

**MEMORANDUM**

November 23, 2016

TO: County Council

FROM: Josh Hamlin, Legislative Attorney 

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

**Planning, Housing and Economic Development Committee recommendation (3-0):**  
Enact Bill 19-15 with amendments.

Bill 19-15, Landlord –Tenant Relations – Licensing of Rental Housing – Landlord-Tenant Obligations, sponsored by Lead Sponsor Councilmember Elrich and Co-Sponsor Councilmember Navarro, was introduced on April 21, 2015. A public hearing on the Bill was held on June 18, 2015 and Planning, Housing and Economic Development Committee worksessions were held on April 11, 2016, June 27, 2016, August 1, 2016, September 15, 2016 and October 27, 2016.

Bill 19-15, as introduced, would:

- (1) provide for annual inspection of certain residential rental properties;
- (2) require the use of a standard form lease and applicable optional provisions for certain residential rental properties;
- (3) require the publication of certain information related to rental housing;
- (4) require the Department of Housing and Community Affairs to review certain rent increases;
- (5) provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs;
- (6) provide certain rights to tenants facing rent increases; and
- (7) generally amend the law related to landlord-tenant relations.

## Background

Chapter 29 of the County Code governs landlord-tenant relations. It establishes the Commission on Landlord-Tenant Affairs (COLTA) as a mechanism for resolving disputes between landlords and tenants and provides a process for resolving such complaints. The law also creates a licensing regime for rental housing, including a requirement that each apartment complex and personal living quarters building<sup>1</sup> be inspected by the Department of Housing and Community Affairs (“DHCA”) at least once every three years. Chapter 29 also imposes certain requirements on landlords and tenants, and includes a number of requirements for leasing practices and the contents of all rental housing leases in the County. Other key components of the County’s landlord-tenant law are the annual collection by DHCA of extensive data related to rental housing in the County and the requirement that the County Executive issue voluntary rent increase guidelines each year.

Bill 19-15 was introduced to address some of the issues raised in the 2010 Report of the County Tenant Work Group (TWG)<sup>2</sup>. The Bill would make several changes to the landlord-tenant law, principally aimed at enhancing the existing rights of tenants and improving the quality of rental housing through increased inspections. The amendments fit generally into three categories: (1) leases and landlord-tenant obligations; (2) licensing and data collection; and (3) rent adjustments.

The Bill was scheduled for a PHED Committee worksession on July 27, 2015, but the worksession was postponed at the request of the sponsor. Councilmember Elrich circulated a revised draft of Bill 19-15 for consideration by the Committee in conjunction with the introduced Bill. The revised draft included several changes to existing provisions of the introduced Bill related to leases, inspections, and the voluntary rent guidelines. It also included two entirely new provisions requiring landlords to provide meeting space for tenant associations and to provide information on utility billing in units without individual meters.

### *Leases and Landlord-Tenant Obligations*

Bill 19-15 would require that the Director of DHCA publish and provide upon request to landlords and tenants: (1) a standard form lease and model optional provisions; and (2) a landlord-tenant handbook. These documents would have to be available in English, Spanish, French, Chinese, Korean, Vietnamese, and other languages, as needed. The Bill would require the use of the form lease and any appropriate model optional provisions for all leases of rental housing in the County, and would require a landlord to provide a tenant with a copy of the landlord-tenant handbook or, at the tenant’s option, a reference to the handbook maintained on the County website, at the beginning of the lease term.

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<sup>1</sup> County Code § 29-1 defines “Personal living quarters building” as “any building or portion of a building that: (a) contains at least 6 individual living units; (b) has cooking facilities that the residents may share; and (c) may also have shared sanitation facilities.”

<sup>2</sup> [http://www6.montgomerycountymd.gov/Content/EXEC/TWG/pdf/twg\\_report\\_3-2010.pdf](http://www6.montgomerycountymd.gov/Content/EXEC/TWG/pdf/twg_report_3-2010.pdf). Additional information and discussion of recommendations of the Tenant Work Group can be found in the packet for the PHED Committee discussion on February 25, 2013.

The Bill would also require leases to contain provisions that would: (1) allow a tenant to rescind a lease within two days after signing the lease; and (2) generally allow a tenant to convert a one-year lease to a two-year lease within 30 days after signing the lease. It would also require that a landlord offer lease renewals for two-year terms unless the landlord has reasonable cause to offer a different term. Current law generally requires two-year initial terms, but is silent on renewals. The Bill would also add a new remedy to those available to COLTA in resolving landlord-tenant disputes. Upon a finding that a landlord has caused a condition that violates the terms of a lease (a “defective tenancy”), COLTA would be empowered under the Bill to issue an order permitting a tenant to correct the condition that constitutes the defective tenancy and abating the tenant’s rent in an amount equal to the reasonable cost incurred by the tenant.

### *Licensing and Data Publication*

Bill 19-15 also makes changes to the inspection component of the existing rental housing licensing program. The Bill would require annual inspection by DHCA of all rental housing consisting of two or more dwelling units, including each apartment complex and personal living quarters building. However, it would permit DHCA to inspect certain properties – those whose owners have a demonstrated history of compliance with applicable laws – once every three years. The Bill would also require a landlord found in violation of applicable laws more than twice in two consecutive years to pay the cost of the next inspection of the property. Also, while current law requires a landlord to agree to notify any affected tenant whose unit requires inspection, Bill 19-15 would require that the notice be given at least 72 hours in advance of the scheduled inspection.

The Bill would require the Director of DHCA to publish, unless the publication is prohibited under State law, the information collected in the rental housing data survey on the County website, including a table listing all rental housing consisting of two or more dwelling units and the average rent increase for each unit 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.

The Bill would require the rent increase guidelines to be based on the increase or decrease in the Consumer Price Index for all urban consumers (CPI-U), where current law references the residential rent component of the CPI-U. All rent increases greater than 100 percent of the applicable rent increase guideline would be reviewed by DHCA under the Bill, to recognize patterns of increases that particularly harm tenants.

### *Rent Adjustments*

Finally, Bill 19-15 would add protection for tenants facing rent increases. Under the Bill, a landlord would be required to give a tenant at least three months written notice before imposing an increase of more than 100 percent of the applicable rent increase guideline. The first of two new sections added by the Bill to Chapter 29 would permit a tenant to ask the Department to

confirm that a rent increase complies with the law. The section would also permit a tenant facing a rent increase that exceeds the applicable guideline to continue occupancy for up to two months after the lease expiration on a month-to-month basis at the current pre-increase rent. In this circumstance, the Bill would require the tenant to give at least 15 days' notice to the landlord before vacating the premises. The second new section would prohibit "rent surcharges," providing that a landlord must not charge more than the rent charged for the prior lease term when a tenant continues occupancy on a month-to-month basis.

### **Public Hearing and Correspondence**

A public hearing on the Bill was held on June 18, and there were 23 speakers. Clarence Snuggs, Director of DHCA, spoke on behalf of the County Executive and expressed general support for the Bill, but identified several problematic provisions (©39). Specifically, Director Snuggs identified the Bill's annual inspection requirement, standardized lease and addenda requirements, tenant lease conversion option, and continued occupancy provisions as areas of concern for the Executive. State Senator Jamie Raskin spoke in support of the Bill (©40), saying that it "effectively advances the security and well-being of hundreds of thousands of Montgomery County residents in their homes."

Nicola Whiteman of the Apartment and Office Building Association of Metropolitan Washington (AOBA) spoke in opposition to the Bill (©41-52). In AOBA's view, "Bill 19-15 advances unnecessary, duplicative proposals which are codified in current law and/or being implemented by the Department of Housing and Community Affairs." AOBA stated particular objection to the prospect of a required standard lease, highlighting landlords' need for flexibility in lease content. Mitchell Farrah of the Washington Metropolitan Chapter Community Association Institute (WMCCAI) also spoke in opposition to the Bill, raising particular concerns about the standard lease requirement and a perceived imbalance in landlord and tenant culpability for violations, and speaking generally against limitations on rent increases (©53-55).

The majority of the speakers at the public hearing spoke in support of the Bill and of these, both tenants and tenant-advocates were well-represented. The primary concern conveyed by tenants was that of unfettered rent increases, and they expressed hope that Bill 19-15 would alleviate this concern (see ©56 and ©58). Advocates spoke more generally of the need for housing stability for renters (see ©59 and ©63). Zorayda Moreira-Smith of CASA offered testimony in support of the Bill, and requested that the Council ensure that the various notices required under Chapter 29 be provided in multiple languages, and consider ensuring that required two-year leases be under the same terms as one year leases (©64-65).

The Montgomery County Renters Alliance submitted a letter dated July 23, 2015 specifically addressing the Fiscal Impact Statement (©66), pointing out that the statement contains nearly two pages warning of impacts of rent control, which is not a component of Bill 19-15. The Housing Opportunities Commission of Montgomery County (HOC) submitted a letter dated July 23, 2015, outlining HOC's concerns about the impacts of the Bill (©67-69). In the letter, HOC indicates that the three month notice for rent increases would pose problems, as could the provision making certain landlords responsible for the cost of inspections. HOC also expressed concern

about the standard form lease requirement and questioned the value of shifting the basis for the voluntary rent guidelines to the CPI-U as a whole (rather than the residential rent component).

### **PHED Worksessions**

The PHED Committee convened panels of stakeholders for worksessions on the Bill on April 11, June 27, and August 1. Panelists at these worksessions included: Clarence Snuggs, Director, Department of Housing and Community Affairs; Stacy Spann, Executive Director, Shauna Sorrells, Director of Legislative and Public Affairs, and Kayrine Brown, Chief Investment and Real Estate Officer, all of the Housing Opportunities Commission; Robert Goldman, Executive Director, Montgomery Housing Partnership; David Hillman, Chief Executive Officer, Southern Management Corporation; Madiaw Diop, Tenant/Montgomery Housing Partnership Board Member; and Matt Losak, Executive Director, Montgomery County Renters Alliance. The Bill's sponsor, Councilmember Elrich, also attended all of the worksessions. The Committee and panelists discussed all of the proposed changes to the law included in the introduced Bill. In addition to these three worksessions, the Committee also held worksessions on September 15 and October 27.

During the first three worksessions, the Committee reached general consensus on a number of issues presented by the introduced Bill. At the fourth worksession, the Committee reconsidered the Bill's standard form lease requirement, and recommended deleting this requirement. The Committee recommended an amendment to require that each lease for rental housing located in the County contain a plain language summary of tenant rights and responsibilities in a form approved by executive regulation. The Committee also recommended an amendment to the Bill to require landlords of buildings constructed before July 1, 1978 to provide the same information regarding the calculation of gas and energy billing as is required under State regulation for newer buildings. At the fifth and final worksession, the Committee discussed and resolved the following matters: (1) the provision of free meeting space to tenant organizations; (2) the addition of a "repair-and-deduct" provision, allowing a tenant to make certain repairs and deduct the cost of the repairs from the tenant's rent under certain circumstances; (3) the introduced Bill's prohibition on landlords charging higher rent to tenants opting to go month-to-month ("rent surcharges"); and (4) the frequency of DHCA inspections of rental housing.

### **Committee-Recommended Bill**

The PHED Committee recommends enactment of Bill 19-15 with amendments. Several of the provisions in the introduced Bill were retained, and there were also some substantial amendments. All of the Committee-recommended Bill's changes to *existing* law are summarized below:

- Require the Director to publish and maintain on the County website, in multiple languages, a model lease which may be used in each written lease for rental housing located in the County (©2, lines 8-18).
- Require the Director to publish and maintain on the County website, in a printable format and multiple languages, the Landlord-Tenant handbook (©2, lines 19-27).

- Require translation of the standard form lease and Landlord-Tenant Handbook into six identified languages and others as deemed necessary by the Director (©2, lines 17-18; 25).
- Require that the Landlord-Tenant Handbook be reviewed at least biennially (©2, line 26).
- Require DHCA to report annually to the Council and Executive on the status of the inspection program (©3, lines 28-45).
- Require DHCA to inspect “problem” properties annually, while retaining a triennial inspection schedule for all properties (©3-5, lines 48-88).
- Require a landlord to give 72 hours’ notice to tenants of scheduled inspections when inspections are part of DHCA’s regular inspection program (©5, lines 96-98).
- Require a landlord of a property on an annual inspection schedule to provide quarterly updates to the Director listing tenants’ maintenance requests (©5, lines 99-101).
- Authorize the Director to order a landlord to correct a violation of applicable law in a specified period of time and, if the landlord does not correct the violation in the specified period, authorize the tenant to correct the violation and deduct the reasonable cost from the tenant’s rent (©5-6, lines 103-111).
- Require landlords needing extra inspections when violations are not corrected to pay the cost of the inspections as set in regulation (landlord is responsible for third and subsequent inspections when notified of a violation that is not corrected before reinspection) (©6, lines 114-118).
- Expand existing circumstances in which a tenant may terminate a lease upon 30 days’ written notice to include: (1) when a tenant or the tenant’s child is a victim of domestic violence; (2) when a landlord harasses the tenant or violates the tenant’s privacy rights; (3) when the tenant or tenant’s spouse is 62 years of age or older and can no longer live independently and must move to a nursing home or other senior citizen housing; and (4) when the tenant is incarcerated or declared mentally incompetent (©6-7, lines 125-139).
- Require that each lease for rental housing located in the County generally permit a tenant to convert a one-year lease to a two-year lease within 30 days after signing the lease (©7, lines 147-149).
- Require lease to include notice that DHCA is available to assist with questions about any addenda to the lease, and notice that the tenant is entitled to a hard copy of the Landlord-Tenant Handbook and that the Handbook is available on the County website (©7, lines 150-157).
- Require each lease to permit the tenant to correct violations of applicable law in the unit as authorized by the Director under §29-22(f) (©158-160).
- Require each lease to contain a plain language summary of tenant rights and responsibilities in a form established by regulation (©7-8, lines 161-171).
- Require a landlord to offer a two-year term at each lease renewal, subject to the same exceptions as the initial lease term (“reasonable cause”) (©8, lines 174-176; ©9, lines 193-194).
- Require that a landlord, at the beginning of a lease term, must provide each tenant with a hard copy of the Landlord-Tenant Handbook (printed by the landlord), unless the tenant signs a statement declining the Handbook upon referral to the electronic version maintained on the County website (©9, lines 209-213).

- Require a landlord to give a tenant 60 days' notice of the landlord's intent to terminate tenancy at the lease expiration, unless the tenant is in breach of the lease (©9, lines 214-217).
- Require a landlord to provide a tenant in a unit in a building constructed before July 1, 1978 with information related to electric and gas billing that is required for newer buildings under State regulation (©10, lines 225-230).
- Require a landlord to post a sign, in a form approved by the Director and in multiple languages, with information about filing a complaint and the retaliatory practices prohibited under this Chapter (©10, lines 231-237).
- Require a landlord of a building or complex with meeting space to make that space available without a fee for a tenant organization, or a group of tenants seeking to form a tenant organization, to discuss landlord-tenant issues, for the first meeting of each month (©11, lines 253-256).
- Authorize COLTA, upon finding the landlord has caused a defective tenancy, to issue an order permitting a tenant to correct the condition that constitutes the defective tenancy and abating the tenant's rent in an amount equal to the reasonable cost incurred by the tenant (©11, lines 270-272).
- Require that rental housing data be collected by DHCA annually (©12, lines 286-287), and include each rental facility's zip code (©12, line 295).
- Require the Director to publish the data collected, unless otherwise prohibited by law, by unit type and building, but not at the individual unit level, consistent with current DHCA practice (©13, lines 313-325).
- Provide for the establishment by regulation of a basis for the voluntary rent guidelines, as an alternative to the residential rent component of the CPI-U, that better reflects the costs of rental housing in the County (©14, lines 338-339).
- Require a landlord to give a tenant 90 days' notice prior to *any* rent increase, regardless of whether the increase exceeds the applicable voluntary rent guideline (©14, line 349).
- Require, in an uncodified section, DHCA to conduct a two-year intensive inspection program, inspecting a sample of each multifamily rental property for which a certificate of occupancy was issued before January 1, 2015 (©15-16, lines 384-392).
- Provide that the requirement that each lease include a plain language summary of rights and responsibilities applies to leases entered into or renewed after the effective date of the regulation establishing the form of the summary (©16, lines 393-397).

### **Issues/Committee Recommendations**

#### **1. Committee-Recommended Provisions Retained from the Introduced Bill**

Over the first three worksessions, the Committee reached consensus on a number of provisions that are not substantively changed from the introduced Bill. These include provisions to:

- require the Director to publish and maintain on the County website, in multiple languages, a model lease which may be used in each written lease for rental housing located in the County (©2, lines 8-18).

- require the Director to publish and maintain on the County website, in a printable format and multiple languages, the Landlord-Tenant handbook (©2, lines 19-27).
- require translation of the standard form lease and Landlord-Tenant Handbook into six identified languages and others as deemed necessary by the Director (©2, lines 17-18; 25).
- require that the Landlord-Tenant Handbook be reviewed at least biennially (©2, line 26).
- require a landlord to give 72 hours' notice to tenants of scheduled inspections when inspections are part of DHCA's regular inspection program (©5, lines 96-98).
- require landlords needing extra inspections when violations are not corrected to pay the cost of the inspections as set in regulation (landlord is responsible for third and subsequent inspections when notified of a violation that is not corrected before reinspection) (©6, lines 114-118).
- require that each lease for rental housing located in the County generally permit a tenant to convert a one-year lease to a two-year lease within 30 days after signing the lease (©7, lines 147-149).
- require a landlord to offer a two-year term at each lease renewal, subject to the same exceptions as the initial lease term ("reasonable cause") (©8, lines 174-176; ©9, lines 193-194).
- require that a landlord, at the beginning of a lease term, must provide each tenant with a hard copy of the Landlord-Tenant Handbook (printed by the landlord), unless the tenant signs a statement declining the Handbook upon referral to the electronic version maintained on the County website (©9, lines 209-213).
- authorize COLTA, upon finding the landlord has caused a defective tenancy, to issue an order permitting a tenant to correct the condition that constitutes the defective tenancy and abating the tenant's rent in an amount equal to the reasonable cost incurred by the tenant (©11, lines 270-272).
- require that rental housing data be collected by DHCA annually (©12, lines 286-287), and include each rental facility's zip code (©12, line 295).

## **2. Committee-Recommended Additions to the Introduced Bill**

The Committee considered, and recommended additions to the Bill, the following provisions to that were suggested by Councilmember Elrich during the worksessions. These additions include:

- require lease to include notice that DHCA is available to assist with questions about any addenda to the lease, and notice that the tenant is entitled to a hard copy of the Landlord-Tenant Handbook and that the Handbook is available on the County website (©7, lines 150-157).
- require a landlord to give a tenant 60 days' notice of the landlord's intent to terminate tenancy at the lease expiration, unless the tenant is in breach of the lease (©9, lines 214-217).
- require a landlord of a building or complex with meeting space to make that space available without a fee for a tenant organization, or a group of tenants seeking to form a tenant organization, to discuss landlord-tenant issues, for the first meeting of each month (©11, lines 253-256).

- Provide for the establishment by regulation of a basis for the voluntary rent guidelines, as an alternative to the residential rent component of the CPI-U, that better reflects the costs of rental housing in the County (©14, lines 338-339).

### **3. Committee-Recommended Deletions from the Introduced Bill**

After extensive conversations with the panelists over the first three worksessions, the Committee reached consensus on the deletion of certain provisions in the introduced Bill. These deletions include:

- deleting the introduced Bill’s provision allowing a tenant to rescind a lease within two days after signing (©7, lines 145-146).
- deleting the introduced Bill’s removal of reference to the *residential rent component* of the Consumer Price Index for the purpose of calculating changes in the voluntary rent guidelines (©14, line 335)
- deleting the provision in the introduced Bill requiring the Department to review all rent increases that are more than 100 percent of the applicable rent increase guideline (©14, lines 343-346).
- deleting the requirement that DHCA publish data collected in the rental housing survey with all properties sorted by the amount of rent increases relative to the guidelines (©13, lines 317-325).
- deleting the introduced Bill’s proposed new Section 29-55, which would have allowed a tenant to ask the Department to confirm that an increase complies with the law and continue occupancy for up to two months after the expiration of the lease term at the pre-increase rent (©15, lines 370-378).<sup>3</sup>

### **4. Committee Amendments to Key Provisions of the Bill**

The Committee devoted a substantial amount of time to the most contentious components of the Bill. The Committee’s consideration of these issues and recommendations are discussed in detail below:

#### **Standard Form Lease**

The TWG Report called for the “provision of a standard lease format.” The Report notes that while the County currently has a model lease available, it is not required to be used, and “is often not easily understood by the public.” As introduced, Bill 19-15 would require the use of a standard lease, drafted in clear language, in each written lease for rental housing in the County. It would also require DHCA to make available model optional provisions that must be used where applicable. The standard lease and model optional provisions would have to be available in English, Spanish, French, Chinese, Korean, Vietnamese, and other languages as needed.

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<sup>3</sup> The Office of the County Attorney indicated that the introduced Bill’s provision that would have provided a tenant with a right to continue occupancy for up to two months after a lease expires at the pre-increase rent would be in conflict with the State law giving a landlord a right not to renew a lease upon its expiration.

Currently, DHCA offers model leases in English and Spanish (see ©82-92). In addition, Section 29-27 of the County Code (©93-95) requires that all leases for rental housing contain (or not contain) several specific provisions and meet other specific requirements. At the April 11 worksession, the Committee heard from stakeholders about the rationale for a standard lease requirement, and the problems it would likely create. As expressed in the TWG Report, which recommended a standard lease requirement, leases “are complex legal documents” and even the existing model lease “is not easily understood by the general public.” Matt Losak shared the story of a tenant who was unaware of a lease provision and ran into trouble with his landlord.

DHCA raised concerns about the burden of making the standard lease available in many different languages, though the revised FIS does not seem to show a significant fiscal impact (see ©97-105). DHCA also indicated that it does review leases, since the law already requires that a copy of each written lease form used by a landlord must be filed with the Director. It was not clear whether DHCA reviews these leases proactively, or only when requested to do so by a tenant.

Questions were also raised about potential problems with direct translation of terms, and enforceability of leases in multiple languages. Mr. Spann indicated that HOC has certain clauses that must be incorporated in leases, and that financing partners often must approve leases. Mr. Hillman added that Fannie Mae and Freddie Mac would be unlikely to approve a County standard lease.

In considering what action to take on this issue, the Committee considered the problem that a standardized lease is would purportedly solve. The TWG Report seemed to focus on the lack of clarity to tenants of their rights and obligations. At the April 11 worksession, Mr. Hillman indicated that in his experience, lease problems boil down to: (1) how much rent is and when it is due; and (2) what a tenant can or cannot do in an apartment. Both suggest that assisting tenants in clearly understanding their rights and obligations under the lease, would be valuable.

A number of potential problems with a standard lease requirement were identified at the April 11 worksession. Also, the likelihood of the inclusion of a number of addenda to address matters not covered in any standard lease would lengthen an already lengthy document, and could undermine any intended clarity embodied in a standard lease. Also potentially undermining the attempt at clarity is the probability that most tenants do not read through an entire lease document, whether it is written clearly or not.

At the June 27 worksession, Council staff suggested that an alternative means could be used to assist tenants in understanding their rights and obligations under a lease, with possibly greater effect than requiring a standard lease form. A “lease summary sheet,” similar in form, if not substance, to a HUD-1 settlement statement, could clearly state a tenant’s rights and obligations, in a concise format more likely to be read than even a clearly written lease. Such a summary could include, term of lease, amount of rent, responsibility for utilities, and tenant obligations under the lease. However, the landlord-panelists seemed to indicate that a required standard form lease would be workable after all. The Committee, at that worksession, reached consensus, in the apparent absence of objection from the panelists, to retain the Bill’s proposed requirement that a standard form lease be used in all written leases for rental housing in the County.

However, at the conclusion of the August 1 worksession, Committee Chair Floreen expressed a desire to revisit the issue at a future worksession.

Subsequently, in a letter dated September 2, 2016 (©112-115), attorney Douglas M. Bregman, who previously served on a Statewide commission tasked with creating a standard form lease for use throughout Maryland, identified problems with implementing a standard lease requirement. Mr. Bregman indicated that a standard lease requirement is not feasible “due to the ever changing nature of landlord-tenant law.” He pointed out that a standard lease requirement would not be applicable in all municipalities, which could cause confusion for tenants. Mr. Bregman also suggested that requiring a standard lease may not achieve the goal of increasing tenants’ understanding of their rights and responsibilities under the lease.

At its September 15, 2016 worksession, the Committee recommended deleting the required use of a standard form lease, and instead requiring a summary of tenants’ rights and responsibilities in a form established by method (2) regulation. The summary would be required as part of each lease in Sec. 29-27, and would set forth, at a minimum: (1) the term of the lease; (2) the amount of the rent; (3) the date on which the rent is due; (4) the tenant’s responsibility, if any, for utility costs; (5) a list of additional tenant rights and responsibilities under the lease; and (6) information about services available to tenants from the Department and the Commission.

#### **Committee recommendation (3-0):**

- **Delete:** the introduced Bill’s standard form lease requirement (©6, line 121).
- **Delete:** references in the introduced Bill to “optional model provisions” (addenda) in reference to the standard form lease requirements (©2, lines 12-15; ©6, lines 121-122).
- **Add:** requirement that each lease for rental housing located in the County contain a plain language summary of tenant rights and responsibilities in a form approved by executive regulation (©7-8, lines 161-171).
- **Add:** provision that the requirement that each lease include a plain language summary of rights and responsibilities applies to leases entered into or renewed after the effective date of the regulation establishing the form of the summary (©16, lines 393-397).

#### **Inspections**

The TWG Report identified the concern that “some apartment complexes have ongoing maintenance problems,” and recommended that “buildings with ongoing maintenance problems should be moved to an annual inspection cycle, and that owners of buildings with repeat violations should pay for the increased inspection schedule.” The 2009 Rental Satisfaction Survey also provided a glimpse into tenants’ views as to the condition of their units, among other things.<sup>4</sup> As noted above, the current law requires inspection of each licensed apartment complex and personal living quarters building at least once every three years. As introduced, Bill 19-15 would have

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<sup>4</sup> The Rental Satisfaction Survey compiled responses of 588 tenants in the County, and is organized into the following sections: (1) Rental Information; (2) Rental Unit and Landlord Satisfaction; (3) Tenant-Landlord Rights & Responsibilities; (4) Issues Affecting Tenants; and (5) Demographic Information. While somewhat dated, it does supply a useful perspective on a number of issues that Bill 19-15 seeks to address.

required annual inspection of *all* rental housing consisting of two or more dwelling units, including each apartment complex and personal living quarters building.

DHCA's current inspection process is described in the Fiscal Impact Statement. The Department currently inspects approximately 5,700 of the approximately 67,250 licensed multifamily units in the County each year. A higher percentage of units to be inspected are assigned to properties with a history of noncompliance. Approximately 80 percent of properties have 10 percent of their units inspected every three years, five percent of properties have 50 percent of their units inspected, and 15 percent of properties have all of their units inspected (see ©18). Under Bill 19-15, the starting point for inspections would be the entire stock of approximately 67,250 units, with the Director empowered to reduce the frequency of inspections (to triennially) for properties of landlords with a demonstrated history of compliance with applicable laws. The analysis in the FEIS concludes that it is likely that the number of units moved to triennial inspections would be minimal (see ©19-21). OMB concludes that moving to an annual inspection schedule for all units would require the addition of 97 additional FTEs in DHCA, at an annual cost of \$8,155,631, with an initial operating expense for vehicles, tablets, and phones of \$2,110,596.

Councilmember Elrich proposed to change the Bill's inspection requirements to remove the language requiring the inspection of all units, but retain the annual inspection schedule. The effect of this change would allow DHCA to retain the discretion it currently has in deciding which units to inspect, but would require the inspections to be done each year rather than every three years. This change would significantly reduce the Bill's fiscal impact, but the Bill would still require roughly three times the number of inspections required under existing law. OMB provided a revised Fiscal Impact statement estimating the fiscal impact of this inspection requirement (©97-105).<sup>5</sup> OMB estimates that this schedule would require the addition of 19 FTEs in DHCA, at an annual cost of \$1,685,880, with initial operating expenses of \$504,027.

At the April 11 worksession, the Committee heard from stakeholders concerning this proposal. The Committee heard that many tenants' fear of retaliation by their landlords makes them reluctant to complain about problems in their unit. Under existing law, the Director *may* inspect upon a complaint or request from a landlord, but also has the discretion to inspect properties more frequently than the current triennial inspections; §29-22(b) provides that "the Director may inspect any other rental housing if the Director receives a complaint or a request from a landlord or tenant *or believes that the rental housing does not comply with all applicable laws.*" (emphasis supplied) While the discretion to inspect more frequently exists in the existing law, there is not a mandate that properties with chronic violations be subject to increased inspections.

Given the discretion that the Director already has, the issue is as much one of resource allocation as of mandated County-wide inspections. At the September 15 worksession, DHCA Director Snuggs discussed the way that the Department exercises the broad discretion it has under existing law, but did not offer any proposal for mandatory increased inspections. The Committee, at its October 27 worksession, discussed how best to focus existing resources on identifying and resolving issues at "problem" properties. This discussion was shaped by three proposals.

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<sup>5</sup> A revised Economic Impact statement on Bill 19-15 was also provided, on June 24, 2016. See ©106-111.

*Elrich “Surge” approach:*

At the September 15 worksession, Councilmember Elrich proposed an inspection “surge” that would result in all apartment units being inspected in a two-year period.<sup>6</sup> Councilmember Elrich set forth the rationale and process for his proposal in a memorandum to the County Executive on October 10 (see ©116-119). The surge would establish a baseline assessment of the state of rental housing in the County, and would provide the basis for determining which buildings or complexes should be subject to more frequent inspections.

*Hucker Amendments:*

On October 24, Councilmember Hucker circulated a memorandum and draft proposed amendments to the Bill’s provisions on inspections (©120-125). Councilmember Hucker’s proposal was intended to focus increased inspections on properties with more serious or more numerous violations, and would implement a tiered inspection schedule. Under this proposal, the existing triennial schedule would remain the default, but properties with serious health or safety violations – identified in the proposed amendment to include certain rodent or insect infestations, mold, and lack of working utilities – would be inspected annually. Properties with an average of more than two violations (of any sort) per unit inspected would also be subject to annual inspections. Biennial inspections would be mandated for properties with an average of at least one violation (of any sort) per unit inspected.

In addition to targeted increased inspections, Councilmember Hucker’s proposal would require DHCA to submit to the Executive and Council an annual report. The report would identify properties inspected in the past year and to be inspected in the coming year, list violations found and corrected, and give the status of any incomplete inspections. While information regarding code violations is available and updated on a consistent basis on the County’s DataMontgomery website,<sup>7</sup> this information is not limited to rental properties, and it is not easily sortable to so limit it. Also, under Councilmember Hucker’s proposal, landlords subject to annual inspections under the proposal would be required to provide DHCA with quarterly reports on tenant complaints.

Councilmember Hucker, in his proposal sought provide increased efficiency over an across-the-board increase in inspections Countywide. The Committee heard from Director Snuggs that the increased-inspection provisions proposed by Councilmember Hucker would, despite being targeted toward properties with specific types and quantity of violations, effectively impose a Countywide biennial or annual inspection schedule. DHCA offered its own proposal to more effectively target “problem” properties.

*DHCA Proposal:*

At the October 27 worksession, DHCA presented a proposal for “Focused Housing Code Enforcement” (©126-127). Under this proposal, DHCA would inspect “a sample of every multifamily property over two years to achieve a baseline.” Properties inspected under this

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<sup>6</sup> See [https://www.washingtonpost.com/local/ind-politics/in-aftermath-of-fatal-flower-branch-fire-montgomery-considers-surge-in-building-inspections/2016/09/28/3174e326-84cf-11e6-a3ef-f35afb41797f\\_story.html](https://www.washingtonpost.com/local/ind-politics/in-aftermath-of-fatal-flower-branch-fire-montgomery-considers-surge-in-building-inspections/2016/09/28/3174e326-84cf-11e6-a3ef-f35afb41797f_story.html)

<sup>7</sup> <https://data.montgomerycountymd.gov/Consumer-Housing/Housing-Code-Violatons/usij-rq8e>

program would be prioritized so that properties with serious or more numerous violations, and properties over 50 years old would be inspected earlier in the cycle. After the two-year program of more intensive inspections (approximately double the number of inspections per year as under the current regime), DHCA would return to triennial inspections for “healthy properties,” and “use analytics to determine ‘unhealthy’ properties, which would be inspected annually at a higher sampling rate (*i.e.*, 100%). DHCA has also submitted a list of “proposed factors to be considered to Identify Multi-Family Properties Subject to Annual 100% Housing Code Inspections” (©128). DHCA’s proposal included a cost estimate of \$1.0 million (see ©126-127).

