

September 11, 2018

Regional Affordable Housing Task Force
516 3rd Avenue, Suite 1200,
Seattle, WA 98104

Dear Regional Affordable Housing Task Force Members,

Thank you for the thoughtful and conscientious planning to develop a regional affordable housing strategy. The Washington Multi-Family Housing Association (WMFHA) believes many of the recommendations will make significant inroads into the affordable housing crisis in this region. As discussed, this is a multi-faceted approach that must take into consideration of a wide variety of stakeholders. Below is WMFHA's position on one piece of Goal 4, just cause eviction.

The State of Washington is suffering from high demand for housing and a severe lack of supply of residential units, including rental homes. King County is in many ways the epicenter of strong growth leading to high demand for housing. By 2040, collectively we must build 137,000 apartment homes to meet the demand in Washington State.¹ WMFHA provide this letter as perspective on one issue being raised as a "solution" to the broader issue of creating and maintaining affordable housing.

Background:

Across the United States, the majority of jurisdictions, provide at least 30 days' notice to terminate a tenancy, while others have a tiered notice requirement based on the number of years of tenancy.² The overwhelming majority of jurisdictions do not have "just cause eviction."³ In fact, there are 80,004 jurisdictions⁴ in the United States, but only 26 have just cause eviction.⁵ The majority of these jurisdictions also have rent control. In some cases, "just cause" is even more limited and applied to rent controlled units only or a specific subset of rental units; not the broader market itself.

Washington's termination statute is among the shortest in the country, standing at 20 days' notice to terminate a month-to-month tenancy. Under State law, no reason is required to be provided in the notice in order to terminate a tenancy. Only Seattle has just cause eviction, which was passed in 1980 at the same time as an initiative to create rent control. Just cause eviction in Seattle became effective in 1981, while the rent control citizen initiative failed by a 2-to-1 margin.

¹ www.weareapartments.org

² See **Appendix A** - Notice to Terminate/Change a Month-to-Month Tenancy 50 State Statutory Review: Abstract, December 2012

³ In 1981, the State Legislature enacted RCW 35.21.830, which preempts local jurisdictions from regulating rent.

⁴ United States Census, 2012

⁵ See **Appendix A** – Just Cause Eviction, Updated July 2018

Much is being made about just cause eviction as a means to maintain “naturally occurring affordable housing” across Washington State. It is often said that just cause eviction protects stability, prevents mass displacement and preserves due process. However, just cause eviction does not provide long-term security or restrict displacement resulting from a change in ownership and/or subsequent rent increase. Peer reviewed research supports this, finding that just cause eviction is not sufficient to stabilize the lives of low-income people and prevent homelessness or forced removal from the community.⁶

Just cause eviction does not create more affordable housing or preserve existing affordable housing. In every jurisdiction across the country, a sufficient basis to terminate a tenancy includes substantial rehabilitation, change of use, or demolition. Rent increases of any amount are also permissible under just cause.

Affordable housing opportunities are best created through public-private partnerships⁷, like reduced cost land sales, by-right development opportunities, eliminating regulations to speed up delivery of housing units, and waiver of taxes and large fees associated with development, particularly affordable housing development.

Just cause eviction is an ineffective means of protecting vulnerable renters from rent increases, displacement, and retaliation.

- **Just cause eviction does not prevent termination** resulting from rehabilitation, change of use, or demolition. The Seattle just cause eviction ordinance is coupled with a tenant relocation assistance ordinance which permits termination after a process. Other ordinances also protect an owner’s property rights in allowing sale of the property, while permitting an extended timeframe for tenants to relocate.
- **Just cause eviction does not decrease the eviction rate.** After Seattle’s just cause eviction ordinance became effective in 1981, the eviction rate did not begin to decrease until 2001; 20 years after implementation. Since 1996 public housing agencies have had to use a just cause variant “good cause” with many of the same factors required to terminate a tenancy.

Eviction statistics in Tacoma provide the clearest example of why just cause eviction is ineffective. The court operated eviction rate is higher for units operated by the Tacoma Housing Authority than the reported eviction rate in Tacoma itself, and even that of the largest private owner/operator of rental housing in Tacoma.

- According to Evictionlab.org the **eviction rate for the city of Tacoma is 0.93%**.⁸
- The eviction rate for the **Tacoma Housing Authority is 1.10%**.⁹

⁶ Barton, S. (2015). *Review of the City of East Palo Alto Rent Stabilization Program*.

⁷ One example is the [Live Denver Program](#).

⁸ According to Eviction Lab, the eviction rate for Spokane, WA is 1.66%

- Dobler Management owns or operates 6,258 rental units in the South Sound filed a Summons and Complaint based on a 20-day Notice to Terminate **eight times in 2017, representing an eviction rate of 0.12%**.¹⁰

Eviction is a circumstance of larger societal factors including but not limited to stagnant wage growth and the overall lack of affordable housing options created by regulations which limit development or increase the cost to build housing.

Successful programs that provide eviction prevention assistance prior to the filing of a Summons and Complaint for unlawful detainer keep families in their home in the face of unforeseen financial difficulties.

