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Investing in the Vitality of Detroit's Neighborhoods Through Improved Rental Regulation





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The Center for Community Progress helps people to transform vacant spaces into vibrant places. Since 2010, their team of experts has provided urban, suburban, and rural communities battling systemic vacancy with the policies, tools, and resources needed to address the full cycle of property revitalization. As the only national nonprofit dedicated to tackling vacant properties, Community Progress drives change by uncovering and disrupting the unjust, racist systems that perpetuate entrenched vacancy and property deterioration. Community Progress has delivered customized, expert guidance to leaders in over 300 communities and provided hundreds of hours of free educational resources as well as leadership programming to help policymakers, practitioners, and community members across the country return properties to productive use. To learn more and get help for your community, visit www.communityprogress.org

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Executive Summary

Nearly half of all Detroit households rent their homes. That simple fact dictates that the quality and condition of rental properties needs to be of concern to City of Detroit (City) officials, advocates for better housing and health, and, of course, renters themselves. At the urging of local advocates, and to ensure that this critical housing stock is maintained and operated in ways that protect the health and safety of Detroit tenants, the City enacted an ordinance in 2017 (the Rental Ordinance) to strengthen existing provisions regulating the condition of rental properties, including the presence of lead hazards and heightened enforcement tools.¹ This Ordinance requires landlords to register their properties with the City and pass regular property maintenance and lead hazard inspections in order to obtain and retain a Certificate of Compliance (CoC), a condition of legally renting the property.

Hailed by many as a significant win for Detroit tenants when it passed, the Rental Ordinance—despite the City’s conscientious efforts to implement it—has been ineffective in practice. Of the estimated 78,000 rental properties in Detroit,² fewer than 20 percent are registered and only 10 percent have obtained a CoC with little to suggest that these numbers will grow in the future. If Detroiters are to have safe, healthy rental housing of decent quality, the City’s approach to rental regulation must change.

Why the Program Is Important & Change Is Necessary

Most Detroit households rent their homes. The median renter household earns just under \$29,000, and forty-four percent of all renter families are below the federal poverty level.³

Much of Detroit’s housing stock, including a disproportionate share of its rental homes, has serious repair or deferred maintenance needs. According to Poverty Solutions at the University of Michigan, “nearly 38,000 households in Detroit—which equates to more than 1 in 7 occupied homes—have faced major issues with exposed wires or electrical problems, broken furnace or heating problems, or lack of hot or running water in their homes in the past year.”⁴

After five years and 100,000 blight tickets, only 10% of rental properties comply with Detroit’s requirements because current requirements are complicated, costly, and ineffective.

¹ The City first regulated the presence of lead hazards in 2010 and much of the City’s Property Maintenance Code had existed in some form since the 1980s. The 2017 ordinance provided for a more comprehensive and proactive approach to address these standards.

² U.S. Census Bureau. “American Community Survey 5-Year Estimates, 2022.” <https://www.census.gov/programs-surveys/acs>.

³ Ibid.

⁴ Numbers summarized by Poverty Solutions based on the representative survey of Detroiters conducted by U-M’s Detroit Metro Area Communities Study (DMACS). <https://poverty.umich.edu/2021/10/21/nearly-38000-households-in-detroit-estimated-to-be-living-in-inadequate-housing>.

These homes, most of which are old and nearly half of which are single family, require significant investment and take many months to bring into compliance with the City’s complex, multi-inspection CoC requirements.

The reasons why change is needed fall into two categories:

It is too hard for good landlords to comply and too easy for bad landlords to evade enforcement.

The economics of compliance with the Rental Ordinance do not work

- It is not economically feasible for landlords to cover the minimum costs needed to bring a Detroit rental property into compliance with the stringent standards in the Rental Ordinance in most Detroit neighborhoods given the age and condition of existing housing. If no major systems require repair, the minimum costs are estimated at about \$7,000, plus much more in lead remediation (estimated at around \$35,000 for full abatement) and more than \$1,000 in City and related inspection fees.
- Landlords cannot raise the rent to cover the costs of compliance because most of their tenants cannot afford higher rents. The average renter household earns less than \$29,000/year, making the average Detroit rent, about \$1,000/month, already out of reach for many. Almost one of three pay 50% of their income or more for rent.
- Even the average rent of \$1,000/month generates little or no return on investment for a conscientious Detroit landlord, as the table below demonstrates.
- Landlords are unlikely to assume they can recoup the costs of compliance from any increase in the value of their property. Many Detroit neighborhoods have seen some appreciation in recent years, but increases are modest and future appreciation is unpredictable, at best.

Estimated Costs and Return to Operate a Rental Single-Family House in Detroit

Operating & Fixed Expenses	Annual	Monthly
Sewer & Water	\$960	\$80
Repairs & Maintenance	\$1,800	\$150
Property Taxes	\$2,000	\$167
Insurance	\$2,600	\$217
Replacement Reserves (15% of debt service)	\$540	\$45
Debt service (6% for 30 years)	\$3,600	\$300
Total expenses	\$11,500	\$959
Gross rent revenue	\$14,400	\$1,200
Less 10% vacancy and collection allowance	(\$1,440)	(\$120)
Net revenue	\$12,960	\$1,080
Net cash flow before income taxes	\$1,460	\$122

Note: Landlord assumed to have bought the house for \$62,500 with 20% downpayment and a mortgage on \$50,000.

Enforcement tools need more teeth

- Blight violation tickets, which are the primary enforcement tool the City uses to try to compel compliance, are simply too easy to avoid or ignore. The City has issued over 100,000 blight violation tickets on rental properties since 2018 for not having a CoC, for not registering with the City, or for failing to meet lead hazard requirements; 45,000 of them remain outstanding. Despite the proliferation of blight tickets, the compliance rate remains around 10 percent.
- Recent, stepped-up enforcement using multiple rounds of blight violation tickets in a targeted geographic area (the Bagley neighborhood) has been ineffective, with only a marginal impact on compliance.
- When fines are issued for a blight violation ticket, the City estimates it collects less than 20%.

These rental properties, many of which are older and roughly half of which are single family, demand attention and repair. They are woven into the fabric of every Detroit neighborhood, affecting each neighborhood's vitality, market strength, and their residents' quality of life. Investing in the maintenance and improvement of these properties is critical to stabilizing older neighborhoods and maintaining their historic fabric and character, key elements to retain or attract new residents.

A robust, proactive rental inspection program is a critical strategy to address these problems, and the City's past efforts serve as a foundation on which to build a better program. **But Detroit residents would be far better served by a different approach, which can ensure that the majority of rental properties meet minimum safe conditions, rather than the current approach which leaves 90 percent of rental properties without any safeguards whatsoever.**

Detroit residents would be far better served by an approach which can ensure that the majority of rental properties meet minimum safe conditions, rather than the current approach which leaves 90 percent of rental properties without any safeguards whatsoever.

Summarizing the Proposed New Approach

The City should modify both its existing Rental Ordinance *and* how it incentivizes and enforces compliance (the "rental program"). This approach will allow far more properties to comply with basic health and safety standards, improving living conditions for thousands of Detroit families.

If the City acts now, the new system can be up and running within a year, putting Detroit on a path to becoming a national model for rental regulation.

