



June 1, 2020

The Honorable Mitra Jalali  
Councilmember  
City of Saint Paul, Minnesota  
15 Kellogg Blvd W  
Saint Paul, MN 55102

SENT VIA ELECTRONIC MAIL

Dear Councilmember Jalali,

The Saint Paul Area Association of REALTORS® (“SPAAR”) is a professional association representing more than 7300 REALTORS® who live and work throughout the Twin Cities. Many of our members are residents of Saint Paul, and many more work with clients who buy and sell homes in the community. It is our goal is to promote the dream of homeownership throughout the Twin Cities with the highest levels of professionalism and integrity.

On behalf of SPAAR’s Government Affairs Committee, I write regarding Ordinance No. 20-14 (the “Draft Ordinance”) your proposal to create Chapter 193 of the Legislative Code in order to address “historical and ongoing discrimination in housing” which “makes tenant protections a fair housing, racial equity and economic justice imperative,” among other things.

**Just Cause**

*SPAAR opposes Section 195.03 of the Draft Ordinance on the ground that, by prohibiting a landlord from removing any tenant except for “just cause,” it constitutes a substantial intrusion upon the fundamental right to rent real property. Additionally, SPAAR believes this provision has the potential to stifle investment and reduce the market value of rental properties.*

Among the core rights that a property owner has is the right to lease or rent his or her property to another party who, in exchange for payment of rent, acquires a property interest for a specific period. Regulations that deprive a property owner of the right to evict a tenant or to refuse to renew a lease, except for “just cause,” constitute a substantial intrusion upon the fundamental right to rent.

Just cause eviction requirements can have the adverse effect of making landlords more selective in choosing tenants if a local ordinance restricts their right to decide not to renew a lease. For example, a landlord may be less willing to take a chance on a rental applicant who has “red flags” when it comes to leasing property. The landlord may decide that it is not worth the risk to lease to such a tenant, given the just cause requirement for terminating a tenancy. This would run directly contrary to the Draft Ordinance’s purpose of “increasing housing access and affirmatively furthering fair housing.”<sup>1</sup>

The inability to evict tenants limits landlords’ exit opportunities, and the potential illiquidity dissuades investors, “When investment in an uncontrolled (or, at least, more reasonably controlled) private market (including the stock market, for instance) is easily and readily available, there simply is not sufficient incentive for investors to turn to the housing market. A

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<sup>1</sup> Draft Ordinance § 1.



focus on other investments makes more sense”.<sup>2</sup> As a result, the value of rental properties in markets with just cause eviction standards may decrease. The sale of rental units with tenants that can only be evicted for just cause may bring in thirty to forty percent less than the sale of vacant rental units.<sup>3</sup>

*The “just cause” requirement for terminating a tenancy would impair a fundamental right of private property ownership – the right to rent.*

### **Security Deposits**

*SPAAR opposes Section 193.03 of the Draft Ordinance on the ground that capping the amount of security deposits unfairly removes landlord flexibility to determine appropriate security deposits and therefore may discourage landlords from leasing to tenants with troubled rental, legal, or credit histories.*

Security deposits are intended to “remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement.”<sup>4</sup> While tenants with troubled history may have every intent of honoring all rental requirements, giving flexibility to landlords provides them with a safety net and may make it easier for landlords to rent to such tenants.

The City has provided no data to support the need for a cap on security deposits, let alone justification for capping security deposits at one month’s rent. There is no data regarding what amount of security deposit City landlords typically require tenants to provide. And there is no data regarding the extent to which tenants at various income levels would choose not to (or cannot) lease from a landlord based on having to provide more than one month’s rent as security.

*Limiting landlords’ flexibility with respect to security deposit amounts may not actually help persons with troubled history in leasing property.*

### **Rental Screening**

*SPAAR opposes Section 193.04 of the Draft Ordinance considering the apparent lack of evidentiary support for the proposed age of conviction rules.*

As justification for eliminating review of relevant criminal history, the ordinance erroneously characterizes a January 2019 Wilder Foundation report as finding “that the effect of a criminal offense on a resident’s housing outcome declines over time and becomes significant.” In July 2019, Wilder published an updated explanation of the report cautioning policy makers against misapplying and overstating its findings, (emphasis in original) **“We don’t know if the results above can be applied to the rental population as a whole.** This study was intended to inform the policies and practices of the nonprofit housing providers that commissioned the study. ... **We couldn’t control for everything that contributes to housing outcomes, and we don’t know how much this affects our results. ... We don’t know the impact of every kind of criminal**

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<sup>2</sup> Andrea B. Carroll, *The International Trend Toward Requiring Good Cause for Tenant Eviction: Dangerous Portents for the United States?*, 38 SETON HALL L. REV. 427, 475-76 (2008)

<sup>3</sup> Id. at 448-49 (citing *Immobiliare Saffi v. Italy*, App. No. 22774/93, 30 Eur. H.R. Rep. 756, 778 (1999)).

<sup>4</sup> See Minn. Stat. Ann. § 504B.178(3).



**background.”** SPAAR believes the draft lacks basis in research and data which should be a prerequisite to any regulation that impacts over half the city’s population.

*There is no indication as to how the City arrived at these standards for how old a conviction has to be—three years for misdemeanor and gross misdemeanor offenses, seven years for most felonies, ten years for certain more serious felonies—before it can no longer be a factor in deciding whether a tenant application may be rejected.*

## **Conclusion**

*SPAAR urges the City should stay consideration of the Draft Ordinance until there is sufficient data to support these provisions. The City needs to assess the necessity for and the potential impact of each individual provision on the landlord-tenant relationship, and the cumulative effect of the Draft Ordinance as a whole on the landlord-tenant dynamic.*

To the extent that the Draft Ordinance is perceived as tipping the scale too far in favor of tenants, property owners and developers may be discouraged from constructing new rental housing in the City or improving the existing stock of rental housing. Over time, a decline in construction could result in a reduced supply of rental housing, driving up rental prices over the longer term. These additional regulatory requirements will tend to add costs for landlords. It stands to reason that landlords would likely pass on these added costs to tenants in the form of higher rent to the extent that they can.<sup>5</sup> This could have a disastrous effect in Saint Paul, which is in the midst of a housing crisis with only a 2.4% vacancy rate.

SPAAR appreciates your attention to this matter and looks forward to working together to achieving a balanced, equitable ordinance. Please reach out to Khayree Duckett, 319.217.8136 or [kduckett@spaar.com](mailto:kduckett@spaar.com), if we can be of further assistance on this or any other matter.

Sincerely,

Joe McKinley, JD  
Vice President of Advocacy & Community Engagement  
Saint Paul Area Association of REALTORS®

CC: The Honorable Jane L. Prince, Member of City Council  
The Honorable Nelsie Yang, Member of City Council  
The Honorable Rebecca Noecker, Member of City Council  
The Honorable Amy Brendmoen, City Council President  
The Honorable Dai Thao, Member of City Council  
The Honorable Chris Tolbert, Member of City Council  
Noel Nix, Deputy Director of Intergovernmental Relations and Community Engagement

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<sup>5</sup> Frederick Melo, *As St. Paul becomes a city of renters, officials say they deserve more attention*, Twin Cities Pioneer Press (April 23, 2019), available at <https://www.twincities.com/2019/04/22/st-paul-mn-renters-tenants-rights-city-council/>.