



Evictions and Calls for Service

PENDING 2018

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Introduction

The Police Conduct Oversight Commission assures that police services are delivered in a lawful and nondiscriminatory manner and provides the public with meaningful participatory oversight of police policy and procedure. Commission members have a variety of responsibilities including shaping police policy, auditing cases, and engaging the community in discussions of police procedure. The Commission strives to be the citizen advisory group the community relies upon to openly discuss policy and procedures of the Minneapolis Police Department, to voice concerns regarding law enforcement/civilian interactions, and the organization that advances credible and meaningful feedback, without obligation to political influences, for the betterment of the City of Minneapolis. [For more information about the work of the Commission, meeting times and locations, and meeting minutes, please visit the Commission website.](#)

Additionally, in the Police Conduct Oversight Ordinance, the Commission has direction to conduct programs of research and study, "review police department policies and training procedures and make recommendations for change." To identify topics for review, a random sample of case synopses are selected for presentation to the PCOC in summary form. The PCOC looks for trends and ongoing problems to address. Additionally, commissioners, through outreach, receive feedback from the public on current problems they may be experiencing with MPD or OPCR.

In the November 2017 Commission meeting, the PCOC received a presentation from Mid Minnesota Legal Assistance and asked the Office of Police Conduct Review to create a study related to MPD's involvement in the eviction process and nuisance ordinance enforcement.

Background

The Police Conduct Oversight Commission received a presentation from the Mid Minnesota Legal Assistance (MMLA) housing director and a member of his staff at their November 2017 meeting. During this presentation, MMLA staff identified issues regarding the intersection between police services in Minneapolis and evictions. Specifically, the speakers shared their perspective on how calls for police services can result in properties being designated as “nuisance” or “problem properties” and ultimately lead to evictions. They noted that tenants in crisis, such as people experiencing domestic abuse or mental health issues, may make a call for help that leads to even greater instability in their lives when they lose their housing. This research and study will explore issues surrounding the Minneapolis Police Department’s interactions with tenants and the impact on their housing. Both officers’ conduct and crime prevention specialists’ involvement with both tenants and landlords will be covered to provide a comprehensive picture of the current landscape in Minneapolis.

Relevant Housing Law

Conduct on Licensed Premises

As noted by MMLA, Minneapolis ordinance 244.2020 covers Conduct on Licensed Premises. This ordinance defines how a property is determined to be used in a disorderly manner and what the city requires of landlords to remedy to maintain a rental license. A determination that a property is “disorderly” requires “substantial evidence” but no further information is provided regarding the standard. When a property is labeled disorderly it triggers the involvement of the Minneapolis Police Department (MPD) through a crime prevention specialist or other designated employee. Section 1-503.04 of the MPD Policy and Procedure Manual specifically designates Community Crime Prevention/SAFE CENTRAL as the unit responsible for “Rental Property Owner Workshops” and “overseeing the nuisance conduct on premise enforcement process.” Crime prevention specialists report to precinct sector lieutenants.

Crime prevention specialists are given great latitude by the ordinance to notice landlords and require them to submit a management plan for how to deal with the “disorderly conduct” and prevent future problematic behavior. Landlords have 10 days to respond to a disorderly notice with a management plan. Once the management plan is accepted by MPD through the crime prevention specialist, landlords have 20 days to implement the plan.

Failing to comply with these requirements could lead to revocation of the landlord's rental license. If more disorderly instances occur, landlords are required to attend a property owners workshop and submit an updated management plan. Again, failure to comply with these requirements can lead to rental license revocation. The ordinance tasks MPD and regulatory services with enforcement of these requirements. If a landlord chooses to evict the tenant or provide a notice to vacate, the city will likely not pursue adverse action against the landlord's license. Despite a seemingly innocuous title, the Conduct on Licensed Premises ordinance has a great impact on tenants and landlords who are tied to properties that are designated as disorderly.

504B Eviction Actions and Police Service Exceptions

Minnesota Statute chapter 504B governs eviction actions in Minnesota. Most evictions are covered by 504B.285. Landlords can evict in a variety of circumstances including instances where a tenant fails to comply with his or her lease by not paying rent or staying on a property after being given a notice to vacate. However, tenants have protections in eviction actions. For example, under 504B.285 subd. 2(2), tenants may raise a retaliation defense when a tenant faces eviction for trying to enforce his or her rights in regards to health, safety, housing or building code violations.

Tenants have further protections when calling for police and emergency services under 504B.205. Under subd. 2 of this section, landlords are barred from limiting a tenant's rights to call the police or emergency services for domestic abuse or any other conduct. Further, landlords cannot penalize tenants for calling the police. 504B.205 subd.2(b) cements these protections and makes it unlawful for a tenant to waive their rights or for a landlord to ask a tenant to do so. 504B.205 provides strong protections for tenants facing eviction due to calls for police and emergency assistance and specifically calls out domestic abuse as an area where tenants should be able to freely call for help. These protections are also codified in federal law in the Violence Against Women Act (VAWA)

Research Questions

1. How does MPD engage in the enforcement of the Conduct on Licensed Premises ordinance?
2. How does MPD use crime prevention specialists at rental properties?
3. Do 911 calls for service contribute to evictions in Minneapolis?
4. How does the Minneapolis Conduct on Licensed Premises ordinance compare to other jurisdictions?

Results

Having safe and stable housing is often taken for granted by residents who have a place to call home. But for those who live in fear of themselves and their families being uprooted it is a daily struggle just to carry on their lives.¹ If a person loses their housing they often lose access to other stabilizing forces in their lives such as employment and benefits. Children who find themselves ousted from their homes can suffer a wide range of consequences from disrupted schooling to entering the child protection system. The consequences of losing one's housing can be dire. Like the previous research and study project on domestic violence, in cases involving alleged criminal conduct on rental properties, police are often the first contact and play a central role in outcomes. Police involvement, including reports and referrals to the problem property program, have a great impact on tenants who may be forced to leave their homes due to alleged criminal activity in their residence. This study will cover the intersection between policing in Minneapolis and evictions and its more subtle but equally impactful counterpart, the notice to vacate, and its effect on residents.

For the full Conduct on Licensed Premises Ordinance, see Appendix A and 504B.205 Residential Tenant's Right to Seek Police and Emergency Assistance in Appendix B.

Application of Conduct on Licensed Premises – past, present and future

During the interview process for this research and study, Office of Police Conduct Review (OPCR) staff spoke to several housing law experts including Larry McDonough, attorneys from Mid Minnesota Legal Assistance, and HOME Line. There was consensus among the group that the Conduct on Licensed Premises ordinance language on its face was not problematic, but rather the practical application was leading to unintended consequences. As such, advocates stated that the ordinance needed changes and specificity to meaningfully improve how it is enforced and to ensure it is narrowly targeted to achieve its stated objective. Advocates mentioned in reviews of national practices that they thought Minneapolis' language was not inherently problematic like other jurisdictions. Most housing advocates we spoke to felt that concerning practices developed in Minneapolis because the city's ordinance provided a basic framework for what triggers the consequences but vague language for the actual application and consequences. We also heard this concern from the city's Innovation Team as a result of their extensive study on evictions in Minneapolis.² That led this study to focus on an examination of how the Conduct on Licensed Premises ordinance has historically been applied and the outcomes.

Conduct on Licensed Premises History

Minneapolis enacted the Conduct on Licensed Premises ordinance in 1990. Commander Charlie Adams of the Minneapolis Police Department's Community Engagement Team was involved in problem properties from the inception of the "SAFE" program several years ago. This program paired a civilian and a sworn officer to do an intervention style approach to properties that had issues with crime. According to Commander Adams, there was a focus on narcotics years ago because the crack epidemic

¹ For a comprehensive narrative of the consequences of eviction, Matthew Desmond's book *Evicted* is an excellent study that details what life is like for low income tenants who are facing eviction as well as the landlords who work in low income communities in Milwaukee, Wisconsin.

² The City of Minneapolis' Innovation Team has done significant research on evictions that can be found in their attached report in Appendix C.

was leading to crack houses that disrupted neighborhoods and made them unsafe. Application of the ordinance seems unchanged since a time when the problem property designation was primarily related to the crack epidemic. Police officers who participated in the program seemed to feel the program was successful but it was eventually discontinued. Staff was unable to ascertain a reason for the program ending or the exact date that SAFE services stopped.

The Conduct on Licensed Premises ordinance gives two City of Minneapolis entities enforcement responsibility: Regulatory Services and the Minneapolis Police Department (MPD).³ After the discontinuation of the SAFE program, Regulatory Services stayed focused on the licensing implications of Conduct on Licensed Premises violations while the bulk of the ordinance enforcement responsibility fell to MPD. Regulatory Services Director Noah Schuchman provided OPCR staff with the tiered rental licensing system and explained that conduct on premises violations can have a major impact on how a property is classified with the city. See Appendix D for the Tiered Licensing System. According to Director Schuchman, landlords have incentives to keep their properties well maintained and crime-free so they are awarded a higher tier that subjects them to less city inspection and oversight.

After the SAFE program was discontinued, MPD civilian crime prevention specialists were assigned to problem properties and became the primary contact for Conduct on Licensed Premises issues. Over time, a single crime prevention specialist was conducting training for landlords, sending out demand notices to landlords for management plans, and monitoring properties deemed to be in violation of the ordinance. After conversations with OPCR staff, MPD examined the program operation more closely and subsequently put their current process on hold in all of the above mentioned areas in order to collaborate with the enterprise to change the process. But it is important to capture the previous process in order to offer recommendations on process improvement. To deconstruct the previous process, the crime prevention specialist's major job duties detailed above will be described individually.

Landlord Training

Landlords are offered a \$250 discount on licensing fees if they attend training. There are options for training, but the city also offers a class that was taught by the same crime prevention specialist who handled all of the conduct on licensed premise issues. A manual was also distributed at these trainings and can be found as Appendix E in this report. The training materials largely focus on removing tenants who allegedly committed crimes on the premises from the property. The primary mechanism conveyed to landlords during these trainings was to end their relationships with a tenant through a notice to vacate.

A notice to vacate is not an eviction. An eviction is a formal action that is filed against a tenant in housing court to which a tenant can raise defenses; it triggers protections for both parties.⁴ A notice to vacate is a notice, usually in letter form, issued by a landlord to a tenant essentially instructing the tenant to leave or face eviction. These notices can take many forms but sample language was being provided to landlords at the city trainings.

Currently, these notices are not being tracked. The lack of data in this area is extremely problematic, because anecdotal evidence from the tenant advocacy groups indicates that many tenants leave

³ Minneapolis City Ordinance 244.2020(b) ("Conduct on Licensed Premises")

⁴ See *generally* Minnesota State Statute 504B

because of fear of an eviction on their record. Evictions stay on a person's record for 10 years, appear on credit reports and make it extremely hard for people to find housing. The city's Innovation Team, led by Brian Smith, has done significant work on eviction data with the city. According to their study, there are about 3,000 evictions filed each year in Minneapolis.⁵ Brian Smith stated that the Innovation Team's work around evictions has led to concern across the city that evictions are being used far too often as a method to resolve disputes between landlords and tenants.

Even if tenants successfully fight an eviction action, they then have to file for an expungement to remove it from their record. Many tenants, regardless of education level, struggle to navigate the process and have an eviction lingering on their record for several months or years before it is removed. Fear of an eviction is valid, and many tenants do not want to risk the consequences of being homeless. Unfortunately, with vacancy rates at 2.2%, tenants could face homelessness even if they leave a property after receiving a notice to vacate.⁶

Management Plan

Conduct on licensed premises 244.2020(a) details all the crimes that trigger the ordinance. The range is broad including offenses such as noisy assembly to unlawful possession of a weapon. The consequences appear to be the same regardless of the level of crime as long as it falls into subdivision (a). According to subdivision (b) of the ordinance, if a crime is allegedly committed that is included in (a) then the landlord shall be required to submit a management plan to a crime prevention specialist or other assigned MPD employee. Office of Police Conduct Review (OPCR) staff spoke with the previously assigned crime prevention specialist regarding the management plans administration and training. He provided the requirement sheet for management plans that is given to landlords and it can be found in Appendix F. The document requires specific action, such as issuing notices to vacate and agreement by the landlord to do several things including using crime free lease addenda and attending further training by the same crime prevention specialist assigned to problem properties. Landlords must return this document within 10 days to be considered in compliance and avoid the risk of losing their rental license. A sample management plan is attached as Appendix G. Landlords may return a plan that states a notice to vacate will be issued as the only action. Landlords are not required to report whether the tenant actually leaves, which creates a gap in the data regarding constructive evictions in the city.

According to the crime prevention specialist formerly assigned to enforce the ordinance, the notices have been sent to landlords, block club leaders, and in some cases, the Hennepin County Attorney's Office. Data was also being pulled from the Hennepin County Sheriff's Office to issue management plans but no specific detail on that process was provided. When asked about whether tenants were ever notified about conduct on premises violations, the crime prevention specialist stated that since tenant notices were sometimes returned when he first started working on problem properties he stopped sending them out several years ago. Therefore, a tenant's first notice of their residence being classified a problem property could be a notice to vacate or even an eviction.

⁵ Evictions in Minneapolis:

<http://innovateminneapolis.com/documents/Evictions%20in%20Minneapolis%20Report.pdf>

⁶ See Minneapolis Trends Q4 Report:

<http://www.minneapolismn.gov/www/groups/public/@cped/documents/webcontent/wcmssp-210121.pdf>

Property Monitoring

The crime prevention specialist was solely responsible for monitoring compliance once a request for a management plan was issued. This included reviewing the plan for viability and tracking those landlords who failed to return a management plan. The data analysis section of this report will cover what information was collected from landlords and how it was used to explain the monitoring process in more detail. Monitoring and ordinance enforcement appears to be a substantial and complex job for one person. Both entities inside and outside the city enterprise, including MPD, felt that more than one person should be handling monitoring and enforcement of Conduct on Licensed Premises violations.

Areas for Concern

The previous sections are intended to provide a framework of previous practices. Before detailing some of the changes that are currently taking place, it is important to examine concerns raised by community advocates. Many of the advocates we interviewed have spent much of their careers dealing with evictions and the collateral consequences of losing housing. Not surprisingly, despite being from different agencies with different objectives, the concerns were quite consistent.

A. Landlord Training

The first concern was the training offered for landlords. This concern was voiced internally by Director Brian Smith of the Innovation Team as well as Regulatory Services Director Noah Schuchman. Director Smith felt that the current training was far too focused on evictions and legal advice rather than on a community based approach geared towards finding solutions with an equitable lens. Both Directors have been working on changing the training and hope that the current momentum will help make lasting change to training offered for landlords in Minneapolis.

All the advocates and even MPD feel that the police should not be involved in training landlords because it sets the wrong tone. OPCR Staff spoke with several attorneys who work in the housing unit at Mid Minnesota Legal Assistance (MMLA). Dorinda Wider and Joanna Dobson of MMLA felt that the current training makes landlords feel that evictions or notices to vacate are the only tool to solve problems. Instead, they said trainings should be focused on how Regulatory Services works, what landlords' obligations are under state and municipal law, and knowing their own rights when they have inadvertently rented to someone who is violating the law on their properties. Most importantly, they felt that landlords need to be educated on how to conduct business in a way that does not perpetuate illegal discrimination. Providing landlords with tools to treat tenants equitably was a common sentiment. Larry McDonough, a nationally recognized former MMLA attorney and current pro bono coordinator for Dorsey and Whitney, LLP, stated that Conduct on Licensed Premises violations disproportionately affects people of color and that trainings should be mindful of that fact. Ms. Wider has had a long and successful career as a housing advocate. She was familiar with the training manual and said the manual needs to reflect the above recommendations and move away from how to "manage" tenants and more towards how to work with tenants in a positive way. The Innovation Team also

focused on conveying the importance of working with an equity lens in their work when approaching training for landlords.⁷

HOME Line is a tenant advocacy group that provides hotline advice and help for tenants in crisis. HOME Line also trains both landlords and the police in a variety of cities. Attorneys Mike Vraa and Eric Hauge of the organization mentioned that trainings should focus equally on Conduct on Licensed Premises as well as the protections for tenants and landlords under state statute 504B. They also emphasized the importance of using strategies like cash for keys and mediating situations to provide the best outcome for both landlords and tenants. Mike Vraa mentioned that having a good relationship between the city inspectors and the landlords is a way to provide an outlet for landlords to get assistance and possibly alternate solutions before deciding to evict a tenant at the first sign of tension in the relationship. Jumping to evictions are extremely damaging to tenants' lives but are also costly and time consuming and expensive for landlords who frequently use the court system to rid themselves of tenants they are struggling with. All the advocates interviewed emphasized the importance of taking a community based approach to training that provides landlords with the tools they need to fairly and effectively manage properties within the confines of all applicable law.

Related to the landlord training were comments that both the police and housing inspectors were likely unaware of the collateral consequences of their work. For example, a police officer who responds to a noisy or disorderly call may have no idea that this call could result in a Conduct on Licensed Premises violation and in someone being issued a notice to vacate. Larry McDonough detailed some of his work with clients and described how easy it is for police to become "instruments" of a landlord who is trying to set up an eviction for a tenant they want removed. Mr. McDonough stated as an illustrative example that a tenant complaining about repairs can draw ire from a landlord that can result in a police call for an unrelated reason that sets the foundation for an eviction. MMLA attorneys and Mr. McDonough detailed cases where police reports were narration from an upset landlord and not the police officer's direct observations.

All advocacy groups involved made it clear that there are many landlords who follow the law and make repairs in a timely fashion, but for those who don't, they may see calling the police as a tool for eviction. In the same vein, an inspector who does not understand the potential chain of events can also set up the perfect case for a retaliatory landlord to oust a tenant. HOME Line, MMLA, and Mr. McDonough suggested training for police officers and housing inspectors and the impact their work can have on tenants. Mr. McDonough discussed previous trainings he provided for MPD where he had candid discussions with cadets about making sure that when getting accounts from both landlords and tenants on a call that those comments are clearly noted as statements so they are not mistaken for the officer's impressions of the situation. He felt this was understood by the cadets and shows that these types of educational opportunities can give key city employees a chance to expand their lens so they approach situations with a full understanding of the impact their reports and findings have.

B. Management plans

There was much concern about the management plan system in general. The fact the tenants were no longer getting notices was an issue for all participants in the study. Joanna Dobson, Colleen Walbran, and Dorinda Wider of Mid Minnesota Legal Assistance felt that a tenant voice was important throughout

⁷ See Appendix C

the process. Without a notice, the tenant could not be involved in any meaningful way. By the time they know what is going on, it is too late as they may have received a notice or vacate or even an eviction. Ms. Wider stated that tenants have legal rights too and not providing them with a notice does not recognize their rights as a resident at the property.

The language in the notices was also troubling to most advocates as well as Director Brian Smith from the Innovation Team. Common concerns that a landlord would interpret a notice as a requirement to oust a tenant were raised. See Appendix F. There was also a pressing concern that the notices being issued had no mention of the state law protections for domestic violence victims nor VAWA protections in federal law. Ms. Wider and Mr. McDonough raised Minnesota Statute 504B.205, which prevents a landlord from penalizing a tenant for calling police services for domestic violence or any other services. See Appendix B for the full text of 504B.205. This would theoretically protect tenants who call the police due to domestic violence or on behalf of an emotionally disturbed person. However, as will be further discussed in the data portion of this report, the current system is not providing any notice to those with protections. Some of the most vulnerable residents are slipping through the cracks and are likely to lose their housing. Minnesota Statute 504B.285 explicitly states that victims of domestic abuse, criminal sexual conduct, or stalking may use their experiences as a defense to an eviction. Ms. Wider has worked for many years on housing cases involving domestic violence and felt strongly that the current information being provided was not even close to being adequate for victims. OPCR reviewed the management plans and all materials sent to landlords who are involved in a Conduct on Licensed Premises violation and could not find any mention of these very important protections.⁸

MMLA and the Innovation Team also wanted to see more consistency in issuing of management plans to make the system more manageable for tenants and landlords. MMLA attorneys shared cases they worked on where a relative of the tenant provided the tenant's address to avoid providing their own. This led to police action at the property that resulted in a Conduct on Licensed Premises violation. Currently, there is concern among advocacy organizations that a false address or individuals committing crimes outside a building may inadvertently result in Conduct on Licensed Premises violations. There was also a concern that there is no consideration for the severity in crime in either issuing the management plan or any required supplemental training. These observations went along with concerns that monitoring and implementation of the Conduct on Licensed Premises violations could not be done by a single person. MMLA and Mr. McDonough suggested more staff and oversight of the entire program.

C. Lockouts

A collateral issue that arose in almost every interview conducted was lockouts. According to Minnesota Statute 504B.225, lockouts are an illegal way for a landlord to oust a tenant. See Appendix H. However, if a landlord is dealing with a tenant who has drawn a conduct licensed premises violation, he or she may choose to change the locks and throw the tenant's personal items outside the building or remove them from the premises. Mr. McDonough had extensive experiences with individuals who were locked out of their rental properties due to issues with their landlords. He further stated most landlords who

⁸ Larry McDonough provided information and context to these state statutes through his comprehensive collection of Minnesota law and commentary titled: *Residential Eviction Defense and Tenant Claims in Minnesota* Sixteenth Edition, April 2018:

http://povertylaw.homestead.com/files/Reading/Residential_Eviction_Defense_in_Minnesota.htm

engage in lockouts do a cold cost benefit analysis to decide whether they will spend the money to formally evict or just lockout and take the chance that the tenant sues them in court. All the advocacy groups interviewed said that when tenants called the police they were told it is a civil matter. However, this is not the case. Lockouts are actually misdemeanors and are criminal in nature under Minnesota Statute 609.605. See Appendix I. Instead of focusing on Conduct on Licensed Premises enforcement, MMLA and Mr. McDonough suggested that police officers be trained to refer those cases and instead issue proper criminal citations in lockout cases. According to all participants, patrol officers could focus on doing thorough reports for both but receive training that Conduct on Licensed Premises cases will be referred while lockout cases can result in a criminal consequence. Mr. McDonough stated that over his long career that lockouts are still pervasive and exacting criminal penalties is really the only hope of stopping the practice.

Management Plan Data

Between October of 2012 and December of 2016, MPD sent 940 notices to landlords under the Conduct on Licensed Premises ordinance. Narcotics violations were the most frequent ordinance trigger (43.34%); this excludes narcotics cases with weapons. Approximately 22% were for weapons and 8% were labeled “party”. Prostitution was cited in less than 1% of cases as was consumption of alcohol by a minor. The remaining cases involved a mixture of weapons, assaults, and narcotics.

While MPD requested management plans for rental units from 72 different Minneapolis neighborhoods, the majority (51% or 478) were for rental units in North Minneapolis. 43.8% occurred in just 8 neighborhoods in North Minneapolis, specifically Jordan, Willard Hay, Folwell, Hawthorne, Marcy-Holmes, Webber-Camden, McKinley, and Near North. By contrast, MPD sent 16 management plans relating to rental units in Southwest Minneapolis during the same timeframe.

Beyond general information about the plans and whether they were accepted, little can be gleaned about those impacted from the data proactively collected by MPD. MPD does not appear to track who lived at the unit; a lone individual engaging in criminal conduct differs significantly from a family with young children where one party triggers the ordinance. Further, MPD does not track whether tenants vacated their unit or what actions the landlord took to remediate the issue. Data relating to the offense that triggered the ordinance can be retrieved manually from CAPRS as well as some information regarding tenants. As such, analysts reviewed a sample for further information.

OPCR analysts conducted a survey using a simple random sample of 58 cases triggering the ordinance from 1/1/2016-12/31/2017. Analysts checked the management plan data to ensure the management plan related specifically to the address of the offender or offense. Because state law prohibits application of the Conduct on Licensed Premises ordinance to domestic violence related offenses, OPCR analysts selected this size to specifically answer whether less than 1% (+-3%) of cases involved instances of domestic violence. For additional information on the sampling process, see Appendix J. The state law is clear and settled; the rate at which victims of domestic violence should encounter the ordinance resulting from calling for assistance should be zero.

In the sample, analysts discovered the following case involving domestic violence which appears to violate state law protections:

- A man choked his girlfriend (the resident) and pointed a gun at her. He fled and was apprehended with the gun. Officers completed the domestic violence supplement. A management plan was issued and accepted resulting from this incident per MPD data.

As such, we can conclude with 95% certainty that the rate at which domestic violence cases trigger the conduct on premises ordinance is not zero. Stated differently, at least 1 in every 100 cases may involve domestic violence.

Additionally, several cases involved crimes that could be considered domestic violence but lacked further information:

- Three separate and unrelated cases occurred where a father's girlfriend assaulted the father's daughter (resident). In two cases, Officers completed the domestic violence supplement. In one instance, a party was arrested for domestic assault.
- A male party stabbed a female resident, romantic or domestic relationship was not determined by officers.
- A male party pointed gun at female resident and threatened her, she sprayed him with mace and fled, romantic or domestic relationship was not determined by officers.

The majority of the other cases surveyed involved offenses that the ordinance was specifically created to address, such as the seizure of large amounts of narcotics or guns. In those instances, the ordinance is working as expected. However, some of these cases raise concerns:

- Frequently, cases appeared to involve a party living with a partner and young children. For example, drugs were found in a vehicle leading to a warrant search of a rental property. Officers located money in the house during the search but no narcotics. Children ranging from 1-11 were living in the home with their mother who was not implicated in the criminal activity. However, the property was searched in relation to the resident arrested in the vehicle, and the conduct on premises ordinance was triggered, likely leading to the displacement of the mother and children. In another instance, a mother allowed her cousin to spend time at her apartment while officers were seeking to arrest him for a narcotics violation. He was located in the apartment along with the cousin and her minor children. This triggered the ordinance.
- Multiple cases involved drug possession by residents in halfway houses or sober living facilities. Because the properties have case managers working with the tenants, the city should likely work with the facility to ensure treatment is not disrupted by a management plan.
- Multiple instances involved officers responding to people overdosing on heroin. These did not appear to be cases where the person overdosing was involved in selling heroin. However, heroin was located, and this triggered the ordinance.
- Several cases arose involving a juvenile engaging in criminal conduct while living with parents. For example, several children under 16 were involved in a robbery, and stolen goods were located at the rental property. The parents were cooperative with police who responded to the address. Because the stolen property was in the child's possession, the conduct on premises ordinance was triggered, likely leading to the parents losing their housing while simultaneously dealing with the criminal repercussions for their child.
- Multiple instances involved people experiencing mental health issues or drug dependency (not sale). In one instance, the resident called 911 to report a fake assault with the intention to

commit suicide by cop. He held a knife as officers approached, and they subdued him without injury. He was transported for psychiatric evaluation. While no one was actually assaulted, the incident triggered the conduct on premises ordinance.

Analysts also gathered data relating to the race and gender of occupants residing in the affected property. In the sample, 64% of residents were identified as black, and 24% identified as white. However, non-white people may be included in the “white” population, such as those of Hispanic or Arab descent. Without a much larger sample, we cannot estimate the true population breakdown.

Further, while the CAPRS reports contain information relating to arrested parties, suspects, victims, and witnesses, it does not provide a complete list of those residing at the property. Often, children were mentioned in CAPRS supplements but not listed as entities in the report. Hence, it is impossible to conclude based on CAPRS reports who is affected by the ordinance.

Current Temporary Process

OPCR staff raised concerns about the management plan process and MPD responded to those concerns and put the management plan system on hold. Data is still being collected on properties coded as Conduct on Licensed Premises violators but time is being taken to allow the study to be published and digested by the enterprise. MPD is participating in city-wide meetings and have placed community engagement team officers in the training role. MPD sworn and civilian data analysts also facilitated meetings where OPCR staff participated in editing the previous presentation alongside the data analysts and new training officers involved in training. Landlord trainings are still being held but with less frequency. MPD is voicing an interest in having different crime prevention specialists attend the trainings to educate landlords on their work with the community, including block club leaders, and introducing themselves as a resource. MPD employees involved in these discussions stated an intention to make any participation going forward more educational about their work and less focused on ordinance enforcement.

Future Planning

Councilmember Phillipe Cunningham is leading the work on revising the Conduct on Licensed Premises ordinance. He began hearing complaints about the ordinance and its impact in his ward long before his election. Councilmember Cunningham is advocating for use of intervention strategies such as community navigators and resources in appropriate cases as the first step in addressing Conduct on Licensed Premises violations. He convened a workgroup from across many departments in the city that outlined a plan for addressing the problems with the application of the ordinance. During the first meeting, he raised many issues he heard from advocates, some who participated in this study, which included lack of due process for tenants and lack of transparency in enforcement. Councilmember Cunningham described his approach as prevention, intervention, and re-entry into the community in a positive way. The workgroup agreed to his goals of achieving a lower frequency of problem properties, making sure that enforcement is clear and transparent, and there are interventions in appropriate situations that lead to any more serious actions such as a notice to vacate. This group intends to participate in community listening sessions and using this report to help guide their work. Workgroup participants were positive about the cross department collaboration and future outlook.

Regulatory services has taken a more active role in the trainings as a result of MPD pulling back their involvement in the Conduct on Licensed Premises enforcement process. Regulatory Services also convened a meeting to discuss the current status of the training and get input from MPD employees who had not been involved previously but who work on problem property issues.