1. Establish and enforce achievable minimum health and safety standards

Detroit must regulate lead-based paint hazards—and enforce the minimum standards of the property maintenance code—but both can be done in a far less convoluted and less costly way that will allow a far greater number of landlords to comply with the ordinance and increase the number of families living in safer conditions. Key recommendations include:

- Reduce the overall complexity of compliance and establish a "one inspection, one fee" approach to inspections. This can be accomplished by **combining the lead and property condition inspections** into one inspection, and adopting a single, reasonable annual fee to cover the costs

of administering the rental program, including the costs of all required inspections. Annual fees could start at as little as \$125/year for compliant landlords.

- Streamline the property condition inspection to focus on **15 key life safety inspection points**, as in the Baltimore, Maryland rental program, rather than the 37 key points currently listed in the City's Landlord Compliance Manual.
- Require **visual lead inspection for all properties** and **dust wipes** for those that fail visual inspection or are in census tracts with **high elevated blood lead levels**, bringing the City's standard in line with evidence-based, successful models like that used in Rochester, New York.

2. Make regulation more proactive and performance-based

The new approach should reduce the regulatory burden on landlords who maintain their properties responsibly, while putting increased enforcement pressure on those who do not. Key recommendations include:

- Use available data to create a **master list of known and likely rentals**, removing the need for a **separate registration step**, and use the list to automate City outreach and enforcement.
- Adopt a **new fee and inspection schedule** that 1) imposes higher fees and more frequent inspections on noncompliant landlords and 2) reduces both fees and frequency of inspections for landlords who comply with the ordinance and maintain their properties. Fees on noncompliant landlords could run up to as much as \$300/year, and problem landlords' properties could be inspected as often as every 6 months, while those of responsible ones every 5 years.

3. Deploy a compliance-driven enforcement approach

Bringing about landlord compliance and a healthy, safe rental housing stock requires a balanced approach of both incentives to comply with Rental Program requirements *and* consequences for failure to do so. Incentives will only be effective if landlords also know that the consequences for noncompliance are serious, consistently imposed, and difficult to avoid. Key recommendations include:

- **Increase annual fees, fines** for blight violations and where landlords are both noncompliant and nonresponsive and accelerate termination of their CoCs.
- **Place liens on properties** for unpaid blight violation fines and collect unpaid liens in the same ways as delinquent property taxes.
- Develop clear criteria to refer noncompliant properties to Law Department for **court action**; that could include seeking injunctions, rent receivership for multi-family properties, and cost recovery for City-incurred costs for tenant relocation.
- Give tenants more power to help enforce noncompliance by **expanding eligibility for participation in the Rental Property Escrow Program**, having the Housing and Revitalization Department (HRD) or a third party manage the Escrow Program, and changing state law to allow tenants to collect statutory attorney's fees if they prevail in a civil action against their landlord for noncompliance.

We recommend the City first change the Rental Ordinance to make it more feasible for landlords to comply; second, establish and communicate clear and consistent guidelines for how and when enhanced enforcement approaches will be used; and only then implement the above strategies.

4. Increase engagement with tenants and landlords

There are several additional ways to incentivize compliance that do not require a significant change to the City's existing standards or enforcement approach. Key recommendations include:

- Initiate an aggressive outreach program to build a stronger relationship between the City and its tenants and landlords, informing them of the City's plans and listening to their concerns.
- Amend the ordinance to **enhance tenant protections** from retaliatory action by landlords and support additional tenant education through tenant advocate partners.
- Provide additional **incentives for good landlords** who comply with the ordinance, including amnesty programs for past blight violation fines, working with the Detroit Land Bank Authority (DLBA) to potentially identify increased opportunities to acquire DLBA property, and creating a low-interest loan program for qualified landlords.
- Develop an interactive **public dashboard** with information about rental properties and their status of compliance with the Rental Ordinance.

Next Steps

To begin immediate implementation of the recommendations, the City should:

1. **Amend the Rental Ordinance** to 1) modify the lead requirements, 2) provide flexibility to establish an annual fee and combined inspections, and 3) clarify enhanced enforcement tools.
2. Increase Buildings, Safety, Engineering and Enforcement Department (BSEED) capacity to coordinate planning and implementation of the new rental program in partnership with HRD, by creating a **new senior-level position in BSEED** dedicated to implementing the changes to the rental program, **supported by a project manager**.
3. Once the Rental Ordinance is amended, prepare new informational materials and begin **outreach to landlords, tenants, and the community**.

Introduction

Nearly half of all Detroit households rent their homes. That simple fact dictates that the quality and condition of rental properties needs to be of concern to City of Detroit (City) officials, advocates for better housing and health, and, of course, renters themselves. At the urging of local advocates, and to ensure that this critical housing stock is maintained and operated in ways that protect the health and safety of Detroit tenants, the City enacted an ordinance in 2017 (the Rental Ordinance) to strengthen existing provisions regulating the condition of rental properties, including the presence of lead hazards and heightened enforcement tools.⁵ The existing Rental Ordinance requires landlords to register their properties with the City and pass regular property maintenance and lead hazard inspections in order to obtain a Certificate of Compliance (CoC), a condition of legally renting the property.

Hailed by health and housing advocates as a significant win for Detroit tenants when it passed, the Rental Ordinance—despite the City’s good efforts to implement it—has been ineffective in practice. Of the estimated 78,000 rental properties in Detroit,⁶ fewer than 20 percent are registered and only 10 percent have obtained a CoC. Theoretically, one could argue that at the current rate the City might receive full compliance by the mid-2060s, since landlords who pursue registration and obtain CoCs are selective rather than representative. But in reality, even that goal is out of reach.

The Center for Community Progress (Community Progress) has worked closely with the City over the past year to better understand the reasons for the poor compliance rate and to develop strategies to address those factors. During the past year, Community Progress has:

- participated in City-led working groups to frame potential amendments to the Rental Ordinance;
- proposed key changes to the Rental Ordinance;
- worked with the National Center for Healthy Homes to better understand and frame changes proposed to the Rental Ordinance’s lead inspection requirements;
- conducted dozens of interviews with City, landlords, and tenant-advocate stakeholders about the Rental Ordinance and the City’s general approach to enforcement; and
- served as a thought partner in the development of programmatic and policy changes to the City’s programs.

This report summarizes our findings and outlines our recommendations for how the City could rework the Rental Ordinance and restructure the broader framework within which the City regulates the condition and safety of rental housing in Detroit (the Rental Program).

⁵ The City first enacted requirements to regulate the presence of lead hazards in 2010 and much of the City’s Property Maintenance Code had existed in some form since the 1980s. The 2017 ordinance provided for a more comprehensive and proactive approach to address these standards.

⁶ U.S. Census Bureau. “American Community Survey 5-Year Estimates, 2022.” <https://www.census.gov/programs-surveys/acs>.

In Section 1, we lay the foundation for the importance of safe and healthy rental housing and summarize the reasons we believe account for the Rental Program's ineffectiveness. In Section 2, we offer our vision for how the Rental Program in Detroit can achieve its goals. In Section 3, we suggest strategies that can help Detroit move more effectively to realize its vision of decent, safe, and healthy housing for the city's renters. In Section 4, we propose immediate next steps the City should take to implement the new Rental Program.

