



Bill No: HB 821 – Montgomery County Stable Homes Act

Date: 3/10/2020

Position: Oppose

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George’s counties. As such, AOBA members have several concerns and must oppose this legislation.

As drafted, HB 821 would require Montgomery County housing providers to house and renew a tenant’s lease forever unless the provider can prove in court the existence of one of seven “just causes” for eviction or non-renewal. While the legislation is presented as a tenant’s rights bill, good tenants will suffer if apartment owners cannot remove problem tenants in a timely manner. We oppose the bill for the following reasons:

- **The bill is a solution in search of a problem** -- According to the Maryland Judiciary’s statistical abstract for fiscal year 2018, 48,713 landlord-tenant cases were filed in Montgomery County that fiscal year. Of those cases, the Department of Legislative Services reports that 47,930 actions were “failure to pay rent” cases. That means, only 783 — or 1.6% of the cases filed in the district court in FY 2018 were for a reason other than failure to pay rent. The eviction report conducted by the Montgomery County Office of Legislative Oversight notes that for fiscal years 2010-2017, writs of restitution declined by 17% and evictions declined by 19%. In fact, only 800-1,100-- roughly 2% of the 45,000-50,000 cases filed resulted in evictions each year. Additionally, staff of the Montgomery County Commission on Landlord Tenant Affairs report that from 2002 to March 2020, there have been five cases before the Commission alleging retaliatory actions by landlords. Of the three closed cases, a landlord prevailed in two cases and a tenant prevailed in one case. While housing providers agree that any instance of eviction is upsetting for a family, the evidence does not support the notion that property management is unlawfully throwing residents onto the streets—in retaliation or otherwise.
- **It will be more difficult to remove nuisance tenants** – This bill would make it significantly more difficult and lengthy to remove a nuisance tenant by requiring a housing provider to prove in court one of seven listed reasons considered “just cause” for not renewing a lease. Good tenants expect their respective housing provider to provide them the quiet enjoyment of their premises – not to be dragged into court to testify against a problematic neighbor. Neighboring tenants will not testify in most cases for fear of retribution from the problem tenant. However, if the housing provider cannot document and prove the offending

behavior, the nuisance tenant will never be removed and the good tenants will suffer, then leave.

- **Nuisance laws hold a housing provider liable** - Ironically, as this bill makes it harder for housing providers to remove problem tenants, state and local laws (1) hold a housing provider responsible for failure to abate a nuisance on the property; and (2) threaten the provider with fines or jail time if they fail to rid the property of the illegal activity. This bill ties the housing provider's hands and makes the apartment community less safe for other tenants.
- **This legislation conflicts with existing state law to the detriment of community safety** - If a tenant engages in disorderly conduct that disturbs the peace, the housing provider must: (1) provide written, mailed notice to the tenant to cease the conduct within 30 days; and if the problem is not remedied by the tenant over the initial 30 day period, (2) provide another written mailed notice giving 60 days' notice of their intent to evict the tenant. This language conflicts with existing state law that enables a housing provider to file a case for eviction with 14 days' notice when a tenant engages in conduct which demonstrates a clear and imminent danger of the tenant doing serious harm to themselves, other tenants, property management staff or other persons. A person firing weapons, engaging in arson, threatening individuals, or other dangerous conduct who could be taken to court in 14 days today will require 90 days' notice under this bill.
- **Non-renewals are infrequent** – We know from experience that most tenants are good people who abide by the community rules and pay their rent on time. Housing providers have every reason to keep such tenants. However, each year about one percent of tenants are the subject of repeated neighbor complaints due to their conduct of threatening behavior, noise, illegal activity, or other lease violations. That one percent of tenants is currently issued a 60-day notice to vacate, and the problems are eliminated expeditiously.
- **Laws already protect against “retaliatory evictions”** – The State and Montgomery County already have robust laws that prohibit an eviction or retaliatory action against a tenant as a result of the tenant:
 - Filing a complaint with the housing provider;
 - Filing a complaint against the housing provider with any public agency;
 - Filing a lawsuit or testifying against the housing provider;
 - Being a member of a tenant's organization;
 - Exercising their rights under County housing law; or
 - Assisting another tenant in exercising their rights.

A housing provider may not, as a retaliatory action, impose an unreasonable rent increase, threaten, coerce, harass, violate privacy, terminate a periodic tenancy, or otherwise reduce the quality or level of services to the tenant. If these laws are violated, the landlord is liable for damages up to three months' rent, reasonable attorneys' fees and court costs.

- **Litigation will increase** – Under this bill, all violations of the lease must be documented as if the issue will go to court. Ultimately, housing providers would be forced to document files for every problem tenant with the expectation that the case may be headed to court in order to prove that “just cause” existed for not renewing a lease. This inherently raises the cost of owning and managing rental property.

- **The bill does not warrant local courtesy** – Similar legislation has been considered and rejected many times by the General Assembly, as both a statewide and local Montgomery County bill. This bill is unprecedented in Maryland because it diminishes the rights of rental property owners to have and control the use of their property. A lease is a contract in which a property owner provides housing to a tenant, for a specified period-of-time, in exchange for rent. At the end of the contract, either party, with notice, may choose not to renew. However, this bill would bind one party – the property owner – to provide housing, forever, to a tenant. In effect, this bill would transform a leasehold into a life estate for the tenant. Just as it would be unfair to bind the tenant to renew the lease forever, it is unfair for the General Assembly to bind the property owner to renew the lease forever.

There is simply no need for this bill. Rental property owners desire to keep tenants and only choose to remove them when it is absolutely necessary. Turnover is expensive in terms of lost rent, advertising and the cost to prepare the apartment for leasing to a new tenant.

For these reasons AOBA urges an unfavorable report on HB 821.

For further information contact Erin Bradley, AOBA Vice President of Government Affairs, at 301-261-1460 or ebradley@aoba-metro.org.