



July 29, 2016

Montgomery County Council
Planning, Housing and Economic Development Committee
Chairperson, Nancy Floreen
100 Maryland Avenue
Rockville, MD 20850

RE: Bill 19-15, “Landlord-Tenant Relations—Licensing of Rental Housing—Landlord Tenant Obligations”

Dear Chairperson Floreen and members of the Council’s Committee on Planning, Housing and Economic Development.

I am writing to you on behalf of Greater Capital Area Association of REALTORS® (“GCAAR”) the voice of Montgomery County and the District of Columbia’s more than 9,000 REALTORS®, property managers, housing providers, title attorneys and other real estate professionals. GCAAR is also a voice for many homeowners throughout the entire DC metro region on important property rights and land use issues.

This letter is to voice our continued concerns/opposition to certain provisions of Bill 19-15, “*Landlord-Tenant Relations—Licensing of Rental Housing—Landlord-Tenant Obligations*,” which we believe would have a particularly negative impact on single property rentals (e.g., single family attached or detached, condominiums or cooperatives) .

Single Property Rentals—Generally

Placing blanket regulations on the County’s very diverse rental stock can particularly have a number of unintended consequences on those property owners who only rent out a single property who may rely solely on that one property for their entire economic well-being. Due to the fact that they are not actively renting multiple properties at one time, it is critical for them not to leave their homes at risk for vacancy. Even a one month vacancy can have a severely negative economic impact and, unfortunately, it can be very difficult to find a new tenant in 30 days. Thus, the ability to rent out such homes in a reasonable manner may often afford property owners the only opportunity to keep their homes.

Moreover, the portion of our membership and/or the Montgomery County residents they serve involved in these endeavors is often unable to live in their homes due to circumstances beyond their control (e.g., military deployment, State Department duty or family emergencies). For example, they may be incredibly limited with how long they can rent out their homes and/or need flexibility in their leases (i.e., month-to-month is just not a feasible option). With regards to voluntary rent guidelines, as an individual – your economic circumstances may change enormously from year to year and the reporting/review requirements would not serve the same purpose as those with more stable reserves.

In light of the above, we foremost ask you to consider how each of proposed regulation would affect single property rental homes distinctly as you move forward with Bill 19-15.

29.6—Landlord Tenant Handbook

GCAAR supports a Landlord Tenant Handbook, however, we want to ensure it is succinct and accurate. It should include all of necessary provisions of law relating to rentals, including both tenant rights and responsibilities. It is critical that tenants fully understand what is required of them as well—this will inevitably provide them greater protection in the long run.

DHCA should also ensure this Handbook is always fully up to date and available online, which could be included as a website link. This would keep it so tenants would always be accessing the most up-to-date version, as opposed to having a hard-copy which may have expired provisions. We understand if tenants want a hard-copy, they should be able to request it from DHCA directly. It is not feasible for our housing providers to print these out themselves, and we believe if the Council would require hard-copies that DHCA should be able to provide them.

29.6 – Standard Lease

The County currently requires that residential leases contain certain provisions mandated by the County, however, Bill 19-15 takes the County’s involvement in private residential rental agreements even further by requiring that the Director prepare and publish a standard form lease to be used for every lease of rental housing in the County.

GCAAR understands the usefulness of outlining all of the mandated legal requirements online in one simple form or a ‘checklist’, so long as the County is keeping that information updated. Housing providers and tenants alike should be able to construct their own leases as long as those mandatory provisions are included. Designated a “Standard Lease” may actually dissuade the rental community from including more nuanced provisions that are better suited for their particular needs. As long as a lease contained the set requirements, it should be approved for use.

Nevertheless, we understand Committee discussions have lead you to determine something beyond what DHCA currently offers is needed. For this, we recommend a distinct check-list of mandatory legal requirements, which ONLY outlines those requirements absolutely mandated by law. It should be clear that housing provider and tenant can add any necessary amendments—but that those items in the ‘check-list’ must be included. We also recommend having one ‘check-list’ for single property rental homes/small housing providers and one for multi-family buildings/large housing providers to ensure any differences in requirements are duly accounted for. It is also critical DHCA work with stakeholders to avoid any unintended consequences on specific language.

29-27—Conversion of Lease to 2 Year Lease

Currently, landlords are required to provide the option of a 2 year lease and this Bill would also put that requirement upon renewal. Allowing the tenant to convert a one-year lease to a two-year lease within 30 days of signing a lease would be unduly burdensome.

