



CITY OF BURLINGTON, VERMONT  
**CITY COUNCIL COMMUNITY DEVELOPMENT &  
NEIGHBORHOOD REVITALIZATION COMMITTEE**  
c/o Community & Economic Development Office  
City Hall, Room 32 • 149 Church Street • Burlington, VT 05401  
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**Councilor Brian Pine, Chair, Ward 3**

**Councilor Karen Paul, Ward 6**

**Councilor Ali Dieng, Ward 7**

Thursday, February 27th, 2020

5:30 – 7:00 PM

City Hall – Conference Room 12

**Draft Agenda**

1. Review Agenda (5 minutes)
2. Approve Minutes (5 minutes) 1.16.20, 2.12.20
3. Public Forum (10 minutes)
4. Presentation on Proposed Tenant Protections – Burlington Tenants Union (20 min)
5. Tenant Protections – (Continued) Discussion (40 min)
6. Next Steps (5 min)

*Proposed Tenant Protections*

*submitted to the Community Development and Neighborhood Revitalization Committee*

*by Burlington Tenants Union*

*February 2020*

Thank you for inviting members of the Burlington Tenants Union to advise this committee on improving tenant rights and protections. 60% of Burlington residents are tenants. Burlington has one of the highest rates of housing insecurity in the US, with over 4,000 households paying far above 30% of their income for rent. For far too long tenants and our concerns have been ignored by the Burlington government, while rents have increased and the quality of rental housing has declined. It is time to give the voices of marginalized residents a central place in these discussions.

Over the past year tenants have been meeting, sharing common problems, and working to be heard. The demands below come from our discussions and meetings, including many NPA meetings, and the first Burlington Tenant Summit. Tenants agree that our problems and concerns have not been addressed by city officials. We look forward to working with you on these issues.

*(This is by no means a complete list of issues and concerns of the Burlington Tenants Union, simply those matters that are significant, and appropriate for the CDNR to work on at this time.)*

THE BTU sees five areas that will provide immediate and significant relief to the housing crisis:

1. Increasing the Power and Scope of the Housing Board of Review
2. A Code Enforcement Department That Works for Tenants
3. Enacting Rent Control
4. Enacting Just Cause Evictions
5. Safe Parking, Safe Camping

The BTU also has four demands that are specific and limited in scope but address serious flaws in tenant protections:

- A) Ban the Box
- B) Increase the penalty on all improperly withheld security deposits
- C) Expand the retaliatory eviction ‘clock’
- D) Publicize the database of landlords, Certificate of Compliance, rental registration, and code violations

### **1. Housing Board of Review**

The Housing Board of Review has the broad power under its charter to become the main tenant resource body within the Burlington government. Its present focus on security deposit complaints for tenants and code exemptions for owners needs to be expanded. It is time for the HBR to live up to its potential as written in the city charter.

**Our Demand:** HBR needs to be restructured and its responsibilities expanded in these ways:

1. HBR members must reflect the makeup of Burlington itself, i.e. the make up of this board should be: 3 Tenants, 1 Homeowner, 1 Landlord. The three tenants should represent different Burlington incomes: 1 low-income tenant, 1 non-profit housing tenant, and one median or above income tenant.
2. HBR must become the city agency responsible for tenant and landlord education. This includes a website with all available tenant/landlord resources. The San Francisco Rent Board website shows what the HBR could be- [www.sfrb.org](http://www.sfrb.org)
3. HBR must work with Community Action, Vermont Tenants, and Vermont Legal Aid to increase and consolidate information on tenant resources and rights. The HBR must be committed to providing legal resources to all tenants to balance the resources of landlords.
4. HBR must be actively publicized as *the* place where tenants can appeal when the Department of Permitting and Inspections has not resolved building code issues.
5. HBR must enforce rulings and increase penalties made by both HBR and by Code Enforcement over landlords who refuse to repair their properties.

## **2. Code Enforcement**

A major impetus for the founding of the Burlington Tenants Union was repeated tenant stories of uninhabitable apartments and lax enforcement of building codes. Code Enforcement routinely works for the landlord's benefit, not for the tenant's rights. Common examples of this are:

1. Not providing tenants with information on the process of code enforcement and on their rights during the process, nor submitting reported violations in a timely manner.
2. Not citing or fining landlords for not repairing code violations.
3. Not providing tenants with copies of all investigated reports, orders for repairs, and inspectors notes.
4. No or minimal penalties for unrepaired code violations. At present, a landlord can expect at most \$75 fine for the most egregious violations.