Recommendations

The response to OPCR inquiries has been positive and as detailed above, many departments are working together to start to solve the issues regarding the intersection of policing and eviction and notices to vacate. These recommendations are meant to offer further support to the efforts that have begun. Many of these issues are going to require the departments that are already sitting together due to Councilmember Cunningham's efforts to continue to collaborate for the best outcomes. The recommendations are as follows:

1. A workgroup should convene to create new training to be led by Regulatory Services.
 - a. Suggested participants are Regulatory Services, the Minneapolis Police Department, both the Civil Rights Equity Division and the Equity Division of the City Coordinator's Office, the Innovation Team, the newly created housing program and policy coordinator position in CPED, MMLA's housing group, and the Health Department.
 - b. The new training should consider education on issues of equity and diversity in any materials developed by the group.
 - c. The Minneapolis Police Department should no longer play a key role in the training. The workgroup, in which MPD participates, should determine whether a crime prevention specialist shall attend as well as content and messaging. MPD has already expressed a strong interest in scaling back their involvement in training. The workgroup should consider including outside entities, such as MMLA's housing group, in future trainings. The final training approved by the workgroup should be sent to the City Attorney's Office for review.
2. The workgroup convened by Councilmember Cunningham should continue to meet to give input on Minneapolis Ordinance 244.2020 revisions.
 - a. This is crucial to determining the permanent future of the management plans, which also need revision as will be recommended below.
 - b. The group should create and direct the management plan temporary process until the ordinance revisions are complete.
 - c. The group should create a mechanism where cases involving calls for police services, especially calls involving domestic abuse or emotionally disturbed persons, be immediately screened out of the management plan process.
 - d. This group should consider practices in jurisdictions of similar size and demographics. Suggested partners in cultivating this information should be the Innovation Team due to their previous work and the newly created housing program and policy coordinator position in CPED.
 - e. Councilmember Cunningham's current efforts should be supported and continued.
 - f. The workgroup should discuss protocols to provide tenants with an opportunity to respond to conduct on premises notices.

3. Management plan notices should immediately be changed in the following ways:
 - a. Language in the management plan notices should be updated so that it does not lead landlords to believe that notices to vacate are the only option in a Conduct on Licensed Premises situation.
 - b. Management plan notices should be sent to both landlords and tenants. Tenants should receive information that would allow them to contest a notice to vacate or eviction. Further discussion should occur on tenants' rights once a management plan is required from landlords.
 - c. Management plan notices should include the state law protections under Minnesota Statute 504B.205 in case the situation is eligible for protections that were not applied earlier in the process.
 - d. Management plan notices should no longer be proactively sent to outside entities such as the Hennepin County Attorney's Office and block club leaders.
 - e. Hennepin County Sheriff's data should no longer be used in management plan determinations.
4. The City of Minneapolis should collect and publish data when enforcing the Conduct on Premises ordinance.
 - a. Landlords should be required to report to Regulatory Services when they send out a notice to vacate and whether the tenant leaves as a condition of complying with the Conduct on Licensed Premises ordinance. As notices to vacate are not captured in current data relating to evictions but often have the same effect, landlords should report all notices to vacate issued when renewing rental licenses, the reasons for the notice, and whether the tenant vacated the rental property.
 - b. Landlords should also be required to report evictions based on Conduct on Licensed Premises to Regulatory Services.
 - c. Landlords should be required to note all occupants of the rental property, both children and adults.
 - d. The city should maintain a database of occupants affected by the conduct on premises ordinance, the incident that triggered the conduct on premises ordinance, and demographic information of tenants removed from rental properties.
 - e. A public dashboard should be created to proactively release this information along with eviction data. The dashboard should not contain any identifying information, but instead, provide the public with data relating to the frequency with which the ordinance is enforced, the results of enforcement (notice to vacate, eviction, etc.), and the general neighborhoods where enforcement occurs.
5. The Minneapolis Police Department should receive training on the proper handling of lockout claims.
 - a. This training would be most effective during in-service for officers in an effort to retrain the many officers who believe that lockouts are a civil matter.
 - b. MPD should consider using experienced outside entities to conduct this training, such as an expert like Mr. McDonough or HOME Line.

Appendix A – Conduct on Licensed Premises Ordinance

244.2020. - Conduct on licensed premises.

(a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of crime prevention specialists or other assigned personnel of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.

- (1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
 - (2) Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
 - (3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
 - (4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
 - (5) Section 389.65 of this Code, which prohibits noisy assemblies;
 - (6) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and section 393.40, 393.50, 393.70, 393.80, 393.90 and 393.150 of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon; or
 - (7) Minnesota Statutes, Section 609.72, and section 385.90 of this Code, which prohibit disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation; or when at least two (2) distinct violations, separated by no more than sixty (60) days, disturb the peace and quiet of at least one (1) unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation, and the violations are reported by distinct and separate complaints.
- (b) The police department and the department of regulatory services shall be jointly responsible for enforcement and administration of section 244.2020.
- (c) Upon determination by a crime prevention specialist, or other assigned police department employee, utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in subsection (a), the responsible crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the Minneapolis Police Department to prevent further violations. If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(2), (a)(3) or (a)(6) of this section the licensee shall submit a satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall comply with the requirements established in paragraph (d) of this

section. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The established procedures manual is available to the public from the Minneapolis Police Department.

- (1) If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(1), (a)(4), (a)(5), (a)(7) of this section, the licensee shall contact the police department or department of regulatory services within ten (10) days to discuss the instance of disorderly use.
- (d) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains between seven (7) and fifty (50) distinct and separate residential units, or within nine (9) months, if the premises contains between fifty-one (51) and one hundred (100) distinct and separate residential units, or within six (6) months, if the premises contains more than one hundred (100) distinct and separate units, of an incident for which a notice in subsection (c) was given, the crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation. The licensee shall submit an updated satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The licensee or the listed agent/contact person for the licensee shall also successfully complete a property owner's workshop at the direction of and in accordance with a schedule set forth by the police department. Any costs associated with that workshop will be the sole responsibility of the licensee. The notice provided to the

licensee of the violation shall inform the licensee of the requirement of the licensee or the listed agent/contact person for the licensee of the requirement to successfully complete a property owner's workshop. That notice shall further inform the licensee that failure to successfully complete the property owner's workshop may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license.

- (e) When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d), or if the licensee fails to timely implement all provisions of an accepted written management plan, or if the licensee or the listed agent/contact person for the licensee fails to successfully complete a property owner's workshop after a minimum of two (2) approved workshops have been scheduled, offered and held. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of regulatory services in the manner described in section 244.1940, and shall proceed according to the procedures established in sections 244.1950, 244.1960, and 244.1970.
- (f) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains between seven (7) and fifty (50) distinct and separate residential units, or within nine (9) months, if the premises contains between fifty-one (51) and one hundred (100) distinct and separate residential units, or within six (6) months, if the premises contains more than one hundred (100) distinct and separate units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in section 244.1940, and shall proceed according to the procedures established in sections 244.1950, 244.1960, and 244.1970.
- (g) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the crime prevention specialist or other assigned police department employee within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of

this section may be postponed or discontinued by the director of regulatory services at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.

- (h) A determination that the licensed premises have been used in a disorderly manner as described in subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section. (90-Or-235, § 6, 9-14-90; 91-Or-071, § 1, 4-26-91; 92-Or-019, §§ 1, 2, 2-21-92; 95-Or-097, § 5, 6-30-95; Ord. No. 98-Or-142, § 1, 12-4-98; 99-Or-163, § 13, 12-17-99; 2004-Or-112, § 2, 10-8-04; 2005-Or-142, § 1, 12-23-05; 2008-Or-090, § 1, 11-21-08; 2013-Or-161, § 53, 12-6-13; 2015-Or-051, § 3, 7-10-15)

Appendix B – Minnesota Statute 504B.205

504B.205 RESIDENTIAL TENANT'S RIGHT TO SEEK POLICE AND EMERGENCY ASSISTANCE.

Subdivision 1. **Definitions.** In this section, "domestic abuse" has the meaning given in section 518B.01, subdivision 2.

Subd. 2. **Emergency calls permitted.** (a) A landlord may not:

(1) bar or limit a residential tenant's right to call for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) impose a penalty on a residential tenant for calling for police or emergency assistance in response to domestic abuse or any other conduct.

(b) A residential tenant may not waive and a landlord may not require the residential tenant to waive the residential tenant's right to call for police or emergency assistance.

Subd. 3. **Local preemption.** This section preempts any inconsistent local ordinance or rule including, without limitation, any ordinance or rule that:

(1) requires an eviction after a specified number of calls by a residential tenant for police or emergency assistance in response to domestic abuse or any other conduct; or

(2) provides that calls by a residential tenant for police or emergency assistance in response to domestic abuse or any other conduct may be used to penalize or charge a fee to a landlord.

This subdivision shall not otherwise preempt any local ordinance or rule that penalizes a landlord for, or requires a landlord to abate, conduct on the premises that constitutes a nuisance or other disorderly conduct as defined by local ordinance or rule.

Subd. 4. **Residential tenant responsibility.** This section shall not be construed to condone or permit any breach of a lease or of law by a residential tenant including, but not limited to, disturbing the peace and quiet of other tenants, damage to property, and disorderly conduct.

Subd. 5. **Residential tenant remedies.** A residential tenant may bring a civil action for a violation of this section and recover from the landlord \$250 or actual damages, whichever is greater, and reasonable attorney's fees.

Subd. 6. **Attorney general authority.** The attorney general has authority under section 8.31 to investigate and prosecute violations of this section.

History: 1999 c 199 art 1 s 22

Appendix C – Evictions in Minneapolis Report

EVICTIIONS IN MINNEAPOLIS

*Minneapolis
Innovation Team
July 2016*

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Executive Summary

Context and Methodology

A prominent Milwaukee Evictions study, and recently published book by Matthew Desmond found that racial and gender disparities in evictions are significant. Even controlling for income, African-American women were more likely to experience eviction. (<http://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>)

This report examines the prevalence, trends, and underlying issues related to evictions in Minneapolis. While the ethnographic research conducted by Desmond in Milwaukee was not reproduced for this report, geographic and trend analysis using accessible data from the state courts, public access terminals, and overlays with City data are included.

The discrete data projects in this report are:

- HousingLink & HOME Line analysis (2015) mapped the geographic distribution by ZIP code of eviction filings and judgements in Minneapolis using a summary-level data extract from the state courts
- Case file review (2016) consisting of individual reviews of a randomly selected set of evictions cases filed in 2015
- Detailed state data extract analysis (2016), for Minneapolis and Hennepin County

Overview and Key Findings

In Minneapolis, over 3,000 evictions are filed in the 4th District Housing Court each year. These cases are disproportionately concentrated in just a few ZIP codes. Evictions are a major issue facing renters in low income and minority neighborhoods, affecting nearly half of renter households in North Minneapolis. When comparing the number of eviction filings to the number of estimated renter households, between 45-48% of renter households in two Minneapolis ZIP codes, 55411 and 55412, experienced a filing in the past 3 years.

Addressing high levels of eviction is critical for housing stability, access, and quality. An eviction action resulting in a judgement leads to the short term disruption of a household, forcing an unplanned move. It can also lead to long-term instability and barriers to access. Frequently, property owners will screen out potential tenants if they have a prior eviction. An eviction remains on a tenant's rental record for 7 years and can be found in court records indefinitely. Even just a filing can lead to limitations in future access, as this is also part of a standard rental report. This barrier may restrict a renter's available options to lower-quality or otherwise less-desirable housing.

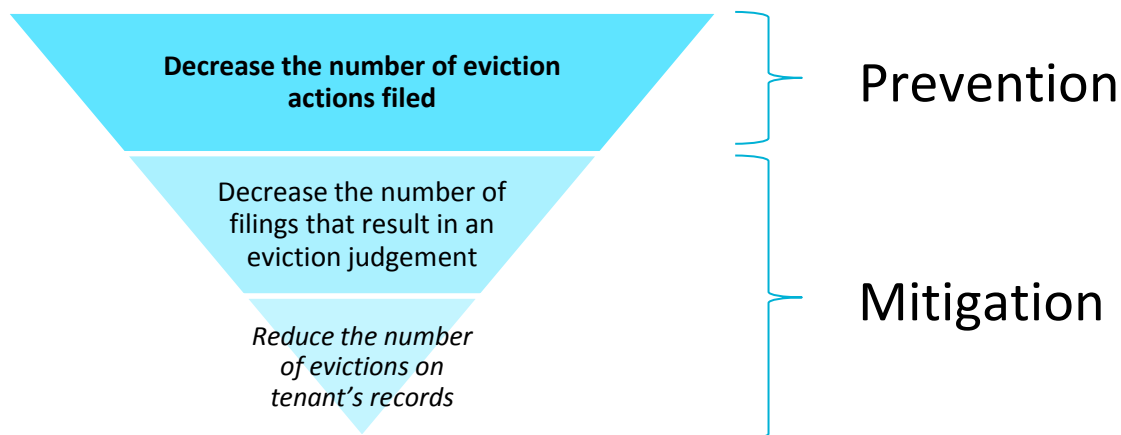
Understanding the contributing factors behind both filings and judgements is essential in developing ways to increase housing access, stability, and quality.

- **Nearly all evictions are filed on the basis of non-payment of rent.** In the reviewed sample, **2 months and less than \$2,000 stands between tenants and eviction.** Nonpayment cases accounted for 93% of eviction filings, most of which had no other reasons identified. For non-payment only cases, tenants were an average of 2 months behind and owed \$1,700 (*median*) to \$2,000 (*average*). This figure is higher than the actual amount of rent owed, as court fees of \$324 are typically included in the total amount owed.
- While a majority of cases are settled at the first hearing, 50% resulted in an eviction judgement at some point, largely due to failed settlements. An additional portion of tenants moved as part of a settlement agreement. **Two-thirds of cases ended in tenant displacement.**

- One factor that has a direct impact on the outcome of an eviction case is whether or not the tenant shows up to the first hearing. In a third of cases reviewed, the tenant did not show up for the hearing, typically resulting in an immediate eviction judgement.
- For those owners with at least one filing in Minneapolis in 2015, the average rate of filing was 5 cases per 100 rental units, and the average rate of eviction judgements was 2 per 100 rental units. However, a few property owners represent a large portion of eviction filings in Minneapolis; the **10 property owners representing the most frequent filers make up over a quarter of all evictions filings.**
- **The timing of eviction cases is fairly predictable.** Evictions cases are typically closed quickly; the majority within 14 days and over 90% within 30 days. Cases are also seasonal; peaking between June and August each of the years analyzed.

Conclusions and a Call to Action

Addressing the damaging consequences of eviction must be part of a comprehensive approach to increasing housing stability, access, and quality.



This report does not single out specific solutions, but raises targeted questions to tee up productive discussions among key Minneapolis stakeholders and influencers.

How might we...

- *Connect low-income tenant experiencing financial emergencies to rental assistance more easily and quickly?*
- *Decrease the need for and use of informal rent withholding connected to repair issues?*
- *Address the disproportionate use of the courts process by 'frequent filers'?*
- *Increase the number of renters who show up to housing court for their hearing?*
- *Increase the likelihood that settlements are successful?*
- *Increase the use of expungements?*

Notes about the Data

- While racial disparities in evictions were a key driver in conducting this research, race and ethnicity data is not collected in civil court processes. In this report, geography is used as a reasonable proxy for the demographics impacted. Observations by researchers, and reported by those involved in the evictions process, validate that this issue is one that disproportionately impacts people of color. Future data collection would be needed to get more precise demographic data.
- Evictions cases filed in Housing Court are largely standard residential rental cases, but also include include some commercial evictions, bank foreclosures, and contract-for-deed cases. There is no official coding to indicate which cases are of which type. The researchers for this report attempted to remove those non-standard case types by filtering for cases where the plaintiff appeared to be a bank or mortgage company, or where the defendant name included “LLC” or some other indicator that the entity facing eviction is a business. These types of cases were excluded from the analysis where possible.
- There are a potentially significant number of renters who are displaced through what might be considered informal evictions, to include being given a notice to vacate, lease non-renewals, and simply being asked to leave. Those types of situations are not reflected in the data provided, but could be a rich area for future research.
- A research element that was initially envisioned, but not included here is more in-depth interviews with individuals experiencing eviction, on both the property owner and renter sides. This is another area for potential future research.
- In the analysis presented, it was presumed that if a writ of recovery (eviction judgement) was ordered that the tenant was in fact forced to move. In some cases, a writ could be “resolved” through a payment from emergency assistance, for example. There was not a way to distinguish those cases by the records easily available, however.
- In some cases the address provided for the defendant is not the address from which they were evicted, but a later, more current address provided to the court. This may have caused minor distortion of the data.
- Finally, throughout the analysis, expunged cases are necessarily not reflected in the data-set. It is not known if cases that get expunged are materially different from cases that do not get expunged. Again, this element distorts the representativeness of the data to an unknown degree.

Researchers

Contributing Researchers

- *Aaron Brink-Johnson, City of Minneapolis Civil Rights Department*
- *Angela Butel, City of Minneapolis Innovation Team*
- *Brittany Rice, City of Minneapolis Civil Rights Department*
- *Cory Yemen, Hennepin County Real Property Group*
- *Dan Hylton, Housing Link*
- *Eric Hauge, HOME Line*
- *Khalid (Kay) Adam, Hennepin County Center for Innovation and Excellence*
- *Montana Filoteo, HOME Line*
- *Samuel Spaid, HOME Line*
- *Stacie Blaskowski, City of Minneapolis Business Intelligence and Data Services*
- *Zoe Thiel, City of Minneapolis Innovation Team*

Report prepared by

- *Zoe Thiel, City of Minneapolis Innovation Team*

HousingLink/HOME Line Study

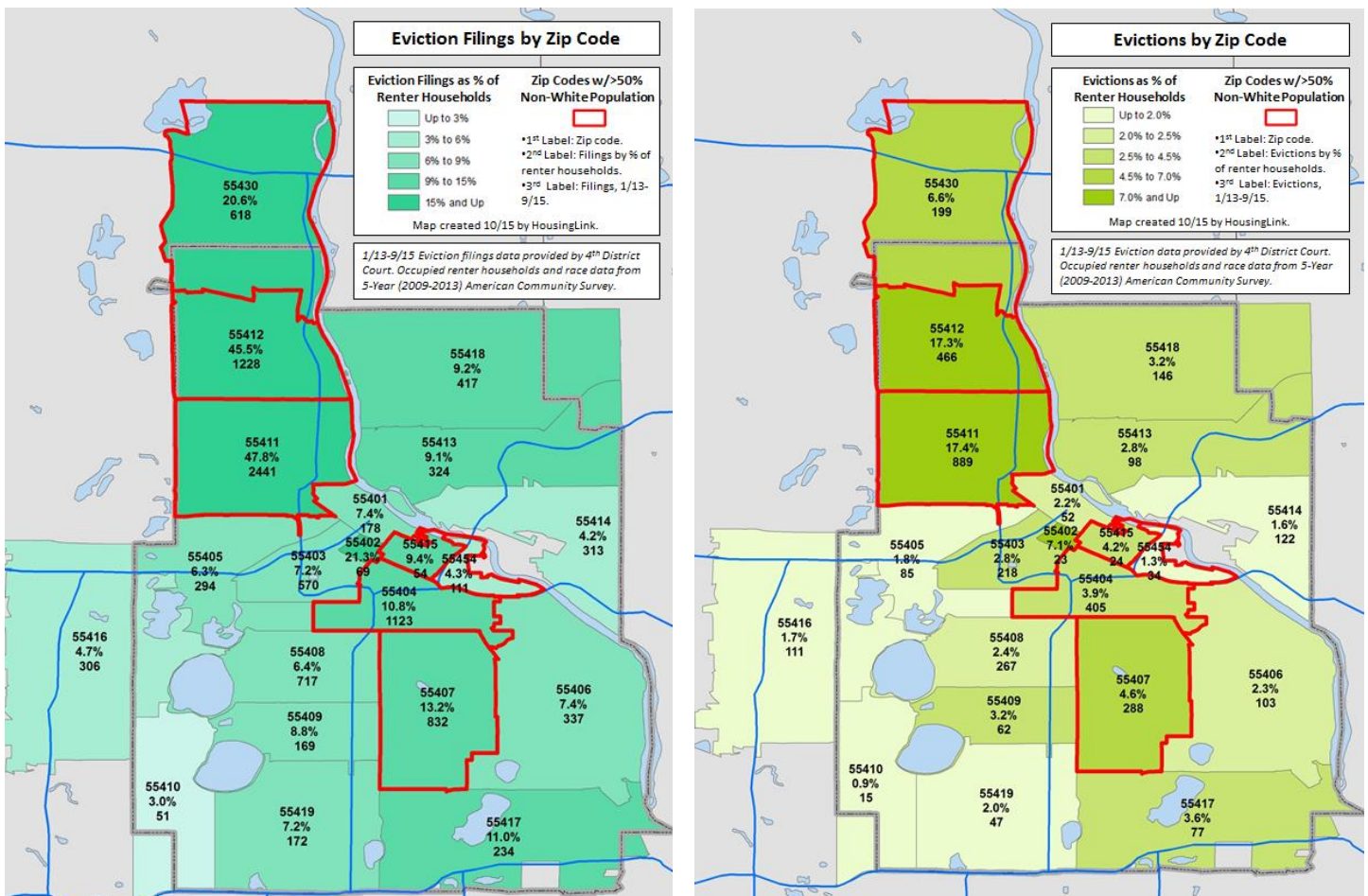
In the summer of 2015, the Minneapolis Department of Regulatory Services contracted with HousingLink and HOME Line to conduct a local examination of the prevalence of evictions in Minneapolis. Race and gender data was not readily accessible; analysis by geography was used instead.

This analysis found that:

- Evictions, as measured by both filings and judgements where a writ was issued show severe geographic concentration in ZIP codes with a majority non-white population
- When comparing the number of eviction filings to the number of estimated renter households, between 45-48% of renter households in two Minneapolis ZIP codes- 55411 and 55412- experienced a filing in the past 3 years.

This analysis highlighted that evictions in Minneapolis are a significant issue, and disproportionate concentrated in Racially Concentrated Areas of Poverty.

Fig 1. Minneapolis Eviction Filings and Judgement Maps, 2013-2015



Case file review

Methodology

Available data from court data extracts provide important summary-level data; however, much of the detail behind each of those cases is captured in hand-written and scanned case files, accessible only by public access court terminals.

- 200 Minneapolis eviction cases from 2015 were selected at random from a state bulk data extract
- Staff from the City of Minneapolis and HOME Line reviewed each of the 200 case files individually and captured the detail about each case on a custom google form
- After completion of reviews, staff removed cases determined to our best ability to be bank foreclosures, commercial evictions, contract-for-deed cases, or where significant documents or information was missing or not captured, leaving 174 cases

Key findings

- **2 months** and **<\$2,000** stands between tenants and eviction. Non-payment cases account for 93% of eviction filings, most of which had no other reasons identified. For those cases, tenants were an average of 2 months behind and owed \$1,700 (*median*) to \$2,000 (*average*). This figure is higher than the actual amount of rent owed, as court fees of \$324 are typically included in the total amount owed.
- Of all filings, **50% ultimately resulted in an eviction**. An additional portion of tenants moved as part of a settlement, which means that two-thirds of cases ended in displacement.
- **Showing up matters**. Tenants do not show up in about one-third of cases, most of these cases resulted in an immediate writ. When both parties show up to the hearing, **83% of cases result in a settlement**.
- Settlements, however, are often unsuccessful. **In 39% of settlements, a writ of recovery was later issued**, largely due to missed payments. Another large portion of settlements (28%) included an agreement for the tenant to move out.
- Landlord representation does not appear to result in different outcomes than a landlord who is unrepresented or has delegated a power of authority. No conclusions about tenant representation can be reached as only 2% of cases had a represented tenant.
- Additional data points captured, but not represented in the data tables due to limited occurrence within the sample included
 - *IFP status*
 - *Oral or Written Lease*
 - *Expedited hearing requested*
 - *Method of service*
 - *Presiding Judge/Referee*

Tables and Figures

Fig 2. Overall Results of Sampled Cases

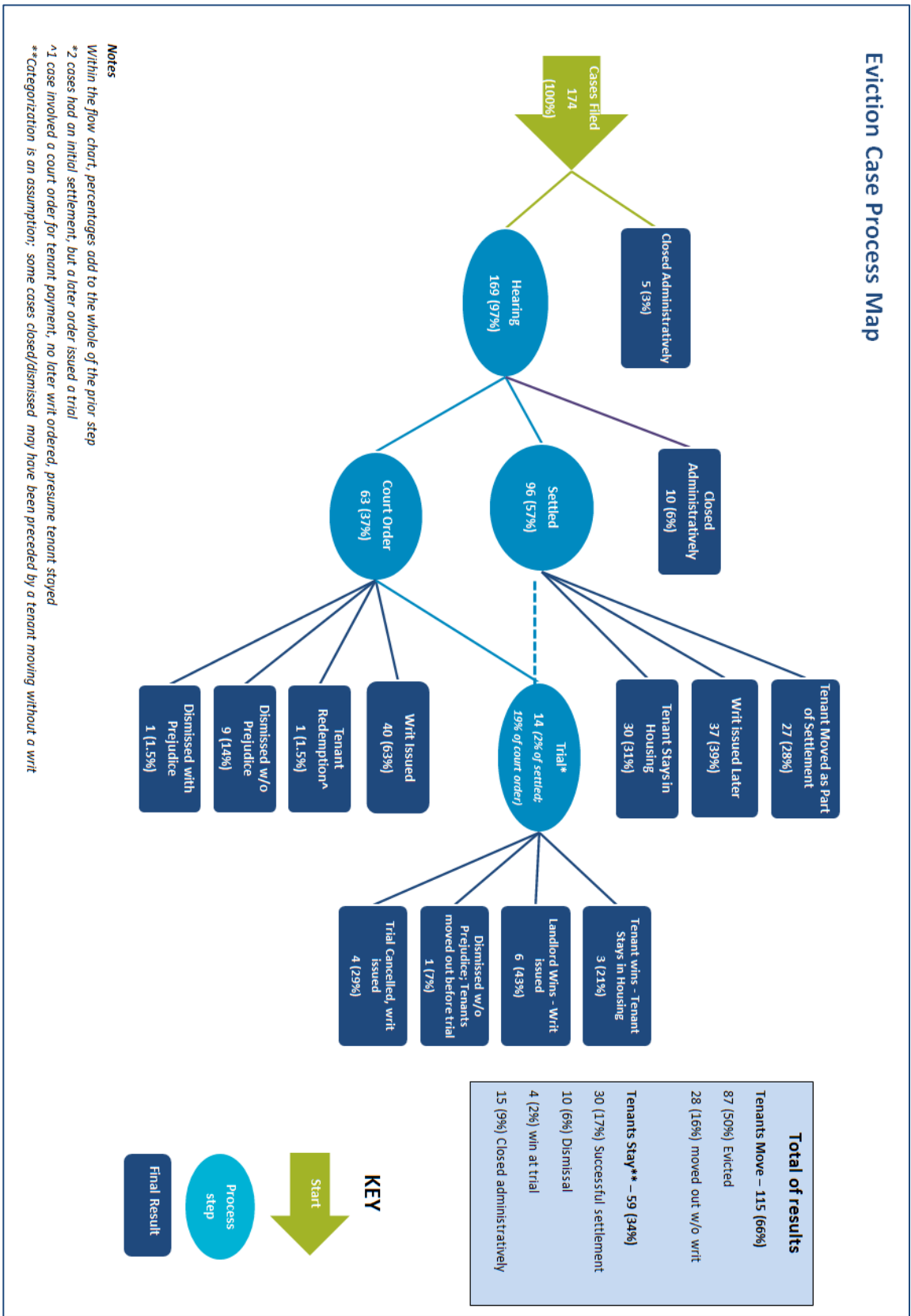
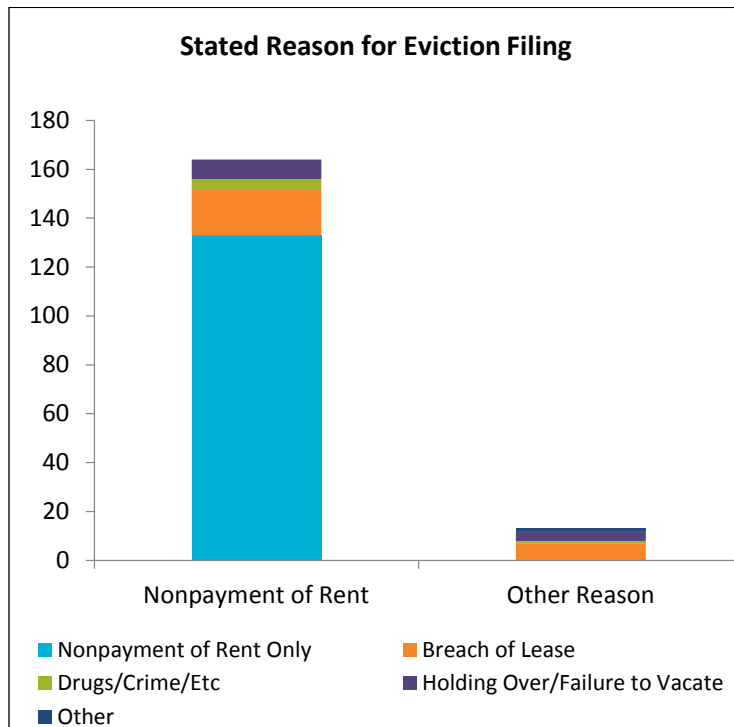


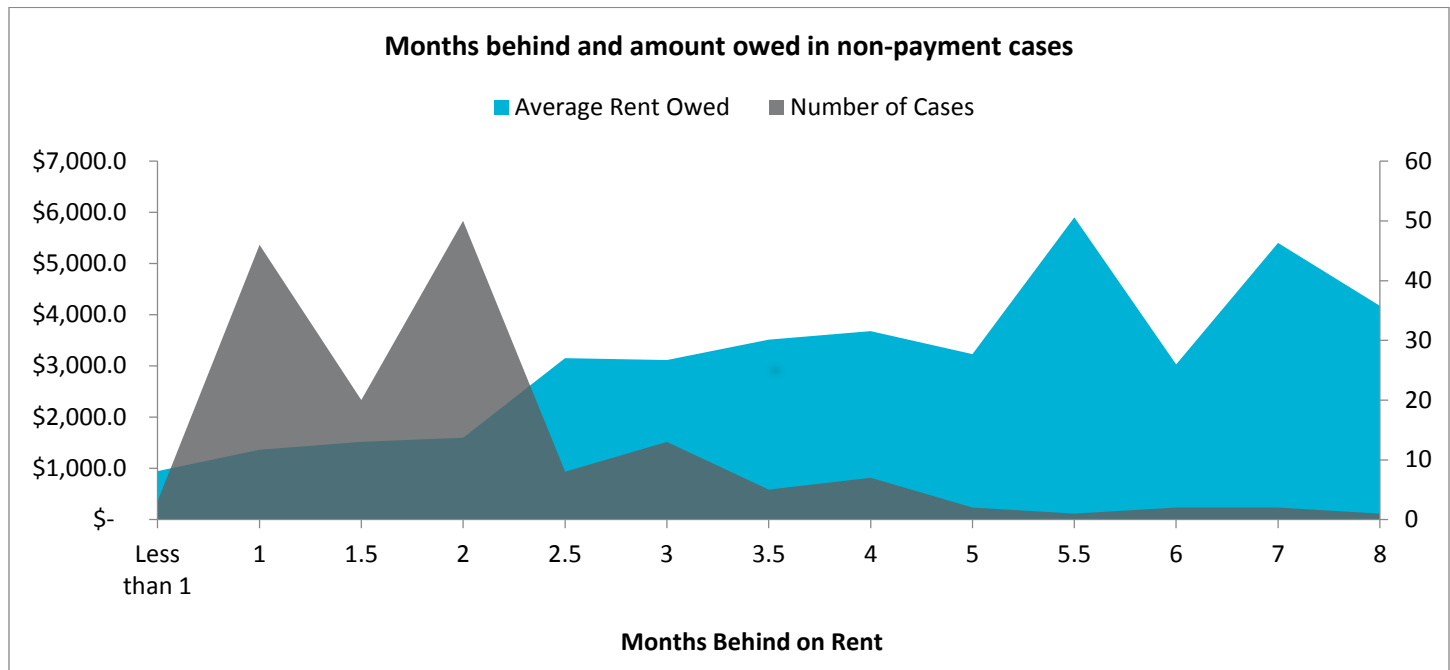
Fig 3. Reason for Filing



Landlords may cite more than one reason for filing an eviction case. By far the most-often cited reason for filing was **nonpayment of rent**; it was cited in nearly **93% of the cases**. 7% of cases cited only other reasons for filing.