The Committee opted to combine the essence of Councilmember Hucker’s proposal to focus inspections on “problem” properties and require annual reports to the Council and Executive of the status of the inspection program with DHCA’s proposed two-year intensive inspection program. These changes are reflected at ©3, lines 28-45, ©3-5, lines 48-88, and ©15-16, lines 384-392.

**Committee recommendation (3-0):**

- **Delete:** all provisions related to mandatory annual inspection of all rental housing units (©3-4, lines 48-60).
- **Add:** requirement that DHCA report annually to the Council and Executive on the status of the inspection program (©3, lines 28-45).
- **Add:** requirement that DHCA annually inspect properties determined to be “troubled properties, under a procedure established by method (2) regulation,<sup>8</sup> while retaining a triennial inspection schedule for all properties (©3-5, lines 48-88).
- **Add:** requirement that a landlord of a property on an annual inspection schedule provide quarterly updates to the Director listing tenants’ maintenance requests (©5, lines 99-101).
- **Add:** requirement that DHCA conduct a two-year intensive inspection program, inspecting a sample of each multifamily rental property for which a certificate of occupancy was issued before January 1, 2015 (©15-16, lines 384-392).

**Utility Billing Disclosure**

Councilmember Elrich proposed to require a landlord to provide tenants with certain information to give them an understanding of how their electric and gas utility costs are calculated. State regulation already requires certain disclosures to tenants related to gas and electric energy billing. COMAR 20.26.03.02 requires a landlord to “disclose in writing to a current or prospective occupant all material aspects of the energy allocation system including, but not limited to:

- (1) The measurement unit recorded by the measuring device;
- (2) The method for converting measurement units into the approximate energy use and the energy costs;
- (3) The method for calculating the per unit charge for energy consumed;
- (4) How questions and complaints of an occupant concerning bills will be answered by the owner; and
- (5) A statement that the energy allocation system:

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<sup>8</sup> DHCA has indicated its view that flexibility in the procedure for determining “troubled properties” is important, and has suggested that establishing the procedure in the annual report would be more desirable to the Department.

- (a) Approximates the amount of gas or electricity consumed in the dwelling unit by use of an energy allocation or conversion formula, and
- (b) Does not measure the actual use of gas or electricity.”<sup>9</sup>

Additionally, COMAR 20.26.03.03 requires “an owner who has previously determined the approximate energy usage for a dwelling unit by the use of an energy allocation system, including use of a system before the promulgation of the regulations, [to] disclose to a current or prospective occupant:

- (1) The highest monthly energy cost billed to the same dwelling unit in a month the dwelling unit was leased during the preceding 12 months;
- (2) The lowest monthly energy cost billed to the same dwelling unit in a month the dwelling unit was leased during the preceding 12 months;
- (3) The average monthly energy cost billed to the same dwelling unit for the preceding 12 months including only months the dwelling unit was leased for the entire month; and
- (4) The average monthly energy costs billed to similar sized leased dwelling units in the preceding 12 months.”

Subsection B of the regulation further provides that “if the owner has not previously used an energy allocation system within the apartment house:

- (1) The owner shall disclose estimated energy costs in the following priority based on:
  - (a) Actual billing to similar sized dwelling units in other apartment houses within the same apartment house complex,
  - (b) The actual operating experience of the vendor for similar sized dwelling units in other apartment house complexes of comparable age, size, equipment, and geographic location, or
  - (c) A square footage allocation derived from gas or electric bills received by the owner from the utility with a reasonable allowance for common usage and, if necessary, seasonally adjusted;
- (2) The owner shall provide the estimated energy costs required in §B(1) in terms of an average monthly bill, the highest monthly bill, and the lowest monthly bill.”<sup>10</sup>

At the August 1 worksession, the applicability of the State requirements was discussed, and the Committee was informed that the COMAR provisions do not apply to units in buildings constructed before July 1, 1978. The Committee directed staff to draft language that would reconcile the proposed provisions with the COMAR provisions, so that all tenants whose units are not individually metered will receive the same information as to how their electric and gas bills are calculated. The Committee recommended adding this language to the Bill at its September 15 worksession.

**Committee recommendation (3-0):**

<sup>9</sup> <http://www.dsd.state.md.us/comar/comarhtml/20/20.26.03.02.htm>

<sup>10</sup> <http://www.dsd.state.md.us/comar/comarhtml/20/20.26.03.03.htm>

- **Add** requirement that a landlord provide a tenant in a unit in a building constructed before July 1, 1978 with information related to electric and gas billing that is required for newer buildings under State regulation (©10, lines 225-237).

### **Rent Surcharge Prohibition**

As introduced, Bill 19-15 would have prohibited rent “surcharges” by prohibiting a landlord from charging more than the rent charged for the prior lease term when a tenant continues occupancy on a month-to-month basis. After discussion at its August 1, worksession, the Committee recommended (as was proposed by Councilmember Elrich) that this be changed to a prohibition on charging more than the rent *offered for a new term*. This provision would not (and probably could not, under State law) require a landlord to allow a tenant to continue after the expiration of a term on a month-to-month basis. However, it would restrict rent increases in the event that the landlord does allow a tenant to continue occupancy month-to-month.

At its September 15 worksession, the Committee revisited this issue after hearing from landlords that such a prohibition would not allow them to incentivize longer term leases, which are often necessary to secure financing from lenders who want to see a stable cashflow. This discussion also included discussion of the County law provisions that allow a tenant to terminate a lease under certain circumstances that are beyond the tenant’s control. The Committee discussed the possibility of expanding the circumstances in which a tenant may terminate a lease to include medical necessity as well as perhaps including some circumstances over which the tenant does have control, such as voluntary change of employment.

### *Tenant’s Right to Terminate a Lease Under Existing Law*

Current County law permits a tenant to break a lease under a fairly narrow set of circumstances. Section 29-27(s) requires all leases in the County to “allow the tenant to terminate the lease upon 30 days’ written notice to the landlord due to an involuntary change of employment from the Washington metropolitan area, death of major wage earner, unemployment, or other reasonable cause beyond the tenant’s control. This section does provide that “the lease may provide that in the event of termination under this provision, the tenant is liable for a reasonable termination charge not to exceed the lower of one month’s rent or actual damages sustained by the landlord.” At the September 15 worksession, Committee members discussed the possibility of expanding these circumstances to allow tenants to terminate leases for causes that are in the tenant’s control.

In addition to the specific circumstances identified in County law, under Maryland law, a tenant who vacates before the end of the tenant’s lease term due to certain medical conditions is not liable for more than two months’ rent after the date on which the tenant vacates the leased premises.<sup>11</sup> In order to qualify for the limitation of liability, the tenant must provide to the landlord, before the tenant vacates the leased premises, a written certification from a physician that the patient has a medical condition that: (1) substantially restricts the physical mobility of the patient within, or from entering and exiting, the leased premises; or (2) requires the patient to move to a home, facility, or institution to obtain a higher level of care than can be provided at the leased premises.

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<sup>11</sup> Maryland Real Property Code, §8-212.2

Finally, in certain instances, members of the armed services may terminate a residential lease under federal law. The Servicemembers Civil Relief Act (SCRA)<sup>12</sup> allows individuals to break a lease when they go onto active duty if the lease was entered into before going onto active duty. Additionally, the act allows a servicemember to terminate a residential lease entered into while in the military if the member receives permanent change of station (PCS) orders, or orders to deploy for a period of not less than 90 days.

Other jurisdictions provide tenants with different degrees of latitude for terminating leases, but staff was not able to identify any jurisdictions that permit a tenant to terminate a lease for a reason that is under the tenant's control. The reason for this is probably that doing so would materially affect the tenant's obligations under the lease that landlords would no longer be able to rely upon a tenant's payment of rent for the term of the lease. Other jurisdictions do, however, provide for additional circumstances in which a tenant may terminate a lease. These include: (1) when a tenant or the tenant's child is a victim of domestic violence; (2) if a landlord harasses the tenant or violates the tenant's privacy rights; (3) if the tenant or tenant's spouse is 62 years of age or older and can no longer live independently and must move to a nursing home or other senior citizen housing; and (4) if the tenant is incarcerated or declared mentally incompetent. The Committee recommended adding all of these circumstances to those identified in County law by simply adding them to §29-27(s). (See ©6-7, lines 125-139)

### *Month-to-Month Leases Generally*

The Committee considered the benefits and drawbacks to tenants of month-to-month leases. Some renters prefer shorter-term leases for the flexibility they provide to act on opportunities, including moving for work, family, travel or a better apartment down the street. However, as the Committee heard, landlords (and apparently their lenders) prefer longer-term leases because of the predictability of cash-flow that they provide. Below is a summary of the benefits and drawbacks of month-to-month leases.

- Month-to-month leases offer more flexibility. A tenant on a month-to-month lease has the flexibility to move without having to find a subletter or paying to break the lease. For tenants looking for a new job or those with a temporary job, a month-to-month lease is desirable.
- There is no charge for breaking a month-to-month lease. Under a 12-month lease, a tenant is responsible for those 12 months of rent payments<sup>13</sup> – whether or not the tenant still lives in the apartment. If a tenant anticipates having to move before a one- or two-year lease term is up, a month-to-month lease, even at a higher monthly rent, may end up being less expensive in the long run.
- A month-to-month lease can often be converted to a long-term lease. If a tenant begins a month-to-month lease but decides to commit to a longer term, the tenant can often convert

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<sup>12</sup> 50 U.S.C. app. §§501-597b. For specific provisions regarding termination of residential leases, see 50 U.S.C. app. §535.

<sup>13</sup> A landlord does have a duty under State law to mitigate damages in the event that a tenant leaves before the end of a lease term, so a tenant who terminates tenancy early may not, in fact, be responsible for all remaining months of rent if the unit is rented to a new tenant during the term. See Maryland Real Property Code, §8-207.

the lease into a one- or two-year lease without any adverse effects, because of landlords' general interest in longer term leases.

However, there are some drawbacks for tenants with short-term apartment leases. Most notable are the considerations of cost and stability:

- Month-to-month leases are typically more expensive. Property managers charge more for a short-term lease, so tenants end up paying more for the benefits described above. Charging a month-to-month tenant more than a tenant who has signed a longer term lease makes sense from landlords' perspective, as they feel more secure with a longer rental commitment. In exchange for a tenant's written promise to rent for a year or longer, landlords are usually more willing to give a more competitive rental rate. When a monthly tenant decides to vacate after a couple of months, a landlord will incur additional "move out" expenses, in addition to possibly losing rental income until the unit has been rented by a new tenant. The landlord may have advertising expenses, cleaning expenses and perhaps repair expenses if the short-term tenant has caused damage to the unit that is unrecoverable. There is also the potential loss of monthly revenue if the landlord cannot fill the unit quickly.
- Short-term leases are unstable. The flexibility that renting month-to-month gives a tenant also applies to the landlord. Neither is locked into a long-term contract, so there's nothing preventing the landlord from raising the rent (subject to the law's notice provisions) or terminating a lease against the tenant's wishes.

#### *Excessive Rent Increases When a Tenant Goes Month-to-Month*

There is anecdotal evidence that landlord's sometimes charge dramatically higher rent when an existing tenant seeks to remain in a unit, but rent on a month-to-month basis. Council staff has seen a renewal offer that offers rents at different amounts that are inversely related to the length of the term. In this offer, a tenant may sign a two-year lease at a relatively modest increase over the prior term's rent. However, this increase over prior rent grows as the new term length shortens, so that if the tenant wished to go on a month-to-month lease, the increase would be roughly 90% over the prior term. The extent to which this practice exists among County landlords is not known.

After consideration of the issue, the Committee recommended deleting the introduced Bill's prohibition on rent surcharges, but expanding the circumstances beyond the tenant's control under which a tenant can terminate a lease.

#### **Committee recommendation (3-0):**

- **Add:** to the circumstances in which a tenant may terminate a lease upon 30 days' written notice: (1) when a tenant or the tenant's child is a victim of domestic violence; (2) when a landlord harasses the tenant or violates the tenant's privacy rights; (3) when the tenant or tenant's spouse is 62 years of age or older and can no longer live independently and must move to a nursing home or other senior citizen housing; and (4) when the tenant is incarcerated or declared mentally incompetent (©6-7, lines 125-139).

- **Delete** the introduced Bill’s prohibition of rent surcharges to provide that a landlord may not charge a tenant more than the rent offered at renewal when a tenant continues on a month-to-month basis (©15, lines 379-382)

### **Repair and Deduct Remedy for Tenants**

At the August 1 and September 15 worksessions, the Committee discussed the provision of the introduced Bill that would authorize COLTA to issue an order upon finding the landlord has caused a defective tenancy, to issue an order permitting a tenant to correct the condition that constitutes the defective tenancy and abating the tenant’s rent in an amount equal to the reasonable cost incurred by the tenant. Council staff pointed out that existing Section 29-47<sup>14</sup> allows the Commission to award, among other things:

- Return of all or part of any rent already paid to the landlord after the landlord was notified of the condition;
- An award of damages sustained by the tenant as a result of the defective tenancy, limited to the actual damage or loss incurred by the tenant; the award must not exceed \$2,500 per affected dwelling unit; and
- A reasonable expenditure to obtain temporary substitute rental housing in the area.

Also, under Section 29-10(b)(3), the Commission on Landlord-Tenant Affairs may “enforce this Chapter through any appropriate means, including ordering repairs by a landlord or tenant.” In addition to these County law remedies, State law<sup>15</sup> provides for payment of rent into escrow when serious and substantial defects and conditions occur. It also allows the Court to terminate the lease, order that the amount of the rent due be reduced, or order the landlord to correct the conditions.

At the August 1 worksession, the Committee heard concerns from landlords that allowing tenants to make repairs could lead to substandard work and expose landlords to legal liability. Councilmember Elrich indicated that the intent of the provision was to address situations where a leaking pipe presents an immediate risk of flooding, or when an air conditioning unit malfunctions during a heatwave. It became clear to the Committee during the worksession that the COLTA process takes over two months, and would not empower a tenant to make repairs to alleviate conditions needing immediate attention.

At the September 15, worksession, the Committee heard that County Code §26-15 provides a process for resolving “severe conditions” arising from violations of County Housing and Building Maintenance Standards and the County Fire, Electric, and Building Codes. Subsection

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<sup>14</sup> Staff has included all of subsection 29-47(b) in the Committee rewrite for clarity as to the breadth of COLTA’s authority to award relief upon a finding of a defective tenancy caused by a landlord.

<sup>15</sup> Maryland Real Property Code (RP) §8-211, *Repair of dangerous defects; rent escrow*. “Serious defects” include: (1) Lack of heat, light, electricity, or hot or cold running water, except where the tenant is responsible for the payment of the utilities and the lack thereof is the direct result of the tenant's failure to pay the charges; (2) Lack of adequate sewage disposal facilities; (3) Infestation of rodents in two or more dwelling units; (4) The existence of any structural defect which presents a serious and substantial threat to the physical safety of the occupants; or (5) The existence of any condition which presents a health or fire hazard to the dwelling unit.

26-15(a) provides that “[i]f the enforcing agency finds that immediate action is needed to protect the public health and safety as a result of a violation of this Chapter, Chapter 22, Chapter 8, or Chapter 17, the enforcing agency may, without notice, conference, or hearing, order the owner to correct or abate the violation.” The subsection continues “[i]f the owner does not abate or correct the violation as directed . . . the enforcing agency may take any action reasonably necessary to abate or correct the condition or may contract to have the necessary action taken.” Under this section, the owner is liable to the County for all reasonable and necessary costs the County incurs in addressing the condition, and the County may place a lien on the property, collecting the debt as ordinary taxes are collected. However, DHCA informed the Committee that it does not typically engage in making interior repairs authorized in the law.

### *Repair and Deduct Laws Generally*

Most states have adopted some form of “repair and deduct” remedy for tenants when landlords do not make certain repairs in a timely manner. In order to protect landlords, the use of “repair and deduct” is often narrowed by several limitations. The most common limitations include requirements that: (1) the landlord be notified of the problem in writing and be afforded a specified amount of time to correct the problem; (2) the repair be necessary and the cost be reasonable; (3) the cost of making the repair is capped; (4) the tenant is only permitted to invoke the remedy a limited number of times; and (5) the tenant must pay rent into an escrow account established by a court. These limitations provide significant protection for landlords, because landlords are provided notice and a chance to correct the issue(s). If a landlord fails to address the problem(s), then the tenant is limited to making only necessary repairs at a reasonable cost.

As the name implies, this option allows a renter to pay for a repair and then deduct the cost of that repair from the tenant’s rent the following month. The “repair and deduct” remedy is well-suited for relatively inexpensive repairs related to essential services when a renter encounters an unresponsive landlord.

### *Maryland Rent Escrow Law*

Under Maryland law, if a landlord fails to repair “serious and substantial defects” in a rental unit, a tenant has the right to pay rent into an escrow account established at the local district court.<sup>16</sup> This “rent escrow” law prescribes specific conditions under which rent may be placed in escrow. A tenant must give the landlord written notice by certified mail and reasonable time<sup>17</sup> to make the repairs before the tenant may bring a rent escrow action, and an escrow account can only be set up by the court. Rent escrow is not provided for defects that just make the apartment or home less attractive or comfortable, such as small cracks in the floors, walls or ceiling.

“Serious and substantial defects” covered by the law include, but are not limited to:

- Lack of heat, light, electricity or water, unless the tenant is responsible for the utilities and the utilities were shut off because the tenant did not pay the bill.
- Lack of adequate sewage disposal; rodent infestation in two or more units.

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<sup>16</sup> RP §8-211.

<sup>17</sup> RP §8-211(h) provides that “there is a rebuttable presumption that period in excess of 30 days from receipt of notice is unreasonable.”

- Lead paint hazards that the landlord has failed to reduce.
- The existence of any structural defect that presents a serious threat to the tenant's physical safety.
- The existence of any condition that presents a serious fire or health hazard.

A tenant may also withhold rent without establishing an escrow account, but must still notify the landlord by certified mail of the problems in the unit and of the tenant's refusal to pay the rent. However, in this circumstance, the landlord may take the tenant to court and try to evict the tenant for nonpayment of rent. A tenant may tell the court the reasons for withholding rent, *i.e.*, the landlord's failure to make necessary repairs. If the court agrees that the condition of the unit poses a serious threat to the tenant's life, health or safety, the court will require the tenant at that time to make rent payments into an escrow account until the dispute is resolved.

A tenant's only other alternative under State law is to report the landlord to DHCA. If, upon inspection, DHCA cites the landlord for violations, repairs will have to be made. County Code §26-15 provides a process for resolving "severe conditions" arising from violations of County Housing and Building Maintenance Standards and the County Fire, Electric, and Building Codes. Subsection 26-15(a) provides that "[i]f the enforcing agency finds that immediate action is needed to protect the public health and safety as a result of a violation of this Chapter, Chapter 22, Chapter 8, or Chapter 17, the enforcing agency may, without notice, conference, or hearing, order the owner to correct or abate the violation." The subsection continues "[i]f the owner does not abate or correct the violation as directed . . . the enforcing agency may take any action reasonably necessary to abate or correct the condition or may contract to have the necessary action taken." Under this section, the owner is liable to the County for all reasonable and necessary costs the County incurs in addressing the condition, and the County may place a lien on the property, collecting the debt as ordinary taxes are collected.

The Committee considered a staff recommendation that would have required all leases to permit a tenant to "repair-and-deduct" subject to several limitations, but preferred a suggestion from Councilmember Elrich that such repairs be authorized by the Director of DHCA (or his or her designee) after the Director or designee gives the landlord notice of a violation of applicable law and orders correction of the violation within a specified period of time, and the landlord does not make the correction.

**Committee recommendation (3-0):**

- **Add:** language authorizing the Director to order a landlord to correct a violation of applicable law in a specified period of time and, if the landlord does not correct the violation in the specified period, authorize the tenant to correct the violation and deduct the reasonable cost from the tenant's rent (©5-6, lines 103-111).
- **Add:** requirement that each lease permit the tenant to correct violations of applicable law in the unit as authorized by the Director under the above provision (©7, lines 158-160).

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Bill No. 19-15  
Concerning: Landlord –Tenant Relations  
– Licensing of Rental Housing –  
Landlord-Tenant Obligations  
Revised: 09/15/2015 Draft No. 10  
Introduced: April 21, 2015  
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Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Elrich  
Co-Sponsor: Councilmembers Navarro and Hucker

**AN ACT** to:

- (1) provide for annual inspection of certain residential rental properties;
- (2) require the use of a standard form lease and applicable optional provisions for certain residential rental properties;
- (3) require the publication of certain information related to rental housing;
- (4) require the Department of Housing and Community Affairs to review certain rent increases;
- (5) provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs;
- (6) provide certain rights to tenants facing rent increases; and
- (7) generally amend the law related to landlord-tenant relations.

By amending

Montgomery County Code  
Chapter 29, Landlord – Tenant Relations  
Sections 29-6, 29-22, 29-27, 29-28, 29-30, 29-31, 29-33, 29-47, 29-51, 29-53, and 29-54

By adding

Montgomery County Code  
Chapter 29, Landlord – Tenant Relations  
[[Sections]] Section 29-55 [[and 29-56]]

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*





55 may inspect an apartment complex or personal living quarters building  
 56 more often than the triennial inspection.

57 (b) [[If the Director finds that a landlord of licensed rental housing has a  
 58 demonstrated history of compliance with applicable laws over the most  
 59 recent three years, the Director may thereafter inspect the licensed rental  
 60 housing once every three years.]] The Director must inspect, at least once  
 61 each year, any rental housing which, after inspection, the Director:

62 (1) finds in violation of any applicable law that adversely affects the  
 63 immediate health and safety of the tenants, including:

64 (A) rodent or insect infestation affecting 20% or more units in a  
 65 building;

66 (B) extensive and visible mold growth on interior walls or  
 67 surfaces exposed to the occupied space;

68 (C) windows that do not permit a safe means of egress;

69 (D) pervasive and recurring water leaks the result in chronic  
 70 dampness, mold growth, or personal property damage in  
 71 more than one unit; or

72 (E) lack of one or more working utilities that is not shut off due  
 73 to tenant non-payment, including:

74 (i) natural gas;

75 (ii) electricity;

76 (iii) water; or

77 (iv) sewage disposal; or

78 (2) determines to be a troubled property, under a procedure established  
 79 by method (2) regulation that:

80 (1) classifies violation types by severity; and

81 (2) rates properties by:

82 (i) severity of violations; and

83 (ii) quantity of violations.

84 (c) The Director must require a corrective action plan for any property  
 85 subject to annual inspections under subsection (b). A property required to  
 86 develop and implement a corrective action plan must be inspected at least  
 87 once each year until the Director determines that the corrective action  
 88 plan has been successfully completed.

89 (d) The Director may inspect any other rental housing if the Director receives  
 90 a complaint or a request from a landlord or tenant or believes that the  
 91 rental housing does not comply with all applicable laws.

92 ~~[(c)]~~~~[(d)]~~(e) As a condition of receiving a license under this Chapter, a  
 93 landlord must agree to:

- 94 (1) allow access to the Department for any inspection required under  
 95 this Chapter or Chapter 26; ~~[[and]]~~
- 96 (2) notify any affected tenant whose unit requires inspection at least  
 97 72 hours in advance of ~~[[the]] a scheduled inspection under~~  
 98 subsection (a) of this Section~~[[.]]~~; and
- 99 (3) when subject to annual inspections under subsection (b), provide  
 100 quarterly updates to the Director listing all maintenance requests  
 101 received by the landlord from tenants.

102 ~~[(d)]~~~~[(e)]~~(f) If an inspection indicates that any rental housing does not  
 103 comply with all applicable laws, the Director ~~[[may]]~~ must notify the  
 104 landlord in writing and order correction of each violation within a  
 105 specified period of time. If the landlord does not correct the violation in  
 106 the specified period of time, the Director may:

- 107 (1) authorize a tenant to:
- 108 (A) have the violation corrected by a licensed contractor  
 109 selected from a list maintained by the Director; and

110 (B) deduct the reasonable cost of the repair, up to the amount of  
111 one month's rent, from the tenant's rent; or

112 (2) revoke the license or take other remedial action under Section 29-  
113 25.

114 ~~[(f)]~~(g) A landlord of licensed rental housing ~~[[found in]]~~ notified after  
115 initial inspection of a violation of applicable laws ~~[[more than twice in~~  
116 two consecutive years]] must pay the cost of the ~~[[next inspection]]~~ third,  
117 and subsequent inspections, as ~~[[determined by the Director]]~~ established  
118 in regulation, if the violation is not corrected by the second inspection.

119 \* \* \*

120 **29-27. Contents of lease.**

121 [Each] ~~[[A landlord must use the standard form lease]]~~ ~~[[and any appropriate~~  
122 model optional provisions]] ~~[[furnished by the Director for each]]~~ Each lease for rental  
123 housing located in the County ~~[[. Each lease]]~~ must:

124 \* \* \*

125 (s) Allow the tenant to terminate the lease upon 30 days' written notice to the  
126 landlord due to:

127 (1) an involuntary change of employment from the Washington  
128 metropolitan area~~[[,]]~~;

129 (2) the death of major wage earner~~[[,]]~~;

130 (3) unemployment~~[[,]]~~;

131 (4) the tenant or the tenant's child being a victim of domestic violence;

132 (5) a landlord harassing the tenant or violating the tenant's privacy  
133 rights;

134 (6) the tenant or tenant's spouse being:

135 (A) 62 years of age or older;

136 (B) no longer live independently; and

137                   (C) needing to move to a nursing home or other senior citizen  
 138   housing;

139                   (7) the tenant being incarcerated or declared mentally incompetent; or

140                   (8) other reasonable cause beyond the tenant's control.

141                   The lease may provide that in the event of termination under this  
 142                   provision, the tenant is liable for a reasonable termination charge not to  
 143                   exceed the lower of one month's rent or actual damages sustained by the  
 144                   landlord.

145                   (t) [[Allow the tenant to rescind the lease within two days after signing the  
 146   lease.

147                   (u)] Allow the tenant to convert a one-year lease to a two-year lease within 30  
 148   days after signing the lease, unless the one-year lease was offered by the  
 149   landlord consistent with subsection 29-28(c).

150                   [[v)](u) Notify the tenant that:

151   (1) general information and assistance is available from the  
 152   Department regarding:

153   (A) questions about any addenda to the lease; and

154   (B) evictions [[are available from the Department.]]; and

155   (2) the tenant is entitled to a hard copy of the Landlord-Tenant  
 156   Handbook as required under subsection 29-28(f) and that the  
 157   Landlord-Tenant Handbook is available on the County website.

158                   (v) Permit the tenant to correct violations of applicable law in the unit and  
 159   deduct the reasonable cost of the repairs from the tenant's rent as  
 160   authorized by the Director under subsection 29-22(f).

161                   [[v)](w) Contain a plain language summary of tenant rights and  
 162   responsibilities, in a form established by the Executive by method (2)  
 163   regulation that includes, at a minimum:

164   (1) the term of the lease;

- 165           (2)   the amount of the rent;
- 166           (3)   the date on which the rent is due;
- 167           (4)   the tenant's responsibility, if any, for utility costs;
- 168           (5)   a list of additional tenant rights and responsibilities under the lease;
- 169                   and
- 170           (6)   information about services available to tenants from the
- 171                   Department and the Commission.

**29-28. Leasing requirements generally.**

\*   \*   \*

(c)   The landlord must offer each lease for an initial term of [2] two years, and a two year term at each renewal, unless the landlord has reasonable cause to offer a different [initial] term.

\*   \*   \*

(2)   As used in this subsection, reasonable cause means a situation in which a [[2-]] two year lease would create undue hardship or expense for a landlord. Reasonable cause includes the sale of a dwelling unit if settlement is likely to occur within [[2]] two years, a bona fide contract to sell the dwelling unit within [[2]] two years, or a planned conversion to a condominium or cooperative within [[2]] two years. If the landlord claims reasonable cause exists under this subsection, the landlord must attach to the lease a statement explaining the reasonable cause and advising the prospective tenant of the tenant's right to challenge the cause by filing a complaint with the Department.

(3)   The landlord must include the following statement in each lease, or as an addendum to an oral lease, and assure that it is signed and dated by the parties:

192 Montgomery County law requires each landlord to offer each  
193 prospective tenant a lease for an initial term of [2] two years, and  
194 a two year term at each renewal, unless the landlord has reasonable  
195 cause to do otherwise. The tenant may accept or reject this offer.  
196 Before signing this lease, the tenant confirms that (initial and date  
197 one option):

198 (A) The landlord offered me a [2] two-year lease term and I  
199 accepted it.

200 (B) The landlord offered me a [2] two-year lease term but I  
201 rejected it.

202 (C) The landlord gave me a statement:  
203 (i) explaining why the landlord had reasonable cause not  
204 to offer me a [2] two-year lease term; and  
205 (ii) telling me that I can challenge the landlord's action  
206 by filing a complaint with the Montgomery County  
207 Department of Housing and Community Affairs.

208 \* \* \*

209 (f) At the beginning of a lease term, each landlord must provide each tenant  
210 with a copy of the Landlord-Tenant Handbook [[furnished by the  
211 Director,]] unless the tenant signs a statement declining a hard copy and  
212 accepting referral to the Landlord-Tenant Handbook maintained on the  
213 County website.

214 (g) Unless the tenant is in breach of the lease, if a landlord does not intend to  
215 offer an existing tenant a renewed lease term, the landlord must give the  
216 tenant 60 days' notice of the landlord's intent to terminate tenancy at the  
217 lease expiration.

218 \* \* \*

219 **29-30. Obligations of landlords.**

220 (a) Each landlord must reasonably provide for the maintenance of the health,  
221 safety, and welfare of all tenants and all individuals properly on the  
222 premises of rental housing. As part of this general obligation, each  
223 landlord must:

224 \* \* \*

225 (7) For each unit in a building constructed before July 1, 1978, and for  
226 which units are not individually metered, provide the tenant with  
227 all information required under the Public Utilities Article of the  
228 Maryland Code and applicable COMAR provisions governing:

229 (A) electric and gas submeters; and

230 (B) energy allocation systems.

231 (8) Display in in the lobby, vestibule, rental office, or other prominent  
232 public place on the premises, a sign in a form approved by the  
233 Director that includes information in English, Spanish, French,  
234 Chinese, Korean, Vietnamese, and other languages as determined  
235 necessary by the Director, about:

236 (A) filing a complaint under this Chapter; and

237 (B) the retaliatory practices prohibited under this Chapter.

238 \* \* \*

239 **29-31. Landlord notice requirements.**

240 (a) Each landlord of an apartment complex in the County must:

241 (1) post [of] a durable notice in an accessible, conspicuous and  
242 convenient place in each building to which the notice applies, or

243 (2) distribute [of] the notice directly to all tenants.

244 The notice must contain the name or title and telephone number of at least  
245 one responsible representative of the building management who may be  
246 reached at all times in an emergency.

247 \* \* \*

248 **29-33. Rights of tenants generally.**

249 \* \* \*

250 (b) Tenants and tenant organizations have the right of free assembly in the

251 meeting rooms and other areas suitable for meetings within rental housing

252 during reasonable hours and upon reasonable notice to the landlord to

253 conduct tenant organization meetings. A landlord must not charge a

254 tenant organization or a group of tenants seeking to form a tenant

255 organization a fee for the first meeting of each month held to discuss

256 landlord-tenant issues, but ~~[[The]]~~ the landlord may charge a reasonable

257 fee for ~~[[the use]]~~ other uses of the meeting rooms or common areas~~[[,]]~~.

258 ~~[[but the]]~~ The charge must not exceed the regular schedule of fees for

259 the facility to other groups. The landlord may also impose reasonable

260 terms and conditions on the use of the meeting rooms or common areas

261 if those terms and conditions do not undermine the purposes of this

262 Section.

263 \* \* \*

264 **29-47. Commission action when violation found.**

265 \* \* \*

266 (b) If the Commission or panel finds that a landlord has caused a defective

267 tenancy, it may award each party to the complaint one or more of the

268 following remedies:

- 269 \* \* \*
- 270 (7) An order permitting a tenant to correct the condition that
- 271 constitutes the defective tenancy and abating the tenant's rent in an
- 272 amount equal to the reasonable cost incurred by the tenant;
- 273 (8) After a retaliatory or illegal eviction as defined in Section 29-32,
- 274 reasonable attorney's fees incurred by the affected tenant in

275 defense of the retaliatory or illegal eviction. The award must not  
 276 exceed \$1,000.00.

277 \* \* \*

278 **29-51. Rental housing data collection.**

279 (a) The County Executive must establish procedures to collect and analyze  
 280 housing data for rental dwelling units in the County, and must make  
 281 every effort to centralize the data collection functions to minimize the  
 282 burden for landlords.

283 (b) The reporting process is mandatory for landlords of licensed rental  
 284 housing, including new dwelling units as they come on the market and  
 285 all vacant units.

286 (c) The data [collection frequency] must be [on an annual basis] collected  
 287 annually.

