THE FACTS ABOUT RENTAL REGISTRATION

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What is Rental Registration?

Rental registration is an efficient and evidence-backed tool for identifying and remedying dangerous code violations in rental properties. Rental registration programs require multifamily rental properties (and sometimes single-family, depending on the program) to register with the city by submitting a simple form identifying basic information about the property, such as how to reach the landlord in the event of an emergency. Usually a small annual fee ($10 to $25 per unit is typical) is required as part of the registration. The city then inspects each property—typically once every three to five years—according to an inspection checklist, checking for major code violations and life threatening conditions.

Rental registration programs give city code inspectors the authority to inspect the exterior and interior spaces of rental units on a rotating basis without having to go through the time-consuming process of obtaining a court warrant. Most cities utilize inspections that focus on the exterior of the property and only a small percentage of the interior units. Rental properties that fail the initial inspection are subject to re-inspections, and landlords can eventually have their registration revoked if they fail to make their properties safe for tenants.

A large and growing number of cities around the U.S. are adopting rental registration ordinances, recognizing the critical role these ordinances play in identifying, deterring, and remedying code violations. Cities with rental registration include at least 20 Texas cities such as Houston, Dallas, Fort Worth, and Arlington, and many U.S. cities such as Seattle, Sacramento, Philadelphia, Boston, Raleigh, Los Angeles, and Minneapolis.

Austin's Current Complaint Process is Inadequate to Identify Properties with Dangerous Code Violations

The main argument put forth by opponents of rental registration is that it is unnecessary—that the City of Austin already knows which properties are dangerous. This argument is incorrect. Multiple studies have established that a large portion of dangerous code violations are in fact unreported and undetected by officials in the absence of a registration program. For example:

- Before Seattle adopted its new mandatory registration program, a study found that 78 percent of the buildings had unreported code violations, including many with the most serious violations.[1]
- A study in Memphis likewise found large underreporting of serious code violations.[2] The city's complaint-based policies identified only about 20 percent of code violations. In one particular neighborhood, at least half of the 35

multifamily properties (1,200 units) had serious code violations, yet the city had recorded code violations for only 8 of the units. In the same neighborhood, the study identified 19 properties that had not come to the attention of code officials and yet were in dangerous enough condition that they needed to be condemned.

- In a San Francisco survey, 62 percent of tenants surveyed in Chinatown said they had multiple code issues in their apartments, yet, only 28 percent had complained to their landlord about the code issues, and only 11 percent had reported the code issues to a government agency or a community organization. [3] Fear of retaliation was a major factor in the underreporting.

Tenants Lack the Technical Expertise Needed to Identify and Report Many Types of Dangerous Code Violations

Code complaints by tenants are typically based on environmental issues rather than dangerous structural and electrical issues. Dangerous structural issues such as deteriorating structural support for porches or stairwells often go undetected without a professional inspection. When problems are finally identified, it can be too late, with the lives of tenants on the line. For example, Houston's rental registration program was adopted in response to two children dying from a brick stairwell that collapsed on them in 2008—a stairwell that had not inspected for structural problems in over 20 years.[4] In 2001, two men in Austin died at a rental property as a result of a faulty heater. A code inspection conducted after the deaths found that the rental units did not have any smoke alarms and that the heating system was dangerous.

Many Tenants are Afraid to Report Code Violations for Fear of Retaliation

Even when tenants are aware of code violations and the process for reporting them, many avoid reporting violations for fear of retaliation by their landlords. This fear is heightened in communities with large concentrations of immigrant tenants, such as in Austin, where one out of five apartment units are occupied by foreign-born households, with many living in substandard rental buildings. A focus group of local immigrants by Travis County found that many had landlords who failed to address safety hazards or public health concerns. Reports of abusive landlord practices were also common, including threats of deportation.[5] Tenant retaliation cases are extremely difficult to prove in court, especially by tenants on month-to-month leases. Even when retaliation can be proven, legal resources for enforcing tenants rights are extremely limited. The impact of Austin's anonymous code reporting system is limited—it does nothing to help tenants who need to report code violations in the interior of the unit.

