

Fw: "Just Housing" Rule-Making Task Force

Cherie Travis <cherietravis@msn.com>

Tue 4/30/2019 9:20 AM

To: Adam Newman <anewman@suffredin.org>

Thanks, Adam!

From: Cherie Travis

Sent: Friday, April 26, 2019 7:44 AM

To: lsuffredin@aol.com; brandon.johnson@cookcountyl.gov

Subject: "Just Housing" Rule-Making Task Force

Commissioners:

As I explained at yesterday's Board meeting, I am an attorney, landlord and real estate investor who wants to be involved in the discussion of the Just Housing ordinance. I have been a vocal advocate for ex-offenders and have volunteered my time at Expungement Summits. I would like to make sure that the Ordinance accomplishes your goal without unduly punishing small, unsophisticated landlords.

Please consider this my request to serve on the Rule-Making Task Force.

Thanks very much,

Cherie Travis
1739 N. Mozart
Chicago, Illinois 60647
630-667-5085 cell

Fwd: Chicagoland Apartment Association - JHO (Concerns + Rules Language)

Larry Suffredin <lsuffredin@aol.com>

Tue 6/11/2019 9:49 PM

To: Adam Newman <anewman@suffredin.org>; Mary Rita Luecke <mrluecke@suffredin.org>

2 attachments (219 KB)

CAA - Rules Languages - JHO.pdf; CAA - Concerns - JHO.pdf;

Sent from my iPhone

Begin forwarded message:

From: Tom Benedetto <tom@caapts.org>**Date:** June 11, 2019 at 3:28:57 PM CDT**To:** "brandon.johnson@cookcountyil.gov" <brandon.johnson@cookcountyil.gov>, "lsuffredin@aol.com" <lsuffredin@aol.com>, "Bridget Degnen (Board of Commissioners)" <Bridget.Degnen@cookcountyil.gov>, "bridget.gainer@aon.com" <bridget.gainer@aon.com>, "Dennis.Deer@cookcountyil.gov" <Dennis.Deer@cookcountyil.gov>, "john.daley@cookcountyil.gov" <john.daley@cookcountyil.gov>**Cc:** "Clinee.hedspeth@cookcountyil.gov" <Clinee.hedspeth@cookcountyil.gov>, "Tara Meyer (Board of Commissioners)" <Tara.Meyer@cookcountyil.gov>, "Shantenae Robinson (Board of Commissioners)" <Shantenae.Robinson@cookcountyil.gov>, "Lori Probasco, Board of Commissioners" <Lori.Probasco@cookcountyil.gov>, "district10@cookcountyil.gov" <district10@cookcountyil.gov>, "john.roberson@cookcountyil.gov" <john.roberson@cookcountyil.gov>, MKM <MKM@MKMservices.com>, Michael Mini <mike@caapts.org>**Subject:** Chicagoland Apartment Association - JHO (Concerns + Rules Language)

Greetings Cook County Commissioners,

Thank you for the productive conversation last week. On behalf of CAA, I have attached two items to this message for your review regarding JHO: (1) proposed Rules language and (2) a list of members' concerns with the Just Housing Ordinance as written. *Please note that these documents constitute CAA's initial list of concerns and draft language, and our association may supply additional language as the rule-making process continues.* We look forward to reviewing Rules language as it becomes available.

Thank you,

Tom Benedetto MPP

Legislative Analyst

Chicagoland Apartment Association

557 W Randolph Street, Ste 201

Chicago, IL 60661

312-207-1890 ext. 7

630-849-7331 mobile

www.caapts.orgtom@caapts.org



The Recognized Leader and voice dedicated to serving the needs of the apartment industry through advocacy, education and networking.

June 11, 2019

Director N. Keith Chambers
Cook County Department of Human Rights & Ethics
69 W. Washington St.
Chicago, IL 60602

Director Chambers:

Thank you for meeting with the Chicagoland Apartment Association to discuss the multifamily housing industry's concerns with Ordinance #19-2394 ("Just Housing"). CAA members appreciate your department's commitment to collaborating with stakeholders in the rule-making process and look forward to continued discussions to ensure the rules which govern the ordinance guarantee fairness to apartment applicants and owners.

As we discussed, CAA is proposing language for the ordinance's rules below. These points *would satisfy our members' initial concerns* with the ordinance while maintaining the goals and intentions of Ordinance #19-2394:

- Provided that policies are universally applied to all real estate transactions, an owner, person, or firm's policies regarding *sufficient notice, certain conviction history, individualized assessment and opportunity to dispute* may be developed by the entity which oversees and ultimately approves the transaction in question.
 - *Note: While the Commission may be considering compelling property owners to maintain an explicit policy outlining "look back" periods for criminal history, time frames regarding an applicant's opportunity to dispute, and other items, CAA is requesting that those policies be developed by an owner, person, or firm overseeing real estate transactions in order to honor the diversity of size, location, unit type, and ownership of apartment properties in Cook County.*
- Applications which define, at least in part, any policy regarding *individualized assessments* for prospective tenants, satisfy the *sufficient notice* provision. However, the *sufficient notice* provision can otherwise be satisfied by an owner without expressly defining a policy in the application process.
- The determinations and definitions of *relevance, relevant and demonstrable risk to personal safety and/or property of others affected by the transaction* are ultimately defined by an entity's own *individualized assessment process*.

With respect to transparency and stakeholder collaboration, this letter and its contents may be shared with other stakeholder groups engaged in the rule-making process. To this end, CAA expects reciprocity as has been discussed. CAA also expects to offer additional rules language and suggestions as the process continues.

Best regards,

Tom Benedetto
Legislative Analyst, CAA

Just Housing Ordinance

CAA Member Feedback and Concerns

The Chicagoland Apartment Association (CAA is an affiliate of the National Apartment Association and we represent the owners and managers of over 1000 apartment communities and approximately 140,000 rental units in Cook County. To enhance industry compliance with the Just Housing Ordinance (JHO), CAA requests consideration of our members initial concerns and suggestions with the ordinance as passed.

PLEASE NOTE, THESE ARE AN INTIAL LIST OF QUESTIONS FROM CAA MEMBERS AND DO NOT CONSTITUTE THE ENTIRETY OF OUR MEMBERSHIP'S QUESTIONS THUS FAR:

1. CAA members request clarity from Cook County to ensure their current *individualized assessment processes* are now compliant with both HUD and JHO.
 - Owners understand they will need to remove the criminal conviction/history “box” on the application pre-screening.
 - Definition of “recency” “relevancy” are requested (“*Individualized Assessment*” clause)
2. CAA members have difficulty conceptualizing an acceptable or plausible notification process, of which owners and managers will be required to complete separately for each step of the bifurcated screening process.
 - Do application addendums which outline an individualized assessment process/appeal process improve the prospect of providing ‘sufficient notice’ and a fair ‘opportunity to dispute’?
 - In the interest of fairness for all applicants and current tenants, the less burdensome (and costly) the process is for a property manager or owner, the more affordable an apartment can remain and the quicker a family can move into a new unit. All processes will differ and vary by ownership.
3. The organizational structures of multifamily housing providers (who utilize third party screening companies) should be considered, as well as adding more definition in the process for communicating a rental decision in section (8) (e) (2) (b)
 - The potential for hostility regarding a rental decision (i.e. notifying a tenant of conditional acceptance, only to deny them later) puts on-site staff in danger. Most on-site employees are neither privy to the application decision nor the criteria weighed and used prior to final determination. Instead, in most cases they are merely given the final decisions to administer to applicants.
 - Current HUD rules state that HUD-assisted and subsidized owners must inform any rejected applicant of the opportunity to respond in writing or to request a meeting. And the meeting *must be conducted by a member of the owners’ staff who did not make the original rejection decision.* (HUD Handbook 4350.3, note 5, 4-9 (D)(1)).
 - While this HUD rule currently only applies to federally-funded housing providers, the commission may note that having one person/group make the determination and another conduct the appeal is already a standard for many housing providers in Cook County.

Tom Benedetto, Legislative Analyst

tom@caapts.org 312-207-1890 ext. 9

- On-site employees would not have the capacity to ‘pause’ a coterminous, non-bifurcated screening of an applicant via an electronic process (many local data companies do not have this capacity either).
 - Bifurcation requires a substantial operational overhaul by screening companies and apartment owners, and therefore maximum clarity and explanation is necessary.
4. To improve compliance, a general rule that owners should have policies regarding time frames for duties of the owner and tenant under (e) *Notice and Opportunity to Dispute Conviction History*. Overall clarity in subsections (e) 1, 2a, & 2b is requested.
- In the interest of fairness for all parties, CAA requests a rule that owners set their own policies regarding time given to applicants to appeal rental decision by providing information pertaining to one’s criminal history.
 - Definitions in section (8) (e) (2) (a) which may improve compliance include “accuracy” and “relevance” (the former of which is governed by the Fair Credit Reporting Act, the latter of which is considered by an owner before denying admission)
 - Clarity is needed on whether appealing tenant can be placed on a waiting list until dispute is resolved, or if an owner has to hold a specific apartment unit until dispute is resolved.
 - This process is currently different for each apartment complex (most owners move appellee to top of waiting list if tenancy decision is reversed upon appeal and must know if this is still acceptable).
 - Because the price of many market-rate units are assessed daily (known as “daily pricing”) a price adjusted during an appeal period may require tenant requalification.
5. Application addendums that outline an owner’s individual assessment process
- Our association believes this advance notice would both improve the prospect for providing ‘sufficient notice’ and a fair ‘opportunity to dispute’ and expedite the overall appeal process.
 - CAA would be opposed to *requiring* these addendums, but our members have discussed the inclusion of these addendums to achieve the aforementioned goals of expedition and fairness.
 - Owners and managers have a moral, legal, and financial responsibility to protect current tenants from “demonstrable risk,” and therefore, rules regarding internal “exceptions” policies may assist for property owners and managers to understand and adhere to.
6. Definitions or further clarifications that would improve compliance with (e) *Notice and Opportunity to Dispute* include “sufficient notice” “opportunity to dispute” “notice” “accuracy and relevance” “tenant selection criteria” “in writing”
7. When considering liability or damages under the JHO, CAA members are hopeful the Commission would consider in mitigation thereof the steps the landlord took to correct its initial noncompliance with the ordinance.

Fwd: Just Housing Amendment: Public Comments Open

Larry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:49 AM

To: Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: Rachel Contos <rachel@suburbancook.org>
Date: July 2, 2019 at 8:45:16 AM CDT
To: lsuffredin@aol.com
Subject: Just Housing Amendment: Public Comments Open
Reply-To: rachel@suburbancook.org

Submit a public comment TODAY to support the Just Housing Amendment

Because of your help, we had a major victory on April 25th with the passage of the Just Housing Amendment, an **amendment that will provide critical housing protections to approximately 1 million Cook County residents** with arrest and conviction records. We know that housing rights are at the core of stabilizing individuals, families, and communities.

We are reaching out today because **the Cook County Commission on Human Rights has opened a public comment period (that closes this Friday!)** about the Just Housing Amendment in advance of their rulemaking process. This means that demonstrating support for Just Housing is absolutely vital to ensure that the Commission's rules will uphold the spirit of the Just Housing Amendment.

We are urging you to take the following 4 action steps this week to stand up for Just Housing:

- 1) Review the [JHI sign-on letter](#) drafted by the Shriver Center on Poverty Law and reply directly to Marie Claire Tran Leung at Shriver (marieclairetran@povertylaw.org) by COB Wednesday July 3rd if your organization can sign on.
- 2) See the [comment template letter](#) and revise with your organization-specific language and submit directly to the Cook County Commission on Human Rights by Friday July 5th. Letters can be submitted by sending to humanrights@cookcountyil.gov with the subject line, "Human Rights Public Comment Administrator"
- 3) **Share the sign-on and comment template letter** to organizations and individuals in your network and encourage them to submit their own comments and also sign on to the Shriver letter.
- 4) **Email Rachel** at rachel@suburbancook.org and let her know you've submitted a comment!

Thank you ALL for your hard work on getting the Just Housing Amendment passed--not let's make sure the spirit of this law is upheld during the rule making process. Don't hesitate to contact me with any questions.

If you are interested in learning more about this alert advocacy, contact:

Rachel Contos
Community Liaison
Alliance to End Homelessness in Suburban Cook County
rachel@suburbancook.org
 Office: 708-236-3261 x6#

Alliance to End Homelessness in Suburban Cook County | 4415 Harrison Street, Suite 228, Hillside, IL 60162

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Sent by rachel@suburbancook.org in collaboration with



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RE: JHA Public Comment Closes July 5

Tom Benedetto <tom@caaps.org>

Wed 7/3/2019 12:20 PM

To: Adam Newman <anewman@suffredin.org>

Cc: Michael Mini <mike@caaps.org>; MKM <MKM@MKMservices.com>; Gregory Lozinak <glozinak@newcastlelimited.com>

 1 attachments (34 KB)

CAA - Draft JHO Rules - 062019.pdf;

Hi Adam,

We're aware of the deadline, thank you. CAA has been working diligently to collect our members' concerns and comments regarding the JHO, and have submitted those to Director Chambers and the Department of Human Rights & Ethics as they come in (Commissioner Suffredin has been copied on those communications as well).

Attached is CAA's Draft of the Rules for JHO. Please let me know if you'd like to discuss or if we can be of help in negotiations. Our members would appreciate an expedited process, including consideration of an extension of the effective date to at least December 31st, due to the immense operational overhaul the ordinance represents to the multifamily industry, small and large property owners included. The attached draft would certainly help in the aforementioned implementation process/overhaul while maintaining the ordinance's intentions. Let me know what the Commissioner thinks of that proposal, and this draft of Rules, when possible.

All the best,

Tom BenedettoLegislative Analyst / *Chicagoland Apartment Association*

From: Adam Newman <anewman@suffredin.org>**Sent:** Wednesday, July 3, 2019 12:09 PM**To:** Tom Benedetto <tom@caaps.org>**Subject:** JHA Public Comment Closes July 5

Hi Tom,

My name is Adam and I am Com. Suffredin's Chief of Staff.

We just found out public comment closes for the JHA on July 5. Please forward to your members.

<https://www.cookcountyil.gov/agency/commission-human-rights-0>

Apologies for the late notice.

Best,

Adam Newman

Chief of Staff

Cook County Commissioner Larry Suffredin

C: 847-525-2119

O: 312-603-6383

From: Adam Newman**Sent:** Wednesday, July 3, 2019 9:45 AM**To:** Mike Glasser**Cc:** mike@rogerspark.com**Subject:** JHA Public Comment Closes July 5

Mike

We just found out public comment closes for the JHA on July 5. Please forward to your members.

<https://www.cookcountyil.gov/agency/commission-human-rights-0>

Apologies for the late notice.

Thanks!

Adam Newman

Chief of Staff

Cook County Commissioner Larry Suffredin

C: 847-525-2119

O: 312-603-6383

DRAFT INTERPRETIVE RULES TO THE JUST HOUSING ORDINANCE
SUBMITTED 20 JUNE 2019 BY CHICAGOLAND APARTMENT ASSOCIATION (CAA)

SUBPART 710 AUTHORITY AND APPLICABILITY

Section 710.100 Authority

These interpretative rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights pursuant to County Code, § 42-38(c)(5)(c).

