

**MEMORANDUM**

June 5, 2020

TO: Planning, Housing, and Economic Development Committee

FROM: Linda McMillan, Senior Legislative Analyst

SUBJECT: **Tenant Support Services – FY20 and FY21 non-competitive contract recommendations**

PURPOSE: Discussion and Committee recommendations

Expected for this session:

Aseem Nigam, Director, Department of Housing and Community Affairs

Frank Demarais, Deputy Director, Department of Housing and Community Affairs

**ISSUE:**

The FY20 and FY21 Department of Housing and Community Affairs (DHCA) budgets each contain \$218,000 for tenant support and advocacy services. On May 4, 2020, the Chief Administrative Officer (CAO) forwarded the recommendations for four FY20 non-competitive contracts that would use the FY20 appropriation (attached). The recommendations are the result of a modified solicitation process which was requested by the Council last June. **The FY20 recommendation is:**

Housing Investment Partnership (HIP) (\$30,000) for tenant education services.

Latino Economic Development Corporation (LEDC) (\$45,000) for tenant education services.

Legal Aid Bureau, Inc. (\$47,510) for providing on-site legal assistance at the District Court.

Renters Alliance, Inc. (\$95,090) for tenant education services.

TOTAL: \$217,600 – If the FY20 funds are to be used, the Council must approve any non-competitive contracts in the next two weeks if they are to be encumbered for FY20.

The recommended non-competitive contracts for **FY21** are:

Renters Alliance, Inc. (\$113,010) for tenant association organizing services

LEDC (\$104,990) for tenant association organizing services

TOTAL: \$218,000

**Council staff suggested process for this session:**

- Discuss background and process for FY20 recommendations.
- Discuss what services and supports tenants are likely to require given the current health and economic crisis, impacts on the Court's phased in reopening, and the eventual lifting of the Governor's Executive Order temporarily prohibiting evictions of tenants suffering substantial loss of income due to COVID-19.
- Discuss FY21 recommended contracts but defer a final decision to allow additional time to consider if there may now be a need for different priority services.

**Background on DHCA Funding and Modified Solicitation**

**FY20 Budget – May/June 2019** – The Council approved the \$218,000 recommended by the Executive to enhance tenant advocacy services but did not agree to have all the additional funds awarded non-competitively to the Renters Alliance. The Council stated its preference that a solicitation process be used to award these funds.

**June 10, 2019** – PHED Committee holds a worksession on Tenant Advocacy Services with a panel that included DHCA, Renters Alliance, CASA, Montgomery Housing Partnership, and the Housing Opportunities Commission. The PHED Committee confirmed the Council's intent that there be a competitive process for the \$218,000 and agreed that a modified solicitation process could be used in place of a formal Request for Proposal. This would allow for competition but was expected to have a shorter timeline.

**December 2019** – A solicitation was posted to the DHCA website seeking proposals in four areas. DHCA specified that the funds could be awarded to multiple contractors. At the time, DHCA was considering allocating up to \$600,000 for this purpose. Proposals were due January 4, 2020. The areas were: (1) Tenant Information and Education Services; (2) Tenant Association Organizing Services; (3) Court-based Legal Assistance; (4) Financial Literacy and Credit Counseling. Except for proposals for legal services, organizations must be a non-profit to apply. In addition to posting the solicitation, DHCA sent the solicitation to a list of 74 nonprofit organizations and shared the solicitation with the housing teams from Rockville, Gaithersburg, and Takoma Park.

**May 2020** – Council received CAO's recommendation for the FY20 awards for approximately \$218,000 in FY20 funds. In addition to the four organizations recommended (HIP, LEDC, Legal Aid, and Renters Alliance). There were also proposals from Atlanta Empowerment (financial literacy), CASA (tenant education, financial literacy, on-site legal counseling), and HIP and LEDC for financial literacy and credit counseling.

**May 2020** – FY21 recommended non-competitive awards for the \$218,000 are shown for the Renters Alliance (\$113,010) and LEDC (\$104,990).

### **What Services are Most Needed in Response to COVID-19 Impacts?**

DHCA issued its solicitation before anyone was aware of the severe health and economic impacts of the COVID-19 pandemic. As the impacts of the pandemic have progressed, unemployment and loss of income have left many people unable to pay all or part of their rent and left many people traumatized and unable to fully engage in seeking help that may be available. Landlords and management companies may be trying to engage with tenants, but some may not, and many leasing offices are closed except for emergency situations.

DHCA, in collaboration with the Department of Health and Human Services, has established an Eviction and Homelessness Prevention Recovery Team to address prevention of evictions and homelessness. Currently, the ability to evict someone is impacted by both the Governor and the Courts. The Courts have put forth a schedule for re-opening and so at least some eviction cases may proceed by the end of July.

### **Governor's Order**

On March 5, 2020 the Governor issued an Executive Order that prohibits, during the state of emergency, the courts from possession or repossession of residential real property, if the tenant can demonstrate they suffered a substantial loss of income from the COVID-19 emergency. This can include job loss, reduction of hours, or the need to miss work to care for a school-age child. Also, a confirmed diagnosis of COVID-19 cannot constitute a clear and imminent danger for purposes of an eviction.

This has been an important protection, but it only applies to tenants that can show an impact from the COVID-19 pandemic. It would not apply to cases that were filed prior to the closure of the courts or in certain other circumstances.

