

MEMORANDUM

October 23, 2019

TO: Planning, Housing and Economic Development Committee

FROM: Christine M.H. Wellons, Legislative Attorney
CWellons

SUBJECT: Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning¹

PURPOSE: Worksession – Committee to make recommendations

EXPECTED ATTENDEES

Aseem Nigam, Director, Department of Housing and Community Affairs
Rosie McCray-Moody, Department of Housing and Community Affairs
Christopher Anderson, Department of Housing and Community Affairs

OVERVIEW

Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning, sponsored by Lead Sponsor Councilmember Hucker and Co-Sponsors, Councilmembers Jawando, Alborno, Council President Navarro and Councilmember Riemer, was introduced on July 16, 2019. A public hearing was held on September 10 at which five individuals spoke in support of the bill. The Planning, Housing, and Economic Development (PHED) Committee held an initial worksession on the bill on September 23, 2019.

Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months of the year.

BACKGROUND

The County Code does not currently require a landlord to supply and maintain air-conditioning in rental housing. Bill 24-19 would amend County Code Chapter 29, Landlord-Tenant Relations, to require a landlord to provide and maintain air conditioning service in a safe and good working condition so that it provides an inside temperature of eighty degrees Fahrenheit (80° F.) or less between May 1 and September 30.

¹#MoCoRentalAC

Search Terms: air conditioning, AC unit, air conditioning in rental housing, obligations of landlords, landlord-tenant relations

SUMMARY OF CORRESPONDENCE RECEIVED AFTER THE PUBLIC HEARING

Testimony received at the public hearing is described in the staff report dated September 23, 2019. Subsequent to the hearing, the Council received the following additional correspondence.

On September 20, 2019, Montgomery Housing Partnership (MHP) submitted a letter (©10-11) to the Council asking the Council to address “when the regulation would go into effect or how it would be phased in.” In particular, MHP noted that “one potential option would be to exempt properties that are slated to be redeveloped or rehabilitated in the near future and which have already begun the entitlement process.”

In addition, MHP recommended in its letter that “the bill clarify that landlords will not be held responsible if a tenant chooses not to avail themselves of the [A/C] amenity.”

The Greater Capital Area Association of REALTORS (GCAAR) submitted a letter (©12) to Councilmember Hucker dated September 21, 2019. In its letter, GCAAR stated that “the impact this legislation may have on single-family homeowners has been overlooked,” and that “air conditioner installation in an older home could present considerable costs to the homeowner.” GCAAR recommended “adding a minimum number of units clause to the legislation [to] remedy this issue.” GCAAR also recommended exempting historic properties and farmhouses from the air conditioning requirement.

The Justice & Advocacy Council of Montgomery County, Archdiocese of Washington, submitted an email in support of the bill (©13).

SUMMARY OF THE SEPTEMBER 23, 2019 WORKSESSION

A PHED worksession was held regarding the bill on September 23, 2019. Participating in the worksession were the bill’s Lead Sponsor, Councilmember Hucker; Aseem Nigam, Director of DHCA; Dan McHugh and Chris Anderson, DHCA; Hemal Mustafa, Department of Permitting Services; and Christine Wellons, Council staff. Issues discussed included the required temperature in degrees Fahrenheit; the method DHCA should use to measure temperature; and which rooms should be subject to the air conditioning requirement.

Those issues, as well as the additional issues identified by MHP and GCAAR, are discussed below for the Committee’s further consideration.

ISSUES FOR THE COMMITTEE’S CONSIDERATION

1. Required Temperature

Issue: The Department of Housing and Community Affairs (DHCA) has recommended decreasing the maximum temperature permitted under the bill from 80 degrees Fahrenheit to 78 degrees Fahrenheit. DHCA stated that PEPCO recommends setting air conditioning to a temperature of 78 degrees. The Montgomery County Renters’ Alliance recommended reducing the maximum temperature to 75 degrees Fahrenheit.