**Our Demand:** The focus and practice of Code Enforcement must be changed so that it is on the side of tenants, not landlords. It must enforce the Code of Ordinances as they are written and reverse its practices with respect to the four issues above.

### **3. Rent Control**

60% of Burlington residents are tenants that pay far too much of their incomes to their landlords. In Burlington over 3,000 households are severely rent-burdened (paying more than 50% of their income), while another 2,000 households are rent burdened (paying 30-50% of their income). 80% of these households are incredibly low-income, making less than half of the Area Median Income. The only way to keep tenants from paying most of their income to landlords is by limiting the amount that landlords can charge. On top of this, only 25% of these households have access to a Section 8 Voucher even though their income qualifies them to receive one, while even for these households it has become increasingly harder for them to find apartments that qualify under Section 8 rental cost requirements. These households are unable to cover healthcare costs, buy healthy foods, have time to participate in our community, and spend quality time with

their children. Rent control is a part of healthy communities, and an extension of a strong democracy.

We call on the City Council to accept the moral imperative that housing is a human right, and that rent control is one tool to make that right a reality. Throughout the U.S., rent control has been adopted in response to the housing crisis. Rent control has a proven track record of protecting the most vulnerable residents from rising rent prices related to gentrification and property speculation. Despite repeated claims that market-rate rent is the only solution, the past decades show that this approach only leads to increasing housing insecurity and costs. In San Francisco, while median rents increased by \$800 in the past decade, rent-controlled units increased at most \$200, keeping low-income families and seniors in their communities.

An important city and community value is to protect low-income families and seniors from the negative health impacts of high rent and/or displacement, so the City Council should have no problem supporting rent control. Rent control is a way to ensure that landlords cannot gouge vulnerable residents and take advantage of ‘hot’ housing markets at the expense of long-term residents.

**Our Demand:** Enact Rent Control immediately as both a humane and necessary first step in bringing about housing as a human right.

#### **4. Just Cause Evictions**

An integral part of rent control is to provide Just Cause Evictions. They provide tenants and their home-owning neighbors stability and continuity while improving community and neighborhood relations. Just Cause Evictions ensure that tenants are

given the right to stay in their home as long as they are paying rent and following their rental contract. Landlord rights are well protected under Just Cause Evictions.

Burlington must enact Just Cause Eviction ordinances so that tenants are an integral part of neighborhoods and treated as citizens with a right to continuity in their homes and communities. Just Cause Evictions have been enacted on a local level throughout the country. A Princeton study of Just Cause Evictions in four municipalities showed that the rate of eviction filings and evictions decreased significantly.

**Our Demand:** Enact Just Cause Evictions to increase housing and community stability, and to reduce the manipulation of the rental market by 'churning.'

## **5. Safe Parking, Safe Camping**

We recognize that the housing continuum includes camping, living out of a car, and sleeping in other locations not meant for human habitation. We believe that everyone without hard-wall housing deserves to live within city limits safely. The city must provide sanitation and trash removal for these residents, and allow for people to sleep in public spaces free of harassment from city officials.

**Our Demand:** Make the entire city a safe place for unsheltered people to live. The city must provide information about where people can camp and park safely, provide publicly reviewed training to city staff on maintaining safe interactions with those sleeping outdoors, provide trash removal to campers, and 24-hour sanitation access.

Four demands that are specific and limited in scope but address serious flaws in tenant protections

**A: “Ban the Box”**

Too many vulnerable residents are discriminated against before they even fill out a rental application. As other states and cities begin to recognize how rental applications are used to discriminate against our most vulnerable residents, we call on the City Council to ‘ban the box’ and make it illegal for landlords to have the following on their rental applications:

1. Asking for a criminal history of the prospective tenant
2. Asking for arrest history of the prospective tenant
3. Asking for a background check
4. Asking for a credit score
5. Asking for more than two years’ worth of eviction history

At a time when many formerly incarcerated residents are stuck living in prisons because of the lack of available rental housing, and when many landlords use the above history checks to discriminate against those looking for a second chance, now is the time to remove these barriers.

**Our Demand:** Ban the Box on rental applications regarding criminal history, arrest history, background checks, credit checks, and prior eviction history.

**B: Increase the penalty on all improperly withheld security deposits**

The present system encourages landlords to take people's deposit money without a penalty in most cases. Landlords are responsible for knowing their legal obligations and should not be excused for ignorance nor encouraged to try their luck at avoiding the existing 2-times penalties. Improperly held deposits must be returned at 3 times the original amount in all cases.

**Our Demand:** Landlords are responsible for knowing applicable laws and fulfilling their obligations under Burlington and Vermont laws. Violations need to have significant default penalties (3x) to discourage theft of deposits.

