



**CITY OF KIRKLAND**  
**Planning and Building Department**  
123 Fifth Avenue, Kirkland, WA 98033  
[www.kirklandwa.gov](http://www.kirklandwa.gov)

---

**MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** James Lopez, Deputy City Manager, External Affairs  
Adam Weinstein, AICP, Planning and Building Director  
Dawn Nelson, Planning Manager

**Date:** June 22, 2022

**Subject:** TENANT PROTECTION POLICIES UPDATE, FILE PLN22-00001

**RECOMMENDATION**

Review staff's approach and provide direction regarding public outreach and bringing forward an ordinance for Council's consideration regarding tenant protections related to significant rent increases, move-in fees and late fees.

**BACKGROUND**

A combination of economic factors associated with the COVID-19 pandemic, high inflation and the increasing influx of high-wage jobs into the region has created economic challenges across the community, particularly for lower-income households. The ongoing growth in median income in the community has exerted additional pressure on the housing market, raising housing costs. Recent supply chain issues and constraints in the construction labor market have made it more difficult to increase housing supply. The net result is that lower-income households are finding it harder to find and remain in affordable housing, a phenomenon which is being compounded by inflation. Tenant protections regarding rent increases and fees are a potential means of addressing a portion of the affordability crisis.

On May 3, 2022, Council discussed considerations surrounding adopting the following minimum-level tenant protections that were formulated by the A Regional Coalition for Housing (ARCH) Executive Board via Resolution No. 2022-01 (please refer to the [staff memo](#) for additional detail):

1. Notice of Rent Increase. Require landlords to provide a minimum 120 days written notice of rent increases greater than 3%, and 180 days notice of rent increases greater than 10%, except in subsidized housing where rent is set based on the income of the tenant.

2. Limits on Late Fees. Establish a cap on fees for late payment of rent at 1.5% of a tenant's monthly rent.
3. Limits on Move-In Fees. Establish a cap on move-in fees and security deposits of no more than one month's rent except in subsidized tenancies where rent is set based on the income of the tenant, and allow tenants to pay in installments.

At the May 3 meeting, Council asked staff to return to Council with a timeline for conducting additional public engagement on the tenant protections and adopting the ordinance. Other considerations shared by Council regarding the tenant protection measures and desired public engagement activities included:

- Because the need for tenant protections is urgent, the public engagement process should be focused;
- Develop a better understanding of unintended consequences surrounding the implementation of potential tenant protections;
- Ensure that feedback from housing providers is sought;
- Collect additional data, such as regarding the number of landlords/property owners that could be affected by new rules; tenant protections adopted by other local governments; and financial impacts to landlords/property owners; and
- Avoid making tenant protection rules overly complex.

Since May 3, staff has held four small, focused meetings with various landlord and tenant advocacy groups, including representatives from the following:

- Rental Housing Association of Washington (RHAWA),
- Mainstreet Property Group,
- Waddell Properties, Inc.,
- Muse Management, LLC,
- MRM Capital LLC,
- Eastside Legal Assistance Program,
- Hopelink,
- King County Promotores Network, and
- Eastside for All

The purpose of these meetings was to learn more about the impacts of the proposed tenant protection measures and to ascertain whether there are points of agreement on the options. Staff has also scheduled a meeting on July 6, 2022 with representatives from the May 19, 2022 letter opposing the ARCH proposals from the Bellevue Chamber, Commercial Real Estate Development Association (NAIOP), RHAWA, Washington Business Properties Association (WBPA) and the Washington Multi Family Housing Association (WMFHA).

This outreach is ongoing, but key themes and questions that have emerged from the outreach include:

- At its root, the problems that some tenants are experiencing are related to a lack of housing supply.

- There is a need for some level of tenant protections at the local level, because economic conditions have created - for some individuals - rapidly escalating housing costs and reduced ability to pay rent.
- If possible, efforts should focus the protections on lower-income households, as higher-income households may not be as impacted by rent increases and fees.
- Many local landlords care deeply about their tenants and seek to avoid drastic rent increases and unexpected fees.
- If security deposits are subject to limitations that are too stringent, some landlords may simply not rent to credit-unworthy tenants.
- Increasingly complex tenant protections may discourage landlords from leasing housing and may discourage the construction of rental housing.
- Tenant protections implemented during the COVID-19 pandemic have artificially suppressed rents and landlords' ability to pursue non-payment, causing some landlords to increase rents;
- the surprisingly high inflation has driven up landlord costs, also impacting the need for rent increases.

## **DISCUSSION**

The tenant advocacy groups were supportive of the ARCH proposals. There was not much interest in delaying a vote on the proposals in favor of negotiating different options with the landlord community. Tenant groups believe that there is an urgent need for action and seek assistance as soon as possible.

The local landlord group opposed each of the proposals as written. This group was interested in working with the City to explore alternative approaches as well as engage in longer term discussions to increase the supply of affordable housing in the City.

While there was no firm consensus on the exact language or payment limitations of any counterproposals discussed at the landlord meetings, in a June 21, 2022 letter (Attachment A) to the City Council, Robert Pantley of Muse Management/Natural and Built Environments, presented his views which are generally reflective of the type of ideas discussed at the meeting:

1. Rent increase notice – 90 days.
  - a. Keep it simple and straightforward for both residents and housing providers.
  - b. 90 days is further out than a new lease can be signed elsewhere, but enough time to make budgeting decisions to adjust to new rent.
2. Late fees.
  - a. Minimum of \$100 + \$5/day. Late fees cease accruing once a payment plan is agreed to and repayment begins.
  - b. If paid back within 90 days, late fees are waived.
  - c. 50% of all late fees collected by housing providers to be sent to the city's Resident Support Account (set up to support residents with late fees, security deposits, etc). (New idea).
3. Security deposits.
  - a. Limited to 1 month + \$500 security deposit.
  - b. Additional allowed for flexibility – credit or income does not meet community requirements (ex. recent bankruptcy) vs denial of application.