Eviction Category	#
Nonpayment of Rent- only	133
Nonpayment of Rent/ Breach of Lease	16
Breach of Lease	6
Nonpayment of Rent/ Holding Over/Failure to Vacate	6
Holding Over/Failure to Vacate	3
Nonpayment of Rent/ Drugs/Crime	3
Drugs/Crime	1
Holding Over/Failure to Vacate Breach of Lease	1
Holding Over/Failure to Vacate Nonpayment of Rent	1
Nonpayment of Rent Breach of Lease Drugs/Crime	1
Nonpayment of Rent Holding Over/ Failure to Vacate Breach of Lease	1
Nonpayment of Rent Holding Over/ Failure to Vacate Breach of Lease Drugs/Crime	1
Other	1
Total	174

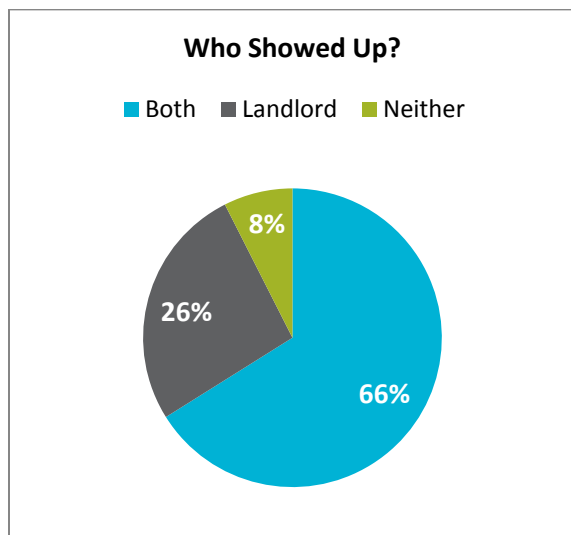
Fig 4. Non-Payment



For nonpayment of rent cases, the average number of months a tenant was behind on rent was 2. The vast majority of cases were for nonpayment of rent for between 1 and 3 months. Average total amount owed (back rent plus interest or fees) was \$2,000 (median = \$1,700) and correlates clearly with the number of months behind on rent. This figure is somewhat inflated due to the court costs factored in (\$324, typically).

Months Behind on Rent	# of cases	Average Amount owed (\$)
Less than 1	3	\$947
1	46	\$1363
1.5	20	\$1519
2	50	\$1599
2.5	8	\$3153
3	13	\$3115
3.5	5	\$3514
4	7	\$3680
5	2	\$3231
5.5	1	\$5902
6	2	\$3030
7	2	\$5403
8	1	\$4174

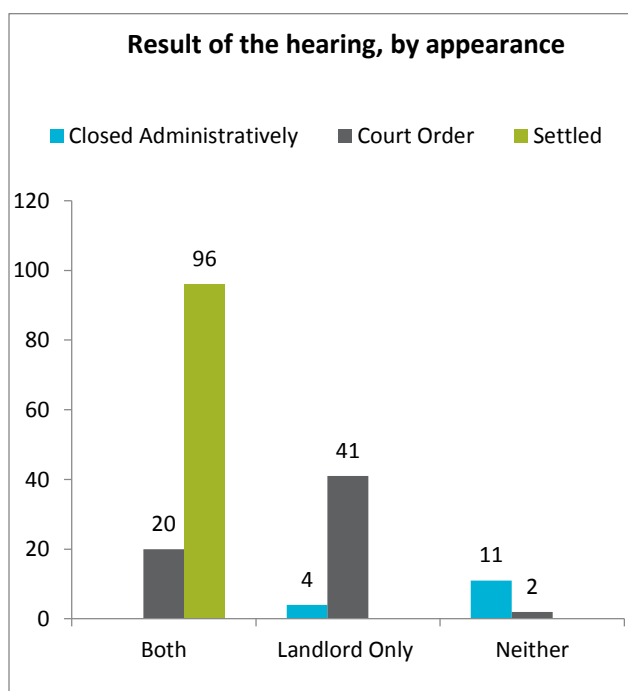
Fig 5. Appearance at Hearing



Who showed up?	#	%
Both Tenant and Landlord	115	66%
Landlord Only	46	26%
NA	13	7%
Grand Total	174	

Both the tenant and the landlord were present at the hearing in about 66% of cases. In more than 25% of cases, only the landlord was present. In a few cases, the matter was settled administratively before a hearing, or neither party was present.

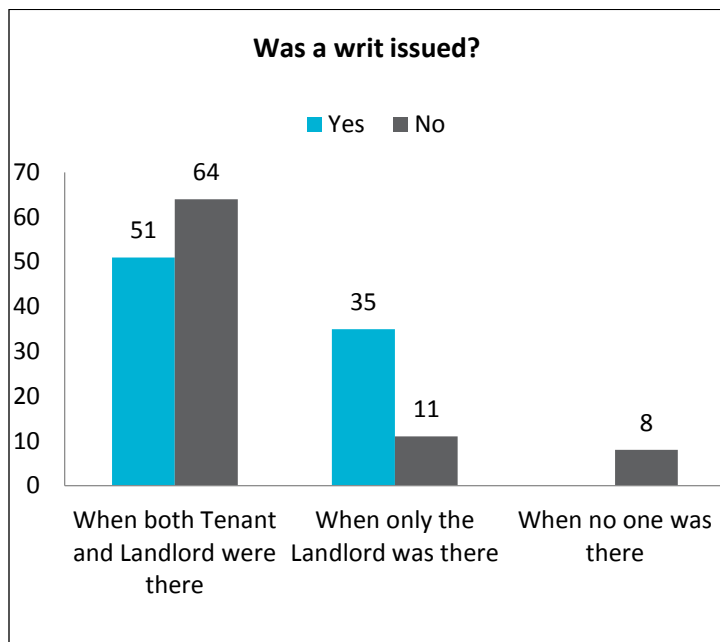
Fig 6. Result of the Hearing, by Appearance



Result of the Hearing	#	%
When both Tenant and Landlord were there	115	
<i>Court Order</i>	20	17%
<i>Settled</i>	96	83%
When only the Landlord was there	46	
<i>Closed Administratively</i>	4	9%
<i>Court Order</i>	41	89%
When no one was there	8	
<i>Closed Administratively</i>	6	75%
<i>Court Order</i>	2	25%
Grand Total	174	

When both the landlord and tenant were present, cases were overwhelmingly settled. When only the landlord was present, cases were much more likely to result in a court order.

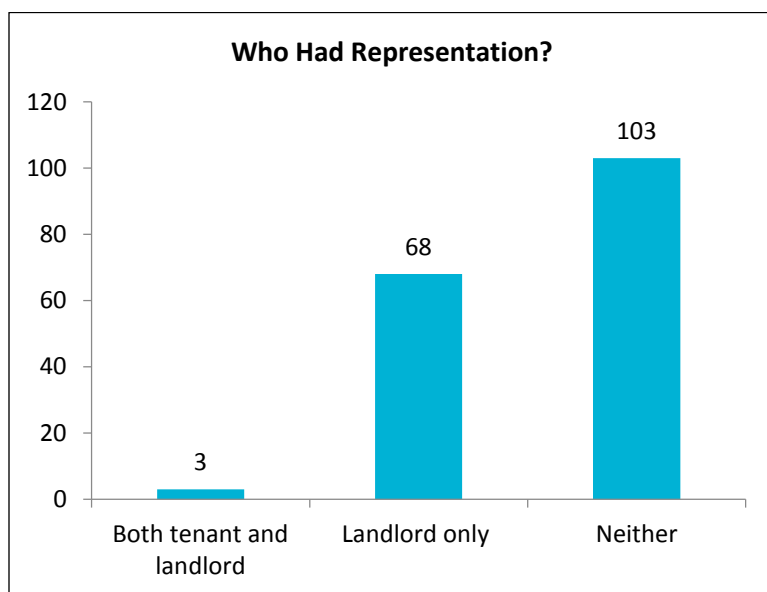
Fig 7. Writ Issuance, by Appearance



Was a writ issued?	#	%
When both Tenant and Landlord were there	115	
No	64	56%
Yes	51	44%
When only the Landlord was there	46	
No	11	24%
Yes	35	76%
When no one was there	8	
No	8	100%
Grand Total	174	

Hearings where only the landlord was present nearly always resulted in a writ issued, unless the case was dismissed. When both parties were present, a writ was issued in less than half of cases.

Fig 8. Representation

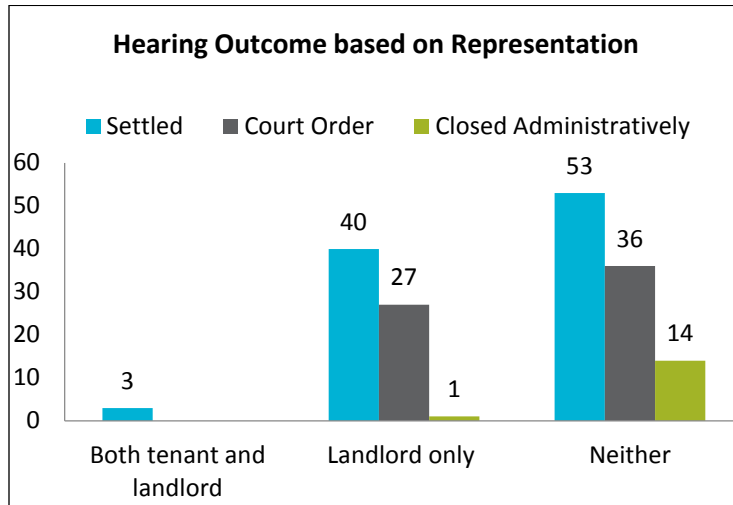


Who had Representation?	#	%
Both	3	2%
Landlord	68	39%
Neither	103	59%
Grand Total	174	

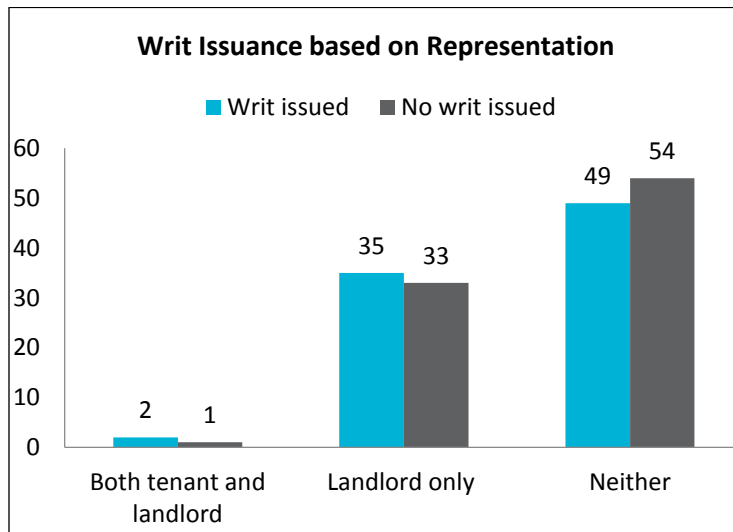
In nearly 60% of cases, neither the landlord nor the tenant had representation. In the remaining cases, the landlord was far more likely to have representation than the tenant.

Note: In 65 cases, there was a "Power of Authority" on file, typically a representative of a management company; not reflected in "representation"

Fig 9. Results, by Representation status



In cases where neither party was represented, the case was more likely to be closed administratively (13% vs. 1%). Otherwise, representation or lack thereof does not appear to have significant influence on whether a case is settled or results in a court order, or whether or not the case results in a writ.



State Data Extract Analysis: Minneapolis-specific

Methodology

Staff from the Minneapolis Business Intelligence and Data Services (BIDS) filtered the data extract from the state court to include only evictions filed in 2015 with a defendant address in Minneapolis to conduct additional analysis of Minneapolis-specific cases. Commercial eviction and bank foreclosures were removed to the best ability of analysts.

Staff used City addressing services to connect case address to APNs (unique property identifiers), with additional addressing done manually using a combination of City Property Info Services and Google Maps. There were some cases where an address could not be verified or seemed to be outside of City limits; those cases were excluded from analysis.

Information from Courts staff and corroborated by the data indicates that there are some addresses listed for defendants that are not the location they were eviction from, but rather, a more current address provided after the initial filing. Evidence of this includes addresses for defendants that are outside the court jurisdiction or cases where a shelter was provided as an address. It is possible that cases where an individual provided an updated address that is also a valid address in Minneapolis may be misrepresented in this analysis. The exact number of instances of this issue is unknown; however, for those defendant addresses checked manually there was a high match percentage between the owner listed on Property Info and the plaintiff name leading to a conclusion that this issue is relatively infrequent.

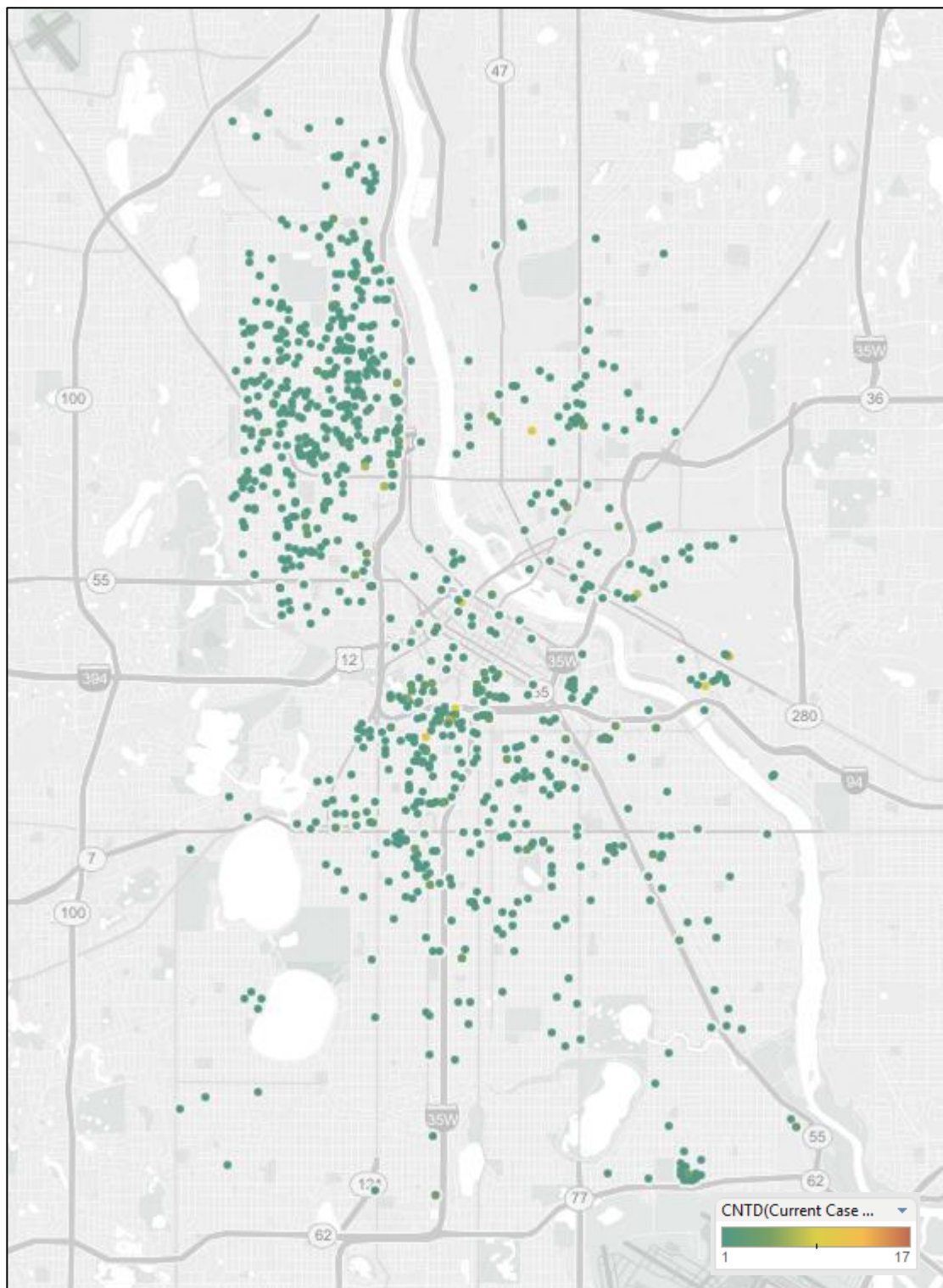
Key Findings

- Geographic concentration is consistent with the earlier analysis by ZIP code, with dense coverage throughout North Minneapolis, and distinct clusters just south of Downtown (Stevens Square) and in far south-east Minneapolis.
- For owners who filed at least one eviction case in 2015, the average rate, measured as the number of filings compared to the number of rental units owned, was 5.2% or about 5 cases per 100 units. The average rate for eviction judgement was 2.3%, or about 2 evictions for every 100 units. Note that since this data set was analyzing those that had one or more eviction, it is necessarily skewed high. Owners with no evictions were excluded from the denominator.
- Of the evictions cases filed in 2015 in Minneapolis, about 27% of cases were filed by the top 10 owner groups, and 35% by the top 20.
 - Many of the owners on the 'frequent filers' list are also some of the owners with the greatest number of rental units. For example, Minneapolis Public Housing Authority has the greatest number of eviction filed by a significant margin, however, they also own about three-times as many rental units as any other owner in this data set.
 - The frequent filers list is not just a list of the owners with the most units, however. There are several owners/companies with large portfolios who have low number of filings, as well as owner/companies who filed many cases who have very modest portfolios.

- In making meaning of the 'frequent filers' list, it may be valuable to consider the public/subsidized housing providers separately from the private market housing providers. Substantially different practices and procedures may be impacting those segments of the property owner landscape. Additionally, the amount of rent owed in non-payment cases is likely to be much lower in public/subsidized cases than for market-rate units.
- There is evidence of a **direct connection between eviction and homelessness**; while infrequent, some defendants have a homeless shelter or 'no address' listed for a current address
- Evictions are seasonal, with **filings at their highest in the summer months** (June through August)
- Eviction cases are resolved quickly, most within **14 days**

Data and figures

Fig 10. 2015 Eviction Map, Number of Cases by Property APN



Frequent Filers

One key item for analysis was a determination of who the plaintiffs in eviction cases are, attempting to understand if there is a disproportionate use of court processes by a few individuals or companies.

Methodological notes:

Analysts used a reference data set provided by the Minneapolis Department of Regulatory Services connecting LLC's and other management groups to a common owner, based on the defendant address then validated for accuracy. This reference represents the best-available data at a particular point in time, and should be considered an informed estimate.

In order to calculate an eviction rate for each owner, the number of unique case ID #s for filings and number of judgements were compared to the number of rental units owned, using City license data. This rate is not necessarily a one-to-one comparison to the number of cases with the number of units and/or tenants. For example, if multiple tenants were evicted from one unit (within the same case), this counts as one instance. If however, the same tenant was filed against for eviction in two separate cases over the course of the year, this would count as two instances.

While analysts attempted to verify the rental license status of all plaintiffs, that analysis is not reflected here as the verification could only be done positively; if there was a match we could confirm a valid rental license. If there was no match, however, we were unable to verify if the plaintiff was unlicensed or if there was an error or mismatch in the data.

Fig 11. Owners or management groups with 10 or more evictions cases in 2015, and rate of eviction

Owner or Management Group	# Eviction Cases Filed	Rate: Cases filed/ # of rental units	# Eviction Judgements	Rate: Judgements/ # of rental units	# Rental units owned
MPLS PUBLIC HOUSING AUTH MPHA	328	5.5%	122	2.1%	5,943
STEPHEN FRENZ	141	10.6%	74	5.5%	1,335
GEORGE E SHERMAN	68	4.1%	29	1.8%	1,661
STEVEN F MELDAHL	54	79.4%	37	54.4%	68
MAHMOOD K KHAN	49	79.0%	29	46.8%	62
RHA 3 LLC/ HAVENBROOK	40	19.0%	20	9.5%	211
METRO PARK EAST PROPERTY OWNER	37	19.1%	13	6.7%	194
KRISTIN FARUQ BDC PROPERTY MGMT	36	2.2%	17	1.1%	1,626
ROBERT D ZEMAN	36	112.5%	15	46.9%	32
JEFF D OLSON MGMT	34	4.7%	7	1.0%	718
AEON	30	2.8%	16	1.5%	1,078
DANIEL S CARLSON GROUP	29	16.4%	13	7.3%	177
2400 BLAISDELL GROUP	28	8.7%	9	2.8%	322
LONNY DOUB	26	14.9%	8	4.6%	175
CARL ROBERT NICOLLS	22	122.2%	5	27.8%	18
MIR ALI GROUP	21	41.2%	13	25.5%	51
CARPATHIAN CAPITAL FUND	20	30.3%	7	10.6%	66
JAMES RUBIN	20	3.2%	5	0.8%	635
GOFF HOLDINGS LLC	19	38.8%	8	16.3%	49
VICKI S WILKEN MGMT	19	17.3%	7	6.4%	110
1313 5TH STREET MN OWNER LLC	17	5.4%	8	2.5%	316
ASSERTIVE MPLS/ DEWANNA CRAWFORD	17	31.5%	9	16.7%	54

JASON W QUILLING	17	5.6%	8	2.6%	303
DIANE F NELSON MGMT	15	6.2%	2	0.8%	244
GFW PROPERTIES LLC	15	10.6%	6	4.2%	142
IRA KIPP GROUP	15	60.0%	8	32.0%	25
LENNY FROLOV MGMT	15	15.2%	5	5.1%	99
MARK JOSSART MGMT	15	1.2%	8	0.7%	1,240
WILLIAM J CULLEN	14	11.0%	6	4.7%	127
ACC OP UNIVERSITY COMNS MN LLC	13	29.6%	8	18.2%	44
ALEX J EATON MGMT	13	10.1%	7	5.4%	129
MINNEAPOLIS GRAND APARTMENTS	13	14.4%	5	5.6%	90
RENTER'S WAREHOUSE MGMT	13	3.0%	5	1.1%	440
URBAN HOMEWORKS INC	13	11.3%	6	5.2%	115
ASHISH AGGARWAL	12	6.5%	9	4.9%	184
BASHIR MOGHUL GROUP	12	16.7%	5	6.9%	72
RICHARD J GROMMES	12	11.3%	7	6.6%	106
ALAN K BUTLER	11	42.3%	5	19.2%	26
PPL	11	2.1%	8	1.5%	530
AVALON HOME INVESTMENTS/ MARK OLSON	10	22.7%	3	6.8%	44
M & M STAFFING LLC	10	100.0%	6	60.0%	10
MISSION INN/ PAUL BERTELSON	10	21.3%	5	10.6%	47

Fig. Eviction Filing Rates for Owners with >1,000 rental units

Owner or Management Group	# Eviction Cases Filed	Rate: Cases filed/ # of rental units	# Rental units owned
MPLS PUBLIC HOUSING AUTH MPHA	328	5.52%	5,943
DAVID HORNIG	8	0.45%	1,788
GEORGE E SHERMAN	68	4.09%	1,661
KRISTIN FARUQ BDC PROPERTY MGMT	36	2.21%	1,626
STEPHEN FRENZ	141	10.56%	1,335
MARK JOSSART MGMT	15	1.21%	1,240
COMMON BOND COMMUNITIES	2	0.16%	1,233
AEON	30	2.78%	1,078