Section 710.110 Applicability

These interpretative rules shall have full force and effect upon the effective date of Ordinance 19-2394 but shall not apply to matters pending before the Commission as of the effective date. The rules shall apply to parties bringing actions before the Commission and to all duly appointed investigators, Hearing Officers, and other agents of the Commission.

SUBPART 720 DEFINITIONS

Section 720.100 Definition of “Criminal Background Check”

“*Criminal background check*” of County Code, § 42-38(e)(2)(a) shall include any report containing information about an applicant’s criminal history, including but not limited to those produced by federal, state, and local law enforcement agencies; federal and state courts; or consumer reporting agencies.

Section 720.110 Definition of “Demonstrable Risk”

“*Demonstrable risk*” of County Code, § 42-38(c)(5)(c) shall refer to the potential for harm to residents or damage to residential property to occur based upon the information provided in a Criminal Background Check.

Section 720.120 Definition of “Tenant Selection Criteria”

“*Tenant selection criteria*” of County Code, § 42-38(e)(2)(a) shall include the standard that the housing provider uses to screen applicants for criminal history information.

Section 720.130 Definition of “Sufficient Notice”

“*Sufficient notice*” of County Code, § 42-38(e)(1) shall refer to a housing provider’s manner of notifying an applicant of a potential adverse action based on criminal history information gathered during the application process. Applications which define, at least in part, any policy regarding *individualized assessments* for prospective tenants, satisfy the *sufficient notice* provision. However, *sufficient notice* can otherwise be satisfied by an owner without expressly defining a policy in the application process.

Section 720.130 Definition of “Relevance” and “Relevant”

“*Relevance*” of County Code, § 42-38(e)(1) and § 42-38(e) (2)(a) and “*Relevant*” of County Code, § 42-38(a) shall pertain to the applicant’s *certain conviction history* and factors thereof which are ultimately defined by a housing provider’s *tenant selection criteria*. Housing providers may *consider* or discuss potentially *relevant* information provided by an applicant, subject to the *preemptive inquiries* prohibition of County Code § 42-38(b)(8), or their criminal screening policy with an applicant *if* the applicant (s) initiates the conversation.

SUBPART 730 PRE-DENIAL PROCEDURES

Section 730.100

(A) General

Before denying admission or continued occupancy on the basis of a conviction, the housing provider must comply with the timeline outlined in this subpart and required by County Code, § 42-38(c)(5)(c), § 42-38(e)(2)(a)-(b) during which time a specific space or unit does not need to be held, set aside, or withheld from other qualified applicants by a housing provider.

(B) Tenant Selection Criteria and Criminal Background Check

The housing provider must provide the applicant with a copy of the tenant selection criteria and a copy of any criminal background check relied upon.

(C) Opportunity to Produce Evidence that Disputes Accuracy and Relevance

All information relevant to an applicant’s dispute must be provided at one time. At that point, the housing provider shall be entitled to rely solely on the information provided by the applicant, and has no duty of independent review. To reduce disputes, “receipt” timestamps are verifiable by electronic mail or an online portal at the time they are “sent” to a housing provider from an applicant, and vice versa.

Upon receipt of a copy of the tenant screening criteria and a copy of any criminal background check relied upon, the applicant shall notify the housing provider in writing of the applicant’s intent to dispute the accuracy and/or relevance of the conviction(s) pursuant to County Code, § 42-38(e)(2)(a), and produce evidence that disputes the accuracy and relevance of the conviction. Policies governing the time frames and/or deadlines to complete these separate processes shall be developed by the housing provider and provided to the applicant.

(D) Individualized Assessment

After giving the applicant an opportunity to dispute the accuracy and relevance of the conviction history, the housing provider shall conduct an individualized assessment of the applicant and determine whether denial based on the criminal conviction is necessary to

protect against a demonstrable risk to personal safety and/or property of others affected by the transaction. The housing provider shall complete its assessment and make its determination. If, upon completion of the individualized assessment process, an applicant becomes approved for full admission to the residential real property, the applicant may be eligible for a comparable unit if and when available.

SUBPART 740 WRITTEN NOTICE OF DENIAL

Section 740.100

Within three (3) business days of denying admission or continued occupancy on the basis of a conviction, the housing provider shall notify the applicant in writing of the reasons why denial based on the conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction pursuant to County Code, § 42-38(c)(5)(c).

Fwd: Just Housing Amendment: Public Comments Open

Larry Suffredin <lsuffredin@aol.com>

Wed 7/3/2019 5:38 AM

To: Adam Newman <anewman@suffredin.org>; Mary Rita Luecke <mrluecke@suffredin.org>; Cicely Fleming <cfleming@suffredin.org>; Michelle Jordan <mjordan@suffredin.org>

-----Original Message-----

From: Rachel Contos <rachel@suburbancook.org>

To: lsuffredin <lsuffredin@aol.com>

Sent: Tue, Jul 2, 2019 8:45 am

Subject: Just Housing Amendment: Public Comments Open

Submit a public comment TODAY to support the Just Housing Amendment

Because of your help, we had a major victory on April 25th with the passage of the Just Housing Amendment, an **amendment that will provide critical housing protections to approximately 1 million Cook County residents** with arrest and conviction records. We know that housing rights are at the core of stabilizing individuals, families, and communities.

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- 2) See the [comment template letter](#) and revise with your organization-specific language and submit directly to the Cook County Commission on Human Rights by Friday July 5th. Letters can be submitted by sending to humanrights@cookcountyil.gov with the subject line, "Human Rights Public Comment Administrator"
- 3) **Share the sign-on and comment template letter** to organizations and individuals in your network and encourage them to submit their own comments and also sign on to the Shriver letter.
- 4) **Email Rachel** at rachel@suburbancook.org and let her know you've submitted a comment!

Thank you ALL for your hard work on getting the Just Housing Amendment passed--not let's make sure the spirit of this law is upheld during the rule making process. Don't hesitate to contact me with any questions.

If you are interested in learning more about this alert advocacy, contact:

Rachel Contos
Community Liaison
Alliance to End Homelessness in Suburban Cook County
rachel@suburbancook.org
 Office: 708-236-3261 x6#

Alliance to End Homelessness in Suburban Cook County | 4415 Harrison Street, Suite 228, Hillside, IL 60162

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Shriver Center Comment Letter on the Just Housing Amendment

Gianna Baker <gianna@housingactionil.org>

Wed 7/17/2019 7:20 AM

To: Larry Suffredin (Board of Commissioners) <larry.suffredin@cookcountyil.gov>; Larry Suffredin <lsuffredin@aol.com>

Cc: Adam Newman <anewman@suffredin.org>; Marie Claire Tran-Leung <marieclairetran@povertylaw.org>; Henry Shah <henryshah@povertylaw.org>; Patricia Fron <pfron@cafha.net>

 1 attachments (853 KB)

Just Housing Amendment comments to Cook County Human Rights Commission final.pdf;

Hi Commissioner Suffredin:

Please find attached comments on the rules that the Shriver Center submitted on behalf of our coalition. The memo summarizes our policy priorities.

Thanks.

Gianna Baker
Outreach Manager
Housing Action Illinois
67 E. Madison, Suite 1603 | Chicago, IL 60603

312-939-6074 x. 110 (phone)

312-939-6822 (fax)

www.housingactionil.orgFollow us: [Facebook](#) | [Twitter](#)A new law will protect 1+ million Cook County residents with records from housing discrimination. [Learn more about the Just Housing Amendment](#) »On Jul 16, 2019, at 6:38 PM, Gianna Baker <gianna@housingactionil.org> wrote:

Hi Commissioner Suffredin:

Thanks for taking the time to talk with us this morning and for letting us know about the HRC meeting. The Commission did not have a final draft of the proposed rules available for the public today, but we appreciated hearing the Human Rights Commissioners discuss the proposed rules.

Thanks again.

Gianna Baker
Outreach Manager
Housing Action Illinois
67 E. Madison, Suite 1603 | Chicago, IL 60603

312-939-6074 x. 110 (phone)

312-939-6822 (fax)

www.housingactionil.orgFollow us: [Facebook](#) | [Twitter](#)A new law will protect 1+ million Cook County residents with records from housing discrimination. [Learn more about the Just Housing Amendment](#) »On Jul 16, 2019, at 10:04 AM, Patricia Fron <pfron@cafha.net> wrote:

Hi All,

Just a quick reminder we are on the line below for our 10am call:

Dial-in Number: (712) 775-7031

Meeting ID: 966-665-458

On Wed, Jul 10, 2019 at 10:07 AM Gianna Baker <gianna@housingactionil.org> wrote:

Good morning, Commissioner Suffredin:

10 am on 7/16 works for us.

Here are the conference call details:

Dial-in Number: (712) 775-7031

Meeting ID: 966-665-458

Gianna Baker
Outreach Manager
Housing Action Illinois
67 E. Madison, Suite 1603 | Chicago, IL 60603

312-939-6074 x. 110 (phone)

312-939-6822 (fax)

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A new law will protect 1+ million Cook County residents with records from housing discrimination. [Learn more about the Just Housing Amendment](#) »

On Jul 9, 2019, at 8:56 PM, Larry Suffredin (Board of Commissioners) <larry.suffredin@cookcountyil.gov> wrote:

I could 10 on the 16 but not 11

Sent from my iPhone

On Jul 8, 2019, at 6:11 PM, Gianna Baker <gianna@housingactionil.org> wrote:

Hi Commissioner Suffredin:

Are you available at 11 am on July 16th?

Thanks.

Gianna Baker
Outreach Manager
Housing Action Illinois
67 E. Madison, Suite 1603 | Chicago, IL 60603

312-939-6074 x. 110 (phone)
312-939-6822 (fax)
www.housingactionil.org
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A new law will protect 1+ million Cook County residents with records from housing discrimination. [Learn more about the Just Housing Amendment](#) »

On Jul 3, 2019, at 10:43 AM, Larry Suffredin (Board of Commissioners) <larry.suffredin@cookcountyil.gov> wrote:

I am not available either date.

Sent from my iPhone

On Jul 3, 2019, at 9:49 AM, Gianna Baker <gianna@housingactionil.org> wrote:

Hi Commissioner Suffredin:

Our coalition met with Director Chambers a couple of weeks ago and we are submitting comment letters to the Commission on Human Rights this week. We understand that the Commission will draft rules and submit them to the Rules Committee at the end of the month. We have some questions about the role of the Rules Committee in the rulemaking process. Are you available for a morning call on July 10 or July 12?

Thanks.

Gianna Baker
Outreach Manager
Housing Action Illinois
67 E. Madison, Suite 1603 | Chicago, IL 60603

312-939-6074 x. 110 (phone)
312-939-6822 (fax)
www.housingactionil.org
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A new law will protect 1+ million Cook County residents with records from housing discrimination. [Learn more about the Just Housing Amendment](#) »



Patricia Fron
Executive Director, Chicago Area Fair Housing Alliance
(872)228-7844
www.cafha.net
401 S. LaSalle St., Suite 1101
Chicago, IL 60605



For economic and racial justice

67 E. Madison St., Suite 2000, Chicago, IL 60603
312.263.3830 | povertylaw.org

July 5, 2019

Submitted via electronic mail

Director N. Keith Chambers
Cook County Human Rights Commission
69 W. Washington, Suite 3040
Chicago, IL 60602
human.rights@cookcountyil.gov

***Re: Initial Comments Regarding Rules for the Just Housing Amendment,
Ordinance No. 19-2394***

Dear Director Chambers and Honorable Human Rights Commissioners:

Thank you for the opportunity to provide comments on proposed rulemaking for Ordinance No. 19-2394, otherwise known as the Just Housing Amendment to the Cook County Human Rights Ordinance. We submit comments today on behalf of members of the Just Housing Initiative (a coalition led by twelve organizations and consisting of over 100 supporting organizations working to increase housing access for people who have been involved with the criminal justice system), as well as dozens of additional organizations across Cook County.

As the rulemaking process begins, we urge the Cook County Human Rights Commission to draft rules in a way that promotes the overall purpose of the Just Housing Amendment – to ensure that everyone in Cook County has a fair chance at housing. The Amendment does not force landlords to accept anyone but rather requires that housing providers give applicants and their families a meaningful opportunity to present information beyond what might be found in a criminal background check.

In this letter, we first set out some general comments to help guide the Commission's drafting of the proposed rules. To follow, we address specific proposals that have been presented to the Commission.

GENERAL COMMENTS

A. The Amendment Calls for Strong Parameters Around the Tenant Screening Process.

To ensure a fair tenant screening process, it is imperative that the Commission's rules create clear guidelines so that applicants are equipped to fully enforce their rights, particularly when it comes to notice and opportunity to dispute. If the task to create these policies fell solely

on individual housing providers, applicants would be subject to a patchwork of policies that would be difficult to navigate and that would hinder housing access. A patchwork of disparate individual provider policies would also make it extremely difficult for the Commission to enforce the Amendment consistently and efficiently. Instead the Commission should give strong guidelines around notice and opportunity to dispute so that housing providers and applicants can be on equal footing in terms of knowing and understanding the policy. Doing so would help prevent a loophole that would otherwise leave people with conviction histories with no meaningful protections under the Just Housing Amendment.

B. The Commission Cannot Use Its Rulemaking Authority to Exclude People with Certain Conviction Histories or Impose Time Restrictions Under the Just Housing Amendment.

The Commission cannot create additional exclusions based on conviction history or impose time restrictions because **adding such limitations would be a legislative function that only by the Cook County Board of Commissioners possesses**. Currently, two exclusions are found in the Just Housing Amendment: (i) where an applicant is required to register for past sex offenses, and (ii) where an applicant is subject to a residency restriction because of past sex offenses.¹ Moreover, the Amendment does not apply where state or federal law mandate denial based on conviction history.² On the issue of time, the Amendment calls on housing providers to consider the length of time that has passed since the conviction took place, but only as one of several factors in an individualized assessment.³ Because the ordinance already addresses these issues, the Commission cannot create carve-outs for certain types of conviction history, nor can it impose waiting periods before individuals are entitled to an individualized assessment.⁴ Such provisions would sanction housing discrimination against a subset of individuals, regardless of what they may have done to leave the criminal legal system behind them. The Human Rights Commission must resist adding further exclusions; otherwise, it risks running afoul of its rulemaking authority and encroaching on the legislative authority that belongs only to the Board of Commissioners.

¹ Cook Cty., Ill., Ord. No. 19-2395 § 42-38(c)(5)(a)-(b).