The observations and recommendations in this report are our own. We have deep respect and admiration for the City's goals and its efforts to meet them, and we hope the City will see this report as a blueprint for how to build on its efforts over the last six years to reach more rental units and families who live in them to ensure they have access to safe, quality housing. As always, our recommendations are subject to the advice and guidance of local counsel.

Section 1: Why the Program Is Important & Why Change Is Necessary

Before we discuss improvements to the Rental Program, it is critical to understand the underlying conditions that have made it so difficult for the City to achieve compliance. We have drawn on the good work of the City and other local stakeholders, such as Detroit Future City and the University of Michigan’s Poverty Solutions, to illustrate how Detroit’s housing market and its tenants’ incomes make compliance difficult. Using information compiled by the City’s Buildings, Safety, Engineering and Enforcement Department (BSEED) and Housing and Revitalization Department (HRD), we offer an overview of the current requirements of the Rental Ordinance to identify the difficulties landlords face in complying with its provisions. Finally, we set forth the three core challenges to address as the City considers revising its strategy to improve the safety and quality of rental housing in Detroit.

I. Older Housing Is a Critical Source of Safe and Affordable Housing but Is Widely at Risk

1. Detroit’s older housing is a critical resource for the city’s residents

Detroit contains some 78,000 separate rental properties, housing 128,000 renter households.⁷ Nearly 90 percent—70,000—of all rental properties in Detroit are single-family homes, and well over half of all Detroit renter households live in single-family homes rather than multifamily apartments. Additionally, 38 percent of all single-family homes in the city are rental homes. This represents a dramatic shift in the city’s housing stock over time. In 1970, nearly all Detroit renters lived in multifamily homes, and only one out of every nine single-family homes was a rental home. As Figure 1 shows, those numbers shifted dramatically from 1970 to 1990, and have continued to shift, although more slowly, ever since.⁸

⁷ Data in this subsection are sourced from U.S. Census Bureau. “American Community Survey 5-Year Estimates, 2022.” <https://www.census.gov/programs-surveys/acs>, unless otherwise noted.

⁸ “Decennial Census, 1970, 1990, 2010.” <https://www.census.gov/programs-surveys/decennial-census/decade/decennial-publications.1970.html>

Rental properties house most of Detroit’s low-income households, as well as a significant number of moderate, middle, and some upper income households. While the median annual income for Detroit’s homeowner households is \$48,000, that of renter households is just under \$29,000. Forty-four percent of all renter families are below the poverty level and two-thirds of all Detroit families below the poverty level are renters.

The low incomes of so many Detroit renters dictate that they will be cost-burdened by even the most modest market-rate rents, unless they are able to obtain a Housing Choice Voucher or other housing subsidy. While the City of Detroit is working hard to create new affordable housing for its residents, the limited availability of federal subsidy and tax credits severely constrains

the City’s ability to produce new affordable housing. During the past three years, Detroit has received on average an annual allocation of 350–400 units in Low Income Housing Tax Credit (LIHTC) projects. Even those units, however, may not be affordable to most Detroit renter families. While the monthly rent affordable to the median renter household in Detroit is \$725, the LIHTC rent for a two-bedroom unit is \$1,066 and for a three-bedroom unit is \$1,231.⁹

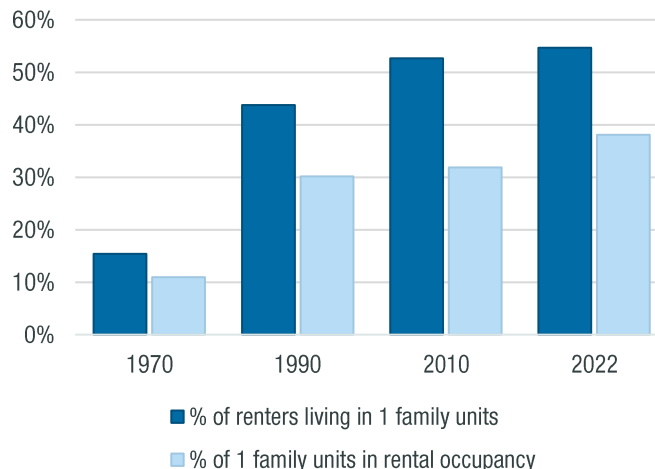
It is clear from these numbers that barring a dramatic, unprecedented, and extremely unlikely change in national housing policy, the great majority of Detroit’s renter households will continue living in the city’s aging housing stock for decades to come. The majority of those households will live in single-family homes.

2. The condition of Detroit’s rental housing threatens individual health and safety and neighborhood stability

As is true of most cities in the Northeast and Midwest, Detroit’s housing stock is old. Indeed, 90 percent of all of Detroit’s homes and apartments were built before 1980. More than one-third of those homes and apartments were built before 1940.¹⁰ There is nothing inherently unsafe or unsound about older homes. Across the United States, millions of homes fifty or more years old provide sound, desirable accommodation for households of all types. At the same time, a weak housing market, lack of ready credit access, financial constraints, and other factors can lead older homes to be poorly maintained, and ultimately lead to severe health and safety issues, demanding costly repairs for them to remain habitable.

Homes with maintenance and repair issues such as roof and plumbing leaks, infestations, poor ventilation, broken windows, or inadequate insulation and heating can lead to severe diseases, trigger or exacerbate

Figure 1 | Share of Renters Living in Single-Family Homes and Share of Single-Family Homes in Rental Occupancy



⁹ These are based on the projects being affordable at 50 percent of AMI; LIHTC rents for projects at 60 percent of AMI would be 20 percent higher than those shown. Data from Novogradac & Co.

¹⁰ Edward Lynch, “Understanding The Rental Landscape: A Profile Analysis Of Detroit Landlords To Inform Lead-Safe Housing Policy,” (Detroit Future City, August 2022), <https://detroitfuturecity.com/wp-content/uploads/2022/08/FINAL-Understanding-the-Rental-Landscape.pdf>.

chronic conditions (like asthma, particularly in children), and potentially lead to lifelong declines in physical and mental health.¹¹ These health hazards are compounded by the threat of lead-based paint, which is likely to be present in any housing unit constructed prior to 1978 that has not been significantly upgraded more recently. People who are exposed to or who ingest lead-based paint particles, such as peeling paint chips or dust around windows and doors, may develop severe damage to the brain and kidneys. Such exposure can result in serious and permanent cognitive and developmental disabilities in children.

Much of Detroit's housing stock has significant repair or deferred maintenance needs. Poverty Solutions at the University of Michigan wrote in 2021 that "nearly 38,000 households in Detroit—which equates to more than 1 in 7 occupied homes—have faced major issues with exposed wires or electrical problems, broken furnace or heating problems, or lack of hot or running water in their homes in the past year."¹² According to the same study, renters were more likely to live in homes with unsafe conditions than homeowners.

Continued deterioration of rental properties, especially single-family rental properties, does harm well beyond the damage to the lives of the tenants themselves. Older single-family homes are woven into the fabric of every Detroit neighborhood, affecting each neighborhood's vitality, market strength, and their residents' quality of life. Investing in the maintenance and improvement of these properties is critical to stabilizing older neighborhoods and maintaining their historic fabric and character, key elements to retain or attract new residents. Conversely, if the quality of these properties erodes, so will the vitality of the city's neighborhoods and their property values, with negative fiscal effects for the City including lower property tax revenues and higher municipal costs for enforcement and demolition.