Timeline for Filing and Judgement

Fig 13. Month of case filing and judgement

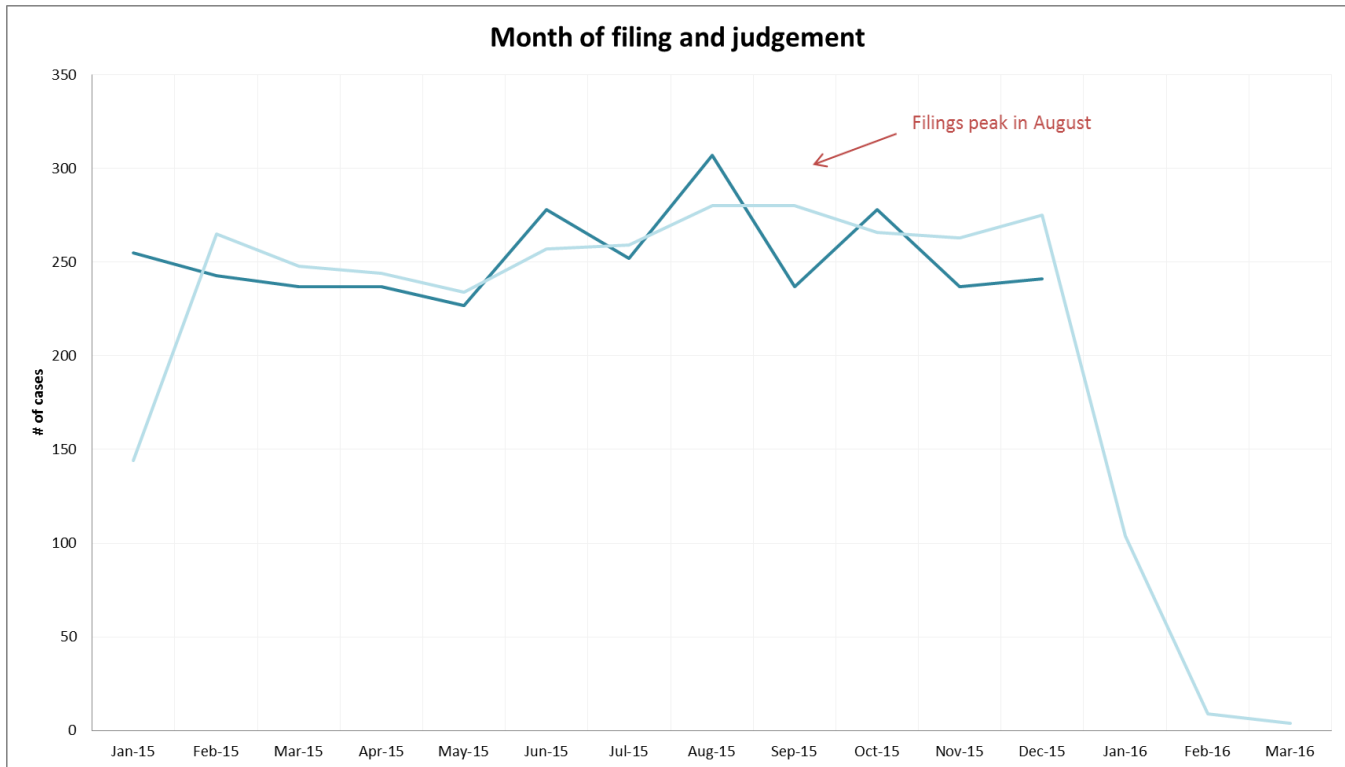
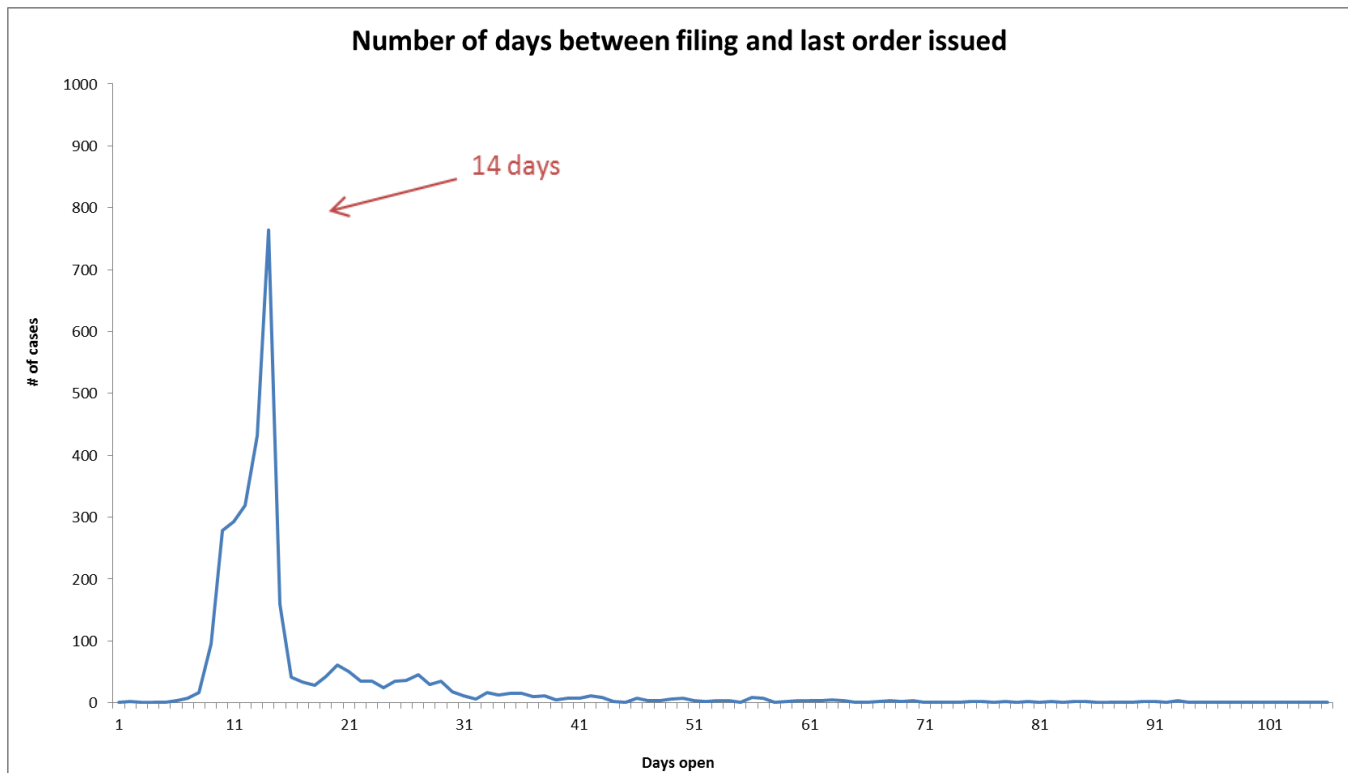


Fig 14. Days open



Homelessness

Most addresses for defendants matched the address of the property owned by the plaintiff. In some cases, however, the address provided seems to be an address other than the property that the defendant was evicted from. This mismatch would indicate an address provided by the defendant at a later date.

Of specific interest were those cases where an individual may have become homeless as a result of the eviction.

Fig 15. # of cases where the current address listed as a shelter, no address, or a hospital

Shelter Addresses Provided	
People Serving People	3
Salvation Army Harbor Light Center	2
Catholic Charities Higher Ground	1
Our Savior's Shelter	1
Simpson Shelter	1
St. Anne's Place	1
Youthlink/Youth Opportunity Center	1
<i>Total</i>	<i>10</i>

Other	
No address	25
VA Hospital	1
<i>Total</i>	<i>26</i>

State Data Extract Analysis: County-wide

Methodology

An additional analysis was undertaken to understand the broader context and trends in evictions across all of Hennepin County using a data extract from the state court for cases filed between 2009 and early 2016.

Hennepin County's GIS division used ESRI's address parsing and geocoding service to provide geographic coordinates associated with the plaintiff and defendant records in Hennepin County. Hennepin County's Business Technology Solutions (BTS) unit of Resident and Real Estate Services, subsequently received the geocoded data for additional cleaning and analysis. Using Google's geocoding service, most of the outstanding unmatched records were given geographic coordinates; the remaining were matched manually.

Key Findings

- Minneapolis accounts for nearly half (47%) of all evictions cases, and is somewhat overrepresented in the proportion of eviction judgements (51%)
- The number of eviction filings overall is on the decline from 2009-2015
- The majority of cases are closed within 14 days of filing. This is falling from a high of 83% in 2009 to a low of 74% in 2015. Greater than 90% of cases are consistently closed within 30 days, 97% within 60, and 99% within 120.
- There is a stable geographic distribution of eviction judgments throughout the 2009 to 2015 period, with the largest concentration of cases in North Minneapolis, Brooklyn Center, and Brooklyn Park. This distribution aligns to demographic patterns, closely matching where non-white Hennepin county residents live.
- Eviction filings are predictably seasonal; filings peaking between June and August each of the years analyzed.

Data figures and tables

Minneapolis accounts for 47% (24996) of eviction cases, suburban Hennepin 53% (28427). Nevertheless, Minneapolis accounts for 51% (9340) of eviction judgments while suburban Hennepin only accounts 49% (9011).

The number of eviction cases fell by nearly 1/3 (32%) between 2009 and 2015, countywide, though eviction judgments only fell by 19%. Minneapolis eviction cases fell by 24%, though the number of eviction judgments only fell by 8% over the same period.

Fig 16. Eviction Cases filed, Hennepin County and Minneapolis

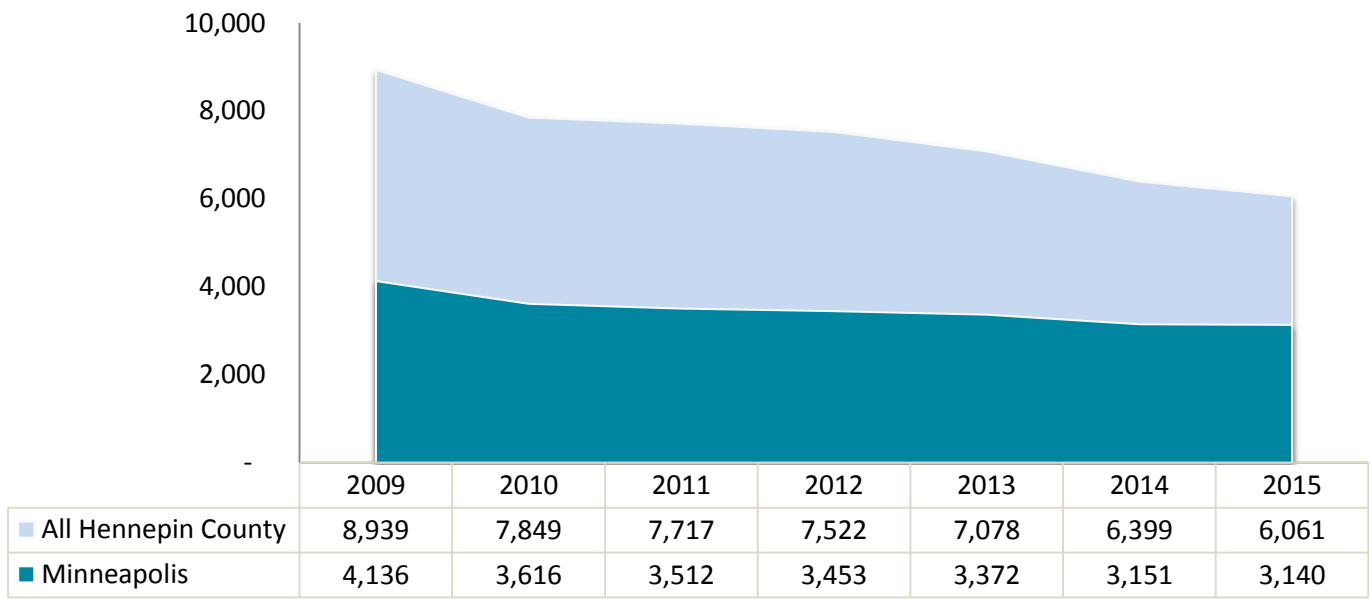


Fig 17. Eviction Judgements, Hennepin County and Minneapolis

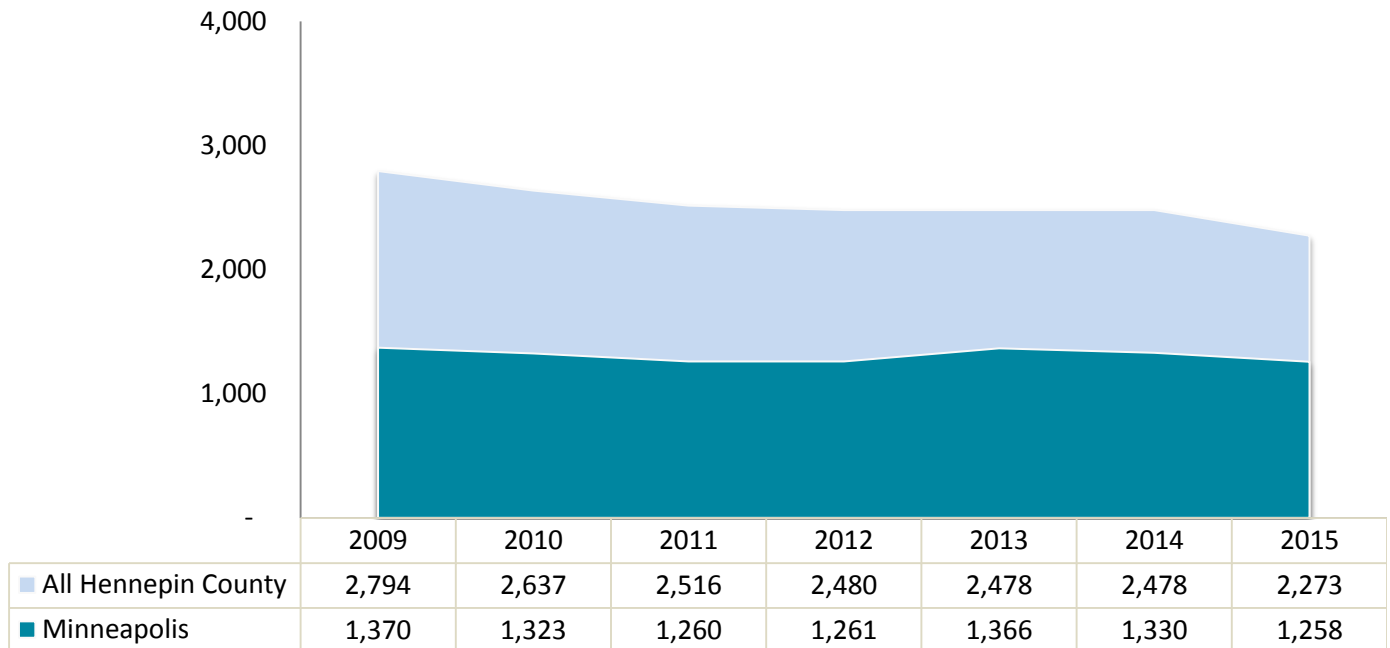


Fig 19. Evictions in Hennepin County as a Percent of Rental Stock – All Years

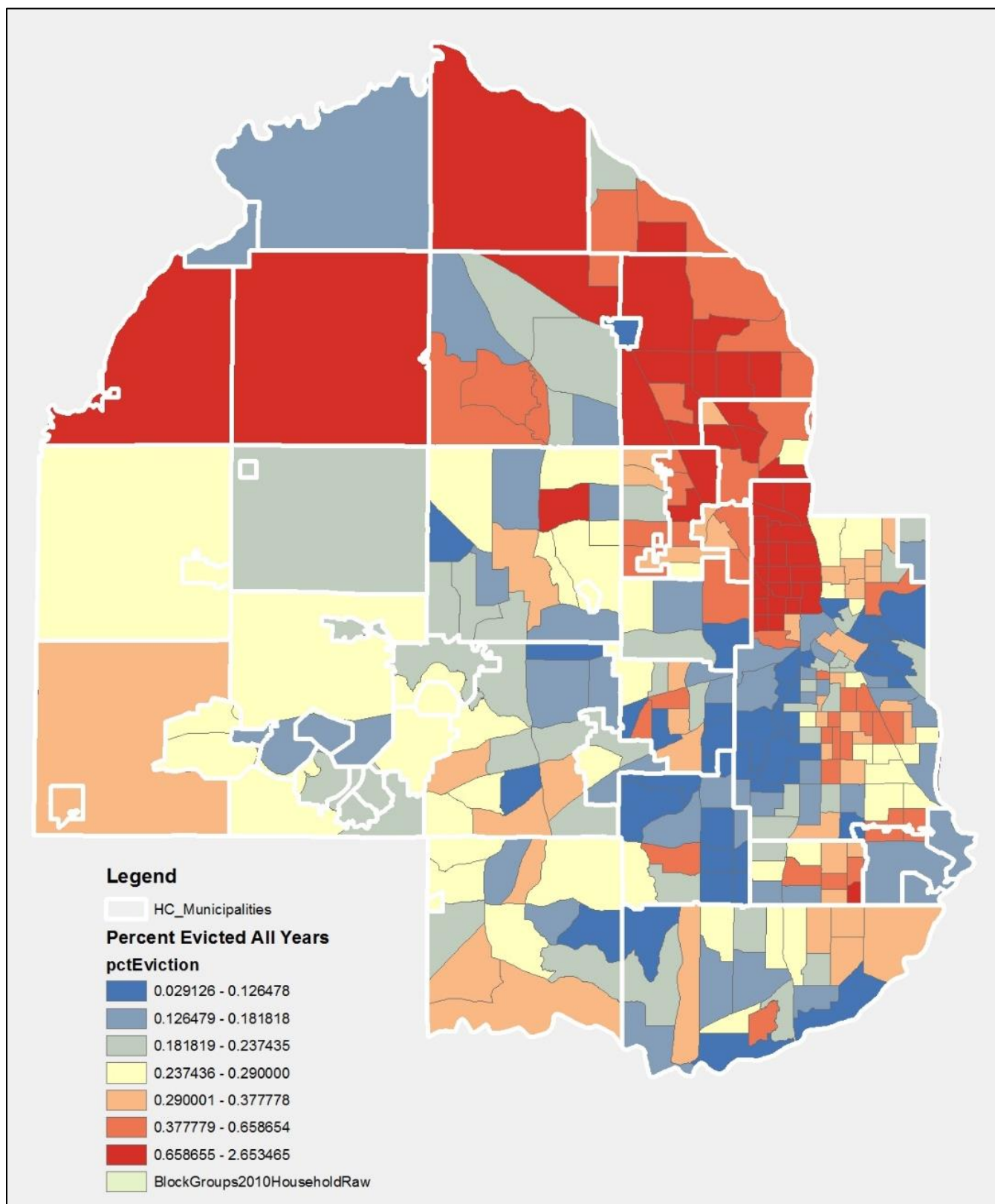


Fig 20. Hennepin County Non-White Percent of Population

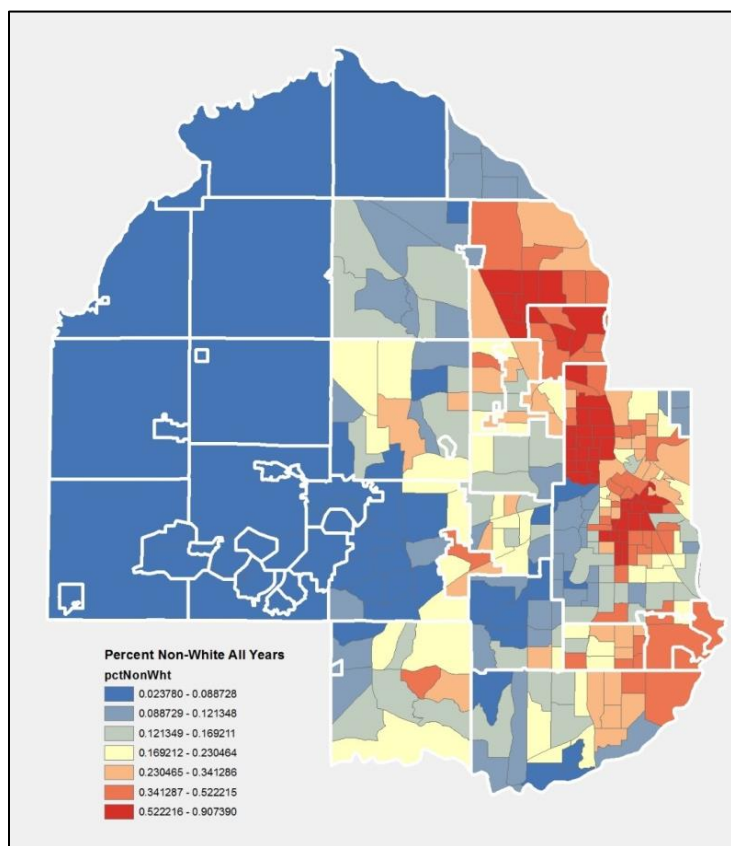
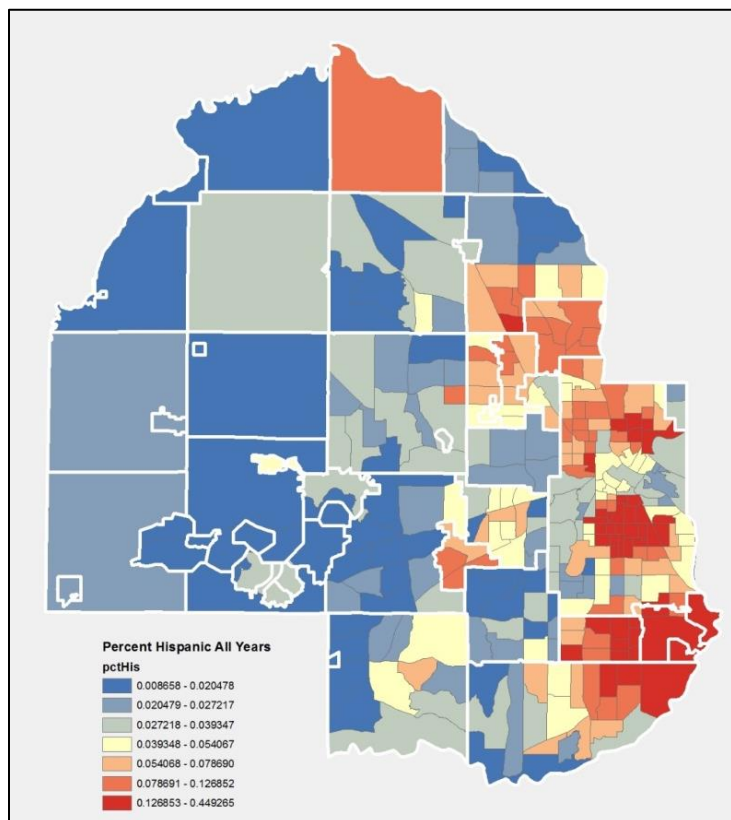
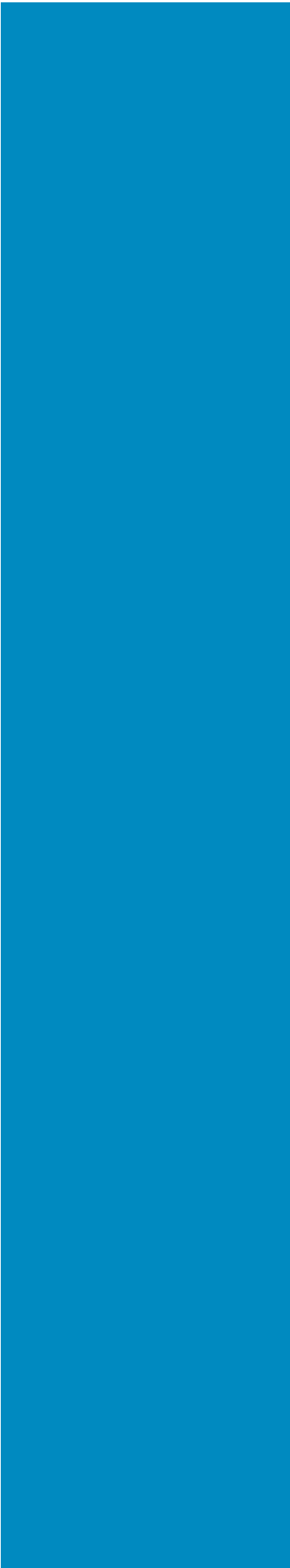
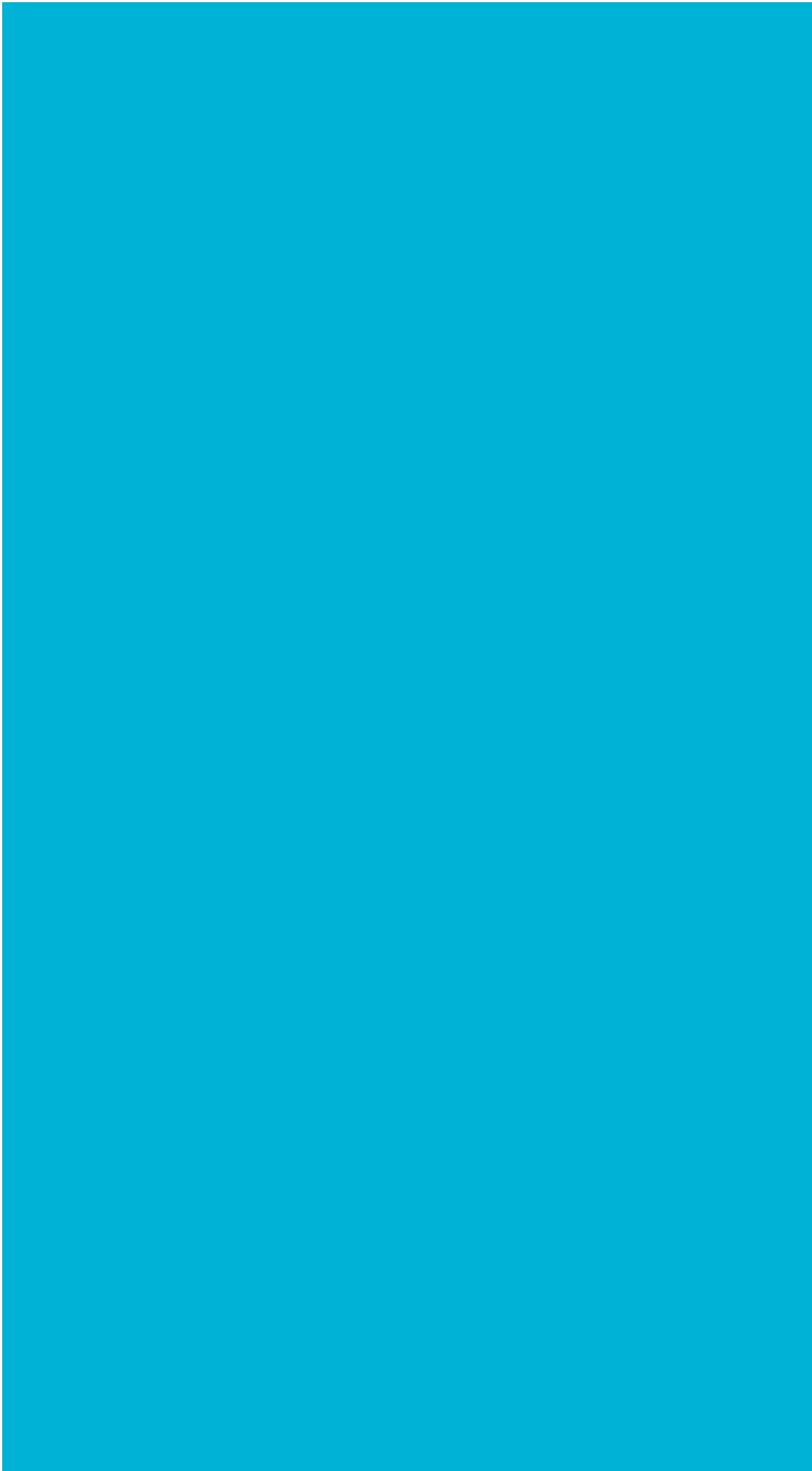


Fig 21. Hennepin County Percent of Population Hispanic Ethnicity





Appendix D – Tiered Licensing System

Frequently Asked Questions: Tiering Process for Rental Licensing Inspections and Annual Renewal Billing

What type of rental property requires a rental license?

Every rental dwelling, including single-family rental dwellings and rental units in owner-occupied duplexes, and rooming and shared-bath units (unless they are in a licensed lodging house) must have a rental license.

Why a tiered rental license billing structure?

The City of Minneapolis uses a tiered rental license billing structure. A property's tier is based on its rental history, focused primarily on the condition and maintenance of the property itself. The tier determines what rental license fee will be imposed and the inspection schedule.

Tier	Characteristics	Inspection cycle
1	Well-maintained, managed, meets minimum housing code, and use very few city services.	8 years
2	Maintained to minimum housing code and use some city services.	5 years
3	Poorly maintained or managed and require excessive city services.	1 year

Why is there a difference in the tier rental license fees?

A tiered structure allows Regulatory Services to directly recapture costs from inspections rather than passing the costs onto all property owners. In addition, a tiered model incentivizes rental license holders to actively manage their properties such that they are placed in a lower tier, undergo fewer inspections, and pay a lower renewal fee.

What criteria does the City use to establish the tiers?

The criteria used to determine a property's tier reflects the guidelines established by Minneapolis Code of Ordinance 244.1890 and is focused primarily on the condition and maintenance of the property itself over the past two years. Each component of the criteria has a set point value. The property owners themselves are not factored into the tiering process. The criteria were developed with input from stakeholders including rental property owners, tenants, neighborhood associations, City Council, the Minneapolis Police Department, and the City Attorney's Office.

When are the tiers assigned?

Data is analyzed each spring to coincide with the rental license billing process. Tiers are assigned every year and are listed in the rental license renewal letters.

What if I have questions about why my property was placed in its respective tier?

An administrative review is when Regulatory Services staff validate the data used to determine a property's tier. Administrative reviews are undertaken upon the request of the property owner, but the rental license fee must first be paid. A property's tier is only modified if the data is found to be inaccurate. The administrative review period is July 15 through November 1 for the active rental license renewal cycle.

Rental License Fees

The table below provides the base rental license fee. Please note that the month initiated and number of additional units are factored into the total rental license fee. The fee for each additional unit, irrespective of the property's tier, is \$5.00.