Analysis: Whether to change the maximum permitted temperature is a policy question for the Committee. Staff notes that the U.S. Department of Energy, like PEPCO, suggests setting air conditioning at 78 degrees Fahrenheit. <https://www.energy.gov/energysaver/thermostats>. In terms of other jurisdictions, Phoenix, Arizona requires air conditioning in rental properties to “have cooling capable of safely cooling all habitable rooms, bathrooms and flushing toilet rooms to a temperature no greater than 86 degrees Fahrenheit, if cooled by evaporative cooling, or 82 degrees Fahrenheit, if cooled by air conditioning.” (Phoenix City Code § 39-5). In Dallas, Texas, a landlord must “provide, and maintain, in operating condition, refrigerated air equipment capable of maintaining a room temperature of at least 15 degrees cooler than the outside temperature, but in no event higher than 85° F. in each habitable room[.]” (Dallas City Code § 27-11).

2. **Method of Measuring Temperature**

Issue: DHCA has recommended amending the bill to include specific requirements for how to measure temperature. Under the amendment, temperature would be measured at 3 feet above the floor in applicable rooms.

Staff Recommendation: Staff supports amendments to clarify how DHCA would measure temperature under the bill. *See* ©14-15 for potential amendments.

3. **Common Areas and Rooms Served**

Issue: At the September 23rd worksession, the Committee discussed which rooms should be subject to an air conditioning requirement, and whether common rooms should be included. Specific consideration was given to whether kitchens should be subject to the requirement given the potential difficulties in enforcement when an oven is being used.

Analysis: The types of rooms subject to the requirement is a policy issue for the Committee. Staff notes that if the goal of the legislation is to set minimum standards for health and safety, then exempting common areas and kitchens from the requirement might be reasonable; however, some public testimony indicated that heat-related illnesses have occurred in common areas. *See* Testimony of V. Price, September 23, 2019 Staff Memo. If the goal of the legislation is to set a minimum standard for resident comfort in all the areas that the resident may access under a lease, then including the common areas and kitchens would be desirable. In the cities of Dallas and Phoenix, air conditioning requirements apply to habitable rooms and bathrooms.

One option would be to apply the air conditioning requirement to all habitable spaces, excluding kitchens. This option is reflected in the amendments at ©14-15, and can be modified as the Committee desires.

4. **Time of Year**

Issue: As written, the bill would require the provision of air-conditioning from May 1 to September 30. The Committee might wish to discuss whether to amend this time period. AOBA has suggested changing the period so that it would be from May 15 to September 30, and the Renters’ Alliance suggested removing the time period.

Analysis: This is a policy question for the Committee. Staff notes that AOBA's suggested time period of May 15 through September 30 appears reasonable given recent average temperatures. According to the National Oceanic and Atmospheric Administration (NOAA), average temperatures in Maryland since the year 2000 during the months of May and October have been less than 70 degrees Fahrenheit. See <https://www.ncdc.noaa.gov/cag/statewide/time-series>. Maximum temperatures in May since 2000 have reached 78 degrees, and minimum temperatures have been as low as 52 degrees.

5. Maintenance Period

Issue: AOBA has requested an amendment providing that an air conditioning system "in a building with a two-pipe system, or any other system reasonably requiring more than 15 days to transition from heat to air conditioning, shall be maintained in safe and good working condition so that it is capable of providing, during the period starting no later than June 1 and ending no earlier than September 30, an inside temperature of eighty degrees Fahrenheit[.]"

Analysis: This is a policy question for the Committee. Staff notes that according to NOAA, low temperatures in May in Maryland during the last 10 years have been in the 50-to-60 degree range. See <https://www.ncdc.noaa.gov/cag/statewide/time-series>. Tenants might wish to have heating available during this time. Therefore, to the extent that a landlord is unable to provide both heating and air conditioning simultaneously, it might be reasonable to allow the landlord to begin the conversion to air conditioning in mid-May, and to complete that conversion process by June 1, as AOBA has suggested.