288 (d) The Director must use a survey form for collecting data designed to  
 289 minimize the repeated reporting of unchanged information, while  
 290 maintaining an accurate data base.

291 (e) The housing data collected must be used to [ascertain] measure the  
 292 supply and availability of rental housing, as well as other operating  
 293 characteristics. Each landlord must provide the following [information  
 294 as requested by] to the County:

- 295 (1) The location of [the] each rental facility, including the zip code;
- 296 (2) Structure type;
- 297 (3) Year built;
- 298 (4) Distribution of units by standard bedroom sizes;
- 299 (5) The number of units by bedroom size that were re-rented during  
 300 the month;
- 301 (6) The number of vacant days applicable to those units;
- 302 (7) The rent charged for each rental unit;

- 303 (8) The rent charged for each re-rented unit before vacancy; and
- 304 (9) The new turnover rent charged for each re-rented unit.

\* \* \*

306 (i) The Director is primarily responsible for controlling rental housing data  
 307 surveys for the County. The Director must share this information with  
 308 other governmental agencies that need it without invading individual  
 309 privacy. In this regard, the Director must coordinate survey activities  
 310 with other County departments, and make available to the departments  
 311 the results of all surveys in accordance with [executive] applicable  
 312 procedure.

313 (j) The Director must publish, unless the publication is prohibited under  
 314 State law, the information collected in the rental housing data survey  
 315 on the County website, including a table listing all rental housing  
 316 consisting of two or more dwelling units [[and the average rent increase  
 317 for each unit]] by unit type and building type. [[by the following  
 318 categories:

- 319 (1) 100 percent or less of the applicable rent increase guideline;
- 320 (2) greater than 100 percent, up to 125 percent of the applicable rent  
 321 increase guideline;
- 322 (3) greater than 125 percent, up to 150 percent of the applicable rent  
 323 increase guideline; and
- 324 (4) greater than 150 percent of the applicable rent increase  
 325 guideline.]]

326 (k) Any landlord who violates any provision of this Section is liable for  
 327 payment of a civil penalty in an amount not to exceed \$1,000 for each  
 328 violation.

329 **29-53. Voluntary rent guidelines; review of rent increases.**

- 330 (a) The County Executive must issue annual voluntary rent increase  
 331 guidelines not later than March 1 of each year. The Executive must  
 332 publish the guidelines in the County Register and on the County  
 333 website.
- 334 (b) The guidelines must be based on the increase or decrease in the  
 335 [~~residential rent component of the~~] residential rent component of the  
 336 Consumer Price Index for all urban consumers for the Washington-  
 337 Baltimore metropolitan area, or any successor index, for the preceding  
 338 calendar year, unless an alternative standard better reflecting the costs  
 339 of rental housing in the County is established by regulation.
- 340 (c) The Department should encourage landlords to hold rent increases at  
 341 the lowest level possible. The Department may review any rent  
 342 increase that appears to be excessive and encourage the landlord to  
 343 reduce, modify, or postpone the increase. ~~[[The Department must~~  
 344 ~~review all rent increases that are more than 100 percent of the~~  
 345 ~~applicable rent increase guideline issued under subsection (a) to~~  
 346 ~~recognize patterns of increases that particularly harm tenants.]]~~

347 **29-54. Rent adjustments; notice requirements.**

- 348 (a) A landlord must not increase the rent until ~~[[at least two]]~~ [2] ~~[[months]]~~  
 349 90 days after the landlord gives the tenant written notice of the increase.  
 350 ~~[[A landlord must give the tenant at least three months written notice~~  
 351 ~~before an increase of more than 100 percent of the rent increase~~  
 352 ~~guidelines.]]~~ A landlord must not impose more than one rent increase  
 353 on a tenant in any 12-month period. Each written rent increase notice  
 354 must contain the following information:
- 355 (1) The amount of monthly rent immediately preceding the effective  
 356 date of the proposed increase (old rent), the amount of monthly

357 rent proposed immediately after the rent increase takes effect  
 358 (new rent), and the percentage increase of monthly rent.

- 359 (2) The effective date of the proposed increase.
- 360 (3) The applicable rent increase guideline issued under Section 29-  
 361 53.
- 362 (4) A notice that the tenant may ask the Department to review any  
 363 rent increase that the tenant considers excessive.
- 364 (5) Other information that the landlord deems useful in explaining  
 365 the rent increase.

366 An otherwise valid notice of a rent increase is not invalid because the  
 367 notice contained an incorrect rent increase guideline number if the  
 368 landlord reasonably believed that the number was correct.

\* \* \*

370 **[[29-55.]] [[Rights of tenants facing rent increases.**

- 371 (a) A tenant may ask the Department to confirm that a rent increase  
 372 complies with this Article.
- 373 (b) When a rent increase exceeds the applicable guideline, a tenant:
  - 374 (1) may continue occupancy for up to two months after the lease  
 375 term expires on a month-to-month basis at the current pre-  
 376 increase rent; and
  - 377 (2) must give at least 15 days' notice to the landlord before vacating  
 378 the premises.

379 **29-56.]] [[Rent surcharges prohibited.**

380 A landlord must not charge more than the rent]] [[charged]] [[offered for the]]  
 381 [[prior]] [[renewed lease term when a tenant continues occupancy on a month-to-  
 382 month basis.]]

383 **[Sec. 29-55] [[Sec. 29-57]] Sec. 29-55 – 29-65.**

384 **Sec. 2. Two-year intensive inspection program.**

385 (a) The Director must, by July 1, 2019, inspect a sample of each  
386 multifamily rental property for which a certificate of occupancy was  
387 issued before January 1, 2015.

388 (b) The Director must provide to the Council, by January 15, 2017, a plan  
389 to inspect rental housing under subsection (a) that includes:

390 (1) a means of prioritizing inspections;

391 (2) standardized inspections for all units; and

392 (3) an estimate of the cost for conducting the inspections.

393 **Sec. 3. Transition.**

394 The [[standard form lease]] plain language summary required under Section  
395 29-27, as amended in Section 1, must be [[used for]] included with all leases entered  
396 into or renewed after the effective date of the regulation establishing the [[standard  
397 form lease]] form of the plain language summary.

398 *Approved:*

399 \_\_\_\_\_  
Nancy Floreen, President, County Council Date

400 *Approved:*

401 \_\_\_\_\_  
Isiah Leggett, County Executive Date

402 *This is a correct copy of Council action.*

403 \_\_\_\_\_  
Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

Bill 19-15

*Landlord – Tenant Relations - Licensing of Rental Housing – Landlord-Tenant Obligations*

<b>DESCRIPTION:</b>	Bill 19-15 would make several changes to the County's landlord-tenant law, principally aimed at enhancing the existing rights of tenants. The amendments fit generally into three categories: (1) leases and landlord-tenant obligations; (2) licensing and data collection; and (3) rent adjustments.
<b>PROBLEM:</b>	Tenants often face uncertainties as to their responsibilities and rights under rental housing leases, and often struggle with rent increases that are above the voluntary guidelines established under the current law; the current programs for inspection of rental housing and publication of rental housing data are inadequate.
<b>GOALS AND OBJECTIVES:</b>	Improve access to quality rental housing and ensure a better understanding of landlord and tenant obligations under leases; protect tenants facing large rent increases.
<b>COORDINATION:</b>	Department of Housing and Community Affairs
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Josh Hamlin, Legislative Attorney, 240-777-7892
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Class A violation

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**APPLICABILITY OF CHAPTER 29, Landlord-Tenant Relations to Municipalities**

Source: Montgomery County Code, Appendix F.  
County Laws Applicable to Municipalities

Town of Barnesville	no
Town of Brookville	yes
Chevy Chase Village	no
Chevy Chase View	yes
Chevy Chase Sec. 3	yes
Town of Chevy Chase	yes
Chevy Chase Sec. 5	yes
City of Gaithersburg	no
Town of Garrett Park	no
Town of Glen Echo	yes
Town of Kensington	yes
Town of Laytonsville	no
Village of Martin's Addition	yes
Village of North Chevy Chase	yes
Town of Poolesville	no
City of Rockville	no
Town of Somerset	yes
City of Takoma Park	no
Town of Washington Grove	yes



ROCKVILLE, MARYLAND

MEMORANDUM

June 19, 2015

TO: George Leventhal, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
*FOR* Joseph F. Beach, Director, Department of Finance *J. A. Hughes*

SUBJECT: FEIS for Bill 19-15 Landlord - Tenant Relations- Licensing of Rental Housing

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Clarence J. Snuggs, Director, Department of Housing and Community Affairs  
Alex Espinosa, Office of Management and Budget  
Jenny Bryant, Office of Management and Budget  
Felicia Zhang, Office of Management and Budget  
Naeem Mia, Office of Management and Budget

**Fiscal Impact Statement  
Bill 19-15**

**Landlord-Tenant Relations – Licensing of Rental Housing – Landlord Tenant Obligations**

1. Legislative Summary

Bill 19-15 provides for annual inspection of certain residential rental properties, requires the use of a standard form lease, requires publication of certain information related to rental housing, requires DHCA to review rent increases, provides for remedies to be awarded by the Commission on Landlord – Tenant Affairs, provides certain rights to tenants facing rent increases, and generally amends the law related to landlord-tenant relations.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

There is no estimated change in County revenues due to Bill 19-15. While the bill would require reimbursement of inspection costs under certain circumstances, that is too speculative to estimate.

Bill 19-15 impacts expenditures in three areas: Code Enforcement, publication of the Landlord Tenant Handbook, and Licensing and Registration (see below).

- Code Enforcement (Section 29-22)
  - There are approximately 67,250 multifamily units in Montgomery County licensed by DHCA. This does not include units in the Cities of Rockville, Gaithersburg or Takoma Park. These units are inspected either by the local jurisdiction or via DHCA through a contractual agreement.
  - Based on our current sampling technique (consistent with Montgomery County Code, Chapter 29) to meet the current triennial inspection requirement, approximately 5,700 units of multifamily housing units are required to be inspected on an annual basis. Under the current requirement properties with a history of noncompliance are assigned a higher percentage of units to be inspected. Approximately 80 percent of properties receiving triennial inspections have 10 percent of units inspected, 5 percent of properties have 50 percent of units inspected, and 15 percent of properties have 100 percent of the units inspected.
  - The proposed bill requires annual inspections of all units. After the most recent three years of demonstrated compliance, annual inspections may revert back to being triennially inspected. For purposes of this fiscal impact statement, it is assumed that “in-compliance” relates to a property being free from any and all violations. Since each unit would be inspected annually, it

is unlikely a property would be free from any and all violations for all of its units over three years. Thus, it is more likely that all multifamily properties would continue to require annual inspections. Therefore, for purposes of this fiscal impact statement, annual inspections of all multifamily units are assumed.

- The average number of units inspected by a Code Enforcement Inspector is approximately 740 per year. The total number of new units required to be inspected under Bill 19-15 is 60,612 (67,500 total multi-family units - 6,888 number of units inspected in FY14).
- To increase the requirement of multifamily inspections from the calculated minimum of 5,700 units to 67,500 units annually, the Department of Housing and Community Affairs (DHCA) would need a total of 97 additional FTEs.
  - This includes 82 Housing Code Enforcement Inspectors, 8 Program Manager II's and 5 Principal Administrative Aides. DHCA would also need the associated operating expenses associated with vehicles, tablets, mobile phones and general operating expenses for the Code Enforcement staff.
  - Total annual personnel and operating cost is estimated to be \$8,155,631.
  - Total one-time costs (for 82 vehicles, tablets and mobile phones) are estimated to be \$2,110,596.
- Total estimated full year Code Enforcement cost is \$10,266,227
- DHCA estimates that two IT staff positions are needed to provide technology operational and maintenance support for the expanded Code Enforcement activities. The cost is estimated at \$187,670.
- Below are the detailed assumptions used to formulate the cost estimates:

Operating Costs per Unit		
<b>Vehicles</b>		
1 x cost (Sedans)	Annual Cost	Comments
24,900.00	-	acquisition
	1,739.00	maintenance
	1,410.00	fuel
	3,943.00	annual replacement
	114.00	monthly overhead
<b>24,900.00</b>	<b>7,206.00</b>	<b>Total Vehicle Costs</b>
<b>Technology Devices and Telecommunications</b>		
1x cost	Annual Cost	Comments
599.00	-	tablet acquisition
89.99	-	tablet case
99.99	-	mobile phone acquisition
49.99	-	mobile phone case
-	315.00	tablet service (\$26.25/mo)
-	628.68	mobile service (\$52.39/mo)
<b>838.97</b>	<b>943.68</b>	<b>Total</b>
<b>Total One-Time Cost</b>	<b>Total Annual Cost</b>	
<b>25,738.97</b>	<b>8,149.68</b>	

Position / Grade	FTE Request	Code OE	General OE**	*Per FTE Total	Total Annual Cost	Total 1x Cost (Car + IT)
Grade 19 - Hsg. Code Insp.	82.0	8,150	1,000	85,973	7,049,776	2,110,596
Grade 25 - PMII	8.0	-	1,000	99,009	792,071	-
Grade 13 - PAA	5.0	-	1,000	62,757	313,784	-
	<b>95.00</b>			<b>Total Cost</b>	<b>8,155,631</b>	<b>2,110,596</b>

Position / Grade	FTE Request	Code OE	General OE**	*Per FTE Total	Total Annual Cost
Grade 19 - IT Tech	1.0	-	1,000	77,823	77,823
Grade 28 - Sr. IT Spec	1.0	-	1,000	111,847	111,847
				<b>Total Cost</b>	<b>189,670</b>
			<b>TOTAL</b>	<b>97 FTEs</b>	<b>8,345,301</b>

\*Salary costs are assumed at minimum for the grade level x 1.25 percent, flat insurance rate, and a total of 15.7 percent for retirement and FICA costs

\*\*General OE\* includes office supplies, IT supplies/licenses, printing, production, mailing and other misc OE items

- Landlord Tenant Handbook Publication (Sections 29-6(f) and 29-28(f))
  1. These sections require providing a Landlord Tenant handbook to every tenant.
  2. There are approximately 97,500 rental units including multifamily, single family, condominium and accessory apartments. The actual number of tenants is unknown so the cost to provide tenant handbooks is based on the number of rental units.
  3. The average cost to produce one book is \$1.00 and \$1.15 to distribute by mail.
  4. Total one-time cost is approximately \$209,625 to provide one handbook per rental unit.
  5. Based on the DHCA 2014 Rental Housing Survey, there is approximately a 23.4 percent rental unit turnover rate annually. Therefore, the ongoing cost to provide Landlord Tenant Handbooks for the 22,815 units (97,500 x 23.4%) represented as turnover is \$49,052 including the cost to distribute the handbook.
  
- Licensing and Registration IT Improvements (Section 29-31(j))
  - The Licensing and Registration section would be required to add certain reports to its current IT system and perform data analysis for each of the 67,500 multifamily units on an annual basis.
  - Licensing staff would be responsible to review multifamily unit rent increases greater than specified amounts/percentages and recognize patterns of increases that may particularly harm tenants.
  - This would require updates to the current database, new reporting capabilities, and staff time to prepare and analyze these reports.
  - In the year that the bill is implemented, DHCA estimates it will take approximately 180 hours of licensing and registration staff time (180 hrs. x \$45 = \$8,100) and 30 hours of IT staff time (30 hrs. x \$63 = \$1,890). Total implementation cost is estimated at \$9,900.
  - Once the bill is implemented, DHCA expects that there will be less time required by program staff but more time required by IT staff to maintain and update the database. It is estimated that it will take approximately 110 hours of licensing and registration staff time (110 hrs. x \$45 = \$4,950) and 90 hours of IT staff time (90 hrs. x \$63 = \$5,670). Therefore, the ongoing staff cost is estimated at \$10,620.

- Revenue and expenditure estimates covering at least the next 6 fiscal years.

There is no estimated change to County revenues.

**One-Time Cost**

Vehicles, tablets and mobile phones	2,110,596
Production and distribution of the handbook	209,625
Staff time to implement reporting and analysis tools	9,990

**Total One-Time Cost 2,330,211**

<b>Summary of Expenses</b>			
	<b>Year 1</b>	<b>Year 2 -6</b>	<b>Total</b>
Code Enforcement	10,266,227	40,778,153	51,044,380
IT	189,670	948,350	1,138,020
Landlord Tenant	209,625	245,260	454,885
Licensing and Registration	9,990	49,950	59,940
<b>Total</b>	<b>10,675,512</b>	<b>42,021,713</b>	<b>52,697,225</b>

- An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not Applicable

- An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Bill 19-15 would not impact the County's Enterprise IT systems, but it would affect DHCA's IT infrastructure. DHCA's IT systems are programmed in ASP.net. It is expected that modifications to the current system would be done in-house and would not require purchasing additional IT hardware or software; however, DHCA anticipates a need for two additional IT FTEs (see above in #2).

- Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Additional FTEs are required to implement bill 19-15. For the Code Enforcement section there is a need to add 95 FTEs. This includes FTEs for inspectors, program managers and administrative aides (see above in #2). In the year that the bill is implemented, DHCA estimates it will take approximately 180 hours of licensing and registration staff time to perform data analysis for each of the 67,500 multifamily units, review multifamily unit rent increases greater than specified amounts/percentages and recognize patterns of increases that may particularly have an impact on tenants; and 30 hours of IT staff time to update the current database, and develop new reporting capabilities.

Once the bill is implemented, DHCA expects that there will be less time required by program staff but more time required by IT staff to maintain and update the database. It is estimated that it will take approximately 110 hours of licensing and registration staff time and 90 hours of IT staff time.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

This would affect the Licensing and Registration section. These tasks would require additional temporary support while current staff performs the necessary analysis.

9. An estimate of costs when an additional appropriation is needed.

DHCA would require \$10,675,512 for the staffing and associated costs listed above in the fiscal year the bill is enacted for implementation and \$8,404,973 per year, each year after implementation of the bill to cover ongoing costs.

10. A description of any variable that could affect revenue and cost estimates.

The fiscal impact statement assumes the bill requires annual inspections of all rental units. The total cost estimate may be different based on the percentage of units required to be inspected annually. It also assumes the Tenant handbook will be distributed by mail. Cost would be less if the handbook were distributed electronically.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not Applicable

12. If a bill is likely to have no fiscal impact, why that is the case.

Not Applicable

13. Other fiscal impacts or comments.

Not Applicable

14. The following contributed to and concurred with this analysis:

Clarence Snuggs, DHCA

Tim Goetzinger, DHCA

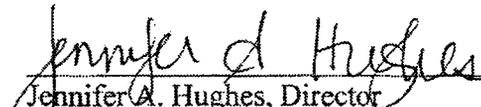
Francene Hill, DHCA

Rosie McCray-Moody, DHCA

Dan, McHugh, DHCA

Luann Korona, DHCA

Jennifer Bryant, OMB

  
Jennifer A. Hughes, Director  
Office of Management and Budget

6/18/15  
Date

**Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

**Background:**

This legislation would:

- Provide for annual inspection of certain residential rental properties,
- Require the use of a standard form lease and applicable optional provision for certain residential rental properties,
- Require the publication of certain information related to rental housing,
- Require the Department of Housing and Community Affairs (DHCA) to review certain rent increases,
- Provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs, and
- Provide certain rights to tenants facing rent increases.

**1. The sources of information, assumptions, and methodologies used.**

Sources of information include:

- Department of Housing and Community Affairs (DHCA),
- Maryland-National Capital Park and Planning Commission - Montgomery County, MD Planning Department (Planning),
- Metropolitan Regional Information System, Inc. (MRIS),
- Greater Capital Area Association of Realtors (GCAAR),
- American Community Survey (ACS), U.S. Census Bureau,
- Bureau of Labor Statistics (BLS), U.S. Department of Labor,
- National Multifamily Housing Council/National Apartment Association (NMHC/NAA),
- "Rent Control: Do Economists Agree?" *Economic Journal Watch (EJW), A Journal of the American Institute for Economic Research*, Volume 6, Number 1, January 2009,
- "Time for Revisionism on Rent Control?" *Journal of Economic Perspectives*, Volume 9, Number 1, Winter 1995.

The economic impact statement will focus on the portions of Bill 19-15 that directly impact the economic performance of the local rental market such as:

- Additional costs incurred by the landlord as required under Bill 19-15,
- Permitting tenants to convert a one-year lease to a two-year lease within 30 days after signing the lease, and

**Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

- Rent increase guidelines based on the increase or decrease in the Consumer Price Index for all urban consumers (CPI-U) for the Baltimore-Washington Consolidated Metropolitan Statistical Area (CMSA).

Data provided by NMHC/NAA for the Eighth Congressional District (District) present the economic benefits of the apartment industry. Those benefits include:

- There are 125,100 residents in the District that live in apartments,
- The apartment industry in the District contributes \$2.7 billion to the local economy, and
- The number of jobs related to the apartment industry in the District is approximately 25,100.

Data from DHCA as reported in its study entitled *Rental Apartment Vacancy Report 2012* states:

- The countywide vacancy rate for all surveyed units (market and subsidized units) was 3.5 percent in 2012, the latest date for which data are available – a decrease of 0.2 percentage points from 3.7 percent in 2011 and a decrease of 1.8 percentage points from 4.3 percent in 2008,
- The vacancy rate in 2012 varied from a high of 3.9 percent for efficiency units to 1.0 percent for 4+ bedroom units,
- The countywide vacancy rate for market-rate units was 3.7 percent in 2012 – a decrease of 0.1 percentage point from 3.8 percent in 2011,
- The vacancy rate for market-rate units varied from a high of 4.0 percent for efficiency units to 1.7 percent for 4+ bedroom units,
- In 2012, the countywide turnover rate for market and subsidized units was 31.0 percent – 1.5 percentage points lower than the 32.5 percent in 2011, and
- The turnover rate for market and subsidized units varied from a high of 35.5 percent for efficiency units to a low of 17.7 percent for 4+ bedroom units.

DHCA also provided the following information, definitions, and data regarding the capitalization rates, return on cost, and cost of capital used by DHCA and the industry:

- Capitalization (“cap”) rates are used by the Maryland State Department of Assessments and Taxation (SDAT) to determine the value of the property by dividing the net income of a property by a “cap” rate,
- Appraisers, lenders, and investors are currently using “cap” rates for valuation of multifamily properties in Montgomery County between 4.00 and 6.00 percent.
- Return on cost (ROC) is an industry standard used by lenders and investors that is applied to the market value of new construction projects,

**Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

- Currently the threshold measure for ROC averages between 6.50 percent and 8.00 percent,
- Cost of capital or cost of debt or equity is a measure of profitability for a particular rental property,
- Currently, cost of capital seeks a return from 4.50 percent to 5.75 percent on a property,
- Return on equity and investment debt seeks a return from 8.00 percent to 15.00 percent, and
- Historically, the threshold measures for the “cap” rate, ROC, and equity investment debt exceed the rate of inflation (please see paragraph #2).

**2. A description of any variable that could affect the economic impact estimates.**

The variables that could affect the economic impact estimates are:

- The cost to the landlord for providing a copy of the landlord-tenant handbook developed by DHCA to a tenant,
- The inspection cost to the landlord if there is a violation of applicable laws more than twice in two consecutive years,
- The current rental prices for multi-family housing,
- The threshold rate for the capitalization rate, return on cost, and cost of capital, and return on equity and investment debt,
- The percent change in the CPI-U for the Washington-Baltimore CMSA,
- The number of the tenants who would convert a one-year lease to a two-year lease within 30 days after signing the lease, and
- Permitting tenants to extend for up to two months at the original lease amount when the lease renewal amount exceeds the rental increase guidelines

Under Bill 19-15, DHCA will develop and distribute a copy of the landlord-tenant handbook to landlords and require a landlord to provide a copy to a tenant upon request. Finance assumes that the cost to the landlord is determined by “production” costs and the number of tenants who request a copy. At this time, those costs are unknown, but those costs will affect the expenses incurred by the landlord and those costs are assumed not to be passed on to the tenant.

Bill 19-15 would require the landlord to pay the cost of inspection if the landlord violated applicable laws for two consecutive years. While such costs will vary from landlord to landlord, it will have an effect on the landlord’s income assuming the landlord’s cost avoidance to complying with applicable laws is less than the cost of the inspection.

Data provided by MRIS and GCAAR show that rental prices increased from the first quarter of 2010 to the first quarter of 2015 as follows:

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**Landlord-Tenant Obligations**

- Garden (1-4 floors): 11.90%
- Mid-Rise (5-8 floors): 34.70%
- Hi-Rise (9+ floors): 1.62%

Comparing those percent increases with the increase in the CPI-U of 9.01 percent over the same period, rent increases for both garden and mid-rise apartments exceeded the percent change in the CPI-U. Comparing the rent increases with the increase in the CPI's rental equivalent index of 14.97 percent, the only percent increase that exceeded that index occurred with mid-rise units.

However, by setting the proposed guidelines for rent increases to the CPI-U rather than the CPI rental equivalent would have resulted in a reduction in the rent increases for the garden and mid-rise units over the 2010 to 2015 period and have a negative impact on revenues received by landlords. While such restrictions would affect revenues to landlords, tenants would receive a positive economic benefit by restricting the increase in rental rates. Therefore, such restrictions regarding allowable rent increases would have a zero sum impact on the County's economy.

Bill 19-15 would allow a tenant to convert a one-year lease to a two-year lease within 30 days after signing the lease. Assuming that the monthly rent for the two-year lease would then be the same as for the initial one-year lease, the tenant would receive a positive economic benefit of maintaining the same monthly rent for a two-year period while the landlord would experience a negative economic benefit.

Planning provided data from the 2013 American Community Survey (ACS), U.S. Census Bureau that show the tenure of households that rent in Montgomery County. From that data, the percent of rental households who have "moved in 2010 or later" was 64.1 percent or an estimated 201,301 residents countywide. That percent steadily decreased to 0.1 percent for renters who "moved in 1969 or earlier." Therefore there are a larger percentage of renters who have recently moved into rental units in the County and are more likely to convert a one-year lease to a two-year lease.

Finally, Bill 19-15 allows a tenant to occupy the unit at the current rate for a maximum of two months after the term of the lease expires if the rent increase exceeds the applicable guideline. DHCA will publish the average rent increase for each unit under specific guidelines. If those guidelines are based on inflation, and since data in #2 indicate that for both garden and mid-rise units the rent increase is greater than the rate of inflation, while it is less than for high-rise units, it is uncertain at this time, what the economic cost to the landlord and the economic benefit to the tenant would be.

3. **The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

**Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

Bill 19-15 would have a negative effect on landlord's business revenue through reduced allowable increases in monthly rents, additional expenditures incurred by providing a handbook to tenants requesting it, and costs for those inspections in violation of applicable laws. With the restriction on rents and the additional operating costs, those factors may have a negative impact on employment and economic contributions to the County's economy as presented by the data cited by NMHC/NHA.

The most significant impact to the rental housing market in Montgomery County is the provision to limit rent increases by the rate of inflation. Otherwise known as rental regulation or rent control, the National Multifamily Housing Council (NMHC) states that this provision could have a negative impact on new construction of rental housing, reduce property tax revenues through a reduction in the capitalization rates, reduce consumer mobility, cause a decline in the quality of housing stock, and reduce maintenance and repair. According to an article from EJW, the author states that "my reviews of the rent-control literature finds that economic research quite consistently and predominantly frowns on rent control." The author's findings covered both empirical and theoretical research on issues including housing availability, maintenance, and housing quality.

According to an article in the *Journal of Economic Perspectives*, the author states that "economists have been virtually unanimous in their opposition to rent control." He cites a survey conducted by the American Economic Association on its members and the overwhelming response (93.5%) agree with the statement that "ceiling on rents reduces the quantity and quality of housing available." However, the author proposes a revision to that survey which was conducted in 1992. He proposes an alternative economic model for judging the impacts of rent controls, and suggests that the housing market is imperfectly competitive rather than one that is perfectly competitive. As such, he suggests that under the "revised" market model "whether such controls (rents) are harmful or helpful depends on the particular package of regulations adopted, which is the outcome of the political process." He compares the current revisionist debate on rent controls to the revisionism "that has occurred concerning the effects of the minimum wage."

Data provided by DHCA suggest that capping the increase in monthly rents to the consumer price index could result in keeping those rates below the threshold return on cost and return on capital and below the current capitalization rate for property assessments. Regarding the effect on returns on cost and capital, capping rental rates to the rate of inflation may have a negative impact on investment in new rental housing construction.

Those potential negative effects on housing supply, the quality of housing stock, and business income and the threshold rates for property values and investment could be partially offset by positive impacts for tenants by restricting rent increases. It is uncertain without specificity of data if the negative effects experienced by the

**Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

landlord and the rental market industry are identically offset by the positive economic benefits to the tenant. If such effects are not identically offset, that is, the costs to the landlords and rental market industry are greater than the benefits to the tenants, there would be a negative impact on property values, business income, investment and employment in the County. Also, if Bill 19-15 discourages investment in new rental property, it could have a negative impact on the portion of recordation tax revenues that are used to support rental assistance for the same residents affected by this legislation.

**4. If a Bill is likely to have no economic impact, why is that the case**

The subject legislation will have an economic impact on the County, however, as mentioned in paragraph #3, without specific data on the economic impacts to landlords and tenants, a quantitative measurement of the impact on savings, investment, employment and property values is not feasible.

**5. The following contributed to or concurred with this analysis:** David Platt, Mary Casciotti, and Rob Hagedoorn, Finance; and Lawrence Cager, DHCA.

  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

6/4/15  
\_\_\_\_\_  
Date



**MONTGOMERY COUNTY COUNCIL**  
**ROCKVILLE, MARYLAND**

To: Members of the PHED Committee  
From: Councilmember Marc Elrich  
Date: July 23, 2015  
Re: Bill 19-15, Landlord-Tenant Relations – Licensing of Rental Housing

I am writing in advance of committee consideration of my legislation, bill 19-15, regarding Landlord-tenant issues. After listening to comments from the public and the Department of Housing and Community Affairs, I want to clarify the intent of this legislation and reiterate that my goal with this legislation is to address some of the existing problems in rental housing, and I believe that many, if not all, of the concerns expressed can be successfully addressed.

Increased inspection schedules:

The Fiscal and Economic Impact Statement review concludes that this legislation would require every unit in the county be inspected, which would require hiring 95 new employees at an annual cost of more than \$8 million to inspect every single unit in the county. That is not my intent, and the legislation as drafted does not require that. Our current inspection process is too limited and is often complaint driven, which is not sufficient. In our many interactions with tenants across the county, we have heard from many who will not file complaints for fear of being labelled a “troublemaker” and facing retaliation. While retaliation is illegal, landlords could choose not to renew a lease and as long as they don’t offer comments on a tenants behavior, it is not retaliation. I also understand that the current definition of excessive violations may need adjusting, and I agree that we may need some rewording. I have been talking with people in the county, and I think that many of the issues can be addressed. I am confident that we can find a solution that improves the inspection process and does not require the hiring of anywhere near 95 new employees.

Addenda to leases:

Upon conversation with Department of Housing and Community Affairs (DHCA), I understand the concerns with the legislation as proposed. I would instead propose that any addenda must have specified language explaining to the perspective tenant that DHCA is available to provide additional information on these issues and provide contact information for DHCA.

Voluntary Rent Guidelines:

We have met with Montgomery Housing Partnership about their concerns about the proposed change to the VRG. We have given them some alternatives to review and are awaiting their comments. Again, I think we can find a successful conclusion. While the Consumer Price Index (CPI) may not adequately reflect changes in operating costs,

neither does the current reliance on the rental component of the CPI, which merely reflects the inflation in housing prices and has little to do with the costs of operating a building.

Continued occupancy beyond the lease date.

We understand that this provision needs to be reworded to be consistent with state law.

I am confident that these and other issues can be addressed in a manner that improves the current situation for tenants in a fair and reasonable manner.

## Executive Summary

While owning a home has long been seen as an integral part of “The American Dream,” the reality for thousands of Montgomery County residents is that renting a home is the most viable – and, in many cases, preferred – option for housing. This is particularly true for young people living on their own, for individuals and/or families who may be new to the area or may not have the finances required to purchase a home, and for senior citizens who have made the transition to rental living, among others who choose to rent.

The Montgomery County Tenants Work Group (TWG), appointed and first convened in 2008 by County Executive Isiah Leggett, recently completed a thorough review and analysis of the primary issues impacting renters in the community. In conducting its work, the group divided into four subcommittees and focused specifically on issues related to:

1. Affordability and security;
2. Code updates, enforcement and complaints;
3. Landlord-tenant communication and tenant advocacy;
4. Particular needs of senior citizens and special needs populations.

Among the group’s key findings and recommendations in each of these areas:

### Issue I: Affordability and Security

1. Tenants, especially seniors and those with fixed or modest incomes, report that rents are increasing faster than the cost of living and outpacing their incomes. Rent increases are only tracked through an Annual Rental Facility Report produced by the County’s Department of Housing and Community Affairs, and this is based on results of a voluntary rent survey.

