



As the city, state, and nation face one of the greatest challenges of our time, the threat of the Covid-19 pandemic, we need to make sure the most impacted and most vulnerable communities, particularly low-income people, people of color, the elderly, LGBTQ individuals, and those living with disabilities, are not literally left out in the cold. And that all people, regardless of immigration status, country of origin, or language have access to safe, quality, energy efficient, and affordable housing. We need — now more than ever — a **Buffalo Homes Guarantee!** In addition to the ten rights listed below, the City should create a Tenant Rights page on its website. This way, tenants can easily find out about the protections and resources available to them.

I. RIGHT TO JUST CAUSE EVICTION

Thousands of people, mostly low-income people in the city of Buffalo, lose their homes every year because landlords put profit margins ahead of people's basic right to housing. We need Just Cause Eviction in the city in order to protect tenants from unjustly being thrown out of their homes and into the streets.

Many low-income tenants in Buffalo do not have an up-to-date lease, meaning that they rent month-to-month.¹ Landlords can force these tenants to leave with as little as thirty days' notice for no reason whatsoever. A **Just Cause policy** would ensure that tenants aren't forced to leave simply because their lease has ended. Just Cause could also forbid landlords from evicting after suddenly raising the rent by an unconscionable amount. Many cities and states across the U.S. have Just Cause (also called Good Cause) policies, including New Hampshire, New Jersey, Philadelphia, and Washington D.C. In 2019, researchers found a negative correlation between eviction filing rates and the passage of Just Cause ordinances.²

There is currently a Good Cause bill in the New York State legislature (S2892B), but it has been stuck in committee since 2019.³ The City of Buffalo should enact its *own* Just Cause ordinance within city limits. This ordinance should specify that an unconscionable rent increase is more 75% of the Consumer Price Index change for that year. This is modeled in the City of Santa Monica's (CA) policy.⁴

While a Just Cause ordinance is a necessary and basic right for tenants, most tenants in Buffalo are evicted due to non-payment of rent. In most cases, they would *not* be covered under a Just Cause policy. Therefore, it's important to enact additional policies listed below—such as rent stabilization and funding for owed rent—to best protect tenants.

2. RIGHT TO TIMELY REPAIRS

Every tenant in the city has the right to timely repairs to their home, and without retaliation from their landlord. Too often, tenants are met with rent increases instead of the repairs that they need to live comfortably and sustainably.

We commend the City of Buffalo's recent decision to require proactive inspections in investor-owned rental properties. This will go a long way in improving rental quality. However, given the scope of Buffalo's housing quality problem, there is still much to be done. First, the City should create a plan to monitor the enforcement of this new requirement—including whether landlords are able to evict when their certificate of rental compliance is out of date.

Second, the City should work with Buffalo Housing Court to create a **referral system** to direct low-income landlords to available city resources. These resources should include partial funds to help low-income landlords house their tenants while major repair work is being done. Right now, many tenants are afraid to call the housing inspector because they fear that the conditions are so bad the inspector will force them to move. If landlords were required to provide safe housing for tenants while the landlord made repairs, perhaps tenants would feel more comfortable calling inspectors.

The City could also follow in Minneapolis' footsteps by creating a **tiered rental license system**. The less responsive a landlord is to making repairs, and the worse condition the house is in, the higher inspection tier the home is placed on.⁵ The owner must then pay higher fees for a rental license and the property is inspected more often. This system incentivizes good property care to qualify for lower rental licensing fees.

3. RIGHT TO LANGUAGE ACCESS IN AND OUT OF BUFFALO CITY HOUSING COURT

There are currently almost 100,000 residents in the city of Buffalo who speak over 60 languages. Language access should not be an afterthought, rather prioritized and fully funded. Every tenant who enters Buffalo City Housing Court should be able to be understood as well as understand what exactly is taking place and be able to self-advocate as a result of interpretation and translation provisions.

Eviction case court papers are extremely important because they state the eviction court date; if a tenant misses the court date, they face an immediate 72-hour warrant of eviction. In Buffalo, these court papers are sent to tenants only in English. This is a major problem for the many residents in our city who do not speak English as a primary language. The City of Buffalo should work with Buffalo City Court to implement a **language options sheet** that is included with court papers for the eviction process—similar to what the Erie County Department of Social Services provides with its mailings.