Another option regarding time of year would be to change the time period across the board to be June 1 through September 30. In this way, a single standard would apply to all types of air conditioning systems and DHCA would not have to enforce varying temperature standards.

6. Opting Out of the Air Conditioning Requirement

Issue: At the September 23rd worksession, the Committee discussed whether a tenant and/or a landlord should be permitted to opt out of the air conditioning requirement. Some tenants may prefer having a lower rent to having air conditioning. As currently drafted (with the clarifying amendments at ©14-15), a tenant who controls the temperature in a unit would not be required to use air conditioning. A tenant in a building where the tenant does not control the temperature, however, would not be able to choose whether to have air conditioning.

Analysis: Whether to allow tenants and/or landlords to opt out of the requirement is a policy question for the Committee. If a tenant is given an option to opt-out, DHCA has recommended that the option should be articulated in the lease, with any rent differential clearly listed. DHCA further suggests that the tenant should be notified of an option to file a complaint with the Commission on Landlord-Tenant Affairs.

If the Committee wishes to allow a landlord to opt out of the air conditioning obligation, it might wish to amend the bill to provide simply that *if* a landlord chooses to provide air conditioning, the air conditioning must be capable of providing a temperature of 80 degrees or less.

Staff recommendation: If the Committee wishes to allow tenants to opt out of the air conditioning requirement, staff recommends the following amendment: In rental housing that has an individual air conditioning unit, a tenant may elect to have no air conditioning service installed and provided if the lease: (1) specifies the additional amount of rent that would be required if air conditioning were installed and provided; (2) acknowledges that the tenant has been offered, but has elected not to have an individual air conditioning unit; and (3) acknowledges that the tenant has been informed of the tenant's right to file a complaint with the Commission of Landlord-Tenant Affairs under Section 29-36.

7. Clarification of Landlord Responsibility

Issue: MHP recommended that “the bill clarify that landlords will not be held responsible if a tenant chooses not to avail themselves of the [A/C] amenity.” (©11)

Analysis: If the clarifying amendments described at ©14-15 are adopted, then it will be clear that a landlord would not be responsible for maintaining a temperature of 80 degrees or less in situations in which the tenant controls the temperature in the unit. In that scenario, the landlord would be responsible for maintaining an air conditioning service that is *capable of* providing a temperature of 80 degrees or less in certain rooms. The potential amendment above regarding tenant opt outs would further clarify landlord responsibility.

8. Treatment of Single-Family Homes

Issue: GCAAR has noted that installing air conditioning in an older home can involve significant costs.

Analysis: Some residents may prefer lower rent in an older home with no air conditioning, rather than air conditioning with higher rent. In addition, some owners of single-family rental homes might not be able to afford installing air conditioning. One option to address this issue would be to exempt single-family homes from the air-conditioning requirement. Another option would be to delay the effective date of the law as applied to single-family homes, in order to allow for adequate time to install air conditioning.

9. Exemption of Historic Properties and Farmhouses

Issue: GCAAR has recommended exempting historic properties and farmhouses, which structurally may not be able to accommodate air conditioning units or systems.

Analysis: To exempt historic properties, an amendment could provide that the air conditioning requirement must not apply to any rental housing located on a site listed in the National Register of Historic Places. Regarding farmhouses, the Committee could adopt an amendment that the air conditioning requirement must not apply to any rental housing located on property used for farming, as defined in Section 59-3.2.6.

10. Properties Slated for Redevelopment

Issue: MHP has recommended exempting from the bill properties that are slated for redevelopment in the near future.

Analysis: To address the issue of pending redevelopments, the Committee might wish to adopt an amendment allowing DHCA to grant a waiver to a property that is in the process of redevelopment. An amendment could provide:

Sec. 2. Transition. For 12 months following the effective date of this Act, a landlord may request, and the Director may grant, delayed implementation of the requirements of this Act for any real property that is the subject of a pending application for a necessary approval for development before the Planning Board, Board of Appeals, or Office of Zoning and Administrative Hearings. The period of delayed implementation for a property may not exceed the sooner of the completion of the development or 24 months.