3. The condition and age of Detroit's rental housing requires significant investment to bring them to code compliance

Many rental houses, and in all likelihood most moderately-priced properties purchased by investors in Detroit,¹³ suffer from deferred maintenance and often require significant repairs. As a result, property owners or buyers must invest in repairs to bring them to a level where they do not pose imminent safety or health threats to their occupants. Representatives of one large local property management firm indicated that each single-family rental property that comes into their inventory requires an average of \$7,000 in "cosmetic-plus" repairs, such as painting or floor refinishing.¹⁴ This is in addition to any investments in lead interim controls, which the City estimates at \$2,500 to \$3,000. Given the age and condition of Detroit's housing stock, and the strict lead inspection standard required by the Rental Ordinance, the City's estimate of the cost to fully abate lead hazards in compliance with the City's existing lead inspection standards is roughly \$35,000 for a single-family home in Detroit. This property management firm does not typically take on properties with major systems repair needs. The additional cost to address health and safety issues in properties needing major-systems repair (e.g., plumbing, electrical, HVAC) can easily run from \$20,000 to over \$50,000, depending on the number of different systems in need of repair or replacement and the extent of the problems.

¹¹ Ryan Ruggiero, Josh Rivera, Patrick Cooney, "A Decent Home: The Status of Home Repair in Detroit," (Working Paper, University of Michigan Poverty Solutions, October 2020), <https://poverty.umich.edu/files/2020/10/The-Status-of-Home-Repair-in-Detroit-October-2020.pdf>.

¹² Numbers summarized by Poverty Solutions based on the representative survey of Detroiters conducted by U-M's Detroit Metro Area Communities Study (DMACS). <https://poverty.umich.edu/2021/10/21/nearly-38000-households-in-detroit-estimated-to-be-living-in-inadequate-housing>.

¹³ Comparison of sales transactions to mortgage originations strongly indicates that the great majority of moderately-priced single-family homes on the Detroit market are bought by investors rather than families planning to occupy the home as their principal residence.

¹⁴ Estimates from other landlords were higher, between \$10,000 and \$20,000 per unit.

4. Low rent levels and real estate values make investment difficult

A property owner's decision to repair their property is, at its core, an economic one. A buyer's decision to invest \$7,000 or more in minor repairs and lead interim controls, over and above the cost of acquisition, is driven by whether they believe they can recoup their investment after covering operational costs and either return on equity or mortgage payments from the rent roll, or, alternatively, through property appreciation at sale.

Median rent in Detroit is just under \$1,000.¹⁵ While landlords could in theory increase rents to cover the cost of amortizing property repairs and lead remediation, the low incomes of most households in the city's renter pool are a severe constraint on landlords' ability to raise rents. Typically, if a landlord cannot cover their costs and obtain a modest return on their investment through the rents they charge, they may still anticipate that the property will appreciate and that they will be able to sell for a profit large enough to compensate for negative cash flow. However, in the long term, real estate values outside of the city's stronger market neighborhoods remain uncertain. Although most Detroit neighborhoods have seen some appreciation in recent years, often significant in percentage terms, the dollar value increases have been modest, while the future course of appreciation remains unpredictable. It is doubtful that any Detroit landlord expects the future appreciation of their properties to be enough to compensate for a negative cash flow in the present.

Based on a review of real estate websites, average sales prices in Detroit fall between \$70,000 and \$80,000, buoyed by higher prices in stronger markets like Palmer Park, Grandmont Rosedale, and Woodbridge. Many homes sold to investors in neighborhoods like Dexter-Linwood or Regent Park tend to fall in the \$40,000 to \$60,000 price range, while many homes still go for less and are showing little appreciation. Under these circumstances, landlords try to keep their costs down and are reluctant to invest money in properties on which they cannot get a reasonable return.

5. Effective, cost-sensitive regulation could improve Detroit's rental housing conditions

Given low renter incomes, rent levels, and property values in Detroit outside of a handful of strong market areas, private market dynamics alone are not likely to drive sufficient landlord investment to address health and safety issues in Detroit's substandard rental stock. Carefully designed and implemented government regulation to enforce minimum health and safety standards in rental housing is critical to motivate private landlords to ensure their rental properties meet basic health and safety standards and provide tenants with decent, livable homes. Given the potential costs of upgrading existing properties and the market constraints, however, even the most effective regulation may not be enough.

II. Few Properties Can Comply With the Rental Ordinance and the Tools to Motivate Compliance Are Inadequate

1. Current requirements and fees are burdensome

The Rental Ordinance requires owners of rental property to register their properties with the City, pass a property condition inspection, get a lead inspection and risk assessment (LIRA), and obtain a lead clearance noting that lead hazards have been mitigated.¹⁶ BSEED performs condition inspections for multifamily properties (three or more units), while landlords arrange for condition inspections of one- or two-family rental properties with one of four third-party inspection firms approved by BSEED. Landlords must also arrange for a

¹⁵ U.S. Census Bureau, "American Community Survey 5-Year Estimates, 2022."

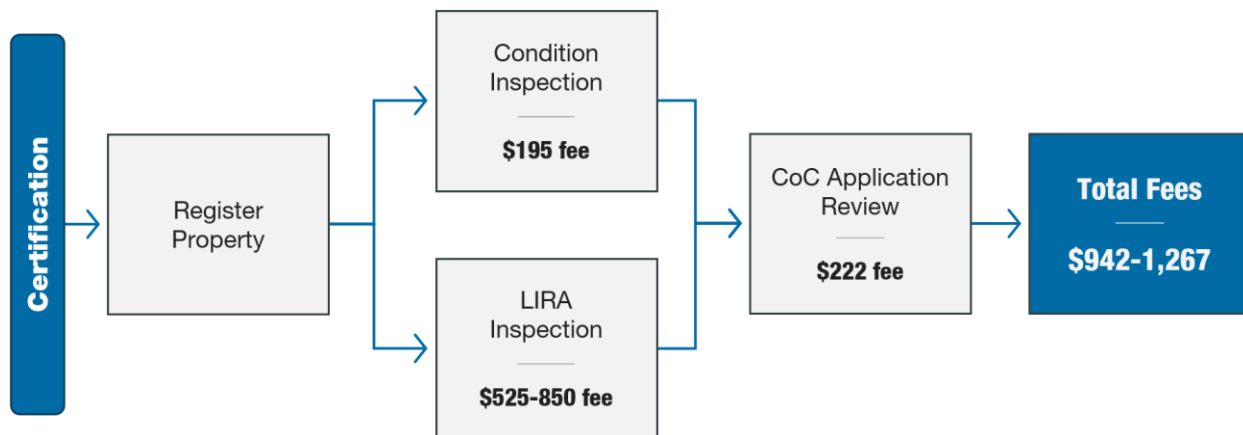
¹⁶ Detroit City Code, §§ 8-15-81; 8-15-82; and 8-15-83.

LIRA with a third-party, state-certified lead inspector. BSEED is responsible for tracking all registrations and inspection outcomes.