### **C: Tie Retaliatory Eviction Clock to Complaint Resolution**

Currently, retaliatory evictions are illegal within 90 days after filing a complaint with Code Enforcement. Resolution of complaints can take months. The ban on retaliatory evictions should start on the date of complaint and end no sooner than 90 days after the resolution of a complaint.

**Our Demand:** Tenants need security when they have housing problems; any eviction initiated from the date of the complaint until 90 days AFTER the resolution of a complaint will be considered retaliatory and will be actively prosecuted.

### **D: Accessible database of Landlords, Certificate of Compliance, Rental Registration, and Code Violations**

The Mayor promised that the list of landlords' rental and Code Enforcement violation histories would be publicized, but this has not happened. The tenants of Burlington are calling for the transparency they were promised.

**Our Demand:** Publish the city's promised database and promote it on the City's home page. Have the upcoming CEDO Open Data platform include this information in an easily accessible form.

# 1. Improve accessibility of code enforcement data, including properties' CoC ratings and complaint history

## **Progress:**

- Currently the CoC rating, the Code Enforcement complaints, billing and inspections data is available on the Burlington Property Database.
- The COC data is now live on the [Open Data Portal](#) and also on reported on the [BTVStat Dashboard](#). These datasets are automatically updated as the City's property database AMANDA is updated (refreshed daily).

**Next Steps:** Include a detailed definition of the CoC ratings terms, in order to better inform the current data available.

**Timeline:** Winter 2020

## 2. Strengthen the City's minimum housing standards

- **Progress:** City work group is currently reviewing minimum housing standards and have identified the following areas for initial changes:
- 1-5 Certificate of Compliance Rating System Standards - Less deficiencies allowed
- Based on deficiency data over the last 3 years the top deficiencies have been identified and DPI is looking to add additional requirements in 2020
  - Lead paint essential maintenance practice
  - Heating unit tags checked every two years
  - Smoke/CO Detection
  - HBR to determine cases should receive an extension (where 3 or more follow up inspections required or exceeded 12 months to meet compliance )
  - Section 18-95 Means of Egress: Add exceptions adopted in NFPA1
- **Next Steps:** Stakeholder meetings, CDNR Committee for draft recommendations
- **Timeline:** Spring/Summer 2020

### 3. Assess capacity of existing tenant advocacy resources to meet demand in Burlington; require distribution of educational materials to landlords and tenants

#### **Progress:**

- Neighborhood Project: Objective #2
- informational card to be provided to tenants when a complaint is made:
  - Division Manager & Department Director's contact info
  - Protection under Ch. 18 against retaliatory eviction;
  - Community resources that may provide guidance & assistance
- The City is currently working with UVM Community Coalition to make their materials for renter education for off campus living more widely available.
- VT Tenants and VT Landlord have the comprehensive [Finding Common Ground: The Definitive Guide to renting in Vermont.](#)

**Next Steps:** Update CDNR on Neighborhood Project progress

**Timeline:** Spring 2020

## 4. Consider an expanded role for Burlington's Housing Board of Review

- **Progress:**

- Initial data is available on the Housing Board of Reviews caseload.
- See Recommendation 2 above: HBR to determine cases should receive an extension (where 3 or more follow up inspections required or exceeded 12 months to meet compliance )

- **Next Steps:**

- City attorney to review process for proposed changes to Housing Board of Review
- Significant changes to the scope would likely require a charter change

- **Timeline: Spring 2020**

## 5. Review 'just cause' eviction standards and consider tenant assistance for 'no cause' evictions

- **Progress:** City attorney reviewed possibility of just cause eviction changes
- **Next Steps:** Likely any changes, such as requiring a relocation payment for no cause evictions, would require a charter change
- **Timeline: Unknown**

# 6. Track data on evictions, Housing Review Board decisions

**Progress:** VT Legal Aid is interested in partnering to get the data. Need to submit a formal request for information to the Chittenden County Superior Court. Requires a large effort and some targeted resources to look back at cases over the last several years.

## **Next Steps:**

- Partner with VT Legal Aid to get the data and compile a report.
- Look into whether the Sheriff's office keeps record of eviction notices.
- Start tracking appeal outcomes from the HBR. Include HBR data, eviction data, in BTV Stat.