² *Id.* at § 42-38(c)(6). Contrary to popular belief, federal law mandates denial in very narrow circumstances. A federally-assisted housing provider must deny in the following circumstances: (1) where a member of the applicant household is subject to a lifetime registration requirement for past sex offenses (42 U.S.C. § 13663(a)); (2) where a member of the applicant family has been convicted of manufacturing or distributing methamphetamine on federally-assisted property (42 U.S.C. § 1437n(f)(1)); and (3) where a member of the applicant family currently uses controlled substances (42 U.S.C. § 13661(b)). These mandated denials only apply to a subset of federally assisted housing programs (public housing, Housing Choice Voucher, and project-based Section 8), and they do not apply to private housing. See National Housing Law Project, *An Affordable Home on Reentry* 26-28 exh. 2B (2018).

³ Cook Cty., Ill., Ord. No. 19-2395 § 42-38(c)(5)(a)-(b).

⁴ An example of a carve-out is denying protections for individuals who have prior felony convictions. An example of a waiting period is denying protections for individuals who have been convicted within the last three years.

Furthermore, without the opportunity for an individualized assessment, **such exclusions and restrictions would contradict HUD’s 2016 guidance on the use of conviction records in housing**. The heart of the Just Housing Amendment is the requirement that housing providers conduct an individualized assessment of applicants with conviction histories rather than deny them categorically through a blanket ban. In its 2016 Guidance, HUD shunned “[b]ald assertions based on generalizations or stereotypes” and instead emphasized that “a housing provider must ... be able to prove through reliable evidence that its policy or practice of making housing decisions based on criminal history actually assists in protecting resident safety and/or property.”⁵ Clearly, blanket bans against individuals with past convictions fail to meet this standard, but HUD carefully noted that even narrowly tailored policies must be grounded in evidence and fact. Specifically, HUD explained:

A housing provider with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary to serve a “substantial, legitimate, nondiscriminatory interest.” To do this, a housing provider must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not.⁶

Policies that exclude broad categories of individuals based on an arbitrary number of years is unlikely to meet this standard. In light of this, we strongly urge the Commission to avoid creating exclusions based on conviction history or the number of years in the absence of hard evidence and data. Otherwise, the Commission would needlessly risk the housing stability of individuals with these conviction histories as well as give cover to housing policies that might nevertheless conflict with a housing provider’s fair housing duties under the HUD Guidance.

Last but not least, **adding exclusions and time restrictions would undermine the purpose of the Just Housing Amendment** by depriving individuals of a fair chance at consideration for housing. The Just Housing Amendment ensures that individuals have the opportunity to show that they are more than their conviction record, thus increasing access to families who otherwise may have been shut out of stable housing. We urge the Commission, therefore, not to take actions that would curb such access.

In sum, the Commission should not add exclusions or impose time restrictions on the protections afforded by the Just Housing Amendment because doing so would encroach the legislative authority of the Cook County Board of Commissioners, contradict HUD’s 2016 fair housing guidance, and undermine the Amendment’s purpose.

⁵ HUD, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions 5 (2016) [hereinafter, HUD 2016 Guidance].

⁶ *Id.* at 6.

C. If the Commission Nevertheless Chooses to Impose Time Restrictions, These Restrictions Should Limit the Housing Providers' Use of Criminal History, Not Reduce the Pool of People Entitled to a Fair Chance at Housing.

For the reasons noted in the previous section, our position is that the Commission should not impose time restrictions on the rights afforded by the Just Housing Amendment. If, however, the Commission concludes that it has the necessary authority, we strongly urge the Commission to set a time limit on the conviction history that housing providers can use. We oppose any rule that would subject individuals to a waiting period before they can benefit from the protections of the Just Housing Amendment.⁷

Some fair chance housing ordinances in other jurisdictions treat time periods as a limitation on the type of protection that a housing provider can use rather than a restriction on an individual's fair housing protections. For example, in Washington, D.C. and San Francisco, California, housing providers can only consider certain criminal activity within the last seven years.⁸ In those jurisdictions, convictions that are older than seven years are not supposed to factor into a housing provider's decision making at all. If the Commission opts for a time limit, therefore, we strongly recommend that the Commission ensure that the time limit sets a maximum number of years that a housing provider can look back at a person's conviction history, not a minimum.

In determining the number of years, the Commission should look at the Housing Authority of Cook County, whose admissions policy limits consideration of criminal activity to the last three years.⁹ Similarly, in describing best practices of public housing authorities, HUD highlighted a housing authority that considered activity within the last 12-24 months.¹⁰

In general, we oppose waiting periods that deprives entire categories of individuals from relief from discrimination. However, we would like to note potential changes to the city of Champaign's Human Rights Ordinance, which prohibits housing discrimination on the basis of prior arrest or conviction record.¹¹ It imposes a waiting period for individuals with prior convictions for forcible felonies, and its city council has been considering changes to its ordinance (passed in 1994) to better reflect the current understanding about reentry and the need

⁷ We avoid using the term "lookback period" because it can be confusing and imprecise. A housing provider may have a 3-year lookback period, but often, it is not clear whether a housing provider will only look back at criminal activity within the past three years, or whether the housing provider will not consider criminal history until it is at least three years old. In other words, does the number of years operate as a maximum or minimum? To avoid this confusion, we use the more precise terms of "time limit" and "waiting period." A 3-year time limit means that housing providers will not consider conviction history older than three years. A 3-year waiting period means people with convictions must wait three years before receiving the protections of the Just Housing Amendment.

⁸ The Fair Criminal Screening for Housing Act of 2016, Washington, D.C., Law No. L21-0259 § 3(d) (2016); San Francisco, Cal. Police Code, Art. 4906(a)(5) (2018).

⁹ Housing Authority of Cook County, Administrative Plan 42-43 (2018).

¹⁰ HUD, Office of Public and Indian Housing, PIH Notice 2015-19, at 6 (2015).

¹¹ Champaign, Ill., Ordinance No. 17-71 (2019).

for housing. Significantly, on June 25, 2019, a majority of the city council voted in favor of reducing the waiting period from five years to two years, which would mean that after two years, a person with a prior arrest or conviction record would have the full protections of Champaign’s Human Rights Ordinance.¹²

Ultimately, we oppose any rule that would set a specific time period for the consideration of conviction history under the Just Housing Amendment. Should the Commission decide to propose such a rule, however, we strongly recommend that the Commission set a time limit on the conviction history considered rather than impose a forced waiting period for justice-involved individuals and their families.

SPECIFIC PROVISIONS

In this section, we review specific provisions of regulations proposed by stakeholders.

A. Authority

As the Commission is aware, the narrow legislative authority to promulgate rules under the Just Housing Amendment comes from County Code, Section 42-38(c)(5)(c) (“The Commission shall promulgate rules to enforce this exception” for convictions.) We urge the Commission, therefore, to limit its rulemaking to this exception rather than broaden the scope of the Just Housing Amendment as a whole.

B. Definition of “Demonstrable Risk”

To begin, we note that the term “demonstrable risk” comes from the HUD Guidance, which states that “a housing provider must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not.”¹³ As noted before, the HUD Guidance does not contemplate policies that are based on “[b]ald assertions based on generalizations or stereotypes.”¹⁴ To reflect the principles of the HUD Guidance, we have offered the following suggested language:

The language “demonstrable risk” of County Code, § 42-38(c)(5)(c), shall refer to a real and specific likelihood of serious harm to residents or serious damage to residential property based upon recent conduct. In determining whether a demonstrable risk exists the factors to be considered include the nature and severity of the potential harm and the likelihood that the harm will occur.

A definition based only on potential harm without considering its real and specific likelihood would create too low of a standard, thus evaporating any protection that the Just

¹² Christine Herman, Champaign to Continue to Let Landlords Deny Housing to People with Certain Criminal Records, Illinois Public Media (June 26, 2019), <https://will.illinois.edu/news/story/champaign-to-continue-to-let-landlords-deny-housing-to-people-with-certain>.

¹³ HUD 2016 Guidance, *supra* note 5, at 6.

¹⁴ *Id.* at 5.

Housing Amendment offers for people with past conviction histories. Furthermore, it is critical that the finding of demonstrable risk be based on information other than what is found in the background check; otherwise, people will be deprived of a meaningful opportunity to show how they have moved beyond their past. We strongly urge the Commission, therefore, to adopt the clear definition for “demonstrable risk” provided here.

C. Definition of “Sufficient Notice”

To minimize the confusion for housing providers and prospective tenants alike, the definition of “sufficient notice” should reflect the language of Section (e) of the Just Housing Amendment. This definition would also allow for more efficient enforcement by the Commission. We propose the following definition:

The language “sufficient notice” shall refer to the owner completing the following duties as set forth in County Code, § 42-38(e):

- 1. Before denying admission or continued occupancy, the owner provides the individual with a copy of the tenant selection criteria and a copy of any criminal background check relied upon; and*
- 2. Upon denying admission or continued occupancy, the owner notifies the individual in writing the reasons why denial based on the conviction is necessary to protect a demonstrable risk to personal safety and/or property of others affected by the transaction pursuant to County Code Section 42-38(c)(5)(c).*

D. Definition of “Relevance”

Section 42-38(e) provides housing applicants with an opportunity to dispute the accuracy and relevance of the conviction. We urge the Commission to adopt an objective standard for relevance rather than tying it to the varying policies of individual housing providers. Such uniformity will ease the Commission’s administrative burden of enforcing the Just Housing Amendment for prospective tenants. Furthermore, any definition that defines “relevant” as “pertaining to the applicant’s criminal history” presupposes the relevance of that criminal history. This goes against the spirit of the Just Housing Amendment, which is to provide individuals with a meaningful opportunity to show that they are more than their conviction record. For this reason, we propose the following:

The language “relevance” of County Code, Section 42-38(e)(2)(a) shall refer to what negative impact an individual’s conviction history may have on the individual’s ability to fulfill the responsibilities of tenancy.

E. Pre-Denial Procedures – General

We strongly oppose any rule that allows a housing provider to lease a unit to another similarly qualified applicant while the individualized assessment process is underway. Such a provision would undermine the individualized assessment process and render moot the Just Housing Amendment as a whole. If such a loophole were created, justice-involved individuals

and their families would be left without a meaningful chance at housing, especially if a building's vacancy rate is low. If housing providers were permitted to lease the unit to another similarly qualified applicant, then an applicant could very well be approved through the individualized assessment process and still be deprived of access to a unit and therefore at risk of housing instability.

F. Pre-Denial Procedures – Opportunity to Produce Evidence that Disputes Accuracy and Relevance

We strongly encourage the Commission to adopt timeframes that would give both housing providers and prospective tenants a clear understanding of how long applicants have to produce evidence for the individualized assessment process. Such timeframes would also help the Commission to enforce the ordinance with more efficiency. Other jurisdictions have found it fit to create such timelines to ensure consistency in how their fair chance ordinances are implemented.

For example, Detroit's Fair Chance Housing Ordinance gives applicants 14 calendar days to provide the housing provider with evidence of inaccuracies or evidence of rehabilitation or other mitigating factors. Upon receipt of such evidence, the housing provider must then "delay any adverse action for a reasonable period of time of not less than 5 calendar days after receipt of the information," during which time that housing provider must conduct the individualized assessment.¹⁵ Similarly, San Francisco's Fair Chance Housing Ordinance gives applicants 14 days to provide evidence to housing providers for the individualized assessment.¹⁶

To ensure consistency, we propose a timeline that gives applicants 7 days to give the housing provider notice of their intent to dispute the accuracy/relevance and 14 days to produce evidence to support their dispute. (The starting point for each time period is the date that the applicant receives the tenant selection criteria and the copy of the criminal background check.) We strongly oppose shifting the responsibility for creating timeframes to housing providers as this will lead to inconsistencies that will make it difficult for prospective tenants (and the Commission) to enforce their rights. Moreover, we similarly oppose any requirement that information relevant to the applicant's dispute be provided at one time. Such a requirement would be particularly onerous in situations where an applicant is contesting the accuracy of the record. Usually, this process requiring obtaining records from different government agencies, such as the Chicago Police Department, the Illinois State Police, and different court systems. Applicants should be able to provide this information as it becomes available and within the suggested timeframe.

G. Pre-Denial Procedures – Individualized Assessment

We strongly encourage the Commission to adopt timeframes that would give both housing providers and prospective tenants a clear understanding of how long housing providers have to conduct the individualized assessment and render a decision to applicants. As noted

¹⁵ Detroit City Code § 26-5-7(d).

¹⁶ San Francisco, Cal. Police Code, Art. 4906(h) (2018).

above, other jurisdictions have placed some time limits on the individualized assessment process to prevent the possibility of housing providers running out the clock on applicants. We propose that the housing provider complete its assessment and make its determination either (i) within 7 days of receipt of evidence, or (ii) 14 days after the applicant received the tenant selection criteria and copy of the criminal background check, provided that the applicant provided no evidence.

H. Pre-emptive Inquiries

For this ordinance provision, we simply note that the language does not call for housing providers to notify applicants of a conditional offer of housing. Concerns about how to operationalize this conditional offer, therefore, need not be addressed by the regulations. Furthermore, regarding the ability of credit reporting agencies to adapt their products to conform to the requirements of the Just Housing Amendment, we note that employment screening companies have long had to contend with the hundreds of “ban the box” policies that municipalities and state have implemented across the country.

Thank you for your consideration of our comments. Should you seek clarification or further discussion, please contact Gianna Baker, Housing Action Illinois (gianna@housingactionil.org; 312-939-6074 x.110); Patricia Fron, Chicago Area Fair Housing Alliance (pfron@cafha.net; (872)228-7844); or Marie Claire Tran-Leung, Shriver Center on Poverty Law (marieclairetran@povertylaw.org; 312-754-9450).

Sincerely,

Shriver Center on Poverty Law
Access Living
Alliance to End Homelessness in Suburban Cook County
BEDS Plus Care
Cabrini Green Legal Aid
Center of Concern
Chicago Area Fair Housing Alliance
Chicago Community Bond Fund
Chicago Lawyers’ Committee for Civil Rights
Chicago Urban League
Collaborative for Health Equity Cook County
Community Renewal Society
Connections for the Homeless
Health and Medicine Policy Research Group
HOPE Fair Housing Center
Housing Action Illinois
Housing Choice Partners
Housing Forward

Illinois Conference of the United Church of Christ
Illinois Justice Project
Jeremiah Community Renewal Corporation
John Howard Association of Illinois
John Marshall Law School
Journeys | The Road Home
Latino Policy Forum
Metropolitan Planning Council
Metropolitan Tenants Organization
Neighbors for Affordable Housing
New Moms
Open Communities
Project Irene
Open Communities
Project IRENE
Respond Now
Safer Foundation
South Suburban Family Shelter
South Suburban Housing Center
South Suburban PADS
Supportive Housing Providers Association
Together We Cope
Treatment Alternatives for Safe Communities (TASC)
Trinity United Church of Christ
Uptown People's Law Center
Westside Health Authority
Woodstock Institute
Working Family Solidarity
Youth Action Board of the Alliance to End Homelessness in Suburban Cook County

Individuals

Charles Fischbach, former Commissioner, Chicago Commission on Human Relations
State Representative Michelle Mussman
Rev. Coleen Vahey, Senior Minister, Third Unitarian Church

Rules for Just Housing Ordinance

Mike Glasser <rogersparkmichael@gmail.com>

on behalf of

Mike Glasser <mike@rogerspark.com>

Sun 7/28/2019 4:24 PM

To: Adam Newman <anewman@suffredin.org>

Adam Newman

Chief of Staff

Cook County Commissioner Larry Suffredin

Adam;

I've spent time this weekend trying to make sense of the proposed rules for the **Just Housing Ordinance**.