#### **Recommendations:**

- *Make the survey process mandatory and publish results into a verified and valid annual report, with detailed information that is easily accessible via the Internet and can be sorted in various ways.*

2. Montgomery County issues an annual Voluntary Rent Guideline, but as its title suggests, this endeavor is not mandatory. Owners may raise the rent each year by any amount, although they may only impose an increase once per year.

#### **Recommendations:**

- *Standardize County responses, with regard to the handling of all calls or communications regarding rent increases; and improve the requirement process that landlords must follow, with regard to rent increase notification.*

3. Tenants face annual rent increases that sometimes significantly exceed the voluntary rent guidelines.

**Recommendations:**

- *To maintain reasonable and predictable rent increases, the TWG recommends enactment of a rent stabilization law for Montgomery County, which would provide a fair rate of return for property owners and reasonable rent adjustments for tenants.*

4. Many tenants in Montgomery County express frustration about being forced at the end of their lease term to choose between either committing to a new year-long lease or having to pay higher monthly rent in exchange for going month-to-month on their rentals.

**Recommendations:**

- *Pass legislation to limit or ban rent surcharges for month-to-month tenants. To increase predictability for landlords regarding unit occupancy, month-to-month tenants under this law should be required to give at least two months' notice before vacating a unit and be fully liable for rent obligations during this period.*

5. Some tenants express concern that their landlords may choose to end the tenancy at the end of the lease term, without having to specify any rationale for the eviction.

**Recommendations:**

- *Pass a "just-cause" eviction law in Montgomery County, which would only allow for evictions for reasons that would be specified under the law, such as delinquent payment; criminal activity involving the tenant, on the property; substantial damage to the rental unit; or a move by the owner to permanently remove the unit from the rental market so they or a family member might occupy it.*

6. Some tenants indicated they were concerned that if they were to participate in or form tenants' associations and/or raise code enforcement or other issues regarding their rental units, they could be subject to reprisal, including eviction.

**Recommendations:**

- *To protect tenants' ability to lodge housing code complaints and to organize tenants' associations free from retaliation by landlords, the TWG urges the passage of retaliatory eviction legislation by Montgomery County.*

7. Once ownership transfers to a new party as the result of a foreclosure sale, the new owner is under no obligation to continue honoring existing rental leases for the property. Should the new owner choose to create a new lease with existing tenants on the property, the new owner is also under no obligation to grant tenants the same conditions as in the previous lease.

**Recommendations:**

- *Recently passed federal legislation (Helping Families Save Their Homes Act) adequately protects tenants living in foreclosed properties, but legislation should be enacted at the local level to ensure that these protections extend beyond the end of 2012, when the federal statute is set to expire).*

8. Tenants are displaced when rental buildings are converted to condominiums.

**Recommendations:**

- *The TWG recommends that a majority of tenants would need to vote to approve a condo conversion; that tenants should be provided with sufficient notice and detailed information about the conversion process; and that relocation assistance should be made available to a wider pool of tenants.*

9. According to the list of complaints filed with the Landlord-Tenant Commission, the highest number of complaints filed concern security deposits.

**Recommendations:**

- *Lease language should be clear about the use of the security deposit and the interest paid, and the law should be modified so that a tenant has a less cumbersome process for requesting to be present at the move-out inspection.*

**Issue II: Code Updates, Enforcement and Compliance**

1. Some apartment complexes have ongoing maintenance problems. Code inspectors inspect multifamily facilities every three years.

**Recommendations:**

- *Among a series of recommendations, the TWG concluded that buildings with ongoing maintenance problems should be moved to an annual inspection cycle and that owners of buildings with repeat violations should pay for the increased inspection schedule.*

2. Complaints seldom rise to the level of individuals filing a complaint and completing the process, resulting in a two-track process for complaints: informal and formal.

**Recommendations:**

- *Several recommendations have been offered to clarify and streamline the complaint-filing process, including a call for all information sources to clearly explain that landlords and tenants would not be required to file a formal complaint in order to access help for resolving an issue.*

3. State and County law require information that must be included in a lease. While Montgomery County has a model lease available, it is not required to be used by landlords and, often, not easily understood by the general public.

**Recommendations:**

- *Among a series of recommendations, the TWG calls for provision of a standard lease format and a Landlord-Tenant Handbook to be provided to all tenants.*

4. Some tenants have reported difficulty identifying someone who will assume responsibility to resolve their concerns. Other tenants have reported difficulty getting past the agent to reach the owner.

**Recommendations:**

- *Rental licenses should be clearly displayed with valid contact information and information should be provided in the Landlord-Tenant Handbook and on the County web site to clarify procedures regarding repairs.*

**Issue III: Communication and Information**

1. Montgomery County has a number of resources available for tenants, from both government and non-government organizations, but the information is often hard to find and there is no central source for accessing the information.

**Recommendations:**

- *The TWG makes several recommendations for better use, dissemination and translation of the Landlord-Tenant Handbook; and for better communication through use of the County's new, 311 information system. Also, for greater outreach via media outlets and community organizations.*

2. Renters in Montgomery County are culturally diverse. Although Montgomery County has some government programs of interest and applicability to tenants, communication about these programs to the diverse public is inconsistent.

**Recommendations:**

- *Montgomery County should vigorously promote equal access for tenants who are blind, deaf, or have limited language or technology access; and should convene a housing language access task force to address concerns and gaps with regard to reaching various populations.*

**Issue IV: Tenant Advocacy**

1. Although there are some groups that include some measure of tenants' rights and advocacy regarding tenant/landlord issues in the county, there is no existing county-wide advocacy or coordination structure.

**Recommendations:**

- *The County should provide leadership in forming a Tenant Advocacy (TA) structure funded by a landlord-tenant fee and it should exist independently from County government.*

**TESTIMONY ON BEHALF OF THE COUNTY EXECUTIVE  
ON BILL 19-15, LANDLORD-TENANT LEGISLATION RELATIONS –  
LICENSING OF RENTAL HOUSING-LANDLORD TENANT OBLIGATIONS**

Good evening, my name is Clarence Snuggs. I am the Director of the Department of Housing and Community Affairs (DHCA). I am testifying today on behalf of County Executive Isiah Leggett in support of Bill 19-15.

The production and preservation of quality affordable, special needs and workforce housing have been top priorities for the County Executive throughout his tenure. The County Executive is supportive of the bill’s efforts to provide greater protections and transparency for County tenants.

In 2008, County Executive Leggett established a Tenant Work Group to provide a forum for county renters to study and discuss issues and concerns of the growing renter population in the county. After more than a year of work, the Tenant Work Group presented the County Executive with a comprehensive report identifying areas of common concern among renters; a listing of best practices for tenant engagement and advocacy; a comprehensive listing of available resources for tenants; and potential solutions for problems identified by the work group. The County Executive is grateful to the members of this work group for their effort and vision. The County Council was represented on this work group by Councilmember Marc Elrich, the bill’s lead sponsor.

The legislation before you implements several recommendations of the Work Group. It also responds to the significant growth in the County’s tenant population which in 2008 was 25% of the county population and grew to 36% in 2013, with significant additional apartment construction in progress. Renters are an important segment of our residential population and deserve a voice in County government.

While the County Executive supports the legislation generally, there are provisions with which he disagrees. For example, the costs to implement annual property inspections, as required in the bill, are significant and go well beyond that which could be addressed by the department’s current budget as well as projected future budget levels.

In addition, the County Executive concurs with having DHCA develop some sample addenda to support the current standard form lease; however, the bill should allow for room for landlords and tenants to draft their own addenda to address the specific issues that cannot be fully anticipated by DHCA.

Also, the bill’s provision which allows a tenant to convert a one-year lease to a two-year lease within 30 days of execution is unduly burdensome for landlords.

Finally, Section 29-55 of the bill, which describes, “rights of tenants facing rent increases,” is in conflict with State law, specifically provisions relating to continued occupancy for up to two-months past lease expiration and requiring a minimum of 15-day notice before vacating premises.

County Executive Leggett and I look forward to working with the Council in shaping this bill into final legislation that will provide greater protection for county tenants and address these issues. Thank you.

TESTIMONY OF SENATOR JAMIE RASKIN  
BEFORE THE PLANNING, HOUSING AND ECONOMIC DEVELOPMENT COMMITTEE  
ON COUNTY BILL 19-15

JUNE 18, 2015

Chairperson Floreen, Council President Leventhal and Councilmember Riemer:

Despite a scheduling conflict, when I learned of your hearing, I felt strongly about coming to testify for three minutes. Thank you for hearing me, and I will be happy to provide further written testimony if you have questions.

This bill is of great importance. As you know, one in three people in our County is a tenant and, in my legislative district, it is closer to one-half. Before I became Senator, I represented dozens of tenants who faced illegal eviction orders and dysfunctional living conditions. As the Senator from Silver Spring and Takoma Park for nearly a decade, I have often gotten involved in supporting tenants who have been burdened with hazardous, unsanitary or unfair conditions or harsh lease terms. I have also gotten involved in helping new apartment buildings to locate here to meet the growing demand for affordable rental housing. I have worked with both tenants and landlords.

My involvement led to my appointment to the 2010 Montgomery County Tenant Work Group where I was represented often by my Chief of Staff Alice Wilkerson. County Bill 19 is a strong bill that embodies the work product of that lengthy and involved process.

This bill avoids controversial proposals like rent control, but effectively advances the security and well-being of hundreds of thousands of Montgomery County residents in their homes. It builds impressive predictability and consistency into the law. For example, it provides for use of a standard lease that will be made available in English, Spanish, French, Chinese, Korean, Vietnamese and other languages as needed. It allows a tenant to rescind within two days after signing a lease much as homeowners get the same option for several days after purchasing a house or taking out a mortgage.

The bill fosters transparency by requiring publication of important information about rental housing and better compliance through more frequent inspections. It introduces some semblance of fairness to our constituents who have faced skyrocketing rental increases way outside of the guidelines by requiring three months written notice before imposition of an increase of more than 100 percent of the applicable rent increases guideline and by permitting tenants facing rent increases beyond the guideline to continue occupancy for up to two months after lease expiration on a month-to-month basis at the existing pre-increase rent level.

To be sure, rental apartment living is a commodity and the rental market will obviously continue to operate and thrive here. But it is also a way of life for more than one-third of our people, and we must protect and improve their quality of life, their sense of security. I know you will pay close attention to all the details here, but this bill overall is a great contribution.

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**B19-15, Landlord-Tenant Relations-Licensing of Rental  
Housing-Landlord-Tenant Obligations**

**JUNE 18, 2015**

Good evening members of the Council and staff. My name is Nicola Whiteman, and I am the Senior Vice President of Government Affairs for the Apartment and Office Building Association of Metropolitan Washington (AOBA), a non-profit trade association whose members are owners and managers of more than 112,000 apartment units and over 33 million square feet of office space in suburban Maryland, including over 24 million square feet of office space and more than 57,000 apartment units in Montgomery County. I appear today to testify on B19-15, Landlord-Tenant Relations-Licensing of Rental Housing-Landlord-Tenant Obligations. B19-15 advances unnecessary, duplicative proposals which are codified in current law and/or being implemented by the Department of Housing and Community Affairs. I will highlight various concerns as a framework for discussions on the important issues and have included detailed comments on specific provisions in the legislation for your consideration.

AOBA wants to commend the County Executive and Department of Housing and Community Affairs (DHCA) for their demonstrated commitment to implementing policies and procedures designed to promote fair and balanced rental housing policies. Critically important has been the publication of information designed to inform tenants and housing providers of their respective rights and responsibilities. DHCA has published various forms online, including sample leases and the Landlord-Tenant Handbook (Handbook), all designed to address the multitude of issues relating to tenancy and the housing provider/tenant relationship. We all benefit when the housing community is duly informed of the County's various laws and regulations. As the Council considers proposals to mandate the availability of certain information, AOBA encourages the Council to first review the information currently being made available. If the information is already being provided, then further legislative action is not warranted. The Council must also consider whether any legislative proposal is consistent with the stated statutory purpose. Consider, for example that housing data is collected to "ascertain the supply and availability of rental housing and other operating characteristics." Montgomery County Code Sec. 29-51(e). The Council should also question *who* will benefit from a legislative proposal. If the purported goal is to protect tenants in need, those who are rent burdened or at risk of being rent burdened, how will a proposal that is applicable to all tenants, regardless of need, allow the County to achieve this goal?

AOBA members share a commitment to providing safe and quality housing to the numerous tenants residing in our communities. We note, for example, the County's vigorous enforcement of the inspection program which includes responding to tenant complaints and inspection requests when warranted. As the Council considers various proposals in the bill relating to, for example, abatement of housing conditions by tenants or the expansion of existing inspection protocols, the Council should review the existing policies which afford tenants sufficient protections and remedies. These same laws and polices provide tenants with various mechanisms for filing complaints should the need arise and empower the DHCA director with the necessary authority and flexibility to enforce the County's housing laws. Note, for example, that the law vests the director with the authority to subject rental housing to more frequent inspections. Exercising this discretionary authority, when warranted allows for an efficient use of limited agency resources by directing additional inspections and enforcement activity in a targeted manner.

As the County faces a shortage of available housing amid reports that the pace of production will need to increase to meet the need, the Council should carefully consider any policy which might negatively impact the availability of housing. Allowing tenants the ability to rescind a lease within two days will limit the availability of rental units, as prospective tenants continue to shop for other options thus obligating several otherwise available units. The Council should also be mindful that housing providers need the flexibility to address changes in local or federal law or in the market. Housing providers will need to revise leases in a timely manner in response to such changes. There are a myriad of issues that are addressed in lease addendums and this may change based on market conditions and demand, property management company or tenant community. Housing providers and tenants are not uniform and the Council should hesitate before mandating uniform standards applicable to much of the rental housing stock. Thank you for the opportunity to testify and AOBA looks forward to working with the Council on this important issue.

## BILL 19-15OVERVIEW

### I. SEC. 29-6 PROPOSAL TO DIRECT DHCA TO PUBLISH STANDARD LEASE FORM AND LANDLORD-TENANT HANDBOOK ONLINE

The standard lease language and the Handbook are currently available via the DHCA website. Further, the model lease language in English and Spanish. As to model lease provisions, while it might be prudent to post examples online, it will be impossible for the County to publish an exhaustive list of sample provisions which address every scenario that might arise in the leasing context. It might be advisable to instead focus on the most commonly used lease addendums and post examples on the County's website. Notably, it is mostly smaller housing providers and their tenants who benefit from the availability and guidance provided by sample forms as larger housing providers have the staff and other resources necessary to generate the necessary leasing documents and ensure compliance with all applicable laws and regulations.

#### BACKGROUND:

##### COLTA-Sample Leases:

<http://montgomerycountymd.gov/DHCA/housing/landlordtenant/leases.html>

##### Landlord-Tenant Handbook:

[http://montgomerycountymd.gov/dhca/resources/files/housing/landlordtenant/handbook\\_olta.pdf](http://montgomerycountymd.gov/dhca/resources/files/housing/landlordtenant/handbook_olta.pdf)

##### DHCA Response to 2012 Tenant Working Group (TWG) Recommendation No. #39

([http://www.rentersalliance.org/wp-content/uploads/2012/04/Tenant\\_Work\\_Group\\_-\\_DHCA\\_Response\\_Mar\\_12\\_20121.pdf](http://www.rentersalliance.org/wp-content/uploads/2012/04/Tenant_Work_Group_-_DHCA_Response_Mar_12_20121.pdf))("Model lease and other landlord/tenant information available in English and Spanish.)

### II. SEC. 22 INSPECTION OF RENTAL HOUSING/TENANT NOTIFICATION

#### A. MANDATING ANNUAL INSPECTIONS

AOBA members are committed to providing quality housing and support the County's efforts to ensure that tenants are residing in rental units that are maintained in habitable and livable conditions and remain supporters of the housing inspection program. DHCA continues to aggressively implement the program to protect the health, safety, and welfare of our residents. The Council can and should continue to exercise its oversight function to help ensure that the program which requires the automatic inspection of every multifamily building in the County continues to be a success.

Current administrative processes including triennial inspections, ensure that the County's renters are residing in safe and habitable rental housing and provide tenants with a mechanism for filing complaints should the need arise.<sup>1</sup> The law vests the DHCA director with the authority

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<sup>1</sup>See also Montgomery County Code § 29-27 Contents of lease. "(m) Contain a covenant that the landlord will deliver the leased premises and all common areas in a clean, habitable and sanitary condition, free of rodents and

to subject any apartment complex or personal living quarters to more frequent inspections. Exercising this discretionary authority, when warranted, allows for an efficient use of limited agency resources by directing additional inspections and enforcement in a targeted manner. Tenants also have a statutory right to request an inspection and may utilize the County's 311 service to report housing complaints, even anonymously, to DHCA's Housing Code Enforcement division. Per DCHA's website, inspections are typically conducted within 5 business days (dependent on urgency, existing schedule, and caseload). Of course tenants can and should notify the housing provider if they believe there is a housing code violation. Alerting the housing provider to conditions in the unit, which may be unknown to management, is surely the most expeditious means of providing notice so that the condition can be corrected. And in those instances where a housing provider is not responsive, tenants can and should report the alleged violations to DCHA, as noted, and request an inspection which may result in an action before the Commission.

## **BACKGROUND:**

### **Sec. 29-22. Inspection of rental housing.**

(a) The Director must inspect each apartment complex and personal living quarters building licensed as rental housing at least once every three years to determine if it complies with all applicable laws. **The Director may inspect an apartment complex or personal living quarters building more often than the triennial inspection.**

(b) **The Director may inspect any other rental housing if the Director receives a complaint or a request from a landlord or tenant or believes that the rental housing does not comply with all applicable laws.**

(c) As a condition of receiving a license under this Chapter, a landlord must agree to: (1) **allow access to the Department for any inspection required under this Chapter or Chapter 26;** and (2) notify any affected tenant whose unit requires inspection.

(d) If an inspection indicates that any rental housing does not comply with all applicable laws, the Director may revoke the license or take other remedial action under Section 29-25.

**Sec. 29-27(p):** Lease must inform tenants that landlords may enter dwelling unit after due notice and tenant has not reasonably objected.

**Sec. 29-32. Prohibited Actions (b)(A landlord must not evict or attempt to evict, or take any other retaliatory action against any tenant who exercises any rights conferred upon the tenant by this Chapter or any tenant who assists another tenant in exercising those rights.** As used in this subsection, "other retaliatory action" includes any unreasonable rent increase, threat, coercion, harassment, or violation of privacy, and any reduction in the quality or level of services available to the tenant that is not authorized by this Chapter or state law. Evictions or attempted evictions prohibited by this subsection are "retaliatory evictions."

**Sec. 29-36. Tenants' complaints. (Statutory right to request inspection.**

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vermin, and in complete compliance with all applicable laws. In a condominium or cooperative housing structure, the landlord is required to deliver only the dwelling unit in a clean, habitable and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws." Montgomery County Code § 29-30 Obligations of housing providers.

- (a) If any affected tenant has reason to believe that a defective tenancy exists, has given the landlord notice of the tenant's complaint alleging a defective tenancy, and the landlord does not make a bona fide effort to rectify the defective condition within one week after the notice has been given, the affected tenant may file with the Director a complaint in writing. The complaint must state the name and address of the landlord, the premises in question, and the particulars of the alleged defective tenancy.
- (b) If any prospective tenant believes that a landlord has violated Sections 29-27 or 29-28, the prospective tenant may file a written complaint with the Director stating the name and address of the landlord, the premises in question, and the details of the alleged violation.

**Landlord-Tenant Guidebook, p. 32:** "NOTICE OF DEFECTS. ... If the landlord fails to make the repairs in a timely manner, the tenant should call Housing Code Enforcement at 240-777-0311 to file a complaint and request an inspection by County Housing Code Enforcement staff."

**DHCA Response to TWG Recommendation No. #18:** "A blanket requirement to inspect all buildings every year is not programmatically or fiscally practical. ... **No evidence has been provided that the current administrative process is not working. Therefore, the Executive does not support the change ...**"

**TWG - Table of Recommendations, Feb 25, 2013, p. 11:**

"Yearly inspections are not practical and there is not evidence that the current process is not working. Newer buildings may not need to be inspected as frequently as older buildings. Current procedures to provide for more frequent inspections of building with a history of violations. DHCA will explore the option of increased fees for increase inspections for buildings with repeat violations. Tenants are notified by postcard of inspections and can remain anonymous. County Code requires that a landlord grant access for an inspection after reasonable notice to the tenant. If a tenant requests to be present, code enforcement staff will make arrangements. Inspections can be scheduled outside normal business hours.

**TWG - Table of Recommendations, Feb 25, 2013, p. 12:** "Inspections can be scheduled outside of normal business hours."

## **B. NOTICE TO TENANTS OF SCHEDULED INSPECTIONS**

Montgomery County law directs housing providers to provide due notice to tenants before entering a unit and vests tenants with the right to reasonably object to such standard. Notably, this language must be memorialized in any rental housing lease. *See* Montgomery County Code § 29-27(p). These provisions are designed to balance the housing providers' ability to access to the unit when needed, especially for necessary maintenance and repairs with tenants' right to privacy and quiet enjoyment. Notably, there is no restriction on the ability of an individual tenant to ask for more advance notice. A tenant's reasonable objection, for example, can include a request that the housing provider give 72-hours notice. If the Council elects to impose minimum notice requirements for the DHCA inspection, then AOBA encourages the Council to mirror existing notice periods in the law. Housing providers and tenants alike benefit from uniform, predictable regulatory requirements.

**BACKGROUND:**

**Excerpt - Apartment/Condominium Sample Lease: Landlord/Agent Access to Premises**

18. a. The Landlord/Agent may enter the dwelling unit after giving **due notice (24 hours) to the Tenant** and the Tenant has not unreasonably objected, to: make necessary repairs, decorations, alterations or improvements; supply services only by mutual agreement during normal business hours, except in an emergency; or exhibit the dwelling unit to prospective purchasers, mortgages, or tenants only during normal business hours, including weekends, except as the Landlord/Agent and Tenant otherwise agree. Landlord/Agent may enter the dwelling unit immediately without notice to Tenant in an emergency situation.

b. Landlord/Agent may enter the dwelling unit after providing due notice to the Tenant (**24 hours**) when the Landlord is required to allow access to the Department of Housing and Community Affairs for an inspection; or when the Landlord has good cause to believe that the Tenant may have damaged the dwelling unit or may be in violation of County, State, or Federal law. Any requests for service from Tenant will be construed to mean that permission to enter the unit has been granted for the purpose of making requested repairs.

c. During the last 60 (sixty) days of the term of this Lease or any extension thereof, Landlord/Agent may enter the premises to exhibit the same to other persons. Tenant agrees to cooperate with Landlord or his Agent in showing the property. Tenant is advised that on occasion he/she may be asked to exhibit the premises **on less than twenty-four (24) hours' notice.**

**III. SEC. 29-27 - PROPOSAL TO AMEND LEASE PROVISIONS IN THE LAW AND MANDATE USE OF STANDARD LEASE AND MODEL OPTIONAL PROVISIONS**

**A. MANDATING SAMPLE LEASES AND MODEL OPTIONAL PROVISIONS**

Mandating standard lease and model provisions is unnecessary given existing protections in the law and would handicap housing providers' ability to respond to changes in the law or market. Housing providers must have the flexibility to revise leases in a timely manner in response to changes to federal or local law, tenant needs or market demands. Moreover, insurance companies may also have standards for language that must be included in leases. As to current law, Montgomery County subjects housing providers to numerous disclosure requirements designed to ensure that tenants can make informed decisions about whether to rent a dwelling unit and are knowledgeable about available rights and applicable law during the tenancy. Current Sec. 29-27, for example enumerates the minimum contents of residential leases.<sup>2</sup> The required information, includes, but is not limited to: (1) housing

<sup>2</sup>Housing providers must also provide prospective tenants with copies of laws and restrictions applicable to the unit Montgomery County Code § 29-31(c)(Before a tenant executes a lease for an initial term of 125 days or longer, the

providers' obligation to maintain rental housing; (2) management of security deposits; (3) notifying tenants that general information and assistance regarding evictions is available; and (4) access to units by housing providers for necessary repairs. Perhaps even more important is statutory language dictating the exclusion of illegal provisions. A lease cannot, for example, contain an agreement by a tenant to waive the right to a jury trial or require a tenant to pay late fees in excess of 5%.

Notably, a lease, unlike other government requirements, is essentially a private contract between two parties. Mandating use of a government-issued sample contract, may amount to a taking as the ability to negotiate lease terms is a fundamental right of property ownership. Further, AOBA questions whether a standard form can set forth the entirety of the private party relationship, including restrictions on a housing provider's responsibilities. Will such leases include provisions on mandatory background checks? Sex offender registry notification? What are the risks to tenants and housing providers if the County fails to include certain provisions in the mandatory lease form? The Council would need to also amend the law to indemnify housing providers from any and all actions that arise out of, or in relation to, use of a county-mandated lease agreement.

**B. EXPANDING LIST OF MANDATORY LEASE PROVISIONS; AUTHORIZING EARLY LEASE TERMINATION; AND CONVERSION OF ONE-YEAR LEASES**

The bill seeks to expand the exhaustive list of some 20 requirements that afford tenants various protections to include the ability to rescind a lease within two days of signing and convert a one-year lease to two-years within 30 days of signing unless a 1-year lease was offered pursuant to Montgomery County Code Section 29-28(c). Allowing tenants two days to rescind a lease without penalty would allow individuals to obligate several apartments until they make their final selection. In the interim, those units would be unavailable to prospective tenants in need of housing and ready to sign and commit to a lease. The proposal will encourage tenants to obligate multiple apartments without penalty. Given the existing challenge the County faces regarding the demand for housing outpacing the supply, the Council should encourage not discourage the availability of rental housing units.<sup>3</sup> Finally, the current statutory requirement directing housing providers to provide an initial lease-term of two years obviates the need for any amendments authorizing the conversion of one-year leases to two years. Notably, any lease

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owner of the dwelling unit must give the tenant a copy of any rule, regulation, declaration, or covenant that binds the owner and affects the use and occupancy of the unit or any common area associated with the unit. The lease must expressly state that any obligation of the owner that affects the use and occupancy of the unit or any common area associated with the unit is enforceable against the tenant."

<sup>3</sup>Housing demand in the County: By 2032, 83,829 more housing units will be needed. Currently, the pace of production will need to increase to meet the need. Sturtevant, PhD, Lisa, Vice President for Research, National Housing Conference Executive Director, Center for Housing Policy, *A Conversation About the Housing Needs of Montgomery County's Current And Future Residents*, January 30, 2014, [www.montgomeryplanning.org/departments/winter2014speakers/lisa\\_sturtevant/2014\\_jan\\_30\\_lisa\\_sturtevant\\_slides.pdf](http://www.montgomeryplanning.org/departments/winter2014speakers/lisa_sturtevant/2014_jan_30_lisa_sturtevant_slides.pdf). (See page 11 for chart showing housing demand and page 13 which includes a chart which demonstrates that historic building rate currently insufficient to meet future needs.)

must notify tenants that each housing provider must offer an initial term of 2-years and tenants must confirm by initializing the lease that they accept or reject the offer.

**BACKGROUND:**

**TWG - Table of Recommendations, Feb 25, 2013, p. 3:** Executive does not support a 2-day rescission period.

**Current law requires housing providers to offer a minimum initial 2- year lease. Montgomery Co. Code § 29-28(c)** requiring landlord to offer initial 2-year term and allowing tenant and landlord to negotiate longer or shorter term after tenant is offered and rejects 2-year term. Housing providers/tenants not prohibited from negotiating a lease for a term longer or shorter than 2-years after tenant after prospective tenant offered and rejects 2-year lease term.

**See sample apartment and condominium lease: #36 (2-year term language).**

**TWO-YEAR LEASE OFFER. 36.** Montgomery County law requires landlords, unless there is a reasonable cause otherwise, to offer all prospective tenants lease agreements for initial terms of two (2) years. Such an offer may be accepted at the option of the prospective tenant. Prior to entering this lease, the tenant hereby acknowledges that: (initial and date one of the following options)

- \_\_\_\_\_ a. I was offered and accepted a two-year lease term by the landlord.
- \_\_\_\_\_ b. I was offered but rejected a two-year lease term by the landlord.
- \_\_\_\_\_ c. I received a copy of a written statement in which the landlord asserts and explains a reasonable cause for failing to offer me a two-year initial lease term and was advised of my rights to challenge such statement by filing a complaint with the Montgomery County Commission on Landlord-Tenant Affairs, 100 Maryland Avenue, 4<sup>th</sup> Floor, Rockville, Maryland 20850, (240) 777-0311.

**IV. SEC. 29-28 MANDATORY MINIMUM 2-YEAR TERM AT RENEWAL AND DISTRIBUTION OF LANDLORD-TENANT HANDBOOK**

**A. MANDATING 2-YEAR TERM AT LEASE RENEWAL IS HARMFUL TO TENANTS**

The proposal seeks to unnecessarily introduce rigidity into the lease renewal process and fails to meet the needs of tenants and housing providers. Tenants and housing providers must be able to negotiate the leasing period at renewal that meets their specific needs. A tenant who intends to relocate, for example, after the initial 2-year term, may not want a two-year lease extension. Tenants can elect to request annual extensions of the lease or negotiate a longer lease term that is responsive to their housing needs.<sup>4</sup> The Council should not mandate one standard that will apply to all rental housing units and tenants.

<sup>4</sup>See, for example, Landlord-Tenant Handbook, p. 37 (“A tenant who remains in a rental property after the initial lease expires is considered to be a month-to-month tenant. All of the provisions of the lease still apply, except that

**BACKGROUND:**

**Sample apartment lease:** “Copies of the Montgomery County Landlord-Tenant Handbook are available upon request (240) 777-0311.”

**DHCA Response to TWG Recommendation No. #37:** Handbook is available online and landlords will be encouraged to make copies available and/or provide information as to availability.

**B. MANDATORY DISCLOSURE OF LANDLORD-TENANT HANDBOOK TO PROSECTIVE TENANTS**

The Handbook is available online and housing providers are encouraged to provide copies to tenants. Additionally, the standard lease provides instructions to tenants on how to access a copy. See sample apartment lease: “Copies of the Montgomery County Landlord-Tenant Handbook are available upon request (240) 777-0311.” DHCA also encourages housing providers to distribute the Handbook. Online access allows housing providers and tenants to easily and quickly obtain copies of the Handbook.

**V. SEC. 29-47. PROPOSAL TO EXPAND ENFORCEMENT POWERS OF COMMISSION ON LANDLORD-TENANT AFFAIRS (COLTA) TO ALLOW TENANTS TO ABATE CONDITIONS IN THEIR UNIT**

Current law and administrative processes, including current housing code enforcement efforts and the ability to pay rent into an escrow account, provide tenants with adequate remedies should a housing provider fail to repair defects in a rental unit. *See* Md. Real Property § 8-211. Repair of dangerous defects; rent escrow (a) Purpose. ... provide tenants with a mechanism for encouraging the repair of serious and dangerous defects which exist within or as part of any residential dwelling unit, or upon the property used in common of which the dwelling unit forms a part.” Additionally, the Handbook outlines the rent escrow procedures and process for filing a complaint with COLTA.

**BACKGROUND:**

**DHCA Response to TWG Recommendation No. #24:** The current State rent escrow procedure coupled with action by code enforcement to ensure that rental units are in compliance with Chapter 26 are adequate to address legitimate concerns of tenants in this area. **The Executive does not support this recommendation.”**

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the rental agreement is automatically renewed on a month-to-month basis. The wording of the lease determines the length of notice given by either the landlord or the tenant in order to terminate the tenancy. Landlords of multi-family properties are required to give month-to-month tenants at least a two months’ notice to vacate. Landlords of single-family rental units are required to give month-to-month tenants at least a one month notice to vacate. Under these circumstances, it is not necessary for the tenant or the landlord to give a reason for termination. In lieu of being a month-to-month tenant, to ensure a stable housing situation, **tenants are encouraged to request annual extensions of the lease agreement.** If your lease is not clear or different from the notice period described above, please call Landlord-Tenant Affairs at 240-777-3636 for clarification.”)

**TWG - Table of Recommendations, Feb 25, 2013, p. 12:** The Executive does not support the recommendation to allow tenants to deduct the cost of repairs and believes that current escrow and code enforcement can address legitimate concerns of tenants.

## **VI. SEC. 29-51 PUBLICATION OF RENTAL UNIT SPECIFIC HOUSING SURVEY DATA**

Any proposal to amend the law should be viewed in the context of whether it meets the stated statutory purpose. The intent of the rental housing survey is to collect housing data “to ascertain the supply and availability of rental housing and other operating characteristics. *See* Montgomery County Code § 29-51(e).” The agency’s receipt and analysis of the data provided by housing providers allows the County to achieve this goal.