### **Court Re-Opening Schedule**

The Administrative Judge for the Montgomery County District Court placed a stay on evictions early in the course of pandemic and shortly thereafter the Maryland court system closed, expect for certain emergency proceedings. The Court has named phases for its reopening. With regards to evictions they are:

Phase 1 (through June 4, 2020): District Court is closed and not processing Failure to Pay Rent, Breach of Lease, Tenant Holding Over, or Wrongful Detainer cases.

Phase II (June 5 through July 19): The Court will hear (1) Emergency Breach of Lease actions involving threats or injury to people or property, and (2) Emergency Wrongful Detainer Actions.

Phase III (July 20 through August 30): The Court will hear (1) Rent Escrow Actions provided local departments of health are able to provide inspections, (2) Tenant Holding Over actions, and (3) Warrants of Restitution.

Phase IV (August 31-October 4): The court will hear Failure to Pay Rent Cases. People who were/are impacted by COVID will have to document that impact. Since it is currently unknown how many cases that had been filed prior to the courts' closing and how many new cases were filed, it is unclear how long it will take to process and clear cases.

Phase V (October 5 on): District Court is fully operational.

### **CARES Act Restrictions**

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act places a moratorium on covered property (public housing, federally subsidized housing, and residential property that is subject to a federally backed mortgage) until July 25, 2020. After the moratorium, the landlord may not evict on less than 30 days' notice and the notice may not be given during the moratorium period.

### **Office of Legislative Oversight Report 2018-10 – Evictions in Montgomery County**

The Executive Summary of this OLO Report is attached. While the report was written well before the pandemic, there are some points that are pertinent to the current situation:

- Maryland jurisdictions, including Montgomery County, have a high number of filings for failure to pay rent compared to other jurisdictions in the DC metro regional and nationally. Maryland does not have a pre-filing notice requirement for failure to pay rent actions. Eviction Lab researchers state that a pre-filing notice requirement can reduce the number of filings.
- For Landlords, the cost to evict a tenant can range from \$5,700 to \$16,600.
- Evictions can have long-term negative consequences for tenants, including homelessness, job loss and economic instability, mental health problems, lack of adequate safe housing, and, increased student mobility.
- For FY14-FY17, the data showed that three election districts (13 – Silver Spring/Wheaton Glenmont; 9 – Gaithersburg/Montgomery Village/South Germantown; and 5 – Burtonsville/White Oak) had significantly more Writs of Restitution and evictions than other parts of the county.
- Writs of Restitution and evictions are concentrated in low-rent garden-style apartments.
- In Montgomery County and nationally, most landlords are represented in eviction proceedings by an attorney, while most tenants face eviction proceedings without legal

representation. This imbalance can disadvantage a tenant in a legal process where knowledge and familiarity of the law and court procedures can impact case outcomes.

## **FY20 Non-Competitive Awards**

As noted, the solicitation asks for proposals in four areas:

**Tenant Education and Outreach Services:** Some of the requirements/activities specified in the solicitation are maintaining a website linking tenants to resource for things like rental and utility assistance and information on establishing tenant associations. There must be a section for County Government resources. It should have information relevant to tenants, landlords, and management companies. The organization must host information tables at a minimum of four public events and have workshops on tenant's rights. DHCA is to be provided with monthly reports.

**Tenant Association Organizing Services:** Some of the requirements/activities specified are conducting activities to form/organize or support existing tenant associations focused primarily at multi-family properties identified by DHCA. (DHCA has identified 40 properties.) If there is no tenant association, the contractor will conduct door-to-door or other method of tenant outreach, schedule and host an initial meeting and provide technical assistance. DHCA is to be provided with monthly reports.

**Court-Based Legal Assistance:** Provide court-based legal advice to tenants who have been sued by their landlords for repossession of their rental property. Working with DHCA, the contractor will determine space available at the District Court or nearby for use by attorneys, paralegals, law students, and volunteers. Services will be provided on Monday and Wednesday and potentially alternative times. DHCA will be provided with monthly reports that include demographics, type of action, whether the landlord was represented by an attorney, and the result of the action.

**Financial Literacy and Credit Counseling:** Some of the requirements/activities include assisting tenants in developing budget and financial plans that meet the individual's needs, hosting financial and literacy workshops, making referrals to emergency services, rental assistance, homeownership programs, etc. DHCA will be provided with a monthly report including total number of workshops, type of services provided to individuals, type of referral, other relevant information.

The DHCA/CAO recommendation for FY20 includes awards to four organizations and for two of the four activities (Tenant Education and Legal Assistance). It does not include Tenant Organizing or Financial Literacy and Credit Counseling.

1. Housing Investment Partnership (HIP) (\$30,000) for tenant education services, educating tenants on their rights under current laws and regulations and available avenues of assistance.

2. Latino Economic Development Corporation (LEDC) (\$45,000) for tenant education services, educating tenants on their rights under current laws and regulations and available avenues of assistance.
3. Legal Aid Bureau (\$47,510) for providing on-site legal assistance at the District Court.
4. Renters Alliance, Inc. (\$95,090) for tenant education services, educating tenants on their rights under current laws and regulations and available avenues of assistance.

### **Council Staff Recommendation for FY20**

**Council staff recommends the PHED Committee forward the FY20 non-competitive awards to Council for approval.** Tenant education services that go out to communities is going to be needed and it is helpful that it is awarded to three organizations that will each bring a set of skills and community relationships to this effort. Council staff also strongly agrees with the funding for legal assistance. This award should move forward so it can be in place as soon as possible. Council staff also believes that this service needs to be expanded in FY21.

