



cityhealth

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# Addressing America's Housing Crisis

Three Local Policy Solutions to Promote Health and Equity in Housing



**CityHealth**, an initiative of the de Beaumont Foundation and Kaiser Permanente, works to advance a package of tried and tested policy solutions to ensure all people in our largest cities have access to healthy choices. Together with visionary city leaders, CityHealth helps cities adopt policies that can make their communities healthy and resolve critical health disparities – now and decades down the road. Learn more at [cityhealth.org](http://cityhealth.org).

**Enterprise Community Partners** is a national nonprofit that exists to make a good home possible for the millions of families without one. We support community development organizations on the ground, aggregate and invest capital for impact, advance housing policy at every level of government, and build and manage communities ourselves. Since 1982, we have invested \$54 billion and created 873,000 homes across all 50 states, the District of Columbia and Puerto Rico – all to make home and community places of pride, power and belonging. Join us at [enterprisecommunity.org](http://enterprisecommunity.org).

Enterprise Advisors, the advisory services division of Enterprise Community Partners, supported the development of the Affordable Housing Trusts and Healthy Rental Housing sections of this report. The views in this report do not necessarily reflect those of Enterprise Community Partners.

The **National Coalition for a Civil Right to Counsel (NCCRC)**, organized and funded in part by the Public Justice Center (PJC), encourages, supports, and coordinates advocacy to establish and implement a right to counsel for low-income people in civil cases that involve basic human needs, including housing. The right to counsel for tenants facing eviction is a significant focus area, and we have supported advocates in most of the 18 jurisdictions that established such a right. We assist these places as they implement the right to counsel, as well as nascent efforts around the country. Learn more at [civilrighttocounsel.org](http://civilrighttocounsel.org).



[cityhealth.org](http://cityhealth.org)



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# INTRODUCTION

**T**he quality, safety, affordability, stability, and even the location of one's home has profound implications for a variety of health outcomes. However, across the United States, communities are faced with housing-related challenges that require tailored interventions.

Recognizing that many cities face local housing challenges, CityHealth, an initiative of the de Beaumont Foundation and Kaiser Permanente, works with local leaders on a suite of housing policy solutions that provide municipal leaders a pragmatic yet aspirational roadmap to produce and preserve affordable housing — as well as to promote housing stability for renters and those at risk of homelessness. CityHealth identified **Affordable Housing Trusts**, **Healthy Rental Housing**, and **Legal Support for Renters** as viable policies demonstrating health impact.

1. **Affordable Housing Trusts** are funds that are flexibly designed to address local housing needs, including the development of affordable homes, preservation and maintenance of existing homes, homeownership initiatives, and protections for renters, including increased legal representation in court and emergency assistance.
2. **Healthy Rental Housing** policies can help cities preserve and maintain existing housing through proactive inspections that enforce relevant health and safety laws. Renters, primarily those who are low income, stand to benefit with improved access to safe and healthy living conditions.
3. **Legal Support for Renters** policies help cities grapple with the growing eviction crisis by providing a right to counsel for tenants facing eviction, which is a proven intervention that can keep more tenants housed, decrease use of homeless shelters, and help tenants who have to or want to move do so in a way that preserves long-term housing stability.

Housing issues are complex and interrelated. Increased demand has led to rising housing costs, and rising housing costs undermine equitable access to those neighborhoods with critical quality of life factors such as walkability, access to green space, safety, and more. Local leaders have the opportunity to adopt these three tested interventions to preserve and expand affordable housing, identify and prevent the conditions that lead to poor health, and protect renters who may be at risk of eviction.

The magnitude and range of America's housing problems require cities to utilize many tools and policies. CityHealth's three interconnected, demonstrably effective, and cost-effective policy solutions can contribute to the health of a city's population by increasing housing affordability and availability, safety, and stability — and can advance health and racial equity. Local leaders have the power to institute and fund these policies and, thereby, meaningfully address their local housing challenges.

## Understanding Local Housing Context

### Challenges to obtaining and retaining healthy, affordable housing

Across the country, cities of all sizes are battling iterations of the same housing crisis, which has only been exacerbated by the COVID-19 pandemic. From Omaha to Tucson to Miami, renters are spending exorbitant sums on housing while access to affordable housing is in decline.<sup>1</sup> This affordability problem has been compounded by widespread gentrification, which can increase housing unaffordability and shunt low-income renters into unaffordable and/or predatory housing situations.<sup>2</sup> Tenants in such housing are far more vulnerable to eviction, a process that has a cascading effect on economic stability and access to affordable housing, which in turn risks beginning the cycle all over again.

*“For much of the 20th century, inadequate supply, deteriorated structures, and inadequate facilities were America’s dominant housing problems, but for at least the past 50 years, the primary and most rapidly growing problem for renters has been affordability.”*

— G. Thomas Kingsley, *Urban Institute*<sup>3</sup>

In 2021, it was estimated that “one in four renters pays over half of their monthly income toward rent, leaving barely enough to cover food, clothing, and healthcare, much less save for emergencies or build wealth.”<sup>4</sup>

Renters with the least income pay relatively more for their housing, as “[e]xtremely low-, very low-, and low-income households together account for over 98% of all severely cost-burdened renters.”<sup>5</sup> Though in need of assistance, many of these renters have to wait years for housing vouchers.<sup>6</sup>

### **Affordable housing is often substandard**

The lack of affordable housing for low-income renters has forced many such renters into neighborhoods classified as high-poverty.<sup>7</sup> Lower-income households are also siphoned into older housing that is inadequate or substandard, and requires maintenance and repair, because, in general, such housing is cheaper to rent.<sup>8,9</sup> In 2019, approximately 10% of households making less than \$15,000 per year rented “inadequate housing,” double the rate of those earning \$75,000 and above.<sup>10</sup> Substandard housing — particularly for low-income renters already facing health issues — can directly and negatively impact renter health as the household faces hazards that could cause illness or disease. Poor housing conditions can also damage children’s physical and emotional development.<sup>11</sup>

Tenants living in these dangerous and fragile situations are likely to have a greater need for basic tenant protections that have been shown to stabilize existing housing, such as robust and enforceable healthy housing inspection programs. Moreover, given the legal issues raised by substandard housing, the general complexity of eviction proceedings, the fact that landlords are routinely represented, and the massive consequences of being involuntarily displaced, all tenants need legal representation when facing eviction in order to adequately address the substandard conditions and protect their long-term housing stability. Yet, in most of the country, tenants lack access to legal representation.

### **Racial inequities in housing widen disparities**

Disparities have persisted in housing because many policies and practices over the last century — such as restrictive covenants, redlining, blight and appraisal guidelines, and exclusionary zoning — were racially discriminatory and have not been adequately remedied. The outcomes of this enduring legacy, as well as current housing challenges residents face, vary jurisdictionally. People of color, particularly Black Americans, continue to be cut off from safe, affordable, healthy, and stable housing opportunities not only because of the aftereffects of historical policies, but because active housing discrimination by both individual actors (such as landlords) as well as system actors (such as banks, realtors, and government agencies) continues to this day.<sup>12</sup> Laws and policies that formally and informally limit homeownership opportunities among people of color have also contributed to an increasing racial wealth gap.<sup>13</sup>

Meanwhile, opportunities for affordable housing are only decreasing, with a disproportionate impact on renters of color. Today, people of color are more likely than white people not only to rent, but to fall into the category of extremely low-income renters.<sup>14</sup> In a recent analysis of housing affordability across 100 metro areas, the National Equity Atlas found that between 2013 and 2019, “...even as the economy was recovering and median incomes increased for households of all races and ethnicities — the number of ZIP codes with median market rents affordable to median-income Black households decreased by 14%.”<sup>15</sup>

Renters of color are also disproportionately at risk of eviction.<sup>16</sup> In an analysis of eviction court records across 39 states between 2013 and 2016, the Eviction Lab at Princeton University found that both filing and eviction rates were “significantly higher” for Black renters compared to white renters; furthermore, the eviction rate was higher for Black and Latinx women compared to Black and Latinx men.<sup>17</sup>

Renters facing eviction are generally unrepresented and unlikely to prevail, leading to additional economic and health-related harms

Once faced with eviction, on average, only 3% of tenants are represented in eviction proceedings nationwide, compared to 81% of landlords.<sup>18</sup> When compared to represented tenants, unrepresented tenants are removed from their homes more often, wind up with negative eviction records more often, and pay more in eviction-related costs and rent arrears. Even where unrepresented tenants avoid eviction, they often enter into unfavorable settlements with obligations that they cannot meet.<sup>19</sup>

Evictions have their own health-related harms, as they increase the probability of a hospitalization for a mental health condition, the number of emergency room visits, substance use relapse, the likelihood of maternal depression, and a negative impact on self-reported mental and physical health.<sup>20</sup> This is due not only to the stress of possible displacement or homelessness, but also because evictions force many renters into even more substandard housing, are a driver of homelessness, and severely constrict future housing accessibility and opportunity. Evictions during the pandemic also increased exposure to and death from COVID-19.<sup>21</sup>

## The intersection of housing and health

All aspects of housing — including opportunity and accessibility, affordability, safety, and stability — are connected to health.<sup>22</sup> Substandard, unsafe housing — especially in cities where housing code inspection and enforcement mechanisms are weak and tenant options for legal redress are nonexistent or unrealistic due to a lack of legal representation — can directly and negatively impact tenant mental and physical health in various ways.<sup>23</sup> Poor-quality housing with water leaks can lead to mold growth and the development of respiratory health issues.<sup>24</sup> Housing that lacks sufficient insulation can leave residents exposed to the cold, which can affect blood pressure.<sup>25</sup> And tenants whose health worsens due to housing conditions can find themselves facing a series of challenges that may contribute to “unemployment, poverty, and homelessness.”<sup>26</sup>

Workers with poor health can lead to decreased income or job loss due to missed work or diminished productivity (often with a concomitant loss of healthcare coverage) and a simultaneous increase in health-related expenses that threaten continued occupancy. Poor health — particularly for low-income renters spending more than 30% or more of their household income on rent and utilities — can quickly lead to the non-payment of rent, the foremost reason for eviction in this country.<sup>27,28</sup> Policies that promote access to flexible funding sources for renter and homeowner needs, proactive rental inspection systems, and legal representation for all renters facing eviction can address these issues and benefit health.