11. Technical Amendments

The Office of the County Attorney and DHCA have recommended clarifications, which are reflected in the amendments at ©14-15.

STAFF RECOMMENDATION / SUMMARY OF POTENTIAL AMENDMENTS

Council staff recommends adoption the County Attorney's technical amendments, as well as amendments to clarify the method DHCA would use to measure temperature and the rooms that would be covered by the air conditioning requirement. These proposed amendments are at ©14-15.

The Committee might also wish to adopt one or more of the **additional amendments** discussed above in the "Issues" section of this memorandum, including:

- (1) An amendment to change the required temperature from 80 degrees to a different standard;
- (2) An amendment to specify which rooms are covered by the requirement (e.g., habitable rooms only, common areas, habitable rooms except kitchens, or habitable rooms and bathrooms);
- (3) An amendment to shorten (or lengthen) the time of year requirement, which is May 1 through September 30 under the bill as drafted;
- (4) An amendment to require a different timeframe for buildings that must be converted from heat to air conditioning;
- (5) An amendment to allow certain tenants to opt-out of air conditioning;
- (6) An amendment if a landlord chooses to provide air conditioning, it must be capable of providing a temperature of 80 degrees or less;
- (7) An amendment to exempt single-family homes from the air conditioning requirement, or to delay implementation of the bill for single-family homes;

- (8) An amendment to exempt historic properties and/or farmhouses from the air conditioning requirement; and/or
- (9) An amendment to allow DHCA to waive the air conditioning requirement for certain rental housing slated for redevelopment.

This packet contains:	<u>Circle #</u>
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Bill No. 24-19
 Concerning: Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning
 Revised: 9/11/2019 Draft No. 3
 Introduced: July 16, 2019
 Expires: January 16, 2021
 Enacted: _____
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Hucker
 Co-Sponsors: Councilmembers Jawando and Alborno, Council President Navarro, and
 Councilmember Riemer

AN ACT to:

- (1) require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months;
- (2) establish standards for air conditioning service provided by a landlord; and
- (3) generally amend the law governing rental housing in the County.

By amending

Montgomery County Code
 Chapter 29. Landlord-Tenant Relations
 Section 29-30

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 29-30 is amended as follows:**

2 **29-30. Obligations of landlords.**

3 (a) Each landlord must reasonably provide for the maintenance of the health,
4 safety, and welfare of all tenants and all individuals properly on the
5 premises of rental housing. As part of this general obligation, each
6 landlord must:

7 (1) Comply with all applicable provisions of any federal, state, or
8 county law or regulation governing the maintenance, construction,
9 use, or appearance of the dwelling unit and common areas.

10 (2) Keep all areas of the building, grounds, facilities, and
11 appurtenances in a clean, sanitary, and safe condition.

12 (3) Make all repairs and arrangements necessary to put and keep the
13 dwelling unit and the appurtenances in as good a condition as they
14 were, or should by law or agreement have been, when the tenancy
15 began. However, a lease for a single-family dwelling unit may
16 provide that a tenant must pay, up to a maximum annual amount
17 set by executive regulation, for the costs of maintenance of the
18 dwelling unit, but not for replacement of or repairs to structural
19 elements of the building, major appliances, or electrical, plumbing,
20 heating, or air conditioning systems unless replacement or repair
21 of these items is required because of actions of the tenant or any
22 person for whom the tenant is legally responsible.

23 (4) Maintain all electrical, plumbing, and other facilities and
24 conveniences supplied by the landlord in good working order.

25 (5) Supply and maintain appropriate receptacles to remove trash, and
26 pay for its frequent removal. However, the landlord of a single-
27 family dwelling unit must pay for the frequent removal of trash,

28 but need not provide or maintain appropriate receptacles. A lease
29 for a single-family dwelling unit may require a tenant to pay for
30 trash collection service if that service is provided directly by a
31 private trash hauler and the dwelling unit is not located in a County
32 collection district.

