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February 18, 2020

Delegate Kumar P. Barve, Chairman
House Environment and Transportation Committee
Lowe House Office Building, Room 251
6 Bladen Street
Annapolis, Maryland 21401

Re: **HB 491 - LANDLORD AND TENANT - REPOSSESSION FOR FAILURE TO PAY RENT – PROCEDURE FOR LEAD-AFFECTED PROPERTY – SUPPORT WITH AMENDMENTS**

Dear Chairman Barve and Members of the Committee:

The Green & Healthy Homes Initiative (GHHI) writes in support of HB 491. GHHI has a long-standing history of advocating for families and children on the important issue of lead poisoning prevention. We provide multiple services including legal representation to tenants in rent court and compliance assistance for rental property owners.

In 2004, HB1245 – The Clean Hands Bill was passed to require that rental property owners who were collecting rent through the Failure to Pay Rent Complaint process in District Court had to demonstrate that they were in compliance with Maryland’s rental registration and lead inspection certification requirements. The law was passed to improve compliance rates of affected rental properties following a University of Maryland Law School report that analyzed 1,000 pre-1950, occupied rental properties that were the subject of current Failure to Pay Rent Complaints in Baltimore City District Court found that **77%** were not in compliance with the state law. That law has been effective in helping improve compliance rates, but there are deficiencies in the current law related to rent court that need to be corrected through HB 491.

Problem That Needs to be Addressed

In order to improve the law’s effectiveness at increasing registration and lead inspection certification compliance rates of affected properties with the Maryland Reduction of Lead Risk in Housing Law and to instill that rental property owners are proactive and obtain a certificate prior to a tenant’s occupancy, we need to strengthen the District Court’s role in helping to make sure that rental property owners who use the state funded and sanctioned Failure to Pay Rent process are legally renting their properties. During GHHI’s years of legal representation of tenants in District Court in Baltimore City and across the state, it is not uncommon to represent tenants who reside in affected properties and are facing District Court eviction proceedings but:

- The affected property lacks a valid lead inspection certificate and/or is not annually registered.

- The Failure to Pay Rent Compliant has been filed without a lead inspection certificate number listed or the number provided is an invalid, expired or fraudulent certificate number and there is no recourse for tenants to raise the issue at trial as the current law is written.
- The District Court judge is unsure whether they should dismiss Complaints where the Inspection Certification line on the Complaint is blank.
- The District Court judge states that they cannot hear evidence on the property's lack of registration or inspection compliance due to current language in Real Property Article Section 8-401.

Requested Bill Amendment

HB 491 would address these shortcomings in the current court process fully provided that an amendment is included to permit judges to be able to weigh evidence regarding an owner's registration and lead inspection certification compliance for their affected rental property. GHHI requests the following amendment to the Bill:

On page 5, line 20, revise language to: "the court may adjourn the trial for a period not exceeding [14 days]"

Further, we request the Baltimore City Local Provisions 9-2 and 9-5 be struck and removed.

Solution the Bill Provides

HB 491 fixes the problems described by:

1. Giving District Court judges the ability to review evidence on the registration and inspection compliance of the rental property and in meeting the requirements of Real Property 8-401.
2. Allowing rental property owners time to return to Court following a postponement and provide proof of their lead inspection certification and registration for the affected property if necessary.
3. Providing clear direction to District Court judges that they have the authority to dismiss Failure to Pay Rent Complaints where landlords cannot show compliance and/or after the case has been postponed.

In 2015, a *Justice Diverted* report by The Public Justice Center and Maryland Legal Aid Bureau captured the struggles of many tenants in rent court, which found nearly 60% of Baltimore renters who appeared in these cases could have raised legal defenses based on defects in their home that were a threat to life, health, or safety, but only 8% succeeded. Due to studies and other identified issues, a 2016 Rent Court Summer Study Group of various stakeholders was convened to take a deeper look into the issues. GHHI participated in this Workgroup which was an expansion of the monthly Baltimore City Work Group focused on similar issues.

HB 491 addresses some of the concerns raised by represented groups at the prior Summer Study Group, which focused on codifying actual practice and extending postponements beyond one (1)

day to allow for owners to present evidence of lead inspection compliance. The Group believed that the postponement could help both sides properly prepare for contested trials regarding providing copies of lead certificates, registration information, rental ledgers, and procuring witnesses if necessary. For example, if the property owner fails to bring the lead certificate to court, the court may grant a postponement to accommodate the need of the property owner to retrieve their copy.

Note: While it has been argued that allowing evidence to be presented on compliance will cause substantial delays in the daily rent court docket, it has not been the actual experience or practice that compliance determinations require a lengthy process for the judge to resolve nor has it delayed the courts in any measurable way.

We support HB 491 to promote lead safe housing for tenants. The Maryland Reduction of Lead Risk in Housing Law has helped produce a 98% decline in childhood lead poisoning, but there remain numerous non-compliant properties that contain serious lead hazards. Further, various research studies have shown that non-compliant landlords who failed to meet Maryland's registration and lead risk reduction measures were still able to prevail in Failure to Pay Rent Complaint hearings. Rental property owners who are not responsible in maintaining proper MDE registration and valid lead inspection certificates for affected properties should not be allowed to use our courts.

HB 491 provides needed reforms and strengthens the rent court process so that it is fair to all parties and does not require that tenants, who are typically pro se, have legal representation in District Court in order to expect that their rental home will be treated and inspected to meet Maryland's requirements.

WE ASK YOU TO SUPPORT HB 491 WITH AMENDMENTS.

Respectfully Yours,



Ruth Ann Norton
President and CEO