Building Size	Annual License Fee			Annual fee for each additional unit
	Tier 1	Tier 2	Tier 3	
16 or more units	\$175	\$350	\$700	\$5.00
Condominium	\$70	\$112	\$373	
4-15 units	\$82	\$163	\$327	
1-3 units	\$70	\$112	\$373	

Rental Licensing Tier Criteria

Criteria	Definition	1-3 Unit Rental Buildings		4+ Unit Rental Buildings, Condominiums, and Mixed-Use Buildings	
		Count	Points	Count	Points
Inspections	The count of the number of inspections conducted by Regulatory Services at a given property	1-3	0	1-3	0
		4-6	10	4-6	10
		7-9	20	7-9	20
		10+	30	10+	30
Violations	The count of housing or fire code violations issued by Regulatory Services	1-5	0	1-5	0
		6-15	10	6-15	10
		16-30	20	16-30	20
		31+	30	31+	30
Letter of Intent to Condemn for Lack of Maintenance	The count of letters issued with the intent to condemn a building for the lack of maintenance	1	15	1	15
		2+	30	2+	30
Rental License Operation Conditions	The rental owner has met with the City to agree upon certain conditions or restrictions for a given rental property	1	10	1	10
License Revocation Action	Revocation action has been taken against the property for the violation of rental licensing standards	1	65	1	35
Solid Waste Dirty Collection Point Warning Letters	The count of Solid Waste warning letters issued to a property for a dirty collection point	2-3	5	2-3	5
		4-5	10	4-5	10
		6+	15	6+	15
Solid Waste Dirty Collection Point Clean-Ups	The count of collection point clean-ups undertaken at a property by Solid Waste	1-2	10	1-2	10
		3-6	15	3-6	15
		7-9	20	7-9	20
		10+	30	10+	30
Administrative Citations	Fines issued pertaining to a rental license at a given property	1-2	5	1-2	5
		3+	10	3+	10
Special Assessments	All outstanding fines or fees issued to a given property	2-4	10	2-4	10
		5-7	20	5-7	20
		8+	30	8+	30
Conduct on Premises	A provision in the Rental Licensing Ordinance that allows the City to address qualifying incidents of disorderly conduct of tenants and their guests that adversely impacts neighbors	1	15	1	15
		2+	20	2+	20
Rental Units	Number of paid rental units for High Occupancy Dwellings or Mixed Use Structures			1-3	1
				4-15	3
				16-30	2
				31+	1
Multi-Use Building	Building use is commercial and residential			1	3
		1-3 Unit Rental Buildings		4+ Unit Rental Buildings, Condominiums, and Mixed-Use Buildings	
		Tier	Score	Tier	Score
		3	65+	3	35+
		2	31-64	2	16-34
		1	0-30	1	0-15

Appendix E – Rental Property Owner Manual

Rental Property Owners Established Procedures Manual and Resource Guide

PREPARED BY:
MINNEAPOLIS POLICE DEPARTMENT

The Minneapolis Police Department is obligated to provide this information per ordinance 244.2020(c), "The established procedures manual is available to the public from the Minneapolis Police Department."

Under circumstances detailed under 244.2020(a), "It shall be the responsibility of the licensee to take appropriate action, with the assistance of crime prevention specialists or other assigned personnel of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations."

It is our intent to provide that assistance not only following criminal conduct at rental property, but also to provide owners with the tools needed to prevent, deter, or reduce the likelihood of such violations or other crimes.

For individuals with disabilities:

If you need this material in Braille, large print, computer disk, or cassette tape, call 612-673-2912. Sign language interpreters available — call 612-673-3220 or 612-673-2626 (TTY). Please allow two weeks for accommodation.

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Introduction

It may seem curious that the Minneapolis Police Department presents information on managing rental property. We do this because the management of nearly 24,000 licensed rental properties in the city have a great impact on crime and livability. In fact, city ordinances make license holders and their agents responsible for responding to some illegal behaviors. Further, we are required by Minneapolis Ordinance 244.2020 to make available to the public "The established procedures manual" for owners of rental property.

We know from years of experience that owners/managers and their tenants are the only people who can determine what kind of behaviors will be allowed on rental property. We therefore work with owners, managers and tenants, and, when necessary, housing inspections and the courts to keep illegal behavior under control in our neighborhoods.

The responsibility for preventing certain illegal behaviors makes owning and managing rental property in Minneapolis a great challenge. But it's important to remember that property management is a business. Owners and renters enter into a legal agreement --the lease-- where services are offered for compensation. We keep the focus on sound business practices in this guide.

Properly screening and selecting residents, using well-worded and legally accurate leases, being fair and consistent with residents, basing decisions solely on behavior, and responsibly enforcing lease violations are some of the sound management techniques that are the keys to the successful operation of any rental property.

We offer this information for you to use and learn from. However, we recommend that owners and managers get professional legal advice whenever it is necessary.

Thank you for making use of this guide. Your cooperation and commitment is vital in making our neighborhoods safe and appealing places to live.

Rental License Ordinance Information and Process

CITY OF MINNEAPOLIS RENTAL LICENSING STANDARDS

244.1910. - Licensing standards.

The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license or provisional license.

- (1) The licensee or applicant shall have paid the required license fee.
- (2) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the Zoning Code.
- (3) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the Zoning Code or the Housing Maintenance Code.
- (4) The rental dwelling shall not have been used or converted to rooming units in violation of the Zoning Code.
- (5) The owner shall not suffer or allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition under section 227.90 of this Code. If the city is required to abate such nuisance conditions under section 227.100 or collect, gather up or haul solid waste under section 225.690 more than three (3) times under either or both sections during a period of twenty-four (24) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.
- (6) The rental dwelling or any rental dwelling unit therein shall not be in substandard condition, as defined in section 244.1920
- (7) The licensee or applicant shall have paid the required reinspection fees.
- (8) The licensee or his or her agent shall allow the director of inspections and his or her designated representative to perform a rental license review inspection as set forth in section 244.2000(c).
- (9) The licensee shall maintain a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation of such unit within the building. The register shall be kept current at all times. The licensee shall designate the person who has possession of the register and shall inform the director of the location at which the register is kept. The register shall be available for review by the director or his or her authorized representatives at all times.
- (10) The licensee shall submit to the director of inspections or an authorized representative of the director, at the time of application for a rental dwelling license and for just cause as requested by the director, the following information: the number and kind of units within the dwelling (dwelling units, rooming units, or shared bath units), specifying for each unit, the floor number, and the unit number and/or letter and/or designation.
- (11)
 - a. There shall be no delinquent property taxes or assessments on the rental dwelling, nor shall any licensee be delinquent on any financial obligations owing to the city under any action instituted pursuant to Chapter 2, Administrative Enforcement and Hearing Process.
 - b. The licensee or applicant shall have satisfied all judgments duly entered or docketed against the licensee or applicant by any court of competent jurisdiction arising out of the operation of a rental property business. This subsection shall not be found to have been violated if the licensee or applicant demonstrates that the underlying case or action leading to the entry of judgment is being properly and timely removed to district court or otherwise appealed, or when the judgment is being paid in compliance with a payment plan accepted by either a court possessing jurisdiction over the judgment or the judgment creditor or during any period when the enforcement of the judgment has been duly stayed by such a court. This subsection shall become effective January 1, 2008.
- (12) There is no active arrest warrant for a Minneapolis Housing Maintenance Code or Zoning Code violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.
- (13)
 - a. Any person(s) who has had an interest in two (2) or more licenses revoked pursuant to this article or canceled pursuant to section 244.1925 or a combination of revocations or cancellations shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of five (5) years.
 - b. Any person(s) who has had an interest in a license revoked pursuant to this article or canceled pursuant to section 244.1925, shall be ineligible from obtaining any new rental dwelling licenses for a period of three (3) years.
- (14) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 244.1940

- (15) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the director of inspections in accord with the provisions of section 244.1840
- (16) a. Before taking a rental application fee, a rental property owner must disclose to the applicant, in writing, the criteria on which the application will be judged.
- b. Application forms must allow the applicant to choose a method for return of the application fee as either 1) mailing it to an applicant's chosen address as stated on the application form, 2) destroying it 3) holding for retrieval by the tenant upon one (1) business-day's notice.
- c. If the applicant was charged an application fee and the rental property owner rejects the applicant, then the owner must, within fourteen (14) days, notify the tenant in writing of the reasons for rejection, including any criteria that the applicant failed to meet, and the name, address, and phone number of any tenant screening agency or other credit reporting agency used in considering the application.
- d. The landlord must refund the application fee if a tenant is rejected for any reason not listed in the written criteria.
- e. Nothing in this section shall prohibit a rental property owner from collecting and holding an application fee so long as the rental property owner provides a written receipt for the fee and the fee is not cashed, deposited, or negotiated in any way until all prior rental applicants either have been screened and rejected for the unit, or have been offered the unit and have declined to take it. If a prior rental applicant is offered the unit and accepts it, the rental property owner shall return all application fees in the manner selected by the applicant, pursuant to section (b).
- f. Violation of this subsection, 244.1910(16), may result in an administrative citation, or may contribute to the denial or revocation of a rental license.
- g. This subdivision shall become effective December 1, 2004.
- (17) An owner shall not have any violations of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, at any rental dwelling which they own or have an ownership interest. A violation of Minnesota Rule Chapter 1300.0120 subpart 1 shall result in a director's determination of noncompliance notice being sent, pursuant to 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to 244.1940 of the Code, for the rental dwelling where the second violation occurred.
- (18) The owner, where the owner pays the water bill for a rental dwelling, shall not allow the water to be shut off for non-payment. If water to a rental dwelling has been turned off, for lack of payment by the owner it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license or provisional license.
- (19) The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.
- (20) A licensee or owner/landlord shall not be in violation of section 244.265 of this Code, which requires owner/landlords to notify tenants and prospective tenants of pending mortgage foreclosure or cancellation of contract for deed involving the licensed property.
- (21) Any person, upon a second violation of section 244.1810 by allowing to be occupied, letting or offering to let to another for occupancy, any dwelling unit without having first obtained a license or provisional license, shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of two (2) years.
- (22) The owner or licensee shall not be in violation of section 225.780, which requires every owner of a building containing two (2) or more dwelling units to provide for recycling services.
- (23) The licensee or applicant shall not have any unpaid fines or fees owing to the City of Minneapolis related to their rental property.

We highly recommend on a regular basis rental property owners review standards on the City of Minneapolis Website to download changes or additions to the standards by City Council.

TITLE 12 HOUSING*\ Chapter 244. MAINTENANCE CODE

Article XVI. RENTAL DWELLING LICENSES (Amended)

244.2020. Conduct on licensed premises.

- (a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of crime prevention specialists or other assigned personnel of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.
 - (1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
 - (2) Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
 - (3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
 - (4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
 - (5) Section 389.65 of this Code, which prohibits noisy assemblies;
 - (6) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and section 393.40, 393.50, 393.70, 393.80, 393.90 and 393.150 of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon; or
 - (7) Minnesota Statutes, Section 609.72, and Section 385.90 of this Code, which prohibit disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation; or when at least two distinct violations, separated by no more than sixty (60) days, disturb the peace and quiet of at least one (1) unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation, and the violations are reported by distinct and separate complaints.
- (b) The police department and the inspections division shall be jointly responsible for enforcement and administration of section 244.2020.
- (c) Upon determination by a crime prevention specialist, or other assigned police department employee, utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in subsection (a), the responsible crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the Minneapolis Police Department to prevent further violations. If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(2), (a)(3) or (a)(6) of this section the licensee shall submit a satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall comply with the requirements established in paragraph (d) of this section. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The established procedures manual is available to the public from the Minneapolis Police Department.
 - (1) If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(1), (a)(4), (a)(5), (a)(7) of this section, the licensee shall contact the police department or department of regulatory services within 10 days to discuss the instance of disorderly use.
- (d) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) between seven (7) and fifty (50) distinct and separate residential units, or within nine (9) months, if the premises contains between fifty-one (51) and one hundred (100) distinct and separate residential units, or within six (6) months, if the premises contains more than one hundred (100) distinct and separate units, of an incident for which a notice in subsection (c) was given, the crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation. The licensee shall submit an updated satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written

management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The licensee or the listed agent/contact person for the licensee shall also successfully complete a property owner's workshop at the direction of and in accordance with a schedule set forth by the police department. Any costs associated with that workshop will be the sole responsibility of the licensee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of the licensee or the listed agent/contact person for the licensee of the requirement to successfully complete a property owner's workshop. That notice shall further inform the licensee that failure to successfully complete the property owner's workshop may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license.

- (e) When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d), or if the licensee fails to timely implement all provisions of an accepted written management plan, or if the licensee or the listed agent/contact person for the licensee fails to successfully complete a property owner's workshop after a minimum of two (2) approved workshops have been scheduled, offered and held. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in section 244.1940, and shall proceed according to the procedures established in sections 244.1950, 244.1960, and 244.1970.
- (f) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) between seven (7) and fifty (50) distinct and separate residential units, or within nine (9) months, if the premises contains between fifty-one (51) and one hundred (100) distinct and separate residential units, or within six (6) months, if the premises contains more than one hundred (100) distinct and separate units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in section 244.1940, and shall proceed according to the procedures established in sections 244.1950, 244.1960, and 244.1970..
- (g) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the crime prevention specialist or other assigned police department employee within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the director of inspections at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.
- (h) A determination that the licensed premises have been used in a disorderly manner as described in subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

RENTAL LICENSE ORDINANCE INFORMATION

1. EFFECTIVE DATE

The effective date of the ordinance was January 1, 1991.

2. GENERAL PROVISIONS

- A. An owner is required to get a license prior to offering a unit for rental.
- B. The license allows the owner to operate rental units.
- C. A license is required for every rental dwelling, including single-family rental dwellings and rental units in owner-occupied duplexes, and also rooming and shared-bath units, unless they are in licensed lodging houses.

3. PROCEDURES

- A. Housing Inspection Services will issue a license upon receipt of a completed application and payment of the proper fees.
- B. If the owner receives a provisional license this will allow continued occupancy until the city inspects the property. The city will then decide to either issue an approved license or revoke the rental license based upon standards in the ordinance. Since it may take several years to inspect all of the rental dwellings in Minneapolis, provisional licenses may be renewed from year to year. Single-family homes converted from owner-occupied to rental have been identified under ordinance as priority for an inspection. Change of ownership for 1-4 unit rentals is also identified under the ordinance 244.1870 to be a priority inspection.
- C. All newly-constructed rental units or units undergoing a code compliance inspection must apply for a rental license once a certificate of occupancy or a code compliance certificate is issued & before the owner occupies the property. A completed application and proper fee must be submitted to the Inspections Division.
- D. Fees for provisional licenses and approved licenses are identical. In owner-occupied buildings, only the rental units need to be licensed. The 2011 annual fee is \$67 for the first unit and \$19 for each additional unit.

4. INSPECTION POLICY

Section 244.1890 of the ordinance requires the Director of Regulatory Services to adopt a policy for the systematic inspection of all rental dwellings based upon certain factors. The factors are intended only as a guide to indicate which dwellings are likely to require inspection sooner or more frequently.

5. SANCTIONS

- A. If a building fails to meet the licensing standards in the ordinance, the license could be denied, revoked, suspended, or not renewed. The affected dwelling units would be vacated and not occupied until a license is granted. Operating or renting a dwelling unit without a license is considered a misdemeanor & immediate \$2,000 fine is issued by Housing Inspection Services.
- B. The ordinance sanctions do not supersede other remedies provided by ordinance or state law, such as warnings, administrative fines, criminal misdemeanor charges, condemnation, rent escrow actions, and tenant's remedies action.

6. DUE PROCESS PROCEDURES

- A. If it is determined that the dwelling is in violation of the rental licensing standard(s), Housing Inspection Services sends a Director Notice of Non-compliance to the licensee. The notice provides a certain time for correction of the deficiencies if the revocation action is based on substandard conditions it is a 60 day due date a 10-15 day due date for hazardous conditions, etc.) Section 244.1920. If the rental license standard is under 244.1910 a 10 day due date is required to get into compliance with the license standard violation
- B. If the deadline for compliance expires without correction of the license standard violation, Housing Inspection Services will proceed with revocation of the rental license.
- C. The licensee may appeal within 15 days. The appeal application must be submitted with a fee of one hundred dollars (\$300.00). If appealed, the matter goes to the administrative hearing judge. The hearing will hear arguments from the City & appellant and will draft their findings for Council approval. (Section 244.1960 Minneapolis Code of Ordinances)
- D. If there is no appeal by the licensee, the matter is referred to the City Council for final action to revoke (deny, suspend, or not renew) the license.

7. NOTICE TO TENANTS

- A. Tenants are informed of all Revocation actions against the license on the building.
- B. A notice to tenants of the final decision will be mailed to each occupant and posted on the building.

8. POSTING LICENSE CERTIFICATE AND TENANT REGISTER

- A. The licensee must post its license certificate conspicuously in a frame with a transparent cover.
- B. The licensee must maintain a register of all current tenants and persons with a lawful right of occupancy. The register must be available for review by the Department of Inspections.

Conduct Ordinance vs. Nuisance Statute

The following is a comparison of the "conduct on premises" ordinance (M.C.O. 244.2020) and the nuisance statute (Minn. Stat. 617.80-89):

ORDINANCE

Application: Applies only to rental property, and only to property with either a license; a provisional license, or an application submitted for a rental license. Tenant or guest must cause nuisance.

Triggering events: Noisy party, 3 incidents in 12 months, or one incident with responsible persons cited or arrested. A single incident of prostitution, drugs, weapons (in accordance with Minneapolis Ordinance 244.2020), illegal liquor, gambling may trigger an official notice.

How initiated: The MPD's Crime Prevention staff documents incident, sends letter to owner informing owner of incident. When the qualifying incident involves drugs, weapons, or prostitution, the letter includes a demand for a satisfactory written management plan. The plan must be accepted by the designated MPD staff and implemented within twenty days. For other qualifying offenses, the owner must contact the police or housing inspections within ten days to discuss the case.

Consequences: Administrative action to revoke license for 1 year. Recommendation is made by Inspections to Community Development and Regulatory Services Committee. Owner has 15 days to appeal to the revocation. If the owner does not appeal, or if the owner loses an appeal, recommendation goes to Council for action.

STATUTE

Application: Applies to all property. Also applies to "nuisance" persons. Tenant or guest need not commit nuisance, but such nuisance must have a nexus to the building.

Triggering events: Prostitution, disorderly house, drugs, weapons (in accordance with Minneapolis Statute 244.2020), illegal liquor, gambling. Need proof of 2 or more separate behavioral incidents committed within the building within the previous 12 months.

How initiated: Often comes to prosecuting attorney's attention through Crime Prevention staff, other units of the Police Department, or community. Prosecuting attorney (attorney general, county attorney, or city attorney) sends owner notice of nuisance letter. After attempts at voluntary abatement fail, prosecuting attorney seeks injunctive relief through the courts.

Consequences: Prosecuting attorney may file a complaint in district court that could result in enjoining the use of the building for any purpose 1 year. Prosecuting attorney may also pursue unlawful detainer actions against tenants.

RENTAL LICENSE ORDINANCE

Section 244.2020 Minneapolis Code of Ordinances and 911

On January 1, 1991, the Rental License Ordinance was implemented in the city of Minneapolis. Part of the licensing standards is Section 244.2020, "Conduct on Licensed Premises," stating that the licensee has the responsibility to take appropriate action following conduct by person(s) occupying the premises which is deemed to be disorderly, in violation of any of ten Minnesota statutes or ordinances, which include prohibitions against illegal use of drugs, weapons violations, disruptive behavior, or noisy assemblies.

The Minneapolis Police Department and the Department of Inspections are jointly responsible for the enforcement and administration of this section of the ordinance. As a result of this joint responsibility, several misconceptions have developed about the use of the 911 system and its effect on licensing of properties. Several points need to be clarified.

1. Having several calls to 911 from your property does not put you on any city or county "nuisance list." If the MPD's Crime Prevention staff determines that your property was used in a disorderly manner by a resident or guest of a resident under the narrow crime definitions listed in 244.2020, you will be contacted by mail. The letter directs you to take steps to prevent further violations. One call in and of itself, without substantial information indicating a violation as listed under 244.2020(a), does not trigger such action.
2. If your property is identified as the location for a 911 nuisance call, this will not adversely affect rental licensing unless there is documented evidence to indicate that the problem occurred on that property and it involved a resident or guest, and the owner does not respond "with appropriate action." An accumulation of qualifying incidents and other housing regulation violations may impact the rental license tier level and fees.
3. If a neighbor does not know the exact address of a situation, the call should still be made and reported with whatever information is known. The operator will ask for the caller's name and address and record the address for future reference. Callers should tell the operator if they do not wish to be contacted by the police for further information. Owners should introduce themselves to neighbors nearest their property, and enlist their help when problems are observed at the rental property.
4. Residents are encouraged to call 911 whenever they feel a response is needed from police, fire, or ambulance. If they only need information, they should call their precinct or applicable division or unit, or 311 (612-673-3000 outside of Minneapolis).

Quick Guide to Rental License Conduct on Premises

- I. Disorderly use which may result in the termination of a rental license. Qualifying incidents must involve residents or their guests:**
- A. Gambling
 - B. Prostitution**
 - C. Unlawful sale or possession of controlled substances**
 - 1. A controlled purchase of a substance which tests positive for narcotics.
 - 2. Contraband seized pursuant to a search warrant, and/or an arrest.
 - D. Unlawful sale of alcoholic beverages
 - E. Noisy assemblies (Parties)
 - 1. Three verified noisy assemblies within the last 12 months, the third one documented, or one incident with responsible individuals cited, including social host charges.
 - 2. Noisy assemblies must occur between the hours of 10:00 p.m. and 6:00 a.m.
 - 3. Documentation includes number of people in attendance, activity of people, location of disturbances on the premises, description of volume and type of noise.
 - 4. Items which may be used are witness/complainant statements, neighborhood impact statements, and any police action (arrests, citations).
 - F. Unlawful possession, transportation, sale or use of a weapon**
 - 1. A decision must be based on firm evidence of a weapons violation.
 - G. Disorderly Conduct
 - 1. There must be verified disorderly conducts within the last 12 months, with sufficient documentation.
 - 2. Documentation includes number of people in attendance, activity of people, location of disturbances on the premises, description of volume and type of noise.
 - 3. Items which may be used are witness/complainant statements, neighborhood impact statements, and any police action (arrests/citations).
- II. Rental licensing procedure**
- A. First Qualifying Incident - The Minneapolis Police Department notifies licensee/s by U.S. Mail of the violation and directs them to take the appropriate action. For narcotics, prostitution, and weapons offenses, the owner must submit a management plan to CCP/SAFE within 10 days. The MPD's crime prevention staff offers to assist and provides information to the licensee. County Attorney may assist landlords with eviction proceedings in some circumstances.
 - B. Second Qualifying Incident - For properties with one to six units, a second qualifying incident within 18 months of the first incident--or within 12 months for properties with seven to fifty units, 9 months for fifty-one to one hundred, and 6 months for properties over one hundred units-- a second notice will be sent and the licensee is required to submit a management plan to CCP/SAFE within 10 days, and attend a workshop presented by the MPD.
 - C. Third Qualifying Incident - If a third incident of disorderly use occurs the following steps are taken:
 - 1. The three incidents are reviewed by the MPD, the City Attorney's office and the Inspections Division to insure that they meet the criteria for sending the notices.
 - 2. If incidents meet the criteria, notice of recommendation to revoke the license is sent to the owner.
 - 3. The owner has 15 days to file an appeal.
 - 4. If the owner appeals the license action, a rental licensing hearing will be set.
 - 5. The hearing result is forwarded to the City Council.
 - 6. Vote by the City Council to revoke the license.
 - 7. Revocation signed by Mayor.
- III. Documentation used for revocation**
- A. Police Reports for arrests and/or search warrants executed at premises
 - B. Citizen complaints
 - C. Record of 911 calls regarding illegal activity
 - D. Photographs or video-tapes of drug traffic and sales
 - E. Any other pertinent documentation or information that a tenant or guest used the premises in a disorderly manner

Rental licensing conduct on premises deals with public nuisance offenses. In order for the nuisance to qualify, neighborhood residents must be negatively impacted. This process depends on residents to call in to voice their concerns to resolve the issues.

Selected City Ordinances

389.30 DEFINITION OF NOISY ASSEMBLY

(Commonly referred to as "Loud Party" ordinance.):

For the purposes of sections 389.65 (c)(1) and 389.65 (c)(2), the term “noisy assembly” shall mean a gathering of more than one person in a residentially zoned or used area or building between the hours of 10:00 p.m. and 6:00 a.m. that would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area considering the time of day and the residential character of the area.

389.65 PUBLIC NUISANCE NOISE

Paragraph (a)

It shall be unlawful for any person to make, continue, permit, or cause to be made or continued within the city, any loud, disturbing or excessive noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.

Paragraph (c), Subsection 1. Noisy assembly

Participating in, visiting, or remaining at a gathering knowing or having reason to know that the gathering is noisy assembly, as defined in section 389.30, except person(s) who have come to the gathering for the sole purpose of abating the disturbance.

Paragraph (c), Subsection 2. Permitting noisy assembly

Knowingly permitting real estate under one’s care or control to be used for a noisy assembly, as defined in section 389.30.

Paragraph (c), Subsection 6. Amplified sound from vehicles

Use or operation of any radio, tape player, loud speaker, or other electronic device used for amplification of music on a public street or alley or commercial parking area which is audible by any person fifty (50) feet or more from the vehicle is in violation. A first violation of this subsection is punishable by a fine not to exceed \$500.00, a second violation is punishable by a fine not to exceed \$700.00, and a third violation is punishable by a fine to the maximum amount.

PUBLIC NUISANCE NOISE ORDINANCE 389.65 IS ENFORCED 24 HOURS A DAY.

CHAPTER 362. LIQUOR LICENSES

362.10. Required.

No person shall sell, exchange, barter, dispose of or keep for sale any liquor, as defined in section 360.10, without first having attained a license as herein provided.

364.40. Consuming in public.

No person shall consume intoxicating liquor, or non-intoxicating malt liquor, while (1) on a public street, highway, alley, sidewalk, boulevard, or any place frequented by the public; (2) on any private property without the consent of the owner of such property; or (3) while in a vehicle upon a public highway. This section shall not prohibit the consumption of such beverages at duly licensed on-sale premises.

CHAPTER 370. REGULATIONS INVOLVING MINORS

370.10. Sale to minors.

No person shall serve or dispense any liquor or beer to any person under the age of twenty-one (21) years nor permit any person under the age of twenty-one (21) years to be furnished with any liquor or beer.

370.30. Purchases, consumption by minors.

No person under twenty-one (21) years of age shall enter any premise for the purpose of purchasing or having served or delivered to him or her any liquor or beer, nor consume any liquor or beer on the premises, nor purchase, attempt to purchase, or have another person purchase for him any liquor or beer.

370.40. Possession by minors.

No person under the age of twenty-one (21) years shall consume or have in his or her possession, at any place other than the household of the person's parent or guardian, any liquor or beer with intent to consume the same, and possession thereof shall be prima facie evidence of intent to unlawfully consume the same.

370.60. Proof of age.

Any person who may appear to be under twenty-one (21) years of age shall, upon demand, produce and permit to be examined appropriate identification.

385.170. Disorderly houses.

(a) Definitions.

- (1) Disorderly house shall mean a building, dwelling, establishment, premises or place where prohibited conduct occurs.
- (2) Prohibited conduct shall mean activities in violation of statutes or ordinances relating to any of the following:
 - (a) Gambling;
 - (b) Prostitution, acts relating thereto, or indecent conduct;
 - (c) Sale or possession of controlled substances; or
 - (d) Unlawful liquor sales.

(b) Prohibitions.

- (1) No person shall own, operate, manage, maintain or conduct a disorderly house, or invite or attempt to invite others to visit or remain in such disorderly house.
- (2) No person shall visit or remain in a disorderly house for the purpose of aiding, abetting, or engaging in prohibited conduct occurring in such disorderly house.

385.90. Disorderly conduct.

No person, in any public or private place, shall engage in, or prepare, attempt, offer or threaten to engage in, or assist or conspire with another to engage in, or congregate because of, any riot, fight, brawl, tumultuous conduct, act of violence, or any other conduct which disturbs the peace and quiet of another save for participating in a recognized athletic contest.

835.80 (8)(g). Repair and service.

No motor vehicle repair work or service of any kind shall be permitted in conjunction with parking facilities provided in residence districts, except washing of vehicles by resident owner and emergency repair service required to start vehicle.

NO TRESPASSING SIGNS

A building owner can authorize the Minneapolis Police Department to enforce the trespassing ordinance (see ordinance below) in their building. To have the ordinance enforced, the owner must:

- Sign an affidavit
- Post the official "No Trespassing" signs

To receive an affidavit and the official "No Trespassing" sign, contact your Community Crime Prevention/SAFE team. Affidavits must be notarized unless signed in the presence of the SAFE officer. If an owner has more than one building, a separate affidavit for each building must be completed. The property owner completes the affidavit and sends it to their SAFE team at the appropriate precinct. After receiving the notarized affidavit from the owner, the CCP/SAFE team will provide two "No Trespassing" signs per affidavit at no cost. The owner posts the signs where they are easily visible to both trespassers and police. If the sign is not visible, police cannot enforce the ordinance. The Minneapolis Police will enforce no trespassing only in buildings, which are posted with the MPD-authorized "No Trespassing" sign.

Officers who enforce the trespassing ordinance will:

- Ask suspects what they are doing there
- Point out the no trespassing sign to the individual
- Determine if suspect has reason to be on the property
- Tell suspect to leave, if suspect has no reason to be on property
- Arrest suspect, if suspect refuses to leave or returns during the officer's shift

The police can only arrest suspects in an area where the sign is conspicuous. They cannot arrest people who have just reason to be at the property. People who cannot be arrested for trespassing include renters and guests of renters. However, questioning by officers and identifying individuals who are suspicious may discourage activity, even if being conducted by residents and their guests.