Once the property has been registered and receives a clean inspection after remedying any deficiencies found previously, BSEED issues a CoC, which means the owner can legally rent the home to tenants for the next three years. The property is reinspected after three years, except if the CoC has been successfully renewed for two consecutive three-year periods, in which case a renewal inspection is only required every five years.¹⁷

Leaving aside the costs to make necessary repairs, the total administrative costs of complying with each of these steps for a typical single-family rental property are daunting, typically running between \$942 and \$1,267 (Figure 2). This is a strong disincentive to participating in the Rental Ordinance process. Moreover, the process can take anywhere from 60 days to as much as a year from beginning to end, depending on the condition of the property, the landlord’s resources, contractor availability, and other factors.

Figure 2 | Steps and Fees to Comply With Rental Ordinance



2. The lead standard is unduly stringent

While the cost and difficulty of passing either inspection can be significant, the lead requirement is widely cited as the most important single reason why many landlords do not even attempt to comply with the Rental Ordinance, or fail to complete the process once begun. As the City indicates on its website, “the City of Detroit maintains its role as one of the strictest in the nation on requiring lead compliance from landlords.”¹⁸

The Rental Ordinance requires landlords to comply with all the following steps to obtain and maintain a CoC:


- Arrange for a full LIRA to be conducted by a state-certified lead risk assessor if the property was built before 1978. On the continuum of lead inspections, a LIRA is the most stringent and is typically used in the context of inspecting full interior rehabs. To the best of our knowledge, no other cities require such an onerous inspection standard. Most require a risk assessment, visual inspection plus mandatory dust wipes in all or some zip codes, or visual inspection only, as shown in Table 1.

¹⁷ Properties that were built after 1978 or that have the proper certification that all lead has been fully removed and abated only need to renew their CoC every seven years. Detroit City Code, § 8-15-83(a) and (f)(2).

¹⁸ “Enforcement begins of modified Detroit Rental Ordinance focused on lead safety and Landlord compliance,” City of Detroit, <https://detroitmi.gov/news/enforcement-begins-modified-detroit-rental-ordinance-focused-lead-safety-and-landlord-compliance>.

- Obtain a lead clearance report after hazards identified in LIRA have been mitigated by a certified professional. In pre-1978 homes that have not undergone full lead abatement, a LIRA will almost always reveal lead hazards that must be addressed through either interim controls (estimated at \$2,500 to \$3,000 per property by the City), abatement (estimated at \$35,000 per property by the City), or some combination of both.
- If interim controls are used to obtain clearance, which is almost always the case given the relative costs involved, an annual visual inspection is required.
- In three years, any property where interim controls were used to address lead hazards requires a full risk assessment and lead clearance report. After two consecutive CoCs are issued, the CoC is good for five years (though annual visual inspections are still required).

Table 1 | Major Standards of Lead Evaluation

	Category	Description	Representative Cities
<p style="text-align: center;">Most Demanding</p>  <p style="text-align: center;">Least Demanding</p>	Lead Inspection & Risk Assessment (LIRA)	All lead paint through surface-by-surface analysis with XRF gun and sampling paint, dust, and soil	Detroit
	Risk Assessment	Lead paint hazards by sampling paint, dust, soil, and intact paint on abrasion surfaces	Cleveland
	Visual Inspection* & Dust Wipes	Damaged lead paint and dust hazards through visual review and dust sampling	Pittsburgh, Rochester, Toledo, Philadelphia, and states of Maryland, New Jersey, Rhode Island
	Visual Inspection*	Damaged lead paint and visible accumulations of dust	Buffalo, New York City

*Assumes all paint in pre-1978 homes is lead-based and any damaged paint is a potential hazard

3. Few properties comply with the Rental Ordinance

Seven years after the 2017 changes to the Rental Ordinance were enacted, the majority of Detroit rental properties are not in compliance. Slightly under 16,000, or roughly 20 percent of the total estimated number of rental properties in Detroit, have registered. Little more than half of all properties that do register, however, end up completing the steps to obtain a CoC.

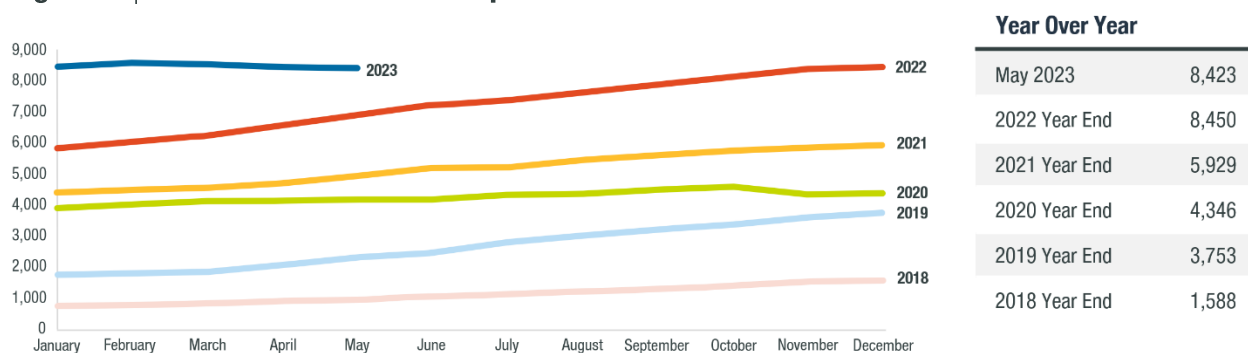
According to the City, as of fall 2022 only about 60 percent of properties that register move on to inspections. Many of those properties fall off the radar entirely either because of the complexity and expense associated with the inspection process, the difficulty in bringing properties into compliance with the City’s lead and other standards, or some combination of both.

Only 44 percent of rental properties inspected eventually pass the condition inspection, and many of them that do not pass on the first inspection only pass after several additional inspections or abandon the effort. Only a fraction of properties that register and pass general inspection pass the LIRA.

The number of rental properties that have active CoCs (about 8,500 at the end of 2023) make up slightly more than 10 percent of the estimated number of rental properties in Detroit. While the number of active

CoCs rose significantly in 2022, that increase has not been sustained and can largely be attributed to a pandemic-era policy that existing CoCs would not expire. CoCs were allowed to expire again in 2023, which helps to explain why—despite some stepped up enforcement in certain neighborhoods—the number of active CoCs remained the same in 2023, at around 8,500, as shown in Figure 3. This suggests that many landlords are either choosing not to or are unable to get their CoC renewed. Although one could construct a hypothetical projection for increased numbers of CoC which would lead to effectively full compliance around 2060, the likelihood of even that happening is remote.

Figure 3 | Active Certificates of Compliance



The City has deployed significant resources in its efforts to motivate owners to comply. Officials have mapped out thoughtful strategies, concentrating enforcement in select zip codes and then moving to zip codes showing evidence of elevated blood lead levels in children. BSEED has developed a helpful landlord guide that explains compliance expectations,¹⁹ created an informative website,²⁰ and conducted outreach and listening programs to educate stakeholders on program expectations. Both BSEED and the third-party inspection firms Community Progress spoke with during this engagement appeared to understand the complicated factors that go into compliance and the need to work patiently with landlords to motivate compliance. The results to date, although limited, offer a good basis for moving forward.

4. Enforcement for noncompliance is not effective

Despite the City’s efforts to implement the Rental Ordinance, most landlords still cannot or do not comply.²¹ The City uses blight violation tickets as its primary enforcement tool to address noncompliance, an approach that has not been effective.