- **Just cause is not sufficient to sustain family and community stability.**¹¹ While stability among neighbors creates and maintains the social ties necessary for a safe and supportive community, just cause eviction does not meet the benchmark to achieve this goal. Because there are a variety of reasons a rental housing provider may terminate a rental contract, the majority of which are based on tenant behavior, a just cause eviction policy does not provide stability. A review of East Palo Alto's Rent Stabilization Program, provides

“low-wage working families often suffer from unstable employment due to no fault of their own and interruptions in income can easily result in late rent payments that can create “good cause” for eviction unless the landlord is willing to be flexible or unless there are sources of assistance available from extended families, charities or government.”¹²

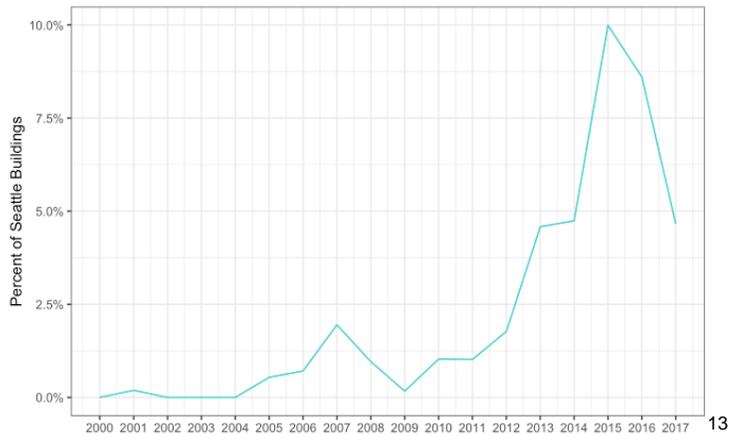
Strong administrative enforcement of the existing State law retaliation provision will provide better access, and better protections for renters. Additionally, public-private partnerships which create long-term affordable housing options have shown to be successful alternatives to affordable housing crises across the country.

- **Just cause eviction does not decrease rent increases or prevent large rent increases from occurring.** Washington State has preempted local jurisdictions from regulating or implementing controls on rent. This is not the problem. Temporary supply constraints result in the rare phenomenon of large rent increases. Rent is most commonly set by market forces and rarely dictated by the sole discretion of the property owner. Rarely does the market allow for rent increases greater than 10%.

¹⁰ Dobler Management filed Summons and Complaint for Unlawful detainer 72 additional times for failure to pay rent.

¹¹ Barton, S. (2015). *Review of the City of East Palo Alto Rent Stabilization Program*.

¹² *Id.*



Moreover, market analytics showing large year-over-year rent gains are skewed by the introduction of new construction apartment homes coming online. This is called the “skew of the new.” In Seattle for example, in only one year of the prior ten years have average rents increased by more than 10 percent; a period of maximum constraint in the market.¹⁴ Even then, less than 2% of apartment buildings increased rent more than 10% in the prior decade.¹⁵

- **Just cause eviction does not prevent retaliation.**¹⁶ Unfortunately, acts of retaliation will be attempted and will continue to be committed by a few. Strong enforcement of existing laws reduces acts of discrimination, but cannot altogether eliminate violations. To provide an analogy, for 30 years disability has been a protected class in the United States. Yet claims of discrimination based on disability continue to lead all other claims of discrimination nationally and locally.

Basis of Complaint ¹⁷	Number of Complaints	Percentage of Total Complaints
Disability	4,908	59%
Race	2,154	26%
National Origin	917	11%
Familial Status	882	11%
Sex	800	10%

¹³ ECONorthwest

¹⁴ ECONorthwest

¹⁵ ECONorthwest

¹⁶ Under Washington State unlawful detainer law, retaliation is a permissible affirmative defense under the law. Defendants successful in claims related to retaliation should also have their dismissed eviction records considered “of limited dissemination” under RCW 59.18.367.

¹⁷ Fiscal Year 2016 HUD Annual Report on Fair Housing

Retaliation	785	9%
Religion	204	2%
Color	143	2%
Total	8,385	

- **Analysis of complaints related to Seattle’s Just cause Eviction Ordinance does not support the effectiveness of such an ordinance.**¹⁸ Of the 253 complaints made resulting from a termination notice in the preceding 28 months, 81 of those claims appear to be from a 20-day termination notice. Of those 81 20-day notice complaints, 74 lack a reason on the notice itself. There is no evidence to support any correlation between a lack of a reason on the notice and there being no reason at all.

Just cause eviction is not proven to be a policy effective in preventing displacement, homelessness or affordability. This coalition of housing builders, developers, owners, and operators stand firm in finding practical and effective policies that provide real relief to renters across Washington State, but particularly in Spokane, where the need is great and commitment to finding solutions is strong.

Alternatives exist to provide effective targeted protections for renters, particularly vulnerable renters in a tight rental market. Below are a series of effective regulatory tools that provide immediate measures for renters, particularly vulnerable renters in local communities:

1. Increasing the notice provisions for large rent increases of 10% or more from 30 days to 60 days;
2. Adding local administrative enforcement provisions to enforce claims of retaliation;
3. Providing long-term educational opportunities for both landlord and tenants that includes summaries of rights and responsibilities and information on how to respond to various notices.
4. Increasing eviction prevention assistance to support renters vulnerable to eviction because of reduced income, or unexpected major expenses.

Thank you for the opportunity to provide this perspective on the important issue of affordable rental housing in King County. We look forward to a continuing partnership between all interested parties to making meaningful and substantive progress on this region’s affordable housing crisis.

¹⁸ The City of Seattle has 30,947 rental properties with 154,429 rental units.

Sincerely,



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