## AFFORDABLE HOUSING TRUSTS

### What is an Affordable Housing Trust?

While many communities across the country have similar housing-related resource needs, each has unique population and market conditions. An Affordable Housing Trust is a flexible funding tool that allows local leaders and policymakers to meaningfully respond and support housing affordability and stability initiatives.<sup>11</sup> These trust funds are uniquely designed so that dollars remain in the fund, even if they are not expended in a fiscal year, and are strictly dedicated to eligible housing-related activities. Affordable Housing Trusts are a powerful tool that can help make communities more livable and accessible for residents of all incomes, especially those with the lowest incomes. According to the Affordable Housing Trust Fund Project, 122 cities have housing trust funds, generating revenues in excess of \$1.2 billion in 2021.<sup>29</sup>

### How can Affordable Housing Trusts promote public health?

Affordable Housing Trusts can promote public health in several ways. First and foremost, local entities can utilize funding from trusts to support repair and rehabilitation programs that are designed to address health- and safety-related issues. Second, increasing



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cities have housing trust funds, generating revenues in excess of **\$1.2 BILLION** in 2021

the supply of affordable housing can indirectly have health benefits for residents, particularly residents with lower incomes. For example, when a resident with limited income is able to reduce the amount they spend on monthly housing costs by living in a home that is affordable to them, they are able to spend more resources to meet their needs related to healthy food, insurance, and medications.<sup>30</sup> Furthermore, by decreasing the amount that households spend on housing, the potential for an eviction based on the non-payment of rent decreases.<sup>31</sup> This in turn can not only prevent eviction related harms to residents, but also allow resources to be more strategically used on Legal Support for Renters policies.

i While trust funds can, and have, been created at the federal and state levels, this report is focused on local affordable housing trusts.

## What are the primary benefits of Affordable Housing Trusts?

Local officials and policymakers can use Affordable Housing Trusts to directly respond to both their residents' needs and aspirations. Affordable Housing Trusts can provide stable and sustainable funding for housing affordability efforts. Unlike federal, state, or some private dollars that come with stringent regulations, local trusts can be designed to be as flexible as possible to address the most pressing local needs. Depending on the source, these dollars can be used to fund a range of activities, including the production and preservation of affordable rental homes, workforce rental housing, permanent supportive housing for residents who are experiencing homelessness, and affordable for-sale homes. Funds can also be used to support housing-related programs that directly benefit individuals and families. For example, a local policy can allocate funding to owner-occupied home rehabilitation programs to address health and safety issues, down payment assistance for low- and moderate-income homebuyers, or legal assistance programs — including Legal Support for Renters policies.<sup>ii</sup>

Affordable Housing Trusts are also unique tools that entities can use to create housing finance products that are needed in their respective markets. Policymakers can dictate the structure, terms, and eligible uses of the loans or grants they design to deploy funds. Additionally, policy guidelines can be drafted to advance local housing and complementary policy priorities, including neighborhood stabilization, economic mobility, environmental sustainability, workforce development, and access to education. Finally, depending on how they are structured, Affordable Housing Trusts can expand the capacity for affordable housing development. By increasing the overall funding pool for development, developers may be able to build and preserve more affordable homes for residents. Policymakers can also consider creating set-asides for local non-profit developers who often have less access to capital — and need more affordable capital — than their for-profit counterparts. Accessing these funds can increase their ability to receive other, often more competitive, resources as they gain development experience and generate more income.

## How can affordable housing trust funds advance racial equity?

While many local housing and finance policies — such as exclusionary zoning, redlining, and restrictive covenants — have historically been used to exclude and disenfranchise communities of color, leaders today have the opportunity to intentionally design policy development processes and Affordable Housing Trusts to help reduce inequities and move their communities toward more inclusive futures. With these aims in mind, policymakers designing community and stakeholder engagement strategies can work to create open and inclusive processes that are accessible to residents of color. While data are able to highlight macro-level disparities, residents can provide more nuanced understandings of housing-related needs that may not show up in census data or market analyses. Policymakers should also consider how and when they are soliciting input, including the time and location of any public meetings or focus groups, language accessibility, and methods of outreach.

While government entities are limited in developing race-explicit policies, they are able to conduct race-explicit analyses and create solutions to address identified disparities.<sup>32</sup> These analyses consider where previous housing investments have gone — have they excluded neighborhoods that are majority people of color? Have they perpetuated segregation? For resident-oriented programs, who has benefitted from them historically? Are there program rules in place that inadvertently exclude certain people of color? When conducting financial analyses of potential sources, policymakers should also consider the impact of imposing/increasing any tax or fee on communities of color to ensure it does not have a regressive impact.<sup>33</sup>

Finally, local governments should also consider supporting homeownership for first-time homebuyers through Affordable Housing Trust policies and supporting community ownership models. One way Affordable Housing Trusts can be used to address the racial wealth gap is by increasing access to homeownership.<sup>34</sup> However, building affordable for-sale homes and providing down payment/closing cost assistance alone cannot close the racial wealth and

ii For a more extensive list of uses, see page 8.

homeownership gaps.<sup>35</sup> Local governments can also consider examining property appraisal and tax policies to create long-lasting systems change relating to inter-generational wealth building. Furthermore, providing

funding to community land trusts and other organizations that use cooperative ownership and shared equity models can both support permanent affordability and build community wealth.<sup>36</sup>

## What are common funding sources for Affordable Housing Trusts?

The most effective Affordable Housing Trusts are supported by dedicated and recurring sources rather than one-time allocations. Jurisdictions utilize a range of sources, depending on their local political and market contexts. Please note that there may be limitations on the uses of the following sources imposed by current state and local laws.

|  |  |
|--|--|
| <b>Developer fees (including linkage and impact fees):</b> | Fees assessed to developers for new construction to account for their impact on their surroundings. While many communities use their impact fee funds “to pay for the construction or expansion of off-site capital improvements that are necessitated by and benefit the new development,” affordable housing development is often not considered an eligible use under existing laws. <sup>37</sup> As such, linkage fees have emerged as an additional (per square foot) fee imposed on commercial and/or residential developments to financially “link” the economic impacts of market rate real estate development with funding for housing affordability tools and programs. |
| <b>Documentation recordation fees:</b>                     | Charges imposed per page on documents that are processed and added to the public record. <sup>38</sup> As some states require a direct connection between the source of the fee and the subsequent use of the revenue, deed/mortgage recordation fees are commonly used to fund Affordable Housing Trusts.   |
| <b>Real estate transfer fees:</b>                          | Charges imposed at the point of a real estate transfer relative to the value of property. To ensure the fee does not have a regressive impact, some municipalities impose real estate transfer fees on homes sold or transferred above a certain price point. The fee can be imposed on the seller and/or buyer. <sup>39</sup>   |
| <b>Short-term rental fees:</b>                             | As researchers are finding that the presence of short-term rental units can increase nearby home prices while removing units from the market for residents, municipalities are beginning to impose taxes or fees on their owners. <sup>40</sup>  |
| <b>Local property tax revenues:</b>                        | A portion of local property taxes can fund Affordable Housing Trusts. Local policies can be crafted to exclude homes beneath a certain assessment value threshold to mitigate potential regressive effects.  |
| <b>Recurring appropriations:</b>                           | Local governments can also establish recurring general fund appropriations through policy. They might allocate a certain percentage of the annual budget or establish a minimum dollar amount that must be allocated through the budgeting process.  |

## What are common uses of Affordable Housing Trusts?

The uses of an Affordable Housing Trust are ultimately tied to the funding sources, as well as any related state or local laws. While policies should be written broadly to allow for optimal flexibility to meet local needs, the following uses may be considered:

- Acquisition fund
- Development (rental and for-sale)
  - Affordable debt financing
  - Development subsidy
  - Operating subsidy
  - Project-based rental assistance
- Homeownership
  - Owner-occupied rehab
    - Health and safety repairs
    - Energy efficiency retrofits
    - Weatherization
  - Down payment and closing cost assistance
  - Subsidized mortgages
  - Foreclosure prevention
- Tenant financial assistance
  - Rental assistance program
  - Emergency financial assistance
    - Limited period rental assistance
    - Security deposit assistance

## Considerations for adopting an Affordable Housing Trust policy

Before creating or modernizing an Affordable Housing Trust policy, it is important to understand a community's housing needs, the gaps that exist in the local housing finance ecosystem, the local and state enabling environment, the different policy creation protocols that may apply, and the most suitable administrative entity or entities (e.g., housing department, city planning department, public housing authority, or economic development authority). Leaders and policymakers should employ a community- and data-driven approach to intentionally move toward equitable outcomes.