33 (6) Supply water and hot water as reasonably required by the tenant
34 and adequate heat as required by Chapter 26. In a dwelling unit
35 located in a common ownership community, the landlord must
36 provide water, hot water and adequate heat to the extent that the
37 landlord is responsible for providing these services. This
38 subsection does not impair any provision in a lease that obligates
39 a tenant to pay for gas, heating oil, electricity, water, or sewer
40 service that the tenant uses.

41 (7) For each unit in a building constructed before July 1, 1978, and for
42 which units are not individually metered, provide the tenant with
43 all information required under the Public Utilities Article of the
44 Maryland Code and applicable COMAR provisions governing:

45 (A) electric and gas submeters; and

46 (B) energy allocation systems.

47 (8) Display in the lobby, vestibule, rental office, or other prominent
48 public place on the premises, a sign in a form approved by the
49 Director that includes information in English, Spanish, French,
50 Chinese, Korean, Vietnamese, and other languages as determined
51 necessary by the Director, about:

52 (A) filing a complaint under this Chapter; and

53 (B) the retaliatory practices prohibited under this Chapter.

54 (9) Supply and maintain air conditioning service either through
55 individual air conditioning units or a central air conditioning
56 system in a safe and good working condition so that it provides an
57 inside temperature of eighty degrees Fahrenheit (80° F.) or less
58 between May 1 and September 30. This subsection does not
59 impair any provision in a lease that obligates a tenant to pay for
60 gas or electricity that the tenant uses.

61 (b) If the duty imposed by subsection (a)(1) is incompatible with, or greater
62 than, a duty imposed by any other part of this Section, subsection (a)(1)
63 governs.

64 (c) Subsections (a)(2) and (a)(5) do not apply to a dwelling unit located in a
65 condominium or cooperative housing structure.

LEGISLATIVE REQUEST REPORT

Bill 24-19

Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning

DESCRIPTION: Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning would amend Section 29-30 of the Code to require a landlord to provide and maintain a certain level of air conditioning service between May 1 and September 1.

PROBLEM: The County Code does not currently require a landlord to supply or maintain air conditioning service.

GOALS AND OBJECTIVES: To require a landlord to supply and maintain air conditioning service for rental housing located in the County.

COORDINATION: Department of Housing and Community Affairs

FISCAL IMPACT: OMB

ECONOMIC IMPACT: Finance

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Christine M.H. Wellons, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Under Code Section 29-8, a violation of Chapter 29 is a Class A violation.



OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich
County Executive

Richard S. Madaleno
Director

MEMORANDUM

August 16, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*
Michael Coveyou, Acting Director, Department of Finance *Michael Coveyou*

SUBJECT: FEIS for Bill 24-19, Landlord-Tenant Relations – Obligations of Landlord – Air Conditioning

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Debbie Spielberg, Special Assistant to the County Executive
Dale Tibbitts, Special Assistant to the County Executive
Lisa Austin, Office of the County Executive
Barry Hudson, Director, Public Information Office
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Monika Coble, Office of Management and Budget
Chrissy Mireles, Office of Management and Budget
Pofen Salem, Office of Management and Budget

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800
www.montgomerycountymd.gov/omb

Fiscal Impact Statement

Bill 24-19, Landlord-Tenant Relations – Obligations of the Landlord – Air Conditioning

1. Legislative Summary

Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months and establish standards for air conditioning service provided by a landlord.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 24-19 will not impact County expenditures or revenue.

Currently, a landlord is not required to provide air conditioning; however, if a landlord does provide air conditioning, it must be in working condition. Adoption of Bill 24-19 will require Housing Code Inspectors to add one more system to its inspection list and protocol, and it is expected to have minimal impact on DHCA's operations.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

See Question #2, Bill 24-19 does not impact expenditures or revenue.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable, Bill 24-19 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Bill 24-19 does not impact staff time.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed to implement Bill 24-19.

