

MEMORANDUM

November 29, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Action/ADDENDUM #2:** Bill 19-15, Landlord –Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations

Since the packet and first addendum went to print, Council staff has received a memorandum from Councilmember Elrich describing certain amendments that he may offer when the Council considers Bill 19-15. These amendments would, in large part, reinsert provisions into the Bill that the PHED Committee recommended removing or modifying.

The possible amendments described in the memorandum are: (1) a prohibition on rent surcharges when a tenant continues on a month-to-month basis for the first six months that a tenant is month-to-month, but permitting a landlord to increase the rent after this six month period notwithstanding the general limit on rent increases to once every 12 months; (2) a requirement that a unique identifier be provided for each unit for which DHCA collects data, so that changes in rent charged for the unit can be tracked over time; (3) a requirement that DHCA publish information on rental housing units listing the average rent per unit type in each building and information on the most recent rent increase relative to voluntary rent guidelines; and (4) requiring a “base lease,” developed by DHCA, to be used in all leases for rental housing in the County, similar to the “standard form lease” requirement in the introduced Bill. Councilmember Elrich’s memorandum is at ©1-4.

This packet contains:
Councilmember Elrich memorandum

Circle #
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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

MARC ELRICH
COUNCILMEMBER AT-LARGE

MEMORANDUM

Date: 11/28/2016
From: Councilmember Marc Elrich (At-large) *ME*
To: County Council Colleagues

I am pleased that Bill 19-15 has passed out of the PHED Committee. The revised legislation that the Council will be reviewing includes many of the important provisions from the original legislation as well as some welcome additions. However, I am asking that the following provisions be included in the legislation – these provisions were included in some form in the original legislation but the proposals below have been modified to reflect suggestions and comments from our colleagues and others.

Here are the following issues I'd like to add to the legislation:

1. **Limits on month-to-month surcharges.** Most (if not all) of us have heard from tenants who have been in the untenable position of having to choose between a lease renewal with an unaffordable rent increase and a surcharge on the monthly rent ranging up to 50%+ if the tenant chooses not to renew and is allowed to continue on a month-to-month basis. The original legislation would have permanently banned month-to-month surcharges. During the PHED worksession, I proposed allowing the month-to-month rent to increase by no more than the percentage of the offered lease. As a compromise between time a tenant needs to find a new affordable unit and the landlord's desire to encourage long term leases, I propose a 6-month ban on month-to-month surcharges. After that time, the landlord would have the option of imposing a surcharge. I believe this compromise would give the tenant sufficient time to choose between committing to a lease with increased rent or finding another, more affordable place to live.

Proposed legislative language:
Amend lines 349-355 as follows:

(a)___A landlord must not increase the rent until [[at least two]]
[2] [[months]] 90 days after the landlord gives the tenant

written notice of the increase. [[A landlord must give the tenant at least three months written notice before an increase of more than 100 percent of the rent increase guidelines.]] [[A]] Except as provided in Section 29-55, landlord must not impose more than one rent increase on a tenant in any 12-month period. Each written rent increase notice must contain the following information:

AND amend lines 380-383 as follows:

29-56.]] 29-55. Rent surcharges prohibited. [[Rent surcharges prohibited.

A landlord must not charge more than the rent]] [[charged]] [[offered for the]] [[prior]] [[renewed lease term when a tenant continues occupancy on a month-to-month basis.]] A landlord must not charge more than the rent offered for the renewed lease term when a tenant continues occupancy on a month-to-month basis for at least six months. After six months, a landlord may increase the rent once notwithstanding the limitation of Section 29-54(a).

2. Data collection for policy analysis. Accurate information is essential for policy makers, advocates and others to assess and determine the state of rental housing in our county. Are rents increasing rapidly or moderately? Is market-rate rental housing affordable in all or parts of the county? The original legislation would have required publication of rent increases for all units; the revised legislation requires publication of the data per building and then averaged per unit size (ie, the rent for 1-BR units in building X is \$y; the average rent for 2-BR units in building X is \$z....) I support that revision but ask that the per-unit data be collected with consistent (across the years), unique identifiers be available to policy analysts and non-profit organizations upon request.

This requirement is more important than it may seem at first read. Currently, we do not know the state of rental housing in our county. That lack of information hinders our ability to craft targeted, effective policy solutions. Anecdotally, we hear that rents are rising rapidly and repeatedly, but we cannot confirm that. We know that rents in certain areas of the county are much higher than other areas, but we do not know the size of the difference and how much it

has changed over time. This information does not have to be published on the website, and identifying factors (such as the actual unit number) should not be available at all, but the specific data is essential to informed decision making.

Proposed legislative language:

Insert at line 305

(10) Each rental unit must have an identifier that is unique and consistent year to year and protects the confidentiality of personal rental information.

2. **Data publication for consumer knowledge.** While I am pleased that data will be published about average rents per building by unit type, I would also like to reinstate the directive from the original legislation that would also publish that information in relation to the Voluntary Rent Guidelines (VRG). The VRG is intended to be a good measure of a reasonable rent increase that allows property owners to cover their expenses and make a profit. I realize that sometimes increases are above the VRG for understandable reasons, such as renovations or major maintenance for a building; however, it would be helpful for prospective tenants to have a picture of the trends in various buildings.

Proposed legislative language:

Replace lines 313-325

The Director must publish on the County website a table listing all rental housing facilities consisting of two or more dwelling units listing per unit type in each building the average rent. The building listing must also include the most recent average rent increase by unit type by the following categories:

- (1) 100 percent or less of the applicable rent increase guideline;
- (2) greater than 100 percent, up to 125 percent of the applicable rent increase guideline;
- (3) greater than 125 percent, up to 150 percent of the applicable rent increase guideline; and
- (4) greater than 150 percent of the applicable rent increase guideline.

4. Clear and understandable leases. I would like to propose an amendment regarding the leases. The original legislation would have required a standard lease, which the Committee did not support. I would now like to suggest "base lease language." The existing model lease from the Department of Housing and Community Affairs could be the basis of the base lease language. Any additional language for the lease would be clearly delineated as not part of the "base lease" section. Before this provision is implemented, the first "base lease" would be reviewed and commented on by the public, including tenant and landlord representatives, and by the Council. Subsequent revisions of the base lease would be publicly available 90 days before implementation. This provision would replace the "summary sheet" proposal from the Committee.

Rationale for the proposal: In practice, a lease is often offered and signed in the leasing office with little time for review. If every lease had the same base lease language, then once a prospective tenant has read it (available beforehand on-line) and had time to understand it, she could be assured that this text would be the same in each lease she was offered. She would then be able to concentrate on any additional language or addendum added as being unique to this specific building at the moment of choosing or deciding on a rental unit.

A clear and understandable base lease protects both tenants and landlords and facilitates a clear understanding of the rights and responsibilities of each.

Proposed legislative language:

Sec. 29-27. Contents of lease

Inset at line 145

(t) include a base lease, as developed by the Director of Housing and Community Affairs and published on the Department's website.

In sum, I believe that these proposals are reasonable and useful in providing legislation that helps improve rental housing in our county. I hope you will support these amendments Bill 19-15.