## Community and stakeholder engagement

Before developing an Affordable Housing Trust policy, it is important to create an inclusive community and stakeholder engagement strategy to shape the content of the policy, help build political support, and foster equitable outcomes. It is critical to bridge any disconnects between policymakers and the residents a program is intended to serve. While moving toward the legislative process, local governments should also engage other stakeholders (e.g., non-profit organizations, tenant coalitions, public agencies, developers, legal aid organizations, housing advocates, and other affordable housing professionals).

Once a policy has been passed, additional engagement for the development of annual program guidelines and priorities is recommended. Participatory budgeting is one innovative approach to allocating funds that gives residents direct decision-making power.<sup>41</sup> Local governments can also consider hosting focus groups while creating application and underwriting protocols to maximize the impact of the funding.

## Policy objectives and programmatic goals

To optimize an Affordable Housing Trust policy, it is essential that policymakers understand their high-level policy goals and objectives. To do this, one must understand the broad housing-related needs of residents and neighborhoods. While Affordable Housing Trust policies should be written in such a way that will allow flexibility over time, they should also be explicit about who the funds are intended to benefit by outlining affordability requirements to ensure the tool remains an Affordable Housing Trust. Local policymakers should then consider the existing tools and resources used to reach these goals (including state housing trust funds, federal grants, tax credits, abatements, private and philanthropic resources, and others) and conduct a gap analysis to identify where — and how much — local flexible funding would be impactful.

## Financial impact and sustainability

Local entities can conduct financial modeling to better understand how much revenue can be generated by various sources and analyze how reliable the source will be in changing economic conditions.<sup>42</sup> If creating a new policy, note that the option to mandate that the fund be increased over time through policy may be

appropriate. For example, the Atlanta City Council recently passed an Affordable Housing Trust policy that scales up the annual appropriation from 1% to 2% over three years.<sup>43</sup>

### **Process and enabling environment**

As policymakers consider what source is most suitable to fill priority gaps, they must also understand any relevant state policies. For example, some states have limitations on how particular fees are used. Additionally, local policymakers should have a clear understanding of how any potential source would be created while contemplating what source(s) are most suitable to fund their Affordable Housing Trust. Certain states require enabling legislation to be passed at the state level before a local government can adopt new fees or taxes while others mandate voter referenda, depending on the source.

### **Administration**

An effective Affordable Housing Trust policy also outlines the entity or entities responsible for implementing the policy. Policymakers should identify 1) what entity is most capable and suitable for collecting the selected source and 2) what entity is most capable and suitable for administering the fund. In some cases, they may be one and the same; however, in others, it may be best for one department to collect a fee and another to administer the program(s). For example, if the selected source is a fee that is collected during the zoning or permitting process, it would make sense for the city government to receive the fees. However, a local development authority that manages other housing finance programs may have more capacity to administer the program, deploy the funds, and monitor compliance. Alternatively, it may be determined that an external organization should be charged or created to manage the fund.<sup>44</sup>

While an Affordable Housing Trust policy should be written to optimize flexibility to meet local needs, the administering entity or entities should develop program guidelines to outline annual priorities, application processes, loan product structures, underwriting, and compliance policies that are evaluated and updated periodically.

### **Oversight and accountability**

Effective Affordable Housing Trust policies promote accountability and transparency. One way to approach this is by requiring that the trust have a multi-stakeholder oversight body with clearly defined roles and responsibilities. Local governments can be explicit in their policies with the perspectives and skills they want to have included across the oversight body. This could include representatives with lived experience with housing instability or affordable housing programs, social service providers, nonprofit and for-profit developers, attorneys, contractors or builders, community land trust leaders, property managers, and public sector staff.<sup>45</sup> Local policies should also be clear about how representatives are appointed. Necessary resources, including staffing and funding, should be allocated to support oversight bodies. Additionally, due to the nature of the oversight body, local governments should consider what appropriate guardrails are needed to minimize conflicts of interest and other potential abuses of power. Furthermore, meetings should be public, accessible, and meet all open meeting laws.

Another way to foster accountability and transparency is by mandating annual reporting. Effective policies define the objectives and outcomes that are to be measured and reported over time (i.e., amount of funding expended per activity, affordable units created and preserved, residents served by programs, demographics of residents served, geographic distribution of resources, demographics of developers receiving funding, etc.). An annual report can also be an effective way to educate elected officials and the public about the importance and impact of housing affordability resources.<sup>46</sup>

If local governments have the capacity, they may also consider developing a dashboard that represents developments supported by their Affordable Housing Trust (and other housing resources). For example, the San Francisco Mayor's Office of Housing and Community Development has created a development pipeline snapshot that allows users to see how developments are funded, how many units they have, affordability levels, location, tenure, projected development completion, and more.<sup>47</sup>

## Case Studies



### DENVER

Denver established the Dedicated Affordable Housing Fund in 2016 in response to the community’s housing challenges laid out in its 2015 Housing Report.<sup>48,49</sup>

After conducting research and financial modeling on viable funding sources, as well as facilitating extensive stakeholder engagement, the city moved forward a

policy proposal to dedicate revenue from linkage fees and a portion of the city’s property taxes to the dedicated affordable housing fund. Revenue from a 2% tax on marijuana has also been added as a funding source. The policy sets specific uses and affordability levels for each funding source:

| Source   | Purpose  | Affordability Requirement (AMI = Area Median Income) |
|--|--|--|
| Linkage fee  | Increase supply of affordable rental housing   | < 80% AMI  |
|  | Increase supply of affordable for-sale housing   | < 80% AMI  |
|  | Support homebuyer assistance programs  | < 80% AMI  |
| Affordable Housing Property Tax and Other Local Revenue Fund | Production or preservation of rental housing   | < 80% AMI  |
|  | Production or preservation of for-sale housing   | < 100% AMI   |
|  | Homebuyer assistance   | < 120% AMI   |
|  | Development and preservation of supportive housing for homeless persons and supportive services                  |  |
|  | Support low-income individuals at-risk of displacement due to gentrification (i.e., homeowner emergency repairs) |  |

The affordability requirements define both income eligibility and maximum rent and sales price (as applicable). For example, rental units funded with housing trust fund dollars must be considered affordable to households with incomes of 80% of the area median income (AMI).<sup>iii</sup> This means the rent cannot be greater than 30% of the monthly income of a household with

an income of 80% AMI. Additionally, only households with incomes of 80% AMI or less are eligible to live in these units.

The policy also created the housing advisory committee, now known as the Housing Stability Strategic Advisors, and defines its composition and duties.

<sup>iii</sup> The United States Department of Housing and Urban Development publishes area median income datasets and related income limits on an annual basis.

According to the Affordable Housing Fund Policy Review that was published in December 2021, \$84.8 million had been allocated to the Affordable Housing Fund between 2017 and 2021. Of those funds, \$65.4 million was allocated for development purposes (creation and preservation of 2,939 affordable homes) while \$19.5 million was used to provide services (i.e.,

legal assistance, community navigation, temporary rent and utility assistance, services in supportive housing settings, and home sharing) to 6,305 households.<sup>50</sup> The report also provides a detailed summary of the Affordable Housing Fund's sources and outlines challenges and lessons learned through the administration of the fund.

## PHILADELPHIA



According to Philadelphia's Fiscal Years 2020–2021 Housing Trust Fund report, the city has assisted approximately 62,000 households through \$221 million invested from its local Affordable Housing Trust since 2006 — with an estimated \$447 million leveraged against these funds.<sup>51</sup> Philadelphia's Affordable Housing Trust sources include document recording fees and “tax revenue raised by properties with... expiring 10-year tax abatement(s).” Uses of the fund include affordable development financing, down payment assistance, owner-occupied home health and safety rehabs, legal services, and financial assistance for those at-risk of homelessness.

In fiscal years 2020–2021, the city invested \$61 million to support the development and preservation of 339 affordable rental units, provided down payment assistance to 2,744 homebuyers, offered services to 3,034 residents, and helped 9,249 homeowners remain in their homes with its home improvement program. The Philadelphia Affordable Housing Trust has an oversight body with representatives from City Council, the city's Department of Planning and Development, non-profit organizations, and community development professionals.