10. A description of any variable that could affect revenue and cost estimates.

See Question #2.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Tim Goetzinger, Department of Housing and Community Affairs

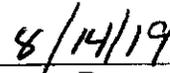
Chris Anderson, Department of Housing and Community Affairs

Dan McHugh, Department of Housing and Community Affairs

Pofen Salem, Office of Department Management and Budget



Richard S. Madaleno, Jr., Director
Office of Management and Budget



Date

Economic Impact Statement
Bill 24-19, Landlord-Tenant Relations – Obligations of the Landlord – Air Conditioning

Background:

Bill 24-19 would require a landlord to provide and maintain air conditioning service for rental housing located in the County during certain months and establish standards for air conditioning service provided by a landlord.

1. The sources of information, assumptions, and methodologies used.

The source of information in the preparation of the economic impact statement was the Department of Housing and Community Affairs (DHCA). There were no other sources of information, assumptions, or methodologies needed by the Department of Finance (Finance) in the formulation of this economic impact statement.

2. A description of any variable that could affect the economic impact estimates.

As noted in the fiscal impact statement, Bill 24-19 will not impact County expenditures or revenue. Currently, a landlord is not required to provide air conditioning; however, if a landlord does provide air conditioning, it must be in working condition. Bill 24-19 would require a landlord to provide air conditioning. Adoption of Bill 24-19 will require Housing Code Inspectors to add one more system to its inspection list and protocol, but this is expected to have minimal impact on operations.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

The bill is not anticipated to have an impact on employment, spending, savings, investment, incomes, and property values in the County. Both the lessee and the lessor face unique consequences and costs if they fail to uphold the terms of their respective contracts. The legislation's potential impact on the aggregate cost to property owners in providing and maintaining a certain level of air conditioning service between May 1st and September 30th cannot be accurately quantified given a lack of specificity of data enumerating the variable cost and number of instances of rental units that are not currently receiving the proper supply and maintenance of air conditioning as specified by the Bill over this time frame.

4. If a Bill is likely to have no economic impact, why is that the case?

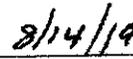
See number 2.

5. The following contributed to or concurred with this analysis:

David Platt and Dennis Hetman, Finance.



Michael Coveyou, Acting Director
Department of Finance



Date



12200 Tech Road, Suite 250, Silver Spring, Maryland 20904-1983

Phone: 301-622-2400

Fax: 301-622-2800

www.MHPartners.org

September 20, 2019

The Honorable Nancy Navarro
President, Montgomery County Council
100 Maryland Avenue Rockville, MD 20850

Dear Council President Navarro:

On behalf of MHP, I would like to commend the Council, and in particular Councilmember Hucker, on introducing Bill 24-19, an a. As climate change becomes more severe and we see rising temperatures and an increase in 90-plus degree days in the region, it is more important than ever that renters have the option to stay cool and safe in their own homes. With that said, I would like to offer the following comments on the proposed legislation.

By way of background, the majority of MHP's properties provide air conditioning via central air or window-units; however, some of our older properties do not. For those properties that don't have central air or existing individual A/C units, we offer residents the option of requesting an in-window air conditioning unit for which we charge a fee during the summer months to cover the cost of increased electricity consumption. As these older properties are rehabilitated or redeveloped, we convert them to central air or individually controlled heating and A/C.

As currently drafted, the bill does not speak to when the regulation would go into effect or how it would be phased in. For MHP, this element is important because we have many properties that are at various stages of planning for redevelopment or rehabilitation. For example, our Forest Glen apartment community does not have central air, but we anticipate breaking ground on a redevelopment of the property within the next two years, which will include central air, among other enhancements. Without an exemption or timeline allowance for these types of projects, there will be a substantial additional cost to the Forest Glen project. Aside from the cost, adding air conditioning to a building that will be torn down or renovated in a year's time would be extraordinarily wasteful. Considering circumstances such as these, one potential option would be to exempt properties that are slated to be redeveloped or rehabilitated in the near future and which have already begun the entitlement process. ①

• Waiver process?