I have so many objections and problems with the direction that this process is taking.

It might not happen until after the Amendment takes effect, but I anticipate a public outcry when the larger population of housing providers, condo and coop boards and homeowners and tenants finally understand this ordinance and that they (or their landlords/property managers) are responsible for implementation.

I am happy that the County has delayed the implementation date until **January 1st** - and I intend to remain in touch with CAA (on whose legislative committee I sit), and with Mike Scobey of the Realtors as I know we will have a chance to weigh in with Mr. Chambers, and a final say when the final rules go to the full County Board for a vote.

I could wax eloquently with pages and pages of concerns - something I'm sure I will ultimately end up doing.

I just wonder if Larry understands how problematic these rules are - my analogy is that the Amendment, when first passed, was akin to shoving toothpaste out of the tube - and passing effective Rules would be akin to trying to shove the toothpaste back in.

On top of that, we are trying to comprehend nonsensical proposals from socialist new Alderman and, uh, "Alderwoman" (I abhor using that term until the State legislature adopts it) regarding 30% set asides (of course, it won't pass, but these requirements are already suppressing development) and a large scale shift (correction) of the property tax burden on multifamily also creating resentment. At our May RPBG meeting, over Skype "in front of hundreds," I already peppered Larry with questions about his stance on rent control. Bottom line: we, the folks who are proven to be the most adept at providing quality affordable housing in our City and County's neighborhoods, are frustrated and angry about excess industry killing regulation - especially ill thought out policies implemented without sufficient industry input (while toothpaste was still in the tube), are ripe with unintended consequences..

Many ask: Why do elected officials choose to burden landlords with the task of solving society's most challenging problems?

Of course, I understand, with a dramatic increase in people choosing to rent rather than own, many of us have done well in past years. Low interest rates have helped.

Yet, as Larry knows, good times don't last forever, and these continued burdens are creating a hostile climate, let alone a likely flight of investors from the City, County and State - and consider the loss of jobs and revenue lost when investment dollars go elsewhere.

On a final note, as Larry knows, in Cook County, there exists 15 protected classes.

And now one more... Despite the compassion and good intentions behind the Ordinance, and the problem of recidivism that it is trying to resolve, extending protection to those with a history of criminal convictions is tough for many law abiding, tax paying people trying to make good on an investment to understand.. And, nearly all smart apartment building owners - large and small - with whom I have discussed this issue agree - despite the burdens of adopting the two part process, this Ordinance will achieve very little result.

Final note: the **Neighborhood Building Owners Alliance** (which I head) is hosting our seventh annual Summer Soiree on Thursday August 8th at Piper Hall at Loyola. Let me know if Larry and a guest would be interested in attending as our guest - we'll all be super kind to him and grateful if he can show up!

More info at [THIS LINK](#).

Mike Glasser
773 491-1235

Re: Rules for Just Housing Ordinance

Mike Glasser <rogersparkmichael@gmail.com>

Mon 7/29/2019 9:04 AM

To: Adam Newman <anewman@suffredin.org>

Thanks Adam;

I just want Larry to understand my concern that a huge amount of confusion and resentment will result and I have trouble seeing how these issues can be resolved

I think it rare that anyone will need to follow the appeals process (at least in the areas where I own) but responsible property owners who opt to comply with the law, who understand the need to be consistent (fair housing) and seek to avoid litigation (even though CC Human Rights Commission rarely prosecutes) are going to be extremely frustrated trying to figure this out.

For instance, can we look back beyond the five year look back to understand if the applicant has a pattern of, say, drug offenses?

What about an ex offender convicted over five years ago, released from prison only a year before the rental app? He or she has been "offense free" for five years - but he or she was in prison. As now stated, housing providers can't consider that five plus year old conviction?

My list goes on. What if we believe the applicant is lying when we conduct individualized assessment- how does a property owner articulate that when we furnish a rejection letter that tells a person that they present a demonstrable risk to our property

"We reject your application because we think you are not being truthful? ...

And even though it's only a factor we "may" consider, why the reference to disabilities?

What about behavioral oriented disabilities like bipolar? Applicant claims he now on medication - are we to pick up the risk he falls off?

Can the reports that we receive still include convictions over five years and we just need to close our eyes to them and pretend they don't exist?

Sent from my iPhone

On Jul 29, 2019, at 8:37 AM, Adam Newman <anewman@suffredin.org> wrote:

I will pass onto Com. Suffredin.

Best,

Adam Newman

Chief of Staff

Cook County Commissioner Larry Suffredin

C: 847-525-2119

O: 312-603-6383

From: Mike Glasser <rogersparkmichael@gmail.com> on behalf of Mike Glasser <mike@rogerspark.com>**Sent:** Sunday, July 28, 2019 4:23 PM**To:** Adam Newman <anewman@suffredin.org>**Subject:** Rules for Just Housing Ordinance

Adam Newman

Chief of Staff

Cook County Commissioner Larry Suffredin

Adam;

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I have so many objections and problems with the direction that this process is taking.

It might not happen until after the Amendment takes effect, but I anticipate a public outcry when the larger population of housing providers, condo and coop boards and homeowners and tenants finally understand this ordinance and that they (or their landlords/property managers) are responsible for implementation.

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8/22/2019

Mail - Adam Newman - Outlook

On a final note, as Larry knows, in Cook County, there exists 15 protected classes.

And now one more... Despite the compassion and good intentions behind the Ordinance, and the problem of recidivism that it is trying to resolve, extending protection to those with a history of criminal convictions is tough for many law abiding, tax paying people trying to make good on an investment to understand.. And, nearly all smart apartment building owners - large and small - with whom I have discussed this issue agree - despite the burdens of adopting the two part process, this Ordinance will achieve very little result.

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More info at [THIS LINK](#).

Mike Glasser
773 491-1235

Fwd: Proposed Rules

Larry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:51 AM

To: Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: Mike Scobey <mscobey@illinoisrealtors.org>

Date: July 30, 2019 at 2:47:04 PM CDT

To: Larry Suffredin <lsuffredin@aol.com>

Subject: Proposed Rules

Hi Commissioner. Do you know when the Rules Committee will consider the proposed Rules on the Just Housing Ordinance? We have some comments on specific items we'd like to see amended (the "look-back" period, and the time period of the "opportunity to dispute").

Thanks,
Mike Scobey

Michael Scobey

Director, Local Advocacy & Global Programs

Illinois REALTORS

773/271-4059

Fwd: Just Housing

Larry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:48 AM

To: Adam Newman <anewman@suffredin.org> 1 attachments (2 MB)

CookCountyjust.housing.rules.07.24.19 (1).pdf;

Sent from my iPhone

Begin forwarded message:

From: Marilyn Glazer <marilynglazer@aol.com>**Date:** August 11, 2019 at 9:57:29 AM CDT**To:** lsuffredin@aol.com**Subject:** Just Housing

Larry:

I hope this finds you well and enjoying summer.

I know that the Illinois REALTORS have voiced some concerns about the proposed rules for the Just Housing Ordinance, and I agree and echo their concerns.

Also, I have a concern about Condominium Associations who REQUIRE criminal-background checks. Under the association rules, the association can advise a condominium-unit owner that a tenant is NOT QUALIFIED to lease the owner's unit based on the criminal-background check..It is unclear to me if the associations are under the same restrictions as a landlord in the County Ordinance/Rules. And, if not, this places the condominium-unit owner between a "rock and a hard place."

In reading the rules, I also have some serious concerns regarding the length of time for notice. My reading seems to indicate that the unit has to remain available to the specific tenant (whose criminal background check has initiated a denial of rental) for a lengthy period of time. This can result in a landlord having a unit vacant, which could affect his/her ability to pay his/her mortgage. Though I am not attorney, it appears as if this is a "taking" of a landlord's rights.

BTW: Our family owns investment condominium units, where the associations REQUIRE criminal background checks. When I made those associations aware of the Supreme Court Decision, and subsequent HUD guidelines regarding disparate treatment, they were "unmoved."

Before these rules are enacted, I'd appreciate serious attention be made to the above concerns.

Thanks,

Marilyn (Glazer)

Attached: Just Housing Proposed Rules

the Fund and from the Cook County Health and Hospital System attend the hearing to discuss current retiree medical options and explore potential new options.

[19-4820](#)

Sponsored by: LARRY SUFFREDIN, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

REQUIRED NOTICE BY BOARDS, COMMISSIONS, ADVISORY COMMITTEES AND TASK FORCES

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 2 - Administration, Article VI, BOARDS, COMMISSIONS AND COMMITTEES, DIVISION 1. - GENERALLY, of the Cook County Code is hereby amended as Follows:

Sec. 2-470. Required Notice of Meetings.

To comply with the Open Meetings Act, every Board, Commission, Advisory Committee, or Task Force created by this Board shall post notice of its meetings with the Secretary to the Cook County Board of Commissioners.

Effective date: This ordinance shall be in effect immediately upon adoption.

[19-4770](#)

Presented by: N. KEITH CHAMBERS, Executive Director, Department of Human Rights and Ethics

PROPOSED CHANGES TO PUBLIC FACING RULES AND REGULATIONS

Department: Cook County Department of Human Rights and Ethics

Summary:

PART 700 JUST HOUSING AMENDMENT INTERPRETIVE RULES

Section 700.100 **Prohibition of Discrimination**

Article II of the Cook County Human Rights Ordinance ("Ordinance") prohibits unlawful discrimination, as defined in §42-31, against a person because of any of the following: race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge, source of income, gender identity or housing status.

Additionally, any written or unwritten housing policy or practice that discriminates against applicants based on their criminal history, as defined in § 42-38(a) of the Ordinance, is a violation of the Ordinance. Any

written or unwritten housing policy or practice which discriminates against applicants based on their convictions, as defined in § 42-38(a) of the Ordinance, prior to the completion of an individualized assessment violates the Ordinance.

Nothing in this section shall be interpreted as prohibiting a housing provider from denying housing to an applicant based on their criminal conviction history when required by federal or state law.

Nothing in these rules shall be construed as prohibiting any public housing agency from denying housing to any applicant based on the applicant's criminal conviction history when required by federal or state law mandate or permits such denial.

SUBPART 710 **AUTHORITY AND APPLICABILITY**

Section 710.100 **Authority**

These rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights, pursuant to § 42-34(e)(5) and §42-38(c)(5)(c) of the Ordinance, to adopt rules and regulations necessary to implement the Commission's powers.

Section 710.110 **Applicability**

These rules shall go into effect on the effective date of the Just Housing Amendment (No. 19-2394) to the Ordinance and shall only apply to claims that arise out of actions that occur on or after the effective date of the amendments.

SUBPART 720 **DEFINITIONS**

Section 720.100 **Definition of Business Day**

"Business Day" means any day except any Saturday, Sunday, or any day which is a federal or State of Illinois legal holiday.

Section 720.110 **Definition of Criminal Background Check**

"Criminal background check," as referenced in § 42-38(e)(2)(a), includes any report containing information about an individual's criminal background, including but not limited to those produced by federal, state, and local law enforcement agencies, federal and state courts or consumer reporting agencies.

Section 720.120 **Definition of Demonstrable Risk**

"Demonstrable risk," as referenced in § 42-38(c)(5)(c), refers to the likelihood of harm to other residents' personal safety and/or likelihood of serious damage to property based on the applicant's history of criminal

conviction(s) within the last five (5) years and the factors considered in the individualized assessment.

Criminal convictions that are five (5) years old or older do not represent a demonstrable risk to personal safety or property; housing providers may only consider criminal convictions that have occurred within the last five (5) years. Categories of criminal convictions that may represent a demonstrable risk to personal safety or property, unless rebutted by factors considered in the individualized assessment, include:

- (A) Felony drug-related criminal activity defined as the illegal manufacture, sale, distribution of drugs or the intention to manufacture, sell, or distribute the drug, except such drug-related criminal activity that has been decriminalized or legalized after the date of conviction.
- (B) Violent criminal activity defined as any criminal activity that involves the use, attempted use, or threatened use of physical force that causes or that is substantial enough to cause serious bodily injury or property damage.
- (C) Criminal Sexual Conduct including, sexual assault, incest, open and gross lewdness or child sexual abuse.

Section 720.130 **Definition of Public Housing Agency**

“Public Housing Agency” means any state, county, municipal or other governmental entity that is authorized to develop or operate low income housing under the U.S. Housing Act of 1937 (12 U.S.C. 1701), as amended.

Section 720.140 **Definition of Relevance**

“Relevance,” as referenced in § 42-38(e)(2), refers to the degree to which an individual’s conviction history makes it more or less likely that if the criminal conduct reoccurred, the act would impact the personal safety and/or property of others.

Section 720.150 **Definition of Tenant Screening Criteria**

“Tenant screening criteria,” as referenced in § 42-38(e)(2)(a), means the criteria, standards and/or policies used to evaluate an applicant’s conviction history. The criteria, standards and/or policies shall apply ONLY AFTER a housing applicant has been pre-qualified. The criteria must explain how applicants’ criminal conviction history will be evaluated to determine whether their conviction history poses a demonstrable risk to personal safety or property.

SUBPART 730 **TWO-STEP SCREENING PROCESS**

Section 730.100 **Notice of Tenant Screening Criteria and Two-Step Screening Process**

Before accepting an application fee, a housing provider must disclose to the applicant the following information:

- (A) The tenant screening criteria, which describes how an applicant's criminal conviction history will be evaluated to determine whether to rent or lease to the applicant;
- (B) The applicant's right to provide evidence demonstrating inaccuracies within the applicant's conviction history, or evidence of rehabilitation and other mitigating factors as described in §750.100 below; and
- (C) A copy the Cook County Commission on Human Rights ("Commission") interpretative rules, or a link to the Commission's website, or address and phone number of the Commission.

Section 730.110 **Step One: Pre-Qualification**

No person shall inquire about, consider or require disclosure of criminal conviction history before the prequalification process is complete and the housing provider has determined the applicant has satisfied all other application criteria for housing or continued occupancy.

Section 730.120 **Notice of Pre-Qualification**

Once a housing provider determines an applicant has satisfied the pre-qualification standards for housing, the housing provider shall notify the applicant that the first step of the screening procedure has been satisfied and notify the applicant that a criminal background check will be performed or solicited.

Section 730.130 **Step Two: Criminal Background Check**

After or at the same time a housing provider sends the notice of prequalification required by Section 730.120, a housing provider may perform or solicit a criminal background check on the pre-qualified applicant.

SUBPART 740 **CONVICTION DISPUTE PROCEDURES**

Section 740.100 **General**

Before denying admission or continued occupancy based on criminal conviction history, a housing provider must provide the housing applicant or resident with:

- (A) a copy of any criminal background check and other screening material relied upon; and
- (B) notice of the applicant's right to dispute the accuracy or relevance of any conviction(s) in accordance with Section 740.110 of these rules.
- (C) A copy of these rules, or a link to the Human Right's Commission website, or the address and

phone number of the Commission.