### **FY21 Non-Competitive Awards**

#### **The DHCA/CAO recommendation for FY21 is:**

Renters Alliance, Inc. (\$113,010) for tenant association organizing services  
LEDC (\$104,990) for tenant association organizing services

TOTAL: \$218,000

**Council staff recommends deferring any recommendation on these items to allow DHCA and the Committee to reassess the needs given the current concerns about evictions.** While assisting with organizing tenant associations is important, in the near term it is more likely that direct response to late rent and preventing evictions are the critical needs. Council staff suggests further thought regarding:

**Financial Literacy and Credit Counseling** – especially teamed with tenant education and outreach efforts. As people begin to regain employment and income, budgeting and prioritizing how to pay accrued debt will be extremely difficult for many households. During the foreclosure crisis, there was a reliance on community-based non-profit financial counseling to ensure that people had a reliable resource as, unfortunately, there are many offers of credit counseling that may not be focused on the best interest of the person.

**Assistance with Landlord-Tenant Negotiations on Payment of Rent** – Many landlords may be willing to enter into payment plans and/or to accept partial payment of rent understanding the financial condition of their tenant. Empty apartments do not result in any income to the landlord so keeping people in their units and making payments is beneficial to both the landlord and the tenant. Can additional permanent and/or term staff be hired for DHCA to enhance Landlord-Tenant staff to help negotiate or mediate payment plans? Are there non-profit organizations that have this skill set and could provide this service? This assistance is certainly needed over the

next six months and proactive work could help avoid the filing of an eviction or stop the court process if a settlement is reached.

**Legal Assistance** – At the time of the solicitation the proposal for on-site legal advice was a good model. It was not expected to go beyond brief information, advice and referral. The questions now are: (1) Does this need to be available everyday of the week, and, (2) Should the contract clearly allow direct representation under certain circumstances? Tenants in a wide range of incomes will need initial advice and referrals, but low-income tenants and tenants who do not have English as their first language may need additional assistance or assistance in the courtroom.

**Council staff suggests the Committee ask DHCA to give further consideration to these issues and that the Committee reconvene either later in June or early July.** This would allow any non-competitive contract award to be approved prior to the Council’s recess. If some of these expenses are in direct response to the COVID crisis, such as legal aid or financial counseling, CARES funding may be appropriate.

Attached

May 4, 2020 memo from CAO recommending amendments to the FY20 non-competitive contract award status for Housing Investment Partnership, Latino Economic Development Corporation, Legal Aid Bureau, Inc., and Renters Alliance, Inc.

Executive Summary, Office of Legislative Oversight Report 2018-10, Evictions in Montgomery County.

“Renters in Maryland and COVID-19 Frequently Asked Questions” April 2020. (Prepared by a collaboration of legal service organizations)

Links:

OLO Report 2018-10

[https://www.montgomerycountymd.gov/OLO/Resources/Files/2018%20Reports/2018\\_10EvictionsMontgomeryCounty.pdf](https://www.montgomerycountymd.gov/OLO/Resources/Files/2018%20Reports/2018_10EvictionsMontgomeryCounty.pdf)

Governor’s Order on Evictions

<https://governor.maryland.gov/wp-content/uploads/2020/03/Executive-Order-Temp-Evictions-Prohibiting.pdf>



## OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

Andrew Kleine  
*Chief Administrative Officer*

### MEMORANDUM

May 4, 2020

TO: Sidney A. Katz, President, County Council

FROM: Andrew Kleine, County Executive *AWK*

SUBJECT: Decision Memorandum - Amendment to the Fiscal Year 2020 Operating Budget Resolution 19-128, Section G, Fiscal Year 2020 Designation of Entities for Non-Competitive Contract Award Status

The Department of Housing and Community Affairs (DHCA) is requesting to amend the Fiscal Year (FY) 2020 Operating Budget Resolution 19-128, Section G, and the FY20 Designation of Entities for Non-Competitive Contract Award Status as described below.

DHCA solicited proposals for tenant support services in four areas, including Tenant Education Services, Tenant Association Organizing Services, on-site legal assistance at the District Court of Maryland, and Financial Literacy and Credit Counseling. DHCA received earlier this year eleven responses from six nonprofit organizations across four service areas and recommended establishing four new contracts for a total amount of \$218,000 for the following specific purposes:

- “The DHCA will establish a new contract with the Housing Investment Partnership, Inc. in the amount of \$30,000 for the purpose of conducting Tenant Education Services and educating tenants on their rights under current laws and regulations and available avenues of assistance.”
- “The DHCA will establish a new contract with the Latino Economic Development Corporation in the amount of \$45,400 for the purpose of conducting Tenant Education Services and educating tenants on their rights under current laws and regulations and available avenues of assistance.”
- “The DHCA will establish a new contract with the Legal Aid Bureau, Inc. in the amount of \$47,510 for the purpose of providing On-site Legal Assistance at the Maryland District Court.”
- “The DHCA will establish a new contract with the Renters Alliance, Inc. in the amount of \$95,090 for the purpose of conducting Tenant Education Services and educating tenants on their rights under current laws and regulations and available avenues of assistance.”



Sidney Katz, President, County Council  
May 4, 2020  
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I have determined that these actions serve a public purpose and are in the public interest. Therefore, I recommend that the Council amend the Miscellaneous Provision in Section G of Resolution 19-128 for the FY 2020 Designation of Entities for Non-Competitive Contract Award.