## CityHealth Medal Criteria

Based on best and emerging practices, CityHealth has set its medal criteria for local governments as a part of its 2.0 Policy Package:

| MEDAL CATEGORY   | AFFORDABLE HOUSING TRUST CRITERIA   |
|--|---|
|  Bronze | <ul style="list-style-type: none"><li>✓ City has established an affordable housing trust fund.</li><li>✓ City policy includes a multi-stakeholder oversight board.</li></ul>  |
|  Silver | <ul style="list-style-type: none"><li>✓ City has established an affordable housing trust fund.</li><li>✓ City policy includes a multi-stakeholder oversight board.</li><li>✓ City policy identifies or establishes a dedicated revenue source to fund the trust.</li></ul>  |
|  Gold   | <ul style="list-style-type: none"><li>✓ City has established an affordable housing trust fund.</li><li>✓ City policy includes a multi-stakeholder oversight board.</li><li>✓ City policy identifies or establishes a dedicated, recurring revenue source to fund the trust.</li><li>✓ City policy references affordability levels.</li><li>✓ City policy requires regular evaluation and public reporting on how trust funds have been spent.</li></ul> |



## HEALTHY RENTAL HOUSING

### What is a Healthy Rental Housing policy?

Inadequate or substandard housing conditions can lead to negative health impacts and exacerbate existing health conditions for an individual.<sup>52</sup> This reinforces the importance of maintaining and bringing homes up to a safety standard that promotes the health and safety of individuals and families in their homes. As rental homes are more likely to be in substandard conditions than owner-occupied housing, local jurisdictions are working to bring rental homes in their community to safe, habitable standards and mitigate the dangers of substandard housing.<sup>53</sup>

Jurisdictions have used code enforcement strategies to address substandard housing.<sup>54</sup> There are two main approaches to enforce building codes. The traditional approach for code enforcement is complaint-based, whereby jurisdictions are largely reactive to resident complaints about substandard housing conditions. Healthy Rental Housing policies (often referred to as proactive rental inspection policies), however, enact a systematic approach to identifying substandard conditions. Instead of relying on complaints, jurisdictions have periodic inspections of rental units conducted. Cities across the country, including Boston and Stockton, have adopted robust policies while others,

including Cleveland and Seattle, are taking steps toward the latter approach in efforts to improve the quality of housing for renters.

Beyond basic building and housing codes, most states provide renters with a right to a habitable unit through the legal principle of “implied warrant of habitability.”<sup>55</sup> In jurisdictions where renters have a warrant of habitability, policymakers should consider using it as the health and safety standard for inspections if building and housing codes are not as extensive. For example, Oregon has extensive habitability standards, including weatherproofing and waterproofing, that are not always explicitly stated in other codes. For jurisdictions in states that do not provide a warrant of habitability, building and housing codes should be used to inform inspection requirements.<sup>56</sup>

### How can Healthy Rental Housing policies promote public health?

The objective of Healthy Rental Housing policies is to minimize the number of renters living in homes with unhealthy and unsafe living conditions that can lead to or exacerbate physical and mental health issues. These policies advance public health by preserving and creating safe, healthy living conditions for renters. When

implemented effectively, Healthy Rental Housing policies ensure that existing healthy homes are well maintained and bring substandard rental homes up to livable standards.

Healthy Rental Housing policies can address a range of health and safety housing conditions, which may vary as communities face unique challenges based on geography and market conditions. However, there are a common set of health and safety code violations that are often considered:

- ▶ **Pests:** Pests in the home are more than a visually disturbing nuisance as they can exacerbate asthmatic symptoms or spread of illnesses.<sup>57</sup>
- ▶ **Moisture/mold:** Exposure to damp and moldy environments may trigger a variety of health effects, such as upper respiratory tract issues, asthma symptoms, and mold-related infections.<sup>58</sup>
- ▶ **Ventilation:** Proper ventilation is needed to prevent the concentration of contaminants or viruses in the air, as well as to reduce the hazards of certain cleaning products.<sup>59</sup>
- ▶ **Presence of chemicals, including lead:** Lead is a highly toxic metal that may cause a range of health problems. When lead is absorbed into the body, it can lead to severe health problems, as well as behavioral issues.<sup>60</sup>
- ▶ **Unsafe conditions:** Unsafe housing conditions, including structural damage, non-functional utilities, or broken appliances, can cause harm to residents.

## What are the primary benefits of Healthy Rental Housing policies?

Healthy Rental Housing policies provide several benefits to the communities where they are implemented. These policies are preventive measures that can increase the safety and quality of all rental housing units, including those affordable to residents with low incomes.

Healthy Rental Housing benefits include:

- ▶ **Protects vulnerable renters:** Healthy Rental Housing policies can help jurisdictions identify health and safety issues while removing the onus

from residents to report violations. Vulnerable renters may be hesitant to report issues to jurisdictions for a fear of retaliation, which could include eviction or non-renewal of leases. These concerns are heightened for those who distrust government systems, face language barriers, and have difficulty navigating government programs and/or online systems. This may include immigrant households, including those who are undocumented or have mixed immigration statuses.

- ▶ **Provides resources for landlords:** Healthy Rental Housing programs can support landlords by providing assistance in the form of preventative maintenance tactics, identifying local resources for smaller landlords, and education on health housing codes.
- ▶ **Decreases evictions:** Healthy Rental Housing policies can decrease evictions based on the non-payment (or withholding of) of rent due to substandard living conditions or increased repair costs borne by the renter. Where a Legal Support for Renters policy accompanies a Healthy Rental Housing policy, tenants have greater access to representation when seeking legal redress if landlords do not maintain their properties. Reduced evictions can mitigate negative impacts on both families and communities.
- ▶ **Protects surrounding homes:** When unsafe and unhealthy housing conditions are left unaddressed, they can also affect surrounding homes. Healthy Rental Housing policies can help address blighted properties, which can decrease surrounding property values, pose larger safety hazards, and negatively impact the local housing market.<sup>61,62</sup>

## What equity considerations should be made for Healthy Rental Housing policies?

When designing a Healthy Rental Housing policy, it is important to consider an equity framework and supporting programs to 1) mitigate unintended consequences for local landlords and 2) minimize the displacement of renters. A framework that strategically and equitably deploys resources to landlords, particularly local landlords who provide affordable rental options to renters, can support their financial sustainability while preserving unsubsidized affordable housing opportunities.

Effective Healthy Rental Housing policies have also developed supplemental programs that support renters through tenant relocation assistance, translation services, and rent escrow account programs. Cities should also educate inspectors on their language access plans/tools and provide relevant resources on cultural competency. Policymakers may also consider how they can

align Healthy Rental Housing programs with inclusive hiring policies. By developing an equity framework and developing supportive tools, cities can enable greater positive outcomes for low-income residents who are otherwise most at-risk of living in substandard conditions.

## Considerations for adopting a Healthy Rental Housing policy

The power a jurisdiction has to regulate properties to address the health, safety, and general welfare varies widely state by state. In some states, these powers must be expressly permitted by state legislation, while other states do not need enabling state legislation. Jurisdictions can consult with legal advisors to examine the proper approach when establishing Healthy Rental Housing policies.

Healthy Rental Housing programs vary across jurisdictions based on available funding, capacity, and community resources. These elements should be considered when developing a Healthy Rental Housing policy:

|   |  |
|---|--|
| <p><b>Rental housing types</b></p>              | <p>A critical question to answer when establishing a Healthy Rental Housing program is what rental housing on which it should be focused. Jurisdictions need to define if the Healthy Rental Housing policy will target multifamily units and/or single-family homes. After the Great Recession, there was a general increase in the rental rate across the United States, with an increase of single-family inventory listed as rental homes.<sup>63</sup> When considering multi-family units and single-family units, additional considerations should be made for the exterior and interior inspection process, as they have structural differences.</p>                                 |
| <p><b>Rental registration and licensing</b></p> | <p>Developing a comprehensive rental registry is essential in the implementation of a Healthy Rental Housing policy. To effectively maintain a registry, property owners should be required to register their rental properties with jurisdictions on an annual basis. Information that should be tracked and kept up to date includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Property owner contact information and property details</li> <li>• Code compliance information, such as inspections, outcomes of inspections, and compliance follow-up, if needed</li> <li>• Complaints filed for code violations</li> </ul>                                     |
| <p><b>Funding</b></p>                           | <p>Healthy Rental Housing policies require adequate funding to cover costs (i.e., administration, inspections, collateral, etc.). While some jurisdictions require property owners to pay an initial and/or annual registration fee, others charge fees for failure to register instead. Additional fees may be assessed for inspections. Furthermore, landlords may face monetary penalties for violations of the housing codes. Federal funding programs, including the Community Development Block Grant (CDBG) program, offer participating jurisdictions flexibility to fund a range of program activities, including rental property and code enforcement activities.<sup>64</sup></p> |
| <p><b>Administrative approach</b></p>           | <p>In many cases, the agency responsible for code enforcement takes the lead for administering a Healthy Rental Housing policy. However, as these policies have developed and evolved over time, the practice of the cross-agency collaboration has helped increase the capacity in agencies when resources and expertise are constrained. There is also a positive impact in sharing information across agencies and reducing the duplication of efforts. Health, buildings/permitting, and housing agencies are well positioned to collaborate with each other to improve Healthy Rental Housing programs.</p>   |

|                          |   |
|--------------------------|---|
| <b>Inspections</b>       | Jurisdictions need to consider the scope of inspections that will be mandated when developing their policies. While exterior inspections may find visible health and safety violations, to fully understand a property's condition, an additional interior inspection is needed to investigate the breadth of potential housing issues. As it may not be financially feasible for every home to be subjected to an interior inspection, it is an effective practice for exterior violations to trigger interior inspections. There are also a variety of practices when it comes to the frequency of inspections. In some cases, property owners may conduct self-inspections. If using this approach, jurisdictions can provide trainings to property owners with histories of meeting compliance standards to assess and report on their properties and conduct less frequent inspections (such as every three-to-five years). This allows jurisdictions to prioritize resources on rental units with histories of compliance issues. |
| <b>Phasing</b>           | In the development and implementation of a Healthy Rental Housing policy, a multi-phase rollout approach may be considered. By scaling a program up over time, it can make it more feasible for a jurisdiction to administer a program, track the program's effectiveness, and raise awareness over time.   |
| <b>Policy priorities</b> | If scaling up Healthy Rental Housing policy implementation, jurisdictions can develop priorities to align the program with existing priorities. By taking a geographic approach, the municipality can allocate its limited resources to neighborhoods that have faced long-term disinvestment. These efforts can be aligned with blight or lead remediation efforts that may already exist.   |

### Community policy design

Healthy Rental Housing policies can be effectively designed through collaborative processes with tenants, landlords, community organizations, and local government staff. Furthermore, community organizations that do tenant-landlord work can help build trust between a jurisdiction and its residents during the process.

