



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
802-865-7144 VOX • 802-865-7024 FAX • www.burlingtonvt.gov/cedo

Councilor Brian Pine, Chair, Ward 3

Councilor Karen Paul, Ward 6

Councilor Ali Dieng, Ward 7

Wednesday, February 12th, 2020

6:00 – 7:30 PM

City Hall – Conference Room 12

Draft Agenda

1. Review Agenda (5 minutes)
2. Approve Minutes (5 minutes) 1.16.20
3. Public Forum (10 minutes)
6. Tenant Protections – (Continued) Discussion of [city research](#) and recommendations - Patti Wehman, Code Enforcement; Ian Jakus, CEDO (60 min)
7. Next Steps (5 min)



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Councilor Brian Pine, Chair, Ward 3

Councilor Karen Paul, Ward 6

Councilor Ali Dieng, Ward 7

Committee members: Chair Brian Pine (BP), Karen Paul (KP), Ali Dieng (AD)

City staff: Ian Jakus (IJ), CEDO; Patti Wehman (PW), PID; Brian Lowe (BL), IT; Caroline Felix (CF), IT; Belan Antesaye (BA), CEDO

Other Attendees: Dave Hartnett, Sandy Wynne, Jonathan Chapple-Sokol, William Daniel, Charles Winkleman, Christie Delphia, Matt Gardner

Thursday, January 16th, 2020

5:30 – 7:00 PM

City Hall – Conference Room 12

Draft Agenda

Meeting started at 5:33

1. Review Agenda (5 minutes)

Councilor Ali Dieng made a motion to approve agenda, seconded by Chair Pine, unanimous approval.

2. Public Forum (10 minutes)

Dave Hartnett said that he is still waiting for an update on Brookfield. Thinking about how we got here with the hole in the ground and the police chief. Since the Burlington Telecom sale it's a matter of being honest to the people of Burlington. When I think about the police department, if we had been honest we would still have a police chief, if Sinex came to us, this could have been different. People of Burlington like honesty. There are councilors who have not been honest. 5 years with a hole in the ground, lost jobs, court cases, we have a chance to start again.

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contact Gillian Nanton at Gnanton@burlingtonvt.gov

Matt Gardner said there is a lack of trust in the council and the government. Tonight we have tenant protections on the agenda, do we have tenants on the council? We are getting a lack of engagement by our public officials.

Charles Winkleman said that he has read the review of research and findings. The Tenants Union was not made a part of the BTV Housing Summit, and 20 pages of review, and no tenants have been involved in this process. With Chair Pine being a landlord it is difficult to avoid a conflict of interest. It is difficult to believe this will be a fair process. We are here to listen and see how we will be ignored again.

Sandy Wynne said that she thinks that we are a small city and we have a few people that volunteer to be city councilors. I wouldn't want to be a city councilor. Having worked on affordable housing task forces, just because you aren't part of a particular group, doesn't mean that you can't make change. It shouldn't come down to whether you are a part of one specific group doesn't mean that you don't care.

Approve Minutes (5 minutes) 12.10.19

Chair Brian Pine made a motion to approve the minutes, Councilor Karen Paul seconded, unanimous approval.

3. Old North End Arts & Business Network update (ONEABN) (20 minutes)

BP said the Network approached for City funding and received \$7,000 of funding for a coordinator to survey the businesses, and see what their needs are and how to collaborate with these individuals. The funding goes through a nonprofit called Vermont Performing Arts League and they used to manage North End Studio. What they're working on now is a door to door survey. Like the Old North End version of SEABA.

AD asked if it is a fee based organization, and how many members are there.

BP responded that he didn't know if dues are required to be a member. Businesses and artists.

AD asked where the survey will be available.

BP said that he will follow up regarding the survey.

4. City Equity Report Update - Brian Lowe, Chief Innovation Officer (15 minutes)

BL said that Councilor Dieng asked for clear equity indicators that show citywide metrics, versus the city specific projects.

CF said they are putting more rigor to the metrics this year and partnered with the City of the University of New York and their Equality Indicators project. They've tested these metrics and revised the methodology. They have been in close contact with them as we put together these metrics.

BP asked about the difference between equality and equity.

CF said there are different definitions, the way the indicator framework is set up is that it can be applied through an equity lens.