Another way the City could expand language access options is by providing translated eviction papers available for download on the City's website. The City could then circulate an info sheet about this page to community partners. Those partners could help publicize the document to their constituents. Ideally, this document could also include a phone number to access interpretation services.

4. RIGHT TO KNOW WHO OWNS THE BUILDING

Many tenants in the city of Buffalo do not know who their actual landlord is. There are hundreds of properties in the city run by property management companies who have their headquarters in Buffalo and beyond. The management companies serve as intermediaries for landlords that live outside of the greater Buffalo-Niagara area, including out of this country. There needs to be more transparency and clarity for all tenants. The Covid-19

pandemic has exposed this, as tenants struggle to pay their rent and don't know who to talk with in order to seek rent relief.

Did you know that in Connecticut, Alaska, and Florida, a landlord must tell a new tenant—in writing—the landlord's name and address? The City of Buffalo should require that **landlords disclose both their name and contact information** as well as, if applicable, the name and contact information of the property manager to tenants. This should also apply if the landlord operates the property under a Limited Liability Company (LLC).

The City should also create a user-friendly dataset on Open Data Buffalo that lists each property along with the following: owner name (even if owned by LLC), contact information, information about open code violations, and any sanctions that have been issued against the landlord. This dataset will help tenants in their housing search to avoid irresponsible landlords and problem properties. The City of Cleveland has already created such a database. This user-friendly site lets tenants type in an address and see if the property has open violations, lead risks, and whether the owner has a lead certificate.⁶

5. RIGHT TO LEGAL COUNSEL IN THE BUFFALO CITY HOUSING COURT

Every tenant in the city of Buffalo needs and deserves the right and access to proper legal and housing court professional representation. Nobody should face losing their housing on their own.

Local legal service organizations provide legal representation for all tenants below 200% of the federal poverty line. Yet, this representation is not guaranteed to tenants by law, and the city has not made a significant financial commitment to these services. Many cities, such as Newark, Philadelphia, and New York City guarantee legal counsel for tenants. The City of Buffalo should codify the right to legal counsel for tenants in housing court. The City should also make a significant budgetary commitment to providing these services.

6. RIGHT TO HOUSING STABILITY

Every tenant in the city of Buffalo needs housing stability. This means that our most vulnerable communities – particularly low-income tenants, the elderly, people of color, domestic violence survivors, members of the LGBTQ community, those living with disabilities, and those facing emergency situations, such as fires, must have immediate access to safe, quality, and permanently affordable housing. All people, regardless of immigration status, country of origin, or language should have a right to housing stability.

In emergency housing situations, such as a house fire, the office of the “tenant advocate” (discussed in right #9) should have a heightened responsibility to attend to the needs of tenants. This could include working closely with building code inspectors, City of Buffalo Housing Court, County inspectors, and working with the Buffalo Police Department (in the case of an illegal eviction). In these situations, tenants are especially vulnerable and need extra assistance. The tenant advocate should be positioned to enforce housing laws where necessary. The City should also consider matching Federal Emergency Solutions Grant (ESG) dollars to help fund emergency shelters.

7. RIGHT TO FIRST REFUSAL (TENANT OPPORTUNITY TO PURCHASE) AND RIGHT TO RETURN

Buffalo has experienced an unprecedented amount of investment in the past decade due to Governor Andrew Cuomo's Buffalo Billion and other economic development programs. This has caused Buffalo to rapidly gentrify and created mass speculation and the further commodification of housing. In order to allow long-time residents, especially low-income tenants and those from vulnerable communities, the ability to remain in their homes, the

City of Buffalo must institute a Right to First Refusal policy for tenants to purchase their rental housing, in tandem with the Right to Return for those who have already been displaced from their communities.

Did you know that in Washington D.C., tenants get the first opportunity to purchase their home if it's going up for sale? Did you know this law has been on the books for decades? This policy has preserved 1,400 units of affordable housing from 2002 to 2013.⁷ **Tenant Opportunity to Purchase (TOPA)** policies prevent tenant displacement by giving tenants funds and technical assistance to buy the home they live in. If the tenant doesn't want to or can't buy the home themselves, they can also grant their right to a trusted housing developer that will purchase it and keep the rent constant. TOPA is a powerful anti-gentrification tool and should be enacted in the City of Buffalo.