### Outreach and education

To set up a Healthy Rental Housing program for success, stakeholders — including tenants, landlords, and community organizations — need to be well-informed about the program. In tandem with the implementation of a program, there should be outreach efforts to landlords and tenants alike about the rental registry program. Jurisdictions may consider developing educational collateral, including program checklists or fact sheets.

To connect with hard-to-reach residents, jurisdictions can partner with community-based organizations as they may already be serving as a messenger to the community around tenant rights or healthy homes and may also provide supplementary services with their community organization. In Boston, the city offers housing workshops around various housing topics for tenants and property owners in addition to providing resources that support their rental inspection programs.<sup>65</sup>

### Enforcement

To ensure that work that goes beyond funding and designing Healthy Rental Housing programs, enforcement protocol and mechanisms need to be set in place, including:

- ▶ **Advance notice of inspections:** An advanced notice is helpful for both tenants and landlords as it increases their likelihoods of being available and ready for the inspector.
- ▶ **Define required corrective actions:** To ensure homes are properly maintained, violations need to be remedied in a timely manner. Healthy Rental Housing policies should establish timelines for when landlords need to fix violations and when re-inspections should take place.
- ▶ **Outline penalties for non-compliance:** Healthy Rental Housing policies should include restorative justice practices should a landlord or property owner fail to address code violations. For example, tenants may receive a rent reduction for unaddressed code violations and pay their reduced rent into a rent escrow account. If the upfront financial cost for a landlord to address housing code violations is too burdensome, jurisdictions may offer low-interest loan programs for home repairs that address housing code violations.

## Evaluation

Meaningful evaluations measure if policies are resulting in positive impacts for the community and advancing policy goals. In designing Healthy Rental Housing policies, it is important to identify specific outcomes to measure against and document the baseline, if possible. There are numerous measurements that could be used including, but not limited to, the number of homes registered, blighted properties, and violations resolved.

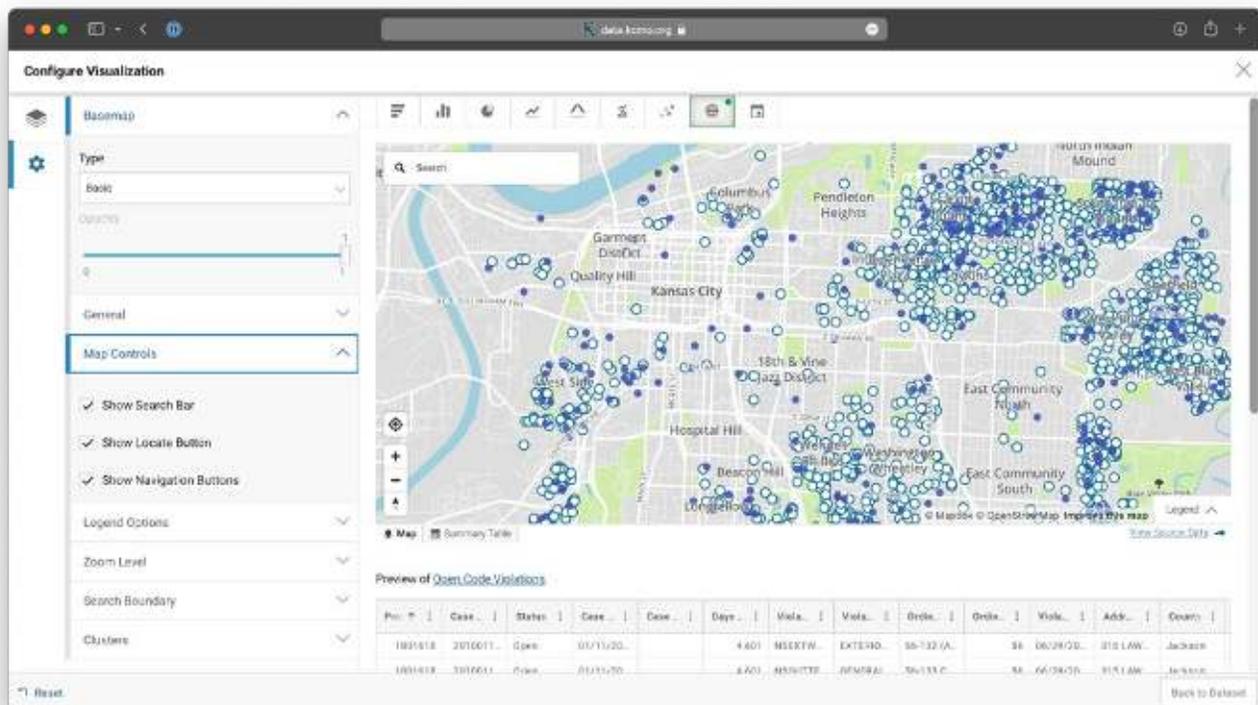
Jurisdictions should evaluate their policies by having strong ongoing data collection processes and analyses. This ensures impact can be measured and areas of improvement for the program can be identified. For example, if there are common housing code violations, targeted outreach to landlords can be done to prevent those violations from occurring as frequently. Ongoing data collection requires dedicated staff and a certain level of expertise. Kansas City has been a leader around data and transparency for city code violation. They developed an open data mapping tool for residents to explore housing code violations.<sup>66</sup>

## Anticipating unintended consequences

It is important for cities to recognize the unintended consequences Healthy Rental Housing policies may have. Tenants may have to relocate, temporarily or

permanently, if inspectors identify health and safety issues in a unit or property. Landlords may also increase rents to cover repair costs. When designing a Healthy Rental Housing policy, a city may also consider creating a fund to assist tenants facing housing instability as a result of enforcement.<sup>67</sup>

Additionally, while Healthy Rental Housing policies require government entities to proactively conduct rental inspections, residents may still need to report violations. As policymakers explore Healthy Rental Housing policies, they may also consider enacting complementary tenant protections that require landlords to share information on tenants' rights and prohibit retaliation for reporting. For example, under the city of Chicago's Residential Landlord and Tenant Ordinance, landlords are required to attach a summary of the policy created by the Department of Housing to all written rental agreements and renewal offers. The summary outlines the city's policies on a range of topics from tenants' and landlords' responsibilities, security deposits, and remedies when responsibilities are not fulfilled. The policy also states that tenants have the right to make complaints and that landlords cannot retaliate by "terminating or threatening to terminate a tenancy, increasing rent, decreasing services, bringing or threatening to bring an eviction action, or refusing to renew a lease agreement."<sup>68</sup>



OpenDataKC, Kansas City's open data portal, shows property code violations.

## Case Study



### BOSTON

The city of Boston has a robust Healthy Rental Housing policy that has been in effect since 2012. Under its policy, all rental units must be registered in the city's electronic database. While they still must register, owner-occupied small multi-family rental developments with six or fewer units do not have to pay registration fees. These properties, as well as those operated by the federal, state, or local government, are also exempted from periodic inspection requirements. All other units are inspected at least once every five years. To streamline processes, the city accepts inspections completed by the Boston Housing Authority, Metropolitan Boston Housing Partnership leased housing programs, and other government housing programs.<sup>69</sup>

While most rental units are only required to be inspected once every five years, Boston's policy requires more frequent inspections for select

properties. The city's ordinance outlines a point system to define the threshold for "chronic offenders," those who "fail to register or who repeatedly fail to comply with notices of violations, or warnings of non-compliance, or municipal fines." These units must be inspected at least once every three years. Furthermore, properties that are considered to be "problem properties" by the city are required to be inspected on an annual basis.<sup>70</sup>

As a result of the city's reporting requirements, researchers have been able to analyze trends in health-related housing issues. While a recent study found that racial inequities remain in the city's response to code violations, the mayor's office stated, "(t)his is one of the reasons the city is transparent and shares public health and inspection data that allows us to track our progress. We will closely analyze and review the report and city data as we continue to strive towards equitable health outcomes."<sup>71</sup>