CF said there are two platforms that will be open to the public. There is a company called ODS that will be a city repository for data, that will be available for download. There will also be the BTV Stat dashboard, to communicate the performance metrics coming out of the BTV Stat program. The Equity indicators we want to highlight in both of these forums, it won't be a static report.

BL said that Burlington does not meet the criteria for requiring Language Access Services by the federal government, but the Mayor wanted to pursue this, and determine how this can be done for the many languages spoken in Burlington.

BP said that other city's are looking at how library fines and fees are disproportionately affecting minorities and low income. Are we tracking that.

BL said right now they have not examined that data in detail. Next year will look more at procurement policy, city wellness.

AD said that he didn't see anything about ageing, or senior populations, or sexual orientation, and most importantly, religion.

BA said the categories are not limited to the six we identified, there are subsets of demographics.

5. Tenant Protections – Review of City research and findings - Ian Jakus, CEDO; Patti Wehman, Code Enforcement (30 min)

There was general discussion about the availability of eviction data that it is not available at the City level, that the records to get that data are kept at the courthouse possibly on paper. That the City will look into the possibility of getting this data. Patti spoke to Vermont Legal Aid and determined that the data is very difficult to get, and is labor intensive. AD suggested checking if the Sheriff's Office has records on evictions.

BP asked if these recommendations are from Code Enforcement and CEDO?

PW talked with many stakeholders outside of the City including tenants and legal aid, CVOEO, property owners. These recommendations are what came out of it.

IJ said there was a working group with the Mayor's Office, CEDO and DPI.

BP asked if there are action items coming out of these recommendations.

PW said that the Certificate of Compliance ratings are available on the City's Property Database, as well as specific code violations. Looking to develop a legend on what the CoC actually means

and what the criteria is. This information will be available as part of the City's Open Data efforts as well.

KP said that you want to be able to do it by property and there are 153 with a one rating, and it is very difficult for a person to get that data. Most landlords are done with LLC and don't have their name on the property.

PW said that the Open Data system will be a lot more user friendly. We are acknowledging that no one had looked through the data for quality control.

CF clarified that the Open Data will be linked into the AMANDA system.

Unknown said that some of the old paper records are still being entered into the system.

PW responded that the only data available is from since electronic records were started.

Sandy Wynne said that you cannot connect an LLC to the owners name.

KP said often the agent of the LLC is an attorney that is listed.

BP said to quickly go through these recommendations because this is the start of the process.

PW said that as far as Minimum Housing Standards versus adopting the international standards, it's going to be a lot easier to enhance what we have. These standards have been difficult to enforce because we have to go back many times for a few people. Bill looked at the two codes side by side and are in the process of making recommendations and strengthen what the Housing Board of Review can do, and add some more responsibilities.

BP said that the HBR is appealable to the courts.

PW said that tenant advocacy resources could draft some language that educates tenants, such as the CVOEO handbook, and Patti is working with UVM to educate students.

IJ said that Seattle has a legal requirement to distribute tenant rights information with the lease.

BP requested that we ask the City Attorney if the City can change to a just cause eviction law because in the past he looked into this and had to go through the state legislature.

William Daniel asked why we didn't examine San Francisco's 40 year old rent control program. Go to the rent board's website. As it is one of the longest, and was shocked we didn't even examine it.

IJ responded that given time and capacity restraints the goal wasn't to dive deeply into rent control policy specifically because there is so much different research available on the topic.

Sandy Wynne asked about landlord licensing.

PW said that the existing minimum housing code is able to address many of the concerns that licensing would address.

AD asked how licensing would play out.

PW said that she would talk offline about the full process of rental registration and how that system can provide many of the protections that a licensing system would.

Christie Delphia said that the issue of landlords abusing the system by prettying up their properties is an issue. Also that the code requirements do no bring the buildings up to current code and they let many bad properties continue to exist.

PW confirmed that it is required that old buildings are brought up to current code, they are preexisting non-conforming.

