

House Committee on Government Operations

RE: H.448

Good policy is evidence-based and developed through an ethical and open process in order to be effective and to minimize unintended consequences. Unfortunately, Burlington eviction policy in H.448 does not live up to this standard; its development was mostly agenda driven and suffered from a lack of objective evidence. As such, the policy amounts to a solution in search of problem. At best, it will have little impact on its stated goals and at worst, it will exacerbate and add to problems already plaguing Burlington rentals. In the paragraphs below you will find details on some of the deficiencies associated with this policy, which should serve as reason to oppose passing this aspect of H.448.

Deficiencies with the subcommittee investigation.

The language in H.448 allowing Burlington to limit reasons for ending a rental relationship to a select list defined by the city – so-called just/good cause eviction - originated in the Community Development and Neighborhood Revitalization (CDNR) subcommittee. The CDNR subcommittee formed to investigate options for improving the community. However, the subcommittee did not do much investigative work with regard to just/good cause eviction. Instead, they relied on evidence from special interests like Vermont Legal Aid and the Burlington Tenants union, which originated the idea in their list of demands [1]. Other relevant stakeholders were not adequately informed and the CDNR went so far as to not allow timely public comment on key aspects of its work as detailed below:

1. Except for special interests like Vermont Legal Aid and Vermont Tenants Union, most stakeholders did not know that the Burlington City Council was considering significant changes to rental law. Most property owners were informed late in the process after debate had concluded and the CDNR intended to vote on sending its proposal to the full city council.
2. Councilor Joan Shannon had asked the Permitting and Inspections Director, Bill Ward, to inform registered property owners that the CDNR was about to vote on the just cause proposal. Progressive activist Charles Winkleman published Councilor Shannon's emails to Bill Ward, alleging a conflict of interest. According to VT Digger, Progressive Councilor Tracy accused Councilor Shannon of crossing a line in response to Winkleman's allegation [2].

There is nothing wrong with adequately informing all stakeholders and indeed, the city lawyer cleared Councilor Shannon of any wrongdoing. However, there is something wrong with minimizing stakeholder knowledge. The reactionary response from Tracy and Winkleman makes clear that they see their agenda driven policies as more likely to pass when the people promoting it are the only people who know about it.

3. The CDNR funded research illegally in a non-public meeting [3] and only to see what other municipalities did while disregarding any research about the impact of such a policy.

4. Since the original meeting on funding the research violated the law, the CDNR had a 'make-up meeting' after the research was completed, but refused to consider funding additional research on the impact of these policies as requested by the public.

Deficiencies exist with the evidence provided in favor of just cause eviction policy.

Most of the evidence provided in support of just cause is found in a memo from Vermont Legal Aid [4]. However, much of it is misleading in that it conflates the non-renewal of a lease with unrelated problems such as discrimination within the application process. Vermont Legal Aid also presents conjecture and anecdotes instead of statistically significant evidence related to Burlington. The following is a list of problems with the evidence presented by Vermont Legal Aid:

1. There are very few no-cause evictions in Chittenden County.

Vermont Legal Aid projects that over five years, 368 filed evictions were due to their lease not being renewed in Chittenden County [4]. Assuming an annual turnover for the nearly 23,000 renters [5], this population represents an absolutely miniscule fraction – only 0.32 % – of rental outcomes in the county.

2. The number of no-cause evictions found by Vermont Legal Aid is merely a projection.

This value is a projection based on statewide data. Vermont Legal Aid presents no data specific to Chittenden County or Burlington that supports this figure and, given Chittenden County's outlier demographics and Burlington's stricter rental regulations with respect to the rest of the state, is potentially inaccurate. As such, the actual number could be less, even zero.

Relatedly, when asked during a town meeting forum:

"Was there any data on the instances of problems with landlords?"

Councilor Chip Mason responded:

"The short answer is no. There was no city specific data to either prove or not prove that this is a problem that merits this type of approach."[6]

Another Councilor, Councilor Ali Deng, also indicated that he has not heard from his constituents that no-cause eviction is a problem in Burlington:

"The families that I know they have never any problem about eviction. [...] but no one has ever come to I'm getting evicted for (unclear) cause, just cause, or no cause."[7]

Additionally, Vermont's eviction rate (0.09% in 2016) is exceedingly small when compared to the national rate (2.34% in 2016) according to Eviction Lab [8], which the CDNR cites [9].

3. Although Vermont Legal Aid asserts that no-cause eviction is discriminatory, they present no empirical evidence showing a relationship between lease non-renewal and problems

in Burlington. On whether no-cause evictions mask discrimination based on race or public assistance, Vermont Legal Aid admits that there is a lack of evidence:

- a. “[...] we do not yet know definitively whether no cause evictions mask race discrimination [...]” [4]
 - b. “To our knowledge, Vermont currently has no state-specific data on housing discrimination based on receipt of public assistance.”[4]
4. In the absence of objective evidence, Vermont Legal Aid relies on anecdotes and conjecture. For example, when asserting that no-cause evictions mask family status discrimination, Vermont Legal Aid says without evidence:

“Because these behaviors rarely rise to the level of a lease violation, landlords often prefer to terminate families’ tenancies for no cause than to manage kid-related conflicts between neighbors.”[4]

Furthermore, anecdotes do not constitute objective evidence [10] and certainly shouldn’t be the basis of law.