## **Timeline: Fall 2020**

| Year             | Sec. Deposit Cases | Min. Hsng. Code Cases | Total Cases |
|------------------|--------------------|-----------------------|-------------|
| 2019 (as of 9/1) | 25                 | 0                     | 25          |
| 2018             | 32                 | 1                     | 33          |
| 2017             | 35                 | 4                     | 39          |
| 2016             | 31                 | 9                     | 40          |
| 2015             | 34                 | 6                     | 40          |

## 7. Evaluate existing tenant support resources, and assess need for eviction support fund

**Progress:** Reviewed recommendations and data from VT Legal Aid report on Eviction in Vermont.

**Next Steps:** Determine how much eviction prevention / housing retention resources are currently available - BHA, CVOEO, COTS, Pathways, CHCB, Spectrum, UVM Med Ctr, Hope Works, Howard Center, Cathedral Square, CHT. Determine gaps in resources that tenants are facing. Legal assistance? Language Access?

**Timeline:** **Spring/Summer 2020**, Discuss needed tenant support resources at CDNR meetings.



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Committee members: Chair Brian Pine (BP), Karen Paul (KP), Ali Dieng (AD)  
City staff: Ian Jakus (IJ), CEDO; Patti Wehman (PW), PID; Bill Ward (BW), Director PID; Todd Rawlings, CEDO  
Other Attendees: Caryn Long; Sandy Wynne; William Daniel, BTU; Charles Winkleman, BTU; Christie Delphia, BTU; Nathan Lantieri; Renee Hamblin; Erika Johnson, VT Legal Aid; Stephen Marshall; Corrine Yonce, CVOEO

Wednesday, February 12th, 2020

6:00 – 7:30 PM

City Hall – Conference Room 12

### **Draft Minutes**

1. Review Agenda (5 minutes)

KP made a motion to approve, unanimous.

2. Approve Minutes (5 minutes) 1.16.20

Minutes were tabled for review, Ian to send minutes ahead of time.

3. Public Forum (10 minutes)

Caryn Long submitted a comment ([see attached](#))

Sandy Wynne said that she wants to thank city staff for the report on tenants' rights but it was missing a few key points. One is that the 4 unrelated ordinance should be enforced to hit landlords where it hurts, in their cash flow. The other point is that UVM should build more student housing. She said that 1,000 units would make an enormous difference in the cost of housing.

William Daniel said that UVM's effects on the housing market are detrimental and they are getting a free ride.

Stephen Marshall said that his understanding is that major landowners can control the market through their pricing, including the institutions. Thus these large landlords should be taxed at a higher rate for the privilege of being so profitable.

Christie Delphia said that code enforcement is not doing their job, that they are not properly enforcing code.

**6. Tenant Protections – (Continued) Discussion of [city research](#) and recommendations - Patti Wehman, Code Enforcement; Ian Jakus, CEDO (60 min)**

Started to work through an implementation plan for the 7 recommendations from the report [\(attached\)](#)

***Recommendation 1: Improve accessibility of code enforcement data, including properties' Certificate of Compliance (CoC) ratings and complaint history***

Reviewed the new [open data portal for the CoC Ratings data](#).

Bill Ward said that the CoC data is telling which properties are in compliance. Landlords are supposed to be notifying tenants of this information, and it is supposed to be posted.

Brian Pine asked if the open data reflects complaints or CoC ratings.

Charles Winkleman said that if his landlord turns off his heat and then doesn't fix it right, and it has to be reported again, that should be reflected in the CoC Rating.

Bill Ward and Patti Wehman explained that the CoC stays the same unless the unit is found unfit for habitation. They said that it may not be good for individual complaints to effect the rating. Sometimes complaints are one off and are quickly resolved, and a landlord should not be penalized, while some are more severe.

Bill Ward proposed that the inspector can provide an information card for to leave when they investigate a complaint that explains what to expect about the process, retaliation protection and contact information.

BP asked what the current period of time is for retaliatory evictions.

BW responded that its 90 days from the complaint, and that the burden of proof is on the landlord. He also pointed out that the courts would likely consider motive even if over 90 days.

William Daniel said that the retaliatory protection timeline should start at the resolution of the complaint. He said that the CoC ratings should be affected by complaints.

Stephen Marshall said that many people don't even know how to file a complaint with code enforcement.

BW said that on average it takes 2.2 days to investigate a complaint.

William Daniel said that leases should be required to include information on tenants' rights. He asked when the CoC Ratings system was developed.

BW responded that the system was adapted from a restaurant ratings system they used as an examples that the intention is really to allow for a longer compliance time for the landlords who are consistently in compliance. It also provides an incentive to do better.

BP asked if there are penalties for violations.

PW responded that there are per unit re inspection fees that escalate.

AD asked how the CoC data reflects buildings with multiple units.