I appreciate your prompt consideration of this action.

AKN:jh

Attachment: Amendment to Section G, Fiscal Year 2020 Designation of Entities for Non-Competitive Contract Award Status

c: Michael J. Coveyou, Director, Department of Finance  
Fariba Kassiri, Deputy Chief Administrative Officer  
Avinash G. Shetty, Director, Office of Procurement  
Richard S. Madaleno, Director, Office of Management and Budget  
Pam Jones, Division Chief, Office of Procurement  
Lisa Mandel-Trupp, Chief of Staff to Council President  
Aseem K. Nigam, Director, Department of Housing and Community Affairs  
Tim Goetzinger, Chief of Finance and Administration, Department of Housing and Community Affairs

Resolution No: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

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By: County Council

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Subject: Amendment to Fiscal Year 2020 Operating Budget  
Resolution 19-128, Section G, Fiscal Year 2020 Designation of Entities for Non-  
Competitive Contract Award Status

Background

1. Section 11B-14 (a)(4) of the Montgomery County Code states that “a contract may be awarded without competition if the Chief Administrative Officer makes a written determination that the contract award serves a public purpose and proposed contractor has been identified in a grant or appropriation resolution approved by the Council.” The result of this action is to amend the Fiscal Year (FY) 2020 Designation of Entities for Non-Competitive Contract Award Status resolution to include the entities listed below.
2. The Chief Administrative Officer has determined that funding for contracts with these entities serves a public purpose and that such an expense would be in the public interest.
3. The Department of Housing and Community Affairs (DHCA) will fund contract with the entities listed below from existing appropriation in the General Fund for FY20.
4. The Department of Housing and Community Affairs will establish new contracts with Housing Investment Partnership, Inc.; Latino Economic Development Corporation; Legal Aid Bureau, Inc.; and Renters Alliance, Inc. for tenant support services in four areas, including tenant education services, tenant association organizing services, on-site legal assistance at the District Court of Maryland, and financial literacy and credit counseling.

ACTION

The County Council for Montgomery County, Maryland, approves the following action:

The Council approves an amendment to the designation of Entities for Non-Competitive Contract Award Status and thereby amends Resolution 19-128, Section G, FY 2020 Designation of Entities for Non-Competitive Contract Award. The Chief Administrative Officer has

recommended this action and stated that establishing a contract with the entities listed below serves a public purpose and is in the public interest.

The FY 2020 Designation of Entities for Non-Competitive Contract Award Status resolution is amended to read:

- “The DHCA will establish a new contract with the Housing Investment Partnership, Inc. in the amount of \$30,000 for the purpose of conducting Tenant Education Services and educating tenants on their rights under current laws and regulations and available avenues of assistance.”
- “The DHCA will modify a contract with the Latino Economic Development Corporation in the amount of \$45,400 for the purpose of conducting Tenant Education Services and educating tenants on their rights under current laws and regulations and available avenues of assistance.”
- “The DHCA will modify a contract with the Legal Aid Bureau, Inc. in the amount of \$47,510 for the purpose of providing On-site Legal Assistance at the Maryland District Court.”
- “The DHCA will modify a contract with the Renters Alliance, Inc. in the amount of \$95,090 for the purpose of conducting Tenant Education Services and educating tenants on their rights under current laws and regulations and available avenues of assistance.”

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.  
Clerk of the Council

# Evictions in Montgomery County

OLO Report 2018-10

October 2, 2018

## Summary

This Office of Legislative Oversight (OLO) report reviews the eviction process in Montgomery County and evictions data to help the County understand how it might better assist low-income households facing eviction and prevent homelessness. Overall, this report finds that the County funds several programs that assist households facing eviction, and that the Sheriff's Office's collaborates effectively with those efforts. However, this report identifies several opportunities to better help households avoid eviction and prevent homelessness.

## Background

If a tenant fails to pay rent or otherwise breaches their lease, a landlord can seek a court-order to end the tenancy, evict the tenant, and regain possession of the property. This court-administered process of eviction gives tenants an opportunity to present evidence at a hearing and requires a landlord to secure a court order, executed by the Sheriff, to evict a tenant. Studies show that episodes of homelessness often begin with eviction, though most evictions do not result in homelessness.

## The Eviction Process

**Eviction Statutes in Maryland.** Maryland's Annotated Code (Real Property Article, Section 8) and the Montgomery County Code (Chapter 29) define the rights and obligations of landlords and tenants and the requirements for ending a lease, including removal of a tenant through the eviction process. A landlord must obtain a court order, executed by the Sheriff, to evict a tenant. Eviction cases in Montgomery County are filed and heard in the District Court of Maryland (Rockville location). Three common types of actions brought by landlords to end a lease, evict a tenant, and regain possession of a rental property are:

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A landlord is the owner of residential property (e.g., apartment, condominium, or house) rented to another person, called the tenant. The tenant has the right to live in and use the rental property for an agreed-upon rental amount and time period. A landlord must be licensed (County Code) and provide the tenant with written lease (a legally binding contract) detailing the property to be rented and obligations/rights of both the landlord and tenant.

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- **Failure to Pay Rent** – The tenant fails to pay rent when due, as defined in the lease;
- **Tenant Holding Over** – The tenant remains on the premises after the lease expires; and
- **Breach of Lease** – The tenant breaches the lease in a way other than failing to pay rent.