CITY OF MINNEAPOLIS TRESPASSING ORDINANCE

385.380 Trespassing upon the land of another.

- a. No person shall intentionally trespass on the land of another and, without claim of right, refuse to depart therefrom on demand of the lawful possessor thereof or his agent. A demand to depart may be made as follows:**

- (1) Orally, or in writing, by the lawful possessor or the possessor's agent; or,**
- (2) By conspicuously posting at reasonable intervals signs which prohibit trespass on the affected land; or,**
- (3) By conspicuously posting at reasonable intervals signs which prohibit trespass on the affected land during certain hours.**

- b. No person who has received a written demand to depart pursuant to clause (1) of paragraph (a) of this section shall reenter the lawful possessor's land without the written permission of the lawful possessor or the agent providing said demand for a period of up to one year (365 days) from the date of the written demand, as provided therein.**

AFFIDAVIT

Name of Business			
Property Address			Date
Owner/Representative			
Subpoena Address	Street	City, State, Zip	Phone

To whom it may concern:

Minneapolis police officers are authorized representatives to enforce Minnesota Statute §609.605 and Minneapolis Code of Ordinances §385.380, Trespass, and to warn and direct persons to leave the property and/or business known as:

_____, located at

Description of property or building

_____, Minneapolis, MN.

Address

This limited authority is granted to the Minneapolis Police Department by

Name

who is the _____ of said property and/or business and who herein

Title

requests the officers to enforce said statute and ordinance on said property, including the land surrounding the building or buildings. This limited authority does not obligate the Minneapolis Police Department to patrol the described premises for or at any specific hours or days. It is acknowledged that I will aid in the prosecution of those persons arrested.

Sworn and subscribed before me

This _____ day of _____, 20 _____.

Notary Public at Large, State of Minnesota

My Commission Expires: _____

TRESPASS NOTICE FORM

YOU ARE HEREBY REQUESTED TO DEPART FROM THIS LAND AND NOT TO RETURN FOR ONE YEAR.

State and local laws (Minn. Stat. § 609.605 and/or Mpls. Code § 385.380) provide that no person shall intentionally trespass on the land of another and refuse to depart from that land, without a legal basis, when a demand to do so is made by the lawful possessor or his/her agent. Such demand may be spoken or written. No person who has received a demand to stay off such land shall reenter it within 1 (one) year from the date of the demand without the written permission of the lawful possessor or the agent who provided the demand. Violators may be subject to imprisonment for up to 90 (ninety) days or to a payment of up to \$1000, or both. Violators who qualify for enhanced penalties under Minn. Stat. § 609.153 may subject to imprisonment for up to 365 (three hundred sixty-five) days or to a payment of up to \$3,000, or both.

It shall be noted on this date _____ (month/date/year), you were advised of the above statute. This trespass notice form constitutes a written demand to depart from the premises by the lawful possessor or an agent of the lawful possessor. This demand to depart is due to your disruptive, harassing, threatening, and/or non-conforming behavior.

- ☐ I, the lawful possessor or agent thereof, will complete a security report; therefore, I have not described your conduct on this notice.
- ☐ I, the lawful possessor or agent thereof, will NOT be completing a security report; therefore, I have briefly described your conduct below:

Address of place from which party is trespassed

Name of party being trespassed

Date of birth

Name of person issuing the notice

Signature of party receiving the notice

Note to the Owner/Lawful Possessor:

Make two (2) copies: one copy for the person receiving the notice, one copy for your records. If possible, attach a photo to your copy. (Note: Do not photograph juveniles.) Warning is valid for 1 (one) year pursuant to the amendment of Minn. Stat. § 609.605 (enacted 8-1-2005) and/or Mpls. Code § 385.380 (enacted 12-10-2005).

Application Screening and Rental Management Information

HOUSING COURT DICTIONARY

Who's Who, What's What, and What Does it Mean?

WHO'S WHO

1. **Complainant/Plaintiff** - the party (a person, a partnership, or a corporation) that started the lawsuit by filing and serving the Complaint.
2. **Respondent/Defendant** - the party (a person, a partnership, or a corporation) against whom the case is brought.
3. **Hearing Officer** - the person authorized by law to hear certain cases. In Housing Court, the Hearing Officer hears cases that are defaults for nonpayment of rent and some settlements or stipulations about nonpayment cases.
4. **Referee** - a person appointed by the chief judge to hear and determine certain cases. Here, the Referee hears any and all cases regarding housing, including unlawful detainers, tenants' remedies, rent escrows, criminal Housing Code violations, and emergency relief cases. All decisions made by a Referee are subject to review by a District Court Judge.
5. **Court Reporter** - the person who takes down each and every word said in court "on the record" and, when necessary, produces a transcript of what happened at the hearing.
6. **Clerk** - the administrative staff person who calls the calendar, organizes the files, keeps track of the cases, and initially identifies certain possible defects in either party's compliance with the Rules.
7. **Deputy/Bailiff** - the uniformed Hennepin County Sheriff who "keeps the peace" and is available to deal with any threat to the peace, both inside and immediately outside the courtroom. If you sense any impending disturbance, let the Deputy Sheriff know.

WHAT'S WHAT

1. **Unlawful Detainer** - a lawsuit brought by a party claiming that she/he has a right to possession and control of identified premises, usually an apartment, and that the other party ought to be ordered out (evicted) from the premises.
2. **Complaint** - This is the legal document, signed under oath by the Plaintiff or her/his authorized agent, notifying the Court and the Defendant what facts form the basis for the Plaintiff's unlawful detainer lawsuit.
3. **Summons** - the Order from the Court Administrator to the Defendant telling her/him to come to court to respond to the Complaint, which must be attached to the Summons.
4. **Service** - the process by which someone who is being sued receives copies of the Complaint and the Summons, telling her/him when to come to court. In Housing Court, service must usually be done by someone who is not a party to the lawsuit, physically handing a copy of the Summons and Complaint to the Defendant; this is called "personal service". If the Defendant cannot be found, service can be accomplished by "substitute service", or by mailing and posting.
5. **Substitute Service** - When the actual person being sued is not personally served, she/he may properly be served by handing the Summons and Complaint to "a person of suitable age and discretion residing" at the Defendant's home. Handing the papers to a guest, such as a babysitter or a visitor, is not satisfactory. Handing the papers to a child age ten may not be satisfactory, as that child cannot be presumed to comprehend the importance of a Summons

and Complaint. Handing the papers to a 17-year-old daughter, however, would probably be satisfactory substitute service, as long as she lives in the Defendant's home.

6. **Mailing and Posting** - When neither personal nor substitute service can be accomplished, this third method of service is available. It is very technical. In summary, it requires two efforts to find the Defendant, followed by mailing the papers to her/him, followed by posting a copy at the front and rear entry to the premises.
7. **Short Service** - The three methods of service described above each must be completed at least seven days before the first court hearing, but no earlier than fourteen days before the first court hearing. Short service occurs when the service is completed too late or less than seven days before the hearing.
8. **Late Return** - This is when the Plaintiff does not return to the court, at least three days before the hearing, proof of proper service. The Court may dismiss the case based on late return.
9. **Proof of Service** - The person who actually accomplishes the service must state under oath, in an affidavit of service, that she/he did the proper tasks to accomplish "good service."
10. **Defective Service** - Unless the specific tasks required for service are done properly, there is defective service and the Court does not have jurisdiction or power to hear the case. A party may waive defective service by asking the Court to go ahead and hear the case anyway. Without such a waiver, the case may be dismissed.
11. **Answer** - The Defendant may file a written Answer, notifying both the Court and the Plaintiff exactly what the Defendant's response is to the facts in the Complaint. The Court may require a written Answer,
12. **Denial** - The Defendant simply denies what the Plaintiff says in the Complaint and asks for a trial.
13. **Affirmative Defense** - The Defendant denies or admits what the Plaintiff says in the Complaint, and says that there is a justifiable reason. This happens most frequently when the Defendant admits that the rent has not been paid, but raises the affirmative defense of "habitability". The Court will schedule a hearing on the affirmative defense.
14. **Discovery** - This is when the Court orders each party (each side) to give each other information about the facts before the trial, to avoid surprise.
15. **The Calendar** - The calendar is the daily list of all cases scheduled for hearing. In Housing Court, it is a computerized and usually includes notations written by the Clerks in the left-hand margin specifying problems in the file.
16. **Habitability** - This stands for the affirmative defense, in an unlawful detainer action, where the tenant basically agrees that rent has not been paid and states the rent money is being withheld because the landlord is not keeping the premises in good repair or up to code.
17. **Motion** - A motion is a request, by either party, to the Court about the case.
18. **Summary Judgment** - Either party can make a motion (a request) that the Court decide the case based solely on the pleadings or documents that have been filed. The party asking for summary judgment is basically saying that even if you presume that everything the other party says is true, the other party still could not possibly win and therefore the Court should award a judgment to the party making the motion, immediately and without any further hearing. Summary judgment is rare.

19. **Motion to Dismiss** - a Motion by the Defendant, prior to trial or during trial, to dismiss the case due to claimed defects or flaws in the Plaintiff's pleadings or based on the facts as they come out at trial.
20. **Pleadings** - Shorthand for all the documents filed at Court. With the Court's permission, pleadings may be amended or changed at any time.
21. **Stipulation** - An agreement between the parties to settle all or part of the case without further hearings. The Stipulation must be approved by the court. If it is approved, it becomes part of the Court's Order.
22. **The Housing Rules** - These are the Rules that set out some, but not all, of the procedures that must be followed in Housing Court.
23. **Writ of Restitution** - This is the Order, issued by the Court Administrator when ordered by the Court, directed to the Hennepin County Sheriff to compel someone to vacate certain specifically described premises, based upon the Plaintiff's successful Unlawful Detainer lawsuit. When executing a Writ, the Sheriff posts 24-hours notice at the premises. If the person has not vacated within 24 hours, the Sheriff has the authority and duty to move the person out, by force if necessary. The Sheriff charges a fee to the party requesting the Writ, the Landlord.
24. **"A Stay"**, or "To Stay" something - The Court can determine that the Plaintiff/Landlord is entitled to a Writ of Restitution but "stay the writ" for a certain number of days. A writ stayed for 10 days, for example, means that the writ can not be issued by the Court Administrator until 10 days have passed.
25. **Motion to Quash** - this is the request of a tenant that the Court quash, or stop, the Writ, usually temporarily until a court hearing on whether or not the tenant has a good reason ("good cause") to not be forced to move.

This Dictionary is an effort to clarify what some of the terms and phrases commonly used in Housing Court actually mean. This list is fairly thorough, but it is neither exhaustive nor complete. If you do not know what something means, ask...

For a brief web video regarding Housing Court, link to:

<http://shows.qwikcast.tv/skins/cityofmpls/?e=532355d87b449>

APPLICANT SCREENING AND RENTAL MANAGEMENT INFORMATION GUIDE

This step by step information guide was developed to assist rental property owners to make informed decisions when screening prospective tenants and managing rental property. Rental property is a business and should be run with diligence and integrity.

The following recommendations are base on proven rental management and applicant background-screening techniques. This reference guide is NOT intended to replace professional legal advice. Rental property owners are encouraged to contact a lawyer, the Minnesota Attorney General's Office, Minnesota Multi-Housing Association, Housing Services or the Tenants Union for all legal issues.

Fair Housing Law: By State and Federal law, an owner/agent can not consider the following when processing a prospective tenant:

Race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or familial status (there are some exceptions, please consult a private attorney or the Minnesota Attorney Generals office)

STEP ONE:

Since proper verification of all information given on the application is dependent upon accurate identification of all applicants, **owners should require all applicants (age 18 or older) to produce a valid State Drivers License, State Identification Card or US Passport for proof of identification.** Other forms of identification such as school IDs, state and county financial assistance cards, social security cards, employment IDs etc. are not valid forms of identification because the person's true identity is not verifiable.

STEP TWO:

Use a complete **Rental Application**

A **Rental Application** should include (but not limited to):

Personal Information (all adult applicants and their children)

- **Full** name and Date of birth
- Any former or maiden name, if changed in the last 3 years
- Social Security Number

Rental History

- Present address and phone number
- How long at this address (beginning and ending date, month and year)
- Present landlord (name, address and phone)
- Reason for Leaving (in detail)
- Previous addresses (3-5 years history. Require above information on each continuous address.)
- Have they ever eviction judgements for criminal acts?

Employment History

- Present employer (contact person, title, address and phone)
- How long have they worked there?
- If unemployed (very important to verify source of income)
- Previous employment (3-5 Year History. Require above information on each employment.)
- Amount of income (monthly)
- Has this person ever been terminated? (reason)

Banking and Credit History

- Bank information (names, address and phone)
- Account numbers (savings, checking and credit cards)
- Any credit problems (reason)

Legal History -IMPORTANT: Read the April 2016 HUD Guidelines included at the end of this manual, which addresses the appropriate use of criminal history in screening, in light of Fair Housing Law.

- Conviction history excluding traffic tickets
- Disposition of charges (final outcome of the criminal case)
- Civil litigation (bankruptcy, law suits etc.)

Acceptance/Denial Form:

A rental owner can use any nondiscriminatory reason to deny or accept a prospective applicant's tenancy. An acceptance/denial form is a document that the owner can give to each applicant before a background check is conducted. It lists what the owner will use to decide whether to accept or deny each applicant. A properly worded and used acceptance/denial form can greatly decrease the chance of a successful discrimination lawsuit. Consult a lawyer, Attorney General's Office, Minnesota Multi-Housing Association, Minneapolis Housing Services, or the Tenants Union for further information.

STEP THREE:

Proper **screening** practices.

In any neighborhood and with any rental property, **proper screening is essential** and easy to accomplish.

Screening prospective tenants should be consistently applied to every applicant and follow federal, state and local laws. Each owner must decide his or her **screening standard**. This is accomplished by selecting what history categories to check and over what time frame to evaluate. Once set, this protocol needs to be in writing and consistently used with each applicant. The following is a proven suggestion.

Complete history for 3-5 years on each of the following:

- Criminal history (conviction history from local, county and state databases, as well as, all states where the applicant(s) have resided in the past 3-5 years)
- Rental history (address history)
- Credit history
- Unlawful Detainer (eviction) judgements for criminal acts
- Income verification

Doing a complete and accurate screening of a prospective tenant can be a tedious and time-consuming process. It is suggested that owners **use professional screening companies** to conduct a complete and accurate screening of all prospective tenants. Many career property owners use professional screening companies. Professional screening companies provide this service for a relatively inexpensive price (approx. \$30-50 per applicant) depending on the amount of history and detail requested. Many screening companies advertise that they can complete the process and send the information (via fax, email, or mail) to the owner within a 24-hour period. Most companies can be found on the internet and perform services online as well. Please note that the screening company can not offer opinions and only give the client raw information. It's important to remember that owners must instruct the screening company as to the specific criteria they want the prospective tenant(s) screened for. Even though the information sent back to the owner is usually very detailed, owners may have to research or follow-up on some of the information to determine the fitness of the prospective tenant(s).

Reminder: Information received (either from a screening company or through individual research) is totally based on the accuracy of the information submitted. In other words, physically comparing the information given on the application with a valid ID and verifying that **every space** on an application is completed and answered correctly are critical to proper screening.

Whether you do the screening yourself or hire a company, we suggest that you charge the prospective tenant(s) a screening fee and then deduct the amount from the security deposit if the tenant(s) is approved. This practice is considered prudent by many owners as it ensures that the owner knows exactly who is living in their building. If the tenant is denied based on information received and legal denial criteria, the owner may keep the amount as a processing fee but must refund the fee if not used for screening or if the applicant is rejected for criteria not disclosed (Minnesota Statute 54.03). Charging a screening fee accomplishes two things. First, it allows the owner to be compensated for the service and second, an applicant with poor history may decline to pay an owner to find this out and then lose his or her money as a processing fee.

STEP FOUR:

Use a *complete and legally accurate lease*.

1. Types of Leases

A legally up-to-date **written** lease is the cornerstone of proper management. Leases are nothing more than a civil contract between the owner and the tenant(s). As a rule of thumb, in housing court, if it's not in writing, it probably will not count as evidence. Avoid using verbal leases or “agreements”, because it is very difficult to prove what was agreed upon. Properly written leases are difficult to dispute in court. It is essential to select a lease that reflects all current housing laws and rules of procedure. Such a lease will help protect an owners assets and legal liability. There are leases available that have been reviewed by the State Attorney General’s Office and recognized by Housing Court as an acceptable lease (meaning they usually are automatically accepted as evidence in housing court). Leases that the Minneapolis Police Department accepts as part of a satisfactory plan under 244.2020 are listed on page 45.

It is suggested that inexperienced owners use a **month-to-month lease agreement** with all new tenants (Section 8 leases must be one year in length the first year, but automatically roll over to a month-to-month lease at the end of the first year). Month-to-month leases allow the owner to terminate the lease agreement (without cause) by giving the tenant(s) a written 30 plus one day notice to vacate. The tenant can do the same.

The use of a month-to-month lease is also important, because terminating a lease prior to the end of any written or verbal agreement either requires cooperation by all parties involved or an Unlawful Detainer (UD) filed in housing court by the owner. An Unlawful Detainer currently costs in excess of \$300 to file. Once filed, the owner must prove in Housing Court that the tenant(s) violated a portion or portions of the lease agreement. This may require the owner to subpoena witnesses, present evidence, etc.

Rarely would an owner have to file an Unlawful Detainer on a month-to-month lease. Examples for filing a UD on a month-to-month lease prior to the lease expiring would include serious criminal activity; such as drug dealing, illegal use or possession of weapons, prostitution or criminal damage to property etc. In these instances, waiting a month to give a notice for the lease violation may be too long to protect the safety of the tenants and the owner’s investment. If eviction through housing court cannot be avoided, consider that these cases will usually require police reports and/or written conduct notices to prove violations. You may also need to subpoena witnesses. It should also be noted that the Unlawful Detainer process can take approximately 2 weeks to over a month from beginning to end and if the owner loses his/her case, the tenant(s) are not evicted. This means that the owner must abide by the remaining length of the current lease agreement or start the eviction process over again.

2. Lease Agreement lengths

It is important to note that, even though month-to-month leases are suggested for new prospective tenants, the owner may choose to increase the length of the lease agreement after the tenant(s) have proven themselves to be a responsible resident (this may take time to properly evaluate).

****** It is understandable that many acceptable new tenants require a 6 months to a 1 year lease instead of a month-to-month lease, because they fear rent increases during that time period. Owners are encouraged to insist on a month-to-month lease, but add an amendment that states that unless terminated by either party, the owner agrees to not raise the monthly rent for a period

of 6 months or 1 year, whichever is agreeable to both parties. This amendment offers the owner the control of a month-to-month lease and the stability many acceptable tenants require.

The length of a standard lease should not be less than a month and should not exceed one year. It should also be noted that month-to-month leases automatically renew themselves every month unless properly terminated in writing by the owner or tenant.

STEP FIVE:

Using “House” or “Apartment” rules and “Resident Conduct Rules”

In order to set standards for tenants' behavior, tenants must know the rules of the house. The House or Apartment Rules are for general conduct in and around the property and first violations are usually considered minor. The Resident Conduct Rules are specifically designed to protect the health and safety of all residents and as stated, one violation could result in a termination of the lease. A copy of the House or Apartment Rules and Resident Conduct Rules should be given to each tenant at the beginning of tenancy. Each accepted applicant or current tenant should be required to read, date and sign a copy stating that they understand the contents and will abide by them. Both originals placed in the tenant's office file and copies given to the tenant. A copy of the all House or Apartment Rules should be posted in the common areas of the property. All “rules” documents implemented should be noted in the lease agreement.

STEP SIX:

Using written notices for any lease violation

This is undoubtedly one of the most important steps when it comes to properly managing rental property. If the tenant(s) violates the lease in any way, the owner should give the tenant(s) a a "lease violation notice.". This is a **written** warning that should be either **hand delivered** or **sent by certified mail** to the violating tenant(s). The reason why we recommend either hand delivery or certified mail is because in order to use a violation as evidence in housing court, the owner will have to prove the tenant(s) involved received proper notice.

The notice should include:

- Which tenant(s) is involved
- Date and approximate time of violations
- What part (in detail) of the lease that was violated
- A statement indicating that this behavior can not continue and any additional violations could be grounds for terminating the lease

This notice must be dated and signed by the owner/agent. If hand delivered, the owner/agent should have a witness present and the tenant(s) should be asked to sign it indicating that they had received it. If the tenant refuses to sign it write, “refused” in place of the tenant's signature and have the witness sign it. The original copies need to be placed in the tenant's office file. Conduct Notices can be used as evidence in housing court. Often, they are the only evidence owners have to present.

Lease Termination Criteria

Owners should set up criteria for how many chances (lease violation notices delivered) a tenant(s) has to correct negative behavior. An example would be—no more than three minor infractions and no more than two “same or similar” infractions in a one-year period.

For major infractions such as:

- Drug dealing, distribution and possession
- Illegal use or possession of weapons
- Felony assault or any other violent felony
- Physical or verbal threats of bodily harm towards management staff or other residents

For these offenses, it is recommended that owners adopt a zero tolerance policy of **giving notice** after the first offense. **It is extremely important to be diligent, fair and consistent when dealing with lease violations.**

FINAL STEP: (VERY IMPORTANT)

All responsible owners spend a lot of time on their property (day and night). This gives the owner first hand knowledge of what goes on from day-to-day or week-to-week. It also tells the tenants and their guests that you, as the owner, are in control and concerned about what activity occurs on the property, condition of the property and who is visiting. The practice of “absentee landlord” is bad for business, sets the owner up for possible liability claims and totally ineffective.

Residential Lease Options

The three leases that the Minneapolis Police Department accepts for ordinance-required "satisfactory" management plans have been reviewed by professionals in the industry and the agencies which have composed them have made every effort to make sure their leases conform to Minnesota housing and contract laws.

Using generic forms online or available at office supply stores increases your risk that you have lease language that will not be valid in housing court.

If you do not use one of these three leases, and have not reviewed the one you are using with peers in the rental industry, we urge you to consider switching to any one of the three we list. These leases are can be obtained from:

Minnesota Multihousing Association - **mmha.com**

Minnesota Bar Association - **mnbar.org**

Minnesota Association of Realtors - **mnrealtor.com**

Also, using a Section 8 Lease in conjunction with a lease that includes the Crime Free Lease Addendum or equivalent language is acceptable as part of a satisfactory plan.

CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of the lease of the dwelling unit identified in the attached lease, Property Owner/Manager and Resident agree as follows:

1. Resident, any members of the resident's household, a guest or other person under the resident's control, shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the **illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance** (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).
2. Resident(s), any member of the resident's household, a guest or other person under the resident's control, shall not engage in **any act intended to facilitate criminal activity**, including drug-related criminal activity, on or near the said premises.
3. Resident or members of the household **will not permit the dwelling unit to be used for, or to facilitate criminal activity**, including drug-related criminal activity regardless of whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household, a guest, or another person under the resident's control, shall not engage in the **unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance** at any location, whether on or near the dwelling unit or otherwise.
5. Resident, any member of the residents' household, a guest or another person under the resident's control, shall not engage in any criminal activity, including **prostitution, criminal street gang activity, threatening, intimidating, or assaultive behavior** including but not limited to the **unlawful discharge of firearms**, on or near the dwelling unit premises, or any breach of the lease agreement that otherwise jeopardizes the health, safety, and welfare of the landlord, his agent or other residents and/or involving imminent or actual serious property damage.
6. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY. *A single violation of any provisions of this added addendum shall be deemed a serious violation and material non-compliance with the lease.*
7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.
8. This lease addendum is incorporated into the lease executed or renewed this day between Property Owner/Manager and Resident(s).

It is understood and agreed that a single violation shall be good cause for termination of this lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by the preponderance of the evidence.

Management Signature

Resident Signature

Date

Date

Obtaining and Understanding Calls for Police Service and Police Reports

For owners and managers of commercial and rental properties:

* We now require that owners and managers who desire to receive the Calls For Service Reports (also known as "RECAP" or "CODEFOR" reports) on a regular basis enroll in our email alert system. To enroll in the Action Alert system, send an email to:

Crime.Prevention@MinneapolisMN.gov.

Include in your email a list of all Minneapolis properties you manage or own. Be sure to include all addresses of a property if there are more than one number on the building!

* Once enrolled, you will get a report that is generated weekly for each of your properties that has had at least one police call in the previous seven (7) days. This report will go back sixty (60) days from the date the report is generated, so you are advised to keep these reports in your email or on your computer. Doing so will mean you'll have a cumulative record of all police calls to any of your properties over time.

Signing up for the automated alerts will mean you will get a summary of the information in the report by email. This is NOT the complete report. The amount of information is limited by Police Department policy and rules delineated in Minnesota's Government Data Practices Act. For a copy of the certified public information in a 911 call or a Minneapolis Police Department report, you must contact our Records Information Unit:

MPD Records Information Unit, Minneapolis City Hall
350 5th St S, Room 31, Minneapolis, MN 55415
Phone: (612) 673-2961
FAX: (612) 673-2239
Email: datapactices@minneapolismn.gov

Provided the case number for RIU personnel to be able to retrieve the report quickly. Note that some reports may take a while to be approved for inclusion in our database, so occasionally reports for such calls may not be available immediately.

In general the calls report will include the apartment number where the suspected incident is taking place. If not, usually the caller did not specify, or the incident happened outside the building. If it is not listed in the calls report, it has not been entered, or it may be in the public information report, or it may not be public as defined by the Data Practices Act.

Do NOT contact your Crime Prevention Specialist for either the 911 call report, or the police report. The ECC and the Records Information Unit are experts in what information can or cannot be released, and the RIU is the only unit within the Minneapolis Police Department authorized to issue a certified copy of a report, which may be required for court.

Hennepin County Drug Seizure Information

LANDLORDS CAN BE RESPONSIBLE FOR DRUG-DEALING TENANTS

Under state law (MN 609.5317), all tenants in residential property agree not to aid in the making or distribution of drugs any place on the property, and not to allow others under their control to do so.

The
Information
in this section
provided by:

Community
Legal
Education
Program of
the Legal Aid
Society of
Minneapolis.

1. This law obliges all tenants not to sell drugs anywhere on the property. Any participation by a tenant in the sale of drugs violates the lease contract. This agreement cannot be waived. A landlord can evict because of drug-selling activities even if the rent is paid.
2. Landlords must file an unlawful detainer (UD) action to evict the offending tenant if the drugs seized have a retail value of \$100 or more. To succeed with the eviction, the landlord must be able to prove the tenant's involvement in selling drugs. It is a defense to the eviction if the tenant had no knowledge of the drugs nor could prevent their being brought onto the property.
3. Other tenants or neighbors can ask the landlord to evict drug dealers.

When a County Attorney notifies a landlord that a lawful seizure of drugs has been made, the landlord must begin an eviction of the tenant.

1. Although a County Attorney does not have to report to landlords all such seizures on their property, any landlord notified of such a seizure must evict the tenant even though the rent is paid and the lease is in effect. The landlord can ask the county attorney to handle the eviction.
 - A. Tenants and neighbors can ask the County Attorney to make it a routine practice to notify landlords of drug seizures on their rental properties.
 - B. Landlords must give written notice of this law to their tenants. The notice must be included in all new leases.
2. In certain cases the County Attorney can confiscate a rental property from a landlord:
 - A. If a landlord was notified by the County Attorney of a drug seizure from a tenant on his or her property, and within 15 days of the notice has failed to start an eviction or assign that right to the County Attorney;
 - B. If there is a second seizure of drugs involving the same tenant; and
 - C. If the drugs had a retail value of \$1,000 or more.

3. In certain cases, the County Attorney can choose to confiscate a rental property without waiting for two seizures of drugs:
 - A. If the property has been used, intended to be used, or has facilitated the manufacturing, compounding, delivering, importing, cultivating, exporting, transporting, or exchanging of drugs with a retail value of \$1,000 or more.
 - B. If the landlord has consented to drug sales or has been aware of them and did not take reasonable steps to stop them.
4. The County Attorney must file a separate action against the rental property itself. The landlord must have an opportunity to be heard.

If the landlord will not evict and the County Attorney will not force the eviction, other tenants or a neighborhood organization can use a Tenants Remedies Action to ask the court to appoint an administrator who will evict:

1. A demand letter must be sent to the landlord at least 14 days before filing in court.
2. Proof of drug activity must be offered to the court.

More information about the Tenants' Remedy Act is available through your local Legal Services office.

(This information by the Community Legal Education Program of the Legal Aid Society of Minneapolis is designed to help you learn your rights, but is not a complete answer to an individual legal problem. If you need legal help, see your attorney or call your legal services office, which serves low-income persons.)

CRIME PREVENTION RESOURCES

Link to:

minneapolis.mn.gov/police/

The MPD page includes links to safety tips, organizing block clubs, department structure, and crime statistics.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-0500

www.hud.gov espanol.hud.gov

April 4, 2016

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

I. Introduction

The Fair Housing Act (or Act) prohibits discrimination in the sale, rental, or financing of dwellings and in other housing-related activities on the basis of race, color, religion, sex, disability, familial status or national origin.¹ HUD's Office of General Counsel issues this guidance concerning how the Fair Housing Act applies to the use of criminal history by providers or operators of housing and real-estate related transactions. Specifically, this guidance addresses how the discriminatory effects and disparate treatment methods of proof apply in Fair Housing Act cases in which a housing provider justifies an adverse housing action – such as a refusal to rent or renew a lease – based on an individual's criminal history.

