

HOMELESS PERSONS REPRESENTATION PROJECT, INC.

SB 0946 - Landlord and Tenant – Failure to Repair Serious and Dangerous Defects - Tenant Remedies (Tenant Safety Act)

Hearing of the Judicial Proceedings Committee, Mar. 7, 2024

Position: SUPPORT (FAV)

The Homeless Persons Representation Project, Inc. (“HPRP”) is a non-profit civil legal aid organization providing free legal aid to those suffering from homelessness or at risk of homelessness on legal issues that eliminate barriers to becoming or remaining housed. HPRP regularly provides representation on landlord-tenant matters in Baltimore City, Montgomery County, and Prince George’s County and advocates for continued housing of those at risk of homelessness across Maryland.

HPRP support **SB 0946, the Tenant Safety Act**, to help tenants hold landlords accountable for refusing to fix severe conditions of disrepair that threaten their life, health, or safety.

Today, In Maryland there are many more renting families suffering with uninhabitable living conditions than the number who file a court complaint seeking “rent escrow” – where the rent is placed into escrow with the court until repairs are made. Some tenants do not file a rent escrow complaint by themselves out of fear of landlord retaliation or because they have no legal counsel to guide them through the process. Some do not have all of the rent that the landlord claims is past-due. Others have no confidence that the court will provide them any relief or require the landlords to make repairs.

Advocacy and representation in matters involving conditions issues are a common occurrence in HPRP’s housing work. Many times, these issues are not directly communicated to HPRP as the primary issue that tenants desire legal assistance with. Instead, these issues are spotted through continued client conversations. This is because tenants, in addition to the scenarios listed above, in many instances simply do not know they have legal recourse for the conditions they suffer. Specifically, in HPRP’s Homeless Youth Initiative, many of the condition issues suffered by young tenants are only uncovered after they express their frustrations and/or confusion regarding their duty to pay rent. **SB 0946** could not only bring those who are unaware of their rights into reasonable litigation which may lead to habitable housing but could also be a means to further educate tenants on their rights through experience with such litigation. More importantly, these conversations really highlight how ubiquitous it is that our clients are suffering from horrible and inhabitable conditions. We also discover, that many condition issues can span across the property, properties and landlords.

Moreover, a [2016 investigative report by the Baltimore Sun found that the rent escrow system is broken](#). Even when renting families do overcome the initial obstacles to filing for rent escrow, **the Court reduces the rent and provides immediate relief to renters in only 6% of cases.**

As a result, Maryland is on pace to see only 1,959 “rent escrow” complaints filed by tenants against landlords in 2023, yet there are over 66,500 severely or moderately inadequate rental housing units in Maryland. **Many landlords are not being held accountable for repairing major conditions of disrepair that impact not only renting families but entire communities that suffer from the resulting blight.**

This lack of accountability permeates through the current state of Maryland’s current housing stock. In its 10 Year Needs Assessment, the Department of Housing and Community Development, states housing

quality concerns as a major concern in all high need areas across every single region in Maryland.¹ A large majority of Maryland's housing stock was built prior to 1980. The data regarding occupancy rates and high rates of mobility illustrate, for DHCD, the need to focus on the quality of the housing stock in every region in Maryland.² This is not an issue affecting only one region of Maryland. **SB 0946** would provide an ideal mechanism to positively respond to the housing quality concerns stated by DHCD across the state.

Moreover, **SB 0946** would be an effective legal tool to respond to infestation conditions which riddle many multifamily units across Maryland, specifically Baltimore City. Often when confronted with infestation issues, landlords do the work minimal amount of work to bring one unit into compliance. This may include sealing holes, setting traps, etc. Although that specific unit's issue is now resolved, another unit now suffers the consequences of those repairs and may struggle with its own infestation. The underlying problem remains. **SB 0946** would bring those units under one claim and encourage the landlord to resolve the underlying problem. Thereby, making the entire property safe and habitable for all tenants. This would not only benefit the tenants but also the court by increasing judicial efficacy.

The Tenant Safety Act will do 5 things to make rent escrow work and hold landlords accountable:

1. **Join Similar Rent Escrow Cases Together.** Make it easier for tenants with the same repair issues and same landlord to join in a single rent escrow case under the Court's existing rules on "joinder." There is strength in numbers when neighbors can work together to hold their landlord accountable.
2. **Reset Expectations.** If a landlord refuses to make repairs, then normally a tenant should pay into escrow a reduced rent (by 50% in most cases) going forward until repairs are made. This will help tenants who do not have the full amount that the landlord claims is past-due to still hold the landlord accountable. This will also incentivize landlords to quickly make repairs to avoid losing rent. At the end of the case, the Court will decide how much is due to each party.
3. **Warranty of Habitability.** For claims of past-due rent, clarify that tenants should *not* have to pay the *full* amount of rent if the landlord refused to make repairs by codifying the "warranty of habitability" that already exists in Maryland law.
4. **Mold.** Clarify that when a tenant can show that mold is a severe threat to life, health, or safety, the tenant should be able to file for rent escrow.
5. **Level the Playing Field with Attorney's Fees.** Allow a tenant to recover attorney's fees and costs if they win the case. Most landlords already have a lease provision for attorney's fees if they win. With this addition to rent escrow law, more attorneys will take rent escrow cases for tenants and help level the playing field.

HPRP is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on SB 0946**. If you have any questions, please contact: DiNesha Rucker at drucker@hprplaw.org or (410) 449-2982.

¹ See Appendix G, Maryland Housing Needs Assessment & 10-Year Strategic Plan, p.15
https://dhcd.maryland.gov/Documents/Other_Publications/Report.pdf (last visited February 22, 2024).

² See *id.*