Further, if the County’s intent is to make unit-specific rent information public, AOBA believe it has no lawful authority for doing so exists, and that doing so would violate current law regarding both tenant privacy and the purposes of rental housing data collection. County law states that “The [DHCA] Director must share [rental housing data survey] information with other governmental agencies that need it *without invading individual privacy*” Montgomery County Code, Sec. 29-51 (i). There is no authorization to publicly share survey-specific information, such as individual rent increases. AOBA also believes that requiring housing providers to provide such information would be costly to both housing providers and to the County.

Doing so would also clearly violate the Director’s statutory duty to protect tenant privacy. Tenant identification is easily discernible from a building’s rent roll. A rent increase is a change in lease terms; and a lease is a contract between two private parties—neither of whom is the County government, another tenant in the same building, or the general public. Moreover, public dissemination of the data for ostensible “affordability” determinations is not an authorized use and inconsistent with statutory language limiting use of this information to ascertain the supply and availability of rental housing.

While AOBA recognizes that unit-specific rents charged and increases must be provided by housing providers “as requested by the County,” the County has not, to date, done so on a County-wide basis. *See* Montgomery County Code Sec. 29-51(e). It has the authority to require such information and should do so only on an as-needed basis and for a specific purpose, e.g. complaint investigation. It will be costly and administratively burdensome for housing providers to provide such information for every unit covered in the Rental Facility Survey, and for the County to maintain it and protect its confidentiality.

Finally, the Director may be unable to publish the “average rent increase” for each unit in the County. The use of dynamic pricing which relies on the use of technology to respond to demands in the market makes it difficult, if not impossible to calculate the “average rent increase for each unit” since the rent increase calculation may change hourly, daily, or weekly. Dynamic rent pricing can allow a housing provider to lower the asking rent to secure a new tenant, avoid

lengthy vacancy periods and reduce overall vacancy rates – all attractive propositions for the County.

**BACKGROUND** (See also current information available on DHCA website):

**§ 29-51(e):** Housing data collected must be used to ascertain supply and availability of rental housing and other operating characteristics.

**§ 29-51(i)** The Director is primarily responsible for controlling rental housing data surveys for the County. The Director must share this information with other governmental agencies that need it without invading individual privacy. In this regard, the Director must coordinate survey activities with other County departments, and make available to the departments the results of all surveys in accordance with executive procedure.

## **VII. §§29-53 AND 29-55: DHCA AUTHORITY/THRESHOLD FOR REVIEWING RENT INCREASES**

Tenants concerned about the amount of a rent increase can request that DHCA review *any* increase deemed to be excessive. Specifically, DHCA is authorized to “review any rent increase that appears to be excessive and encourage the landlord to reduce, modify, or postpone the increase.”<sup>5</sup> Notably, the sample rent increase form utilized by housing providers informs tenants of this right and how to contact the Montgomery County Office of Landlord-Tenant Affairs to review the new monthly rent.<sup>6</sup> See sample rent increase notice: “If you feel the rent increase is excessive, you may request that the Montgomery County Office of Landlord-Tenant Affairs review the new monthly rent.” Tenants can also utilize the County’s 311 hotline to obtain additional assistance and information regarding rent increases or conditions of the tenancy. Notably the voluntary rent guidelines are already available on DHCA’s website.

### **BACKGROUND:**

#### **Sample Apartment/Condominium Lease/Rent Increases. 33.**

- a. **Frequency and Amount.** After the initial term of this Agreement expires, rent may not be increased more than once per twelve (12) month period.
- b. **Notice.** Two (2) months’ prior to the rent increase, written notice must be mailed to Tenant at Tenant’s last known address. This notice may also serve as a notice to quit and vacate the premises in the event Tenant does not agree to pay the rent increase if such language is included in the notice. In the event Tenant fails to pay the increased rent and holds over beyond the period specified in the quit and vacate notice, Landlord may file suit to evict Tenant. The amount of rent due during this hold over period will be the increased rent. Tenant’s timely payment of the increased rent will convert the tenancy month to month. If Tenant declines to accept the adjusted rent and intends to vacate the premises at the end of the initial term or any extension thereof, Tenant must provide one month’s written notice to the Landlord/Agent of Tenant’s intention to vacate.
- c. Each written rent increase notice must contain the following:

<sup>5</sup>See Montgomery County Code Sec. 29-53(c).

<sup>6</sup>See Montgomery County Code Sec. 29-53 (requiring written notice of rent increases).

- (1) The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent), the amount of monthly rent proposed immediately after the rent increase takes effect (new rent), and the percentage increase of monthly rent.
- (2) The effective date of the proposed increase.
- (3) The applicable rent increase guideline issued under section 29-53 of the Montgomery County Code.
- (4) A notice that the tenant may ask the Department to review any rent increase that the tenant considers excessive.
- (5) Other information as the landlord deems useful in explaining the rent increase.

**DHCA Response to TWG Recommendation No. #5:** Rent increase notices should include DHCA contact information for excessive rent increases. **DHCA Response:** County law requires landlords to inform tenants of right to contact DHCA if believe rents are excessive. DHCA will ensure landlords aware of MC311 requirement.

**VIII. §29-54. RENT ADJUSTMENTS; NOTICE REQUIREMENTS.**

The requirement for a uniform two-month notice period of rent increases for all rental housing units coupled with tenants' right to solicit assistance from DHCA in reviewing any such increase afford adequate protections and notice to tenants. The proposed change will cause a totally non-uniform practice that will be highly impractical and costly to administer. The proposed notice requirement would be applicable for every tenant receiving such an increase, regardless of whether they might consider themselves "adversely impacted" or "rent burdened. There is no nexus between the proposed notice requirement and demonstrated financial need of some or all tenants that might be subject to rent increases of more than 100% of the voluntary rent guidelines.

June 18, 2015

Montgomery County Council  
c/o Mr. George Leventhal, President  
100 Maryland Avenue  
Rockville, Maryland 20850

## Re: Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing – Landlord – Tenant Obligations

Dear Council members:

I serve on the Maryland Legislative Committee of the Washington Metropolitan Chapter Community Association Institute (“WMCCAI”). WMCCAI is a 501(c)(6) organization that serves the educational, business and networking needs of the community association industry in Maryland, Virginia and the District of Columbia. Members include professional managers and community association volunteer leaders from condominium, cooperative and homeowners associations as well as those who provide products and services to associations.

Bill 19-15 would make several changes to the County’s landlord-tenant law, principally aimed at enhancing the existing rights of tenants.

WMCCAI would like to address three components of this Bill: 1. The standard form lease; 2. rental inspection; and 3. rent adjustments.

### Standard Form Lease

The Bill proposes the use of a standard form lease to be issued by the County. Requiring use of a standard form lease raises serious concerns because it interferes with the parties right to contract. We suggest that, instead, a County-required addendum addressing tenant compliance to the Declaration, Bylaws, Rules or Regulations if the dwelling unit is located in a common ownership community, as well as certain specific Landlord-Tenant issues would achieve the goal of 19-15 while preserving private property rights.

Also, the form lease has not yet been prepared. The terms of the form lease should be proposed, before the Bill is considered.

## Rental Inspections

This Bill specifically states that the Director must inspect all rental housing consisting of two or more dwelling units each year (amended from every three years) to determine if it complies with all applicable laws.

Inspection of a unit in apartment complexes, condominiums, cooperatives and personal living quarters can offer better health and safety for both the occupant of the unit and the occupants of adjacent units.

The inspection, whether it takes place at least once every three years or once each year, should determine if the landlord and tenant are in compliance with all laws.

The compliance with all laws by both the landlord and tenant should be included in paragraph (a) 29-22, Inspection of rental housing.

The Bill only addresses the landlord's compliance. This Bill should address the tenant's compliance as well. For instance, an inspector is in the unit, and it is determined that the tenant is a hoarder. This would be a fire hazard. The safety of other units, occupants and (in cases of common ownership communities) the common elements may be at risk.

If there is an inspection with penalties for non-compliance, the law should require that the tenant be cited when they are at fault.

Also, the Bill would create broad authority for tenants to make repairs and deduct from the rent owed, the cost of repairs. Providing such authority raises serious concerns because tenants living in common ownership communities may lack the authority to conduct certain repairs. This Bill may create a conflict with State law. For example, under the Maryland Condominium Act, certain aspects of a building may be within the exclusive authority of the community association to maintain. Also, architectural approval may be required for certain repairs.

The Bill should address whether tenants must first give notice to landlords and allow time for abatement, whether they must secure any required permits, whether they must secure approval for any changes from the common ownership community, whether they must utilize the services of a licensed contractor or whether the common ownership community must make or approve the repairs.

## Rental Adjustments

Rent control laws have not been successful in jurisdictions in which they have been tried. Rent controls create artificial low rents thereby resulting in property conditions and property valuation decline.

Finally, the Board of Directors of common ownership communities have a duty to maintain, protect and enhance the common elements of the community by collecting assessments (fees) and special assessments from members of the association. There may be substantial increases of assessments during the first year of a two- year lease in order to maintain, protect and enhance the community, benefiting the tenants as well as the homeowners. Increased rent is the tenant's shared cost.

WMCCAI would like to thank the Council members for giving us the opportunity to present our views, and for considering our changes to Bill 19-15.

Sincerely,

Mitchell L. Farrah

Cc: Matt Rankin, Executive Director,  
Washington Metropolitan Chapter Community Association Institute

Ronald M. Bolt, Esq., Co-Chair, Maryland Legislative Committee  
Ruth Katz, Esq., Co-Chair, Maryland Legislative Committee

**Testimony of James C. Perry  
chris-perry@comcast.net  
Silver Spring apartment renter  
In Favor of Bill 19-15  
Montgomery County Planning, Housing and Economic Development Committee  
June 18, 2015**

Good evening, Council Chair Leventhal, Committee Chair Floreen, and Council Member Reimer, My name is James C. Perry, and I have made a Silver Spring apartment my home with my wife for over five years. I recently retired from a 35-year career in information technology. I served as a Major in the United States Air Force Reserve for eight years and served in Southeast Asia and the Middle East. My wife and I volunteer as teachers of English-as-second-language, as tutors in local schools and as volunteers to elect national and state leaders here in Maryland, in Virginia and elsewhere. We patronize Maryland businesses, pay taxes, and we vote. This evening, I speak in favor of Council Bill 19-15.

Right now, my wife and I are feeling like Luke Skywalker, trapped in a trash masher with the walls closing in. Let me tell you why.

Since we moved to Silver Spring, our rent has increased two percent each year on the average. When we moved in, all our utilities – electricity, water and sewage – were included in the rent. This year, in addition to a rent increase, our landlord told us we would be paying \$27 each month for water and sewage in addition to our annual increase -- making our total rent increase the equivalent of three percent from what we paid in 2014. Right now, what we pay in rent is slightly over half of the fixed income we bring in each month. As a retiree, I must live within a budget; as a former cost analyst, I have come up with a monthly expense, or “burn rate” model of my household expenses, and what I find alarms me.

Within three years, I will not have enough money to pay for housing, food and medical care for me and my wife. Even this dismal forecast is predicated on a two percent annual rent increase and some stability in grocery prices.

What scares me most is that some of our neighbors have gotten rent increases of five and ten percent just this year, and that could happen to my family. We would have no recourse except to pull up stakes and move, leaving friends, grandchildren and our volunteer work behind unless we can find more affordable housing nearby. We would have to do this in 60 days or go on a month-to-month lease at a substantially higher rent. As Montgomery County housing regulations are now written, I can look forward to this dilemma every twelve months.

As I understand it, Bill 19-15 would take a load off my shoulders, specifically in putting some constraints on rental price increases, but more importantly making my cost-of-living estimates good for two years instead of just one. If we are forced to move out, your bill would still give me data with which to comparison shop for a new dwelling, instead of depending on puffed-up average rental prices manufactured by apartment owners.

I have read the Tenants Working Group (TWG) 2010 report and wonder why recommended changes to landlord-tenant laws have taken five years to be enacted by Council. It's no surprise that the apartment owners and developers oppose this bill, as they have consistently opposed renter-friendly legislation in the past.

It is my hope, however, that the Planning, Housing, and Economic Development Committee will give this bill a fair hearing and report it favorably, without substantial amendment, and promote its passage by the whole Council. It is time for the Council to start listening more closely to and start protecting more than one-third of county residents who live in rental housing and pass 19-15 without delay.

**Testimony In Favor of Bill 19-15**

**Submitted on June 18, 2015 by Jheanelle Wilkins (240-428-4894; jnelle29@gmail.com)**

Good evening members of the Planning, Housing and Economic Development committee. I am Jheanelle Wilkins, the Director of Programs for the African American Democratic Club of Montgomery County testifying in support of bill 19-15. This renter protection legislation is key to eliminating housing uncertainty, ensuring that renters understand their rights and responsibilities, and improving access to quality rental housing.

I have been a renter in Silver Spring for 6 years and it is an area with one of the highest cost of rent in the County. I appreciate that this bill provides greater access to information about rent increase patterns so renters can shop around and make an informed choice. Too often, renters move to apartment complexes advertising a temporary low rate and end up unable to afford their housing after the rent increases. As a renter, understanding a property's patterns of increase is vital to housing security and financial stability and the AADCMC fully supports the bill's provision that requires a table listing average rent increases.

Each year for the past 3 years, my roommate and I receive a dreaded letter from our management company letting us know that since we're such good tenants, we can choose to either renew our lease or be rewarded with a rent increase of an unknown amount. The bill's prohibition of rental surcharges increases the agency and choice of renters.

Just last weekend a friend of mine shared her horrible experience of moving into a Montgomery County apartment complex where she was welcomed by roaches in her unit. It wasn't until this moment that she began to wonder about her tenant rights and what options she had for moving out and breaking her lease. Situations like this is why it's so important to give every tenant a copy of their rights via the landlord-tenant handbook. My friend's story shows that there is still much left to be done to ensure that all Montgomery County dwellings are safe and healthy environments. The bill's provision requiring annual inspections are an important step in that direction.

The African American Democratic Club commends the Renters Alliance for their leadership and Councilmember Marc Elrich for proposing this legislation. The AADMC supports bill 19-15 and asks for a favorable vote. Thank you.



1

**Testimony of Matt Losak**  
**MattLosak@RentersAlliance.org**  
**Executive Director of the Montgomery County Renters Alliance, Inc.**  
**Former Chair, Montgomery County Tenants Work Group**  
**In Favor of Bill 19-15**  
**Montgomery County Planning, Housing and Economic Development Committee**  
**June 18, 2015**

Good Evening, Committee Members. My name is Matt Losak and I chaired the Tenants Work Group whose report recommended the measures proposed in Bill 19-15 in 2010. I am now the Executive Director of the Montgomery County Renters Alliance, an organization whose formation was recommended by the Work Group and is the only organization in the county exclusively dedicated to providing advocacy and education, services to renters.

Yesterday, the Washington Post reported that renting one's home is increasingly the way Americans will live in the future. But there is more to this demographic change than simple reference to the economy or the housing foreclosure boondoggle. People are moving into rental housing to be close to services like transportation, medical facilities, schools, entertainment, shopping and other benefits of urban life. Seniors, working families, immigrants, young couples and single adults are increasingly choosing the rental option as a permanent way of life, not a temporary station on the way to homeownership.

But what is also taking place is a disconnect between the expectations of the growing rental population to receive quality, stable and affordable rental housing and the reality that they are completely vulnerable to being priced out, retaliated against for seeking required and promised services and underserved by government remedies. They are finding that living as a renter in Montgomery County means an unstable home and second class status. We seek to change this—and Bill 19-15 helps.

The Bill's principle measures are simple and straight forward. What fair-minded policy maker would deny this growing population of citizens.....

- A reasonable expectation that housing codes should be enforced?
- Understandable and legal leases that bind the business relationship between landlords and tenants?
- Protection from excessive and gouging rent increases from month-to-month leases ?
- Scientific, accurate and mandatory data collection on the rental housing industry used in housing and zoning policy?

- A measure of respect, if not adherence by responsible landlords of the County Voluntary Rent Increase Guidelines?
- A two year lease option so that long-term residents can receive increased housing stability with a longer term lease option rather than worrying about their housing security each year?

With more than 36% of County residents living in rental housing—and all indications are that this figure is growing—the protections and measures this bill provides are long overdue.

As our work expands we at the Renters Alliance are seeing increasing examples of renters abused by irresponsible landlords illegally threatening eviction or reduction in services and more and more renters who have lived and worked their entire lives in Montgomery County who fear they may have to move away from their homes and communities because of unstable, unaffordable and decaying rental housing.

We urge the Council to consider the health and welfare of renters in this county, support renter education and advocacy, and pass this reasonable, commonsense renter protection legislation.

Thank you.

**The Washington Post**

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Wonkblog

## **Why the homeownership rate will keep falling – and falling, and falling**

By Emily Badger June 16

The homeownership rate in the U.S. has been tumbling since the height of the housing boom. Fewer and fewer of us own our homes — because foreclosures claimed them from us, or because the housing bust taught us to be wary, or because the economy ensured that families who might have bought in the past can't afford a home today.

For a lot of reasons, though, this trend is not temporary. It won't reverse when the housing collapse fades from memory, nor as the economy picks back up. In fact, according to a new projection from the Urban Institute, homeownership in America will likely keep falling all the way out to 2030. It will fall for the young and the middle-aged, for blacks and for whites. By 2030, Urban predicts, the U.S. homeownership rate will be as low as 61.3 percent — a number we haven't seen in half a century.

Viewed another way: A big surge in renters is coming. And this trend has major implications for the kind of housing we should be building, as well as all of the housing we've already built. Between 2010 and 2030, according to the report, a majority of the estimated 22 million new households that will form in America will be renter households.

The number of homeowning households will grow (because the U.S. population will), but the number of renters will grow a lot faster:

That's going to mean several things: Developers will have to cater more to renters, many communities will need more apartments, and single-family homes that weren't originally built for renters will increasingly be used by them.

So what, exactly, will drive this long-term shift? The recession will have lingering effects for years, particularly among black families whose wealth was decimated by the housing bust.

Another part of the story is demographic. Minorities have historically been much less likely to own homes than whites, and their share of the population is growing. Because the age of marriage and childbearing in the U.S. has been rising, that means related life milestones like forming a household and buying a home are happening later in life, too. In effect, people who *do* buy homes will spend less of their lives as homeowners.

The Urban Institute also argues that stagnating incomes and rising student debt will drag down the ability of many Millennials to buy their own homes as they age into that stage of life. And many baby boomers will age out of homeownership at the same time. They'll move into retirement communities, or their children's homes, or event rentals of their own.

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## The Internet of Things in four charts

By Infiniti

Growth in the Internet of Things promises to transform life, work and industry.

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Along the way, between now and 2030, maybe we'll even change *how* we think about homeownership, which has long been viewed as a norm in America to which everyone should aspire.

Emily Badger is a reporter for Wonkblog covering urban policy. She was previously a staff writer at The Atlantic Cities.

Jill Ortman-Fouse  
9419 Wire Ave  
Silver Spring MD 20901

June 18, 2014  
In Favor of Bill 19-15

I'm here today as a decades' long advocate for our most vulnerable residents, our children; and safe, affordable housing for their families. I ask you to support these protections for renters because of the dramatic impact high-mobility rates can have on our ability to close the achievement gap. As you know, the rates of students entering our schools after the school year has begun, or leaving before the end of the school year, are higher at our schools that are also most impacted by poverty. The students most likely to be impacted by poverty and the high mobility rates are our children of color.

When I first volunteered with Habitat for Humanity over 20 years ago I learned about the myriad research that shows how decent, stable housing contributes to better academic outcomes. When my children started elementary school, I was reminded again the role housing plays in student success. My children attended a Title 1 school with a 47% FARMS rate. In my role as a PTA leader, our principal reached out to share her alarm at the number of students we were losing who lived in the apartments behind the school. She said the moms had come to her in tears, saying they didn't want to leave but the conditions were terrible and rent was going up.

When I visited the apartments, I found deplorable conditions—broken stoves, rodents, pests, no heat, mold. What was particularly heartbreaking for me, was to see certificates the children had earned for perfect attendance taped proudly to their walls. Our principal was upset because these children were part of our school family, and they were losing their relationships with our staff and the place where they had begun to build their academic foundation.

Ask any of our principals, what's fundamental to at-risk kids being successful at school, and they'll tell you: Relationships with staff who understand their gifts and challenges. Our school teams work hard to put together the steps of the pathway that lead to graduate from high school.

At one of the graduations I attended last week, a student speaker said his family had to move nine times before he arrived as a sophomore at Northwood High School. He and his mom made a pact that they would do whatever they could for him to stay there. He gave immense gratitude to his mom who had worked so hard so he would not have to move out of Northwood. He shouted out to his fellow grads, "When I say Northwood, you say family!" And they all shouted back "family"!

We have schools with almost 25% mobility rates – a quarter of the population of these schools is moving in and out during the school year. Principals will tell you they receive and lose students, sometimes weekly, right up until the end of the school year. That's a tough climb for both students and teachers.

Let's create a model where more of our students are able to grow up in decent conditions where their parents can reasonably budget for rent without surprises, and their basic need for safe, stable shelter is met so kids can concentrate on their schoolwork and reach their dreams. Wouldn't that create a better Montgomery County for all of us?

I know this is a very complex issue, but I do hope you will take the best of care, to ensure our residents have what they need to contribute their best as vital members of our community.



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June 18, 2015

Council President Leventhal  
Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20850

**Re: Testimony in SUPPORT of Bill 19-15**

Dear Council President and Members of the Council:

My name is Zorayda Moreira-Smith and I am here on behalf of CASA, also formerly known as CASA de Maryland. We are a regional organization with 9 locations serving a rising membership of over 71,000 individuals. We provide a range of services and programs on multiple issues, particularly focusing on housing services, organizing and advocacy. Tonight, I am here to express strong support for Bill 19-15.

First, we would like to applaud the leadership of Councilmembers Elrich, Navarro and Hucker for making renters issues a priority. Renters are a big portion of our population representing all financial and racial backgrounds and it is time we start talking about and prioritizing renters' issues. We hope that Bill 19-15 is the beginning of the conversation, not the end.

Bill 19-15 is a great start, but we offer a few friendly suggestions.

1. **Inspection of rental housing:** We applaud the yearly inspection and strongly urge you to support it. The reality is that we need to ensure that everyone, despite financial and racial background, is being offered quality housing and the only way to ensure this is happening is to inspect. People of lesser income are the ones who tend to live in substandard housing because landlords take advantage of them. The advantage to this provision is that it exempts landlords who have a good history, therefore, incentivizing good maintenance. Also, under the notification requirement of this section, we ask you to ensure that the 72 hour notice that is being proposed be fleshed out some more. The notice should be offered in multiple languages and the notice should be given to each apartment unit.



2. **Leasing requirements generally:** We applaud you for the two year lease requirement, but it is silent as to whether the two year lease terms should be equivalent or similar to the one year lease terms. We have seen in many cases where landlords offer a year lease and a two year lease with two significantly different rental prices, this allows landlords to surcharge renters who would prefer a two year lease, effectively circumventing the intent of the law.
  
3. **Landlord notice requirements:** We suggest that all notice requirements be required to be done in multiple languages.

In closing, we urge you all to support Bill 19-15 and we urge you to make renters' issue a priority. Thank you.

Respectfully Submitted,

Zorayda Moreira-Smith  
Sr. Manager, Community Development  
240-491-5761  
[zmoreira@wearecasa.org](mailto:zmoreira@wearecasa.org)



July 23, 2015

George Leventhal, President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear Council President Leventhal:

The impact statement for Bill 19-15 seems intended to make the bill's common sense measures appear costly and excessive. For example, no one is suggesting hiring nearly 100 additional staff DHCA states is required for inspecting every building all the time in new vehicles at a cost of more than \$50 million over six years. The bill intends serious and repeat violators to be the focus of inspection and enforcement. Further, the statement ignores the fact that publishing of the landlord tenant handbook could be done electronically, or printed off the internet by the landlords themselves at lease signing and renewal instead of by the county.

Curiously, the statement goes on to include nearly two pages warning of the alleged dangers of rent control even though the bill includes no rent control measures, but instead requires month-to-month lease increases to be the same as annual increases to provide renters with some flexibility in their housing commitments *without any cost to landlords*.

What the impact statement ignores is the cost to renters (who are now more than 36% of county residents) and our communities when housing is unstable and neglected. The statement ignores the costs to communities when families are forced to move. What is the impact on student achievement, on the kinds of investments, financial and social, that are limited when renter communities are destabilized?

The bill is clearly intended to be flexible focusing existing resources where they are needed most and ending practices that cost communities on and off the ledger. We see no need by DHCA or any other government official to assess this bill's impact and implementation by citing extreme measures and costs instead of applying an objective eye for practical implementation.

At Monday's mark up meeting, we respectfully ask that the PHED committee review the bill with clear eyes, holding to the common sense principles of fairness, good governance, quality housing and the promotion of healthy, stable communities that bill intends to support.

Sincerely,

Matt Losak  
Executive Director

CC: PHED committee Chair, Nancy Floreen  
Council Member Hans Riemer  
Council Member Marc Elrich  
Council Staff, Joseph Hamlin



10400 Detrick Avenue  
Kensington, MD 20895-2484  
(240) 627-9400



July 23, 2015

The Honorable Nancy Floreen  
Montgomery County Council  
Chair, PHED Committee  
100 Maryland Avenue  
Rockville, MD 20850

Dear Chair Floreen and Members of the PHED Committee:

I am writing in reference to Bill 19-15 which would initiate new measures designed to expand tenants' rights in rental housing agreements.

I understand and appreciate the intent of the bill to extend protections to County rental tenants. However, as we approach the July 27, 2015 PHED Committee session on this bill, I have some concerns to share regarding several aspects:

*Administrative complications / Fiscal Impact on HOC*

- Requiring 90-day notice of rent increases above the County recommended guidelines poses several problems:
  - The proposed lead time for rent increases above the County recommended guidelines and the possibility of two additional months of rent at pre-increase levels creates new challenges with respect to accurately forecasting revenues, something that is critically important to our lenders and our bottom line.
  - Many HOC rent increases are tied to program recertifications for clients, and these are not completed 90 days in advance. This could create administrative challenges and complicate the recertification process if the agency is unable to raise rents in a timely and reasonable manner.
  - HOC has invested millions of dollars in recent years in the comprehensive rehabilitation of units in the agency's portfolio. It is critically important that HOC is able to price rentals at prevailing market rents that can recoup such investment and support future renovation activity while simultaneously preserving affordability in the HOC portfolio.
- Regarding inspections:
  - HOC properties already undergo a wide range of inspections, such as those measuring Federal Housing Quality Standards (HQS), State CDA inspections, County Code inspections and tenants are able to request County inspections as needed. Increasing inspection frequency doesn't seem to add much value for HOC clients, given the number of inspections already conducted at HOC properties.
  - The bill requires that when a unit has failed "twice in two consecutive years the landlord must pay the cost of the next inspection as determined by the Director." Conceivably, this could apply for items such as broken switchplates, which may not have been reported by tenants to HOC.

The Honorable Nancy Floreen  
July 23, 2015  
Page Two

Given the number of rental units HOC owns in the County, this could amount to a significant additional yearly operational expense.

*Impact on the Rental Housing Market*

- Adding additional compliance requirements with respect to the County recommended rent increase guidelines will discourage investment in the Montgomery County rental housing market and investors may decide to take their business to the District or Fairfax County to avoid additional artificial constraints on rent increases. This, in turn, would affect HOC's ability to secure investment partners for the development or redevelopment of rental housing in the County.
- Any type of artificial ceiling on market rate rents effectively harms HOC's ability to provide units in mixed-income properties, where market units subsidize units at deeper affordability levels to the County's most vulnerable renters. In this sense, the bill could negatively impact the very tenants it is designed to protect.

*Use of a standard form lease*

- For efficiency and consistency, HOC has sought to move to a single model lease for all the properties that are not required, by regulation, to use a different lease. Because many HOC units are governed by different programmatic requirements, and funding stipulations, it is important that any lease documents are flexible enough to apply across all programs and deal with specific program requirements through addenda. HOC has invested considerable time, and is in the final stages of, working with DHCA towards approval of HOC's Model Lease and it would be very inefficient to start that process again with another template lease.

*Consumer Price Index concerns*

- Montgomery County recommended rent increase guidelines are issued from the Office of the County Executive and established using the Consumer Price Index (CPI) for the previous year. In many instances, this data is no longer reflective of real-time market conditions. In situations where the guidelines recommend rents below current market conditions, HOC is unable to capture rents that effectively subsidize deeply affordable units.
- Bill 19-15 would require that the recommended rent increase guidelines be based on the CPI as opposed to the residential rental component of the CPI. What is the anticipated effect of such a change and has there been any data analysis completed as a basis for this recommendation?

HOC's mission is to provide affordable housing and supportive services to Montgomery County residents. In light of ongoing cuts to Federal entitlement programs, HOC must increasingly rely on the mixed-income model to deliver affordable housing in our community.

Thank you for your consideration of the Commission's input. I welcome the opportunity to discuss Bill 19-15 in greater detail with the members of the PHED Committee.

The Honorable Nancy Floreen  
July 23, 2015  
Page Three

On behalf of the Commission, I thank you for your continued efforts on behalf of affordable housing in Montgomery County.

Sincerely,



Stacy L. Spann  
Executive Director

cc: The Honorable George Leventhal  
The Honorable Hans Riemer  
Linda McMillan, Senior Legislative Analyst  
Josh Hamlin, Legislative Attorney  
Scott Ellinwood, Public Information Manager

# MONTGOMERY COUNTY RENTAL SATISFACTION SURVEY

## Final TOPLINE

August-October 2009

**N=588 Montgomery County tenants (509 mail questionnaires and 79 online.)**

**Note: All numbers below are percentages. Some columns may not total 100% due to rounding or questions that allowed more than one response. Percentages are calculated on the N reported after each question, which is minus no responses. In addition, percentages in [ ] are calculated excluding No Opinion responses.**

### Rental Information

Q.1. How much is the total monthly rent for your unit? (N=586)

1. Less than \$1,000	19.6
2. \$1,000-\$1,500	46.8
3. \$1,501-\$1,750	16.6
4. \$1,751-\$2,000	7.0
5. \$2,000+	10.1

Q.2a. In addition to rent, do you pay monthly for utilities? (N=585)

1. No	30.8
2. Yes	69.2

Q.2b. If you answered yes above, which of the following utilities to you pay for?

(Fill in all that apply.\*) (N=404)

1. Electric	25.5
2. Gas/oil	.5
3. Water/sewer	1.2
4. Electric and Gas/oil	14.6
5. Electric and Water/sewer	19.3
6. Gas/oil and Water/sewer	.2
7. All three	38.6

\*Categories 4, 5, 6, and 7 were created during data entry to accommodate respondents who selected two or more categories.

Q.3a. How long have you lived in your current rental? (N=585)

1. Less than 1 year	17.4
2. 1-2 years	26.0
3. 3-5 years	27.2
4. 6-9 years	10.4
5. 10 years+	19.0

Q.3b. How many times has your rent increased in your current rental (within the past five years)? (N=572)

1. Never	25.5
2. 1-2 times	32.2
3. 3-4 times	21.0
4. 5 times	14.5
4. 6+ times	6.8

Q.3c. If you answered that your rent increased one time or more, how much was your average annual rent increase? (N=404)

1. 0%-3%	29.0
2. 4%-7%	51.7
3. 8%-12%	14.1
4. 13% to 15%	2.5
5. 16% or more	2.7

Q.4. Prior to your current rental, did you rent in Montgomery County? (N=582)

1. No	49.7
2. Yes	50.3

Please indicate your agreement/disagreement with the statement below by filling in one of the responses.

Q.5. Looking ahead five years from now, I expect that I can continue to afford to pay my rent and live in my current rental. (N=570)

1. Strongly Agree	14.7	[17.3]
2. Agree	27.4	[32.2]
3. Disagree	23.0	[27.0]
4. Strongly Disagree	20.0	[23.5]
5. No Opinion	14.9	—
		(N= 485)

## Rental Unit and Landlord Satisfaction

A scale (1-Very Satisfied through 4-Very Dissatisfied) is used to answer questions 6 and 7. Please circle a number that best represents your response.

Q.6. Overall, how satisfied are you with...

	Very Satisfied 1	Satisfied 2	Dissatisfied 3	Very Dissatisfied 4	No Opinion 5
Q.6a. Your unit	22.9 [24.1]	34.8 [36.4]	25.2 [26.4]	12.5 [13.1]	4.6 (N=584) — (N=557)
Q.6b. Your property/ building	23.1 [24.3]	33.3 [35.1]	25.5 [26.9]	13.0 [13.7]	5.2 (N=577) — (N=547)
Q.6c. Your neighborhood	32.8 [35.5]	29.3 [31.7]	18.4 [19.9]	12.0 [12.9]	7.6 (N=577) — (N=533)
Q.6d. Your landlord/ property manager	27.4 [30.1]	26.8 [29.5]	20.2 [22.2]	16.6 [18.2]	9.1 (N=574) — (N=522)

Q.7. How safe do you feel from crime in...