Right to Return is another strategy that cities are using to repair the neighborhoods that gentrification has torn apart. Portland and Austin have adopted Right to Return policies, while Los Angeles negotiates the right to return on individual developer projects. In Portland, when the city creates new affordable housing or has funds for first-time homebuyers, they prioritize residents who previously lived in that neighborhood. When drafting and implementing this policy, community support and accountability is essential. The policy should also include as few hurdles and requirements as possible for participants.

8. RIGHT TO RENT STABILIZATION

There is no other way to say it: The rent is too damn high in Buffalo. Similar to places like New York City, we need laws that ensure a specified number of apartment units are rent controlled to prevent gentrification and displacement, which are already having a devastating effect on the city.

We know that rents in Buffalo have been rising—slowly but surely—in the last decade.⁸ Yet, incomes in Buffalo have *not* increased. In fact, between 2000 and 2014, the median hourly wage in Buffalo *decreased* from \$18.40 to \$18.00.⁹ This mismatch between rising rents and decreasing incomes results in many tenants' inability to pay rent. In PPG's 2020 study of Buffalo evictions, the vast majority (88%) of observed eviction cases were for non-payment of rent.¹⁰ And of 100 tenants interviewed, 35% had experienced a rent increase in the last year.¹¹

Rent stabilization is one way to ensure that rent increases do not outpace income. Did you know that 182 cities and municipalities have rent control or rent stabilization in the U.S. (most located in New York and New Jersey)?¹² In 2019, New York State passed legislation that would allow the City of Buffalo to opt in to rent control.¹³ To get started, the City must perform a vacancy study. If there is a vacancy rate of less than 5%, the City can declare a housing emergency and move forward with rent stabilization.

9. RIGHT TO REPRESENTATION THROUGH AN ADVOCATE

We need to create an office of "Tenant Advocate" in the city of Buffalo. The Tenant Advocate would be a paid position, with a yearly funded staff and budget. The Tenant Advocate and their office would be empowered to look through all inquiries of potential evictions in the Buffalo to ensure that every tenant is given proper and legal due process, and that no tenant in Buffalo is unjustly evicted.

While most tenants facing eviction are provided with free legal representation, there are few resources at the city-level that advocate for tenant-friendly policies. The City should **expand its fair housing office** to include additional staff and to expand its capacity to serve tenants. Further, tenants aren't always aware of the resources that are available to them. The City of Buffalo (or other relevant entity) should require that eviction notices include **information about emergency assistance**. The City of Buffalo should also consider funding a

local legal services provider to hire additional **tenant paralegals**. These paralegals could help tenants facing eviction with tasks like documenting repair problems, getting copies of inspection orders, and applying for emergency assistance. Last, the law establishing Buffalo City Housing Court requires that the Court have a **Housing Court Advisory Council**. This Council is meant to advise Housing court and issue annual reports on its progress. The City of Buffalo should encourage Buffalo City Housing Court to establish this council and should solicit public involvement as it carries out its duties.

10. RIGHT TO AN AFFORDABLE HOUSING FUND

There should be a \$1 million revolving rent loan fund in the city of Buffalo dedicated to offering grants and low or no-interest loans to city tenants from our most vulnerable communities.

Did you know that 116 cities¹⁴ and 157 counties¹⁵ in the U.S. have created a dedicated affordable housing fund? Some of these are funded *tens of millions of dollars* per year. The funding source varies depending on the municipality's needs and resources. Some examples are Pittsburgh's realty transfer tax,¹⁶ St. Louis' use tax on out-of-state purchases,¹⁷ and Philadelphia's property recordation fees.¹⁸ These funds could be used for a multitude of housing-related issues.

First, many tenants who are facing eviction do not qualify for Erie County rental assistance. Part of these funds could assist these tenants. Priority should go to tenants in affordable housing with repair problems, enabling them to use a habitability defense and potentially get court-ordered repairs. Some localities, such as Washington D.C. and Orange County (NC), have also used funds to create local voucher programs to assist with low-income tenants' monthly rent. Since waitlists in Buffalo for federal vouchers are currently closed, creating a program like this would be highly beneficial for tenants. These funds could be used as a revolving loan fund for the Buffalo Housing receiver program. This would allow the housing receiver to make needed repairs more quickly for tenants. Last, this money could be used to fund new affordable housing units, which are desperately needed in the City of Buffalo. These funds should be used to support developments that neighborhood residents are *requesting*—a ground-up development process, rather than a top-down, developer-focused process.