**Eviction for Failure to Pay Rent.** Of the three types, Failure to Pay Rent actions are the most frequently filed and heard by the District Court. A failure to pay rent action is a summary ejectment proceeding, meaning it is intended to be a short and inexpensive process for the landlord to evict the tenant and regain possession of the rental property. Rent is typically due on the first of the month and is considered late on the second of the month. The rental amount and its due date are defined in the lease. Rent must be paid on-time, regardless of any breaches or omissions by the landlord. Landlords may charge a late fee if rent remains unpaid 10 days after the due date (County Code). This 10-day period is not a grace period. The late fee cannot exceed 5 percent of rent due.



**Key Steps in the Eviction Process.** The Montgomery County Sheriff's Office reports that on average it takes 12-13 weeks to evict a tenant for nonpayment of rent, though the process can sometimes be significantly longer.

#### Initial Violation and Court Filing

- The landlord files a complaint with the District Court (Rockville) the day after rent was due and unpaid. In Montgomery County, landlords often delay filing until 10 days after rent is due, when late fees may be charged.
- The District Court Clerk schedules the hearing, usually three to four weeks after the complaint was filed.

#### Court Hearing and Judgment

- The District Court issues a summons to the tenant to appear at the trial date. As required by law, the Service of Process Section of the Sheriff's Office mails and serves/posts a copy of the trial summons on the property.
- At trial, if the landlord proves that rent was due and unpaid, the District Court will enter a judgment in favor of the landlord. The tenant has four days to voluntarily leave the property.
- If the tenant fails to leave, the landlord may request that the District Court issue a Writ of Restitution, which directs the Sheriff to evict the tenant and return possession to the landlord.

#### Scheduling an Eviction and Executing the Eviction Order

- The Eviction Section of the Sheriff's Office receives the signed Writ of Restitution and mails a copy to the tenant. Although not required by law, the Sheriff also posts a plain-language, bi-lingual final notice of eviction on the rental property. Organizations that assist tenants report that this notice is critical for informing tenants of the eviction and helping them to avoid it.
- The landlord must call the Sheriff's Office to schedule the eviction. Evictions are scheduled four to five weeks from when the landlord calls.
- On the day of the eviction, Sheriff deputies enter and secure the property. The landlord's moving crew removes the tenant's belongings to the nearest public right-of-way. A locksmith changes the locks. Possession is returned to the landlord.

**Right of Redemption.** In a failure to pay rent action, the tenant may remain on the property if the tenant pays all amounts owed (i.e., rent, late fees, and court-awarded costs) before the Sheriff carries out the eviction order. This right of redemption is limited, however; it can become unavailable if: (1) three or more judgments have been entered against the tenant in the 12 months prior to the start of the pending eviction action, and (2) the landlord specifically requests that the District Court foreclose on the tenant's right of redemption in the complaint. If the District Court grants the landlord's request, then even if the tenant pays the amounts owed, the tenant will be evicted.

**Pre-Filing Notice Requirements for Failure to Pay Rent Cases.** Maryland jurisdictions, including Montgomery County, have high numbers of filings for failure to pay rent compared to other jurisdictions in the DC metro region and nationally. According to the Eviction Lab, an organization that tracks data on evictions in U.S. counties, many jurisdictions require a landlord to notify a tenant before filing a failure to pay rent action. For example, Virginia requires landlords to give a five-day notice to the tenant as early as the day after rent was due. The pre-filing notice explains that if the tenant does not pay or voluntarily move out within five days, the landlord will sue the tenant for possession and rent owed. Eviction Lab researchers state that a pre-filing notice requirement can reduce the number of filings.

Maryland has no pre-filing notice requirement for failure to pay rent actions. As a result, landlords in Maryland may use the court system as their first step in contacting the tenant to collect the rent, potentially leading to an increased number of filings. OLO emphasizes that states' eviction processes differ in many ways, and other factors besides pre-filing notice requirements can impact filing rates. For example, landlords report that Maryland's Right of Redemption law can increase filings if a landlord must file complaints repeatedly against the same tenant. A full comparison of states' eviction processes was outside the scope of this report.



## Causes and Consequences of Evictions

Lack of access to affordable housing is the largest driver of evictions in Montgomery County. Over 80 percent of families with incomes below 50 percent of the Area Median Income (below \$58,600 for a family of four as of June 1, 2018<sup>1</sup>) are cost burdened (that is, they pay more than 30 percent of their income in rent), and over half of these families are extremely cost burdened (pay more than 50 percent of their income in rent). Such households face a shortage of funds to cover bills and unexpected expenses.

### Consequences of Evictions

For Landlords	For Tenants
<p>The cost to evict a tenant can range from \$5,700 to \$16,600.</p> <ul style="list-style-type: none"> <li>• Range depends on the length of the eviction process and the amount of rent owed.</li> <li>• Landlords are often unable to recover lost rent.</li> <li>• Costs and process delays discourage small-property landlords from renting out.</li> </ul>	<p>Evictions can have long-term negative consequences for tenants, including:</p> <ul style="list-style-type: none"> <li>• Homelessness;</li> <li>• Job loss and economic instability;</li> <li>• Mental health problems;</li> <li>• Lack of adequate and safe housing; and</li> <li>• Increased student mobility</li> </ul>

## Data on Evictions

To better understand the impact of evictions, eviction-related cases, and opportunities to prevent them, OLO examined data on landlord-tenant cases, Writs of Restitution (eviction orders), and evictions. OLO analyzed these data alongside data on demographics, property parcels, rental licenses, and rents.