For example, this could put a single property rental housing provider in an extremely difficult position who may need a very high level of certainty when renting out their homes. Negotiating terms would be very different for a one year lease as opposed to a two year lease, and a ‘conversion’ could force the housing provider into a contract they were not able to fully consider the ramifications of. For example, if the housing provider has already made plans to leave the country for a certain period of time. This is inequitable for the housing provider and unnecessary for the tenant considering the addition of a renewal provision option.

29-28—Notices

Both the landlord and the tenant should be required to give 60 days' notice—for the housing provider if they do not intend on renewing a lease and for a tenant who will be vacating a unit. This requirement should be mutual for both parties to ensure predictability and a fair amount of time for both to either secure a new tenancy or to find a different residence.

Specific to a single property rental home situation, it is incredibly difficult for an individual who may only own one property to find a new tenant in 30 days. Not only would the owner have fewer resources for finding a prospective tenant, but these are also not the type of properties that are turning over quickly and, most often, need additional time to rent out vs. a smaller unit. As we stated above, even a month or two month vacancy can have a dramatic economic impact, and the market varies greatly by season. If the individual who owns the property is out of the area, allowing more time to find a new tenant is reasonable.

29-51—Rental Housing Data Collection

The publication of rental housing data arguably conflicts with the Director's privacy mandate under Section 29-51(i) of the County Code. The publication of this rental housing data for individual units, including the rental fees charged by landlords, constitutes an invasion of the landlord's privacy. The publication of information on rent increases that exceed the "applicable voluntary rental rent increase guideline" is unfair to landlords whose rents are geared to the market but are made to look excessive in relation to the guidelines. The publication of rental increase data does not take into account factors that justify a rent increase, such as recent improvements to a unit or a situation in which the rent was kept artificially low rent out of consideration for a long-time tenant but is being raised up to the market rate as tenancy changes.

29-53—Voluntary Rent Guidelines Calculation & Review

GCAAR is very concerned with taking out the residential housing component of the basis for calculating the voluntary rent guidelines. While there may be a reason to look at this issue more closely from an economist standpoint, it requires much more thoughtful consideration.

Further, the requirement that anything above the voluntary rent guidelines be reviewed is de facto rent control. We are wholly opposed to this not just from a substantive basis, but also believe that it is the least efficient use of DHCA's time. Tenants currently are able to bring any concerns they have about rent increases to DHCA's attention, which they would then review. This lets DHCA focus on truly the most egregious instances. The Bill's requirement could force DHCA in reviewing incredibly minor increases above the guidelines instead of taking that time to focus on those which are tremendously out of sync. The current law addresses this issue and should remain as written.

29-55—Rent Increases & Month to Month

Allowing the tenant to occupy a unit for 2 months on a month-to-month basis, with only a 15 day notice to vacate requirement, if the rent increase is above the voluntary guidelines is unduly burdensome to the landlord. It is our understanding that this provision has been deleted, which we fully support.

Prohibiting a housing provider from charging more than the rent charged for the prior lease term when a tenant continues occupancy on a month-to-month basis is also incredibly unjust. Month-to-month tenancies can create major problems for single family rentals, as often times that is the only unit that a housing provider has. A family who may have been deployed by the military would take on a tremendous risk if they only were able to secure a month-to-month lease.

Overall, it is an exponentially disastrous when a single property rental home is vacant for even a month. To illustrate, it is much easier to rent out a home in the summer months. If for some reason the lease extends into Fall as month-to-month, it might not be possible to rent it out again until the Spring. This would leave the housing provider with months of lost revenue, which might be their primary source of income. This type of risk needs to be accounted for monetarily – which would entirely justify a higher month-to-month cost.

Grandfathering & Implementation

Assuming parts of the Bill will pass, the rental community needs very clear guidance about how it will affect all current rental leases. Most rental leases already have specific renewal terms in the lease, so if this Bill passes does that make all of those provisions null and void? Would this apply to each renewal lease or just new leases from the effective date of the Bill? These are all questions that must be considered for every rental property in the County.

Conclusion

We encourage the Council to continue working with all stakeholders before moving Bill 19-15 forward, with thoughtful discussion of all the continued concerns. GCAAR sincerely thanks the members of the County Council for consideration of our Association's perspective on these critical issues.

Sincerely,

Peg Mancuso
2016 GCAAR President