	Very Safe 1	Safe 2	Unsafe 3	Very Unsafe 4	No Opinion 5
Q.7a. Your property/ building	30.6 [32.7]	32.5 [34.7]	19.3 [20.6]	11.4 [12.1]	6.2 (N=581) — (N=545)
Q.7b. Your parking area/ exterior building surroundings	25.8 [27.3]	31.3 [33.1]	23.8 [25.1]	13.8 [14.5]	5.3 (N=581) — (N=550)
Q.7c. Your neighborhood	24.2 [25.5]	35.3 [37.2]	21.4 [22.6]	14.1 [14.8]	5.0 (N=583) — (N=554)

Please indicate your agreement/disagreement with the statement below by filling in one of the responses.

Q.8. I am comfortable approaching my landlord/property manager with questions or concerns.

Strongly Agree	Agree	Disagree	Strongly Disagree	No Opinion	
35.8	45.5	9.4	4.3	5.1	(N=587)
[37.7]	[47.9]	[9.9]	[4.5]	—	(N=557)

Q.9. My property manager/landlord is responsive to my questions and concerns.

Strongly Agree	Agree	Disagree	Strongly Disagree	No Opinion	
26.1	45.6	14.9	6.5	6.9	(N=583)
[28.0]	[49.0]	[16.0]	[7.0]	—	(N=543)

Q.10. I have not raised concerns, asked questions or complained about a problem to my landlord/property manager for fear of retaliation.

Strongly Agree	Agree	Disagree	Strongly Disagree	No Opinion	
7.2	12.7	30.5	39.4	10.2	(N=581)
[8.0]	[14.2]	[33.9]	[43.9]	—	(N=522)

## Tenant-Landlord Rights & Responsibilities

Q.11. Are you aware of the following Montgomery County Department of Housing and Community Affairs resources:

Q.11a. Landlord Tenant handbook? (N=569)

- |        |      |
|--------|------|
| 1. No  | 60.1 |
| 2. Yes | 39.9 |

Q.11b. Office of Landlord Tenant Affairs? (N=564)

- |        |      |
|--------|------|
| 1. No  | 61.7 |
| 2. Yes | 38.3 |

Q.11c. Commission on Landlord Tenant Affairs, which oversees landlord tenant complaints? (N=564)

- |        |      |
|--------|------|
| 1. No  | 70.7 |
| 2. Yes | 29.3 |

Q.11d. Housing code enforcement investigators who investigate complaints about code violations and perform routine inspections? (N=561)

- |        |      |
|--------|------|
| 1. No  | 59.4 |
| 2. Yes | 40.6 |

Q.12a. Have you personally had an experience that required you to contact the Montgomery County Office of Landlord Tenant Affairs to resolve a problem? (N=573)

- |        |      |
|--------|------|
| 1. No  | 88.3 |
| 2. Yes | 11.7 |

Q.12b. If yes, were you satisfied with the results of that process? (N=63)

- |        |      |
|--------|------|
| 1. No  | 55.6 |
| 2. Yes | 44.4 |

Q.13. Do you agree that you understand both your rights and responsibilities as a tenant and your landlord's rights and responsibilities? (N=562)

1. Understand both tenant's and landlord's rights	50.9
2. Understand neither	21.9
3. Understand my rights and responsibilities as tenant but not landlord's	23.5
4. Understand landlord's rights responsibilities but not mine as tenant	3.7

**Issues Affecting Tenants**

Q.14. Please rank from 1-5 the issues most important to you (1 being most important, 5 being least important), 6: No Opinion)

	Most Important 1	2	3	4	Least Important 5	No Opinion 6
Q14a. Current rent affordability	64.1 [65.8]	17.8 [18.3]	8.3 [8.5]	4.7 [4.8]	2.6 [2.7]	2.6 (N=579) — (N=564)
Q.14b. Communication with landlord	31.8 [33.0]	29.2 [30.3]	15.7 [16.3]	13.5 [14.0]	6.2 [6.5]	3.6 (N=579) — (N=558)
Q.14c. Long-term rent affordability	55.1 [56.9]	20.6 [21.2]	9.7 [10.0]	7.4 [7.7]	4.1 [4.3]	3.1 (N=579) — (N=561)
Q.14d. Safety/crime	57.1 [58.3]	19.6 [20.0]	10.2 [10.4]	6.4 [6.5]	4.7 [4.8]	2.1 (N=578) — (N=566)
Q.14e. Other	See Appendix A					

Q.15a. Examples of discrimination include being denied rental, denied lease extension/renewal, charged a higher rent than other tenants, and housing concerns not taken seriously because of your personal characteristics.

In the past ten years, have you ever felt discriminated against by a previous, current or potential landlord/property manager in Montgomery County? (N=583)

- 1. No 87.0
- 2. Yes 13.0

Q.15b. If you answered yes above, what was the reason (or reasons) that you felt you were discriminated against? (Fill in all that apply.) (N=66)

1. Race, color, national origin	65.2
2. Religion	2.5
3. Sex	12.1
4. Marital status	9.1
5. Physical or mental disability	12.1
6. Presence of children	7.6
7. Ancestry	3.1
8. Source of income (includes section 8 Housing vouchers)	24.3
9. Sexual orientation	--
10. Age	19.7
11. Gender identity	--

Q.16a. Do any residents in your unit have a physical disability? (N=574)

1. No	70.6
2. Yes	29.4

Q.16b. If you answered yes to the above question, do you consider your unit to be accessible? (N=165)

1. No	24.2
2. Yes	75.8

**Demographic information**

Q.17. What is your five-digit postal zip code? (Please write in.) (N=566)

1. 20814	7.4	( 7.6)**
2. 20874	5.5	( 7.9)
3. 20906	9.7	( 9.3)
4. 20904	7.9	(11.3)
5. 20910	15.0	(13.3)
6. SW	14.0	(12.8)
7. NE	2.6	( 2.0)
8. NW	11.2	(13.0)
9. SE	26.6	(22.7)

\*\*Percentages in this column are based on the actual distribution of Montgomery County rental units by U.S. Postal Zip Codes.

Q.18a. Are there adult members of your household who are not fluent in English? (N=568)

1. No	88.2
2. Yes	11.8

Q.18b. If you answered yes above, please fill in all the languages that apply. (N=65)

1. Spanish	56.7
2. Mandarin Chinese	4.8
3. French	3.0
4. Korean	6.0
5. Other (Please write in.)	37.3 (See Appendix B)

Q.19. For these questions, please write the number on the appropriate line.

Q.19a. How many residents live in your unit? (N=561)

- |                |      |
|----------------|------|
| 1. One         | 39.9 |
| 2. Two         | 29.4 |
| 3. Three       | 15.2 |
| 4. Four        | 9.1  |
| 5. Five        | 4.6  |
| 6. Six or more | 1.8  |

Q.19b. How many are under age 18? (N=543)

- |                |      |
|----------------|------|
| 0. Zero        | 69.8 |
| 1. One         | 16.6 |
| 2. Two         | 9.9  |
| 3. Three       | 3.1  |
| 4. Four        | --   |
| 5. Five        | --   |
| 6. Six or more | .6   |

Q.19c. How many are over 65? (N=540)

- |                |      |
|----------------|------|
| 0. Zero        | 76.3 |
| 1. One         | 17.2 |
| 2. Two         | 5.6  |
| 3. Three       | .6   |
| 4. Four        | .2   |
| 5. Five        | --   |
| 6. Six or more | .2   |

Q.20. Do you consider yourself to be Hispanic or Latino? (N=578)

- |        |      |
|--------|------|
| 1. No  | 87.0 |
| 2. Yes | 13.0 |

Q.21. What is your race? (Fill in all that apply) (N=558)

1. American Indian or Alaska Native	1.1
2. Asian	8.4
3. Black or African American	28.0
4. Native Hawaiian or Other Pacific Islander	.2
5. White	54.7
6. More than one race	4.1
7. Other (Please write in.)	6.8 (See Appendix C)

Q.22. What is your sex? (579)

1. Female	66.1
2. Male	33.9

A1. Language used to complete questionnaire. (N=588)

1. English	95.9
2. Spanish	3.9
3. French	.2
4. Mandarin Chinese	--
5. Korean	--

A2. Mode used to complete questionnaire. (N=588)

1. Mail	86.6
2. Online	13.4



# Apartment and Condominium Lease Montgomery County, Maryland

Approved by the Montgomery County Commission on Landlord-Tenant Affairs  
Copies of the Montgomery County Landlord-Tenant Handbook are available upon request (240) 777-0311  
[www.montgomerycountymd.gov/dhca](http://www.montgomerycountymd.gov/dhca)

(Not For Use in the Incorporated City of Gaithersburg, City of Rockville or City of Takoma Park)

THIS LEASE, made on \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_  
as Agent for Landlord (hereinafter "Landlord" or "Landlord/Agent") and \_\_\_\_\_  
\_\_\_\_\_ (hereinafter "Tenant"). WITNESSETH, that the Landlord hereby leases to the Tenant  
and the Tenant hereby leases from the Landlord, premises known as \_\_\_\_\_  
\_\_\_\_\_, Montgomery County, Maryland, for the term of \_\_\_\_\_  
beginning on the first day of \_\_\_\_\_, \_\_\_\_\_, and ending on the last day of \_\_\_\_\_, \_\_\_\_\_, at a  
total rent of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), payable in equal monthly installments of  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in advance on the first day of each and every month  
("Rent Due Date") of said term. If this Lease commences on a day other than the first of the month, the amount of rent to  
be paid for the balance of said first month will be apportioned pro rata; thereafter rent will be paid on the first day of the  
month. Tenant covenants and agrees to pay said rent as set forth herein. Tenant covenants and agrees to pay rent to  
\_\_\_\_\_ at \_\_\_\_\_, (or at such other place as Landlord may from time to time  
designate) without diminution, deductions or demand and said obligation to pay rent is independent of any other clause  
herein. Failure to pay said rent at the time specified will constitute default and the Landlord may use any remedy afforded  
him under the terms of this Lease and/or applicable law. All sums of money or other charges, including payments for  
damages, required to be paid by Tenant to Landlord/Agent or to any other person under the terms of this Lease, whether  
or not the same be designated "rent" or "additional rent," will be deemed rent and will be collectible as such.  
Landlord/Agent shall furnish to Tenant a receipt for all cash or money orders paid by Tenant to Landlord/Agent for rent,  
security deposit or otherwise.

Each Tenant is jointly and severally liable to Landlord/Agent for full performance under each and every covenant and  
condition of this Lease Agreement and for compliance with applicable law.

### PRO RATA RENTAL PAYMENTS

1. It is additionally understood and agreed that Tenant is to commence occupancy of the premises on  
\_\_\_\_\_, \_\_\_\_\_. Tenant is to pay the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) on  
\_\_\_\_\_, \_\_\_\_\_, as "pro rata" rent for the period \_\_\_\_\_, \_\_\_\_\_, through \_\_\_\_\_,  
\_\_\_\_\_.

### ADDITIONAL CHARGES

2. Landlord/Agent may require that all rental payments be made by money order, cashier's check and/or  
certified check. Tenant also agrees that in the event Tenant fails to pay any installment of rent within ten (10) days beyond  
the date on which it is due and payable, Tenant must pay Landlord, in addition to the rent, a late charge in the amount of  
five percent (5%) of the monthly rent. However, the ten (10) day late period is NOT a grace period, and the rent is due  
and payable on the first of each month. The late charge must be paid as additional rent together with the rent then overdue  
and in arrears, and acceptance of such payment is not a waiver of the requirement that rent is due on the first day of the  
month. Nothing in this lease constitutes a waiver or limitation of Landlord's right to institute legal proceedings for non-  
payment of rent, damages and/or repossession of the leased premises for non-payment of any installment of rent when and  
as the same becomes due and payable. A service charge (which sum shall not exceed the maximum permitted by state  
law) of thirty-five dollars (\$35.00) will be automatically made for each instance in which a check is returned unpaid for  
any reason by the Tenant's bank.

### SECURITY DEPOSIT

3. In accordance with the Annotated Code of Maryland, Real Property Article, Tenant has deposited with the  
Landlord/Agent the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) receipt of which is hereby acknowledged, which sum does not exceed two (2) months' rent, which is to be held as

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collateral security and applied on any unpaid rent or unpaid utility bill that may remain due and owing at the expiration of this Lease, any extension thereof or holding over period, or applied to any damages to the premises in excess of ordinary wear and tear caused by the Tenant, the Tenant's family, guests, agents, employees, trades people, or pets, or other damages and expenses suffered by Landlord as a result of a breach of any covenant or provision of this Lease. Tenant may not utilize the security deposit as rent and must not apply the same as the last month's rent. The security deposit will be deposited and maintained in an escrow account in a federally insured financial institution which does business in the State of Maryland, devoted exclusively to security deposits, within thirty (30) days after it has been received. The security deposit may be held in insured certificates of deposit at branches of a federally insured financial institution within the State of Maryland or in securities issued by the federal government or the State of Maryland.

Within 45 days after the end of the tenancy, the landlord shall return the security deposit to the tenant together with simple interest which has accrued at the daily U.S. Treasury yield curve rate for 1 year, as of the first business day of each year, or 1.5%, whichever is greater, less any damages rightfully withheld. For any year in which the landlord has held the security deposit for less than the full year, the landlord shall pay an amount of interest calculated by:

1. Multiplying the amount of the deposit by the daily U.S. Treasury yield curve rate for 1 year that was in effect as of the first business day of that calendar year, or 1.5%, whichever is greater; and
2. Multiplying the result obtained under item 1 of this subparagraph by a fraction, the numerator of which is the number of months that the deposit was held that year and the denominator of which is 12.

Interest shall accrue at six-month intervals from the day the tenant gives the landlord the security deposit. Interest is not compounded. Interest shall be payable only on security deposits of \$ 50 or more.

If the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

Tenant's obligations under this Lease may not end when Tenant ceases to occupy the premises. Repairs required may be so substantial or of such a nature that work will not be completed within the forty-five (45) day period following the termination of the tenancy; in such event, Landlord reserves the right to pursue Tenant for reimbursement for expenses incurred to repair damages to the premises.

In the event of a sale of the property upon which the premises is situated or the transfer or assignment by the Landlord/Agent of this Lease, the Landlord/Agent has the obligation to transfer the security deposit to the transferee and Landlord/Agent is released from all liability for the return of the security deposit, and the Tenant must look solely to the new Landlord/Agent for the return of his security deposit. It is agreed that the foregoing will apply to every transfer or assignment made of the security deposit to a new Landlord/Agent.

In the event of any rightful or permitted assignment of this Lease by the Tenant to any assignee or sublessee, the security deposit is deemed to be held by the Landlord/Agent as a deposit made by the assigned or sublessee and the Landlord/Agent will have no further liability with respect to return of such security deposit to the assignor.

The Landlord or Landlord's estate, but not the managing agent or court appointed receiver, will remain liable to the Tenant for the maintenance of the security deposit as required by law.

Failure of the Landlord to comply with the security deposit law may result in the Landlord being liable to the Tenant for a penalty of up to three (3) times the security deposit withheld, plus reasonable attorney's fees.

## **POSSESSION**

4. If on the date of this Lease another person is occupying the premises and Landlord is unable to deliver possession on or before the commencement of the term of this Lease, Tenant's right of possession hereunder is postponed until said premises are vacated by such other person, and the rent due hereunder must be abated at the rate of one-thirtieth (1/30) of a monthly installment for each day that possession is postponed. The Tenant, on written notice to the Landlord before possession is delivered, may terminate, cancel, and rescind the lease; the security deposit and rent paid must be returned to the tenant within fifteen (15) business days after Landlord's receipt of the notice.

## **ACCEPTANCE OF PROPERTY**

5. a. Delivered in compliance with law. Landlord covenants that the leased premises and all common areas are delivered in a clean, safe and sanitary condition, free of rodents and vermin, in a habitable condition, and in

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complete compliance with all applicable laws. Tenant acknowledges that he/she has been given an opportunity to examine the premises, that he/she has examined the premises and found it to be in satisfactory condition.

b. List of existing damages. Tenant has the right to have the dwelling unit inspected by the Landlord in the Tenant's presence for the purpose of making a written list of any damages existing at the commencement of the tenancy if the Tenant so requests by certified mail to the Landlord within fifteen (15) days of the Tenant's occupancy. Upon landlord's receipt of the form, Landlord must promptly inspect the dwelling unit to confirm or deny the existence of the damages claimed to exist prior to Tenant's occupancy. A copy of the inspection report must be given to the Tenant. Tenant acknowledges that he/she has been supplied a form on which to list existing damages, attached to the lease.

c. Landlord acknowledges his/her responsibility for maintaining the premises in accordance with all applicable provisions of any federal, state, county or city statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the dwelling unit and the property of which it is a part, including Chapter 8, Title "Buildings," Chapter 22, Title "Fire Prevention," Chapter 26, Title "Housing Standards," and Chapter 59, Title "Zoning" of the Montgomery County Code, as amended, which are incorporated by reference into this Lease, pursuant to which code provisions Landlord provides this express warranty of habitability and covenant to repair.

**USES/AUTHORIZED OCCUPANT**

6. The premises will be used solely for residential purposes and be occupied by no more than \_\_\_\_\_ persons, including children. The following persons and no others, except after born children, are authorized by Landlord to reside within the demised premises:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tenant will not use the premises for any disorderly or unlawful purposes or disruptive to the quiet enjoyment of others and will comply with all applicable Federal, State, County and local laws and ordinance. Tenant agrees that quiet enjoyment includes not knowingly allowing or permitting controlled dangerous substances or paraphernalia within leased premises or common areas.

**Guests.** Persons visiting Tenant may not reside at the premises for more than two (2) weeks total during any calendar year, unless written permission is first secured from Landlord. Tenant's guests and visitors must abide by all applicable covenants and rules contained in this Lease, and a breach of the lease by a guest or visitor will be treated as a breach by Tenant.

**PETS**

7. The Tenant is not allowed to keep pets on the premises except with the written permission of the Landlord/Agent. Tenants who have pets must have the demised premises de-fleaed and de-ticked by a professional exterminator, and if carpeted, the carpeting shampooed by a professional cleaner, at the termination of occupancy. Tenant must provide a receipt for work performed. For all other damages, Tenant agrees to pay for any and all damages caused by pets to the premises. Tenant is authorized to have pets:

↑ YES    ↑ NO    # ALLOWED \_\_\_\_\_    TYPE OF PET(S) \_\_\_\_\_    WEIGHT \_\_\_\_\_

**MAINTENANCE**

8. a. Tenant must generally maintain the rental dwelling in a clean, sanitary and safe condition. Such maintenance includes the caulking of bathtubs and sinks; replacement of HVAC filters, fuses, batteries and light bulbs; and cleaning of appliances including, but not limited to, stoves and microwave ovens, refrigerators and freezers, garbage disposals, trash compactors, dishwashers, washing machines, clothes dryers, window air conditioning units, humidifiers and de-humidifiers.

b. Tenant must place all garbage and trash in suitable covered containers. Tenant will furnish his/her own electric light bulbs and fuses.

c. Tenant must keep at least 80% of the floor area covered with rugs or carpeting.

d. Tenant must promptly report to Landlord any problems requiring repairs or replacement beyond general maintenance. *Tenant must not order repairs or replacements without prior approval from the Landlord/Agent.*

Notwithstanding anything to the contrary herein, Tenant is responsible for any costs incurred for repairs or replacements made necessary due to abuse or negligent acts of commission or omission by the Tenant, his family, guests, employees, invitees or pets.

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**COMMON OWNERSHIP COMMUNITY RULES AND REGULATIONS**

9. Tenant, Tenant’s family, guests and employees must abide by all rules and regulations and all notices governing the property now or hereafter in effect by the \_\_\_\_\_ (print name of common ownership community, if applicable), that are brought to the attention of the tenant, that the tenant consents to in writing, and that are reasonably necessary to preserve the property of the landlord, other tenants, or any other person. A copy of this Lease Agreement will be submitted to the Association if required by the Association. Any obligation of the owner that affects the use and occupancy of the unit or any common area associated with the unit is enforceable against the Tenant. Tenant acknowledges receipt of a copy of the Association rules and regulations. In addition, the Declaration of Covenants and Bylaws, where applicable, are currently on file in the Depository of the Clerk of the Montgomery County Circuit Court. Failure to cure any violations on the part of the Tenant will be deemed a breach of this Lease and Tenant will be responsible for the cost of any fines levied upon the Landlord as a result thereof.

(Initials) \_\_\_\_\_

**UTILITIES**

10. Tenant must pay all utility bills that are individually metered or charged to the premises as and when the same shall become due, and make all required deposits therefore. Tenant is responsible for the following utilities:

(Check all that apply)     gas     electric     water and sewer     telephone     cable

**SMOKE DETECTORS**

11. a. Landlord/Agent certifies that Smoke Detectors have been installed and are in proper working condition in accordance with applicable law prior to Tenant's occupancy. It is the responsibility of Tenant to check Smoke Detectors periodically during the tenancy and replace batteries as necessary to keep the Smoke Detectors in proper working condition and to report any malfunctions to Landlord/Agent in writing.

b. **This residential dwelling unit contains alternating current (AC) electric service. In the event of a power outage, an alternating current (AC) powered smoke detector will not provide an alarm. Therefore, the occupant should obtain a dual powered smoke detector or a battery powered smoke detector.**

**SPRINKLER SYSTEM**

12. In units equipped with fire sprinkler systems, no portion of the system is permitted to be changed, altered, or tampered with. Sprinkler heads must not be painted, covered, or obstructed, nor must anything be hung from them.

**ALTERATIONS**

13. Tenant, without the prior written permission of the Landlord/Agent, will not remodel or make any structural changes, alterations or additions to the premises; will not paper, paint or decorate; will not install, attach, remove or exchange appliances or equipment, such as air conditioning, heating, refrigerator or cooking units, radio or television antennae, subscription or pay television devices and wiring, satellite dishes; will not drive nails or other devices into the walls or woodwork (a reasonable number of picture hangers excepted); and will not change the existing locks of the premises or install additional locks without written consent of the Landlord/Agent.

**VEHICLE/PARKING**

14. No motor vehicle, trailer or other such vehicle may be parked on the property without current license plates and said vehicles must be in operating condition. Vehicles may be parked only in garages, driveways, assigned spaces, if provided, or on the street or as regulated by the Condominium or Cooperative Association named in Paragraph 9. Landlord/Agent assumes no responsibility or liability whatsoever for the loss of or damage to any vehicle while parked in said area other than loss or damage occasioned by negligence of Landlord/Agent.

**INSURANCE**

15. a. *Landlord's insurance policy does not provide tenant coverage for personal belongings. Tenant will do nothing and permit nothing to be done on or about the premise and common areas, which will contravene any insurance policy covering the same.*

b. *Tenant is strongly advised to obtain appropriate Renter's Insurance to protect Tenant's personal belongings and liability coverage.*

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## **SUBLET/ASSIGNMENT**

16. Tenant must not assign this Lease or sublet the premises or any portion thereof, or transfer possession or occupancy thereof to any other person or persons without the prior written consent of the Landlord/Agent, which consent must not be unreasonably withheld, provided that the prospective assignee or subtenant satisfies established standards set forth by Landlord for all prospective tenants including, but not limited to, a credit check, rental and employment references and Tenant's payment of \$25.00 service charge defraying Landlord's expenses incidental to processing the application for assignment or sub-tenancy. In the case of subletting, Tenant may be held liable for any breach of this Lease by subtenant. If the legal documents and rules and regulations of the Association named in Paragraph 9 prohibit subleasing, Landlord/Agent need not consent to an assignment or sublease of the premises.

## **HOLD HARMLESS**

17. Tenant will indemnify and save Landlord/Agent harmless from any and all loss, claim or damage by reason of any accident, injury, or damage to any person or property occurring anywhere on or about the leased premises which is within the exclusive control of the Tenant, unless damage, injury or accident is caused by Landlord's/Agent's negligence or violation of law. Further, Landlord/Agent is not liable for any loss or damage to property of Tenant caused by vermin or by rain, storm water or steam that may leak into or flow from any part of the said premises or from any source except where such loss or damage results from Landlord's negligence or violation of law.

## **LANDLORD/AGENT ACCESS TO PREMISES**

18. a. The Landlord/Agent may enter the dwelling unit after giving due notice (24 hours) to the Tenant and the Tenant has not unreasonably objected, to: make necessary repairs, decorations, alterations or improvements; supply services only by mutual agreement during normal business hours, except in an emergency; or exhibit the dwelling unit to prospective purchasers, mortgages, or tenants only during normal business hours, including weekends, except as the Landlord/Agent and Tenant otherwise agree. Landlord/Agent may enter the dwelling unit immediately without notice to Tenant in an emergency situation.

b. Landlord/Agent may enter the dwelling unit after providing due notice to the Tenant (24 hours) when the Landlord is required to allow access to the Department of Housing and Community Affairs for an inspection; or when the Landlord has good cause to believe that the Tenant may have damaged the dwelling unit or may be in violation of County, State, or Federal law. Any requests for service from Tenant will be construed to mean that permission to enter the unit has been granted for the purpose of making requested repairs.

c. During the last 60 (sixty) days of the term of this Lease or any extension thereof, Landlord/Agent may enter the premises to exhibit the same to other persons. Tenant agrees to cooperate with Landlord or his Agent in showing the property. Tenant is advised that on occasion he/she may be asked to exhibit the premises on less than twenty-four (24) hours' notice.

## **DEFAULT**

19. a. In the event of any default, other than the default of failure to pay rent and late charges, hereunder or if the Landlord/Agent at any time deems the tenancy of the Tenant undesirable by reason of objectionable or improper conduct on the part of the Tenant, his/her family, employees, guests, or invitees by causing annoyance to neighbors or should the Tenant occupy the subject premises in violation of any rule, regulation or ordinance issued or promulgated by the Landlord/Agent, the Association identified in Paragraph 9 herein, any governmental rental authority, or any federal, state or local law, then and in any of said events; the Landlord/Agent will have the right to terminate this lease by giving to the Tenant personally or sending via first class mail thirty (30) day written notice to quit and vacate the premises containing in said notice the basis for the termination. However, if the breach of lease involves behavior by the Tenant, or by a person on the premises with the Tenant's consent, which demonstrates a clear and imminent danger of the Tenant or person doing serious harm to themselves, other tenants, the landlord, the landlord's property or representatives, or any other person on the premises, the Landlord/Agent has the right to terminate this Lease by serving the Tenant with a fourteen (14) day written notice to quit and vacate the premises which contains the basis for the termination. Tenant may be served in person or by first class mail. At the expiration of said notice or any shorter period conferred under or by operation of law, the Landlord/Agent may use any remedy provided by law for the restitution of possession and the recovery of delinquent rent.

b. Failure to pay rent and late charges as specified herein will constitute a default. In the event of such a default, the Landlord/Agent may file a Complaint in the District Court for Failure to Pay Rent-Landlord's Complaint for Repossession of Rented Property.

### **COURT AWARDED LEGAL FEES**

20. In an action by the Landlord to recover possession of the leased premises, including a non-payment of rent action, the Tenant is obligated to pay actual court costs, legal costs and attorney fees awarded by a court. If reasonable attorney's fees are awarded by the Court in a Failure to Pay Rent action, the attorney's fees are not part of the tenant's rent and need not be paid to redeem the premises. If the Tenant is the prevailing party and/or costs and attorney's fees are awarded by the court, the Landlord is obligated to pay those fees and costs.

### **WAIVER**

21. Any waiver of a default hereunder is not to be deemed a waiver of this Agreement of any subsequent default. Acquiescence in a default does not operate as a waiver of such default, even though such acquiescence continues for any extended period of time.

### **TERMINATION-HOLD OVER**

22. a. Either Landlord/Agent or Tenant may terminate this Lease at the expiration of said Lease or any extension thereof by giving the other two (2) months' written notice of termination. This Lease will terminate on the last day of the second complete month following delivery of such notice. If Tenant holds over after the expiration of the term of this Lease, he/she will, in the absence of any written agreement to the contrary, become a Tenant from month to month at the monthly rate in effect during the last month of the expiring term. All other terms and provisions of this Lease shall remain in full force and effect.

b. Failure to vacate the premises after proper notice may result in the Tenant being held accountable for rent for the period of the holdover and for consequential damages due to an incoming Tenant's inability to enter the premises because of Tenant's holdover occupancy.

c. Tenant is responsible for the entire month's rent in the case of a hold over tenancy, although the tenant vacates prior to the end of the month.

### **SURRENDER OF PREMISES/MOVE-OUT INSPECTION**

23. a. Tenant will, upon termination of this Lease, surrender the premises and all personal property of Landlord therein in good and clean condition, ordinary wear and tear accepted. Tenant will leave the premises in broom-clean condition, free of trash and debris, however, Tenant will not paint marks, plaster holes, crevices or cracks, or attempt any repair of the premises without Landlord/Agent's prior written consent. If such cleaning and removal of trash is not accomplished by the Tenant, or if the premises are not left in good and clean condition, then any action deemed necessary by the Landlord/Agent to accomplish same will be taken by the Landlord/Agent at the Tenant's expense. Upon vacating the premises, Tenant must deliver all keys to the Landlord/Agent within twenty-four (24) hours after vacating. Failure to comply will be cause to charge Tenant for changing locks.

b. Tenant has the right to be present at the time of inspection to determine if any damage has been done to the premises if Tenant notifies Landlord, by certified mail fifteen (15) days prior to Tenant's date of moving, of Tenant's intention to move, date of moving and new address. Upon receipt of notice, Landlord/Agent will notify Tenant by certified mail of the time and date when the premises are to be inspected. The inspection date will occur within five (5) days before or five (5) days after the date of moving as designated in Tenant's notice.

### **ABANDONED PROPERTY**

24. Any personal property which is left on the premises for more than seven (7) days after termination of the tenancy will be considered to be abandoned and may, at the option of Landlord/ Agent, be disposed of at the Tenant's expense. Landlord/Agent is not liable to Tenant or any other person for the loss of property so abandoned.

### **DESTRUCTION**

25. If the premises are rendered totally unfit for occupancy by fire, act of God, act of rioters or public enemies, or accident, the term of this Lease shall immediately cease upon the payment of rent apportioned to the day of such happening. If, however, the premises are only partially destroyed or damaged and Landlord decides to repair the same, such repairs will be made by Landlord without unreasonable delay, and Tenant may be entitled to a reduced rent while repairs are being made.

### **SUBORDINATION**

26. This Lease is and will be subject and subordinate at all times to the lien of any mortgage(s) or deed(s) of trust now or hereafter covering the Premises and to all renewals, modifications, consolidations, replacements and/or extensions thereof. Tenant agrees to execute any documents required to effect such subordination.

The Tenant agrees to execute promptly any document(s) which the Landlord or lender(s) may request with respect thereto. In the event that the Tenant fails to do so within fifteen (15) days from date of receipt of the written request from the Landlord or the lender(s), the Landlord will have the right, and is hereby authorized to execute on behalf of the Tenant, any such document(s). Tenant agrees to become a Tenant to any subsequent owner of the Property.

#### **ESTOPPEL CERTIFICATE**

27. Tenant will, at any time and from time to time, upon not less than fifteen (15) days prior request by Landlord, execute, acknowledge and deliver to Landlord a statement in writing, executed by Tenant, certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and setting forth such modifications) and the dates to which the additional rent and other sums payable hereunder have been paid, and (b) that there is no existing default hereunder or specifying each such default of which the signer may have knowledge and (c) that Tenant does not have any actual or pending claim against Landlord.

#### **EVICTIION ASSISTANCE**

28. When giving Tenant a notice of past-due rent, issuing a written quit and vacate notice, or beginning any judicial proceeding to regain the lease premises, the Landlord must notify the Tenant that general information and assistance regarding evictions is available from the Montgomery County Department of Housing and Community Affairs, Office of Landlord-Tenant Affairs, 100 Maryland Avenue, 4<sup>th</sup> Floor, Rockville, Maryland 20850, (240) 777-3600.

#### **MANAGEMENT**

29. These premises will be managed by \_\_\_\_\_ (Owner/Agent). In the event Agent is acting in the capacity of rental agent solely to procure a Tenant, it is understood that all payments hereunder made to Agent will be transferred to Owner and that Agent is acting as a conduit of funds. Accordingly, Owner and Tenant agree that Agent is not liable or responsible for the funds after they are transferred to Owner. Owner will abide by the terms of Paragraph 3 of this Lease Agreement regarding the Security Deposit. Tenant and Owner agree that Agent is not liable for any violations or breach by Owner or Tenant of the terms of this Lease or applicable State, County, or local laws.

#### **RETALIATORY EVICTION**

30. a. No retaliatory action will be taken by the Landlord/Agent for any complaints made by the Tenant to any public agency, or for any law suit filed by the tenant against the Landlord/Agent or any other attempts by Tenant to enforce the terms of this Lease, or applicable laws, including membership in a tenants' association.
- b. The Landlord must not actually or constructively evict or attempt to evict a Tenant from, or deny a tenant access to, the dwelling unit occupied by the Tenant without following the judicial process authorized in state law to obtain possession of the dwelling unit.

