is not uncommon to be issued a no cause eviction notice by a landlord that would rather illegally get rid the tenant than fix the issue as requested. Once the no cause notice is issued, the tenant could raise a defense of retaliation as the underlying reason behind the eviction, but this has not been an effective tool for many Multnomah County residents in the past. However, in the 2013 Elk Creek caseⁱⁱ, the Oregon Supreme Court recently held that to prove retaliation under ORS 90.385, a tenant must establish that the landlord served the notice of termination because of the tenant's complaint. Overall, if the tenants' complaints were one of the factors that the owner considered in making her decision to evict, and the owner would not have made that decision "but for" the tenants' complaints, then the owner was prohibited from making that decision. Because this is a very new decision, there is no proof that this new ruling will operate in a way that eliminates the fear associated with retaliation and no cause eviction.

Tenants on month-to-month leases are afraid to ask for repairs because they fear eviction.

211 callers during the month of February 2013 were asked the question, "[h]ave you ever delayed requesting assistance with a problem at your home because you feared being evicted?" 414 out of 4,233 (11%) of individuals who answered this question answered "yes." Additionally, individuals who were previously evicted were five times more likely to delay requests for repairs for fear of eviction. 62% of Community Alliance of Tenants (CAT) survey believed they were given no cause evictions because of retaliation. Substandard housing is the number one reason tenants call CAT's Renter Rights Hotline.

When tenants are afraid to ask for repairs, they remain in unhealthy housing.

The most recent review of the Community Asthma Inspection Referral (CAIR) database, which is used to manage family information related to housing and health, reveals that only 20% of approximately 350 families indicated that they were "very comfortable" approaching their landlord for repairs. According to this data, families who reported they were not comfortable

approaching their landlord are 30% more likely to have mold in their apartment, are twice as likely to have cockroach infestations, 60% more likely to report their housing is making them and their family sick, and twice as likely to report poor or bad health. Families who ask for repairs are often confronted with a no cause eviction. For example, a low-income family of five shared their story with the CAT Renter Rights Hotline about how they were to live in an ant and mice infested house with a shower was broken for two months and the stove burners that did not work properly for over a week. They requested that the landlord make the needed repairs, which were never completed. After sending a letter requesting a reduction in rent, the landlord responded by immediately posting a 30 day no cause move-out notice on their front door.

Numerous studies show that low-income communities, women, and minorities make up a large number of individuals evicted.

Of tenants reporting no cause eviction on a recent CAT survey, 68% were women. In a recent study in Milwaukee, Wisconsin, poor black women are disproportionately at risk for eviction; making up 30% of those evicted, but only 9.6% of the population.ⁱⁱⁱ Prior to just-cause eviction controls being passed in Oakland, “[F]our out of five ‘30 day-no Cause’ evictions (78%) [were] minority households.”^{iv}

Even though American Indian or Alaskan Native callers only made up 4.1% of 211 callers in February, they made up 18% of callers reporting eviction. According to the Coalition of Communities of Color Unsettling Profile, Native Americans and African Americans face extremely high disparities in homelessness, compared to other ethnic groups in Multnomah County.^v

Children are vulnerable to the health effects caused by no cause eviction.

Neighborhoods with a high percentage of children face increased evictions.^{vi} Children who are uprooted from their homes because of eviction face mental health problems, developmental delays, and increased levels of stress and depression, which often leads to violence.^{vii} FED court data does not include demographic information, but studies have shown that when demographic data is collected independent of court records, children are highly represented in the eviction process. In a Milwaukee, WI study, sixty-two percent of tenants who appeared in court lived with children. Over a third of them were women who lived with children and no other adults.^{viii}

The abuse of no case evictions places monetary burdens on low-income people and on society.

Besides the tremendous costs tenants face when forced to move, there are also various costs imposed on society as a result of no cause evictions. These costs include court and marshal/sheriff services, storage of tenants’ property, help for the newly homeless, and even emergency foster care and hospitalization in some cases.^{ix}

By providing families with greater residential stability, JCEC can reduce stress and adverse health conditions.

No cause eviction results in a significant disruption of educational, religious, social and employment connections that tenants have created in their communities. In many cases, no cause eviction may lead to homelessness.^x Strong social relationships protect health in multiple ways. Neighbors, friends, and family offer support that “buffer[s] stressful situations, prevents damaging feelings of isolation, and contributes to a sense of self-esteem and value.”^{xi} Also, seniors and disabled individuals, or others with severe health problems are at risk of fatal

health complications if forced to suddenly move from stable living arrangements. In the 211 study, disabled and special needs households made up 14% of callers who reported eviction.