Rental Registration Programs Identify Code Violations Before They Become Hazardous and Too Expensive to Repair

Rental registration programs give cities the ability to identify and address serious code problems early on, before they threaten the lives of tenants and become cost prohibitive for the landlord to repair.[6] Once code violations gain the attention of code officials, the conditions at the property are often quite deteriorated and

dangerous, making it much more costly and challenging to repair the property so that it is safe for tenants.

Rental Registration is a Low-Cost and Cost-Effective Program

Another argument put forth by rental registration opponents is that rental registration programs are costly. To the contrary, with fees of less than $.83 to $2.08 a month per unit (typical annual fees adopted by cities for multifamily property registration range from $10 to $25 a unit), the financial impact of rental registration fees on owners and tenants is very minimal. Using very conservative estimates, we have concluded that the employment of 6 inspectors would be more than sufficient to run a successful and comprehensive registration program in Austin, with inspections every 3 years of Austin's 2,400 multifamily properties and 134,000 multifamily units. The City of Houston, for example, employs just 4 code inspectors for its mandatory inspection program; the program is almost done with its first five-year cycle of inspecting Houston's 5,000 multifamily properties.

Austin Has a Large Number of Rental Properties with Dangerous Code Violations

Opponents to rental registration also argue that there are only a "few bad actors who rent dilapidated, unsafe structures." (Austin Board of Realtors, www.abor.com/CFA/). To the contrary, according to a report from the City of Austin, a "sizeable number of multi-family housing complexes [are] substandard, aging, and overcrowded." [7] A quick windshield survey of the Rundberg area alone identifies many multifamily properties with dangerous conditions. In 2012 alone, under Austin's weaker code complaint system, the City identified multiple code violations at more than 100 multifamily properties. The problem is likely to grow even larger, since more than 60 percent of Austin's apartment units (83,000+ units) are located in Class C and Class D properties, many with serious maintenance issues. A rental registration program would make a big impact by improving the living conditions for a multitude of Austin's renters.

Rental Registration Deters Code Violations and Makes Properties Safer

In addition to giving cities the means of systematically identifying code violations, rental registration programs have also been proven to increase safe living conditions by deterring landlords from engaging in deferred maintenance and lax property management. For example, a study of North Carolina cities with rental registration ordinances found that the ordinances resulted in landlords bringing their properties into code compliance more rapidly, a decrease in residential fires, and a reduction in code complaints.[8] For example, Greensboro's housing code complaints fell 61 percent in a three-year period after the City adopted a rental registration program. An audit of Los Angeles's rental registration program likewise found that the program resulted in safer living conditions. Rental registration programs also provide certain landlords with the economic incentive to avoid engaging in the well-known phenomenon of "milking" properties, whereby some landlords, through economic motivations, reduce maintenance and repairs of rental

properties to a minimal level—just enough to keep the building operational and profitable.

Rental Registration Programs Provide Critical Emergency Contact Information

Rental registration programs provide cities with important contact information to reach owners or property managers when there is an emergency, code issues, or other problems with a rental property. Identifying an individual who is responsible for the property can be especially challenging for small rental properties given the large number of these properties that are owned by out-of-state investors or investment companies.

Rental Registration Programs Can be Easily Structured to Have a Minimal Impact on Compliant Property Owners

Properties that pass the initial inspection and have no history of code violations can be inspected less frequently and subject to lower registration fees. Meanwhile, properties with repeated violations can be subject to more frequent inspections and higher fees. A registration program can also be structured to exempt newer properties that are less likely to have code issues, and to also address known problem properties first by focusing the first round of inspections on rental properties with two or more notices of violation. Rental registration programs also limit the impact on compliant property owners by narrowly structuring the inspections to focus only on a subset of building codes related to the health and safety of tenants and not cosmetic issues. For example, code inspectors in Seattle's program inspect only for certain major safety issues, such as ensuring that the unit does not have defective locks, leaking plumbing, dangerous electrical systems, defective roofs, or dangerous structural conditions.