### ► The number of evictions decreased during fiscal years 2010-2017.

For the fiscal years 2010 through 2017, between 45,000 and 50,000 landlord-tenant cases (most of which were Failure to Pay Rent cases) were filed annually in Montgomery County. Of those annual filings, 10,000 to 12,000 cases resulted in Writs of Restitution (eviction orders) each year, and 800 to 1,100 of those Writs of Restitution resulted in evictions each year. During this overall period, landlord-tenant cases declined by 5 percent, Writs of Restitution declined by 17 percent and physical evictions declined by 19 percent -- in spite of population growth and an increase in the total number of rental units in the County.

### Landlord-Tenant (L&T) Cases, Writs of Restitution and Evictions in Montgomery County, FYs 2010-2017

Fiscal Year	L&T Cases Filed	Tenant Appeared	MCSO Writs Received	Total Evictions	% of Writs Leading to Eviction
FY10	48,078	1,609	12,548	1,033	8%
FY11	50,258	1,447	13,057	1,099	8%
FY12	48,793	1,228	12,383	1,023	8%
FY13	47,612	1,286	13,395	964	7%
FY14	47,380	2,581	11,547	917	8%
FY15	44,465	1,348	10,766	890	8%
FY16	45,395	1,736	11,057	844	8%
FY17	45,827	738	10,451	836	8%

Source: District Court for Montgomery County and the County Sheriff's Office (includes both residential and commercial cases)

<sup>1</sup>[https://montgomerycountymd.gov/DHCA/Resources/Files/housing/multifamily/compliance/rent\\_income\\_limits\\_current.pdf](https://montgomerycountymd.gov/DHCA/Resources/Files/housing/multifamily/compliance/rent_income_limits_current.pdf)



► **Available eviction data do not fully capture the number of tenants displaced by eviction proceedings.**

OLO analyzed data from the Sheriff's Office on the outcomes of Writs of Restitution received during fiscal years 2014 through 2017. These data show that 55 percent of the Writs during this four-year period were cancelled because the tenant paid the rent (i.e., exercised their Right of Redemption), 19 percent of Writs were cancelled because the tenant moved voluntarily, 8 percent of Writs resulted in eviction, and 17 percent of Writs had an unknown outcome because the landlord did not act on the Writ. Thus, at least a quarter of all Writs (or an average of 2,900 Writs per year) during the four-year period of fiscal years 2014 through 2017 resulted in tenant displacement (either eviction or a voluntary move by tenant). However, these figures likely underestimate displacement.

► **Three of the County's election districts have significantly more Writs of Restitution and evictions than other parts of the County: District 13 (Silver Spring & Wheaton-Glenmont), District 9 (Gaithersburg, Montgomery Village & southern Germantown) and District 5 (Burtonsville & White Oak).**

The election district that includes Burtonsville and White Oak had the highest concentration of Writs and a high concentration of evictions when comparing Writs and evictions to the number of rental housing units in that district, with 165 Writs for every 1,000 rental units and 10 evictions for every 1,000 rental units annually. The election district that includes Clarksburg and northern Germantown had relatively few rental housing units, but had the second highest concentration of Writs, with 126 Writs for every 1,000 rental units. In contrast, the Rockville election district had only 39 Writs and 4 evictions per 1,000 rental units, and the Bethesda/Glen Echo/Somerset district had only 14 Writs and 2 evictions per 1,000 rental units.

**Writs of Restitution and Evictions in Montgomery County Election Districts, FY14-FY17**

District No.	Places in Election District	Writs of Restitution		Evictions		Occupied Rental Housing Units	Poverty Rate
		Annual Avg	Per 1,000 Units	Annual Avg	Per 1,000 Units		
13	Silver Spring & Wheaton-Glenmont	3,861	96	245	6	40,109	9%
9	Gaith., Mont. Vill. & South Germtwn	2,564	95	259	10	27,011	9%
5	Burtonsville and White Oak	2,447	165	155	10	14,810	7%
4	Rockville	802	39	78	4	20,486	7%
2	Clarksburg & north Germantown*	608	126	50	10	4,827	6%
7	Bethesda, Glen Echo & Somerset	166	14	25	2	11,922	3%
6	Darnestown & North Potomac	160	70	15	7	2,276	4%

Source: OLO analysis of 2016 American Community Survey Five-Year Estimates and Eviction Editor data

► **Writs of Restitution and evictions are concentrated in low-rent garden-style apartment buildings.**

OLO's analysis of data on Writs of Restitution received by the Sheriff's Office during the four-year period of fiscal years 2014 through 2017 found that a relatively small number of properties, typically garden-style apartment buildings, accounted for most Writs and evictions in the County. Moreover, OLO found that Writs and evictions occurred most often in buildings with relatively low rents. The median rent in Montgomery County for a two-bedroom apartment was \$1,624 in 2017. However, the median two-bedroom rent was \$1,459 (or 10 percent below the median) in high-Writ and high-eviction properties with at least 10 housing units.



## Emergency Financial Assistance

Emergency financial assistance programs aim to prevent housing-related emergencies by providing short-term financial assistance to cover back rent or utility bills or to secure new housing if an eviction cannot be prevented. Research demonstrates that emergency financial assistance programs are effective in preventing homelessness, but some programs could be more cost-effective if they more narrowly targeted households at the greatest risk of homelessness.