¹ Partnership for the Public Good, *Evicted in Buffalo: the High Costs of Involuntary Mobility*, (policy report, n.p.: Partnership for the Public Good, 2020), https://ppgbuffalo.org/files/documents/housing_neighborhoods/general/housingneighborhoods-evicted_in_buffalo.pdf, p30. Of the 100 tenants interviewed in Housing Court, 55 of them did not have a written lease or had a written month-to-month lease.

² Julieta Cuellar, Effect of "Just Cause" Eviction Ordinances on Eviction in Four California Cities," *Journal of Public and International Affairs*, Princeton University, <https://jpia.princeton.edu/news/effect-just-cause-eviction-ordinances-eviction-four-california-cities#0>.

³ "Senate Bill S2892B," The New York State Senate, accessed December 14, 2020, <https://www.nysenate.gov/legislation/bills/2019/s2892>.

⁴ City of Santa Monica, amended November 6, 2012, *Rent Control Charter Amendment*, Section 1805(a), https://www.smgov.net/uploadedFiles/Departments/Rent_Control/Rent_Control_Law/CharterAmndmnt.pdf#1806, p8. Santa Monica's Just Cause/Good Cause policy appears to be structured as part of its rent control policy.

⁵ "Rental License Tiering," Minneapolis City of Lakes, accessed December 14, 2020, <http://www2.minneapolismn.gov/inspections/rental/tiering>.

⁶ Housing.Health, accessed December 14, 2020, <https://cleveland.housing.health/>.

⁷ Jenny Reed, "DC's First Right Purchase Program Helps to Preserve Affordable Housing and Is One of DC's Key Anti-Displacement Tools," DC Fiscal Policy Institute, www.dcfpi.org, pgs. 1-2, 2013, https://www.dcfpi.org/wp-content/uploads/2013/09/9-24-13-First_Right_Purchase_Paper-Final.pdf.

⁸ Sarah Wooton, *Rental Housing Costs in Buffalo*, (policy brief, n.p.: Partnership for the Public Good, 2018), https://ppgbuffalo.org/files/documents/housing_neighborhoods/general/rentalhousingcostsinbuffalo.pdf.

⁹ Policy Link and PERE, *Advancing Health Equity and Inclusive Growth in Buffalo*,” (report, n.p.: PolicyLink and PERE, 2017), https://ppgbuffalo.org/files/documents/health/health_disparities/health-advancing_health_equity_and_inclusive_growth_in_buffalo.pdf, p38.

¹⁰ Partnership for the Public Good, *Evicted in Buffalo*, p18.

¹¹ *Ibid.*, p19.

¹² “Rent Control Laws by State,” National Multifamily Housing Council as cited in: Prasanna Rajasekaran, Mark Trekson, and Solomon Greene, *Rent Control: What Does the Research Tell Us about the Effectiveness of Local Action?*, (policy brief, n.p.: Urban Institute, 2019), <https://aagla.org/wp-content/uploads/2019/10/Urban-Institute-Rent-Control.pdf>, p3.

¹³ Amy Plitt, “New York’s ‘historic,’ pro-tenant rent reforms pass with Cuomo’s approval,” *Curbed New York*, June 14, 2020, <https://ny.curbed.com/2019/6/14/18679507/rent-regulation-new-york-state-reform-legislation-passed>.

¹⁴ Housing Trust Fund Project, *City housing trust funds*, <https://housingtrustfundproject.org/housing-trust-funds/city-housing-trust-funds/>.

¹⁵ Housing Trust Fund Project, *County housing trust funds*, <https://housingtrustfundproject.org/housing-trust-funds/county-housing-trust-funds/>

¹⁶ Citizen Vrabelman, *What is the realty transfer tax?*, (Downstream, 2017). <https://downstream.city/short-cuts/what-is-the-realty-transfer-tax-an-interview-with-mark-masterson/>

¹⁷ St Louis-MO Gov, *Ordinance 70580*, (2017). <https://www.stlouis-mo.gov/government/city-laws/ordinances/ordinance.cfm?ord=70580>

¹⁸ City of Philadelphia, *Housing trust fund report*, (2018-2019). <https://www.phila.gov/documents/housing-trust-fund-report/>