#### **CANCELLATION BY TENANT IN INITIAL TERM**

31. **Reasonable cause beyond Tenant's control.** The initial term of this Lease may be terminated upon thirty (30) days written notice issued to Landlord/Agent due to involuntary change of employment from the Washington-Metropolitan Area, death of major wage earner, unemployment, or for any other reasonable cause beyond Tenant's control. Tenant will provide Landlord/Agent with written proof of such involuntary change in employment of greater than 25 miles from the Washington-Metropolitan Area. If death of major wage earner, unemployment, or other reasonable cause beyond Tenant's control is claimed, Tenant will specify the specific cause(s) in writing to Landlord/Agent and will include appropriate documentation thereof. If reasonable cause beyond Tenant's control is claimed other than death of major wage earner or unemployment, Landlord/Agent may verify and accept or reject such claim. In the event of termination under this covenant, Tenant may be liable for a reasonable termination charge not to exceed the equivalent of one (1) month's rent at the rate in effect as of the termination, or the actual damages sustained by the Landlord, whichever is the lesser amount. The termination charge is to be in addition to the total rent due and owing through said termination date.

#### **REQUIRED LICENSES**

32. The Landlord/Agent affirms that the rental facility is licensed in accordance with Montgomery County law. A copy of any required license for the rental facility, issued by Montgomery County, Maryland or any other governmental agency, must be displayed in the lobby, vestibule, rental office or other prominent public place on the premises.

## RENT INCREASES

33. a. **Frequency and Amount.** After the initial term of this Agreement expires, rent may not be increased more than once per twelve (12) month period.
- b. **Notice.** Two (2) months' prior to the rent increase, written notice must be mailed to Tenant at Tenant's last known address. This notice may also serve as a notice to quit and vacate the premises in the event Tenant does not agree to pay the rent increase **if** such language is included in the notice. In the event Tenant fails to pay the increased rent and holds over beyond the period specified in the quit and vacate notice, Landlord may file suit to evict Tenant. The amount of rent due during this hold over period will be the increased rent. Tenant's timely payment of the increased rent will convert the tenancy month to month. ***If Tenant declines to accept the adjusted rent and intends to vacate the premises at the end of the initial term or any extension thereof, Tenant must provide one month's written notice to the Landlord/Agent of Tenant's intention to vacate.***
- c. **Each written rent increase notice must contain the following:**
- (1) The amount of monthly rent immediately preceding the effective date of the proposed increase (old rent), the amount of monthly rent proposed immediately after the rent increase takes effect (new rent), and the percentage increase of monthly rent.
  - (2) The effective date of the proposed increase.
  - (3) The applicable rent increase guideline issued under section 29-53 of the Montgomery County Code.
  - (4) A notice that the tenant may ask the Department to review any rent increase that the tenant considers excessive.
  - (5) Other information as the landlord deems useful in explaining the rent increase.

## MISCELLANEOUS

34. a. Tenant acknowledges that, if requested, Tenant did receive prior to this Lease execution a copy of the proposed form of Lease in writing, complete in every material detail, except for the date, the name and address of the tenant, the designation of the premises, and the rental rate without requiring execution of the Lease or any prior deposit.
- b. If this Lease contains a Lease Option Agreement, then it must state: **THIS IS NOT A CONTRACT TO BUY.**
- c. The conditions and agreements contained herein are binding on and are legally enforceable by the parties hereto, their heirs personal representatives, executors, administrators, successors and assigns, respectively, and no waiver of any breach of any condition or agreement contained herein will be construed to be a waiver of the condition or agreement of any subsequent breach thereof or of this Lease.
- d. Tenant acknowledges that the statements and representations made in the signed application for said premises are true; that said statements have induced Landlord/Agent to enter into this Lease; that they are deemed a part of this Lease; and that the falsity of any of them constitutes a breach hereof and entitles the Landlord/Agent to the same relief as a breach of any other covenant or condition contained herein.
- e. This Lease contains the final and entire agreement between the parties hereto, and neither they nor their agents are bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained. This Lease Agreement has been executed in duplicate and the Tenant acknowledges that a copy was delivered to him/her at the time the Lease was fully executed.
- f. It is understood and agreed by the parties hereto that if any part, term, or provision of this Lease is by the courts held to be illegal or in conflict with any law of the state or county where made, the validity of the remaining portions or provisions are not affected, and the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.
- g. Feminine or neuter pronouns will be substituted for those of masculine form, and the plural will be substituted for the singular number in any place or places herein in which the context may require such substitution. Tenant expressly warrants that he/she is of legal age and acknowledges that this warranty is being made for the purpose of inducing Landlord/Agent to lease the premises aforementioned.
- h. The paragraph headings appearing in this Lease have been inserted for the purpose of convenience and ready reference only. They do not define, limit or extend the scope or intent of the paragraphs to which they appertain.

## MILITARY CLAUSE

35. In the event Tenant is a member of or subsequently enlists into, the Army, Navy, Air Force, Marine Corps, Coast Guard or member of the National Guard under call to active service authorized by the President of the United States or Secretary of Defense for more than 30 consecutive days for purpose of responding to a national emergency, declared by

the President and supported by Federal funds and if Tenant subsequently receives permanent change of station orders or temporary change of station orders for 90 days or more, including release from military service. Tenant may terminate the lease upon delivering written notice to the Landlord/Agent with proof of his/her assignment. Written notice is effective upon personal delivery, delivery by private business carrier or by placing the written notice in the mail, with return receipt requested. Termination will be effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered in the case of a month to month tenancy. For any other tenancy, termination is effective on the last day of the month following the month in which the notice is delivered. The Tenant must pay rent through the effective date of termination, on a prorated basis. Tenant is also responsible for the cost of repairing damage to the premises caused by the tenant, if any. This clause also applies to those persons who receive orders releasing them from military service. The Landlord/Agent will refund the security deposit less deductions for unpaid rent and damages, if any, within 30 days of the date of termination. These provisions apply as well to dependents of tenants who are members of military service at the time a lease is signed or who subsequently enlists into the military service.

### **TWO-YEAR LEASE OFFER**

36. Montgomery County law requires landlords, unless there is a reasonable cause otherwise, to offer all prospective tenants lease agreements for initial terms of two (2) years. Such an offer may be accepted at the option of the prospective tenant. Prior to entering this lease, the tenant hereby acknowledges that: (initial and date one of the following options)

- \_\_\_\_\_ a. I was offered and accepted a two-year lease term by the landlord.
- \_\_\_\_\_ b. I was offered but rejected a two-year lease term by the landlord.
- \_\_\_\_\_ c. I received a copy of a written statement in which the landlord asserts and explains a reasonable cause for failing to offer me a two-year initial lease term and was advised of my rights to challenge such statement by filing a complaint with the Montgomery County Commission on Landlord-Tenant Affairs, 100 Maryland Avenue, 4<sup>th</sup> Floor, Rockville, Maryland 20850, (240) 777-0311

### **NOTICE AND SERVICE OF PROCESS**

37. Unless otherwise designated as required by law, the names, addresses and telephone numbers of the Landlord and Agent are set forth below. Notice to and service upon the agent shall constitute notice to and service upon the Landlord. In the event that the Landlord/Agent changes address, the Landlord/Agent must notify the Tenant within 10 days of the change. Whenever the ownership of the rental property changes hands, the transferor must notify the Tenant of the name, address and office location of the transferee within 10 days of the change. If the transferee is a corporation, the transferor must list the name and address of the resident agent of the corporation.

### **RECEIPTS**

38. Landlord/Agent agrees to provide to the Tenant a written receipt for payment of rent if the Tenant pays with cash or a money order or, if payment is not in cash or with money order, upon Tenant's request for a receipt. This Lease shall serve as a receipt for the aforementioned security deposit.

### **EMERGENCY NUMBER**

39. In the event of an emergency affecting the health, safety, or welfare of the Tenant or any property thereof, the Tenant may contact the Landlord, or its agent, at any time by calling the following emergency number:

\_\_\_\_\_

### **NOTICES**

40. Where property is leased to more than one Tenant, any written notice required under the terms of this Lease may be given only by \_\_\_\_\_ (*authorized tenant*). All Tenants agree that such notices given or received apply, with equal force, to all Tenants, authorized occupants and, if applicable, co-signers and subtenants. Any written notice required under the terms of this Lease shall be given by Landlord/Agent to authorized tenant. Any notice, other than any notice regarding the final move-out inspection, is effective upon hand delivery or upon deposit into the U.S. Postal Service, first-class postage prepaid.

**ADDITIONAL PROVISIONS**

41. Further Provisions and Additions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADDENDUM ATTACHED**

42.  No  Yes Number of Pages \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto agree to abide by all of the terms and conditions in this lease agreement.

**LANDLORD/OWNER:**

**AGENT:**

Name and Signature		Date
Street		
City	State	Zip Code
( )		
Telephone #		
( )		
Emergency Telephone #		

Name and Signature		Date
Street		
City	State	Zip Code
( )		
Telephone #		
( )		
Emergency Telephone #		

**TENANT(S):**

Name
Name
Name
Name

Signature	Date

\_\_\_\_\_  
Name of Property

**ADDENDUM TO LEASE**

**Landlord:** \_\_\_\_\_ **Tenant(s):** \_\_\_\_\_

**Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards**

**Lead Warning Statement**

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not taken care of properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and lead-based paint hazards in the dwelling. Residents must also receive a Federally and State approved pamphlet on lead poisoning prevention and the Maryland State pamphlet on tenant's rights.

**Landlord's Disclosure (initial)**

\_\_\_\_\_ (a) Presence of lead-based paint or lead-based paint hazards (*check one below*):  
Known lead-based paint and/or lead-based paint hazards are present in the housing. Explain.

\_\_\_\_\_  
\_\_\_\_\_  
Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

\_\_\_\_\_ (b) Records and repairs available to the Landlord (*check one below*):

Landlord has provided the Tenant with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards that are present in the housing (*list documents below*)  
Landlord has no reports pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Tenant's Acknowledgment (initial)**

\_\_\_\_\_ (c) Tenant has received copies of all information listed above.

\_\_\_\_\_ (d) Tenant has received the pamphlet *Protect Your Family from Lead in Your Home*.

\_\_\_\_\_ (e) Tenant has received the pamphlet *Notice of Tenant's Rights*, pursuant to § 6-823 (Envir.), Annotated Code of Maryland, 1996.

**Agent's Acknowledgment (initial)**

\_\_\_\_\_ (f) Agent has informed the Landlord of the Landlord's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

**Certification of Accuracy**

*The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.*

**LANDLORD(S):**

\_\_\_\_\_  
Landlord Date Landlord Date

**TENANT(S):**

\_\_\_\_\_  
Tenant Date Tenant Date

\_\_\_\_\_  
Tenant Date Tenant Date

**AGENT(S):**

\_\_\_\_\_  
Agent Date Agent Date

MONTGOMERY COUNTY CODE

**Sec. 29-27. Contents of lease.**

Each lease for rental housing located in the County must:

- (a) Not contain a waiver of notice to quit.
- (b) Contain no waiver of the landlord's liability for damage caused by the landlord's negligence or violation of any applicable laws, and provide for reimbursement to the tenant for any damage sustained by the tenant due to the negligence of the landlord.
- (c) Acknowledge the landlord's responsibility for maintenance of the rental housing and incorporate by reference Chapter 8, Chapter 22, Chapter 26, and Chapter 59, as an express warranty of habitability and covenant to repair.
- (d) Except as provided in subsection (c), incorporate no collateral agreement or provision by reference unless a copy of the collateral agreement or provision is attached to all copies of the lease.
- (e) Not authorize any confession of judgment for rent due.
- (f) Contain no provision for penalty for late payment in excess of 5 percent of the amount of rent due for the rental period for which payment is delinquent.
- (g) Contain no waiver of any right or protection afforded under this Chapter.
- (h) Contain no provision authorizing the lessor to take possession of the leased premises or the tenant's personal property on the premises without formal legal process.
- (i) Require itemization of all charges for repair of damages to the premises, claimed by the landlord or tenant, and providing that the charges must be substantiated upon written request.
- (j) Require the deposit of all security deposits in accordance with state law.
- (k) Notify the tenant where the tenant can inspect a copy of the rental housing license.
- (l) Require a minimum of 10 days before late fees may be charged.
- (m) Contain a covenant that the landlord will deliver the leased premises and all common areas in a clean, habitable and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable laws. In a condominium or cooperative housing structure, the landlord is required to deliver only the dwelling unit in a clean, habitable and sanitary condition, free of rodents and vermin, and in complete compliance with all applicable

MONTGOMERY COUNTY CODE

laws.

(n) Contain no agreement by a tenant to:

(1) waiver the right to a trial by jury;

(2) pay court costs that exceed actual costs awarded by a court; or

(3) pay legal costs or attorney fees other than those awarded by a court after the court finds that the fees and costs are reasonable.

In addition, any agreement obligating a tenant to pay a landlord's attorney's fees must:

(4) provide that attorney's fees are not part of the tenant's rent and need not be paid to redeem the premises in a nonpayment of rent action; and

(5) obligate the landlord to pay the tenant's attorney's fees if the tenant is the prevailing party in the legal action and fees are awarded by a court.

(o) Require written receipts for all cash or money orders paid by the tenant to the landlord for rent, security deposits or otherwise.

(p) Specify that the landlord may enter any dwelling unit if the landlord has given due notice to the tenant and the tenant has not reasonably objected, to:

(1) make necessary repairs, decorations, alterations or improvements;

(2) supply services only by mutual agreement during normal business hours, except in an emergency; or

(3) exhibit the dwelling unit to prospective buyers, mortgagees, or tenants only during normal business hours, including weekends, except as the landlord and tenant otherwise agree;

but nothing in this subsection prevents the landlord from entering any dwelling unit in an emergency situation or, after due notice, when the landlord is required to allow the Department access for an inspection under this Chapter or Chapter 26, or when the landlord has good cause to believe the tenant may have damaged the unit or may be in violation of this Chapter.

(q) Permit the tenant to sublease the dwelling unit with the landlord's written permission, which the landlord must not unreasonably withhold. This subsection does not apply to:

(1) a rental dwelling unit in a common ownership community if a valid legal

## MONTGOMERY COUNTY CODE

restriction prohibits subleasing;

- (2) an accessory apartment;
- (3) a mobile home under Section 29-66; or
- (4) an individual living unit.

(r) Contain no provision for a lien on behalf of the landlord on the tenant's chattels, except as provided by state law.

(s) Allow the tenant to terminate the lease upon 30 days' written notice to the landlord due to an involuntary change of employment from the Washington metropolitan area, death of major wage earner, unemployment, or other reasonable cause beyond the tenant's control. The lease may provide that in the event of termination under this provision, the tenant is liable for a reasonable termination charge not to exceed the lower of one month's rent or actual damages sustained by the landlord.

(t) Notify the tenant that general information and assistance regarding evictions are available from the Department. (1972 L.M.C., ch. 27, § 1; 1975 L.M.C., ch. 34, § 3; 1978 L.M.C., ch. 4, § 1; 1978 L.M.C., ch. 11, § 2; 1979 L.M.C., ch. 44, § 1; 1979 L.M.C., ch. 57, § 1; 1983 L.M.C., ch. 24, § 6; 1984 L.M.C., ch. 23, § 8; 1985 L.M.C., ch. 40, § 1; 1987 L.M.C., ch. 23, § 2; 1992 L.M.C., ch. 24, § 1; 1996 L.M.C., ch. 13, § 1; 1997 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 32, §§ 1 and 5; 2003 L.M.C., ch. 6, §§ 1, 2; 2005 L.M.C., ch. 16, §§ 1, 3; 2008 L.M.C., ch. 29, § 1)

**Editor's note**—2008 L.M.C., ch. 29, § 1, repealed 2005 L.M.C., ch. 16, § 3, Expiration, making the amendments made by 2005 L.M.C., ch. 16, permanent.

**Editor's note**—Section 29-27, formerly § 29-26, was renumbered and amended pursuant to 2000 L.M.C., ch. 32, § 1. 1983 L.M.C., ch. 24, § 13, provides in part as follows: "The amendments to chapter 29 approved by this act shall be repealed and of no force or effect on or after March 8, 1985." This sentence was deleted by of 1985 L.M.C., ch. 40, §1, thus giving the law permanent status.

In Kessler v. Equity Management, Inc., 82 Md. App. 577, 572 A.2d 1144 (1990), the court upheld the requirement that a landlord provide prior notice to a tenant before entering leased premises, as specified in § 29-26(q) and held that the right to prior notice was unaffected by the tenant's arrearage in payment of rent. Provisions in a former County law similar to subsections (a) and (f) above were upheld in County Council for Montgomery County v. Investors Funding Corp., 270 Md. 403, 312 A.2d 225 (1973). Such case also held that the County cannot prohibit oral leases.

## **Issue III: Communication and Information**

### ***a. Standard Leases***

Leases are complex legal documents. The TWG explored ways to simplify and standardize these documents.

#### **Findings**

State and County law require information that must be included in a lease. Montgomery County has a model lease available, but it is not required to be used by landlords. This model lease is not easily understood by the general public.

#### **Recommendations**

1. A standard lease should be required and written in plain language. Addenda may be added, as needed. If addenda are included, then tenants have two business days after signing to back out of the lease. That information should be included in the standard lease.
2. The standard lease should include a preamble with major tenant and landlord rights and obligations clearly described.
3. Any supplemental fees should be clearly enumerated in the lease.
4. Tenants should have 30 days after signing a lease to change from a one-year to a two-year, or vice-versa.
5. A two-year lease should be offered at every lease renewal.
6. The availability of DHCA's "Wear and Tear" handbook should be referenced in the lease.
7. The Landlord-Tenant Handbook should be given out to each new tenant. A modest increase to the licensing fee could be used to fund printing costs.
8. The handbook should clarify appropriate uses of fees by landlords.
9. Translations of the model lease and other documents should be made available in the most commonly spoken languages in the county on the DHCA website and for distribution throughout the county.

### ***b. Landlord-Tenant Obligations***

Some tenants find that the on-site management is not sufficiently responsive to their concerns. Others find that the landlords (whether they are on-site, local or distant) are not responsive.



ROCKVILLE, MARYLAND

MEMORANDUM

April 11, 2016

TO: Nancy Floreen, President, County Council

FROM: *Jennifer A. Hughes*  
Jennifer A. Hughes, Director, Office of Management and Budget

SUBJECT: Revised FIS for Bill 19-15, Landlord-Tenant Relations -Licensing of Rental Housing – Landlord Tenant Obligations

Please find attached the fiscal impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Clarence J. Snuggs, Director, Department of Housing and Community Affairs  
Jennifer Bryant, Office of Management and Budget  
Alex Espinosa, Office of Management and Budget  
Naeem Mia, Office of Management and Budget

**Fiscal Impact Statement  
Bill 19-15**

**Landlord-Tenant Relations – Licensing of Rental Housing – Landlord Tenant Obligations**

1. Legislative Summary

Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing – Landlord Tenant Obligations:

- provides for annual inspection of certain residential rental properties;
  - requires the use of a standard form lease for certain residential rental properties;
  - requires the publication of certain information related to rental housing;
  - requires the Department of Housing and Community Affairs to review certain rent increases;
  - provides for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs;
  - provides certain rights to tenants facing rent increases; and
  - generally amends the law related to landlord-tenant relations.
2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

There is no estimated change in County revenues due to Bill 19-15. While Section 29-22(f) of the bill requires reimbursement of inspection costs under certain circumstances, the amount generated is too speculative to estimate.

Bill 19-15 impacts expenditures in four areas: Code Enforcement; publication; translation and dissemination of the Landlord Tenant Handbook and Standard Lease; Landlord Tenant Rent Increase Review; and Licensing and Registration (see below).

- Code Enforcement (Section 29-22)
  - There are approximately 69,000 multifamily units in Montgomery County licensed by DHCA. This does not include units in the Cities of Rockville, Gaithersburg or Takoma Park. These units are inspected either by the local jurisdiction or via DHCA through a contractual agreement.
  - Based on our current sampling technique (consistent with Montgomery County Code, Chapter 29) to meet the current triennial inspection requirement, approximately 5,865 units of multifamily housing units are required to be inspected on an annual basis. Under the current requirement properties with a history of noncompliance are assigned a higher percentage of units to be inspected. Approximately 80 percent of properties receiving triennial inspections have 10 percent of units inspected, 5 percent of properties have 50 percent of units inspected, and 15 percent of properties have 100 percent of the units inspected.

- The proposed bill requires annual inspections of each property. After the most recent three years of demonstrated compliance, annual inspections may revert back to being triennially inspected. For purposes of this fiscal impact statement, it is assumed that “in-compliance” relates to a property being free from any and all violations. Since each property would be inspected annually, it is unlikely a property would be free from any and all violations for three years. Thus, it is more likely that all multifamily properties would continue to require annual inspections. Therefore, for purposes of this fiscal impact statement, annual inspections of all multifamily properties are assumed.
- The average number of units inspected by a Code Enforcement Inspector is approximately 700 per year. The total number of new units required to be inspected under Bill 19-15 is 11,199 (17,595 multifamily units – 6,396 number of units inspected in FY15).
- To increase the requirement of multifamily inspections from the calculated minimum of 5,865 units to 17,595 units annually, the Department of Housing and Community Affairs (DHCA) would need a total of 19 additional FTEs.
  - This includes 16 Housing Code Enforcement Inspectors, 1 Program Manager II, 1 Principal Administrative Aide, and 1 Information Technology Technician. DHCA would also need the associated operating expenses for vehicles, workstations, tablets, mobile phones and general operating expenses for the Code Enforcement staff.
  - Total annual personnel and operating cost is estimated to be \$1,685,880.
  - Total initial operating expenses (for vehicles, workstations, tablets and mobile phones) are estimated to be \$504,027.
- Total estimated full year Code Enforcement cost of the legislation is \$2,189,907
- Below are the detailed assumptions used to formulate the cost estimates:

Operating Costs per Unit		
<b>Vehicles</b>		
<b>1 x cost (Sedans)</b>	<b>Annual Cost</b>	<b>Comments</b>
24,900.00	-	acquisition
	1,739.00	maintenance
	1,410.00	fuel
	3,943.00	annual replacement
	114.00	monthly overhead
<b>24,900.00</b>	<b>7,206.00</b>	<b>Total Vehicle Costs</b>
<b>Technology Devices, Telecommunications and Workstations</b>		
<b>1x cost</b>	<b>Annual Cost</b>	<b>Comments</b>
599.00	-	tablet acquisition
89.99	-	tablet case
99.99	-	mobile phone acquisition
49.99	-	mobile phone case
3,454.00		workstation
-	315.00	tablet service (\$26.25/mo)
-	628.68	mobile phone service (\$52.39/mo)
<b>4,292.97</b>	<b>943.68</b>	<b>Total</b>
<b>29,192.97</b>	<b>8,149.68</b>	
<b>Total One- Time Cost</b>	<b>Total Annual Cost</b>	

Position	Grade	FTE Request	OE	General OE*	Per FTE Total	Total Annual Cost	Total 1x Cost (Car + IT + Workstations)
Hsg. Code Insp	Grade 19	16.00	8,150	2,000	89,210	1,427,363	467,088
PM II	Grade 25	1.00	8,150	2,000	110,819	110,819	29,193
IT Tech	Grade 19	1.00	944	2,000	82,004	82,004	4,293
PAA	Grade 13	1.00	-	2,000	65,694	65,694	3,454
		<b>19.00</b>			<b>Total Cost</b>	<b>1,685,880</b>	<b>504,027</b>

\*Salary costs are assumed at minimum for the grade level x 1.25 percent, flat insurance rate, and a total of 15.7 percent for retirement and FICA costs

\*\* General OC includes office supplies, IT supplies/licenses, printing, production, mailing and other misc. OE items

- Landlord Tenant Handbook Publication (Sections 29-6(f) and 29-28(f))
  - These sections require providing a Landlord Tenant handbook to every tenant.

- There are approximately 100,000 rental units including multifamily, single family, condominium and accessory apartments. The actual number of tenants is unknown so the cost to provide tenant handbooks is based on the number of rental units.
  - The average cost to produce one book is \$1.00 and \$1.15 to distribute by mail.
  - Total one-time cost is approximately \$215,000 to provide one handbook per rental unit.
  - Based on the DHCA 2014 Rental Housing Survey, there is approximately a 23.4 percent rental unit turnover rate annually. Therefore, the ongoing cost to provide Landlord Tenant Handbooks for the 23,400 units (100,000 x 23.4%) represented as turnover is \$50,310 including the cost to distribute the handbook.
- Landlord Tenant Handbook and Standard Form Lease translated and available in Spanish, French, Chinese, Korean, Vietnamese, and other languages as needed Section 29-6(f) and Section 29-6 (g).
    - Per the County's vendor, to translate the Landlord Tenant Handbook into the five specified languages would cost \$16,992.
    - Translating the handbook into other languages as needed would cost between \$3,144 and \$3,780 per language.
    - It is unknown how many "as needed" translations would be requested.

Landlord Tenant Handbook Translation				
Size	Units	Description	Rate	Amount
25200 words		SPANISH, Standard Turnaround, 15-16 bus. days	\$ 0.15	3,780
25200 words		FRENCH, Standard Turnaround, 15-16 bus. days	\$ 0.15	3,780
20959 words		KOREAN, Standard Turnaround, 15-16 bus. days	\$ 0.15	3,144
20959 words		VIETNAMESE, Standard Turnaround, 15-16 bus. days	\$ 0.15	3,144
20959 words		CHINESE, Standard Turnaround, 15-16 bus. days	\$ 0.15	3,144
			<b>Total</b>	<b>16,992</b>

- Per the County's vendor, to translate the Standard Form Lease into the five specified languages would cost \$6,457.
- Translating the lease into other languages as needed would cost between \$1,192 and \$1,440 per language.
- It is unknown how many "as needed" translations would be requested.

Standard Lease Translation				
Size	Units	Description	Rate	Amount
9600	words	SPANISH, Standard Turnaround, 6-7 bus. days	\$0.15	1,440
9600	words	FRENCH, Standard Turnaround, 6-7 bus. days	\$0.15	1,440
7948	words	KOREAN, Standard Turnaround, 6-7 bus. days	\$0.15	1,192
7948	words	CHINESE, Standard Turnaround, 6-7 bus. days	\$0.15	1,192
7948	words	VIETNAMESE, Standard Turnaround, 6-7 bus. days	\$0.15	1,192
Total				6,457

- Landlord Tenant Rent Increase Review (Section 29-53(c))
  - Under this section, the Office of Landlord Tenant Affairs must review all rent increases that are more than 100 percent of the applicable rent increase guideline to determine patterns of increases that harm tenants.
  - On an ongoing basis, all landlords would need to forward copies of all rent increase notices monthly in order for DHCA staff to review and track them to establish a pattern per the proposed code.
  - This would require 0.5 FTE to complete on a regular basis.
  - Total cost for 0.5 FTE of an Investigator III (Grade 25) is \$52,335.
  
- Rental Housing Data Collection – Licensing and Registration IT Improvements (Section 29-51(j))
  - The Licensing and Registration section would be required to add certain reports to its current IT system and perform data analysis for each of the 69,000 multifamily units on an annual basis.
  - Licensing staff would be responsible to review multifamily unit rent increases greater than specified amounts/percentages and recognize patterns of increases that may particularly harm tenants.
  - This would require updates to the current database, new reporting capabilities, and staff time to prepare and analyze these reports.
  - In the year that the bill is implemented, DHCA estimates it will take approximately 180 hours of licensing and registration staff time (180 hrs. x \$45 = \$8,100) and 30 hours of IT staff time (30 hrs. x \$63 = \$1,890). Total implementation cost is estimated at \$9,900.
  - Once the bill is implemented, DHCA expects that there will be less time required by program staff but more time required by IT staff to maintain and update the database. It is estimated that it will take approximately 110 hours of licensing and registration staff time (110 hrs. x \$45 = \$4,950) and 90 hours of IT staff time (90 hrs. x \$63 = \$5,670). Therefore, the ongoing staff cost is estimated at \$10,620.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

There is no estimated change to County revenues.

**One-Time Cost**

Vehicles, workstations, tablets and mobile phones	\$504,027
Production and distribution of the handbook	215,000
Translation of Landlord Tenant Handbook and Standard Lease	23,449
Staff time to implement reporting and analysis tools	9,990

**Total One-Time Cost                    \$752,466**

Summary of Expenses	Year 1	Year 2 -6	Total
Code Enforcement	2,189,907	8,429,400	10,619,307
Landlord Tenant Handbook Print/Mail	215,000	251,550	466,550
Landlord Tenant Handbook (Translated)	16,992	-	16,992
Standard Lease (Translated)	6,457	-	6,457
Landlord Tenant Rent Increase Review	52,335	261,674	314,009
Licensing and Registration	9,990	53,100	63,090
<b>Total</b>	<b>\$2,490,680</b>	<b>\$8,995,724</b>	<b>\$11,486,405</b>

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not Applicable

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Bill 19-15 would not impact the County's Enterprise IT systems, but it would affect DHCA's IT infrastructure. DHCA's IT systems are programmed in ASP.net. It is expected that modifications to the current system would be done in-house and would not require purchasing additional IT hardware or software; however, DHCA anticipates a need for one additional IT FTE (see above in #2).

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Additional FTEs are required to implement Bill 19-15. For the Code Enforcement section there is a need to add 19 FTEs. This includes FTEs for inspectors, program managers, an IT Technician, and an administrative aide (see above in #2). There is also need for an additional 0.5 FTE (Investigator III) in the Office of Landlord Tenant Affairs to complete a review of rent increases of 100 percent or more. In the year that the bill is implemented, DHCA estimates it will take approximately 180 hours of licensing and registration staff time to perform data analysis for each of the 69,000 multifamily units, review multifamily unit rent increases greater than specified amounts/percentages and recognize patterns of increases that may particularly have an impact on tenants; and 30 hours of IT staff time to update the current database, and develop new reporting capabilities.

Once the bill is implemented, DHCA expects that there will be less time required by program staff but more time required by IT staff to maintain and update the database. It is estimated that it will take approximately 110 hours of licensing and registration staff time and 90 hours of IT staff time.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

This would affect the Licensing and Registration section. These tasks would require additional temporary support while current staff performs the necessary analysis.

9. An estimate of costs when an additional appropriation is needed.

DHCA would require \$2,490,680 for the staffing and associated costs listed above in the fiscal year the bill is enacted for implementation and \$1,799,145 per year, each year after implementation of the bill to cover ongoing costs.

10. A description of any variable that could affect revenue and cost estimates.

The fiscal impact statement assumes the bill requires annual inspections of all multifamily properties. The total cost estimate may be different based on the percentage of units required to be inspected annually. It also assumes the Tenant handbook will be distributed by mail. Cost would be less if the handbook were distributed electronically.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

The total cost to translate the Landlord Tenant Handbook and the Standard lease is uncertain as it is uncertain how many "as needed" translation requests DHCA will receive. Below is the per-unit cost of each translation.

- Translating the handbook into other languages as needed would cost between \$3,144 and \$3,780 per language.
- Translating the lease into other languages as needed would cost between \$1,192 and \$1,440 per language.

12. If a bill is likely to have no fiscal impact, why that is the case.

Not Applicable

13. Other fiscal impacts or comments.

Not Applicable

14. The following contributed to and concurred with this analysis:

Clarence Snuggs, DHCA

Tim Goetzinger, DHCA

Chris Anderson, DHCA

Jay Greene, DHCA

Rosie McCray-Moody, DHCA

Dan, McHugh, DHCA

Francene Hill, DHCA

Jennifer Bryant, OMB

*Jennifer A. Hughes*  
for Jennifer A. Hughes, Director  
Office of Management and Budget

*4/11/16*  
Date



DEPARTMENT OF FINANCE

Isiah Leggett  
County Executive

Joseph F. Beach  
Director

MEMORANDUM

June 24, 2016

TO: Nancy Floreen, President, County Council

FROM: *Wolfsen* Jennifer A. Hughes, Director, Office of Management and Budget  
*Fure* Joseph F. Beach, Director, Department of Finance

SUBJECT: Revised EIS for Bill 19-15, Landlord - Tenant Relations - Licensing of Rental Housing - Landlord-Tenant Obligations *RH*

Please find attached revised economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Robert Hagedoorn, Acting Director, Department of Finance  
Clarence J. Snuggs, Director, Department of Housing and Community Affairs  
David Platt, Department of Finance  
Nacem Mia, Office of Management and Budget

Office of the Director

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**Revised Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

**Background:**

This legislation would:

- Provide for annual inspection of certain residential rental properties,
- Require the use of a standard form lease and applicable optional provision for certain residential rental properties,
- Require the publication of certain information related to rental housing,
- Require the Department of Housing and Community Affairs (DHCA) to review certain rent increases,
- Provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs, and
- Provide certain rights to tenants facing rent increases.