A second consideration to acknowledge is the desires of the tenants. Whenever a tenant opts in and requests a window unit at one of our apartment communities, we readily install them. However, in our experience, many



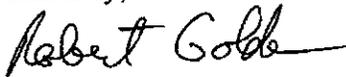
Tenants choose to forego renting an air conditioning unit in order to avoid the additional charge to their monthly rent payment. Requiring A/C to be added to all rental units, irrespective of whether a resident wants it or not, could open the door to landlords gouging their tenants with unreasonable fees. In addition to the cost of purchasing window units, installation will mostly necessitate a dedicated electrical line to be run to each of the units in order to power the A/C. And in some cases, it will mean upgrading the building's entire electrical system – which is an expensive undertaking. Landlords could then pass these costs on to the residents in the form of higher rents. An additional \$50 or more a month is a non-trivial amount to many low-income families. While residents with individually metered apartments will be able to control their energy usage and, hence, costs, residents of master-metered communities will likely be charged for anticipated energy usage associated with the A/C unit regardless of whether the resident uses it or not.

Lastly, as a developer that regularly works to ensure compliance with all laws, we worry that inspections of units where the A/C is not being used and the indoor temperature is above 80 degrees could be viewed by inspectors as a code enforcement violation. To avoid this potential misinterpretation, we recommend that the bill clarify that landlords will not be held responsible if a tenant chooses not to avail themselves of the amenity. (2)

MHP believes that all residents deserve safe, healthy, and habitable units for which they can live quality lives. To that end, Bill 24-19 is one more measure we can take to tangibly improve the quality of life for renters in Montgomery County.

Thank you for your consideration of our views. Please feel free to reach out to me with any follow-up at rgoldman@mhpartners.org or 301-812-4114.

Sincerely,



Robert A. Goldman, ESQ.
President



September 21, 2019

Councilmember Tom Hucker
100 Maryland Avenue
Rockville, Maryland 20850

Concerns re: Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning

Dear Councilmember Hucker,

I am writing to you on behalf of the Greater Capital Area Association of REALTORS® (GCAAR) – the voice of Montgomery County’s more than 11,000 REALTORS®, property managers, title attorneys, and other real estate professionals, as well as thousands of area consumers and residents. The purpose of this letter is to express concerns regarding the impact of Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord - Air Conditioning on single-family homes.

As much of the focus regarding Bill 24-19 has been on multi-family units, GCAAR feels that the impact this legislation may have on single-family homeowners has been overlooked. If a homeowner has different usage practices with their air conditioning – whether for utility cost, environmental considerations, personal comfort, etc. – this would render them unable to rent space in their home or investment property(s).

An air conditioner installation in an older home could present considerable costs to the homeowner. Though a single room window-unit may be more cost effective option for some, many HOAs and CAs prevent such installations and this option can often be cost-prohibitive. For older properties, the installation of a window unit often requires the increasing of the amperage coming into the home – a “heavy-up” – as well as a new electrical panel. If the current window is not compatible with the unit, the owner would need to replace the window. These collective costs, at minimum, would add up to thousands of dollars. This would invariably lead to an increase in rent to cover the property owners’ costs, vaulting some of the most affordable units out into a higher rent tier.

GCAAR believes adding a minimum number of units clause to the legislation would help remedy this issue. If a landlord were required to include a disclosure regarding air conditioning usage for units under the minimum unit cap would help ensure tenants are protected and homeowners are not burdened. An exemption to historic properties and farmhouses, which often structurally don’t have the ability to house an air conditioning unit or system, would also be an important amendment.