Section 740.110 **Opportunity to Dispute the Accuracy and Relevance of Convictions**

- (A) Once a copy of the criminal background check is provided to the applicant, the applicant shall have five (5) business days from the postal or electronic mail date stamp to notify the housing provider in writing of the applicant's intent to dispute the accuracy or the relevance of the information.
- (B) The applicant shall have an additional five (5) business days to produce evidence that disputes the accuracy and/or relevance of any information contained within the criminal background check.

Section 740.120 **Dispute Procedures and Other Applicants**

If a pre-qualified applicant provides notice of their intent to dispute the accuracy or relevance of criminal conviction history in accordance with §740.110, the housing provider must complete the notice and dispute process of §740.110 before extending housing to another applicant.

If a housing applicant does not dispute the accuracy or relevance of the criminal conviction history and the housing provider determines that the applicant poses a demonstrable risk, the housing provider can extend housing to another pre-qualified applicant.

SUBPART 750 **INDIVIDUALIZED ASSESSMENT**

Section 750.100 **Review Process**

After giving an applicant the opportunity to dispute the accuracy and/or relevance of their conviction(s) listed in the criminal background check, a housing provider must conduct an individualized assessment, as defined in §42-38(a) of the Ordinance. The individualized assessment is used to determine whether denial based on criminal conviction history is necessary to protect against a demonstrable risk to personal safety and/or property.

The factors that may be considered in performing the individualized assessment include, but are not limited to:

- (A) the nature and severity of the criminal offense and how recently it occurred;
- (B) the conduct underlying the conviction;
- (C) the nature of the sentencing;
- (D) the number of the applicant's criminal convictions;
- (E) the length of time that has passed since the applicant's most recent conviction;
- (F) the age of the individual at the time the criminal offense occurred;
- (G) evidence of rehabilitation;
- (H) the individual history as a tenant before and/or after the conviction;

- (I) whether the criminal conviction(s) was/were related to or a product of the applicant's disability;
- (J) whether, if the applicant is an individual with a disability, any reasonable accommodation could be provided to ameliorate any purported demonstrable risk; and
- (K) other mitigating factors.

SUBPART 760 **NOTICE OF FINAL DECISION**

Section 760.100 **Decision Deadline**

A housing provider must either approve or deny an individual's housing application within three (3) business days of a final decision to deny admission or continued occupancy based on criminal conviction history.

Section 760.110 **Written Notice of Denial**

- (A) Any denial of admission or continued occupancy based on a conviction must be in writing and must provide the applicant an explanation of why denial based on criminal conviction is necessary protect against a demonstrable risk of harm to personal safety and/or property.
- (B) The written denial must also contain a statement informing the housing applicant of their right to file a complaint with the Human Rights Commission of Cook County.

Section 760.120 **Confidentiality**

The housing provider must also limit the use and distribution of information obtained in performing the applicant's criminal background check. The housing provider must keep any information gathered confidential and in keeping with the requirements of the Ordinance.

Just Housing Rules - Chicago Apt. Assoc. Comments

Tom Benedetto <tom@caapts.org>

Wed 8/14/2019 11:47 AM

To: brandon.johnson@cookcountytill.gov <brandon.johnson@cookcountytill.gov>; Larry Suffredin <lsuffredin@aol.com>; Bridget Degnen (Board of Commissioners) <Bridget.Degnen@cookcountytill.gov>; Dennis.Deer@cookcountytill.gov <Dennis.Deer@cookcountytill.gov>; john.daley@cookcountytill.gov <john.daley@cookcountytill.gov>; Bill.Lowry@cookcountytill.gov <Bill.Lowry@cookcountytill.gov>; donna.miller@cookcountytill.gov <donna.miller@cookcountytill.gov>; cookcty9@aol.com <cookcty9@aol.com>; deborah.sims@cookcountytill.gov <deborah.sims@cookcountytill.gov>; sean.morrison@cookcountytill.gov <sean.morrison@cookcountytill.gov>
Cc: Clinee.hedspeth@cookcountytill.gov <Clinee.hedspeth@cookcountytill.gov>; Adam Newman <anewman@suffredin.org>; alma.anaya@cookcountytill.gov <alma.anaya@cookcountytill.gov>; bridget.gainer@aon.com <bridget.gainer@aon.com>; jeffrey.tobolski@cookcountytill.gov <jeffrey.tobolski@cookcountytill.gov>; kevin.morrison@cookcountytill.gov <kevin.morrison@cookcountytill.gov>; stanley.moore2@cookcountytill.gov <stanley.moore2@cookcountytill.gov>; district10@cookcountytill.gov <district10@cookcountytill.gov>; luis.arroyojr@cookcountytill.gov <luis.arroyojr@cookcountytill.gov>; Scott.Britton@cookcountytill.gov <Scott.Britton@cookcountytill.gov>; john.roberston@cookcountytill.gov <john.roberston@cookcountytill.gov>; pamela.cummings@cookcountytill.gov <pamela.cummings@cookcountytill.gov>

 1 attachments (126 KB)

CAA JHO Rules Concerns - FINAL.pdf;

Greetings Cook County Commissioners,

As our discussions with apartment industry professionals have continued, CAA members continue to offer insight into how best to implement the Just Housing Ordinance. Please see the attached document containing their comments on the proposed Rules. In summary, we believe if certain aspects of the proposed Rules are amended by the Rules Committee, it will ensure a better ordinance for all. We are grateful for your consideration and look forward to hearing from you: please contact our association with any questions or concerns.

Best regards,

Tom Benedetto MPP

Legislative Analyst

Chicagoland Apartment Association

557 W Randolph Street, Ste 201

Chicago, IL 60661

312-207-1890 ext. 7

630-849-7331 mobile

www.caapts.org

tom@caapts.org





Just Housing Ordinance Rules

CAA Member Feedback and Concerns

The Chicagoland Apartment Association (CAA is an affiliate of the National Apartment Association and we represent the owners and managers of over 1000 apartment communities and approximately 140,000 rental units in Cook County. The Rules published by the Cook County Human Rights Commission in July have been reviewed by members of CAA, who have expressed both concerns and suggestions in order to enhance industry compliance with the Just Housing Ordinance (JHO).

1. Section 740.120 Holding a unit off the market during a lengthy, bifurcated appeal process.

- According to managers and owners, the cost of holding a vacant unit off the market for 10-13 days (Section 740.110), would be detrimental to housing providers.
- Decreased occupancy rates will especially affect smaller owners.
 - CAA Member: “10 days is extremely long when our current practice is that we only hold apartments off the market for 72 hours. We have a large portfolio in Hyde Park...holding an apartment off the market for that long would greatly increase our overall vacancy rate. As a smaller owner that strives for higher occupancy rates a dip of even 1-2% drastically impacts our overall performance and ability to operate efficiently.”
- No other known ordinance across the country requires holding a unit off the market. Can a compromise be reached?
- Online application processes and background check results are received in a timely manner. Instead of holding a specific unit for 10-13 days off the market, property managers should be allowed to offer an alternate available unit at the conclusion of a successful appeal by an applicant. Tenants are required to be notified of their ability to dispute any adverse action in the current rules (this happens at the time of application).
- Held units reduce financial resources available for owner to dedicate to repairs and improvements.
- If a unit must be held off the market, the County Board might consider combining the notice of appeal and provision of supporting documents into **one, 5-day timeframe**.

2. Section 720.120 “Demonstrable risk” categories concern just three types of crimes.

- While CAA appreciates the inclusion of the three categories in this section, owners should have the ability to perform an individualized assessment for applicants convicted of additional crimes that pose a demonstrable risk to the safety and security of others or property **such as convictions for fraud, theft, weapons possession, and arson which cannot be considered under the ordinance**.

3. Section 720.120 A seven-year “look back period” is the industry standard for screening.

- The seven-year look back period is established by the Federal Fair Credit Reporting Act (FCRA).
- Many studies regarding recidivism rates center around the range of 7-10 years (until a convicted criminal has the same percent chance of committing another offense as would a general member of society).
- Is there evidence that substantiates the claim “Criminal convictions that are five (5) years old or older do not represent a demonstrable risk to personal safety or property?”

Fwd: Safer Housing in Cook County - JHOLarry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:45 AM

To: Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: "Jay Johnson" <jjohnson@cornerstonellc.com>
Date: August 14, 2019 at 3:40:04 PM CDT
To: "Commissioner Larry Suffredin" <lsuffredin@aol.com>
Subject: Safer Housing in Cook County - JHO

Dear Commissioner Suffredin,

Property owners and managers have a moral, legal, and financial responsibility to protect current tenants from risk in apartment communities. In regards to the Just Housing Ordinance rules, I urge you to give thought to:

- Changing the 'look back period' to the industry-standard SEVEN YEARS (from FIVE) regarding criminal background checks
- Including theft and fraud to the definition of DEMONSTRABLE RISKS in Section 720.120
- Reconsidering the obligation of an owner or manager to hold a specific unit off the market for UP TO AN EXTENSIVE 13 DAYS during appeal

While its goals may be well-intentioned, without careful consideration of the rules governing the process, the county's Just Housing Ordinance will create potential loss of affordable and safe housing in Cook County.

Please let me know if you would like to speak more on the subject. Thank you for your attention to this matter.

Sincerely,

Jay Johnson
6928 N Wayne Ave
Chicago, IL 60626
jjohnson@cornerstonellc.com

Just Housing Ordinance five year look back

Mike Glasser <rogersparkmichael@gmail.com>

Wed 8/14/2019 11:42 PM

To: Adam Newman <anewman@suffredin.org>

Adam Newman

Commissioner Suffredin's office

Adam;

Not to besiege you with examples of the ludicrous nature of the JHO's proposed five year look back, but this article appeared in today's news.

If this alleged perpetrator applied for an apartment, under the proposed rules of the County's new Just Housing Ordinance, scheduled to take effect on 1/1/20, landlords would not be allowed to know of this offender's prior convictions since they occurred over five years ago

- Mike Glasser

Wednesday, August 14, 2019

Convicted home invader, burglar, child sex offender is caught red-handed in Rogers Park burglary, cops say (Judge gives him a recognizance bond)

Dewayne Howard was arrested in the 1400 block of West Sherwin. | CPD; Google

A lifelong felon who recently finished doing time for a violent home invasion is free on a recognizance bond after cops allegedly caught him burglarizing a Rogers Park apartment. The accused man also has a history that includes multiple prison terms for burglary and for the sexual assault of a child.

The case of Dewayne Howard is the latest example of Cook County's affordable bail program in action.

Last Thursday evening, a Rogers Park man hid in his bedroom closet and called 911 after a man broke through his back door with a crowbar around 7 p.m. The offender then began breaking through the door to the victim's bedroom.

Police arrived at the apartment building on the 1400 block of West Sherwin to hear a door slam and see 51-year-old Howard emerge onto the back porch, they said. Howard leaned over the third-floor railing with gloves on his hands, then ran back into the victim's apartment, according to police.

Cops next spotted Howard as he tried to crawl out of a first-floor window of the same building, they said. He was eventually arrested as he ran down a hallway.

The victim identified Howard as the man who broke into his apartment. Also allegedly identified by the victim were a MacBook and headphones in Howard's backpack along with a ring, a necklace, and rolls of quarters that cops took from Howard's pants pocket. Police say they recovered a crowbar and a screwdriver.

Prosecutors charged Howard with felony burglary. And Judge Arthur Willis released him on his own recognizance the next day.

Court records show that Howard was sentenced to three concurrent 15-year sentences in 2008 for home invasion causing injury and burglary in Rogers Park. He previously received a 15-year sentence for predatory criminal sexual assault of a child under age 13 in 1998. He caught a nine-year sentence for burglary in 1993. And six years for burglary plus a concurrent six years for aggravated battery in 1990. In 1987, he received three concurrent four-year terms for burglary and

8/22/2019

Mail - Adam Newman - Outlook

theft.

Howard is due back in court on Thursday.

Sent from my iPhone

Fwd: Safer Housing in Cook County - JHOLarry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:46 AM

To: Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: "Jennifer Dean" <jdean@pangeare.com>
Date: August 14, 2019 at 11:56:03 AM CDT
To: "Commissioner Larry Suffredin" <lsuffredin@aol.com>
Subject: Safer Housing in Cook County - JHO

Dear Commissioner Suffredin,

Property owners and managers have a moral, legal, and financial responsibility to protect current tenants from risk in apartment communities. In regards to the Just Housing Ordinance rules, I urge you to give thought to:

- Changing the 'look back period' to the industry-standard SEVEN YEARS (from FIVE) regarding criminal background checks
- Including theft and fraud to the definition of DEMONSTRABLE RISKS in Section 720.120
- Reconsidering the obligation of an owner or manager to hold a specific unit off the market for UP TO AN EXTENSIVE 13 DAYS during appeal

While its goals may be well-intentioned, without careful consideration of the rules governing the process, the county's Just Housing Ordinance will create potential loss of affordable and safe housing in Cook County.

Please let me know if you would like to speak more on the subject. Thank you for your attention to this matter.

Sincerely,

Jennifer Dean
6340 Capulina Ave Apt 5C
Morton Grove, IL 60053
jdean@pangeare.com

Fwd: Safer Housing in Cook County - JHO

Larry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:45 AM

To: Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: "Marcus Colvin" <colvin.a@optimaweb.com>
Date: August 15, 2019 at 7:22:02 AM CDT
To: "Commissioner Larry Suffredin" <lsuffredin@aol.com>
Subject: Safer Housing in Cook County - JHO

Dear Commissioner Suffredin,

Property owners and managers have a moral, legal, and financial responsibility to protect current tenants from risk in apartment communities. In regards to the Just Housing Ordinance rules, I urge you to give thought to:

- Changing the 'look back period' to the industry-standard SEVEN YEARS (from FIVE) regarding criminal background checks
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While its goals may be well-intentioned, without careful consideration of the rules governing the process, the county's Just Housing Ordinance will create potential loss of affordable and safe housing in Cook County.

Please let me know if you would like to speak more on the subject. Thank you for your attention to this matter.

Sincerely,

Marcus Colvin
Architect
Optima, Inc.
630 Vernon Ave
Glencoe, IL 60022
colvin.a@optimaweb.com

Fwd: Safer Housing in Cook County - JHO

Larry Suffredin <lsuffredin@aol.com>

Thu 8/15/2019 10:13 AM

To: Brandon.Johnson@cookcountyiil.gov <Brandon.Johnson@cookcountyiil.gov>; Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: "Derek Reich" <dreich@pangeare.com>
Date: August 15, 2019 at 5:57:02 AM PDT
To: "Commissioner Larry Suffredin" <lsuffredin@aol.com>
Subject: Safer Housing in Cook County - JHO

Dear Commissioner Suffredin,

Property owners and managers have a moral, legal, and financial responsibility to protect current tenants from risk in apartment communities. In regards to the Just Housing Ordinance rules, I urge you to give thought to:

- Changing the 'look back period' to the industry-standard SEVEN YEARS (from FIVE) regarding criminal background checks
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While its goals may be well-intentioned, without careful consideration of the rules governing the process, the county's Just Housing Ordinance will create potential loss of affordable and safe housing in Cook County.

