



Action Alert

To: AOBA Members with Residential Property in Montgomery County

From: Lesa Hoover, VP Government Affairs, MD

Date: February 2, 2009

Re: Just Cause Eviction Bill -- Contact Delegates

MC 918-09 declares that the non-renewal of a tenant's lease without just cause is unlawful. This bill empowers the tenant to unilaterally renew a lease after the lease has ended notwithstanding the objection of the landlord or owner of the apartment building. The bill as originally drafted was a back door to rent control in that it required the lease to be renewed at the same or substantially similar terms. Amendments were recently introduced to eliminate the rent control aspect of the proposed legislation. Nevertheless, AOBA continues to oppose this legislation due to the bill's impairment of property rights among numerous other concerns detailed below.

Please consider the following points:

- **Lease in Perpetuity** - This legislation enables tenants to unilaterally renew a lease creating a life estate in the housing provider's property.
- **Compels Litigation** - This proposed legislation would require a judge, rather than a housing provider, to determine whether there is justification for not renewing a tenancy. Virtually every tenancy dispute will have to be resolved by a judge under a facts and circumstances test. This determination requires unwilling neighbors to testify in court, management personnel to spend time in court, and adds to the already overburdened court system.
- **Creates Unsafe Neighborhood** - A just cause eviction statute would significantly undermine the ability of a landlord to contribute to a safe neighborhood by making it very difficult and costly to evict bad tenants. In many situations where just cause may exist, the most prudent course of action when dealing with a bad tenant is to allow the remainder of the tenancy to expire and then not renew the lease. If the ability to make this determination is stripped from housing providers the only alternative to ridding the community of a bad tenant is to file a law suit alleging just cause exists. The lawsuit may take several years to adjudicate, during which time the bad tenant remains on the property.
- **Violates Personal Property Rights** - A just cause eviction ordinance completely removes the apartment owner from the equation. The ordinance would eliminate a property owner's right to issue a 60-day notice to vacate the premises at the expiration of the lease. The only redress a landlord could seek is a court ordered termination of the lease, which places a large burden of proof on the landlord. Without a favorable court determination, a life tenancy is created for the tenant.
- **Fair Housing Laws Protect Against Discrimination** – It is alleged that this bill is intended to prevent discrimination in housing. AOBA members already stringently adhere to fair housing laws which prevent housing providers from discriminating in the leasing of apartments. Additionally, the large costs related to the eviction process provide ample disincentives for landlords to evict good tenants. These costs include court fees, attorney's fees and the marketing costs associated with re-renting the apartment.