**1. The sources of information, assumptions, and methodologies used.**

Sources of information include:

- Department of Housing and Community Affairs (DHCA),
- Maryland-National Capital Park and Planning Commission - Montgomery County, MD Planning Department (Planning),
- Metropolitan Regional Information System, Inc. (MRIS),
- Greater Capital Area Association of Realtors (GCAAR),
- American Community Survey (ACS), U.S. Census Bureau,
- Bureau of Labor Statistics (BLS), U.S. Department of Labor,
- National Multifamily Housing Council/National Apartment Association (NMHC/NAA),

The economic impact statement will focus on the portions of Bill 19-15 that directly impact the economic performance of the local rental market such as:

- Additional costs incurred by the landlord as required under Bill 19-15,
- Permitting tenants to convert a one-year lease to a two-year lease within 30 days after signing the lease, and
- Rent increase guidelines based on the increase or decrease in the Consumer Price Index for all urban consumers (CPI-U) for the Baltimore-Washington Consolidated Metropolitan Statistical Area (CMSA).

Data provided by NMHC/NAA for the Eighth Congressional District (District) present the economic benefits of the apartment industry. Those benefits include:

**Revised Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

- There are 125,100 residents in the District that live in apartments,
- The apartment industry in the District contributes \$2.7 billion to the local economy, and
- The number of jobs related to the apartment industry in the District is approximately 25,100.

Data from DHCA as reported in its study entitled *Rental Apartment Vacancy Report 2012* states:

- The countywide vacancy rate for all surveyed units (market and subsidized units) was 3.5 percent in 2012, the latest date for which data are available – a decrease of 0.2 percentage points from 3.7 percent in 2011 and a decrease of 1.8 percentage points from 4.3 percent in 2008,
- The vacancy rate in 2012 varied from a high of 3.9 percent for efficiency units to 1.0 percent for 4+ bedroom units,
- The countywide vacancy rate for market-rate units was 3.7 percent in 2012 – a decrease of 0.1 percentage point from 3.8 percent in 2011,
- The vacancy rate for market-rate units varied from a high of 4.0 percent for efficiency units to 1.7 percent for 4+ bedroom units,
- In 2012, the countywide turnover rate for market and subsidized units was 31.0 percent – 1.5 percentage points lower than the 32.5 percent in 2011, and
- The turnover rate for market and subsidized units varied from a high of 35.5 percent for efficiency units to a low of 17.7 percent for 4+ bedroom units.

DHCA also provided the following information, definitions, and data regarding the capitalization rates, return on cost, and cost of capital used by DHCA and the industry:

- Capitalization (“cap”) rates are used by the Maryland State Department of Assessments and Taxation (SDAT) to determine the value of the property by dividing the net income of a property by a “cap” rate,
- Appraisers, lenders, and investors are currently using “cap” rates for valuation of multifamily properties in Montgomery County between 4.00 and 6.00 percent.
- Return on cost (ROC) is an industry standard used by lenders and investors that is applied to the market value of new construction projects,
- Currently the threshold measure for ROC averages between 6.50 percent and 8.00 percent,
- Cost of capital or cost of debt or equity is a measure of profitability for a particular rental property,
- Currently, cost of capital seeks a return from 4.50 percent to 5.75 percent on a property,

**Revised Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

- Return on equity and investment debt seeks a return from 8.00 percent to 15.00 percent, and
- Historically, the threshold measures for the “cap” rate, ROC, and equity investment debt exceed the rate of inflation (please see paragraph #2).

**2. A description of any variable that could affect the economic impact estimates.**

The variables that could affect the economic impact estimates are:

- The cost to the landlord for providing a copy of the landlord-tenant handbook developed by DHCA to a tenant,
- The inspection cost to the landlord if there is a violation of applicable laws more than twice in two consecutive years,
- The current rental prices for multi-family housing,
- The threshold rate for the capitalization rate, return on cost, and cost of capital, and return on equity and investment debt,
- The percent change in the CPI-U for the Washington-Baltimore CMSA,
- The number of the tenants who would convert a one-year lease to a two-year lease within 30 days after signing the lease, and
- Permitting tenants to extend for up to two months at the original lease amount when the lease renewal amount exceeds the rental increase guidelines

Under Bill 19-15, DHCA will develop and distribute a copy of the landlord-tenant handbook to landlords and require a landlord to provide a copy to a tenant upon request. Finance assumes that the cost to the landlord is determined by “production” costs and the number of tenants who request a copy. At this time, those costs are unknown, but those costs will affect the expenses incurred by the landlord and those costs are assumed not to be passed on to the tenant.

Bill 19-15 would require the landlord to pay the cost of inspection if the landlord violated applicable laws for two consecutive years. While such costs will vary from landlord to landlord, it will have an effect on the landlord’s income assuming the landlord’s cost avoidance to complying with applicable laws is less than the cost of the inspection.

Data provided by MRIS and GCAAR show that rental prices increased from the first quarter of 2010 to the first quarter of 2015 as follows:

- Garden (1-4 floors): 11.90%
- Mid-Rise (5-8 floors): 34.70%
- Hi-Rise (9+ floors): 1.62%

Comparing those percent increases with the increase in the CPI-U of 9.01 percent over the same period, rent increases for both garden and mid-rise apartments

**Revised Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

exceeded the percent change in the CPI-U. Comparing the rent increases with the increase in the CPI's rental equivalent index of 14.97 percent, the only percent increase that exceeded that index occurred with mid-rise units.

However, by setting the proposed guidelines for rent increases to the CPI-U rather than the CPI rental equivalent could result in lower rental guidelines and potentially limit rent increases for the garden and mid-rise units over the 2010 to 2015 period and could have a negative impact on revenues received by landlords. While such a reduction in the guidelines for rent increases would affect revenues to landlords, tenants would receive a positive economic benefit. Therefore, such a change in the guidelines regarding allowable rent increases would have a zero sum impact on the County's economy. However, all things being equal, there is a point at which a reduction of allowable rent increases, whether actual or perceived, would provide an economic disincentive that will steer developers of new rental housing to competing jurisdictions where such requirements are not present in other jurisdictions.

Bill 19-15 would allow a tenant to convert a one-year lease to a two-year lease within 30 days after signing the lease. Assuming that the monthly rent for the two-year lease would then be the same as for the initial one-year lease, the tenant would receive a positive economic benefit of maintaining the same monthly rent for a two-year period while the landlord would experience a negative economic benefit.

Planning provided data from the 2013 American Community Survey (ACS), U.S. Census Bureau that show the tenure of households that rent in Montgomery County. From that data, the percent of rental households who have "moved in 2010 or later" was 64.1 percent or an estimated 201,301 residents countywide. That percent steadily decreased to 0.1 percent for renters who "moved in 1969 or earlier." Therefore there are a larger percentage of renters who have recently moved into rental units in the County and are more likely to convert a one-year lease to a two-year lease.

Finally, Bill 19-15 allows a tenant to occupy the unit at the current rate for a maximum of two months after the term of the lease expires if the rent increase exceeds the applicable guideline. DHCA will publish the average rent increase for each unit under specific guidelines. If those guidelines are based on inflation, and since data in #2 indicate that for both garden and mid-rise units the rent increase is greater than the rate of inflation, while it is less than for high-rise units, it is uncertain at this time, what the economic cost to the landlord and the economic benefit to the tenant would be.

**3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

Bill 19-15 could have a negative effect on landlord's business revenue through reduced allowable increases in monthly rents, additional expenditures incurred by providing a handbook to tenants requesting it, and costs for those inspections in

**Revised Economic Impact Statement**  
**Bill 19-15, Landlord – Tenant Relations – Licensing of Rental Housing –**  
**Landlord-Tenant Obligations**

violation of applicable laws. With the potential impact on rents and the additional operating costs, those factors may have a negative impact on employment and economic contributions to the County's economy as presented by the data cited by NMHC/NHA.

Data provided by DHCA suggest that lowering the guidelines for rent increases and thereby limiting the increase in monthly rents to the consumer price index could result in keeping those rates below the threshold return on cost and return on capital and below the current capitalization rate for property assessments. Regarding the effect on returns on cost and capital, capping rental rates to the rate of inflation may have a negative impact on investment in new rental housing construction.

Those potential negative effects on housing supply, the quality of housing stock, and business income and the threshold rates for property values and investment could be partially offset by positive impacts for tenants by restricting rent increases. It is uncertain without specificity of data if the negative effects experienced by the landlord and the rental market industry are identically offset by the positive economic benefits to the tenant. If such effects are not identically offset, that is, the costs to the landlords and rental market industry are greater than the benefits to the tenants, there would be a negative impact on property values, business income, investment and employment in the County. Also, if Bill 19-15 discourages investment in new rental property, it could have a negative impact on the portion of recordation tax revenues that are used to support rental assistance for the same residents affected by this legislation.

**4. If a Bill is likely to have no economic impact, why is that the case**

The subject legislation will have an economic impact on the County, however, as mentioned in paragraph #3, without specific data on the economic impacts to landlords and tenants, a quantitative measurement of the impact on savings, investment, employment and property values is not feasible.

**5. The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Finance; and Timothy Goetzinger, DHCA.

*For*  
\_\_\_\_\_  
Joseph F. Beach, Director  
Department of Finance

6/24/16  
Date

B19-15

JH  
CC

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September 2, 2016

**Via HAND DELIVERY**  
**and First-Class Mail**

The Honorable Nancy Floreen  
Montgomery County Council  
Chair, PHED Committee  
1000 Maryland Avenue  
Rockville, MD 20850

Re: Bill 19-15

Dear Chair Floreen:

Thank you for meeting with me and allowing me to express my views concerning Bill 19-15. And, thank you for inviting me to submit my views in a letter form. These are not only my views but also the views of my clients.

I am opposed to several portions of Bill 1915. As a practicing attorney with over forty years of experience in landlord-tenant law, working for both landlords and tenants, I urge you to oppose the sections of Bill 19-15 I address in this letter. Instead of protecting tenants, parts of Bill 19-15 will only put further strain on the landlord-tenant relationship, give tenants a false sense of security regarding their leases, unnecessarily divert funds that could be better allocated to other areas, and create an unworkable and unfair, to both landlords and tenants, rental environment.

**Standard Form Lease**

In its current form, Bill 19-15 requires the use of a standard lease in all of Montgomery County. Because landlord-tenant law in Maryland is not static, no standard lease would be usable for more than a short period of time before a new one would have to be created. Creating a standard lease is not something that can be easily done without continuous and tremendous effort. As I told you, I was previously a member of a statewide commission tasked with creating

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a standard form lease for use throughout Maryland. I dedicated many years of service toward this goal, working with other attorneys and real estate professionals, and receiving input from numerous other sources, only to determine that a standard form lease was not feasible due to the ever changing nature of landlord-tenant law. Leases cannot be set in stone, they must be flexible documents in order to be able to keep up with the state of the current law and the needs of each property. Our commission finished the "standard form lease," but it was never utilized as originally intended. It is now a relic of history.

In addition to the fluid state of landlord-tenant law, the makeup of Montgomery County must be taken into consideration when contemplating a standard form lease. Montgomery County consists of separate incorporated cities, towns and municipalities, each with its own governing body. Landlord-tenant law is not uniform throughout the County, and even if a standard lease form could be created, it would not be applicable in certain areas within the County.

A standard lease, issued by the County, is no less likely to confuse tenants and no more likely to enhance tenants' rights or tenants' understanding of their rights than currently used leases. In order to be broadly applicable, a standard form lease will have to include additional provisions, not found in most used leases. Increasing the length of a lease will reduce clarity for tenants as well as decreasing the likelihood that tenants will read their leases. Furthermore, a standard lease may cause tenants to assume that there are no issues for which they should be concerned, because it was issued by the County, resulting in fewer tenants reading their leases. This will only serve to keep tenants uninformed of their rights, undermining the goals of protecting tenants and keeping tenants informed.

### **Increased Inspections**

Bill 19-15 also requires annual inspections of rental properties, replacing the current triennial inspection system. This change would not only be burdensome, but it would not be economically practical. There are approximately 67,250 licensed multifamily units in Montgomery County. In its original form, Bill 19-15 called for the inspection of each of these units annually. The additional cost would have been over \$10,000,000, to include nearly 100 additional employees and all necessary equipment. The revised Bill 19-15 eliminated the requirement that every unit be inspected annually, but still requires yearly inspection of "every apartment complex and personal living quarters building." The additional cost to annually inspect every complex and building would be over \$2,000,000.

This additional expenditure of funds is unnecessary. Current law permits the Department of Housing and Community Affairs (DHCA) director to place noncompliant rental properties on a more frequent inspection schedule and allows tenants to report violations to the DHCA, resulting in an inspection. The current system allows discretion by the DHCA to direct additional resources where they are most needed, to noncompliant properties. The proposed changes would take away much of that discretion and waste time and money that could be better allocated toward other areas of need. Bill 19-15 does permit owners who have shown a history of compliance with health and safety standards to be placed on a three year inspection schedule, at

the discretion of the DHCA director. But, by the time these properties are identified, the time and money will have already been spent. Rather than inspecting every property annually, Montgomery County should continue with the current inspection schedule that better identifies areas where additional time and resources need to be spent.

### **Rent Increases**

Bill 19-15 includes provisions requiring landlords to give three months written notice to tenants prior to increasing rent by more than 100 percent of the applicable rent increase guidelines and prohibiting any rent increase from taking effect until at least two months after notice to the tenant. This change would force landlords to permit tenants to remain in possession of their unit for two months at the previous rental rate. Requiring landlords to submit to holdover tenants, at a lower rate of rent, interferes with the landlord's right to do business and their right to contract.

Under Bill 19-15, DHCA will be required to review rent increases that exceed 100 percent of the applicable guidelines. This change will increase the strain on the landlord-tenant relationship, causing tenants to be skeptical of every rent increase because it is under review by the DHCA.

The proposed changes regarding rental increases will create a situation similar to rent control in Montgomery County. Rent increases will be under intense scrutiny, and rents will not be able to be increased or decreased for certain time periods, taking away nearly all discretion on the part of property owners. Rental rates currently are a fluid system, based on supply and demand, with changes happening on a regular basis. Bill 19-15 will require landlords to adhere to rigid guidelines, and force them to guess what market rates will be several months in advance.

### **Economic Impact**

Many parts of Bill 19-15 will impair the County's ability to call itself "business friendly." As the Chair of the Regulatory Reform Subcommittee of the County Executive Economic Advisory Group, I am charged with making Montgomery County more business friendly, as the County already has less than a sterling reputation in that regard due to perceived overregulation. New and unnecessary restrictions on rental housing will discourage investors from investing in rental properties, make it more difficult for businesses to come to Montgomery County and will drive them to other areas that are less regulated. This will only harm the tenants that Bill 19-15 seeks to protect by affording them fewer opportunities for work and fewer choices with regard to rental properties.

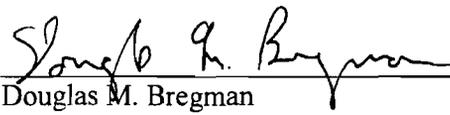
I and my landlord and tenant clients applaud the Council's dedication to tenants' rights and keeping tenants informed. However, I urge you to eliminate many of the provisions of Bill 19-15. The Bill does not serve its intended purpose and will in fact have the opposite of its intended effect. The Bill will result in overregulation of the rental property market in Montgomery County and be burdensome to landlords, tenants, and the economy.

The Honorable Nancy Floreen  
September 2, 2016  
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Thank you for the opportunity to express my concerns.

Sincerely yours,

BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC

By:   
Douglas M. Bregman



MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

MARC ELRICH  
COUNCILMEMBER AT-LARGE

To: The Honorable *Isiah Leggett*, County Executive

Re: Inspections of rental units in Montgomery County

Date: October 10, 2016

This memo is to explain in writing my proposal for a rational process for determining an inspection regime for the approximately 67,000 rental units in Montgomery County (outside of Takoma Park).

**Background and Rationale:**

As you know, I had proposed in my Bill 19-15 that all rental units be inspected every year. The response was that it was too costly to proceed with 100% annual inspections, and that not every building needs annual 100% inspections. My staff and I have had numerous conversations with Clarence Snuggs and others at the Department of Housing and Community Affairs as well as with Councilmembers, landlords, community advocates, tenants and Council staff in attempt to find a cost effective solution to the current inspection gap.

Two apartment complexes illustrate some of the existing problems with the current inspection procedures. Flower Branch and Northwest Park apartment complexes provide examples of the dilemmas of the current inspections process. Tenants at both complexes have reported multiple and varied issues with the units and buildings.

Flower Branch has been inspected every three years – 100% of the units. At a recent meeting with tenants following a tragic gas explosion at the apartment complex, tenants talked of ongoing issues as well as the aftermath from the recent tragedy. The 100% every three-year inspections did not address all of their problems.

Northwest Park had its first 100% inspection in at least ten years; tenants have told organizers of pervasive mold and other problems. (In 2004, 2007, 2011 and 2013, it had 10% of units inspected.) Northwest Park residents spoke to me and others about the multiple problems with the apartments over the years. At the recent

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Re: Inspections of rental units in Montgomery County  
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inspections, it was reported that individual unit inspections ranged from two to five minutes at each unit, and different inspectors checked apartments differently.

Additionally, the inspectors asked tenants – while a landlord representative was present – whether there were any problems with the apartment.

Both buildings had numerous code violations cited during the inspections. Despite the problems, few tenants at either complex called the county with complaints that would have triggered inspections. This is not surprising; we know that many tenants do not feel comfortable calling local government. Others simply fear being targeted by management if they speak up or ask for significant repairs. The retaliation by management is generally subtle; a lease is simply not renewed. One woman my staff and I met with had been quite outspoken about the problems at Northwest Park where she had lived many years. We were told that soon after we met her, her lease was not renewed; she had been late on rent and was too embarrassed to reach out for help. (Often management will work with tenants who are late with payments if they are “good” tenants.) Others have told us that they do not want to be labeled as “troublemakers” and are reluctant to complain or even make requests for repairs.

If inspections were regular and comprehensive, then the burden would not be on individual tenants to step forward, call attention to themselves and point out violations. We can agree that not every unit in every building needs inspections every year; however, many buildings are in need of more regular inspections than are currently provided. Currently, we have no rational way to determine or know which units in which buildings need more frequent inspections and which ones can be on a less frequent schedule.

**“Surge” Proposal**

We need an inspection protocol that maximizes limited resources and targets the apartment units most in need of regular inspection. This protocol needs to include a standard inspection procedure and a rationale for an inspection protocol and schedule. That is why I am writing to you with my proposal for a “surge” inspection process.

The “surge” would use contract hires to serve as inspectors to supplement the full-time, permanent staff of inspectors. Over the course of the next two years, every apartment unit in the county would be inspected, beginning with the oldest buildings first and the newest ones last, to develop a baseline of conditions.

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All inspectors (contract and permanent county hires) would undergo a uniform training to show what needs to be inspected and how it should be inspected. A standardized checklist would be used so that specific problems are cited so that

inspectors, management and tenants all know what needs to be corrected. A standard checklist would also allow the inspection results to be compared from year to year and among apartment units and buildings. Comparisons help identify ongoing problems; for example "normal wear and tear" for the same room/equipment should only happen once; if it shows up multiple times, it may highlight a different problem.

During the surge inspections, criteria can begin to be developed to guide the development of a schedule of whether buildings should be inspected on an annual, biannual or less frequent schedule. The surge inspection results should also give a clearer picture of the number and type of violations in a building and help determine rational answers to the questions, "How many violations are too many?" and "How many violations are serious (and the definition of "serious)?" Violations could be identified as major "life/safety" violations, minor violations and other categories as decided.

Additionally, inspections in units with tenants present should happen without the property manager (or other landlord representative) present in order to allow the free flow of information. I understand, of course, that when a tenant is not present, then the landlord's representative must accompany the inspector.

The surge will also help determine the appropriate number of inspectors that should be permanent county employees, which brings me to the funding issue. As you know, the cost of inspections is supposed to be funded by the per-unit charge applied at the annual licensing process. That charge is currently \$41/unit/year. (In Takoma Park, it was \$103/unit in 2015.) Each additional \$1 to the licensing fee pays for approximately one additional inspector. (It can also be thought of as an additional \$.08/month on rent since presumably the inspection cost is passed on to the tenant in many instances.) During worksessions of the Planning Housing and Economic Development (PHED) committee, we learned that about \$1 million of those fees are used for purposes other than housing inspections. In addition, to reclaiming those funds, which should pay for at least ten full-time inspectors, a *temporary* surcharge could be added to the licensing fee for the two years of the surge to pay for the contract inspectors, who would not have the added long-term costs of permanent employees.

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In conclusion, I think we can agree that the problems with the current inspection process are too serious to ignore. I believe this surge proposal gives us a path to determine a rational fair process for improving the inspection regime. As you know one-third of our residents are renters and improving inspections can help insure

that they live in decent homes and have the quiet enjoyment of a home as all of us should. I am hopeful that the surge and the ensuing results will help develop a model for the region and beyond, and once again Montgomery County can lead in innovative public policy.

I look forward to working with you to implementing this proposal as soon as possible.

Cc:  
Clarence Snuggs, Director, Department of Housing and Community Affairs  
Bonnie Kirkland, Assistant Chief Administrative Officer  
Chuck Short, Special Assistant to the County Executive



**MONTGOMERY COUNTY COUNCIL**  
ROCKVILLE, MARYLAND

**TOM HUCKER**  
COUNCILMEMBER  
DISTRICT 5

**MEMORANDUM**

**TO:** Council President Nancy Floreen, Chair, PHED Committee  
Councilmember George Leventhal, Member, PHED Committee  
Councilmember Hans Riemer, Member, PHED Committee

**FROM:** Councilmember Tom Hucker

**SUBJECT:** Bill 19-15, Rental Housing - Landlord-Tenant Obligations

**DATE:** October 24, 2016

I am writing to propose three amendments to Bill 19-15. Through my meetings with residents, it has become clear that there is a significant disconnect between our most vulnerable residents and the County services that are supposed to protect them. The Northwest Park Apartments in Silver Spring, for example, had over 2,200 violations across their 800 units during their most recent triennial inspection. According to DHCA, however, there were only nine complaints from residents during the 2015 calendar year.

While this disparity can be attributed to a language barrier and general mistrust of government, it is difficult to believe that the property management company was completely unaware of these violations. At the Flower Branch apartments in Long Branch, residents reported numerous complaints to the property manager, including the smell of natural gas in their apartments and around the common areas. Yet residents were reluctant to report these issues to the County due to fear of retribution from the management company.

I am confident that the PHED Committee will address these issues through a more robust inspection regime, but I propose the following amendments to make better use of County resources:

- 1. Require DHCA to submit an annual report to the Council.** This report will help the Council make informed budget and policy decisions to address ongoing housing issues. The report must include:
  - a. A schedule of properties that received an inspection the previous fiscal year, including a list of all violations found, violations corrected and the status of any incomplete inspections; and

- b. A schedule of properties scheduled to receive an annual, biennial or triennial inspection in the coming fiscal year.
2. **Prioritize code enforcement according to the severity and number of violations found.** This will allow DHCA to target its limited resources on properties with a history of chronic violations.
- a. Properties with violations that pose a health and safety risk to tenants must be inspected on an annual basis until all violations are corrected and no additional health and safety violations are found for two consecutive inspections. Health and safety violations include mold, infestations, lack of working heat, electricity, water and sewage disposal.
  - b. Properties with an average of two violations per unit at the last inspection must also be inspected on an annual basis until all violations are corrected and no additional violations are found for two consecutive inspections.
  - c. Properties with an average of one violation per unit at the at the last inspection must also be inspected on an annual basis until all violations are corrected and no additional violations are found for two consecutive inspections.
3. **Require landlords that are on an annual inspection regime to provide DHCA with quarterly reports on subsequent and outstanding complaints.** As noted above, residents often report complaints to their landlord without ever reporting them to the County. Requiring landlords to report complaints to the County will help inspectors identify issues and follow up on outstanding violations.

Thank you in advance for your consideration of these amendments. I look forward to working with you on these and other renter protections.

### Hucker Amendments

These amendments would: (1) require the Director to provide the Council with an annual report on inspections; (2) require properties with certain types or numbers of violations to be inspected annually and others biennially; and (3) require certain landlords to provide the Director with quarterly updates listing all tenant complaints.

*Add after line 27:*

- (h) The Director must report on rental housing inspections to the Executive and the Council, by September 1 of each year. The report must include:
- (1) the address of each property inspected during the most recent fiscal year;
  - (2) the address of each property that has been inspected or is scheduled to be inspected on an annual, biennial, or triennial inspection during the current fiscal year; and
  - (3) for each property inspected in the last fiscal year or during the current fiscal year, a list of:
    - (A) violations found;
    - (B) violations corrected; and
    - (C) the status of any incomplete inspections; and

*Amend lines 29-59 as follows:*

#### **29-22. Inspection of rental housing.**

- (a) [The] Except as provided in this Section, the Director must inspect [[all rental housing consisting of two or more dwelling units, including]] each apartment complex and personal living quarters building licensed as rental housing, at least once [every three years] [[each year]] within each three-year period to determine if it complies with all applicable laws. [The Director may inspect an apartment complex or personal living

quarters building more often than the triennial inspection.] The Director may inspect an apartment complex or personal living quarters building more often than the triennial inspection.

(b) [[If the Director finds that a landlord of licensed rental housing has a demonstrated history of compliance with applicable laws over the most recent three years, the Director may thereafter inspect the licensed rental housing once every three years.]] The Director must inspect, at least once each year:

(1) any rental housing which, after inspection, the Director finds in violation of any applicable law related to the health and safety of the tenants, including:

(A) rodent or insect infestation affecting 20% or more units in a building;

(B) mold; or

(C) lack of working utilities, including:

(i) heat;

(ii) electricity;

(iii) water; or

(iv) sewage disposal; and

(2) any rental housing which, after inspection, the Director finds an average of more than two violations of applicable law per unit inspected.

A property subject to inspection under this paragraph must be inspected each year until the Director finds the reason for the annual inspection identified in subsection (b) no longer applies to the property for two consecutive inspections.

(c) The Director must inspect, at least once within each two-year period, any rental housing which, after inspection, the Director finds an average of at least one violation of applicable law per unit inspected. A property subject to inspection under this paragraph must be inspected at least once within each two-year period until the Director finds the reason for the additional inspection identified in this subsection no longer applies to the property for two consecutive inspections.

(d) The Director may inspect any other rental housing if the Director receives a complaint or a request from a landlord or tenant or believes that the rental housing does not comply with all applicable laws.

~~(c)~~~~(d)~~(e) As a condition of receiving a license under this Chapter, a landlord must agree to:

- (1) allow access to the Department for any inspection required under this Chapter or Chapter 26; ~~and~~
- (2) notify any affected tenant whose unit requires inspection at least 72 hours in advance of ~~the~~ a scheduled inspection under subsection (a) of this Section~~.~~; and
- (3) when subject to annual inspections under subsection (b), provide quarterly updates to the Director listing all complaints received by the landlord from tenants.

~~(d)~~~~(e)~~(f) If an inspection indicates that any rental housing does not comply with all applicable laws, the Director may revoke the license or take other remedial action under Section 29-25.

~~(f)~~(g) A landlord of licensed rental housing ~~found in~~ notified after initial inspection of a violation of applicable laws ~~more than twice in two consecutive years~~ must pay the cost of the ~~next inspection~~ third,

and subsequent inspections, as [[determined by the Director]] established in regulation, if the violation is not corrected by the second inspection.

\* \* \*

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## DHCA Proposal - Focused Housing Code Enforcement

Inspections will be conducted on 25 to 50 percent of units within each complex within a 2-year cycle. Complexes that do not have an on-site management and low number of units will be inspected at 100%. (These properties historically are in need of a more intense oversight).

First year, concentrate on the Silver Spring, Takoma Park, Wheaton and Gaithersburg garden-style properties that are over 50 years old. Silver Spring has 270 licensed properties (185 are older than 50 years) with nearly 34,374 units. Outside the Takoma Park city limits there are 199 properties with 1,541 units, 188 of which are older than 50 years.

Second year, expand out from the older properties to other areas and properties in the County.

The violations will be categorized within the code enforcement database to provide a more detailed report on violations found during the inspection:

- Life Safety violations: Smoke detectors, broken entrance doors/locks, extensive and pervasive mold, high level of infestation, no utilities;
- High priority affecting multiple occupants: interior door damage, major wall repairs, less severe mold, overcrowding, infestation, refrigerator not cooling, windows open/close, missing addresses, etc.;
- Middle priority general maintenance: Housekeeping, doors locks, faucet leak/plumbing repairs, minor wall/tile repairs, carpet damage, refrigerator gaskets, HVAC filters, reports of not cooling/heating, etc.;
- Lower priority repairs: Cosmetic/painting, cleaning, repair lights/globes, repair/replace blinds, toilet seat, broken/damaged towel rack, broken/damaged toothbrush holder, re-glazing bathtub, etc.

Landlords would be required to periodically provide update to Director a listing of complaints received by the landlord from tenants.

### Impact on Resources:

#### A) Option 1 - DHCA's Proposal

**DHCA will inspect a sample of every multifamily property over two years to achieve a baseline**

- DHCA will inspect over 12,000 units per year for two years, or 35% of all multifamily units on average
- DHCA currently performs ~6000 unit inspections / year
- Requires slightly more than 6,000 additional inspections / year
  - Requires 14 FTE's
    - 9.0 FTEs for Housing Code Inspectors
    - 1.0 FTE for a Program Manager II
    - 1.0 FTE for a PAA to assist in administrative work
    - 1.0 FTE for a Tenant Outreach Coordinator
    - 1.0 FTE for a Program Specialist in DHCA's Licensing Section
    - 1.0 FTE for an IT Tech
  - **Cost: \$1.0M** (with \$450k revenue offset)

#### First Two Years

- Use IT to create point-based violation system to quantify property well-being
- Create education material for tenants (contact card, code inspection pamphlet, common-room flyers)

- Train new staff (~6 mo.)
- Engage in Proactive Code Enforcement
  - Tenant outreach coordinator would visit previously identified “problem” areas and properties to discuss tenant rights and responsibilities in order to mitigate common code issues that left unchecked, become problems (i.e. a moisture issue becomes a mold problem).
  - Use IT to create reports, dashboards and to identify area-based violation trends as well as to aide in inspector routing, reporting and data management
- **Year 1**
  - Inspect 350 multifamily properties, initially targeting:
    - Properties with serious or more numerous violations such as health or safety
    - Older properties (50 years or older)
  - Review results of point-based violation system, tweak as necessary
  - Report to PHED on initial results
- **Year 2**
  - Inspect remaining 350 multifamily properties
  - Score all properties
  - Determine rate of re-inspection and consider adopting a tiered fee schedule for MF properties requiring a higher level of inspections due to findings of violations
  - Final report to PHED

**Year 3+**

- Shift back to triennial for “healthy properties”
- Use analytics to determine “unhealthy” properties, inspect annually at a higher sampling rate (i.e. 100%)

**How do we pay for it?**

- Increased fee on rental properties – options:
  - + \$10 / unit on all rental units (100,000 total Mont. County licensed units)
  - + \$15 / unit on only multifamily rental units (70,000 licensed multifamily units)
- Use excess licensing revenue

**B) Option 2 - Surge Proposal**

**Requires inspection of 100% of units over two years with contractual inspectors**

- Requires 35,000 units to be inspected per year for two years
- DHCA currently performs ~6000 unit inspections / year
- Requires 29,000 additional inspections per year for two years
  - Each inspector can inspect 700 unique units
  - Requires 41+ contract inspectors that will need to be trained
  - **Cost: \$2.7M** / year (41 inspector’s x \$60k Salary + \$6k OE: tablet, phone, service, mileage, misc.)
  - Temporary Surcharge?
    - \$27 for all rental units (100,000 units)
    - ~\$39 for all multifamily units (95% increase)

The County Attorney and Risk Management have expressed concerns about the use of temporary contractors to enforce the Montgomery County Code.

Proposed Factors to be Considered to Identify Multi-Family Properties Subject to  
Annual 100% Housing Code Inspections

Factors to Be Considered:

- Number and type of code violations cited in previous inspection
- Owner responsiveness and accuracy in correcting previous code violations
- Number and type of housing code complaints in the previous 3 years
- Number and type of OLTA complaints in the previous 3 years
- Previously identified high level of deferred maintenance
- MF Property Class A, B, C or D\*
- Age of Building
- Number of Units/number of buildings
- Management Structure (on-site or off-site; self-managed or management company)

Other Possible Factors to Be Considered:

- Date of last comprehensive renovation/capital upgrade\*\*
- Existence of existing affordable units (MPDUs, WFHUs, tax credit units)
- Results of any other mandated inspections (HOC voucher holders, DHHS supportive housing programs, HOC federal REACT inspections, DPS/Fire Code, etc.)

(\* - classification system can be viewed at <http://www.crefcoa.com/property-classifications.html>)

(\*\* - may be difficult for DHCA to obtain this information)

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