

Proposed Tenant Protections

submitted to the Community Development and Neighborhood Revitalization Committee

by Burlington Tenants Union

February 2020

Thank you for inviting members of the Burlington Tenants Union to advise this committee on improving tenant rights and protections. 60% of Burlington residents are tenants. Burlington has one of the highest rates of housing insecurity in the US, with over 4,000 households paying far above 30% of their income for rent. For far too long tenants and our concerns have been ignored by the Burlington government, while rents have increased and the quality of rental housing has declined. It is time to give the voices of marginalized residents a central place in these discussions.

Over the past year tenants have been meeting, sharing common problems, and working to be heard. The demands below come from our discussions and meetings, including many NPA meetings, and the first Burlington Tenant Summit. Tenants agree that our problems and concerns have not been addressed by city officials. We look forward to working with you on these issues.

(This is by no means a complete list of issues and concerns of the Burlington Tenants Union, simply those matters that are significant, and appropriate for the CDNR to work on at this time.)

THE BTU sees five areas that will provide immediate and significant relief to the housing crisis:

1. Increasing the Power and Scope of the Housing Board of Review
2. A Code Enforcement Department That Works for Tenants
3. Enacting Rent Control
4. Enacting Just Cause Evictions
5. Safe Parking, Safe Camping

The BTU also has four demands that are specific and limited in scope but address serious flaws in tenant protections:

- A) Ban the Box
- B) Increase the penalty on all improperly withheld security deposits
- C) Expand the retaliatory eviction ‘clock’
- D) Publicize the database of landlords, Certificate of Compliance, rental registration, and code violations

1. Housing Board of Review

The Housing Board of Review has the broad power under its charter to become the main tenant resource body within the Burlington government. Its present focus on security deposit complaints for tenants and code exemptions for owners needs to be expanded. It is time for the HBR to live up to its potential as written in the city charter.

Our Demand: HBR needs to be restructured and its responsibilities expanded in these ways:

1. HBR members must reflect the makeup of Burlington itself, i.e. the make up of this board should be: 3 Tenants, 1 Homeowner, 1 Landlord. The three tenants should represent different Burlington incomes: 1 low-income tenant, 1 non-profit housing tenant, and one median or above income tenant.
2. HBR must become the city agency responsible for tenant and landlord education. This includes a website with all available tenant/landlord resources. The San Francisco Rent Board website shows what the HBR could be- www.sfrb.org
3. HBR must work with Community Action, Vermont Tenants, and Vermont Legal Aid to increase and consolidate information on tenant resources and rights. The HBR must be committed to providing legal resources to all tenants to balance the resources of landlords.
4. HBR must be actively publicized as *the* place where tenants can appeal when the Department of Permitting and Inspections has not resolved building code issues.
5. HBR must enforce rulings and increase penalties made by both HBR and by Code Enforcement over landlords who refuse to repair their properties.

2. Code Enforcement

A major impetus for the founding of the Burlington Tenants Union was repeated tenant stories of uninhabitable apartments and lax enforcement of building codes. Code Enforcement routinely works for the landlord's benefit, not for the tenant's rights.

Common examples of this are:

1. Not providing tenants with information on the process of code enforcement and on their rights during the process, nor submitting reported violations in a timely manner.
2. Not citing or fining landlords for not repairing code violations.
3. Not providing tenants with copies of all investigated reports, orders for repairs, and inspectors notes.
4. No or minimal penalties for unrepaired code violations. At present, a landlord can expect at most \$75 fine for the most egregious violations.

Our Demand: The focus and practice of Code Enforcement must be changed so that it is on the side of tenants, not landlords. It must enforce the Code of Ordinances as they are written and reverse its practices with respect to the four issues above.

3. Rent Control

60% of Burlington residents are tenants that pay far too much of their incomes to their landlords. In Burlington over 3,000 households are severely rent-burdened (paying more than 50% of their income), while another 2,000 households are rent burdened (paying 30-50% of their income). 80% of these households are incredibly low-income, making less than half of the Area Median Income. The only way to keep tenants from paying most of their income to landlords is by limiting the amount that landlords can charge. On top of this, only 25% of these households have access to a Section 8 Voucher even though their income qualifies them to receive one, while even for these households it has become increasingly harder for them to find apartments that qualify under Section 8 rental cost requirements. These households are unable to cover healthcare costs, buy healthy foods, have time to participate in our community, and spend quality time with

their children. Rent control is a part of healthy communities, and an extension of a strong democracy.