Please let me know if you would like to speak more on the subject. Thank you for your attention to this matter.

Sincerely,

Derek Reich
6850 W Howard St
Niles, IL 60714
dreich@pangeare.com

Fwd: Safer Housing in Cook County - JHO

Larry Suffredin <lsuffredin@aol.com>

Thu 8/22/2019 10:41 AM

To: Adam Newman <anewman@suffredin.org>

Sent from my iPhone

Begin forwarded message:

From: "Benjamin Kennedy" <bkennedy@rmk.com>
Date: August 15, 2019 at 5:12:03 PM CDT
To: "Commissioner Larry Suffredin" <lsuffredin@aol.com>
Subject: Safer Housing in Cook County - JHO

Dear Commissioner Suffredin,

Property owners and managers have a moral, legal, and financial responsibility to protect current tenants from risk in apartment communities. In regards to the Just Housing Ordinance rules, I urge you to give thought to:

- Changing the 'look back period' to the industry-standard SEVEN YEARS (from FIVE) regarding criminal background checks
- Including theft and fraud to the definition of DEMONSTRABLE RISKS in Section 720.120
- Reconsidering the obligation of an owner or manager to hold a specific unit off the market for UP TO AN EXTENSIVE 13 DAYS during appeal

While its goals may be well-intentioned, without careful consideration of the rules governing the process, the county's Just Housing Ordinance will create potential loss of affordable and safe housing in Cook County.

Please let me know if you would like to speak more on the subject. Thank you for your attention to this matter.

Sincerely,

Benjamin Kennedy
Community Manager
The Residences of Wilmette
617 Green Bay Rd
Wilmette, IL 60091
bkennedy@rmk.com

County Building
118 N. Clark Street
Room 567
Chicago, IL 60602
(312) 603-4566 (t)
(312) 603-3696 (f)

brandon.johnson@cookcountyil.gov



Brandon Johnson
Commissioner – 1st District
Cook County Board of Commissioners

Committee Vice Chair
Criminal Justice
Veterans

Committee Member
Contract Compliance
Finance
Health and Hospitals
Human Relations
Labor
Law Enforcement
Litigation
Pension
Tax Delinquency
Transportation
Workers' Compensation

MEMORANDUM

To: President Preckwinkle
Board of Commissioners

From: Commissioner Brandon Johnson

Date: August 27, 2019

Re: Comments on the proposed rules for Just Housing Ordinance

The Just Hosing Initiative Coalition has provided general comments on the proposed rules for the Just Housing Ordinance. Also, within the comments are responses to specific rules proposed by the Cook County Human Rights Commission.

The comments are attached to this memo.

Sincerely,
Brandon Johnson
Cook County Commissioner, 1st District

JUST HOUSING INITIATIVE



People with records, like everyone else, deserve a place to call home.

August 27, 2019

To the Honorable Commissioners of the Cook County Board:

Thank you for the opportunity to provide comments on the proposed rules for Ordinance No. 19-2394, otherwise known as the Just Housing Amendment to the Cook County Human Rights Ordinance. We submit comments today on behalf of members of the Just Housing Initiative, a coalition led by twelve organizations and consisting of over 100 supporting organizations working to increase housing access for people who have been involved with the criminal legal system. As the Board is well aware, the overall purpose of the Just Housing Amendment is to ensure that everyone in Cook County has a fair chance at housing, which we are hopeful the rules will reflect.

In this letter, we first provide some general comments and follow with comments on specific rules proposed by the Cook County Human Rights Commission.

I. GENERAL COMMENTS

I.A. The Rules Must Be Consistent with the Just Housing Amendment.

As a general matter, we recommend that the rules mirror the language from the ordinance amendment as much as possible to prevent conflicting interpretations. In the attached comments, we note where edits would better reflect the ordinance language, but do not change the substance of the rule.

I.B. The Rules Must Not Exempt Public Housing Authorities.

We strongly encourage the Rules Committee to remove any exemption for public housing authorities (PHAs) from the proposed rules. Specifically, the Rules Committee should remove “or permits” from the following sentence in proposed Section 720.110: “Nothing in these rules shall be construed as prohibiting any public housing agency from denying housing to any applicant based on the applicant’s criminal conviction history when required by federal or state law mandate *or permits* such denial.” (emphasis added). If this provision remains as is, the rule will improperly enlarge an exemption that the legislation does not authorize.

Currently, the Just Housing Amendment permits housing providers to deny housing on the basis of covered criminal history where “federal or state law mandates such denial.”¹ This exception addresses the two narrow situations where federal law requires PHAs and other federally subsidized housing providers to deny housing: (1) where an applicant is required to register as a sex offender for life; and (2)

¹ Cook Cty., Ill., Ord. No. 19-2395 § 42-38(c)(6).

where an applicant has been convicted of manufacturing or producing methamphetamine on federally assisted property.² Beyond these narrow categories, federally subsidized housing providers have discretion over whether to admit or deny individuals with past conviction records.³ An important limitation on this discretion, however, is the federal Fair Housing Act.⁴ It is well-established that the federal Fair Housing Act sets a floor on protections from discrimination and that local ordinances like the Cook County Human Rights Ordinances may offer more protections for its residents. The Just Housing Amendment, therefore, is a valid exercise of power by the Cook County Board of Commissioners to protect its residents from unjustified discrimination by federally subsidized housing providers. Any attempt by the rules to limit that power falls outside of the scope of the authority of Cook County Human Rights Commission.

This proposed exemption would also severely undermine the purpose of the Just Housing Amendment. Its core interest is to increase equitable housing access for people who have left the criminal legal system. An explicit exemption of PHAs would close off a critical source of affordable housing for these individuals and their families. Moreover, it could create a slippery slope to the exemption of other federally subsidized housing providers, such as owners of project-based Section 8 developments and landlords participating in the Housing Choice Voucher program. To prevent this exception from swallowing the rule, we strongly recommend that the rules not create an exemption for PHAs.

I.C. The Rules Should Define the Terms “Pre-Qualified” and “Pre-Qualification.”

We recommend that the rules include a definition of “pre-qualified” and “prequalification.” These words appear in several of the rules, but the actual legislation does not include these words. To ensure consistency in its use, we recommend the following definition for “pre-qualification”: “satisfying all criteria, standards and/or policies that the housing provider uses to evaluate an applicant for admission or continued occupancy, excluding tenant screening criteria as defined by Section 720.130.”

I.D. The Rules Should Ensure that People Understand Their Rights.

In several notice provisions, the Human Rights Commission inserted a requirement that housing providers give applicants a copy of the interpretative rules of the Just Housing Amendment. Rules, however, are dense and legalistic and therefore may not fully inform a layperson of their rights. We recommend instead that the proposed rules require housing providers to include a know-your-rights document written in plain language, which could be developed by the Human Rights Commission in partnership with stakeholders. Such a change would apply to proposed Section 730.100 (Notice of Tenant Screening Criteria and Two-Step Screening Process) and proposed Section 740.100 (General).

II. SPECIFIC PROVISIONS

II.B. Proposed Section 720.120 – Definition of Demonstrable Risk

² 42 U.S.C. § 13663(a); 42 U.S.C. § 1437n(f)(1).

³ HUD, Office of Public and Indian Housing, PIH Notice 2015-19, at 1 (2015).

⁴ HUD, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions 5 (2016) [hereinafter, HUD 2016 Guidance]; HUD, Office of Public and Indian Housing, PIH Notice 2015-19, at 5 (2015).

The proposed rule defines “demonstrable risk” as “the likelihood of harm to other residents’ personal safety and/or likelihood of serious damage to property based on the applicant’s history of criminal conviction(s) within the last 5 years and the factors considered in the individualized assessment.” Below, we offer recommendations on how to amend this rule to better serve the purpose of the Just Housing Amendment in giving everyone a fair chance at housing.

III.B.1 — Change the Definition to “Real and Specific Likelihood of Serious Harm”

We strongly urge the Rules Committee to strengthen the definition of demonstrable risk and thus align the rule with the HUD Guidance. According to the guidance, “a housing provider must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not.”⁵ In defining “demonstrable risk” simply as a “likelihood of harm,” however, the proposed rule sets too low of a standard, making way for the “[b]ald assertions based on generalizations or stereotypes” that the HUD Guidance warns against.⁶ To avoid an erosion of the Just Housing Amendment, we suggest that the proposed rule borrow HUD language to ensure alignment, and thus require a “*real and specific likelihood of serious harm*.”

III.B.2 — Reduce the Time Limit on Considering Criminal History to 3 Years

We support the idea of imposing a time limit on the conviction history that a housing provider can consider. A time limit helps to shrink the pool of applicants in need of an individualized assessment, which would make the Just Housing Amendment easier to administer for landlords and easier to access for applicants.

At the same time, we strongly encourage the Rules Committee to recommend reducing the proposed time limit from five years to three years. **A three-year limit on the use of criminal records would bring the county ordinance in line with Illinois state law.** Through bipartisan legislation, the Illinois General Assembly has reduced unnecessary hurdles to ease the reentry process for people with records. Individuals with conviction records, for example, may apply for nearly all state-issued occupational licenses, and if more than three years has passed post-conviction, the state must consider the time beyond the three years as evidence of rehabilitation.⁷ On a related note, the Illinois General Assembly has also expanded the list of convictions eligible for sealing and expungement, which is not possible for covered offenses 5 years after conviction or 3 years after confinement.⁸ Since the state of Illinois has seen it fit to offer people a second chance after three years, Cook County should adopt a similar timeframe.

Local housing providers have also used and promoted similar three-year time limits. In considering an applicant’s criminal history, for example, both the Chicago Housing Authority and the Housing Authority of Cook County limit their inquiry to the last three years.⁹ In addition, Heartland

⁵ HUD 2016 Guidance, *supra* note 4, at 6.

⁶ *Id.*

⁷ [Public Act 100-286](#)

⁸ [Public Act 100-284](#)

⁹ See, e.g., Chicago Housing Authority, Administrative Plan, 18-9 to 18-10 (2018), <https://cha-assets.s3.us-east-2.amazonaws.com/s3fs-public/2019-05/Admin%20Plan-Final.pdf>; Housing Authority of Cook County, Administrative Plan 42-44 (2018), <http://thehacc.org/wp-content/uploads/2016/06/HACC-Admin-Plan-2018-Final.pdf>.

Alliance, which provides housing and other services in Cook County, recently issued recommendations to fellow affordable housing providers to adopt a maximum lookback period of three years.¹⁰

We push back against the characterization of seven years as an industry standard. It is only very recently that studies have been done by housing providers on the impact that a criminal record has on a person's ability to fulfill the responsibilities of tenancy, and those studies certainly do not support seven years. Earlier this year, four large affordable housing providers in Minneapolis assessed the impact of a criminal record on housing outcomes using data from thousands of their own residents. They found that the likelihood of recidivism declined for misdemeanor convictions after two years and for felony convictions after five years.¹¹ And while the Fair Credit Reporting Act sometimes limits information older than seven years, FCRA is not an appropriate guidepost since it is primarily concerned with consumer reporting agencies and the type of information they can report, not landlords and the type of information they can use. Therefore, we strongly recommend against increasing the time limit to seven years.

Finally, we note that under the rules as currently written, the relevant date for the time limit is the date of conviction. In other words, the relevant inquiry for the housing provider is whether a person has been convicted of covered criminal activity within the past three years. To avoid confusion, we recommend that the final rules clarify that the relevant date is the date of conviction.

III.B.3 — Remove Examples of Categories of Criminal Convictions

The proposed rule provides examples of categories of criminal convictions in the proposed section on demonstrable risk. We oppose including these examples for several reasons. First, the Just Housing Amendment does not contemplate categories of criminal convictions as representing a demonstrable risk by themselves. Instead, under the ordinance, the housing provider must show why, in light of the individualized assessment, denial based on the conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others. To say that a category of criminal conviction may represent a demonstrable risk oversimplifies the process that the Just Housing Amendment requires.

Second, these categories of criminal convictions are too broad and therefore contradict the Amendment's purpose to ensure a fair chance at housing for all applicants. By emphasizing felony drug-related criminal activity, violent criminal activity, and criminal sexual conduct in the definition of demonstrable risk, housing providers are more likely to adopt broad exclusions for applicants with these types of convictions as an administrative shortcut to complying with the Just Housing Amendment. Applicants with these types of convictions will accordingly face an uphill battle to obtaining housing, even with compelling mitigating evidence to support admission. Furthermore, housing providers have found that some of these types of criminal activity simply do not result in negative housing outcomes.¹² The Wilder study, for example, found that some types of violent criminal activity and drug-related criminal activity did not result in negative housing outcomes. We strongly urge the Rules Committee, therefore, not to approve of the inclusion of these broad categories and instead give all applicants a meaningful opportunity to show why they are prepared to fulfill the responsibilities of tenancy.

¹⁰ Heartland Alliance, *Win Win: Equipping Housing Providers to Open Doors for Housing for People with Criminal Records* 16 (2019).

¹¹ Carl Warren, *Success in Housing: How Much Do Criminal Backgrounds Matter?* 19-20 (2019).

¹² *Id.* at 17-20.

Finally, these examples of categories of criminal convictions simply do not belong in the final rule. In general, rules are supposed to offer a legal standard for assessing whether a violation of legislation has occurred. The categories are advisory in nature; therefore, as a technical drafting measure, we strongly recommend their deletion.

II.C. Proposed Section 720.140 – Definition of “Tenant Screening Criteria”

We recommend a change to the last sentence so that it better reflects the language of the amendment. Currently, the proposed rule states that “[t]he criteria must explain how applicant’s criminal conviction history will be evaluated to determine whether their conviction history poses a demonstrable risk to personal safety or property.” However, under the Amendment, it is not conviction history alone that determines a demonstrable risk; rather, the applicant must undergo an individualized assessment to determine whether denial based on the conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others. Therefore, we have proposed changes to help ensure the proposed rule better reflects the legislative language around “demonstrable risk.”

II.D. Proposed Section 720.150 – Definition of “Relevance”

The proposed rule defines “relevance” as “the degree to which an individual’s conviction history makes it more or less likely that if the criminal conduct reoccurred, the act would impact the personal safety and/or property of others.” We object to this definition because it focuses narrowly on the underlying conduct without taking into consideration any change in circumstances that would reduce the likelihood of this conduct happening again.

Before a housing provider can deny admission based on a conviction, the Just Housing Amendment requires the landlord to do two things: (1) give the applicant sufficient notice and an opportunity to dispute the accuracy and relevance of the conviction, and (2) conduct an individualized assessment, by which the landlord determines whether an applicant’s conviction history negatively impacts that applicant’s ability to fulfill the responsibilities of tenancy. To streamline these requirements, we recommend editing the proposed rule so that the term “relevance” is defined as “the degree to which an individual’s conviction history has a negative impact on the individual’s ability to fulfill the responsibilities of tenancy.” Unlike the proposed definition of relevance, this definition would permit applicants an opportunity to offer mitigating evidence, and it would not put the landlord in the position of presiding as a judge over the original conduct. People with criminal records have already paid the price for the original conduct; all landlords should be concerned with now is whether they are likely to be good tenants.