II. Background

As many as 100 million U.S. adults – or nearly one-third of the population – have a criminal record of some sort.² The United States prison population of 2.2 million adults is by far the largest in the world.³ As of 2012, the United States accounted for only about five percent of the world's population, yet almost one quarter of the world's prisoners were held in American prisons.⁴ Since 2004, an average of over 650,000 individuals have been released annually from federal and state prisons,⁵ and over 95 percent of current inmates will be released at some point.⁶ When individuals are released from prisons and jails, their ability to access safe, secure and affordable housing is critical to their successful reentry to society.⁷ Yet many formerly incarcerated individuals, as well as individuals who were convicted but not incarcerated, encounter significant barriers to securing housing, including public and other federally-subsidized housing, because of their criminal history. In some cases, even individuals who were arrested but not convicted face difficulty in securing housing based on their prior arrest.

Across the United States, African Americans and Hispanics are arrested, convicted and incarcerated at rates disproportionate to their share of the general population.⁸ Consequently, criminal records-based barriers to housing are likely to have a disproportionate impact on minority home seekers. While having a criminal record is not a protected characteristic under the Fair Housing Act, criminal history-based restrictions on housing opportunities violate the Act if, without justification, their burden falls more often on renters or other housing market participants of one race or national origin over another (i.e., discriminatory effects liability).⁹ Additionally, intentional discrimination in violation of the Act occurs if a housing provider treats individuals with comparable criminal history differently because of their race, national origin or other protected characteristic (i.e., disparate treatment liability).

III. Discriminatory Effects Liability and Use of Criminal History to Make Housing Decisions

A housing provider violates the Fair Housing Act when the provider's policy or practice has an unjustified discriminatory effect, even when the provider had no intent to discriminate.¹⁰ Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. Thus, where a policy or practice that restricts access to housing on the basis of criminal history has a disparate impact on individuals of a particular race, national origin, or other protected class, such policy or practice is unlawful under the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if such interest could be served by another practice that has a less discriminatory

effect.¹¹ Discriminatory effects liability is assessed under a three-step burden-shifting standard requiring a fact-specific analysis.¹²

The following sections discuss the three steps used to analyze claims that a housing provider's use of criminal history to deny housing opportunities results in a discriminatory effect in violation of the Act. As explained in Section IV, below, a different analytical framework is used to evaluate claims of intentional discrimination.

A. Evaluating Whether the Criminal History Policy or Practice Has a Discriminatory Effect

In the first step of the analysis, a plaintiff (or HUD in an administrative adjudication) must prove that the criminal history policy has a discriminatory effect, that is, that the policy results in a disparate impact on a group of persons because of their race or national origin.¹³ This burden is satisfied by presenting evidence proving that the challenged practice actually or predictably results in a disparate impact.

Whether national or local statistical evidence should be used to evaluate a discriminatory effects claim at the first step of the analysis depends on the nature of the claim alleged and the facts of that case. While state or local statistics should be presented where available and appropriate based on a housing provider's market area or other facts particular to a given case, national statistics on racial and ethnic disparities in the criminal justice system may be used where, for example, state or local statistics are not readily available and there is no reason to believe they would differ markedly from the national statistics.¹⁴

National statistics provide grounds for HUD to investigate complaints challenging criminal history policies.¹⁵ Nationally, racial and ethnic minorities face disproportionately high rates of arrest and incarceration. For example, in 2013, African Americans were arrested at a rate more than double their proportion of the general population.¹⁶ Moreover, in 2014, African Americans comprised approximately 36 percent of the total prison population in the United States, but only about 12 percent of the country's total population.¹⁷ In other words, African Americans were incarcerated at a rate nearly three times their proportion of the general population. Hispanics were similarly incarcerated at a rate disproportionate to their share of the general population, with Hispanic individuals comprising approximately 22 percent of the prison population, but only about 17 percent of the total U.S. population.¹⁸ In contrast, non-Hispanic Whites comprised approximately 62 percent of the total U.S. population but only about 34 percent of the prison population in 2014.¹⁹ Across all age groups, the imprisonment rates for African American males is almost six times greater than for White males, and for Hispanic males, it is over twice that for non-Hispanic White males.²⁰

Additional evidence, such as applicant data, tenant files, census demographic data and localized criminal justice data, may be relevant in determining whether local statistics are consistent with national statistics and whether there is reasonable cause to believe that the challenged policy or practice causes a disparate impact. Whether in the context of an investigation or administrative enforcement action by HUD or private litigation, a housing provider may offer evidence to refute the claim that its policy or practice causes a disparate impact on one or more protected classes.

Regardless of the data used, determining whether a policy or practice results in a disparate impact is ultimately a fact-specific and case-specific inquiry.

B. Evaluating Whether the Challenged Policy or Practice is Necessary to Achieve a Substantial, Legitimate, Nondiscriminatory Interest

In the second step of the discriminatory effects analysis, the burden shifts to the housing provider to prove that the challenged policy or practice is justified – that is, that it is necessary to achieve a substantial, legitimate, nondiscriminatory interest of the provider.²¹ The interest proffered by the housing provider may not be hypothetical or speculative, meaning the housing provider must be able to provide evidence proving both that the housing provider has a substantial, legitimate, nondiscriminatory interest supporting the challenged policy and that the challenged policy actually achieves that interest.²²

Although the specific interest(s) that underlie a criminal history policy or practice will no doubt vary from case to case, some landlords and property managers have asserted the protection of other residents and their property as the reason for such policies or practices.

Resident safety and protecting property are often considered to be among the fundamental responsibilities of a housing provider, and courts may consider such interests to be both substantial and legitimate, assuming they are the actual reasons for the policy or practice.²⁴ A housing provider must, however, 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. Bald assertions based on generalizations or stereotypes that any individual with an arrest or conviction record poses a greater risk than any individual without such a record are not sufficient to satisfy this burden.

1. Exclusions Because of Prior Arrest

A housing provider with a policy or practice of excluding individuals because of one or more prior arrests (without any conviction) cannot satisfy its burden of showing that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest.²⁵ As the Supreme Court has recognized, “[t]he mere fact that a man has been arrested has very little, if any, probative value in showing that he has engaged in any misconduct. An arrest shows nothing more than that someone probably suspected the person apprehended of an offense.”²⁶ Because arrest records do not constitute proof of past unlawful conduct and are often incomplete (*e.g.*, by failing to indicate whether the individual was prosecuted, convicted, or acquitted),²⁷ the fact of an arrest is not a reliable basis upon which to assess the potential risk to resident safety or property posed by a particular individual. For that reason, a housing provider who denies housing to persons on the basis of arrests not resulting in conviction cannot prove that the exclusion actually assists in protecting resident safety and/or property.

Analogously, in the employment context, the Equal Employment Opportunity Commission has explained that barring applicants from employment on the basis of arrests not resulting in conviction is not consistent with business necessity under Title VII because the fact of an arrest does not establish that criminal conduct occurred.²⁸

2. Exclusions Because of Prior Conviction

In most instances, a record of conviction (as opposed to an arrest) will serve as sufficient evidence to prove that an individual engaged in criminal conduct.²⁹ But housing providers that apply a policy or practice that excludes persons with prior convictions must still be able to prove that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. A housing provider that imposes a blanket prohibition on any person with any conviction record – no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then – will be unable to meet this burden. One federal court of appeals held that such a blanket ban violated Title VII, stating that it “could not conceive of any business necessity that would automatically place every individual convicted of any offense, except a minor traffic offense, in the permanent ranks of the unemployed.”³⁰ Although the defendant-employer in that case had proffered a number of theft and safety-related justifications for the policy, the court rejected such justifications as “not empirically validated.”³¹

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.³²

A policy or practice that fails to take into account the nature and severity of an individual’s conviction is unlikely to satisfy this standard.³³ Similarly, a policy or practice that does not consider the amount of time that has passed since the criminal conduct occurred is unlikely to satisfy this standard, especially in light of criminological research showing that, over time, the likelihood that a person with a prior criminal record will engage in additional criminal conduct decreases until it approximates the likelihood that a person with no criminal history will commit an offense.

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Accordingly, a policy or practice that fails to consider the nature, severity, and recency of criminal conduct is unlikely to be proven necessary to serve a “substantial, legitimate, nondiscriminatory interest” of the provider. The determination of whether any particular criminal history-based restriction on housing satisfies step two of the discriminatory effects standard must be made on a case-by-case basis.³⁵

C. Evaluating Whether There Is a Less Discriminatory Alternative

The third step of the discriminatory effects analysis is applicable only if a housing provider successfully proves that its criminal history policy or practice is necessary to achieve its substantial, legitimate, nondiscriminatory interest. In the third step, the burden shifts back to the plaintiff or HUD to prove that such interest could be served by another practice that has a less discriminatory effect.³⁶

Although the identification of a less discriminatory alternative will depend on the particulars of the criminal history policy or practice under challenge, individualized assessment of relevant mitigating information beyond that contained in an individual's criminal record is likely to have a less discriminatory effect than categorical exclusions that do not take such additional information into account. Relevant individualized evidence might include: the facts or circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; evidence that the individual has maintained a good tenant history before and/or after the conviction or conduct; and evidence of rehabilitation efforts. By delaying consideration of criminal history until after an individual's financial and other qualifications are verified, a housing provider may be able to minimize any additional costs that such individualized assessment might add to the applicant screening process.⁸

D. Statutory Exemption from Fair Housing Act Liability for Exclusion Because of Illegal Manufacture or Distribution of a Controlled Substance

Section 807(b)(4) of the Fair Housing Act provides that the Act does not prohibit "conduct against a person because such person has been convicted ... of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)."³⁷ Accordingly, a housing provider will not be liable under the Act for excluding individuals because they have been convicted of one or more of the specified drug crimes, regardless of any discriminatory effect that may result from such a policy.

Limitation. Section 807(b)(4) only applies to disparate impact claims based on the denial of housing due to the person's *conviction* for drug manufacturing or distribution; it does not provide a defense to disparate impact claims alleging that a policy or practice denies housing because of the person's *arrest* for such offenses. Similarly, the exemption is limited to disparate impact claims based on drug *manufacturing or distribution* convictions, and does not provide a defense to disparate impact claims based on other drug-related convictions, such as the denial of housing due to a person's conviction for drug *possession*.

IV. Intentional Discrimination and Use of Criminal History

A housing provider may also violate the Fair Housing Act if the housing provider intentionally discriminates in using criminal history information. This occurs when the provider treats an applicant or renter differently because of race, national origin or another protected characteristic. In these cases, the housing provider's use of criminal records or other criminal history information as a pretext for unequal treatment of individuals because of race, national origin or other protected characteristics is no different from the discriminatory application of any other rental or purchase criteria.

For example, intentional discrimination in violation of the Act may be proven based on evidence that a housing provider rejected an Hispanic applicant based on his criminal record, but admitted a non-Hispanic White applicant with a comparable criminal record. Similarly, if a housing provider has a policy of not renting to persons with certain convictions, but makes exceptions to it for Whites but not African Americans, intentional discrimination exists.³⁸ A disparate treatment violation may also be proven based on evidence that a leasing agent assisted a White applicant seeking to secure approval of his rental application despite his potentially disqualifying criminal record under the housing provider's screening policy, but did not provide such assistance to an African American applicant.³⁹

Discrimination may also occur before an individual applies for housing. For example, intentional discrimination may be proven based on evidence that, when responding to inquiries from prospective applicants, a property manager told an African American individual that her criminal record would disqualify her from renting an apartment, but did not similarly discourage a White individual with a comparable criminal record from applying.

If overt, direct evidence of discrimination does not exist, the traditional burden-shifting method of establishing intentional discrimination applies to complaints alleging discriminatory intent in the use of criminal history

information.⁴⁰ First, the evidence must establish a prima facie case of disparate treatment. This may be shown in a refusal to rent case, for example, by evidence that: (1) the plaintiff (or complainant in an administrative enforcement action) is a member of a protected class; (2) the plaintiff or complainant applied for a dwelling from the housing provider; (3) the housing provider rejected the plaintiff or complainant because of his or her criminal history; and (4) the housing provider offered housing to a similarly-situated applicant not of the plaintiff or complainant's protected class, but with a comparable criminal record. It is then the housing provider's burden to offer "evidence of a legitimate, nondiscriminatory reason for the adverse housing decision."⁴¹ A housing provider's nondiscriminatory reason for the challenged decision must be clear, reasonably specific, and supported by admissible evidence.⁴² Purely subjective or arbitrary reasons will not be sufficient to demonstrate a legitimate, nondiscriminatory basis for differential treatment.⁴³

While a criminal record can constitute a legitimate, nondiscriminatory reason for a refusal to rent or other adverse action by a housing provider, a plaintiff or HUD may still prevail by showing that the criminal record was not the true reason for the adverse housing decision, and was instead a mere pretext for unlawful discrimination. For example, the fact that a housing provider acted upon comparable criminal history information differently for one or more individuals of a different protected class than the plaintiff or complainant is strong evidence that a housing provider was not considering criminal history information uniformly or did not in fact have a criminal history policy. Or pretext may be shown where a housing provider did not actually know of an applicant's criminal record at the time of the alleged discrimination. Additionally, shifting or inconsistent explanations offered by a housing provider for the denial of an application may also provide evidence of pretext. Ultimately, the evidence that may be offered to show that the plaintiff or complainant's criminal history was merely a pretextual justification for intentional discrimination by the housing provider will depend on the facts of a particular case.

The section 807(b)(4) exemption discussed in Section III.D., above, does not apply to claims of intentional discrimination because by definition, the challenged conduct in intentional discrimination cases is taken because of race, national origin, or another protected characteristic, and not because of the drug conviction. For example, the section 807(b)(4) exemption would not provide a defense to a claim of intentional discrimination where the evidence shows that a housing provider rejects only African American applicants with convictions for distribution of a controlled substance, while admitting White applicants with such convictions.

V. Conclusion

The Fair Housing Act prohibits both intentional housing discrimination and housing practices that have an unjustified discriminatory effect because of race, national origin or other protected characteristics. Because of widespread racial and ethnic disparities in the U.S. criminal justice system, criminal history-based restrictions on access to housing are likely disproportionately to burden African Americans and Hispanics. While the Act does not prohibit housing providers from appropriately considering criminal history information when making housing decisions, arbitrary and overbroad criminal history-related bans are likely to lack a legally sufficient justification. Thus, a discriminatory effect resulting from a policy or practice that denies housing to anyone with a prior arrest or any kind of criminal conviction cannot be justified, and therefore such a practice would violate the Fair Housing Act.

Policies that exclude persons based on criminal history must be tailored to serve the housing provider's substantial, legitimate, nondiscriminatory interest and take into consideration such factors as the type of the crime and the length of the time since conviction. Where a policy or practice excludes individuals with only certain types of convictions, a housing provider will still bear the burden of proving that any discriminatory effect caused by such policy or practice is justified. Such a determination must be made on a case-by-case basis.

Selective use of criminal history as a pretext for unequal treatment of individuals based on race, national origin, or other protected characteristics violates the Act.

Helen R. Kanovsky, General Counsel

¹ 42 U.S.C. § 3601 *et seq.*

² Bureau of Justice Statistics, U.S. Dep't of Justice, *Survey of State Criminal History Information Systems, 2012*, 3 (Jan. 2014), available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.

³ Nat'l Acad. Sci., Nat'l Res. Couns., *The Growth of Incarceration in the United States: Exploring Causes and Consequences* 2 (Jeremy Travis, et al. eds., 2014), available at: <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

⁴ Id.

⁵ E. Ann Carson, Bureau of Justice Statistics, U.S. Dep't of Justice, *Prisoners in 2014* (Sept. 2015) at 29, appendix tbls. 1 and 2, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5387>.

⁶ Bureau of Justice Statistics, U.S. Dep't of Justice, *Reentry Trends in the United States*, available at <http://www.bjs.gov/content/pub/pdf/reentry.pdf>.

⁷ See, e.g., S. Metraux, et al. "Incarceration and Homelessness," in *Toward Understanding Homelessness: The 2007 National Symposium on Homelessness Research*, #9 (D. Dennis, et al. eds., 2007), available at: <https://www.huduser.gov/portal/publications/pdf/p9.pdf> (explaining "how the increasing numbers of people leaving carceral institutions face an increased risk for homelessness and, conversely, how persons experiencing homelessness are vulnerable to incarceration.").

⁸ See *infra* nn. 16-20 and accompanying text.

⁹ The Fair Housing Act prohibits discrimination based on race, color, religion, sex, disability, familial status, and national origin. This memorandum focuses on race and national origin discrimination, although criminal history policies may result in discrimination against other protected classes.

¹⁰ 24 C.F.R. § 100.500; accord *Texas Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, ___ U.S. ___, 135 S. Ct. 2507 (2015).

¹¹ 24 C.F.R. § 100.500; see also *Inclusive Cmty. Project*, 135 S. Ct. at 2514-15 (summarizing HUD's Discriminatory Effects Standard in 24 C.F.R. § 100.500); *id.* at 2523 (explaining that housing providers may maintain a policy that causes a disparate impact "if they can prove [the policy] is necessary to achieve a valid interest.").

¹² See 24 C.F.R. § 100.500.

¹³ 24 C.F.R. § 100.500(c)(1); accord *Inclusive Cmty. Project*, 135 S. Ct. at 2522-23. A discriminatory effect can also be proven with evidence that the policy or practice creates, increases, reinforces, or perpetuates segregated housing patterns. See 24 C.F.R. § 100.500(a). This guidance addresses only the method for analyzing disparate impact claims, which in HUD's experience are more commonly asserted in this context.

¹⁴ *Compare Dothard v. Rawlinson*, 433 U.S. 321, 330 (1977) ("[R]eliance on general population demographic data was not misplaced where there was no reason to suppose that physical height and weight characteristics of Alabama men and women differ markedly from those of the national population.") with *Mountain Side Mobile Estates P'ship v. Sec'y of Hous. & Urban Dev.*, 56 F.3d 1243, 1253 (10th Cir. 1995) ("In some cases national statistics may be the appropriate comparable population. However, those cases are the rare exception and this case is not such an exception.") (citation omitted).

¹⁵ Cf. *El v. SEPTA*, 418 F. Supp. 2d 659, 668-69 (E.D. Pa. 2005) (finding that plaintiff proved prima facie case of disparate impact under Title VII based on national data from the U.S. Bureau of Justice Statistics and the Statistical Abstract of the U.S., which showed that non-Whites were substantially more likely than Whites to have a conviction), *aff'd on other grounds*, 479 F.2d 232 (3d Cir. 2007).

¹⁶ See FBI Criminal Justice Information Services Division, *Crime in the United States, 2013*, tbl.43A, available at <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-43> (Fall 2014) (reporting that African Americans comprised 28.3% of all arrestees in 2013); U.S. Census Bureau, *Monthly Postcensal Resident Population by Single Year of Age, Sex, Race and Hispanic Origin: July 1, 2013 to December 1, 2013*, available at <http://www.census.gov/popest/data/national/asrh/2014/2014-nat-res.html> (reporting data showing that individuals identifying as African American or Black alone made up only 12.4% of the total U.S. population at 2013 year-end).

¹⁷ See E. Ann Carson, Bureau of Justice Statistics, U.S. Dep't of Justice, *Prisoners in 2014* (Sept. 2015) at tbl. 10, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5387>; and U.S. Census Bureau, *Monthly Postcensal Resident Population by Single Year of Age, Sex, Race and Hispanic Origin: July 1, 2014 to December 1, 2014*, available at <http://www.census.gov/popest/data/national/asrh/2014/2014-nat-res.html>.

¹⁸ See *id.*

¹⁹ See *id.*

²⁰ E. Ann Carson, Bureau of Justice Statistics, U.S. Dep't of Justice, *Prisoners in 2014* (Sept. 2015) at table 10, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5387>.

²¹ 24 C.F.R. § 100.500(c)(2); see also *Inclusive Cmty. Project*, 135 S. Ct. at 2523.

²² See 24 C.F.R. § 100.500(b)(2); see also 78 Fed. Reg. 11460, 11471 (Feb. 15, 2013).

²³ See, e.g., Answer to Amended Complaint at 58, *The Fortune Society, Inc. v. Sandcastle Towers Hsg. Dev. Fund Corp.*, No. 1:14-CV-6410 (E.D.N.Y. May 21, 2015), ECF No. 37 ("The use of criminal records searches as part of the overall tenant screening process

used at Sand Castle serves valid business and security functions of protecting tenants and the property from former convicted criminals.”); *Evans v. UDR, Inc.*, 644 F.Supp.2d 675, 683 (E.D.N.C. 2009) (noting, based on affidavit of property owner, that “[t]he policy [against renting to individuals with criminal histories is] based primarily on the concern that individuals with criminal histories are more likely than others to commit crimes on the property than those without such backgrounds ... [and] is thus based [on] concerns for the safety of other residents of the apartment complex and their property.”); see also J. Helfgott, *Ex-Offender Needs Versus Community Opportunity in Seattle*, Washington, 61 Fed. Probation 12, 20 (1997) (finding in a survey of 196

23 Ensuring landlords in Seattle that of the 43% of landlords that said they were inclined to reject applicants with a criminal history, the primary reason for their inclination was protection and safety of community).

24 As explained in HUD’s 2013 Discriminatory Effects Final Rule, a “substantial” interest is a core interest of the organization that has a direct relationship to the function of that organization. The requirement that an interest be “legitimate” means that a housing provider’s justification must be genuine and not false or fabricated. See 78 Fed. Reg. at 11470; see also *Charleston Hous. Auth. v. U.S. Dep’t of Agric.*, 419 F.3d 729, 742 (8th Cir. 2005) (recognizing that, “in the abstract, a reduction in the concentration of low income housing is a legitimate goal,” but concluding “that the Housing Authority had not shown a need for deconcentration in this instance, and in fact, had falsely represented the density [of low income housing] at the location in question in an attempt to do so”).

25 HUD recently clarified that arrest records may not be the basis for denying admission, terminating assistance, or evicting tenants from public and other federally-assisted housing. See Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, HUD PIH Notice 2015-19, (November 2, 2015), available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

26 *Schware v. Bd of Bar Examiners*, 353 U.S. 232, 241 (1957); see also *United States v. Berry*, 553 F.3d 273, 282 (3d Cir. 2009) (“[A] bare arrest record – without more – does not justify an assumption that a defendant has committed other crimes and it therefore cannot support increasing his/her sentence in the absence of adequate proof of criminal activity.”); *United States v. Zapete-Garcia*, 447 F.3d 57, 60 (1st Cir. 2006) (“[A] mere arrest, especially a lone arrest, is not evidence that the person arrested actually committed any criminal conduct.”).

27 See, e.g., U.S. Dep’t of Justice, *The Attorney General’s Report on Criminal History Background Checks* at 3, 17 (June 2006), available at http://www.bjs.gov/content/pub/pdf/ag_bgchecks_report.pdf (reporting that the FBI’s Interstate Identification Index system, which is the national system designed to provide automated criminal history record information and “the most comprehensive single source of criminal history information in the United States,” is “still missing final disposition information for approximately 50 percent of its records”).

28 See U.S. Equal Emp’t Opportunity Comm’n, *EEOC Enforcement Guidance, Number 915.002*, 12 (Apr. 25, 2012), available at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm; see also *Gregory v. Litton Systems, Inc.*, 316 F. Supp. 401, 403 (C.D. Cal. 1970) (holding that defendant employer’s policy of excluding from employment persons with arrests without convictions unlawfully discriminated against African American applicants in violation of Title VII because there “was no evidence to support a claim that persons who have suffered no criminal convictions but have been arrested on a number of occasions can be expected, when employed, to perform less efficiently or less honestly than other employees,” such that “information concerning a ... record of arrests without conviction, is irrelevant to [an applicant’s] suitability or qualification for employment”), *aff’d*, 472 F.2d 631 (9th Cir. 1972).

29 There may, however, be evidence of an error in the record, an outdated record, or another reason for not relying on the evidence of a conviction. For example, a database may continue to report a conviction that was later expunged, or may continue to report as a felony an offense that was subsequently downgraded to a misdemeanor. See generally SEARCH, *Report of the National Task Force on the Commercial Sale of Criminal Justice Record Information* (2005), available at <http://www.search.org/files/pdf/RNTFCSCJRI.pdf>.

30 *Green v. Missouri Pacific R.R.*, 523 F.2d 1290, 1298 (8th Cir. 1975).

31 *Id.*

32 *Cf. El*, 479 F.3d at 245-46 (stating that “Title VII ... require[s] that the [criminal conviction] policy under review accurately distinguish[es] between applicants that pose an unacceptable level or risk and those that do not”).

33 *Cf. Green*, 523 F.2d at 1298 (holding that racially disproportionate denial of employment opportunities based on criminal conduct that “does not significantly bear upon the particular job requirements is an unnecessarily harsh and unjust burden” and violated Title VII).

34 *Cf. El*, 479 F.3d at 247 (noting that plaintiff’s Title VII disparate impact claim might have survived summary judgment had plaintiff presented evidence that “there is a time at which a former criminal is no longer any more likely to recidivate than the average person...”); see also *Green*, 523 F.2d at 1298 (permanent exclusion from employment based on any and all offenses violated Title VII); see Megan C. Kurlychek et al., *Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?*, 5 Criminology and Pub. Pol’y 483 (2006) (reporting that after six or seven years without reoffending, the risk of new offenses by persons with a prior criminal history begins to approximate the risk of new offenses among persons with no criminal record).

³⁵ The liability standards and principles discussed throughout this guidance would apply to HUD-assisted housing providers just as they would to any other housing provider covered by the Fair Housing Act. *See* HUD PIH Notice 2015-19 *supra* n. 25. Section 6 of that Notice addresses civil rights requirements.

³⁶ 24 C.F.R. § 100.500(c)(3); *accord Inclusive Cmty. Project*, 135 S. Ct. 2507.

³⁷ 42 U.S.C. § 3607(b)(4).

³⁸ *Cf. Sherman Ave. Tenants' Assn. v. District of Columbia*, 444 F.3d 673, 683-84 (D.C. Cir. 2006) (upholding plaintiff's disparate treatment claim based on evidence that defendant had not enforced its housing code as aggressively against comparable non-Hispanic neighborhoods as it did in plaintiff's disproportionately Hispanic neighborhood).

³⁹ *See, e.g., Muriello*, 217 F. 3d at 522 (holding that Plaintiff's allegations that his application for federal housing assistance and the alleged existence of a potentially disqualifying prior criminal record was handled differently than those of two similarly situated white applicants presented a prima facie case that he was discriminated against because of race, in violation of the Fair Housing Act).

⁴⁰ *See, generally, McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) (articulating the concept of a "prima facie case" of intentional discrimination under Title VII); *see, e.g., Allen v. Muriello*, 217 F. 3d 517, 520-22 (7th Cir. 2000) (applying prima facie case analysis to claim under the Fair Housing Act alleging disparate treatment because of race in housing provider's use of criminal records to deny housing).

⁴¹ *Lindsay v. Yates*, 578 F.3d 407, 415 (6th Cir. 2009) (quotations and citations omitted).

⁴² *See, e.g., Robinson v. 12 Lofts Realty, Inc.*, 610 F.2d 1032, 1039-40 (2d Cir. 1979) ("A prima facie case having been established, a Fair Housing Act claim cannot be defeated by a defendant which relies on merely hypothetical reasons for the plaintiff's rejection.").

⁴³ *See, e.g., Muriello*, 217 F.3d at 522 (noting that housing provider's "rather dubious explanation for the differing treatment" of African American and White applicants' criminal records "puts the issue of pretext in the lap of a trier of fact"); *Soules v. U.S. Dep't of Hous. and Urban Dev.*, 967 F.2d 817, 822 (2d Cir. 1992) ("In examining the defendant's reason, we view skeptically subjective rationales concerning why he denied housing to members or protected groups [because] 'clever men may easily conceal their [discriminatory] motivations.'" (quoting *United States v. City of Black Jack, Missouri*, 508 F.2d 1179, 1185 (8th Cir. 1974))).

Rental Licensing Tier Criteria

Criteria	Definition	1-3 Unit Rental Buildings		4+ Unit Rental Buildings, Condominiums, and Mixed-Use Buildings	
		Count	Points	Count	Points
Inspections	The count of the number of inspections conducted by Regulatory Services at a given property	1-3	0	1-3	0
		4-6	10	4-6	10
		7-9	20	7-9	20
		10+	30	10+	30
Violations	The count of housing or fire code violations issued by Regulatory Services	1-5	0	1-5	0
		6-15	10	6-15	10
		16-30	20	16-30	20
		31+	30	31+	30
Letter of Intent to Condemn for Lack of Maintenance	The count of letters issued with the intent to condemn a building for the lack of maintenance	1	15	1	15
		2+	30	2+	30
Rental License Operation Conditions	The rental owner has met with the City to agree upon certain conditions or restrictions for a given rental property	1	10	1	10
License Revocation Action	Revocation action has been taken against the property for the violation of rental licensing standards	1	65	1	35
Solid Waste Dirty Collection Point Warning Letters	The count of Solid Waste warning letters issued to a property for a dirty collection point	2-3	5	2-3	5
		4-5	10	4-5	10
		6+	15	6+	15
Solid Waste Dirty Collection Point Clean-Ups	The count of collection point clean-ups undertaken at a property by Solid Waste	1-2	10	1-2	10
		3-6	15	3-6	15
		7-9	20	7-9	20
		10+	30	10+	30
Administrative Citations	Fines issued pertaining to a rental license at a given property	1-2	5	1-2	5
		3+	10	3+	10
Special Assessments	All outstanding fines or fees issued to a given property	2-4	10	2-4	10
		5-7	20	5-7	20
		8+	30	8+	30
Conduct on Premises	A provision in the Rental Licensing Ordinance that allows the City to address qualifying incidents of disorderly conduct of tenants and their guests that adversely impacts neighbors	1	15	1	15
		2+	20	2+	20
Rental Units	Number of paid rental units for High Occupancy Dwellings or Mixed Use Structures			1-3	1
				4-15	3
				16-30	2
				31+	1
Multi-Use Building	Building use is commercial and residential			1	3
		1-3 Unit Rental Buildings		4+ Unit Rental Buildings, Condominiums, and Mixed-Use Buildings	
		Tier	Score	Tier	Score
		3	65+	3	35+
		2	31-64	2	16-34
		1	0-30	1	0-15

Revised 1/1/2018.