5. The empirical evidence that Vermont Legal Aid does provide (one study is on Boston and the other is on Milwaukee) is either unrelated to the topic or incomparable to Burlington.
- a. Vermont Legal Aid cites a Boston study that only shows racial discrimination during the application process, but not for no-cause evictions. As such, the study is unrelated to the topic.
 - b. Both cities are major metropolitan areas that differ vastly from Burlington with regard to demographics and population. Milwaukee is a majority-minority city and has roughly 4 times the population of Chittenden County and 10 times that of Burlington [11]. Boston is also a majority-minority city and has a larger population than the state of Vermont [12].
 - c. The Milwaukee study actually states in their conclusion:

“We note that these findings are limited to Milwaukee, and we welcome future research on other metropolitan housing markets.”

Clearly, the authors do not think it is appropriate to use this work to characterize other municipalities, which is what Vermont Legal Aid attempts to do.

- d. Neither study indicates that there is a problem in Burlington related to eviction.

Additionally, other proponents of the charter change have made statements not supported by the evidence. For example, the Burlington Tenants Union, represented by Christie Delphia, was quoted by VT Digger as saying *“No cause eviction is used to discriminate against people of color”* [13], but the Vermont Legal Aid memo says that they have no evidence of this in Vermont.

There are negative outcomes associated with just cause eviction policy.

Although it appears the CDNR did not make an effort to assess the impact of just cause eviction, there is research that shows that it can cause significant problems. Considering that Burlington has a historically small vacancy rate and high rental prices, it would be prudent to properly research and assess the impact of this policy before implementing it.

In an LSU journal article [14], just cause eviction policy was observed to have caused several problems in various housing markets including:

1. Exacerbates the problem of dwindling housing supply (pg. 447)
2. Decreases the quality of existing rental housing (pg. 454)
3. Encourages inefficient housing allocation (pg. 456)
4. Pushes tenancies into the black market (pg. 458)
5. Increases litigation (pg. 459).

In addition, just cause eviction policy may have other consequences including:

1. Owner requirements on tenant rental and credit history will become stricter, making it more difficult for prospective tenants to find housing.
2. Property owners will increasingly litigate problems that were not serious enough to evict before the end of a lease.
3. More tenants will be evicted and the legal record of the eviction will be available to other property owners (and other entities like employers) as a reason not to rent to them.
4. Just cause makes it difficult to end rental relationships with renters that negatively affect the community.

For example, one property owner said, *“I was sexually harassed by one of my tenants. If that person had perpetual tenancy I would have never been able to get rid of him[...].”*
[15]

Relatedly, in a study on rent affordability [16] it was found that there’s a significant trade-off between tenant protections and rent affordability. The authors developed a tenant-right index and found that a one-unit increase in the index resulted in:

1. A 6.1% increase in rent prices
2. A 2.1% decrease in rental unit supply
3. An 8.9% decrease in vacancy rate

In summary, the Burlington city council relied on biased testimony rather than empirical data pertaining to the city. They cannot show that Burlington has a problem that just cause eviction policy can solve and have not adequately considered the negative consequences of such a policy, some of which exacerbate problems already plaguing the city. Research has shown a correlative relationship between stricter tenant protections and higher rent, lower supply of rentals, and lower vacancy rates. As a result, the proposal will have no benefit, will likely exacerbate existing problems, and will create new problems. As such, I urge you to oppose passing H.448.

About me

I am currently renting out my home in Burlington, while I pursue my Ph.D. with my family in Belgium. The rent I charge only covers my expenses including the mortgage, insurance, and property maintenance; it does not generate profit for me. While Belgium is well known for its strong tenant laws, they are not completely one-sided. For example, property owners are able to request up to 3 months' rent as deposit, which is much larger than Burlington's maximum one-month deposit limit. Furthermore, if a tenant ends a lease early, the property owner is well within their rights to keep the deposit, whereas Burlington requires the property owner to exhaustively search for a replacement tenant before keeping the deposit. Additionally, an interesting side effect of just cause eviction policy in Belgium is that it is common to expect tenants to bring their own kitchen appliances and lighting fixtures. This sort of effect would surely be a burden for tenants in Burlington, since purchasing, maintaining, and moving appliances is not a cheap endeavor.

While I find the goals of just cause eviction laudable, there are many reasons to oppose such a policy in Burlington. In particular, the proposal explicitly eliminates lease end-dates as a justified reason to end a rental relationship. This prohibition removes a vital way for ending an unhealthy business relationship and requires one to rent to an individual perpetually. This is clearly unnecessary because I would only want to change tenants if the tenant is causing a problem (smoking in the house, repeatedly leaving the stove on, disturbing the neighbors, etc...). If the tenant follows the rules, as former Councilor Brian Pine says, I would absolutely continue to rent to them, as it would be in my interest to. Moreover, if I need to evict a problem tenant due to this policy, it would require resources I do not have to take my tenant to court and proof that is hard to come by.