Recommendations:

Based on the Health Department's review of current research examining the health impacts of no cause eviction, it is reasonable for the Multnomah County Board of Health to consider the following policy actions:

- Change the language in the OR Landlord Tenant Act (ORLTA) so that no cause evictions are replaced with language about just cause eviction controls
- Encourage cities within Multnomah County to require landlord licensing
- Pass a city ordinance requiring mandatory reporting of evictions
- Attach a requirement to the business license that requires landlords to report evictions
- Pass an ordinance as the Board of Health requiring landlord licensing and mandatory reporting
- Increase education geared towards landlords and tenants
- Monitor the current Oregon Supreme Court ruling to identify if retaliation can be successfully tried in the court
- Fund Community Alliance of Tenants Renter's Rights Hotline

ⁱ Hartman, Chester and David Robinson. "Evictions: The Hidden Housing Problem." Housing Policy Debate. Vol. 14, Issue 4. Fannie Mae Foundation. (2003).

ⁱⁱ Elk Creek Mgmt. Co. v. Gilbert, 2013 Ore. LEXIS 387 (Or. May 31, 2013).

ⁱⁱⁱ Desmond, Matthew. "Eviction and the Reproduction of Urban Poverty." AJS Volume 118 Number 1 (July 2012): pgs. 88-133.

^{iv} East Bay Housing Organizations. "Pushed Out for No Reason: Oakland Senior and Disabled Residents at High Risk for Eviction." Oakland, CA. (2002).

^v Coalition of Communities of Color. "Communities of Color in Multnomah County: An Unsettling Profile."

^{vi} Desmond, Matthew. "Evicting Children." Oxford University Press. (2013).

^{vii} Pettit, Becky. "Moving and Children's Social Connections: The Critical Importance of Context."

^{viii} Desmond, Matthew. "Evicting Children." Oxford University Press. (2013).

^{ix} Hartman, Chester and David Robinson. "Evictions: The Hidden Housing Problem." Housing Policy Debate. Vol. 14, Issue 4. Fannie Mae Foundation. (2003).

^x Guzman, Carolina, Rajiv Bhatia, and Chris Durazo. "Anticipated Effects of Residential Displacement on Health: Results from Qualitative Research." Research Summary. Prepared by the San Francisco Department of Public Health and South of Market Community Action Network (2005).

^{xi} Cohen, S, Underwood, LG, Gottlieb, BH. Social Support Measurement and Intervention. Oxford University Press. New York. 2000.

Draft Quality Rental Housing Workgroup Recommendations

February 13, 2013

Overview:

First convened in July 2007 to explore the issues of substandard housing, housing habitability, and environmental hazards in rental housing in Portland, the Quality Rental Housing Workgroup (QRHW) adopted a comprehensive suite of recommendations by consensus. These recommendations forwarded to Council in September 2008 resulted in the following achievements:

- ◆ **Code changes** to existing housing maintenance standards in Title 29 related to indoor environmental/health hazards including lead paint, mold, moisture, pests, sanitation and carbon monoxide.
- ◆ **Enhanced Inspections program pilot launched and evaluated** to show direct positive impact on landlords bringing housing conditions in east Portland up to code and enhancing health and equity for tenants.
- ◆ **Increased effectiveness of code enforcement procedures** including restructured fines and stronger collection mechanisms generating over \$2.45 million since FY 2008-2009 in additional revenue now supporting Neighborhood Inspections Team activities.
- ◆ **Clarification of rental housing as a business activity** distinct from home ownership and application of business license fees to all landlords generating an ongoing additional \$198,000 in general fund revenue.

Key stakeholders continue to collaborate effectively to address longstanding challenges using principles and relationships established in the first initial QRHW process. In July 2012, the group came together to review progress and develop recommendations to address critical elements of the 2008 package of recommendations not yet implemented. The workgroup took a hard look at finances and developed realistic estimates for a limited core set of activities. QRHW members would like Council to acknowledge these recommendations seek only essential funds that leverage partnerships, incorporate innovation gains at BDS, and maximize Citywide benefits by addressing root causes.

The recommendations institutionalize proven strategies that advance health, equity, and housing quality throughout the City. Again forwarded to Council with consensus support of the QRHW, the recommendations are designed to:

- ◆ Fill essential gaps in landlord and tenant education
- ◆ Strategically expand proven enhancements in the inspections system beyond the current pilot area, focusing resources to effectively help the most vulnerable
- ◆ Provide stable, dedicated support to rental housing inspections
- ◆ Improve overall data collection, tracking, and budget transparency regarding funding and performance on stated objectives

Recommendations

Process Description

The City of Portland contracted with Carri Munn from the consulting firm Solid Ground (formerly Decisions Decisions) to help design, manage, and facilitate the workgroup process. Over the course of five meetings, workgroup members evaluated progress, reviewed evaluation results from Oregon Public Health Institute, identified gaps and unmet needs, developed recommendations, and constructed funding scenarios supported by cost estimates for implementation.