Appendix F – Sample Management Plan

[This is the boilerplate, auto-insert response for reviewing submitted management plans. Hit "Reply" to the email with the submitted plan, or start a new email if the plan is faxed or mailed, and insert this text. If a question is satisfactorily answered, delete that numbered response. E.g., if the owner/licensee lists the background check company they are using, delete #1 below.]

Thank you for submitting your management plan. I have the following comments, with changes we'll need to see, in order to file your plan as "Satisfactory"*.

1. Owners need all the resources and information possible to make informed decisions when processing rental applications. We require owners on notice for criminal activity at their properties to use a professional screening company to assure critical information is not overlooked. We can NOT make any recommendations or referrals. The following companies are based in Minnesota, are members of the Minnesota Multihousing Association, and provide Applicant Screening and Credit Report services:

Company	Contact	Website
Rental History Reports 701 South Fifth St Hopkins, MN 55343	Tony J. Karels 952-545-3953 x122 tonyk@rentalhistoryreports.com	RentalHistoryReports.com
Rental Research Services, Inc. 7525 Mitchell Rd Ste 301 Eden Prairie, MN 55344-1958	Lee P. Mikkelson 952-935-5700 lee.mikkelson@rentalresearch.com	rentalresearch.com
Twin City Tenant Check, Inc. 910 Ivy Ave E Saint Paul, MN 55106	Carol Buche 651-224-3002 carol@twincitytenantcheck.com	twincitytenantcheck.com
SmartMove/TransUnion LLC 5889 Greenwood Plaza Blvd Ste 201 Greenwood Village CO 80111	Jeremy Leavitt 312-985-3130 jleavitt@turss.com	MySmartMove.com

2. The company that provides you information should be able to find: Criminal convictions, credit history, previous legal judgments, previous residential history, and history of evictions.

3. The HUD guidelines document we included with our emailed copy of our notice indicates that not accepting anyone with any criminal history over any time frame--a blanket exclusion--may be considered a Fair Housing violation. Thus screening should include a specific time frame, e.g., "No felony convictions in the past 5 years. No violent felony convictions for violent crimes or arson in past 5 years... 5 years of confirmed past residential history, no eviction actions for criminal activity in the past 3 years...." Such parameters will also provide you with a framework which will reduce the potential for fair housing complaints from applicants you've rejected who may claim you've applied inconsistent standards. Conversely, if you don't accept any criminal history at any time, you risk losing potentially good residents with minor offenses in their distant past, or those who clearly have "paid their debt" and are contributing members of society.

4. One of the most effective screening strategies is to simply charge an application fee to cover the costs of your screening agency's work. Applicants will often self-screen when they know they won't pass muster, thus saving you time and aggravation. Not charging the applicant, and thus exempting you from the application denial form required by state law and Minneapolis ordinance, may open you up to potential Fair Housing law violations. If you are concerned about an applicant's ability to pay, one option would be to deduct it from the first month's rent--thus the cost of the check is initially borne by the applicant, but effectively refunded if they meet your acceptance criteria.

5. With the charging of application fees comes the responsibility, and obligation under state and city laws, to provide the applicant with a detailed list of reasons their application could be rejected (Minnesota Statute 54.03(a). This is not only fair but establishes for applicants who are accepted that they need to be responsible while living in your property.

7. The leases we accept for your management plan have been reviewed by professionals in the industry and the agencies which have composed them have made every effort to make sure their leases conform to Minnesota housing and contract laws. Using generic forms online or available at office supply stores increases your risk that you have lease language that will not fly in court or will not provide the leverage you need to expedite the moving of tenants who cause problems. **If you do not use one of these leases, and have not reviewed the one you are using with peers in the rental industry,** we urge you to consider switching to any one of the three we list. These leases are can be obtained from:

Minnesota Multihousing Association - mmha.com
Minnesota Bar Association - mnbar.org
Minnesota Association of Realtors - mnrealtor.com

8. To treat all residents fairly and reiterate the terms of your lease, it is urgent that you give written notices detailing the lease clauses violated.

9. Review Ordinance 244.2020 (g): "No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the crime prevention specialist or other assigned police department employee within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the director of inspections at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use."

If you do not give notice to move to residents of record in the unit where the qualifying incident took place, you will need to have all adults on the lease sign up and complete a responsible renter's course, and provide us with a copy of the certificate of completion. If this is your choice, the only course so far that meets our qualifications is provided by Community Action Partners of Suburban Hennepin County (CAPSH). The contact for the class which your resident should attend is Pat Longs with Community Action of Suburban Hennepin County, 952-697-1320 or e-mail plongs@capsh.org. This web page has links to tenant trainings in Brooklyn Center and Bloomington: <http://www.capsh.org/services/renters/>

10, 11. There is no room for compromise when a tenant or guest has been involved in narcotics, prostitution, or weapons. These all should be non-negotiable reasons for giving notice to the resident of record and any unauthorized residents present, and following through with evictions if necessary. The industry standard is to work out a mutual termination of the lease, which helps the resident in that an eviction will not be recorded in the public record.

12. The Minneapolis produced Housing Court Video outlines in great detail the steps that are necessary to file a valid eviction action, or "Unlawful Detainer." After viewing it you may decide to simply give notice, or work out a mutual termination of the lease.

13. A weekly visit, at minimum, will help establish with the tenant that you are taking an interest in the property to the degree that you make frequent visits.

14. For the purposes of this plan, individuals are considered an unauthorized resident if they are not a tenant of record on your written lease and:

* they have begun to receive mail at your property, and/or

- * have applied for and received a state-issued identification card displaying this property address, and/or
- * have stated to officers in arrest reports that this property is their home address and/or
- * have resided at your property beyond any lease-defined limited periods of time for guests.

If an adult is arrested in Minneapolis and listed in an Action Alert, in 95+% of the cases the home address of the arrestee was verified by our officers with a **state-issued ID**. That ID would have to have been received at the property indicated, either by the arrestees or someone who received it for them. It is a public document verifying they live there. In each case where you have no knowledge of the individual so listed in an Action Alert, you should advise the tenant with a personal visit, which will create the opportunity for your tenant to move the interloper out or acknowledge the unauthorized resident's presence.

All too often the event that triggers our sending a conduct notice is an unauthorized resident that the tenant has allowed to move in without the owner's knowledge or permission, and the unauthorized resident commits the crimes which fall under Ordinance 244.2020. We need to know **that the tenant will be warned about this as a lease violation, and that the unauthorized resident must move out immediately**. The unauthorized resident may apply but not move back in until his/her application has been accepted. If the tenant does not move the unauthorized resident out and the unauthorized resident does not submit an application, this should be cause for notice to vacate and ultimately eviction.

15. The Crime Free Lease Addendum or equivalent language in your lease is an essential tool for mitigating the potential damage done by residents committing crimes, and helps prevent the victimization of other residents in your property and neighbors.

16. Anyone with access to keys to the building and units within must be screened -- the Koskinen background check is distinct in that you can make no exceptions when hiring property managers and caretakers--if they can get keys, you have to screen and reject those with criminal backgrounds specified in the Koskinen Act.

17. Although you may not be required to attend if you received a 1st Notice, you are urged to RSVP for the next available workshop whether you have attended in the past or not. Owners required to submit a management plan as part of a license conditions settlement, license reinstatement application, or in response to a Second Notice for criminal activity under 244.2020, must attend one of the next two workshops scheduled. If you have received a first or second notice for criminal conduct for one or more other properties for which the monitoring period has not expired, must attend one of the next two workshops scheduled:

2018 (tentative): 3rd Weds. evenings, 6pm-9pm:

January 17 - February 21 - March 21 - April 18 - May 9 - June 20

July 18 - August 15 - September 19 - October 17 - November 21

2018 (tentative): 2nd Saturdays, every other month, 10am-1pm:

February 10 - April 14 - June 9 - August 11 - October 13 - December 8

All workshops take place at our 5th Precinct, 3101 Nicollet Av. S., in the community room opposite the front desk. If you are required to attend due to circumstances detailed above, I have reserved two seats in the first date listed--one for the owner of record and the other for the licensee or property manager, if different. RSVP directly to me by email.

18. Implementing the plan as outlined up to this point will serve to reduce your risk of repeated incidents.

19. Neighborhood groups are getting knowledgeable about ways to find out if owners simply move a problem tenant from one property to another.

20. City Ordinance 244.2020 requires that you implement your plan within 20 days of its acceptance by the Minneapolis Police Department. Maintaining thorough records of your management activities is good business

as it provides documentation of your good faith effort to work with the residents when they violate the lease, and in making your case in housing court should you need to file for eviction.

After 20 days from the date your plan is accepted, we may email you to request documentation that you have followed through on specific plan components. We will need to see your responses to the above before I can accept your plan as "Satisfactory" per the Ordinance. We will need to file your plan as "satisfactory" within 30 days of this review, in order to avoid proceeding with a recommendation to revoke the license.

This process is intended to resolve a crime problem that happened to take place on your property and involving your residents or their guests and assure that you have the industry standards of rental management best practices in place moving forward. Thus I look forward to your revised plan.

It is the MPD's policy to build partnerships where ever we can help to reduce and prevent crime, and increase Minneapolitans' sense of safety and well-being. Please keep in contact with your Crime Prevention Specialist, neighbors to your property, and as needed, precinct officers and supervisors.

Appendix G – Sample Conduct on Premises Notice

**FIRST NOTICE: SECTION 244.2020
CONDUCT ON LICENSED PREMISES**

Date: [REDACTED]

Owner/Agent:

Case No. [REDACTED]: Notice under 244.2020

Email: [REDACTED]

Phone: [REDACTED]



Our records indicate that the police were involved with your rental property located at [REDACTED] due to conduct which occurred on the following **incident date(s)**: [REDACTED]

Due to the conduct described below, which occurred on your licensed premises, you are in violation of Section 244.2020 (a) of the Minneapolis Code of Ordinances, which states: "It shall be the responsibility of the licensee to take appropriate action, with the assistance of crime prevention specialists or other assigned personnel of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of the following statutes or ordinances to prevent further violations."

(See enclosed copy of Section 244.2020 of the Minneapolis Code of Ordinances.)

Case No. [REDACTED], Narcotics offenses. Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances. : Search warrant executed at above. Cocaine and LSD recovered. Evidence inventoried.

This is being recorded as the first incident of disorderly use. Within ten (10) days of receipt of this notice, you must submit a written management plan to the Minneapolis Police Department staff person below. This plan shall detail all proposed actions to be taken to prevent further disorderly use of the premises. Steps should be taken to prevent further use of the licensed premises in a disorderly manner as further disorderly use could result in denial, revocation, non-renewal or suspension of your rental dwelling license, and vacating the building. Failure to submit a written management plan within ten (10) days or to implement all provisions of the plan within twenty (20) days after its acceptance may result in city council action to deny, refuse to renew, revoke or suspend the license. Failure to submit a written management plan within ten (10) days may result in an Administrative Citation of \$250.

Please contact the Minneapolis Police Department staff person listed below for further information and assistance, and to inform him/her of any actions you may have taken related to this incident.

Sincerely,

Luther Krueger, Crime Prevention Analyst
Minneapolis Police Department, Special Operations & Intelligence Division
350 5th St. S. Rm 100 City Hall, Minneapolis MN 55415
Luther.Krueger@MinneapolisMN.gov Fax 612-673-2750 Call 612-673-5371 with any questions

Selected public incident information is enclosed.

Selected portions of public information from officers' filed reports:

**Public Information
Report**

Minneapolis Police Department

CCN: [REDACTED]

Incident Details

Offense1: NARC	Desc: Narcotics Violation	Statute: 152.02	Attempted:
Offense2: WT	Desc: Warrant	Statute:	Attempted:
Address:	[REDACTED]		
Occurred From:	[REDACTED]	Occurred To:	[REDACTED]

Public Data

Search warrant executed at above. Evidence inventoried.

Arrestee

Role / Role #:	A001	MPD#:	
Name:	[REDACTED]		
Residence:	[REDACTED]		
Disposition:		booked county	
PC	Felony	narc - Narcotics Violation	152.02

End of report for case MP [REDACTED].

To obtain the authorized complete public information report, or the most current Calls For Service report, you must contact the agency filing the report. For the Minneapolis Police Department, contact out Records Information Unit at 612-673-2961, or email datapracitices@minneapolismn.gov, or visit the RIU in Room 31 in City Hall, 350 S. 5th Street, during business hours. Some information in the report may be redacted while the incident is under investigation. You may need to subpoena the rest of the report, or subpoena officers in the event an Unlawful Detainer action is filed with housing court.

If you are unfamiliar with the accepted procedures for giving notice and/or filing for eviction, you are urged to review our Housing Court video. Link to:

<http://shows.gwikcast.tv/skins/cityofmpls/?e=532355d87b449>

Management Plan Requirement

Minneapolis City Ordinance 244.2020 – Conduct On Licensed Premises

Please email Crime.Prevention@MinneapolisMN.gov immediately to acknowledge that you have received this notice. If you do not currently have an email address, you will need to acquire one and keep it current as part of an acceptable management plan.

You have received a **1st or 2nd Notice** of a Conduct on Licensed Premises violation from the Minneapolis Police Department. As the owner or authorized agent responsible for this rental property, you are required by city ordinance to take appropriate action to prevent further violations.

If this is a 1st Notice and the violation(s) are related to:

- prostitution and related acts;
- unlawful sale or possession of controlled substances; and/or
- unlawful possession, transportation, sale or use of a weapon...

...you are required to submit a satisfactory written management plan to the crime prevention specialist listed on the Violation Notice within ten (10) days of receipt of the notice of the violation(s). The written management plan must detail all actions taken and proposed to be taken by the owner or authorized representative to prevent further ordinance violations on the premises.

If the violations are related to illegal alcohol sales, gambling, parties, or disorderly conduct, the submission of a management plan is optional but highly encouraged.

If you have received a **2nd Notice**, you are required to submit a satisfactory written management plan regardless of the nature of the violation(s). You must also RSVP for one of the next two available Rental Property Owners Workshops. Email our Crime Prevention Analyst immediately for a calendar or RPO Workshop dates.

Failure to submit a written management plan may result in the City Council taking action to deny, refuse to renew, revoke, or suspend the rental license, and may result in an Administrative Citation of \$250.

Contact the crime prevention analyst or designated MPD contact for assistance and resources in creating the management plan. If you are enrolled in our Action Alerts, this notice will also have been emailed to you. If you are not yet enrolled, email the Crime Prevention Analyst sending this notice ASAP.

TITLE 12 HOUSING*\ Chapter 244. MAINTENANCE CODE

Article XVI. RENTAL DWELLING LICENSES (Amended)

244.2020. Conduct on licensed premises.

- (a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of crime prevention specialists or other assigned personnel of the Minneapolis Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.
- (1) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
 - (2) Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
 - (3) Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
 - (4) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
 - (5) Section 389.65 of this Code, which prohibits noisy assemblies;
 - (6) Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and section 393.40, 393.50, 393.70, 393.80, 393.90 and 393.150 of this Code, which prohibit the unlawful possession, transportation, sale or use of a weapon; or
 - (7) Minnesota Statutes, Section 609.72, and Section 385.90 of this Code, which prohibit disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation; or when at least two distinct violations, separated by no more than sixty (60) days, disturb the peace and quiet of at least one (1) unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation, and the violations are reported by distinct and separate complaints.
- (b) The police department and the inspections division shall be jointly responsible for enforcement and administration of section 244.2020.
- (c) Upon determination by a crime prevention specialist, or other assigned police department employee, utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in subsection (a), the responsible crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the Minneapolis Police Department to prevent further violations. If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(2), (a)(3) or (a)(6) of this section the licensee shall submit a satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall comply with the requirements established in paragraph (d) of this section. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The established procedures manual is available to the public from the Minneapolis Police Department.
- (1) If the instance of disorderly use of the licensed premises involved conduct specified in paragraphs (a)(1), (a)(4), (a)(5), (a)(7) of this section, the licensee shall contact the police department or department of regulatory services within 10 days to discuss the instance of disorderly use.
- (d) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) between seven (7) and fifty (50) distinct and separate residential units, or within nine (9) months, if the premises contains between fifty-one (51) and one hundred (100) distinct and separate residential units, or within six (6) months, if the premises contains more than one hundred (100) distinct and separate units, of an incident for which a notice in subsection (c) was given, the crime prevention specialist or other assigned police department employee shall notify the licensee by mail of the violation. The licensee shall submit an updated satisfactory written management plan to the police department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken and proposed to be taken by the licensee to prevent further disorderly use of the premises. The licensee shall implement all provisions of the written management plan within twenty (20) days after acceptance of the management plan by the crime prevention specialist or other assigned police department employee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan. That notice shall further inform

the licensee that failure to submit a written management plan or failure to implement all provisions of the management plan within twenty (20) days after its acceptance may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license. The licensee or the listed agent/contact person for the licensee shall also successfully complete a property owner's workshop at the direction of and in accordance with a schedule set forth by the police department. Any costs associated with that workshop will be the sole responsibility of the licensee. The notice provided to the licensee of the violation shall inform the licensee of the requirement of the licensee or the listed agent/contact person for the licensee of the requirement to successfully complete a property owner's workshop. That notice shall further inform the licensee that failure to successfully complete the property owner's workshop may result in the city council taking action to deny, refuse to renew, revoke, or suspend the license.

- (e) When required by paragraph (d), the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed if the licensee fails to submit a written management plan that satisfies the requirements set forth in paragraph (d), or if the licensee fails to timely implement all provisions of an accepted written management plan, or if the licensee or the listed agent/contact person for the licensee fails to successfully complete a property owner's workshop after a minimum of two (2) approved workshops have been scheduled, offered and held. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in section 244.1940, and shall proceed according to the procedures established in sections 244.1950, 244.1960, and 244.1970.
- (f) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) between seven (7) and fifty (50) distinct and separate residential units, or within nine (9) months, if the premises contains between fifty-one (51) and one hundred (100) distinct and separate residential units, or within six (6) months, if the premises contains more than one hundred (100) distinct and separate units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the director of inspections in the manner described in section 244.1940, and shall proceed according to the procedures established in sections 244.1950, 244.1960, and 244.1970..
- (g) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the crime prevention specialist or other assigned police department employee within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the director of inspections at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.
- (h) A determination that the licensed premises have been used in a disorderly manner as described in subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this section.

Appendix H – Minnesota Statute 504B.225

504B.225 INTENTIONAL OUSTER AND INTERRUPTION OF UTILITIES; MISDEMEANOR.

A landlord, an agent, or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas, or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor. In any trial under this section, it shall be presumed that the landlord, agent, or other person acting under the landlord's direction or control interrupted or caused the interruption of the service with intent to unlawfully remove or exclude the tenant from lands or tenements, if it is established by evidence that the landlord, an agent, or other person acting under the landlord's direction or control intentionally interrupted or caused the interruption of the service to the tenant. The burden is upon the landlord to rebut the presumption.

The remedies provided in this section are in addition to and shall not limit other rights or remedies available to landlords and tenants. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void. The provisions of this section also apply to occupants and owners of residential real property which is the subject of a mortgage foreclosure or contract for deed cancellation and as to which the period for redemption or reinstatement of the contract has expired.

History: 1999 c 199 art 1 s 26

Appendix I – Minnesota Statute 609.605

609.605 TRESPASS.

Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given them for purposes of this section.

(1) "Premises" means real property and any appurtenant building or structure.

(2) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.002, subdivision 16.

(3) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(4) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(5) "Posted," as used:

(i) in paragraph (b), clause (4), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building, or in a conspicuous place within the property on which the building is located. The sign must carry a general notice warning against trespass;

(ii) in paragraph (b), clause (9), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, or in a conspicuous place within the area being protected. If the area being protected is less than three acres, one additional sign must be conspicuously placed within that area. If the area being protected is three acres but less than ten acres, two additional signs must be conspicuously placed within that area. For each additional full ten acres of area being protected beyond the first ten acres of area, two additional signs must be conspicuously placed within the area being protected. The sign must carry a general notice warning against trespass; and

(iii) in paragraph (b), clause (10), means the placement of signs that:

(A) carry a general notice warning against trespass;

(B) display letters at least two inches high;

(C) state that Minnesota law prohibits trespassing on the property; and

(D) are posted in a conspicuous place and at intervals of 500 feet or less.

(6) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(7) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee;

(10) enters the locked or posted aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; or

(11) crosses into or enters any public or private area lawfully cordoned off by or at the direction of a peace officer engaged in the performance of official duties. As used in this clause: (i) an area may be "cordoned off" through the use of tape, barriers, or other means conspicuously placed and identifying the area as being restricted by a peace officer and identifying the responsible authority; and (ii) "peace officer" has the meaning given in section 626.84, subdivision 1. It is an affirmative defense to a charge under this clause that a peace officer permitted entry into the restricted area.

Subd. 2. **Gross misdemeanor.** Whoever trespasses upon the grounds of a facility providing emergency shelter services for battered women, as defined under section 611A.31, subdivision 3, or of a facility providing transitional housing for battered women and their children, without claim of right or consent of one who has right to give consent, and refuses to depart from the grounds of the facility on demand of one who has right to give consent, is guilty of a gross misdemeanor.

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

Subd. 4. **Trespasses on school property.** (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to be on the roof of a public or nonpublic elementary, middle, or secondary school building unless the person has permission from a school official to be on the roof of the building.

(c) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(d) It is a misdemeanor for a person to enter or be found on school property within one year after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

(e) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

(f) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

Subd. 4a. Trespass on a school bus. (a) As used in this subdivision, "school bus" has the meaning given in section 169.011, subdivision 71.

(b) As used in this subdivision, "pupils" means persons in grades prekindergarten through grade 12.

(c) A person who boards a school bus when the bus is on its route or otherwise in operation, or while it has pupils on it, and who refuses to leave the bus on demand of the bus operator, is guilty of a misdemeanor.

Subd. 5. Certain trespass on agricultural land. (a) A person is guilty of a gross misdemeanor if the person enters the posted premises of another on which cattle, bison, sheep, goats, swine, horses, poultry, farmed Cervidae, farmed Ratitae, aquaculture stock, or other species of domestic animals for commercial production are kept, without the consent of the owner or lawful occupant of the land.

(b) "Domestic animal," for purposes of this section, has the meaning given in section 609.599.

(c) "Posted," as used in paragraph (a), means the placement of a sign at least 11 inches square in a conspicuous place at each roadway entry to the premises. The sign must provide notice of a biosecurity area and wording such as: "Biosecurity measures are in force. No entrance beyond this point without authorization." The sign may also contain a telephone number or a location for obtaining such authorization.

(d) The provisions of this subdivision do not apply to employees or agents of the state or county when serving in a regulatory capacity and conducting an inspection on posted premises where domestic animals are kept.

History: 1963 c 753 art 1 s 609.605; 1971 c 23 s 62; 1973 c 123 art 5 s 7; 1976 c 251 s 1; 1978 c 512 s 1; 1981 c 365 s 9; 1982 c 408 s 2; 1985 c 159 s 2; 1986 c 444; 1987 c 307 s 3; 1989 c 5 s 9; 1989 c 261 s 5; 1990 c 426 art 1 s 54; 1993 c 326 art 1 s 14; art 2 s 13; art 4 s 32; 1993 c 366 s 13; 1994 c 465 art 1 s 60; 1995 c 226 art 3 s 48; 2004 c 254 s 46; 2005 c 136 art 17 s 41,42; 2009 c 59 art 5 s 15; 2009 c 123 s 14; 2017 c 95 art 3 s 18

Appendix J – Sampling Plan

Sampling and Analysis

Office of Police Conduct Review
May 2017

Sampling Technique

1. Studies will use random sampling techniques for analysis.
2. Analysts use random.org sequence generator to select items for analysis and ensure that every item in the population has an equal chance of selection.
 - a. Screenshots of the generated random integer sequence will be saved in the work file
3. If analysts determine that a sample frame must be used to subdivide the population, they shall define with particularity that which will be sampled and the specific reasons for excluding items from the sample.

Population Analysis

1. Population analysis requires no sample.
2. The population surveyed is defined with particularity.

Standard Operating Procedure for Audit Type Research and Study Analysis

1. Assume no more than 7% error rate unless the specific risk of manual control failure dictates otherwise. When researching a topic where an error would cause undue risk or violate law, the rate may be set as low as 1% (+-3%).
2. A 95% confidence level is acceptable for most projects; 99% confidence is used when absolutely necessary to test the control.
 - a. A sample size calculator can be found at:
<http://www.nss.gov.au/nss/home.nsf/pages/Sample+size+calculator>
3. With a large population ($n > 5000$), the sample size is 70^1 at 95% confidence.
 - a. $Z = 1.96$
 - b. $p = .03$
 - c. $c = .04$
4. With a large population ($n > 5000$), the sample size is 121^2 at 99% confidence.
 - a. $Z = 2.575$
 - b. $p = .03$
 - c. $c = .04$
5. If the population is less than 5,000, analysts may recalculate sample size.
6. If the error rate after testing the sample exceeds the selected threshold, analysts may conclude that the error rate is not less than 7% (3% +-4%) with either 95% or 99% confidence.
7. If, after a significant portion of the sample is tested, the error rate appears exceedingly far outside the expected range (50% +), the test should stop and deeper analysis of the errors conducted.

Unknown Benchmark

1. When an acceptable error rate cannot be determined prior to sampling, analysts should set the sample error rate to 50% and calculate the sample based on the population.
 - a. $Z = 1.96$
 - b. $p = .5$
 - c. $c = .05$
 - d. $n = 50,000$
 - e. Sample size is 382

¹ With 95% confidence, expected error rate of 3%, and a 4% margin of error; Sample Size = $(Z^2(p)(1-p))/c^2$

² With 99% confidence, expected error rate of 3%, and a 4% margin of error; Sample Size = $(Z^2(p)(1-p))/c^2$

Sarbanes-Oxley Act: Section 404 – Practical Guidance for Management
(PricewaterhouseCoopers, July 2004), p. 61

Testing of Manual Controls

Tests of manual controls should include a mix of inquiry, observation, examination or re-performance. Inquiry alone, however, does not provide sufficient evidence to support the operating effectiveness of the control. Effective testing will generally require examining a control at a particular location/business unit in different instances (referred to as “sampling”). Inherent to sampling is the risk that although management may find nothing amiss in the samples (resulting in a conclusion that a control is operating effectively), the control is not necessarily operating effectively at all times. Management should minimize this sampling risk by selecting an appropriate number of times to test (perhaps by considering the concepts of statistical sampling theory, although not necessarily applying statistical sampling). Sampling risk increases with the frequency of the control’s activation. The extent of management’s testing is based on its’ judgment and the level of assurance it expects to derive from the test. The following table represents our view of the extent of testing necessary to support a conclusion that a manual control is operating effectively, provided no exceptions are found:

Frequency of Manual Control’s Performance	Typical Number/ Range of Times to Test Controls	Factors to Consider When Deciding the Extent of Testing
Multiple times a day	25 to 60	<ul style="list-style-type: none">• Complexity of the control• Significance of judgment in the control operation• Level of competence necessary to perform the control• Frequency of operation of the control• Impact of changes in volume or personnel performing the control• Importance of the control<ul style="list-style-type: none">○ Addresses multiple assertions○ Period-end detective control○ Only control that covers a particular assertion
Daily	20 to 40	
Weekly	5 to 15	
Monthly	2 to 5	
Quarterly	2	
Annually	1	

The sample size that management decides to select for testing should be based on the significance of the control in question and level of assurance desired. The fewer items tested, the greater the risk of an incorrect conclusion. Thus, for highly critical controls, or when a single manual control provides the sole support for a financial statement assertion regarding a single account, we believe management should consider increasing its’ sample size to the high end of the range provided in the table above. This decision should be made after considering other evidence available to management (e.g. results of self-assessment, testing by internal audit, or evidence from other monitoring controls.) The combination of evidence should provide management with a high level of assurance the control is operating effectively. For example, (using the concepts of statistical sampling theory) if 25 instances of a control (occurring multiple times a day) are tested and no exceptions are found, there is a 90 percent confidence level that the actual exception rate is no more than 9 percent. If 60 instances are tested and no exceptions are found, there is a 95 percent confidence level that the actual exception rate is no more than 5 percent.