Tenants' Privacy is Protected

Rental registration programs protect tenants' privacy by providing tenants with advanced notice of inspections, imposing strict rules limiting inspections to a subset of dangerous building conditions, and barring collection of tenants' personal information. Meanwhile, tenants report that they support cities conducting routine code enforcement inspections of their units.[9]

Rental Registration Helps Tenants Retain Access to their Housing—and Housing that is Safer

Another argument raised against rental registration is that it will result in the displacement of low-income tenants. Other cities that have enacted similar ordinances have not experienced increased displacement. A code department's goal is to work with landlords to bring their units up to safe standards, not to close them. In contrast, complaint-based systems have been proven to result in displacement. For example, in the Woodridge and Las Palmas apartment cases in Austin, code conditions were identified only after they had become so dangerous that they placed tenants in imminent danger of losing their lives, resulting in the properties having to be shut down and the displacement of hundreds of tenants.

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End Notes

[1] JANE E. PROTHMAN, HOUSING: HEALTH AND CODE ENFORCEMENT, degree project for Masters of Public Administration at Univ. of Wash. (2010) (citing MCLERREN AND POWERS, REPORT ON THE HOUSING CODE ENFORCEMENT DEMONSTRATION PROGRAM (Housing Zoning Enforcement Division, Seattle, Wash, 1989)).

[2] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS (Memphis Shelby Crime Commission, Apr. 2001) (finding that while multifamily units account for one third of all housing units in the Binghamton community, only 10% of the code violations in the city system were from multifamily units, despite visual survey showing that at least half of the multifamily units had substantial code violations).

[3] CHINESE PROGRESSIVE ASSOCIATION, SUBSTANDARD HOUSING CONDITIONS IN SAN FRANCISCO CHINATOWN: HEALTH IMPACTS ON LOW-INCOME IMMIGRANT TENANTS (Aug. 2005), *available at* www.cpasf.org/sites/default/files/HousingHealthRptFINAL.pdf

[4] Matt Stiles, *Houston hires firm to investigate fatal stairway collapse*, HOUSTON CHRON. (July 24, 2008), www.chron.com/news/houston-texas/article/Houston-hires-firm-to-investigate-fatal-stairway-1596785.php.

[5] RESEARCH AND PLANNING DIVISION, TRAVIS COUNTY HEALTH AND HUMAN SERVICES & VETERAN SERVICE, HOUSING: SECTION VI OF THE 2006-2007 TRAVIS COUNTY IMMIGRANT ASSESSMENT, at 69-70, *available at* www.co.travis.tx.us/health_human_services/research_planning/pdfs/immigrant_assessment_report_2007/06_Housing.pdf.

[6] SILVANA HACKETT, ET AL, RENTAL LICENSING TO ACHIEVE COMPLIANCE (Center for Urban and Regional Affairs, Univ. of Minn., 2012), *available at* www.ci.roseville.mn.us/DocumentCenter/View/11028.

[7] OFFICE OF THE CITY AUDITOR, CITY OF AUSTIN, PERFORMANCE AUDIT OF THE CODE COMPLIANCE FUNCTION (Mar. 23, 2010), at 15.

[8] CAROL HICKEY, ENSURING HOUSING QUALITY: PROACTIVE MINIMUM HOUSING CODE INSPECTIONS OF RENTAL PROPERTIES IN NORTH CAROLINA CITIES, Paper submitted for Masters of Public Admin. at UNC Chapel Hill (Apr. 8, 2008), *available* www.ghc.illkd.com/wp-content/uploads/2008/04/enhancinghousingquality.pdf.

[9] CHINESE PROGRESSIVE ASSOCIATION, SUBSTANDARD HOUSING CONDITIONS IN SAN FRANCISCO CHINATOWN: HEALTH IMPACTS ON LOW-INCOME IMMIGRANT TENANTS (Aug. 2005), *available at* www.cpasf.org/sites/default/files/HousingHealthRptFINAL.pdf.