It is paramount that a tenant feel safe and comfortable in their place of residence; but we should not overly burden the practices of a homeowner who serves as a landlord at their property if it can be easily avoided without harm to a tenant. GCAAR looks forward to further engagement regarding this legislation. I thank you for your consideration of our Associations’ perspectives. I am more than willing to answer any questions and work with you on this effort.

Sincerely,

Koki Adasi
GCAAR, President

From: Brian Dorsey <brian.j.dorsey@gmail.com>
Sent: Friday, October 18, 2019 4:46 PM
To: Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>
Cc: Lawrence Couch <llobbyst@gadvocacy.org>
Subject: Bill 24-19, Landlord-Tenant Relations -Obligations of Landlord " Air Conditioning

[EXTERNAL EMAIL]

Dear Council President Navarro,

We thank you for your ongoing support for the poor and vulnerable in Montgomery County. The Justice & Advocacy Council of Montgomery County, a voice of the Archdiocese of Washington, supports Bill 24-19, Landlord-Tenant Relations - Obligations of Landlord " Air Conditioning. We support this bill to support all people, including poor and vulnerable people to live in a healthy and safe manner in Montgomery County. We also believe that a landlord should provide and maintain air conditioning service for rental housing located in the County between May 1 and September 30.

The affordable housing crisis is exacerbated by a lack of housing options for low income residents. In 2014, for residents making less than 30% of the Area Median Income (or making approximately \$30,000 a year), there was a housing unit gap of approximately 20,000 units. Additionally, over 55% of rental units were built before 1980. All of this put together means that for many low-income residents are working hard and living in units that are likely at least 40 years old. This may mean many of these units do not have functioning air conditioning. We believe that all housing units should have functioning air conditioning especially low-income young children and older adults who may receive the most perverse health effects from heat during warm weather.

Catholic Social Teaching inform our support of this bill, "the Catholic bishops believe decent, safe, and affordable housing is a human right" .

Thank you for your consideration of our request.

Brian Dorsey, Co-Chair

Larry Couch, Co-Chair

Justice & Advocacy Council of Montgomery County

Council Bill 24-19
Clarifying Amendments Recommended by Staff

Technical Amendments (Based on Office of County Attorney Input):

Amend lines 37-40 as follows.

This subsection [[does not]] must not be construed to impair any provision in a lease that obligates a tenant to pay for gas, heating oil, electricity, water, or sewer service that the tenant uses.

Amend lines 58-60 as follows.

This subsection [[does not]] must not be construed to impair any provision in a lease that obligates a tenant to pay for gas or electricity that the tenant uses.

Amendments to Clarify Measurements of Temperature and Rooms Included (Based on DHCA Input):

After line 1, insert the following.

26-7. Light, ventilation and heating, temperature control.

The owner of each dwelling or dwelling unit must assure compliance with the following standards during human habitation:

* * *

(f) Temperature control – air conditioning. Between May 1 and September

30:

(1) Each owner of rental housing where cooling is not under the control of the tenant must maintain a temperature of no more than 80 degrees Fahrenheit (80° F.) in each habitable space, excluding kitchens, at a distance of 3 feet above floor level.

(2) Each owner of rental housing where the cooling is under the control of the tenant must provide working condition air conditioning capable of maintaining a temperature of no more than 80 degrees Fahrenheit (80° F.) in each habitable space, excluding kitchens, at a distance of 3 feet above floor level.

- (3) This subsection must not be construed to permit any violation of a fire safety requirement under Section 26-8(a).

Amend lines 54-60 as follows.

- (9) Supply and maintain air conditioning service either through individual air conditioning units or a central air conditioning system in a safe and good working condition so that it [provides an inside temperature of eighty degrees Fahrenheit (80° F.) or less between May 1 and September 30] meets the requirements of Section 26-7. This subsection does not impair any provision in a lease that obligates a tenant to pay for gas or electricity that the tenant uses.

Notes: The Committee might wish to change the applicable time of year. The Committee also may wish to add common areas, include kitchens, and/or add bathrooms.