### CityHealth Medal Criteria

Based on best and emerging practices, CityHealth has set its medal criteria for local governments as a part of its 2.0 Policy Package:

| MEDAL CATEGORY  | HEALTHY RENTAL HOUSING CRITERIA   |
|---|---|
|  | <ul style="list-style-type: none"> <li>✔ City has a policy that requires annual rental registration of buildings with three or more units for all property types. Certain exemptions may be allowed including, but not limited to, when the unit is vacant, a family member is living there but not on the deed, units where rent is not collected, and if the owner occupies one of the units.</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>✔ City has a policy that requires annual rental registration of buildings with three or more units for all property types. Certain exemptions may be allowed including, but not limited to, when the unit is vacant, a family member is living there but not on the deed, units where rent is not collected, and if the owner occupies one of the units;</li> <li>✔ City policy requires routine, periodic inspections to be conducted at least every 10 years;</li> <li>✔ City policy requires inspection of the property exterior; and</li> <li>✔ City policy requires advanced notice of inspection to go to the landlord or the tenant.</li> </ul> |
|  | <p>Same as silver; and</p> <ul style="list-style-type: none"> <li>✔ City policy requires routine, periodic inspections to be conducted at least every five years;</li> <li>✔ City policy requires inspection of property exteriors and interiors when there is an exterior violation;</li> <li>✔ City policy requires landlords to pay registration or inspection fees;</li> <li>✔ City policy requires an evaluation or reporting requirement.</li> </ul>  |



## LEGAL SUPPORT FOR RENTERS

### What is a Legal Support for Renters policy?

As renters navigate the post-pandemic rental housing market, where housing affordability, accessibility, and quality are in decline, they face an increased risk not only of eviction but facing such an action unrepresented. The eviction itself is a crushing experience, and the cascade of effects that flow from that process, including those on health, are harmful and long-lasting. Evictions are a source of homelessness and housing instability, affecting physical safety and health, decreasing healthcare access, and increasing poor health outcomes.

A Legal Support for Renters policy is an evidence-based, cost-effective approach to preventing more evictions and alleviating the attendant harms. At its core, a Legal Support for Renters policy is an enactment in law, funded by the state, county, or local government,<sup>iv</sup> that ensures all eligible tenants facing eviction, or equivalent proceeding, a right to a lawyer (“right to counsel”). In 2017, New York City became the first city in the U.S. to enact a Legal Support for

**15**  
**CITIES**



**3**  
**STATES**

have adopted a Legal Support for Renters (right to counsel) policy

Renters policy, and as of May 2022, 15 cities and three states have adopted such a policy.<sup>72</sup>

Existing Legal Support for Renters policies around the country have different parameters but all ensure legal representation for eligible tenants. The policies either identify *all tenants* as eligible for representation or limit it to a certain class of tenants (i.e., those who are income-eligible or those who are both income-eligible and eligible because of familial status). The policies also address the types of proceedings that are covered, ranging from evictions in court, administrative proceedings to terminate a public housing tenancy or housing subsidy, first appeals of certain matters, and/

<sup>iv</sup> A right to counsel is generally funded by the government, though other funding mechanisms (such as private funding and federal funding) have also been employed in a few jurisdictions. A Legal Support for Renters policy must be funded by the government in order to promote the government’s stake in such a policy, and to increase the policy’s constancy.

or affirmative cases brought by the tenant to address violations of specific housing or landlord-tenant laws.

### **How do Legal Support for Renters policies differ from pilot projects, studies, resolutions that increase legal representation?**

Pilot programs to increase representation and research studies looking at the impact of tenant representation in a specific court or jurisdiction are important evaluative tools that can bolster support for a right to counsel program by producing localized evidence that renter representation is an effective intervention in eviction cases. In some jurisdictions, it would have been impossible to enact a Legal Support for Renters policy for political reasons, such that the only option was to increase representation without a backing policy. These programs, however, do not meet CityHealth’s medaling criteria because there is no legal enactment establishing a right to representation.

Some cities and counties have passed resolutions in support of increased representation without enacting a right to counsel. For instance, in Ithaca, New York, the Common Council passed a resolution *supporting* a right to counsel program but without *establishing* a right to counsel. The council resolved that it would “commit city resources and work with local partners named in this resolution to ensure tenant protections through a right to counsel program that will provide legal representation to tenants facing eviction court.”<sup>73</sup> This approach can serve as an important building block toward a Legal Support for Renters policy, but it is not such a policy itself because resolutions do not have the force of law.

Finally, some jurisdictions have provided sufficient funding such that all tenants (or all tenants within certain eligibility requirements) are or could be provided counsel, a practice that is sometimes referred to as “universal representation.” Rochester, New York, committed significant funds in 2020 to initiate a right to counsel program that would provide counsel for any tenant facing eviction in the city.<sup>74</sup> And in the summer of 2021, the Milwaukee County Board of Supervisors passed a resolution authorizing the creation of a right to counsel pilot program and appropriated sufficient funding to ensure representation of all renters facing eviction in Milwaukee County.<sup>75</sup> Numerous

jurisdictions have accessed Emergency Rental Assistance Program (ERAP) funds to increase funding for the legal representation of renters facing eviction.<sup>76</sup> This can be a significant step on the road towards a Legal Support for Renters policy, as funding can often be the obstacle to enactment. Without an ordinance or law providing a guarantee of representation to tenants, however, these practices do not meet CityHealth’s Legal Support for Renters policy criteria.

### **Why do tenants need lawyers in eviction cases?**

A common assumption about “evictions” is that they are strictly and simply about rent payment. However, though non-payment of rent may be the reason for the filing, there are often complicating factors just beneath the surface. While many evictions in the United States are based on an alleged non-payment of rent,<sup>77</sup> the rent alleged to be owed can be wrong, particularly if paid rent has not been properly credited or there have been illegal surcharges. Additionally, in some jurisdictions, the landlord’s failure to meet their obligations — such as keeping the property habitable or making necessary repairs — can be grounds for a reduction or elimination of rent owed.

In Cleveland, “[a]proximately 83% of [right to counsel] client interview respondents who indicated that they had the full amount of back rent owed [sic] or could get it also indicated that there were conditions issues in their unit.”<sup>78</sup> Moreover, because the fee to initiate an eviction proceeding is often minimal, landlords can file with little cost, threatening the tenant with an eviction until they receive rent payment, then withdrawing the case.<sup>79</sup> While this may not result in an eviction of the tenant, such a filing can attach to and remain on a tenant’s record, thereby inhibiting future housing opportunities.

Evictions are legal proceedings governed by federal, state, and local law. Most unrepresented tenants do not have the legal training to identify and present defenses, introduce important evidence, argue relevant facts, preserve issues for appeal, negotiate settlements based on the legal prospects of the case, or even understand the legal language contained in various court papers and orders. In Baltimore, a survey of rent court respondents found that despite 80% of tenants having a potential defense, only 8% without representation

successfully asserted it.<sup>80</sup> In Cleveland, a recent evaluation of the right to counsel program found that “approximately 86% of [right to counsel] clients had circumstances (either personal circumstances or case characteristics) that would make their cases complex. These circumstances included defective conditions, oral leases, living in public or subsidized housing, had previous issues with management, or had a person in the household with mental health challenges. Approximately 44% of these cases had more than one of these circumstances.”<sup>81</sup>

Renters also face issues of accessing and navigating the court, obtaining time off from work, finding childcare, identifying transportation, checking in, addressing the court, and working with clerks, judges, and opposing attorneys. Issues like these complicate eviction cases and increase the likelihood of losing for a reason unrelated to the merits of the particular case. During the COVID-19 pandemic, these issues were only exacerbated as courts introduced remote proceedings, which required technology and understanding that many tenants lacked.<sup>82</sup> Moreover, various protections, such as moratoria and rental assistance programs, required the assistance of an attorney to effectively use or enforce.

Even where a case lacks any defenses or significant complexity, and where it is clear the tenant must or desires to leave, there are still important legal questions that must be answered: how much time the tenant will have to move, how much of a rent arrears judgment will be entered, and whether the eviction will be formally entered on the tenant’s record. Tenants without counsel are unlikely to know or be able to raise these points effectively or at all. Yet the answers to these questions can be the difference between housing stability and homelessness.

