



Memo

Date: August 5, 2019

To: Lisa Herbold, Chair of the Civil Rights, Utilities, Economic Development, and Arts Committee
Kirstan Arestad, Executive Director, City Council Central Staff

From: Nathan Torgelson, SDCI Director
Faith Lumsden, SDCI Code Compliance Division Director
Geoff Tallent, SDCI Rental Housing Programs Manager

Subject: Response to SLI 33-5-A-2-2019 on how to address rental housing habitability issues on a faster timeline

Request: The Statement of Legislative Intent (SLI) 33-5-A-2-2019 requests that “the Seattle Department of Construction and Inspections (SDCI) research and recommend ways, both within SDCI and external to SDCI (either internal to the City or in a court proceeding), that renters can have habitability issues addressed on a faster timeline. The response should include strategies or new mechanisms to speed up the process for addressing habitability issues generally, and for an emergency system or proceeding to resolve issues when a notice of eviction related to habitability issues is filed. In addition, the response should address staffing and other resources that would be necessary to stand up each of these strategies.” (Emphasis added).

Response: SDCI first considered how to define a habitability issue and reviewed the wide range of complaints we investigate under the Housing and Building Maintenance Code (Housing Code). We concluded that any Housing Code violation raises habitability issues. The severity of those issues, however, varies greatly. The Department reviewed existing practices and found one practice that we could change administratively to provide faster responses. We also have two recommendations for other changes that can help tenants who are dealing with habitability issues or facing other termination of their tenancies.

- A. **Emergency habitability issues.** SDCI currently responds to Housing Code emergencies within one working day. We define Housing Code emergencies as severely deficient housing conditions such as lack of heat during cold weather conditions, lack of power, water, sewer service or other conditions that expose a tenant to the elements or pose a severe health or safety risk. This system of top priority response works well and in cases where the condition is not remedied quickly, SDCI can require emergency relocation assistance for tenants. We do not have any recommendations for change to this emergency Housing Code response system.

Non-emergency habitability issues. Most violations of the Housing Code do not reflect emergency conditions but do raise issues under a broader definition of “habitability.” SDCI contacts most complainants within ten calendar days for non-emergency Housing Code complaints. Inspections are then scheduled and happen within another ten to 14 calendar days. Occasionally, SDCI receives a request from a tenant or a tenant’s attorney asking for a faster response because they are facing an eviction action. In these cases, SDCI responds more quickly. This is currently an informal response, typically driven by a call from a tenant attorney.

- **Recommendation #1:** SDCI is committed to developing an administrative change to our complaint intake procedures to ask any person calling with a Housing Code or Landlord Tenant issue whether they have received a notice about termination of their tenancy. In these cases, we would prioritize the response to inspect within three working days. If the inspector verifies Housing Code violations, a Notice of Violation (NOV) would be issued and could help a tenant or the tenant’s representative negotiate with the landlord. If the tenant is in court, the NOV would document code violations.

Under newly adopted state law, tenants have 14 days to respond to pay or vacate notices. Assuming SDCI receives the inspection request early in a termination of tenancy process, our inspection can be completed well before a court date. With the NOV showing evidence of substandard conditions at a unit, judges can exercise discretion to reduce the amount of rent or other fees owing. In addition, judges may now be able to forestall eviction and keep a tenant in their unit. By improving response time in these cases, habitability issues can be raised and may help balance out the landlord-tenant relationship, both in court and in pre-court or non-court termination of tenancy actions.

Staffing and fiscal impacts: No ordinance change is required. Changes are needed to the intake procedures and webforms, however, and the costs of those changes need to be fully identified. It is also possible that elevating the priority of more complaints to put those cases ahead of others for the inspectors and the Property Owner and Tenant Assistance group will complicate efforts to ensure timely responses for other cases such as tree cutting, non-emergency housing complaints, renter questions from the Renting in Seattle line, and other neighbor complaints. Overall, complaints to Code Compliance are up 15% through June 2019 over the same period last year. It is possible that this change could compound an already challenging increase in workload.

- B. **Prevent court actions.** SDCI explored the possibility of requiring landlords to correct all Housing Code violations before initiating an unlawful detainer action, but SDCI was unable to construct a feasible method to administer that requirement. SDCI would have difficulty determining when exactly a problem appeared and who or what caused the problem, both of which would be necessary to successfully administer that requirement. We see an opportunity, however, to improve the existing regulation that requires RRIO registration before an owner may evict a residential tenant.

Currently, compliance with the RRIO registration requirement is determined immediately prior to issuance of a court order or writ of restitution. As a result, SDCI has seen landlords registering a property with RRIO immediately before court or even during a short recess in the middle of a court hearing. As egregious as this may seem, that meets the requirement for RRIO registration. Most tenants, however, do not want to go to court. For them, the current approach does not prevent the termination of a tenancy prior to fulfilling the RRIO requirements. A more protective approach would require compliance with RRIO registration before a landlord issues any notice to terminate a tenancy. RRIO registration can highlight the need for improvements or corrections to housing conditions. If required registration is not complete, any notices to terminate and any court action would need to be re-issued or re-started. This would give more time for tenants to comply or find other housing options and would result in faster improvement to housing conditions.

- Recommendation #2: Amend the Just Cause Eviction Ordinance to prohibit issuance of any notice to terminate tenancy unless the requirements for RRIO registration have been met. Conform the parallel provisions in the RRIO Ordinance to match the revised Just Cause provision. The Department is currently working to address this issue through a potential change in the Just Cause and RRIO ordinances. This change has minimal staffing impacts.

- C. Improve tenant knowledge. Effectively communicating the rights and protections offered to tenants is an ongoing and challenging task. Our current efforts include improvements and updates to the Renting in Seattle website, staffing neighborhood events at community centers and having information booths at job fairs and food banks. We do direct outreach to new Housing Choice Voucher recipients with the Seattle Housing Authority. We also do quarterly landlord trainings. SDCI has also begun to work with tenant services organizations via contracts funded in the 2019 Budget. We emphasize to these service organizations the importance of communicating tenant rights and responsibilities, especially regarding the services available from City departments. Landlords, of course, have the most direct communications with tenants and those communications provide a good opportunity to improve awareness of the rights and responsibilities of tenants and landlords.

- Recommendation #3: Improve tenant and landlord knowledge of rights and responsibilities by requiring notices to include a reference on how to obtain information on landlord-tenant issues and reach City resources. This would apply to notices to pay or vacate, comply or vacate, otherwise terminate a tenancy, allow a landlord or agent to enter a unit, and to notices of rent increases. Early access to information and assistance can often help settle disagreements and keep tenants from winding up in a court setting. The city is currently working to address this issue through potential change in the prohibited acts section of the Housing Code.

Staffing and Fiscal Impacts: SDCI will need to update its outreach materials, training curricula, and outreach workplan. We will work closely with the tenant services organizations under contract with us, including the Tenants Union, Washington CAN, the King County Bar Association (Housing Justice Project), Solid Ground, the Tenant Law Center,

Somali Community Services, and InterIm CDA. We also have good contacts with the Rental Housing Association of Washington, the Washington Multi-family Housing Association, and many low-income housing providers. SDCI will include these organizations in our outreach efforts. The materials and outreach efforts will need to include translated information to reach communities who are less proficient in English. The Renting in Seattle program has a limited \$12,000 per year for materials production, maintenance, and translation, so we will need to work as efficiently as possible within this budget.