II.E. Section 730.120 – Notice of Pre-Qualification Section 730.130 – Step Two: Criminal Background Check

We recommend amending proposed Sections 730-120 and 730-130 to clarify the following questions:

1. Once a housing provider has determined that an applicant is “pre-qualified,” does the notice of pre-qualification need to be in writing? Or may it be given orally or electronically? We recommend that the housing provider be required to provide the notice of pre-qualification both in writing (with return receipt and electronically). Oral notice is not sufficient to ensure that people are adequately informed.
2. Does the housing provider need to provide this notice within a particular timeframe?

3. Does the housing provider need to conduct the criminal background check within a particular timeframe?
4. We recommend adding a provision that expressly prohibits a housing provider from including a question on its application about an applicant's conviction history.

II.F. Section 740.100 – General

The proposed rule does not indicate how housing providers may provide a copy of the criminal background check to the applicant. We recommend that where possible, housing providers do so in person rather than through mail.

II.G. Section 740.110 – Opportunity to Dispute the Accuracy and Relevance of Convictions

Under Section 740.110 (a), we recommend increasing the number of business days to six and requiring both written and electronic (return receipt) notice. Additionally, under Section 740.110(b), we seek clarification that the relevant time period begins when the housing provider provides notice to the applicant.

II.H. Section 740.120

Under Section 740.120, there are several unanswered questions: When can an offer to someone else who is qualified for the apartment be extended? How should a housing provider process someone else is prequalified? What happens if there are multiple applicants for the unit? The rules as written do not currently address these questions.

II.J. Subpart 750 – Individualized Assessment

Although Section 740.110 sets out a timeline, the timeline does not address when a housing provider to complete the individualized assessment and determine whether denial is necessary to protect against a demonstrable risk to personal safety and/or property of others. Because a timeline is necessary to holding housing providers accountable, we proposed adding the following language:

After giving the individual an opportunity to dispute the accuracy and relevance of the conviction history, the housing provider shall conduct an individualized assessment of the individual and determine whether denial based on the criminal conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction. The housing provider shall complete its assessment and make its determination either:

- (1) Within 6 business days of receipt of evidence produced by the individual pursuant to Section 730.100(B)(2), or
- (2) At the expiration of the time period described in Section 730.100(B)(2), provided that the individual fails to produce such evidence.

Thank you for your consideration of our comments. Should you seek clarification or further discussion, please contact:

- Gianna Baker, Housing Action Illinois, gianna@housingactionil.org, 312-939-6074 x.110
- Patricia Fron, Chicago Area Fair Housing Alliance, pfron@cafha.net, (872)228-7844

- Marie Claire Tran-Leung, Shriver Center on Poverty Law, marieclairetran@povertylaw.org, 312-754-9450

Sincerely,

Members of the Just Housing Initiative Coalition

JHO Rules

Mike Scobey <mscobey@illinoisrealtors.org>

Tue 8/27/2019 6:54 PM

To: Larry Suffredin <lsuffredin@aol.com>; Adam Newman <anewman@suffredin.org>

Cc: Tom Benedetto <tom@capts.org>; Marilyn Glazer <marilynglazer@aol.com>; Adriann Murawski <amurawski@illinoisrealtors.org>

 2 attachments (72 KB)

REALTORConcerns-JustHousingRules.docx; Questions-KeithChambers-JHO.docx;

Hi Commissioner and Adam. Thanks for letting us know of the Rules Committee hearing on September 4th.

Attached is a discussion of our primary concerns/problems with the proposed Rules on the the JHO.

Also attached is a list of questions we sent to Director Chambers after the Rules were released. We sent this on August 12; we have not heard a response yet.

We'd be happy to meet with you any time before the hearing. We can also meet any time after September 9th; I will be out of town Sept 5-9.

Thanks!

Michael Scobey
Director, Local Advocacy
Illinois REALTORS
773/271-4059

ILLINOIS REALTORS & CHICAGOLAND APARTMENT ASSOCIATION

Questions for Director Keith Chambers, Cook County Dept. of Human Rights

Proposed “Just Housing” Rules

Some housing providers may choose to have a standard policy which states that any rental applicant with a criminal conviction that is within the last five years and involves one of the three factors described in Section 720.120 will be denied housing. Will this policy result in a violation of the Ordinance?

Section 720.120 – Is there evidence/research that substantiates the assertion made in this Section: “Criminal convictions that are five (5) years old or older do not represent a demonstrable risk to personal safety or property?”

Section 720.120 Subsections (A), (B), (C): Can owners deny based on criminal activity that is NOT violent, such as fraud or theft?

Can a pre-qualified applicant dispute the relevance of a finding in a criminal background check if the criminal conviction was in the last five years and is included in one of the three factors described in Section 720.120?

Is the Individualized Assessment performed by a housing provider only after the pre-qualified applicant provides notice of their intent to dispute? [It is not clear when in the process a housing provider is to perform the Individualized Assessment.]

Section 740.110 of the proposed Rules provide the time periods in the “Opportunity to Dispute.” When does the five-day period in section (B) start? From the date of the applicant’s Notice? Or at the conclusion of the five-day period in section (A)?

Section 760.120 addresses “Confidentiality” and “limit(s) the use and distribution of information obtained in performing the applicant’s criminal background check.” Can a real estate licensee who manages a property on behalf of an owner share information with that owner? Can a real estate licensee or condominium association manager share the information with the owner and with

association members (other owners)? (Frequently, condo association boards review criminal background checks.)

Does the Department have any plans for educating property owners that are not members of a trade association (e.g. owners of two-to-six unit buildings, condominium associations) before the Rules/Ordinance go into effect?

Contact: Michael Scobey mscobey@illinoisrealtors.org

773/271-4059

Tom Benedetto tom@caapts.org

312/207-1890



Illinois REALTORS® Concerns on the Proposed “Just Housing” Rules

1. **Section 740.120 Holding a unit off the market during a lengthy, “Opportunity to Dispute” process.** The proposed Rules create a new right for a rental applicant who chooses to dispute a finding in a criminal background screening. There are five days for the applicant to notify the housing provider of the intent to dispute and another five days for the applicant to provide disputing evidence. In this ten-day period(business days), “housing cannot be extended to any other applicant.”
 - Very often, renting out an apartment is a time-sensitive transaction with multiple applicants involved. The cost of holding a vacant unit off the market for 10-13 days (Section 740.110), would be detrimental to housing providers.
 - Longer vacancy rates will hurt smaller owners.
 - No other ordinance or state law in the country requires holding a unit off the market.
 - **We believe that a 48 hour time period to notify is sufficient along with a three-day period to produce disputing evidence.**
2. **Section 720.120 This section provides for a five-year “look back” period for certain types of criminal convictions.**
 - We urge a seven year “look back” period; that is the current federal standard. Alternatively, a sliding scale on the number of years could be used for different types of criminal convictions.
 - The list of criminal activities that may be considered a “demonstrable risk” should include theft. Some forms of theft do not involve “violence” or “physical force.” A person who has

recently committed theft of personal property in an apartment building should also be considered a “demonstrable risk.”

- The Rules, as drafted, are not clear as to whether the five year look back period (with the types of crimes listed in this Section) allows a housing provider the ability to automatically deny housing.
- **We recommend a seven year look back period and greater clarity on the ability to deny housing on the front end for serious criminal convictions.**

3. **The Two-step process on screening that is proposed in the Rules will apply to every rental applicant in the County.** This imposes an additional delay in the rental application process, and a new cost for all rental applicants.

Contact: Mike Scobey, Illinois REALTORS

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mscobey@illinoisrealtors.org

Housing Providers Respond to JHO Rules

NBOA Chicago <info@nboachicago.com>

Tue 8/27/2019 9:30 AM

To: Adam Newman <anewman@suffredin.org>

Dear County Commissioners:

The **Neighborhood Building Owners Alliance (NBOA)** represents many of Chicago's community based housing provider organizations - we, the property owners on the front line in providing affordable housing in Chicago's neighborhoods. Our affiliate organizations include Rogers Park, Edgewater, Greater Austin, South Side, Lincoln Park, Lakeview and our newest affiliate - landlords representing the Northwest Side.

We are the ones expected to implement the Just Housing Ordinance. We understand that the Rules Committee will consider the Rules governing implementation of the Ordinance at its meeting on September 25th and will be using the next few weeks to fine tune the rules.

We submit [the following two page position paper](#), which overviews questions and suggestions from our organization. We feel that we raise important issues in this document, and respectfully request that you consider our suggestions and respond to our questions.

As much as the above document suggests are responses to the Rules, I **would like to remind the Commissioners that the NBOA disagrees with the JHO in its entirety**, and we [summarize the reasoning behind our objections in this document](#).

We look forward to participating in any additional meetings and conversations with you in the coming days prior to the 9/25 Rules meeting.

Sincerely,

Neighborhood Building Owners Alliance
Michael Glasser, President
773 491-1235

NBOA Chicago | PO BOX 608492, Chicago, IL 60660

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SECTION 720.120 - Definition of Demonstrable Risk

Issue: Proposed 5 year “look back period” of applicant’s criminal convictions

As proposed, the Rules make claim that “Criminal convictions that are five (5) years old or older do not represent a demonstrable risk to personal safety or property.” However, criminologist studies note that 1) **different criminal convictions yield different likelihoods of recidivism** and 2) “**at seven years past the offense date**, the likelihood that a person with a prior criminal record will engage in future criminal conduct decreases to where it approximates the likelihood that a person with no criminal history will engage in criminal conduct.”¹

CITE

Further, the current industry standard for screening is a seven year “look back period.” Seven to ten-year histories are also standard among other forms of Consumer Reports². **The NBOA recommends a seven (7) year “look back period” of an applicant’s history of criminal convictions.**

Issue: Limited Categories of Criminal Convictions defining “Demonstrable Risk”

The proposed Rules are limited to three categories of crime, do not adequately consider crimes against property (including those that might not be considered “violent” i.e. car thefts), and lack clarification concerning misdemeanor offenses. **The NBOA recommends that the categories of criminal convictions be expanded to define 1) arson-related offenses, 2) theft, stolen-property and fraud related offenses and 3) weapon possession offenses.** Further, if criminal convictions appear within any of these categories, the NBOA would ask that an automatic look-back period of greater than 7 years be made available.

Additionally, housing providers must be allowed to view and consider certain misdemeanor offenses. **The NBOA recommends setting a threshold for Class A misdemeanors in the definition of “Demonstrable Risk.”**

SECTION 740.110 / 740.120 - Dispute Procedures

Issue: Holding a unit off the market during a lengthy, bifurcated appeal process

As proposed, the Rules (Sec. 740.110) allow an applicant five (5) business days to make notice of appeal and an additional five (5) business days to produce evidence to support the appeal, without defining what evidence should be produced to the housing provider. Further, Section 720.120 requires a housing provider complete the process before the ability to extend housing to another applicant.

The cost of holding a vacant unit off the market for 10-13 days would be extremely detrimental to housing providers and would adversely affect housing availability and affordability for other potential applicants, let alone frustrate good housing providers. As much as persons re-entering are expected to prepare resumes prior to attending a job interview, so too should they be expected to prepare the documentation to support an anticipated appeal prior to applying for housing. **The NBOA recommends that, if a housing provider must hold a unit off the market, there be a reduction of the notice of appeal to two (2) business days and evidence production to two (2) business days while also amending language in Section 740.110 (B) to state “The applicant shall... produce substantiated evidence that disputes...”**

Issue: Definition of notice by postmark

As written, the Rules provide an applicant five (5) business days from the “**postal or electronic mail date stamp**” to notify a housing provider of intent to dispute and an additional five (5) days to produce evidence to support the dispute. The NBOA is concerned that if postmark controls, a housing provider would be required to wait an additional (undefined) number of days to ensure compliance of receipt of intent to appeal, thus further extending time a unit is held off-market. **The NBOA recommends that all written notices of intent to appeal be made electronically to the housing provider’s designated agent.**

SECTION 750.100 - Individualized Assessment

Issue: Undefined burden to produce assessment documentation

As written, the Rules require a housing provider to conduct an individualized assessment after an applicant disputes findings of a criminal background check, but fails to define who must produce the materials used. If the burden of responsibility lies with the housing provider, it would significantly reduce the providers’ ability to navigate an already onerous application process in a timely manner and would require undue resources and expense. Instead, the Rules should require the applicant to furnish documented evidence in mitigation, and in the absence of the applicant providing documented evidence, should clarify that the housing provider is under no obligation to furnish such materials, although they are within their rights to conduct such research.

Therefore, **the NBOA recommends that an applicant be required to produce all substantiated documentation required to satisfy factors considered for an individualized assessment and no defined requirement be made of the housing provider.**

(over)

Issue: Factors that may be considered in performing assessment

In Section 750.100, factors that may be considered include (J) “whether, if the applicant is an individual with a disability, any reasonable accommodation could be provided to ameliorate any purported demonstrable risk and (K) other mitigating factors.”

The NBOA seeks clarification on factors (I) (J) and why they were added to the review process factors. Do these provisions add to legal risk born by the housing provider as a protected class?

The NBOA recommends that factor (K) be written as “other mitigating or aggravating factors.”

ADDITIONAL QUESTIONS

Section 730.100

Reconciling requirement that housing providers furnish applicant with a copy of tenant screening criteria before applicants submit a credit check fee. ***Must that housing provider’s criteria be no less restrictive than the factors outlined in Section 720.120 definition of “Demonstrable Risk”?***

Section 700.100

Are public housing agencies offered a different set of rules and expectations than private sector housing providers?

Undefined in the Rules as written

Adding New Roommates or Family Members to Existing Lease: ***When a housing provider decides whether or not to add someone new to an existing lease, must they comply with the JHO? May the housing provider skip the bifurcated process and immediately begin a criminal background check if the new tenant’s financial responsibility is not an issue?***

1) https://www.reentryroundtable.net/wp-content/uploads/2013/10/Criminal-Background-White-Paper.final_.pdf
2) <https://www.ftc.gov/tips-advice/business-center/guidance/using-consumer-reports-what-landlords-need-know>

Just Housing Coalition: Comments on the Draft Rules for the Just Housing Amendment

Gianna Baker <gianna@housingactionil.org>

Tue 9/3/2019 11:16 PM

To: Larry Suffredin <lsuffredin@aol.com>; Larry Suffredin (Board of Commissioners) <larry.suffredin@cookcountyl.gov>; Adam Newman <anewman@suffredin.org>**Cc:** Marie Claire Tran-Leung <marieclairetran@povertylaw.org>; Patricia Fron <pfron@cafa.net> 4 attachments (2 MB)

Recommendations on Topline Changes to the Rules.pdf; final coalition comments on proposed rules for Just Housing Amendment.pdf; Just Housing Coalition edits to proposed rules (clean).pdf; Just Housing Coalition edits to proposed rules (redline).pdf;

Dear Commissioner Suffredin:

On behalf of the Just Housing Initiative coalition, we would like to thank you for cosponsoring the Just Housing amendment. In response to the draft interpretive rules for the Just Housing amendment, our coalition has developed a summary of comments and proposed edits for the rules.