Principles

Workgroup recommendations were developed with the following four underlying principles:

- Acknowledge responsibility of both landlords and tenants. Hold repeat offenders accountable for their behavior.
- Healthy housing is a crucial health support element of the City. Landlords engaged in the rental housing business directly impact housing quality, public health, and equity.
- Landlords and tenants need education about their rights and responsibilities, how to maintain healthy housing, and the housing maintenance requirements of Title 29.
- Funding required to enforce healthy rental housing should be provided by fines and fees levied for violations and cost recovery with additional budget gaps met by public funds.

State of Inspections Program

Caseload backlog

- The number of Housing Cases/Complaints for FY 12-13 (July-December) from FY 11-12 has increased 10% or 73 cases (from 742 to 815).
- The number of Priority 3 cases that have not been inspected as of December 31, 2012 is 110.
- The number of Housing Complaints not responded to within 1 month is 103 or 11.4%, in the Enhanced Complaint Districts the number is 82 or 29% out of 283 open cases.
- Citywide average: 17.2% of open cases not responded to within 5 business days. 104 have not been responded to within 15 days. Average response 8.5 days.
- Enhanced districts: 34.6% of open cases were not responded to in 5 business days. 17.5% are more than 15 days. Some over 30 days. Average response 15 days.
- While NIT doesn't have caseload expectation for inspectors in place as a productivity measure, the program estimates the average inspector has 219 field days per year.
- A Temporary Service Level Reduction went into effect on January 7, 2013. The current number of Housing Inspectors has decreased by 1 or 14% from 7 to 6 due to a vacancy.

Expected increase in volume by 50%

- Code change effective January 2013 makes enhanced system participation no longer optional. Expected impact based on current participation rates is a 50% increase. Of those who currently qualify for enhanced inspections, only half are voluntarily participating.

Increased collections

- Collection revenue going up. Stronger collection mechanisms generated over \$2.45 million since FY 2008-2009.
- Fines to be collected. Currently there is \$8.7 million in liens receivables and the amount is growing.

Enforcement tools limited

- Current NIT code hearings policy in place to protect tenants in extreme cases is ineffective. In today's economic environment, the cost of code hearings prohibits effective access to this enforcement mechanism. This leaves inspectors with the simple recourse of fines and liens, which fails to compel action among a percentage of repeat code violators.
- Affordable alternatives are needed to provide for tenant voice and vacate option when circumstances preclude safe habitability of a rental unit.

Summary of Recommendations

A full set of recommendations along with cost estimates are attached.

Prioritize Education, Equity, Evaluation, and Expansion of enhanced inspections.

Education. Educate those who are most vulnerable. To be effective, education needs to go beyond simple conversations with inspectors to include prevention-focused materials and targeted remediation resources.

- ◆ **Provide prevention education** when it is most needed: prior to inspection so that problems are prevented and during inspection to facilitate quick, collaborative remediation of issues. Finalize existing materials and make resources available online and in Spanish, Russian, Vietnamese and Chinese.
- ◆ **Partner with aligned institutions** to support prevention. Work with SUN system to educate providers to identify situations ripe for education and distribute resources to those who need them.
- ◆ **Continue to educate during inspections.** Case management matters. Collaborative problem solving among landlords and tenants requires active involvement and follow up from inspectors.
- ◆ **Provide resources at inspection** to increase compliance and support accountability.

Equity. Collection of ethnicity data and outcomes for traditionally at risk populations is essential to assess ongoing impact of the enhanced inspection system.

- ◆ Provide equity training to intake staff to support quality data collection.

- ◆ Expand relocation funds to ensure resources are available year-round to support families moving from housing found to be unsafe and uninhabitable.

Evaluation. Evaluate efficacy of public investment and substantiate impact.

- ◆ Initiate collection of ethnicity data in TRACS.
- ◆ Provide two-year evaluation of inspections data to assess outcomes.

Strategic Expansion of enhanced inspections.

- ◆ **Target limited inspection services to vulnerable people most at risk.** As housing quality improves, demand for inspections in enhanced inspection districts will decline over time. As capacity becomes available, the enhanced inspection system can expand Citywide to provide equity for everyone based on the system.
- ◆ **Staff at appropriate levels to meet response standards.** Factoring realistic inspector workload is essential to establishing adequate response times for both initial response and certification of repairs or assessment of penalties.
- ◆ **Continue to improve system efficiency.** Neighborhood Inspections Team Stakeholder Advisory Committee (NITSAC) will consider an administrative vacate policy as an efficient alternative to the current code hearings process and continue to use existing funds to take the worst cases to the codes hearing officer.