**Existing County Government Programs and Funding.** County emergency financial assistance programs prioritize assistance to households that can avoid eviction with one-time financial assistance. The County Government funded nearly \$7 million in fiscal year 2018 in emergency financial assistance. DHHS and DHCA each operate separate programs that provide emergency financial assistance to households facing eviction and other housing-related emergencies. The County Council and the County Executive also fund grants to community-based organizations that provide emergency financial assistance.

### County Government Budgeted Expenditures on Emergency Financial Assistance Programs, FY18

Category	FY18 Budget
DHHS Homelessness Prevention Services (incl. personnel and operating expenses)	\$6,197,456
DHCA Homelessness Prevention and Relocation Assistance Program*	\$286,400
Grants to Community Organizations for Emergency Financial Assistance	\$429,123
Council Grants	\$211,800
County Executive Community Grants	\$115,000
Non-Competitive Awards	\$102,323
<b>Total</b>	<b>\$6,912,979</b>

\*Includes budget for client expenditures only

**Inability to Assess Effectiveness of County Government Programs.** OLO could not assess the effectiveness of DHHS's emergency financial assistance program in reaching its targeted population or serving its intended purpose because DHHS does not track demographic data on program beneficiaries. In contrast, the City of Rockville produces quarterly demographic reports for the Rockville Emergency Assistance Program that include data on the gender, race, and income of grant recipients as well as the number of times the individual received assistance. Collecting similar data for DHHS's program could help policymakers to understand several issues:

- Whether the program is serving its intended purpose of providing one-time emergency assistance rather than repeated assistance to the same households each year;
- Whether the program is serving households at the highest risk of homelessness (e.g., the households with the lowest incomes); and
- How grant recipients are geographically distributed so as to identify whether certain communities may lack awareness of the program.

## Court-Based Eviction Prevention Programs

In Montgomery County and nationally, most landlords are represented in eviction proceedings by an attorney, while most tenants face eviction proceedings without legal representation. This imbalance can disadvantage a tenant in a legal process where knowledge and familiarity of the law and court procedures can impact case outcomes. To address these imbalances and increase procedural fairness, other jurisdictions are implementing court-based eviction prevention programs that leverage housing courts as partners and provide on-site legal services. OLO identified three types of court-based programs where the type of assistance and level of legal support provided increases as tenants progress through the eviction process.



Program Type	Description	Program Impact
<b>Tenant Education</b>	Programs help tenants become familiar with eviction prevention services and the legal process. Outreach may be targeted as part of community programming or through documents provided at lease signing.	Evidence is limited that tenant education reduces the number of evictions; however, these programs address judicial imbalances by increasing tenants' understanding of their rights and the legality of landlord actions.
<b>Court Guidance</b>	Programs use supervised (non-attorney) volunteers to assist unrepresented tenants navigate the court process (e.g., completing and filing forms).	Assisted tenants were more likely than unassisted litigants to present their side of the case in court and assert defenses.
<b>Legal Representation</b>	Programs provide tenants with limited legal representation (time-limited and for specific tasks) or full legal representation (prior to and during the hearing and post-judgment) by licensed attorneys.	Tenants with full legal representation are more likely to retain current housing and negotiate more favorable settlement agreements to avoid an eviction judgment.

**Legal Assistance in Montgomery County.** Recent research on failure to pay rent cases in Maryland revealed that tenants often lack legal representation and fail to effectively represent themselves. OLO found that existing legal assistance programs in the County: are not available onsite at the District Court; serve limited populations (e.g., tenants living in subsidized housing or whose income is below 125% of the federal poverty guidelines); or only address specific case issues (e.g., illegal evictions or utility shut-offs). As a result, most tenants have no access to legal assistance.

**Baltimore City** – The Maryland Judiciary and area universities have expanded legal assistance for self-represented tenants, including creation of a Self-Help Resource Center staffed by full-time attorneys inside the District Court; a Court Navigator Program to assist tenants with court procedures and forms; a volunteer lawyer program providing limited legal assistance; and law school clinics providing full legal representation to tenants.

### Evictions Prevention in Subsidized Housing

Evidence suggests that subsidized housing providers can reduce evictions and lower their operating costs by offering eviction prevention programming to tenants. The Housing Opportunities Commission of Montgomery County (HOC) works to prevent eviction among HOC households through two efforts: (1) HOC's Customer Service Centers are staffed with workers who administer DHHS Homelessness Prevention Services grants. The workers assess HOC households' need and eligibility for DHHS grants that assist with rent and utility arrearages; and (2) HOC's Resident Services Division provides eviction prevention programming and other services to help HOC households succeed.

## Recommended Discussion Issues and Recommendations

### Discussion Issues

1. Discuss with relevant stakeholders in the County the benefits and drawbacks of establishing a pre-filing notice requirement for failure to pay rent actions. If the Council determines that such notice requirements should be established, it could work with State legislators and other stakeholders to establish requirements within State law.
2. Discuss with Executive Branch staff opportunities to enhance promotion of existing assistance available through DHCA and DHHS earlier in the eviction process when eviction can more easily be prevented.
3. Discuss with relevant stakeholders the feasibility of working in partnership with the District Court to provide legal assistance for more tenants facing eviction.

### Recommendations

1. Request that the Executive revise the County's plain-language lease summary to more clearly define a tenant's rent obligations and to provide contact information for eviction assistance programs.
2. Request that the Executive report to the Council on opportunities to work with the landlords of high-writ, high-eviction multi-family properties to develop strategies to reduce evictions.
3. Request that the Executive collect and report data on emergency financial assistance grant recipients including: zip code, gender, race, household income, and repeated use of the program.