Sincerely,

Richard P. Ketcham

Burlington, Vermont

- [1] Burlington Tenants Union, "CDNR - List of Demands." Feb. 2020. Accessed: Jan. 22, 2022. [Online]. Available: https://www.burlingtonvt.gov/sites/default/files/CDNR%20-%20Burlington-Tenants-Union_2_7.pdf
- [2] G. Elletson, "Housing experts skeptical about dire projections for massive evictions," *VT Digger*, Oct. 28, 2020. <https://vtdigger.org/2020/10/28/housing-experts-skeptical-about-dire-projections-for-massive-evictions/> (accessed Jan. 22, 2022).
- [3] C. Lamdin, "A Just Cause? Landlords, Tenants Battle Over Burlington Eviction Proposal," *Seven Days*, Feb. 15, 2021. Accessed: Mar. 07, 2021. [Online]. Available: <https://www.sevendaysvt.com/OffMessage/archives/2021/02/15/a-just-cause-landlords-tenants-battle-over-burlington-eviction-proposal>
- [4] D. Ayers, E. Johnson, and Vermont Legal Aid, "CDNR - FINAL Just Cause Eviction Burlington Memo." Jul. 14, 2020. Accessed: Jan. 22, 2022. [Online]. Available: https://www.burlingtonvt.gov/sites/default/files/CDNR%20-%20FINAL%20Just%20Cause%20Eviction%20Burlington%20Memo_1.pdf
- [5] P. Bowen, "Chittenden County Housing Needs Assessment," 2020. Accessed: Jan. 22, 2022. [Online]. Available: <https://accd.vermont.gov/sites/accdnew/files/documents/Housing/H-Research-HousingNeedsChittenden.pdf>
- [6] Town Meeting TV, *Councilor Chip Mason - Opposing the Just Cause Eviction Ballot Item*, (Feb. 11, 2021). Accessed: Jan. 22, 2022. [Online]. Available: <https://www.youtube.com/watch?v=WvvK68PclSY&t=867s>
- [7] Town Meeting TV, *Councilor Ali Deng - City Council Meeting*, (Nov. 23, 2020). Accessed: Jan. 22, 2022. [Online]. Available: <https://www.youtube.com/watch?v=wuMYGb9AR8s&t=16913s>
- [8] Eviction Lab, "Eviction Map & Data," *Eviction Lab*. <https://evictionlab.org/map/> (accessed Jan. 22, 2022).
- [9] CDNR, "Frequently Asked Questions about Just Cause Eviction." Burlington, 2020. Accessed: Jan. 22, 2022. [Online]. Available: https://www.burlingtonvt.gov/sites/default/files/CDNR%20-%20Just%20Cause%20Eviction%20FAQ%20v.2_0.pdf
- [10] Rationable, "What is Evidence? Part 2: Anecdotal Evidence," *Medium*, Jul. 12, 2020. <https://medium.com/@berationable/what-is-evidence-part-2-anecdotal-evidence-fe4dfc8970c2> (accessed Jan. 22, 2022).
- [11] J. Diebel, J. Norda, and O. Kretchmer, "Race and Ethnicity in Milwaukee, Wisconsin," *StatisticalAtlas.com*. <https://statisticalatlas.com/place/Wisconsin/Milwaukee/Race-and-Ethnicity> (accessed Jan. 22, 2022).
- [12] J. Diebel, J. Norda, and O. Kretchmer, "Race and Ethnicity in Boston, Massachusetts," <https://statisticalatlas.com/>. <https://statisticalatlas.com/place/Massachusetts/Boston/Race-and-Ethnicity> (accessed Jan. 22, 2022).
- [13] G. Elletson, "Eviction protection charter change passes out of Burlington City Council committee," *VT Digger*, Nov. 04, 2020. <https://vtdigger.org/2020/11/04/eviction-protection-charter-change-passes-out-of-burlington-city-council-committee/> (accessed Jan. 22, 2022).
- [14] A. B. Carroll, "The International Trend Toward Requiring Good Cause for Tenant Eviction: Dangerous Portents for the United States?," *Louisiana State University Law Center*, vol. 142, 2008.
- [15] Town Meeting TV, *"I was sexually harassed by one of my tenants." - Opposing the Just Cause Eviction Ballot Item*, (Feb. 11, 2021). Accessed: Jan. 23, 2022. [Online]. Available: <https://www.youtube.com/watch?v=WvvK68PclSY&t=492s>
- [16] N. E. Coulson, T. Le, and L. Shen, "Tenant Rights, Eviction, and Rent Affordability," Social Science Research Network, Rochester, NY, SSRN Scholarly Paper ID 3641859, Jul. 2020. doi: 10.2139/ssrn.3641859.