### **What is the representation disparity between landlords and tenants?**

There is a power imbalance between landlords and tenants from the onset of the rental relationship. Within the confines of state and local laws and regulations, landlords shape the terms of a lease and have total discretion in their approval or denial of a particular tenant. Landlords can file an eviction case, which can attach to the tenant’s record and impede or outright prevent housing choice and accessibility in the future. In an

eviction case, the power imbalance takes the form of a severe representational disparity. On average, without a Legal Support for Renters policy in place, only 3% of tenants are represented, compared to 81% of landlords.<sup>83</sup>

This representational imbalance means that while landlords have access to representation of their position in court, tenants are often unable to manage substantive and procedural defenses established potentially at both the state and local level, as well as other applicable laws. Tenants cannot solely rely on existing legal aid services; nationwide, low-income people facing a variety of civil legal issues, including eviction, must contend with a severe shortage of free legal services.<sup>84</sup>

In its recent Justice Gap Report, the Legal Services Corporation (LSC), the largest funder of civil legal aid programs for low-income Americans, found that “LSC-funded organizations are unable to provide any or enough legal help for an estimated 1.4 million civil legal problems (or 71% of problems) that are brought to their doors in a year.”<sup>85</sup> Two significant consequences of the resulting representation imbalance are that many eviction proceedings are incredibly quick, and many tenants either fail to show up to the proceeding (thereby being evicted by default) due to feeling overwhelmed by the process or have to accept a one-sided settlement agreement proffered by the landlord’s attorney.<sup>86</sup> Furthermore, in places where the rental inspection systems are weak and where tenants do not have a guarantee of representation, there is no enforcement mechanism to ensure that a renter’s home is safe or healthy. Without a Legal Support for Renters policy, eviction proceedings can become tools of the landlord to collect rent or force displacement.<sup>87</sup>

### **How do Legal Support for Renters policies promote public health?**

A Legal Support for Renters policy can help “prevent evictions from exploding into a panoply of negative health outcomes.”<sup>88</sup> Evictions negatively impact renters’ physical and mental health by threatening the immediate and future housing stability of renters.<sup>89</sup> A multitude of studies have examined and found connections between evictions and adverse mental and physical health outcomes.<sup>90</sup> Evictions have been linked to increased hospitalizations for mental health conditions, depression, anxiety, suicide, substance abuse and

relapse, self-reported poor physical and mental health, and high blood pressure.<sup>91</sup> The loss of personal possessions that accompanies many evictions can also impact a renter’s access to critical medications and medical devices. Evictions are also a driver of homelessness, and homelessness is strongly connected to various adverse health outcomes.<sup>92,93</sup> Through its link to homelessness, eviction can put one’s physical safety at risk if a renter is forced to live on the street or, as homelessness can increase interactions with law enforcement, is incarcerated.<sup>94</sup>

The health impacts of eviction can be especially severe for children. Evictions impact maternal and infant health, and there is a link between eviction and a child experiencing food insecurity.<sup>95,96</sup> Children evicted in “middle childhood” (age 9) have been found to have

lower test scores than kids who weren’t evicted, with the difference in scores being “the equivalent of as much as a full year of schooling.”<sup>97</sup> One study suggested that young adults who experienced an eviction showed more depressive symptoms than those who did not experience one.<sup>98</sup>

Preventing evictions and associated negative health outcomes is especially critical during the COVID-19 pandemic. Evictions during the pandemic have been shown to significantly increase infection rates.<sup>99</sup> The expiration of pandemic-related eviction renter protections, namely eviction moratoria, has also been linked to increased COVID-19 infections and, for certain populations, death.<sup>100</sup> One study published in February 2022 found that “eviction drives increased healthcare spending while disrupting healthcare access.”<sup>101</sup>

## What are the primary benefits of Legal Support for Renters policies?

A Legal Support for Renters policy is an effective intervention to help address health and racial inequities while promoting long-term housing stability. Benefits of Legal Support for Renters policies include:

|  |  |
|--|--|
| <b>Keeps people housed</b>                     | Evictions are substantively and procedurally complex and became even more so during the COVID-19 pandemic. Legal Support for Renters policies provide counsel to help close the stark representational disparity between landlords and tenants, and have been shown to increase the likelihood that renters who wish to remain in their homes will be able to do so. |
| <b>Mitigates secondary impacts of eviction</b> | Though eviction is itself a standalone harm, it is also accompanied by a cascade of connected harms for individuals, families, communities, and the municipality. Legal Support for Renters policies are an evidence-based approach to increase housing stability and decrease evictions and associated harms to health.   |
| <b>Closes health and racial disparities</b>    | These policies are a commitment to reducing health and racial disparities by aiming to reduce evictions and negative health-related outcomes, as evictions and the related harms are disproportionately experienced by renters of color, and Black women in particular.  |

## How do Legal Support for Renters policies advance racial equity?

A Legal Support for Renters policy is an intervention that supports racial equity. These policies can prevent and mitigate the consequences of eviction, which are disproportionately experienced by Black women, particularly mothers.<sup>102</sup> Deeply entrenched racism and intentional race-based discrimination in housing

policy and practice have had long-lasting and continuing impacts on housing realities for communities of color.<sup>103</sup> In a recent analysis, the Eviction Lab found that “the share of eviction filings and eviction judgments against Black renters was considerably higher than their share of the renter population.”<sup>104</sup> Although Black individuals constituted a little less than 20% of all adult renters (in the areas where the Eviction Lab was able to gather filing information), they made up close to 33% of all eviction filing defendants.<sup>105</sup>



A Legal Support for Renters policy aims to prevent or mitigate the harms of eviction by ensuring that all eligible tenants facing eviction have legal representation in these substantively and procedurally complex cases. As tenants of color experience eviction at disproportionate rates and considering that almost no tenants have counsel, it would follow that they disproportionately experience the stark representational disparity between tenants and landlords as discussed above. Legal Support for Renters Policies can assist renters of color who experience eviction and its many consequences at disproportionate levels.

## How can legal representation help prevent and mitigate the economic consequences to renters facing eviction?

Renters facing eviction risk great financial loss, incurring not only costs that may result from the eviction through a monetary judgment, but potentially the costs of storing personal property or the loss of such possessions when they are put on the street, and securing and moving to a new unit.<sup>106</sup> Evictions can also impact a renter's employment as well as future credit access.<sup>107</sup> A mere filing for eviction, a practice that some landlords wield as a rent collection tactic, can attach to the renter's public record for years thereby impacting future housing accessibility.<sup>108</sup>

When renters have legal representation, the economic impact of an eviction can be lessened, sometimes significantly. For example, an evaluation of six housing pilot projects established under the Sargent Shriver Civil Counsel Act in California — which increased both full representation and unbundled legal services for tenants

facing eviction in certain California counties — found that representation eased tenants' financial burden.<sup>109</sup> Among fully represented clients, more than half had the median amount of money demanded in the filing waived.<sup>110</sup> In cases where there was a monetary demand, the average savings for fully represented tenants was \$2,413 compared to \$1,645 for unrepresented tenants.<sup>111</sup>

## What is the evidence that tenant representation is an effective eviction intervention?

Numerous studies conducted prior to the enactment of the first Legal Support for Renters Policy have shown that legal representation is an effective intervention that can mitigate or prevent the harms of eviction. For example, an evaluation of the Sargent Shriver Civil Counsel Act pilot projects found that fully represented tenants were significantly more likely to raise a defense than unrepresented tenants (84% vs. 60%).<sup>112</sup> The evaluation also found that representation increased the long-term housing stability of tenants.<sup>113</sup> Of fully represented tenants who had to move “91% had their eviction records sealed, 81% of landlords agreed not to report the eviction to credit agencies, and 71% of landlords agreed to provide neutral references.”<sup>114</sup> Of clients interviewed one year out, 71% of fully represented tenants had obtained a new rental unit, compared to 43% of unrepresented tenants.<sup>115</sup>

A comparative study out of Hennepin County, Minnesota, which sought to assess whether legal representation for tenants provides meaningful benefits in housing stability, found that fully represented tenants stayed in their homes twice as often and settled or won their cases 96% of the time.<sup>116</sup>

## Representation of tenants facing eviction matters.

Research assessing the impact of legal representation in eviction cases shows:

- Represented tenants avoid disruptive displacement over 90% of the time.<sup>117</sup>
- Represented tenants are more likely to avoid homelessness and the use of homeless shelters.
  - **Hennepin County, Minnesota:** Represented tenants were four times less likely to use a homeless shelter.<sup>118</sup>
- Represented tenants are more likely to remain in their homes.
  - **Oklahoma:** Representation increased unit retention by 75%.<sup>119</sup>
  - **Massachusetts:** 70% of represented tenants remained in their homes.<sup>120</sup>
  - **San Mateo, California:** Fully represented tenants stayed in their units approximately three times as often.<sup>121</sup>
  - **Hennepin County, Minnesota:** Fully represented tenants remained in their homes almost twice as often.<sup>122</sup>
  - **Denver, Colorado:** Represented tenants retained homes 70%–100% of the time.<sup>123</sup>
- Represented tenants that have to vacate often have more time and money to do so.
  - **Massachusetts:** 20% of represented tenants had more time to find a new home, and received three times as much in damages awards.<sup>124</sup>
  - **California:** Represented tenants had twice as long to move.<sup>125</sup>
  - **Hennepin County, Minnesota:** Represented tenants had, on average, twice as long to move.<sup>126</sup>
- Represented tenants are more likely to have a clear eviction record.
  - **Hennepin County, Minnesota:** 73%–78% of represented tenants left with a clean eviction record.<sup>127</sup>
  - **California:** 91% of the Shriver Housing Pilot Project clients who had to move had their record sealed.<sup>128</sup>

Data demonstrating the effectiveness of right to counsel programs specifically is discussed later in this report.