7. Next Steps (5 min)

Next meeting tentatively scheduled for February 12th

Motion to adjourn by Councilor Dieng at 7:12PM. Unanimous approval

Tenant Protection Research Summary

- Mayor Weinberger directed CEDO and the Department of Permitting & Inspections to undertake a review of existing tenant protections in Burlington and Vermont, examine best practices from other communities and states, and identify where the City can improve its policies to better support tenants.
- This memo contains staff research on these topics in order to facilitate further discussion

Burlington specific ordinances

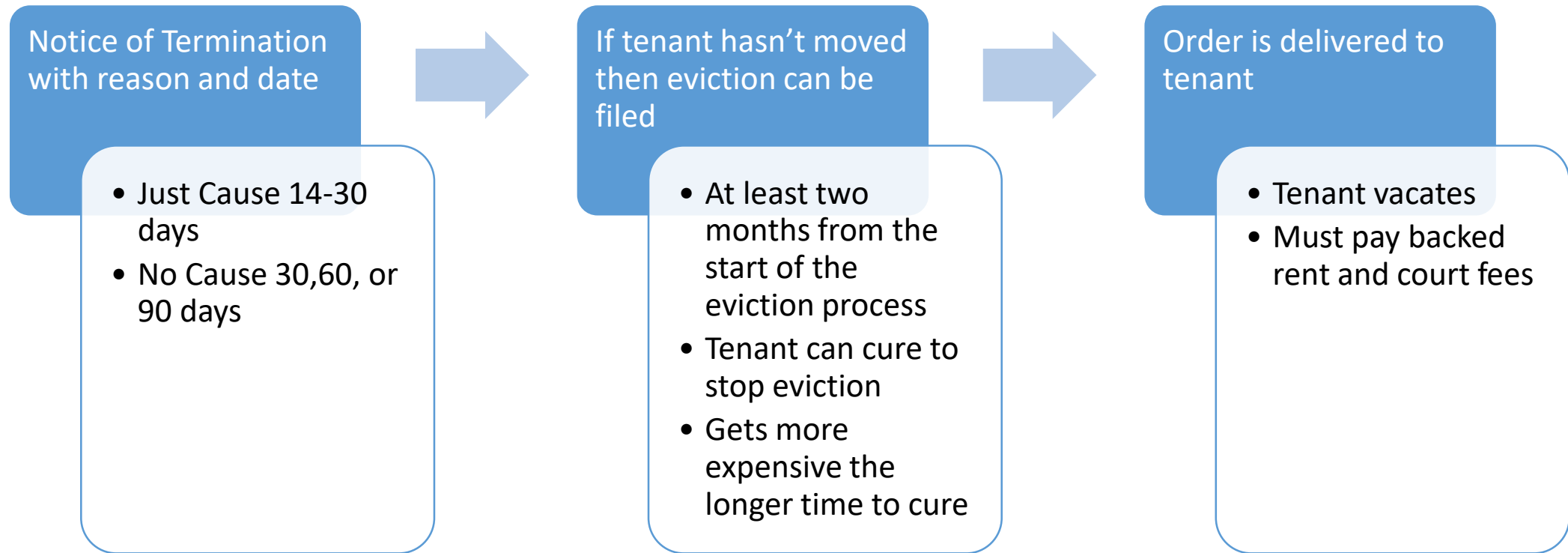
- Minimum Housing Standards, Rental Registration, Hsng Board of Review
- Retaliatory evictions
- Additional eviction notice
- Security and pet deposits
- Housing discrimination
- Tenant relocation due to code violation related construction
- Condo conversion
- 90 day notice for rent increase

Existing Vermont & Burlington Tenant Protections		
	Vermont	Burlington
Security Deposit Maximum	<i>None</i>	<i>1 months' rent (1/2 month pet deposit)</i>
Deadlines for returning security deposits	<i>Postmarked within 14 days</i>	
Rent increase notices	<i>Min. 60 days</i>	<i>3 rental periods</i>
Repair and deduct policies	<i>May deduct up to 1/2 rent amount</i>	
Withholding rent policies	<i>For failure to provide essential services</i>	
Landlord Access (non-emergency)	<i>48 hours</i>	
Tenant termination notice	<i>None</i>	<i>2 rental periods</i>
Eviction notice	<i>Requires notice for just cause³/no cause⁴ with written lease</i>	<i>Requires notice without written lease³</i>
Abandoned tenant property	<i>60 days from notice to retrieve</i>	
Application fees	<i>Prohibited</i>	
Retaliatory Conduct	<i>Prohibited</i>	<i>Retaliatory eviction protections</i>