If you have any questions, please contact Marie Claire Tran-Leung from the Shriver Center at marieclairetran@povertylaw.org or 312-307-3467.

Attached you will find:

- Recommendations on Topline Changes to the Just Housing Amendment Rules
- Final Coalition comments on the rules
- Just Housing Coalition edits to the rules (clean version)
- Just Housing Coalition edits to the rules (red-line edits)

Thank you for your consideration.

Gianna Baker
Outreach Manager
Housing Action Illinois
67 E. Madison, Suite 1603 | Chicago, IL 60603

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312-939-6822 (fax)

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A new law will protect 1+ million Cook County residents with records from housing discrimination. [Learn more about the Just Housing Amendment](#) »

PART 700 **JUST HOUSING AMENDMENT INTERPRETIVE RULES**

Section 700.100 **Prohibition of Discrimination**

Article II of the Cook County Human Rights Ordinance (“Ordinance”) prohibits unlawful discrimination, as defined in §42-31, against a person because of any of the following: race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge, source of income, gender identity or housing status.

Additionally, any written or unwritten housing policy or practice that discriminates against applicants based on their covered criminal history, as defined in § 42-38(a) of the Ordinance, is a violation of the Ordinance. Any written or unwritten housing policy or practice which discriminates against applicants based on their convictions, as defined in § 42-38(a) of the Ordinance, prior to the completion of an individualized assessment violates the Ordinance.

Commented [MT1]: The ordinance refers to “covered criminal history,” so this change reflects that language.

Nothing in this section shall be interpreted as prohibiting a housing provider from denying housing to an applicant based on their covered criminal history when federal or state law mandates such denial ~~their criminal conviction history when required by federal or state law.~~

Commented [MT2]: This language change more accurately reflects the language in Section 42-38(c)(6).

~~Nothing in these rules shall be construed as prohibiting any public housing agency from denying housing to any applicant based on the applicant’s criminal conviction history when required by federal or state law mandate or permits such denial.~~

Commented [MT3]: The rules should not exempt public housing authorities. For an explanation, see the Coalition’s memo, Section I.B. (p. 1)

SUBPART 710 **AUTHORITY AND APPLICABILITY**

Section 710.100 **Authority**

These rules are adopted in accordance with the authority vested in the Cook County Commission on Human Rights, pursuant to § 42-34(e)(5) and §42-38(c)(5)(c) of the Ordinance, to adopt rules and regulations necessary to implement the Commission’s powers.

Section 710.110 **Applicability**

These rules shall go into effect on the effective date of the Just Housing Amendment (No. 19-2394) to the Ordinance and shall only apply to claims that arise out of actions that occur on or after the effective date of the amendments.

SUBPART 720 **DEFINITIONS**

Section 720.100 **Definition of Criminal Background Check**

“Criminal background check,” as referenced in § 42-38(e)(2)(a), includes any report containing information about an individual’s criminal background history, including but not limited to those produced by federal, state, and local law enforcement agencies, federal and state courts or consumer reporting agencies.

Commented [MT4]: This language change more accurately reflects the language of the Just Housing Amendment.

Section 720.110 **Definition of Business Day**

“Business Day” means any day except any Saturday, Sunday, or any day which is a federal or State of

Coalition Edits to Proposed Rules from Cook County Human Rights Commission
August 29, 2019

Illinois legal holiday.

Section 720.120 **Definition of Demonstrable Risk**

“Demonstrable risk,” as referenced in § 42-38(c)(5)(c), refers to the ~~real and specific~~ likelihood of ~~serious harm~~ to other residents’ personal safety and/or likelihood of serious damage to property based on the applicant’s history of criminal conviction(s) within the last five (5) years and the factors considered in the individualized assessment.

Commented [MT5]: See Coalition memo, Section II.B.1 (p. 3)

Criminal convictions that are ~~five (5) three (3) years old~~ or older do not represent a demonstrable risk to personal safety or property; housing providers may only consider criminal convictions that have occurred within the last ~~three (3) five (5) years~~. ~~Categories of criminal convictions that may represent a demonstrable risk to personal safety or property, unless rebutted by factors considered in the individualized assessment, include:~~

Commented [MT6]: See Coalition memo, Section II.B.2 (p. 3-4)

Commented [MT7]: See Coalition memo, Section II.B.3 (p. 4-5)

(A) ~~Felony drug related criminal activity defined as the illegal manufacture, sale, distribution of drugs or the intention to manufacture, sell, or distribute the drug, except such drug related criminal activity that has been decriminalized or legalized after the date of conviction.~~

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(B) ~~Violent criminal activity defined as any criminal activity that involves the use, attempted use, or threatened use of physical force that causes or that is substantial enough to cause serious bodily injury or property damage.~~

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(C) ~~Criminal Sexual Conduct including, sexual assault, incest, open and gross lewdness or child sexual abuse.~~

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Section 720.### **Definition of Prequalification**

~~“Prequalification” means satisfying all criteria, standards, and/or policies that the housing provider uses to evaluate an applicant for admission or continued occupancy, excluding tenant screening criteria as defined by Section 720.130.~~

Commented [MT8]: The term “prequalification” should be defined. See attached memo at Section I.C. (p. 2).

Section 720.130 **Definition of Public Housing Agency**

“Public Housing Agency” means any state, county, municipal or other governmental entity that is authorized to develop or operate low income housing under the U.S. Housing Act of 1937 (12 U.S.C. 1701), as amended.

Section 720.140 **Definition of Tenant Screening Criteria**

“Tenant screening criteria,” as referenced in § 42-38(e)(2)(a), means the criteria, standards and/or policies used to evaluate an applicant’s conviction history. The criteria, standards and/or policies shall apply ONLY AFTER a housing applicant has been pre-qualified. The criteria must explain how applicants’ criminal conviction history will be evaluated to determine ~~whether denial based on the conviction is necessary to protect against their conviction history poses~~ a demonstrable risk to personal safety or property.

Commented [MT9]: This language change more accurately reflects the language of the Just Housing Amendment. See Coalition memo, Section II.C. (p. 5).

Section 720.150 **Definition of Relevance**

“Relevance,” as referenced in § 42-38(e)(2), refers to the degree to which an individual’s conviction history ~~makes it more or less likely that if the criminal conduct reoccurred, the act would impact the~~

personal safety and/or property of others has a negative impact on the individual's ability to —fulfill the responsibilities of tenancy.

Commented [MT10]: See Coalition memo, Section II.D (p. 5).

SUBPART 730 TWO-STEP SCREENING PROCESS

Section 730.100 Notice of Tenant Screening Criteria and Two-Step Screening Process

Before accepting an application fee, a housing provider must disclose to the applicant the following information:

- (A) The tenant screening criteria, which describes how an applicant's criminal conviction history will be evaluated to determine whether to rent or lease to the applicant;
- (B) The applicant's right to provide evidence demonstrating inaccuracies within the applicant's conviction history, or evidence of rehabilitation and other mitigating factors as described in §750.100 below.
- (C) A copy the Cook County Commission on Human Rights ("Commission") interpretative rules, or a link to the Commission's website, or address and phone number of the Commission.

Commented [MT11]: "Tenant screening criteria" is defined in the definitions above, so there is no need to repeat here.

Commented [MT12]: The rules should include an easy-to-understand explanation of the rules, not just a copy of the rules. See Coalition memo, Section I.D (p. 2)

Section 730.110 Step One: Pre-Qualification

No person shall inquire about, consider or require disclosure of covered criminal conviction history before the prequalification process is complete and the housing provider has determined the applicant has satisfied all other application criteria for housing or continued occupancy. Applications for housing must not include an inquiry into a person's conviction history.

Commented [MT13]: The ordinance refers to "covered criminal history," so this change reflects that language.

Commented [MT14]: See Coalition memo, Section II.E (p. 6).

Section 730.120 Notice of Pre-Qualification

Once a housing provider determines an applicant has satisfied the pre-qualification standards for housing, the housing provider shall notify the applicant that the first step of the screening procedure has been satisfied and notify the applicant that a criminal background check will be performed or solicited. Notice shall be in writing by email with return receipt or electronically.

Commented [MT15]: See Coalition memo, Section II.E. (p. 5).

Section 730.130 Step Two: Criminal Background Check

After or at the same time a housing provider sends the notice of prequalification required by Section 730.120, a housing provider may perform or solicit a criminal background check on the pre-qualified applicant.

Commented [MT16]: See memo @ II.G.

SUBPART 740 CONVICTION DISPUTE PROCEDURES

740.100 General

Before denying admission or continued occupancy based on criminal conviction history, a housing provider must provide the housing applicant or resident with:

- (A) a copy of any criminal background check and other screening material relied upon; and
- (B) notice of the applicant's right to dispute the accuracy or relevance of any conviction(s) in

accordance with Section 740.110 of these rules.

- (C) A copy of these rules, or a link to the Human Right's Commission website, or the address and phone number of the Commission.

Commented [MT17]: The rules should include an easy-to-understand explanation of the rules, not just a copy of the rules. See Coalition memo, Section I.D (p. 2)

Section 740.110

Opportunity to Dispute the Accuracy and Relevance of Convictions

- (A) Once a copy of the criminal background check is provided to the applicant, the applicant shall have ~~five (5)~~six (6) business days from ~~the postal or electronic mail date stamp~~receiving notice under Section 740.100 to notify the housing provider in writing of the applicant's intent to dispute the accuracy or the relevance of the information.
- (B) The applicant shall have an additional ~~five (5)~~six (6) business days to produce evidence that disputes the accuracy and/or relevance of any information contained within the criminal background check.

Commented [MT18]: See Coalition memo, Section II.G (p. 6)

Section 740.120

Dispute Procedures and Other Applicants

If a pre-qualified applicant provides notice of their intent to dispute the accuracy or relevance of criminal conviction history in accordance with §740.110, the housing provider must complete the notice and dispute process of §740.110 before extending housing to another applicant.

If a housing applicant does not dispute the accuracy or relevance of the criminal conviction history and the housing provider determines that ~~the applicant poses~~denial based on the conviction history is necessary to protect against a demonstrable risk, the housing provider can extend housing to another pre-qualified applicant.

Commented [MT19]: This language change better reflects the ordinance.

SUBPART 750

INDIVIDUALIZED ASSESSMENT

Commented [MT20]: See Coalition memo, Section II.H (p. 6).

Section 750.100

Review Process

After giving an applicant the opportunity to dispute the accuracy and/or relevance of their conviction(s) listed in the criminal background check, a housing provider must conduct an individualized assessment, as defined in §42-38(a) of the Ordinance. The individualized assessment is used to determine whether denial based on criminal conviction history is necessary to protect against a demonstrable risk to personal safety and/or property.

The factors that may be considered in performing the individualized assessment include, but are not limited to:

- (A) the nature and severity of the criminal offense and how recently it occurred;
- (B) the conduct underlying the conviction;
- (C) the nature of the sentencing;
- (D) the number of the applicant's criminal convictions;
- (E) the length of time that has passed since the applicant's most recent conviction;

- (F) the age of the individual at the time the criminal offense occurred;
- (G) evidence of rehabilitation;
- (H) the individual history as a tenant before and/or after the conviction;
- (I) whether the criminal conviction(s) was/were related to or a product of the applicant's disability;
- (J) whether, if the applicant is an individual with a disability, any reasonable accommodation could be provided to ameliorate any purported demonstrable risk; and
- (K) other mitigating factors.

Section 750.200 **Timeline for Individual Assessment**

After giving the individual and opportunity to dispute the accuracy and relevance of the conviction history, the housing provider shall conduct an individualized assessment of the individual and determine whether denial based on the criminal conviction is necessary to protect against a demonstrable risk to personal safety and/or property of others affected by the transaction. The housing provider shall complete its assessment and make its determination either:

- (1) Within 6 business days of receipt of evidence produced by the individual pursuant to Section 730.100(B)(2), or
- (2) At the expiration of the time period described in Section 730.100(B)(2), provided that the individual fails to produce such evidence.

Commented [MT21]: See Coalition memo, Section II.J (p. 6).

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SUBPART 760 NOTICE OF FINAL DECISION

Section 760.100 Decision Deadline

A housing provider must either approve or deny an individual's housing application within three (3) business days of a final decision to deny admission or continued occupancy based on criminal conviction history.

Section 760.110 Written Notice of Denial

Upon denying Any denial of admission or continued occupancy based on a conviction, the housing provider must provide the applicant with a written notice that includes: must be in writing and must provide the applicant an explanation of

- 1. The reasons why denial based on criminal conviction is necessary protect against a demonstrable risk of harm to personal safety and/or property; and

(A) A:

- (B)2. The written denial must also contain a statement informing the housing applicant of their right to file a complaint with the Human Rights Commission of Cook County.

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Section 770.100

Confidentiality

(C) The housing provider must also limit the use and distribution of information obtained in performing the applicant's criminal background check. The housing provider must keep any information gathered confidential and in keeping with the requirements of the Ordinance.

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August 29, 2019

Recommendations on topline changes to Just Housing Amendment rules

1. The Rules Must Not Exempt Public Housing Authorities.

An exemption of PHAs would close off a critical source of affordable housing for returning citizens. Moreover, it could create a slippery slope to the exemption of other federally subsidized housing providers, such as owners of project-based Section 8 developments and landlords participating in the Housing Choice Voucher program.

2. The Rules Should Reduce the Time Limit on Considering Criminal History to 3 Years

A three-year limit on the use of criminal records would bring the county ordinance in line with Illinois state law. Individuals with conviction records, for example, may now apply for nearly all state-issued occupational licenses, and if more than three years has passed post-conviction, the state must consider the time beyond the three years as evidence of rehabilitation.

A three-year limit on the use of criminal records would bring the county ordinance in line with existing practices from the Chicago Housing Authority and the Housing Authority of Cook County.

A time limit helps to shrink the pool of applicants in need of an individualized assessment, which would make the Just Housing Amendment easier to administer for landlords and easier to access for applicants.

3. The Rules Should Remove Examples of Categories of Criminal Convictions

The Amendment entitles every applicant—with a record or not—to be considered as an individual.

The categories are too broad. By emphasizing felony drug-related criminal activity, violent criminal activity, and criminal sexual conduct in the definition of demonstrable risk, housing providers are more likely to adopt broad exclusions for applicants with these types of convictions as an administrative shortcut to complying with the Just Housing Amendment.

These examples of categories of criminal convictions simply do not belong in the final rule. Rules are supposed to offer a legal standard for assessing whether a violation of legislation has occurred.

If you have any questions, please contact Marie Claire Tran Leung from the Shriver Center (marieclairetran@povertylaw.org, 312-307-3467).