Research Based Case for Investment

Oregon Public Health Institute's Health Impact Assessment (HIA)¹ of the City of Portland's housing inspection programs compared the standard inspection model with the pilot enhanced model for rental housing in East Portland. The study, completed in 2012, found that the enhanced model has greater potential to contribute to improved health and health equity.

The steering committee for this HIA included representatives from Metro Multifamily Housing Association, Rental Housing Association of Greater Portland, Portland Bureau of Development Services, Community Alliance of Tenants, Multnomah County Health Department, and the Portland Housing Bureau. The project received funding from the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts.

Health Impact Assessment Findings

Housing inspections and the subsequent improvements to housing conditions reduce the occurrence and severity of multiple health problems.

Healthy housing interventions are most effective when they address both housing conditions and tenant/landlord behaviors.

¹ HIAs are a policy and planning tool for providing decision-makers with information about how their proposed plans and policies will likely impact the health of the communities they serve. HIAs offer recommendations about how to maximize the health benefits and minimize negative health impacts of the decision, including an equity assessment of the relative distribution of benefits and burdens throughout the population.

- Research and best practices for housing-related health interventions demonstrate that education of landlords and tenants in combination with housing inspections is more effective than either service provided alone.
- The city's inspections program currently lacks an educational component for either for landlords or tenants. Educational materials and strategies for using them have been developed but due to the lack of funding for translation, distribution, and printing, BDS has not utilized them

The enhanced model reduces barriers to reporting and improves health equity.

The enhanced model is more effective in improving health-related housing conditions. Analysis of BDS's rental inspections data shows that a complaint made under the enhanced model produced 75% more improvements than those made under the standard model.

Inspections information and detailed data related to health outcomes would be useful to

- Help understand and quantify the health impacts of the inspections program, and help BDS and its public health partners develop educational materials and implement intervention programs.
- Help BDS determine which areas of the city would best benefit from the enhanced model and the additional staffing resources it requires.

Expanding the enhanced model will increase homes inspected and improved

- Strategically expanding the enhanced model to the three other BDS districts in North and Northeast with the highest rates of cost-burdened households would more than double the number of renter households covered.
- Enhanced inspections would not impose any additional burden on property-owners because the program is "self-limiting"

Funding Model

In accord with the QRHW's fourth principle, *Funding required to enforce healthy rental housing should be provided by fines and fees levied for violations and cost recovery and public funds*, and the additional commitment to *transparency in government*, the workgroup recommends the following means of funding investments in quality rental housing:

1. **Dedicate the business license exemption funds to NIT rental inspections program.** These revenues are the direct result of the 2008 QRHW recommendations removing exemptions for licensing for owners of 9 or fewer residential rental units. The exemption was removed for the purpose of enhancing performance standards in rental housing. These resources, or their equivalent, should be allocated directly for their intended purpose.
2. **Dedicate allocation of increased revenue from collections to increase capacity for enhanced inspectors.** NIT is still not at current or previous Service Levels with existing Housing Inspection Staff. A backlog of cases now grows larger with the end of optional participation in Enhanced Inspections. Staffing levels out of pace with the volume of violations threatens to reduce overall housing quality increasing the burden of health and equity impacts throughout Portland.

3. **Commit to convert current NIT general fund allocation from one time to ongoing funds.** Program stability and predictability play a critical role in maintaining overall quality of Portland's stock of rental housing. Reducing the capacity of inspectors results in delayed and deferred maintenance leaving more rental units out of compliance and more tenants at risk. High-performing landlords are supported by an effective system that promotes quality.
4. **Access NIT reserves to maintain capacity.** Set a threshold minimum for NIT capacity and allow NIT (and no other program) to access its reserves in excess of the 25% required by the BDS 5 year plan to maintain inspector capacity at minimum levels.
5. **Consider a limited time per-unit rental fee to meet present and future demand for Enhanced Complaint Inspections.** If the City commits to all of the above funding methods and demand for NIT services exceeds inspector capacity, one alternative may be to consider a small per-unit rental fee of \$3-\$5 to capitalize additional inspectors to manage current caseload backlog during transition to the full Enhanced Complaint inspection system and expand to North and Northeast Portland. Such a request should be approached in recognition of the financial demands placed on the Rental Housing Industry by recent or pending per-unit fee structures in adjacent municipalities.