Eviction Data

- In Burlington, roughly 60% of renter-occupied households are cost burdened
- 33% spend more than 50% of their income on rent
- 1,700 eviction cases are filed in Vermont every year, and in 70% of the cases studied, unpaid rent was the only issue raised
- Burlington data is not available publicly

Eviction Process: 3-6 months



Required Eviction Notice

- **Just Cause termination notice** - Nonpayment of rent & criminal activity (14 days) Breach of rental agreement & Sale of property (30 days)
- **No Cause termination notice (written lease)** - 30 (if weekly), 60 or 120 days depending on length of tenancy
- **No Cause termination notice (no lease)** - 21 (if weekly), 60, or 90 days depending on length of tenancy

Just Cause Eviction

- California and Oregon have adopted prohibitions against 'no cause' evictions after one year of tenancy.
- California applies this prohibition to all leases, whereas Oregon covers only month-to-month leases.
- Owner-occupied homes and duplexes are exempt

CALIFORNIA JUST CAUSE EVICTION REASONS SUMMARY

Reasons for 'Just Cause' Eviction:

- *Nonpayment of rent*
- *A breach of lease terms*
- *Nuisance violations*
- *Damaging the property*
- *Refusing to renew lease*
- *Criminal activity*
- *Subletting in violation of lease*
- *Refusing owner entry*
- *Illegal use of property*
- *Failure to vacate*

'No Fault Just Cause' Reasons:

(Requires 1 month rent relocation payment)

- *Occupancy by owner or immediate family if included in lease*
- *Withdrawal from rental market*
- *Legal order to vacate*
- *Intent to demolish or to substantially remodel*