Blight violation tickets are issued by BSEED. For rental properties, they usually address three separate violations: (1) failure to register, (2) failure to obtain a lead clearance, and (3) failure to obtain a CoC. Landlords are given the opportunity to contest the tickets at a hearing held at the City’s Department of Appeals and Hearings (DAH). If the landlord cannot demonstrate compliance or fails to appear at the DAH hearing, a total fine for all three violations of about \$1,000 is entered against the owner.²² Tickets can be issued in up to three

¹⁹ “Detroit Rental Ordinance: How to Operate a Rental Property in the City of Detroit,” (Building Safety Engineering & Environmental Department, City of Detroit, 2021), <https://detroitmi.gov/sites/detroitmi.localhost/files/2021-08/Landlord%20Guide.pdf>.

²⁰ “Rental Requirements,” City of Detroit, <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department/bse-ed-divisions/property-maintenance/rental-property/rental-requirements>.

²¹ See, for example, Sarah Alvarez, “A Blueprint for Taking Action Against Detroit’s ‘Rogue’ Landlords,” *Outlier Media*, February 14, 2024, <https://outliermedia.org/gaston-munoz-detroit-landlord-slumlord-enforcement-blight-bse-ed/>.

²² \$500 for failure to secure lead clearance, \$250 for failing to register, and \$250 for failing to obtain the CoC.

“rounds” for continued failure to comply, with fines increasing to \$1,850 and \$3,500 for second- and third-round tickets. While it is reasonable to infer that many of the properties ticketed contain unhealthy or unsafe conditions, it should be noted that these are violations of procedural requirements of the Rental Ordinance rather than anything that has directly to do with the condition of the property.²³

If the landlord fails to appear and/or fails to pay the fines, the unpaid amounts are forwarded to a collection law firm, at which point the landlord can pay the firm in full or enter a payment plan. However, the collection rate on all blight violation tickets, not just those on rental properties, is less than 20 percent, indicating that the great majority of owners ticketed ignore them and are not held accountable.

The City’s Bagley Neighborhood Pilot demonstrates the challenges the City faces in its heavy reliance on blight violation tickets for enforcement. Beginning in spring 2023, the City ramped up the issuance of blight violation tickets in the Bagley neighborhood, an area with a stable housing market and a significant number of rentals, to increase compliance with the Rental Ordinance.

At the end of the pilot, during a period of nearly one year of targeted enforcement, only 63 out of 547 noncompliant rental properties received a CoC (85 properties already had a CoC prior to the pilot). During that period, BSEED issued 5,422 tickets, which includes multiple tickets to the same property via multiple ticketing rounds. While it is possible that more properties will eventually obtain their CoC, the fact is that this resource-intensive targeted enforcement in a relatively strong market neighborhood still only minimally increased Rental Ordinance compliance.

With only 10 percent of rental properties in compliance and over 45,000 outstanding blight tickets issued since 2018,²⁴ the current Rental Program approach to enforcement is less than effective despite the City’s efforts.

III. Summary of Key Challenges

In summary, we see the following factors as preventing the City from obtaining more widespread compliance with the Rental Ordinance and from increasing the quality and safety of Detroit’s rental housing stock.

1. The economics of compliance do not work

Like any small business, landlords rent properties on the expectation that they will receive a reasonable return. This return can come in the form of cash flow from rental income, a profit on resale resulting from appreciation of the property, or both. With rents constrained by the low incomes of most tenants and potential appreciation limited in many Detroit neighborhoods, landlords are in a difficult position. Spending significant resources to bring old homes with deferred maintenance and repair needs into compliance with the existing Rental Ordinance increases annual costs,²⁵ reducing net cash flow, increasing cost basis, and thus limiting potential appreciation. The reasons, however, have as much to do with the stringent requirements of the Rental Ordinance—most notably the requirement that all properties pass a LIRA and lead clearance exam—as they do with the underlying economics of owning rental property in Detroit.

²³ In this light, while not a formal recommendation, we suggest that the City consider giving a name other than “blight violation” to tickets for procedural issues (such as “administrative violation”) and reserve the term “blight” for substantive condition violations of City ordinances, such as lack of heat during heating season.

²⁴ “Outstanding” ticket here means a blight violation ticket (for lack of registration, lead clearance, or CoC) on a property that does not have a CoC, where the owner was found responsible by DAH, and where there is still an amount due on the ticket.

²⁵ If the landlord borrows money for repairs, the debt service load on the property increases, or if the landlord uses their own cash for the repairs, they need to get a reasonable return on that equity investment for it to be a justifiable business decision.

2. Enforcement tools need more teeth

The enforcement tools the City currently uses to address *violations* of the Rental Ordinance—primarily blight violation tickets—are not effective at incentivizing compliance. This likely reflects the economics described above and the ability of landlords to either avoid fines and penalties or their willingness to absorb the intermittent assessment of such fines and penalties as a cost of doing business.

3. Expectations for what the Rental Ordinance can achieve are not realistic

Given the factors detailed above, full or even widespread compliance with the Rental Ordinance cannot be expected absent one of the following: an infusion of billions in federal subsidy funds for housing repairs and lead remediation; a dramatic drop in the cost of those repairs; a transformation of the local housing market leading to sharply higher property values; or a sudden increase in the ability of Detroit's renters to afford higher rents. None of these events are remotely plausible.

The City must adjust its expectations to make it easier and less costly for responsible landlords to comply with reasonable regulations. This would enable the City to ensure that more families and children are living in safe spaces and allow the City to focus its enforcement efforts on the landlords who cannot or willfully choose not to provide safe, decent homes for their tenants.

These factors, coupled with a widespread breakdown in trust and communications between the City and both landlords and tenants, have derailed the admirable expectations that housing advocates and their City partners had when the City modified the Rental Ordinance in 2017. While it is now necessary to adjust those expectations, the City's efforts to date should not be viewed as a mistake. Instead, they have provided the necessary experience and clarity needed to rethink the City's approach to enforcement and to meeting Detroit residents' housing needs.

IV. The City Must Make a Critical Choice

The City is at a crossroads in its journey toward the goal of providing Detroiters with safe rental housing of decent quality. Maintaining the status quo, with the rental regulatory system as it is now, will not help reach that goal. In this key moment, the City must make a tough choice about how to move the needle on the condition of Detroit rental housing. There are at least three distinct options to consider:

1. Repeal CoC inspection requirements while building stronger tenant protections

One can argue for repealing the proactive inspection and CoC requirements in the Rental Ordinance. The overall code requirements and lead standards would remain in place, but the City would only investigate violations in response to complaints or referrals. The City could redirect resources to partner with local nonprofits to educate tenants on how and when to report violations to the City, as well as encourage reforms to strengthen tenant protections (see Section 3 for specific suggestions) and increase compliance with code requirements and lead standards. Registration would still be required, but as a purely informational step with no other implications.

Ultimately, however, repeal of the proactive inspections currently required by the Rental Ordinance, would lead to little if any overall increase in the safety and quality of the city's rental housing, and possibly may even lead to a decline in overall quality and safety. Since monitoring and tracking overall conditions is all but impossible under such a system, one would never know its outcomes with any accuracy.