We call on the City Council to accept the moral imperative that housing is a human right, and that rent control is one tool to make that right a reality. Throughout the U.S., rent control has been adopted in response to the housing crisis. Rent control has a proven track record of protecting the most vulnerable residents from rising rent prices related to gentrification and property speculation. Despite repeated claims that market-rate rent is the only solution, the past decades show that this approach only leads to increasing housing insecurity and costs. In San Francisco, while median rents increased by \$800 in the past decade, rent-controlled units increased at most \$200, keeping low-income families and seniors in their communities.

An important city and community value is to protect low-income families and seniors from the negative health impacts of high rent and/or displacement, so the City Council should have no problem supporting rent control. Rent control is a way to ensure that landlords cannot gouge vulnerable residents and take advantage of ‘hot’ housing markets at the expense of long-term residents.

Our Demand: Enact Rent Control immediately as both a humane and necessary first step in bringing about housing as a human right.

4. Just Cause Evictions

An integral part of rent control is to provide Just Cause Evictions. They provide tenants and their home-owning neighbors stability and continuity while improving community and neighborhood relations. Just Cause Evictions ensure that tenants are

given the right to stay in their home as long as they are paying rent and following their rental contract. Landlord rights are well protected under Just Cause Evictions.

Burlington must enact Just Cause Eviction ordinances so that tenants are an integral part of neighborhoods and treated as citizens with a right to continuity in their homes and communities. Just Cause Evictions have been enacted on a local level throughout the country. A Princeton study of Just Cause Evictions in four municipalities showed that the rate of eviction filings and evictions decreased significantly.

Our Demand: Enact Just Cause Evictions to increase housing and community stability, and to reduce the manipulation of the rental market by 'churning.'

5. Safe Parking, Safe Camping

We recognize that the housing continuum includes camping, living out of a car, and sleeping in other locations not meant for human habitation. We believe that everyone without hard-wall housing deserves to live within city limits safely. The city must provide sanitation and trash removal for these residents, and allow for people to sleep in public spaces free of harassment from city officials.

Our Demand: Make the entire city a safe place for unsheltered people to live. The city must provide information about where people can camp and park safely, provide publicly reviewed training to city staff on maintaining safe interactions with those sleeping outdoors, provide trash removal to campers, and 24-hour sanitation access.

Four demands that are specific and limited in scope but address serious flaws in tenant protections

A: “Ban the Box”

Too many vulnerable residents are discriminated against before they even fill out a rental application. As other states and cities begin to recognize how rental applications are used to discriminate against our most vulnerable residents, we call on the City Council to ‘ban the box’ and make it illegal for landlords to have the following on their rental applications:

1. Asking for a criminal history of the prospective tenant
2. Asking for arrest history of the prospective tenant
3. Asking for a background check
4. Asking for a credit score
5. Asking for more than two years’ worth of eviction history

At a time when many formerly incarcerated residents are stuck living in prisons because of the lack of available rental housing, and when many landlords use the above history checks to discriminate against those looking for a second chance, now is the time to remove these barriers.

Our Demand: Ban the Box on rental applications regarding criminal history, arrest history, background checks, credit checks, and prior eviction history.

B: Increase the penalty on all improperly withheld security deposits

The present system encourages landlords to take people's deposit money without a penalty in most cases. Landlords are responsible for knowing their legal obligations and should not be excused for ignorance nor encouraged to try their luck at avoiding the existing 2-times penalties. Improperly held deposits must be returned at 3 times the original amount in all cases.

Our Demand: Landlords are responsible for knowing applicable laws and fulfilling their obligations under Burlington and Vermont laws. Violations need to have significant default penalties (3x) to discourage theft of deposits.

C: Tie Retaliatory Eviction Clock to Complaint Resolution

Currently, retaliatory evictions are illegal within 90 days after filing a complaint with Code Enforcement. Resolution of complaints can take months. The ban on retaliatory evictions should start on the date of complaint and end no sooner than 90 days after the resolution of a complaint.

Our Demand: Tenants need security when they have housing problems; any eviction initiated from the date of the complaint until 90 days AFTER the resolution of a complaint will be considered retaliatory and will be actively prosecuted.

D: Accessible database of Landlords, Certificate of Compliance, Rental Registration, and Code Violations

The Mayor promised that the list of landlords' rental and Code Enforcement violation histories would be publicized, but this has not happened. The tenants of Burlington are calling for the transparency they were promised.

Our Demand: Publish the city's promised database and promote it on the City's home page. Have the upcoming CEDO Open Data platform include this information in an easily accessible form.