**Renters in Maryland and COVID-19**  
**Frequently Asked Questions**  
**Date: April 1, 2020**

**1. Can the landlord evict me from my home during the COVID-19 crisis?**

No. The Court has placed on hold all residential eviction orders, residential eviction cases, residential foreclosure cases, and tax sale foreclosure cases statewide. Open cases and any new cases are paused. Check the Court's website for updates: <https://mdcourts.gov/coronavirusupdate>

**2. What if I can't pay my rent next month due to COVID-19?**

Your landlord could still file an eviction case, but the court will not hear it yet. The Court has also placed a hold on all non-emergency court cases. Also, the Governor has ordered that tenants may have a defense related to COVID-19 in certain eviction actions. And, the federal government has stopped landlords in certain properties from filing new eviction cases and charging fees related to non-payment of rent until July 25, 2020. Seek legal advice about whether your property is covered under the federal law. You may want to send a letter or email to your landlord explaining why you cannot pay rent due to a job loss or illness. You may be able to enter into a payment plan. The landlord may agree not to evict you or charge late fees if you stay on the plan. You should get any agreement in writing and keep a copy of any letter or email.

For financial assistance to avoid eviction, please call 211.

**3. What if my landlord changes the locks or evicts me?**

A landlord cannot legally evict a tenant while the Court order pausing evictions is in effect. If a landlord tries to evict you without a court order or without the Sheriff/Constable present or denies you essential services (water, electric, gas), that is illegal. If your landlord attempts to evict you, call 911 and ask for police assistance. If you are illegally evicted, you may consider seeking legal assistance and filing a complaint in court against your landlord. Because the courts are only hearing emergency cases, the complaint should be filed as an emergency matter if you are trying to get back into the property. You should keep track of any expenses, including hotel bills and lost property. In Baltimore City, you may also press criminal charges against the landlord by filing a complaint with the District Court Commissioner: District Court Commissioner, 500 North Calvert St. #200, Baltimore MD 21202, phone: 410-767-5774.

**4. What if I have dangerous conditions of disrepair in my home?**

You should communicate with your landlord about the problem repeatedly in writing (letter by certified mail, email, text) and keep copies. You may request a housing inspection from your local government. Many inspectors, though, are not operating except on an emergency basis (in Baltimore City, call 311). If your landlord fails to fix the problem, you may normally file a complaint for rent escrow. You would then place your rent into a special escrow account with the court until the landlord makes the repairs. Because the courts are only hearing emergency cases at this time, it may be difficult to move your case unless there is an emergency problem.

**This flyer was created by a collaboration of the legal services organizations listed and provides information only. Individuals considering taking action should consult with an attorney.**

**5. What happens when the pause on evictions is lifted?**

For new or postponed eviction cases, you will receive a notice about the new trial date. If you receive notice of an eviction case, contact a legal services provider. Keep all documents about loss of income or health problems and all communications with your landlord. For eviction orders/warrants that were already issued, the Sheriff will schedule and execute the eviction once the hold on evictions is lifted by the Court. You may or may not receive additional notice of the new date of the rescheduled eviction.

**6. I live in subsidized housing and I have to recertify my income or report a change in income. What should I do?**

HUD has encouraged landlords in subsidized housing to conduct remote meetings (phone calls) about income changes. HUD has also encouraged Landlords to delay income recertification if you have limited or no phone service or if fear of exposure to COVID 19 prevents you from gathering materials to document income or signing the recertification. If you have a reduction in income then you should email, text or leave a note for your Landlord to report your reduction in income. If you have a Section 8 voucher, you should contact the housing authority by phone or email to report any loss of income.

**7. Should my landlord be doing anything to prevent the spread of COVID-19?**

Apartment complexes can take steps to avoid the spread of COVID-19. This includes screening visitors, limitations on visitors, closing common areas, limiting gatherings in common areas, and cleaning touch-points such as elevator buttons, entry doors, and other features of the building.

**8. If my landlord is limiting visitors, can people who help me come to my house?**

Yes. You should continue to receive any in-home support or services you need, like a nursing aide, meal delivery, cleaning service, case management, etc. But, landlords may limit visitors to only those that are “essential.” What is essential is based on an individual’s needs, not the landlord’s discretion. Your landlord may ask visitors a couple of questions before being allowed to enter the building.

**9. Are fair housing and civil rights laws still in effect during the emergency?**

Yes. all fair housing laws remain in effect during the COVID-19 crisis.

**For more information and to seek no-cost legal advice and possible representation, please call:**

- **Maryland Legal Aid**, 1-866-635-2948, [www.mdlab.org](http://www.mdlab.org)
- **Public Justice Center**, 410-625-9409, [www.publicjustice.org](http://www.publicjustice.org) (non-subsidized housing, primarily Baltimore City)
- **Homeless Persons Rep. Project**, 410-685-6589, [www.hprplaw.org](http://www.hprplaw.org) (vouchers and subsidized housing only)
- **Disability Rights Maryland**, 410-727-6352, [www.disabilityrightsmd.org](http://www.disabilityrightsmd.org) (housing issues related to disability)
- **Civil Justice Network**, 410-706-0174, [www.civiljusticenetwork.org](http://www.civiljusticenetwork.org) (free or reduced fee legal assistance on housing issues statewide)

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