2. Leave the Rental Ordinance intact but enhance enforcement tools

A theoretical, but in our judgment undesirable and unwise, option would be for the City to leave intact its current code requirements, lead standards, and inspection procedures, and try to increase compliance by improving the effectiveness of existing enforcement tools, notably making it more difficult for landlords to avoid paying blight violation tickets. Even if these tools were improved in the ways suggested later in this report, however, BSEED—in partnership with DAH, Law, and other City departments—would need to significantly expand their enforcement efforts and capacity citywide to convey successfully to landlords that they must comply or get out of the business of renting property. The goal of enforcement, however, is not to drive landlords out of business but to increase compliance. The crux of the problem lies in the market conditions we have described earlier, and the high costs of compliance. Those conditions strongly suggest that no version of increased enforcement, while all other provisions remain intact, is a feasible path to a significant increase in compliance. The modest initial results from the Bagley Pilot support that conclusion.

While there are certainly some landlords who should not be in the rental business, *most* of the landlords who are currently not in compliance are not “bad” landlords. Indeed, scaling up enforcement without reducing some of the barriers to compliance could have unintended consequences. Some landlords with deep pockets and the patience to wait for what many hope will be a more robust rebound of the Detroit housing market in five or 10 years, particularly in the city’s strongest market neighborhoods, might choose to wait the City out or have the resources to comply with the City’s requirements. At the same time, a heavy-handed approach to enforcement may force many local mom and pop landlords who provide housing to the Detroit’s low-income families, including many Black landlords who are working hard to build generational wealth in their communities, out of the market and result in their properties being abandoned.

3. Amend the Rental Ordinance to make it easier to comply, enhance enforcement tools, incentivize landlords to comply, and increase tenant protections

We believe the most appropriate choice is for the City to build on its work over the last six years and redesign the program to make it easier for landlords to get into the system, allowing the City to inspect more properties and increasingly identify and focus on the properties and landlords most often placing renters at risk.

In making this choice, the first step *requires* the City and its partners to acknowledge that the standards in the existing ordinance are simply unattainable given current market conditions, the age and condition of Detroit’s rental housing stock, and the income levels of Detroit renters. This may change someday, but in the near term the Rental Ordinance must be amended to ensure landlords can more easily comply in return for increasing overall tenant safety and wellbeing by increasing the number of homes that come into compliance.

The City must also work to enhance its enforcement tools to ensure that “bad” landlords cannot game the system, to provide landlords with better tools and resources to comply, and to ensure that tenants are adequately protected.

The next section offers a vision of what goes into this choice, followed in Section 3 by a discussion of specific strategies through which the City can make that vision a reality moving forward.

Section 2: A New Approach to Rental Regulation in Detroit

The goal for the City’s Rental Program remains the same: to ensure that Detroit families have access to safe, quality rental housing. The last six years have revealed, however, that how the City pursues that goal and its expectations must change.

Community Progress is proposing a new approach to achieve compliance with the Rental Ordinance based on the following premises, each of which follows directly from our findings and observations:

- Compliance with the strict standards in the current Rental Ordinance is not economically feasible for most Detroit landlords in most neighborhoods given current market conditions and the age and condition of existing housing.
- Strategically adjusting certain Rental Ordinance standards to make it more feasible and less expensive for landlords to comply can be done in a way that will allow more properties to come into compliance and will result in a greater number of Detroit rental properties that are safe for Detroit families.
- Expanding compliance will result in more properties participating in the inspection process, giving the City a clearer picture of the overall condition of rental housing stock—including a better sense of unsafe rental properties on which the City can then more narrowly focus robust enforcement.
- Even with the proposed changes, important features of the rental housing market in Detroit will require the City to closely monitor outcomes and be flexible in its regulatory approach. Two of these include:
 - It is important to create a climate where responsible emerging local landlords and developers, especially local Black landlords and other landlords of color, can enter the market and operate successfully.
 - It is equally important to recognize that most tenants in Detroit are vulnerable to displacement or landlord retaliation because they lack the means to pay more than they are already paying for shelter or to explore other housing options.

Addressing these points will require hard conversations. This report provides helpful arguments that demonstrate how modifying—arguably “relaxing”—some of the City’s existing requirements, especially those related to lead hazards, will ultimately increase housing safety and quality for many more Detroit tenant families.

I. Principles of the New Rental Regulation Approach

This new approach builds on—not dismisses—the already proactive and compliance-focused work the City has done to date. These next steps expand on the concepts of being “proactive” and “compliance-focused.”

Within each of the principles below we summarize some of the key strategies we recommend to the City. These strategies, along with many others, will be further discussed in Section 3.

Rental Regulation Principles

- 1 Enforcement should be based on achievable property standards that ensure a sound minimum level of health and safety for all tenants
- 2 Rental regulation should be both proactive and performance-based
- 3 Enforcement needs to be more clearly compliance-driven
- 4 The Rental Program must be open and responsive to landlords, tenants, and the community

1. Enforcement should be based on achievable property standards that ensure a sound minimum level of health and safety for all tenants

A responsible Detroit landlord should be able to comply with the property standards required by the Rental Ordinance without undue burden or expense, while providing their tenants with safe, healthy housing.

The scope of proactive inspections should be clear and straightforward to make sure that all rental properties meet basic life safety standards like having working heat, plumbing, and electricity. These standards should be achievable considering the age and condition of the existing rental housing stock and clearly communicated to landlords in advance of any inspection.²⁶ Ways to achieve this should include:

- Developing a simplified inspection checklist with no more than 10 to 15 key inspection points.
- Posting the checklist on the City website and providing it to landlords prior to each inspection.
- Training inspectors on the checklist to ensure consistent application.

A more refined inspection checklist does not mean other code standards are not important or should not be addressed at some point. Rather, it provides an achievable baseline to make sure the property is safe enough to minimize any immediate or long-term life safety or health risks to the occupants.

A visual inspection for lead hazards should be a part of the checklist. In an ideal world, all lead-based hazards would be removed entirely but in reality that is often prohibitively expensive and rarely possible. In fact, under the current system, the vast majority of tenants have to make do with no assurances that lead risks have been addressed at all. Recognizing this reality, many cities have adopted requirements that landlords mitigate the

²⁶ Note, pp. 24-25 of the City’s Landlord Compliance Manual detail the 37 components of the City’s current inspection. Information on how to comply with lead requirements are located on pp. 26-33 of the manual. The manual is available on the City’s website at <https://detroitmi.gov/sites/detroitmi.localhost/files/2021-08/Landlord%20Guide.pdf>

harm of lead through measures short of removal. These measures avoid the expense of full abatement and have been shown to have a positive impact on lowering elevated blood lead levels.²⁷

In short, the residents of Detroit would be far better served by an approach which provides for lead-safe conditions in 50 percent or more of all rental properties, than the current one, which provides for lead-free conditions in perhaps 5 to 10 percent, and no safeguards at all in 90 percent or more.

The City should consider the following more achievable approach, as summarized in Figure 4:

- Repeal the requirement that landlords pass a LIRA and obtain a lead clearance for every property; and replace with a standard based on visual inspection.
- Train BSEED and private third-party inspection firms to conduct visual inspections for lead hazards and to use dust wipes, if necessary, during the CoC inspection.
- Use dust wipes if lead hazards are revealed in the visual inspection or if the home passes visual inspection but is in a census tract where elevated blood lead levels ($\geq 12 \mu\text{g/dL}$) are present and was built before 1978.