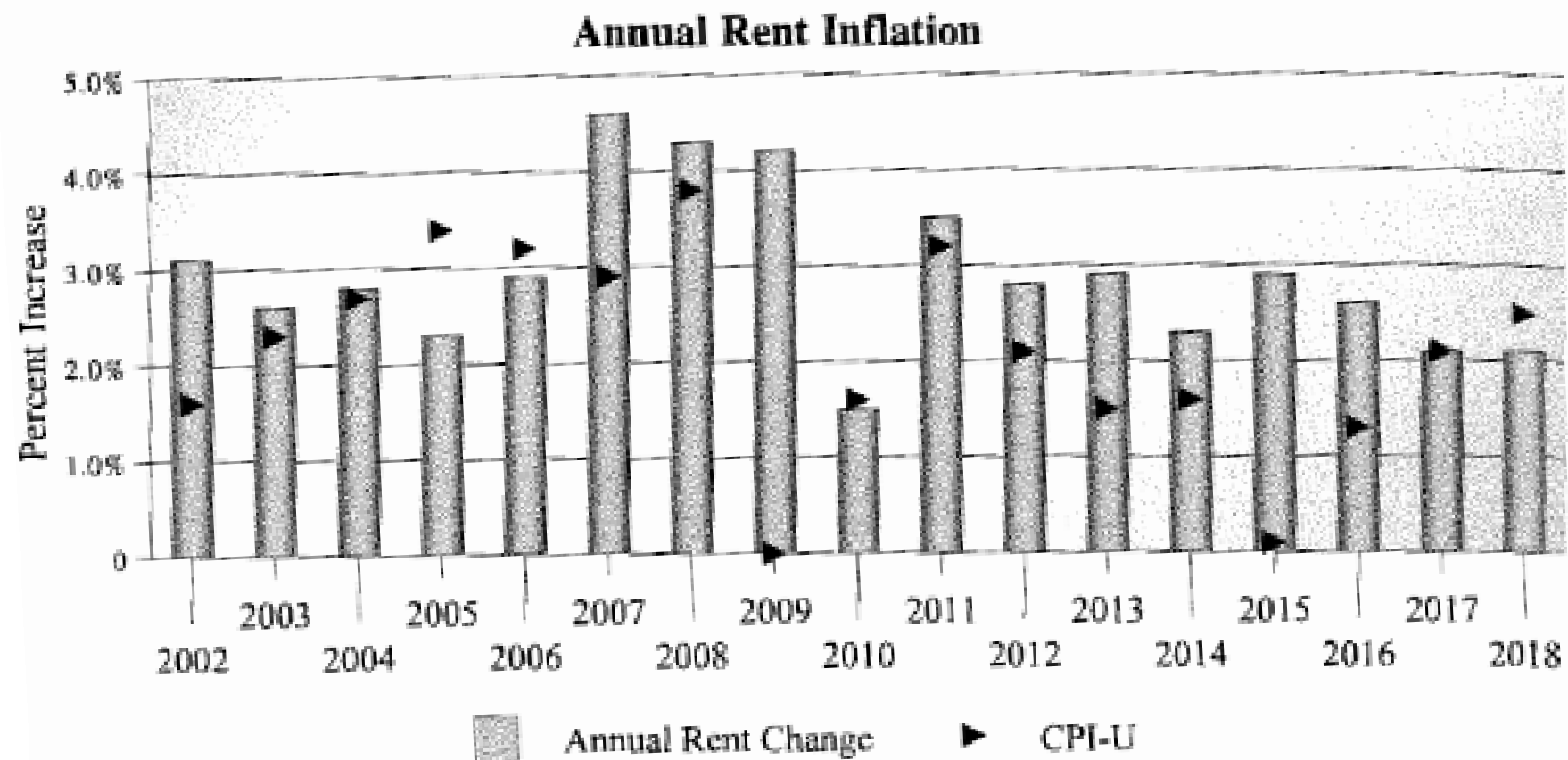
Rent Control

Controversial legacy, rent control 1.0 did not fare well politically, rent control 2.0 focuses on less restrictive rent caps:

- California prohibits more than 5% plus the percentage change in the cost of living, or 10% max.
- Oregon limits increases within any 12-month period to no more than 7% above average change in cost of living.
- Neither California nor Oregon has strict vacancy control, so rent can be reset after a tenant leaves.
 - (Oregon has vacancy control in the case of a 'no cause' eviction that takes place within the first year of tenancy).

Permanently Affordable Housing Stock

- CHT, Cathedral Square, and BHA, alone control approximately 22% of all of the rental housing in the city.
- IZ requires 15% - 25% of the units in market-rate housing development projects above a certain size are permanently affordable.



Average Annual Percent Change: 2008-2017		
Median Household Income	Average Household Income	Average Rent Inflation
1.3%	2.2%	2.9%

Recommendations

1. Improve accessibility of code enforcement data, including properties' CoC ratings and complaint history
2. Strengthen the City's minimum housing standards
3. Assess capacity of existing tenant advocacy resources to meet demand in Burlington; require distribution of educational materials to landlords and tenants

Recommendations

4. Consider an expanded role for Burlington's Housing Board of Review
5. Review 'just cause' eviction standards and consider tenant assistance for 'no cause' evictions
6. Track data on evictions, Housing Review Board decisions
7. Evaluate existing tenant support resources, and assess need for eviction support fund

We would not be here, our neighborhoods would not *need* to be re-vitalized, if the city would simply meet its responsibility to the community instead of serving the landlords who abuse neighborhoods, exploit tenants, and degrade our housing stock.

The problems plaguing neighborhoods are not mysterious problems in need of creative solutions yet to be imagined. The necessary regulatory framework has been gathering dust, largely ignored. If the city would enforce lot coverage limits, follow permit rules, stop sidewalk encroachment, respect the no-more-than-four group quarters provision, and take lead paint laws seriously our blighted neighborhoods would be transformed rapidly and our water quality as well as our quality of life would be dramatically improved.

Our own city attorneys have signed off on deals to turn backyards into parking lots — ignoring lot coverage limits — and to turn single family houses into duplexes — ignoring the rules for duplex conversion: all in the service of landlord profits and to the grave detriment of neighborhoods. Right now we have the city's lawyer contradicting the DRB which followed the law and denied a fifth resident exception because the house was not 2700 square feet or more. The city's attorney is agreeing with the landlord's attorney that the attic space can be used in the calculation because the attic is *not* an attic after all.

Bottom line: our tax dollars pay city lawyers to damage our neighborhoods. Until that changes, until city resources serve neighborhoods and residents, any city pledge to revitalize neighborhoods is a sham.

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
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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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