BW responded that for example if a duplex has one unit with 10 violations and the other unit has none, the whole property gets 10 violations.

KP said that it was 2012 when the resolution to set up a ratings system was passed. All properties had to be rated before the ratings could become public. The hope is to incentivize landlords to be better.

Corinne Yonce asked what is the incentive to be a 5 star landlord and if Section 8 renters are afraid of making complaints. And that city minimum housing standards should be the same as HUD Section 8 standards or be cross referenced.

Christie Delphia said that HUD has better housing codes and they're supposed to be working with the City.

BP said that BHA currently cannot find enough units in the City and had to give some vouchers back. He said that Gene Berman did a comparison between the city standards and HUD standards in the past. He also said that even if the standards are the same landlords can still set their rent higher than the section 8 standards.

### ***Recommendation 2: Strengthen the City's minimum housing standards***

The overall recommendation is to reduce the amount of allowable deficiencies for the CoC ratings, and ensure that the standards for the top violations are strengthened.

- **5 Year COC** - No Violations/deficiencies
- **4 Year COC** - 3 deficiencies
- **3 Year COC** - 4 - 6 deficiencies
- **2 year COC\*** - ~~Up to 10~~ Up to 7 – All corrected but not within time set for compliance -  
\*From the date of initial inspection
- **1 year COC** - 8 or More deficiencies corrected within the time set for compliance (Also subject to 1 year COC if it contains one of the 8 Major violations cited in city ordinance)
- **6 month COC** - 8 or More deficiencies– Not corrected in time set for compliance (Also subject to 6 Month COC if it contains one of the 8 violations cited in city ordinance)

***Lead Paint***

PW explained that often landlords only file their EMP the year of the inspection. The proposal is to require an EMP filing each year and upon CoC inspection to review retroactively, counting each year without a filing as a deficiency.

***Heat Tag***

Heating systems must be certified every two years. The CoC score should retroactively examine the tag and if the heat tag expired at any time prior to the next scheduled housing inspection, a certificate of compliance shall be issued for a period of no longer than 2 years.

***Smoke/CO Detection***

Rental properties found to have more than one rental unit with outdated or inoperable systems this shall be considered to have a major violation and when corrected shall only be eligible for a 2 year Certificate of compliance.

***Re-inspection Approval***

If more than 3 follow-up inspections are needed or the time to come into compliance exceeds 12 months, the Housing Board of Review should determine if additional time shall be granted.

***Adding NFPA1 exceptions for egress requirements***

Charles Winkleman said that fines and fees should be increased so that landlords cannot simply buy their way out.

William Daniel said that NYC has an option where the City will make repairs on a property and puts a lien on the property.

BW responded that it is possible, but the challenge of that model is liability due to repairs and how we choose a contractor.

***Recommendation 3: Assess capacity of existing tenant advocacy resources to meet demand in Burlington; require distribution of educational materials to landlords and tenants***

BW said that code enforcement provides funding for the CVOEO Hotline. We refer tenants for answers to issues.

Corinne Yonce said that CVOEO does not give legal advice and refers clients to VT Legal Aid.

AD asked who is CVOEO serving with their hotline, and that we should look into this.

Erika Johnson said that VT Legal Aid provides legal information through their hotline, even when they cannot provide representation. Also there is an online portal. She believe that many tenants are familiar with the possibility of withholding rent.

Charles Winkleman said that he has heard that VT legal aid's income requirements make it hard to access. He said that CVOEO also works with landlords and thus may not fully advocate for tenants.

Corinne Yonce said that CVOEO Fair Housing does not typically assist landlords.

PW said that she has been told that CVOEO will not assist landlords except to share the information of the guide.

BP asked if a universal lease would be helpful in coordinating this information.

Charles Winkleman responded that he did not believe it would be helpful because tenants don't read their lease. He said there needs to be a more proactive approach for the most vulnerable.

KP said that using UVM as an example is problematic because there is no requirement for the students to participate. She said we should require information included in the lease.

Corinne Yonce said there isn't enough resources to translate all the documents. In regards to section 8 clients they often need assistance in dealing with issues as they come up, and likely will not figure out the rules ahead of time.

William Daniel said that this is why they created the Burlington Tenants Union, to be a clearinghouse for tenant information.

Stephen Marshall distributed a proposal by the Burlington Tenants Union and requested they make a presentation at the next meeting. [See Attached](#)

BP agreed to talk about this at the next meeting.

## **7. Next Steps (5 min)**

The next meeting is tentatively scheduled for 2/27/20 @ 5:30PM in City Hall Conference Room 12