- c. Allow for higher security deposits on luxury units.

Staff has also been exploring supplemental ideas to those listed above:

- a. Implementing the ARCH proposed language, but with a sunset provision such as two years to get through this high-inflationary period.
- b. Focusing the tenant protections only on lower-income tenants/households;
- c. Developing an enforcement alternative (with appropriate penalties) where a tenant whose landlord has violated the tenant protection rules need not rely on private right of action (i.e., a private enforcement of rights through small claims court or another means), but allows the City to impose a fine/penalty on the landlord; and
- d. Collecting associated fines to be used to provide rental assistance to the affected tenant and/or other community members who need rental assistance.

### **NEXT STEPS**

To bring clarity to this work program and provide a signal to all parties involved regarding the time and effort needed for future action, staff recommends Council choose between the two options listed below:

1. Staff returns to the July 19, 2022 Council meeting with an updated memorandum (including the results of the July 6 meeting with industry groups) and an ordinance to adopt the ARCH proposals as presented. This option allows the Council to make a “yes” or “no” decision on the ARCH proposals on an expedited timeline.
2. Council directs staff to continue discussions with interested parties on both sides of the issue in an attempt to find agreement on some or all the ideas discussed. Staff could then return to the August 3 Council meeting to report back on progress and possible alternative proposals.

ATTACHMENT: ARCH Response Letter from Robert Pantley

Cc: Lindsay Masters, ARCH, [lmasters@bellevuewa.gov](mailto:lmasters@bellevuewa.gov)

ARCH response letter 6/21/2022

Dear Mayor and Council:

We would like to thank you for prioritizing a stakeholder process for the proposed ARCH recommendations. As you know, we need as many affordable housing units as possible, and we need to ensure that any new language does not have a chilling effect in the ability to finance new projects and refinance existing properties, while ensuring that the few residents who have affordable housing now are also supported. **The proposal as written reverses this intent.**

### Proposal Modifications

In a meeting with Kirkland staff during the start of the stakeholder process, here are the modifications discussed – the goal is to retain resident support while ensuring that new housing units can be financed and built, and existing units refinanced.

1. Rent increase notice – 90 days.
  - a. Keep it simple and straightforward for both residents and housing providers.
  - b. 90 days is further out than a new lease can be signed elsewhere, but enough time to make budgeting decisions to adjust to new rent.
2. Late fees.
  - a. Minimum of \$100 + \$5/day. Late fees cease accruing once a payment plan is agreed to and repayment begins.
  - b. If paid back within 90 days, late fees are waived.
  - c. 50% of all late fees collected by housing providers to be sent to the city's Resident Support Account (set up to support residents with late fees, security deposits, etc). (New idea).
3. Security deposits.
  - a. Limited to 1 month + \$500 security deposit.
  - b. Additional allowed for flexibility – credit or income does not meet community requirements (ex. recent bankruptcy) vs denial of application.
  - c. Allow for higher security deposits on luxury units.

### Financial Impacts of New Rental Regulations – Per Fannie Mae/Freddie Mac

The effect of these laws have a deeper impact than understood. Fannie Mae/Freddie Mac (owned by the federal government) have told us that current King County policies on adverse possession of multifamily properties has raised their rates for King County loans by .15%. This has been confirmed also by King County Housing Authority. The effect is that all renters will, over time, pay an average of an additional \$750 per year for this single policy. **Every one of these additional policies have this kind of impact – increasing the average cost of rent by hundreds of dollars.** The alternative option is that new units simply do not get built because they cannot be financed.

Fannie Mae/Freddie Mac also require quarterly performance reviews on rental properties. With this continuous layering of new requirements, they have shared that properties in King County will be

difficult to finance. If they cannot securitize their loans, they cannot sell them to make more loans. By example, they will not finance properties or property groups where 'no pays' equal 10% of the rents.

Thoughtfully, Fannie Mae/Freddie Mac are implementing credit policies that rental payments will now be included in credit history for the first time, so they can build credit based on timely rental payments. Rental history will support renters' ability to buy a home, which has been and continues to be 'the American Dream'. For this reason, it is more important than ever to encourage on time rent payment.

### Next Steps

We look forward to the data we have requested of staff during the stakeholder process. The effect of the cost increases for utilities and taxes plus the added costs to meet the new state laws and lost rents have created a situation where communities like Arete' cannot be repeated in Kirkland. Please deeply consider this, Kirkland cannot repeat Arete'. It would not be financeable.

We have a housing crisis, and we must not lose sight of the fact that we simply need thousands of more affordable housing units in our city. We urge Council to be sure that any new requirements do not prohibit financing of existing and future projects, for there is no equity, there is no justice without sustainable, affordable housing.

We propose a target date of August 5<sup>th</sup> or 19<sup>th</sup> for final language to be presented to Council. Housing policy is important enough to ensure that we get it right with no unintended consequences.

Best,

Robert Pantley and the staff at Muse Management / Natural and Built Environments

