

# **AUSTIN TENANTS COUNCIL: EVICTION-RELATED POLICY RECOMMENDATIONS<sup>1</sup>**

- Raise Travis County emergency rent payment amounts based upon dwelling size. Presently, the amounts are a fraction of market rates
- Accelerate payments to landlords increasing likelihood of acceptance of funds (Fred Fuchs, TRLA)
- Greater transparency re: availability of financial assistance
- Notice to all nonprofit agencies re: guidelines for financial assistance and client access to funds (Fred Fuchs, TRLA)
- City/County ordinance or state law requiring rent late fees have reasonable relationship to contractual rent amount paid by Sec. 8 tenants. paid by Section 8 voucher tenants. Private tenants in Austin pay approx. \$50 to \$100 initial late fee and \$10 - \$25 per day for up to 15 days consecutive days. (Fred Fuchs, TRLA)
- Revise Austin/Travis County Health & Human Services Direct Financial Assistance.

Delete:

"I accept this payment and agree not to evict this tenant for at least 30 days based on the pledged rent and/or late fees/charges."

Change to:

"I accept this payment, and if an eviction suit is pending, I agree to dismiss eviction suit and to not give this tenant a notice to vacate for nonpayment or to file an eviction suit for at least 30 days based on the pledged rent and/or late fees/charges" or similar language. (Fred Fuchs, TRLA)

- City / County or state law requiring landlords to give tenants of ten days minimum written notice to cure a late payment of rent prior to giving notice to vacate. Include provision giving tenants the right to cure and reinstate the tenancy by paying all rent, court costs, and attorney's fees, if any, prior to execution of a writ of possession.\*

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<sup>1</sup>Initially presented before the Regional Affordability Committee in 2018, ATC continues to endorse these recommendations. May 22, 2019

Note: Many states have opportunity to cure laws -- see e.g., Missouri, Hawaii, Washington, Colorado, Maryland. Texas does not. Some cities such as Baltimore (rent breach) and Chicago (non-rent breach) have ordinances giving tenants a right to cure before the landlord files for eviction. Baltimore also gives tenants the right to redeem the dwelling unit and reinstate the tenancy by paying all sums owed prior to execution of the writ of possession. (Fred Fuchs, TRLA)

- Provide lawyers for tenants in evictions. Lawyer assisted tenants are significantly more likely to retain their tenancy. New York mandates legal representation for tenants facing eviction. Philadelphia has or is considering lawyer assistance for tenants facing eviction. (Fred Fuchs, TRLA)
- Adopt program to track and take steps to maintain Low Income Housing Tax Credit (LIHTC) apartment complexes in the affordable housing inventory when owners opt out of the tax credit program after 15 years. If a LIHTC owner decides to opt out of the program after 15 years, it must first offer the complex for sale for a one-year period to a buyer willing to keep the rents at an affordable level at a "qualified contract" price established by a formula created by Congress. The owner of Country Club Creek, a 212-unit complex at 4501 East Riverside, 78741, gave notice in October 2016 that it was opting out of the LIHTC Program. Similarly, Fort Branch at Truman's Landing, a 250-unit apartment complex, at 5800 Techni Center Drive, 78721, gave notice in September 2017, that it is opting out and is now available for purchase at a qualified contract price for a one-year period. If no one buys the property, the existing owner may increase rents of existing tenants three years after the opt out date. (Fred Fuchs, TRLA)
- City / County or state law prohibiting eviction for nonpayment of late fees. Late fees have become exorbitant. US Dept. of HUD has long prohibited federally subsidized landlords from evicting tenants for nonpayment of late fees. (Fred Fuchs, TRLA)
- (9) With respect to Commissioner Shea's inquiry about protecting a tenant's property when a writ of possession is executed by the constable, the Legislature enacted § 24.0061(d-1) effective September 1, 2015. It provides:

"(d-1) A municipality may provide, without charge to the landlord or to the owner of personal property removed from a rental unit under Subsection (d), a portable, closed container into which the removed personal property shall be placed by the officer executing the writ or by the authorized person. The municipality may remove the container from the location near the rental unit and dispose of the contents by any lawful means if the owner of the removed personal property does not recover the property from the container within a reasonable time after the time the property is placed in the container."

Thus, a city may adopt an ordinance providing for use of this process to avoid the having the tenant's property placed on the street curb. (Fred Fuchs, TRLA)

- Adoption of a city ordinance (or seek state legislative change) that mandates that landlord late fee have some reasonable relationship to the rent amount paid by Section 8 voucher tenants. Late fees by private landlords in Austin generally begin at anywhere from \$50 to \$100 if rent is not paid in full by the 2nd day of the month, with an additional daily late fee of generally \$10 per day for up to 15 days. (Fred Fuchs, TRLA)
- ATC staff at eviction hearing would be greatly aided if a homeless advocate / case worker (I.e. Caritas, ARCH, Front Steps, ECHO, etc.) were present for immediate referral of tenant in event that T is effectively made homeless by court judgment
- City/County ordinance or state law requiring NTV state reason for demand for possession
- City/County ordinance or state law requiring NTV to give tenant at least two weeks to move out, ideally a minimum of 30 days
- City/County ordinance or state law requiring NTV contain statement: "This notice is not an eviction. This notice is a demand for possession of the property. You have rights under Texas law" or similar language.
- ATC staff at eviction hearing would be greatly aided if a homeless advocate / case worker (I.e. Caritas, ARCH, Front Steps, ECHO, etc.) were present for immediate referral of tenant in event that T is effectively made homeless by court judgment