

Austin Code Department Repeat Offender Program



Objective

Does the City's Repeat Offender Program help ensure rental property owners are addressing health and safety concerns?

Background

Austin's Repeat Offender Program aims to ensure Austin renters are living in healthy and safe properties. It was created in 2013, partially in response to structural failures that endangered public health and safety in multifamily residences.

Properties are required to register with the Repeat Offender Program when select criteria relating to City Code violations is met during a 24-month period. To register in this program, property owners must pay an annual fee, post notification of registration in a public area, and agree to periodic inspections of the property. If the property owner fails to fix violations in the time allotted, Code can escalate enforcement using one or more enforcement tools.

What We Found

Finding 1: The Repeat Offender Program has not consistently achieved the desired goal of ensuring Austin renters are living in properties that meet minimum health and safety standards.

Austin Code is not escalating enforcement to ensure Repeat Offender Program properties correct Code violations. Ten properties represent 5% of the total program registrations but have received over 30% of the noted violations. Code has not escalated enforcement action to attain compliance from most of the frequent offenders we analyzed (see **Exhibit 1**). It appears Code has not escalated enforcement at other repeat offender properties either, but the Department is moving to stricter enforcement now.

Incentivizing property owner action may also lead to improved and safer rental housing in Austin. The City does not have a process in place to offer landlord incentives. An incentive program could be a way to get landlords to voluntarily offer tenant protections, making renters third-party beneficiaries of good landlord agreements between the City and property owners.

Enforcing the City's Repeat Offender Program ordinance is a challenge given Austin's competitive housing market. Properties that deteriorate and develop Code violations are often less expensive to rent. Thus, many tenants of repeat offender properties are low-income and vulnerable to displacement.

Finding 2: The process used to identify properties for program registration is inefficient and does not always result in all eligible properties becoming part of the Repeat Offender Program when they should. Austin Code has established a manual process to identify program-eligible properties. This process is labor-intensive and depends on information obtained from several sources and systems. These systems are cumbersome, sometimes unreliable, and do not always contain all the information needed to make informed decisions. Even the name itself may be contributing to properties not entering the Repeat Offender Program because the term "repeat offender" is often used to describe people in the criminal justice system.

What We Found, Continued

Exhibit 1: Escalation Actions for Ten Most Frequent Offenders



SOURCE: OCA Analysis of Austin Code enforcement actions relating to Repeat Offender Program, July 2020.

Finding 3: Large properties do not pay their proportionate share of the costs to administer the Repeat Offender Program. Large properties take significantly more time and resources to inspect, issue violations, and escalate through the various enforcement mechanisms compared to smaller properties. Despite this, all properties pay the same \$372 annual fee for Repeat Offender Program registration. The City of Fort Worth, Texas administers a rental registration program to regulate rental property conditions. The registration fee for this program is \$25 per year for the first unit and \$10 per year for each additional unit. If Austin were to charge \$10 per unit for each additional unit like Fort Worth, the City would generate more than \$115,000 per year beyond what is already collected based on current Repeat Offender Program registrations.

What We Recommend

We recommend the Director of the Austin Code Department:

- Develop a voluntary landlord incentive program;
- Increase enforcement and escalate cases, particularly by using the suspension process; and
- Work with the City Law Department and City Council to revise the Repeat Offender Program ordinance and consider: requiring full rental registration across the City, renaming Austin's Repeat Offender Program, and proposing an alternate fee schedule that accurately reflects the difference in workload and greater costs incurred to enforce the Repeat Offender Program ordinance at larger properties.

We further recommend the Director of the Austin Code Department work with the Communications and Technology Management (CTM) Department to streamline the processes used to identify properties that may be program-eligible.