## Is a Legal Support for Renters Policy cost-effective for municipalities?

In addition to its demonstrated efficacy, a Legal Support for Renters policy is also a forward-looking investment that can save jurisdictions money in the long term. Prior to the enactment of the first Legal Support for Renters policy, research suggested that there were economic benefits of increasing financial support for local civil legal aid programs.<sup>129</sup>

There are now several evaluations estimating the expected net savings to a jurisdiction of implementing a right to counsel program and thereby avoiding the costs related to the disruptive displacement of renters.<sup>130</sup> A report in New York City found that

implementing a right to counsel would “provide a net cost savings to the city of \$320 million.”<sup>131</sup> An analysis for Baltimore showed that, “[f]or every dollar invested in a right to counsel for low income tenants facing eviction in Baltimore City, there is a cost savings or value of those services estimated to be at least \$6.24 that would be recognized by Baltimore City and Maryland.”<sup>132</sup> An analysis for Philadelphia found that an investment of about \$3.5 million would allow the city to provide representation to all eligible tenants and the city would avoid annual costs of approximately \$45.2 million.<sup>133</sup> An independent evaluation of Cleveland’s right to counsel program found that the estimated total social safety net costs for Cleveland and Cuyahoga County were between \$1.8–\$1.9 million, and that the city and county “retained approximately \$2.5–\$2.8 million in federal funding and economic value.”<sup>134</sup>



## Considerations for adopting a Legal Support for Renters policy

A Legal Support for Renters policy should guarantee representation for all tenants, aim for enhanced coverage, and include an evaluative and reporting component.

### Provide representation to all tenants facing eviction

A Legal Support for Renters policy should aim to provide representation to all tenants facing eviction regardless of income. While most tenants in housing court would qualify even with a reasonable income cutoff, removing income screening decreases administrative costs borne by the legal services providers, expedites case processing (a critical consideration given that evictions are summary proceedings that move extremely quickly), ensures tenants who are above the income cutoff but lack the resources to hire a private attorney can still receive services, and removes the perception the city is implementing a program that only benefits a segment of the population.

For example, right to counsel programs in San Francisco, Boulder, and Kansas City do not have eligibility criteria.<sup>135</sup> Data from San Francisco's program, where a right to counsel has been implemented since 2019, shows that despite the lack of an income limit, 85% of those receiving counsel are low-income or extremely low-income. Programs that include an eligibility component, based on income alone or income and familial status, do not meet CityHealth's gold medal criteria.

### Aim for enhanced coverage

“Enhanced coverage” means that representation extends to court-based eviction matters (limited coverage) and related proceedings.<sup>136</sup> Other, non-court-based proceedings often function as the equivalent of an eviction. For example, terminations of a subsidy can foreclose a tenant's ability to pay rent and lead to a court-based eviction for non-payment of rent, or they can directly cause a tenant to vacate their unit because they cannot pay. Likewise, terminations of a public housing tenancy terminate a tenant's lease and can lead to a court-based eviction or directly cause the tenant to vacate the unit. Enhanced coverage can also include affirmative litigation by tenants to enforce certain housing laws, such as antidiscrimination laws and habitability laws. Finally, enhanced coverage can cover appeals as well.

### Include an evaluative and public reporting requirement

A Legal Support for Renters policy should include an evaluative component, such as an annual report. It should also ensure that information is publicly presented in some form. An evaluative component is essential to assess the program's impact, identify blind spots, and determine the program's actual costs. For example, the majority of jurisdictions where the right to counsel has been enacted have an evaluative component requiring a report on specific metrics, such as the number of clients represented and case outcomes.<sup>137</sup> Public disclosure of the results is critical, especially as community-based advocates work to ensure the program delivers as promised.

## Case Studies

In addition to studies and reports analyzing the impact of legal representation in eviction cases, there are now cities that have implemented a Legal Support for Renters policy for a period long enough to generate and publish data.



### NEW YORK CITY

After years of effective and powerful tenant organizing, New York City enacted the nation's first Legal Support for Renters (right to counsel) policy in 2017.<sup>138,139</sup> Local Law 136 guarantees counsel for any income eligible tenant in a covered proceeding. Income eligibility is set at 200% or below of the federal poverty guidelines. Since the policy's adoption, annual evaluations of the program have consistently shown that tenant representation is making a difference.

The 2021 annual evaluation showed that every tenant with a calendared eviction case had access to right to

counsel services, and that in just the last quarter of 2021, over 71% of tenants were represented by attorneys compared to 1% in 2013.<sup>140</sup> In addition, 84% of households that were represented in an eviction case were able to remain in their homes.<sup>141</sup> Beyond the results in the annual evaluations, a recent study of New York City's right to counsel program between 2016 and 2019 found that "legal representation greatly improved the outcomes among tenants who received services due to the program."<sup>142</sup> Specifically, the authors found large reductions in the probability of a judgment with possession, the probability of a warrant issuance, and ultimate eviction.<sup>143</sup>



## CLEVELAND

Cleveland passed a Legal Support for Renters policy in the form of a right to counsel in 2019.<sup>144</sup> Eligibility for representation is limited to tenants whose income is 100% or less of the federal poverty guidelines, and they must occupy a dwelling that has at least one child.<sup>145</sup> The right to counsel was implemented in 2020, and two evaluations have been conducted.<sup>146</sup> A 2022 evaluation of the program found that 93% of clients avoided an eviction judgment or an involuntary move, 92% of clients who sought more time to move received it, 97% of clients seeking monetary relief received it, and of those who found that rental assistance was available and sought it, 83% received it.<sup>147</sup> The evaluation also underscored the connection between Healthy Rental Housing Programs, which require proactive rental inspections, and Legal Support for Renters policies. For example, almost 80% of right to counsel “client interview respondents indicated there were defective

housing conditions in their home.”<sup>148</sup> In addition to facing eviction, clients reported conditions including: “inadequate or inoperable toilets, sinks, and showers; inadequate or inoperable heat during winter months; mold and mildew; holes in walls, roofs, and floors; rodent infestations; leaks and flooding during rain; broken or missing doors and windows; exposed electrical wiring; and lead.”

A client’s interaction with a lawyer during the eviction process can identify conditions and issues that can then be recorded and addressed where effective Healthy Rental Housing Programs exist. Moreover, where robust healthy housing programs exist, there is potential to decrease evictions, which in turn reduces the financial cost of a right to counsel program. As noted above, non-payment of rent cases are rarely solely about the rent. Without a robust Healthy Housing Program in place, a tenant’s only option may be to withhold rent and thereby risk an eviction.



## SAN FRANCISCO

Voters in San Francisco, California, passed a Legal Support for Renters policy by ballot initiative in 2018, which extended a right to counsel for all tenants facing a court eviction or similar administrative proceeding.<sup>149</sup> It was the first *universal* right to counsel, requiring no income-eligibility for tenants to receive services.<sup>150</sup> The right to counsel applies in eviction

cases and administrative cases for the termination of a tenancy or a rental subsidy.<sup>151</sup> The right is fully implemented and between March and December 2021, the available data shows that approximately 59% of fully represented tenants remained in their homes.<sup>152</sup> Of the 30% of fully represented tenants that had to vacate the unit, about 70% obtained an agreement to leave that provided sufficient time and money to do so.<sup>153</sup>

## CityHealth medal criteria

Based on best and emerging practices, CityHealth has set its medal criteria for local governments as a part of its 2.0 Policy Package:

| MEDAL CATEGORY   | LEGAL SUPPORT FOR RENTERS  |
|--|--|
|  Bronze | <ul style="list-style-type: none"> <li>✓ City has a legal support policy that provides legal representation for all eligible tenants.*</li> <li>✓ Policy includes limited coverage.**</li> </ul>   |
|  Silver | <ul style="list-style-type: none"> <li>✓ City has a legal support policy that provides legal representation for all eligible tenants.*</li> <li>✓ Policy includes both limited coverage and enhanced coverage.***</li> <li>✓ Policy requires evaluation.</li> </ul>  |
|  Gold   | <ul style="list-style-type: none"> <li>✓ City has a legal support policy that provides legal representation for all eligible tenants.*</li> <li>✓ Policy includes both limited coverage and enhanced coverage.***</li> <li>✓ Policy requires evaluation.</li> <li>✓ Policy requires evaluation and reporting.</li> </ul> |

\* Eligible tenants varies by medal.

**Bronze:** The policy must cover any tenant with at least one child making no more than 125% of the federal poverty level.

**Silver:** The policy must cover any tenant making no more than 200% of the federal poverty level OR the policy provides a flexible standard of indigence encouraging broad applicability and vests providers with discretion to determine indigence.

**Gold:** the policy must cover all tenants.

\*\* "Limited coverage" means that the right to counsel extends to court-based eviction proceedings only.

\*\*\* "Enhanced coverage" refers to a program where the right to counsel extends to related proceedings, such as terminations of a rental subsidy that occurs in the administrative context (as such terminations end the tenant's ability to pay for the unit and thus are functionally an eviction) or affirmative litigation to enforce certain housing laws, such as anti-discrimination laws.



## CONCLUSION

The COVID-19 pandemic has showed not only the precariousness of rental housing and the interconnect- edness of housing and health, but also the possibility of developing a comprehensive response. During the pandemic, various levels of government implemented policies — including eviction moratoria, rental assis- tance programs, legal representation for renters, and flexible local government funding — that kept millions in their homes.<sup>154</sup>

Cities can learn from this experience and utilize a multi-pronged approach to increase access to healthy housing while simultaneously increasing access to stable, affordable housing. While each policy solution has unique objectives, Affordable Housing Trusts, Healthy Rental Housing, and Legal Support for Renters can complement each other in moving communities to becoming more just, equitable, affordable, and healthy for all residents.

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