The residents of Detroit would be far better served by an approach which provides for lead-safe conditions in 50 percent or more of all rental properties, than the current one, which provides for lead-free conditions in perhaps 5 to 10 percent, and no safeguards at all in 90 percent or more.

A more streamlined and clear inspection checklist, coupled with a new (to Detroit) but proven, approach to lead hazard identification and treatment will give Detroit landlords a more achievable and cost-effective way to comply with the City's standards while improving the overall safety in Detroit's rental housing stock.

2. Rental Program should be both proactive and performance-based

Perhaps the single most important thing a local government can put in place to elevate the overall safety and quality of rental housing is to mandate regular, proactive interior inspections of rental properties.²⁸ While few landlords welcome those inspections, most will accept them as long as they know they are not overly burdensome.

The process must be easy to understand, not overly intrusive, and based on achievable goals. It should also be relatively painless and inexpensive for responsible landlords who make a bona fide effort to comply. Conversely, it should be designed so that landlords who repeatedly fail to address unsafe or unhealthy conditions are closely monitored and held responsible for their behavior. That distinction is the essence of a "performance-based" approach.

²⁷ Katrina Smith Korfmacher, "Rochester's lead law: evaluation of a local environmental health policy innovation," *Environmental Health Perspectives* 120, no. 2, (February 2012): <https://pubmed.ncbi.nlm.nih.gov/22001644/>.

²⁸ See, for example, Katrina Smith Korfmacher and Kathleen D. Holt, "The Potential for Proactive Housing Inspections to Inform Public Health Interventions," *Journal of Public Health Management & Practice* 24, no. 5 (September/October 2018): 444–447, https://journals.lww.com/jphmp/abstract/2018/09000/the_potential_for_proactive_housing_inspections_to.8.aspx; see also, "Healthy and Affordable Housing Fact Sheet: Proactive Rental Inspection as a Tool for Enforcing Tenants' Rights," (Network for Public Health Law, December 2022), <https://www.networkforphl.org/wp-content/uploads/2023/01/Proactive-Rental-Inspection-as-a-Tool-for-Enforcing-Tenants-Rights.pdf>.

Key strategies that follow from this principle include:

- Combine the property condition and lead inspections into a single inspection.
- Set a single, reasonable annual rental fee that covers the cost of registration, all routine inspections including the initial inspection, one reinspection, and one dust wipe sample, and the costs of administering the Rental Program over the life of the CoC.
- Tie registration directly into the CoC application process and automatically “register” all known or likely landlords in the City’s database.
- Adopt a fee structure that rewards responsible landlords by providing for a lower fee for those who comply fully in timely fashion and higher fees for those who do not comply or are cited for repeated code violations.
- Adopt an inspection schedule that benefits responsible landlords by providing a longer CoC cycle, up to five years for those who fully comply for two cycles, and shorter CoC cycles for those who do not, as short as one year or less.
- Allow landlords to schedule their inspections with third-party inspection firms, but ensure all annual fees—which covers the inspection and all other base costs—are paid directly to the City, allowing the City to pay and negotiate rates with the firms.
- Ensure Accela is configured to automatically monitor landlord and property information and to automatically flag when the City needs to reinspect, adjust annual fees, or take other action.

Each of these issues are discussed in greater detail in Section 3.

3. Enforcement needs to be more clearly compliance-driven

To employ a compliance-driven approach, one must look at every part of the process from the lens of what will make it easier and less burdensome for landlords to comply with the ordinance. At the same time, there must be consequences. When landlords fail to comply, the focus of enforcement needs to identify a reasonable path forward to compliance. If such efforts fail, the consequences must be fair, consistent, and difficult to avoid.

Success, however, should not be measured by judgments in favor of the City, fines assessed, or dollars collected, but by the extent to which landlords have corrected the violations for which they have been cited, and have improved the quality and safety of their properties. Getting judgments and collecting fines may be important, but they are means to a different end. They should not be used to measure Rental Program progress or success.

Detroit’s current tools are not effective. Many property owners ignore the theoretical consequences of fines and penalties—particularly in the case of limited liability companies (LLCs)—or treat the intermittent assessment of fines and penalties as another cost of doing business in the city. Strategies to improve enforcement include:

- Develop clear criteria and timelines within which inspectors can help move willing landlords towards compliance before having to cite them for enforcement. These guidelines should also enable inspectors to recommend reduction or waiver of previously imposed fines or penalties in the interest of achieving compliance.
- Make sure that if fines or blight violation fines or penalties are assessed, they are enforced against the property as a lien as well as a personal judgment.
- Ensure that all liens run with the property so that landlords cannot escape liability by transferring properties from one LLC entity to another. The lien must be satisfied upon transfer or, if not, by the new owner.

- Impose more stringent consequences for failure to appear or respond to enforcement efforts like blight violation tickets.
- Provide clear, consistent, public guidelines specifying when increased enforcement will take place.
- Seek injunctions and/or orders to relocate tenants living in dangerous conditions to safer housing and place liens on properties to cover relocation expenses, as summarized in Figure 4.
- Strengthen the Rental Property Escrow Program as an enforcement tool to motivate compliance.

The above suggestions are offered here with respect to the Rental Program, but many of these approaches could be applied to other City quality of life enforcement efforts.

One important cautionary note: While in theory these enhanced enforcement tactics could be adopted within the current system, we believe this would be counterproductive and *strongly recommend against it*. Instead, we recommend **first changing the Rental Ordinance to make it easier to comply**; second, **establish clear and consistent guidelines** for when each of the above steps should be used; and **only then implement the enhanced enforcement approach**.

4. The Rental Program must be open and responsive to landlords, tenants, and the community

The Rental Program must be open and responsive to the relevant needs of all who are affected by it, including landlords, tenants, community residents, and the organizations that work on their behalf.

When applied to landlords, that means a landlord with reasonable resources and decent intentions can comply with the program's requirements and still earn a reasonable income from the property. The City should work with and establish trust with landlords and their organizations, such as the Real Estate Association of Developers (READ), which works to empower minority developers.

Even with the less-burdensome standards and procedures we have recommended, it will still be difficult for many to comply considering low tenant incomes and the condition of Detroit's housing stock. Since these landlords offer relatively affordable rents, a responsive Rental Program should include City efforts to incentivize or reward compliance, potentially including:

- Reducing or waving outstanding blight violation fines and DAH fees.
- Working with Detroit Land Bank Authority (DLBA) to provide landlords with CoCs and a successful track record of development enhanced opportunities to acquire DLBA properties.
- Helping landlords to obtain state and local direct repair grants or loans, where available.
- Providing information to landlords on the availability of tax credits or other benefits offered at the state and local level, and how to apply.

For tenants, a responsive program has a different meaning. Tenants should know their rights and responsibilities related to renting property, have clear information on how the Rental Program works, and know about the tools available to protect them from irresponsible or illegal landlord action. The City can play a key role in helping educate tenants of these rights and tools, but should also work with organizations, such as legal service organizations and others, that advocate on behalf of tenants. Tenants should be aware of the following tools and resources:

- What recourse they have under state and local anti-retaliation protections.
- How the Rental Property Escrow Program works and under what conditions it may be an appropriate tool.
- How Right to Counsel in eviction cases works, and how to gain access to legal representation.

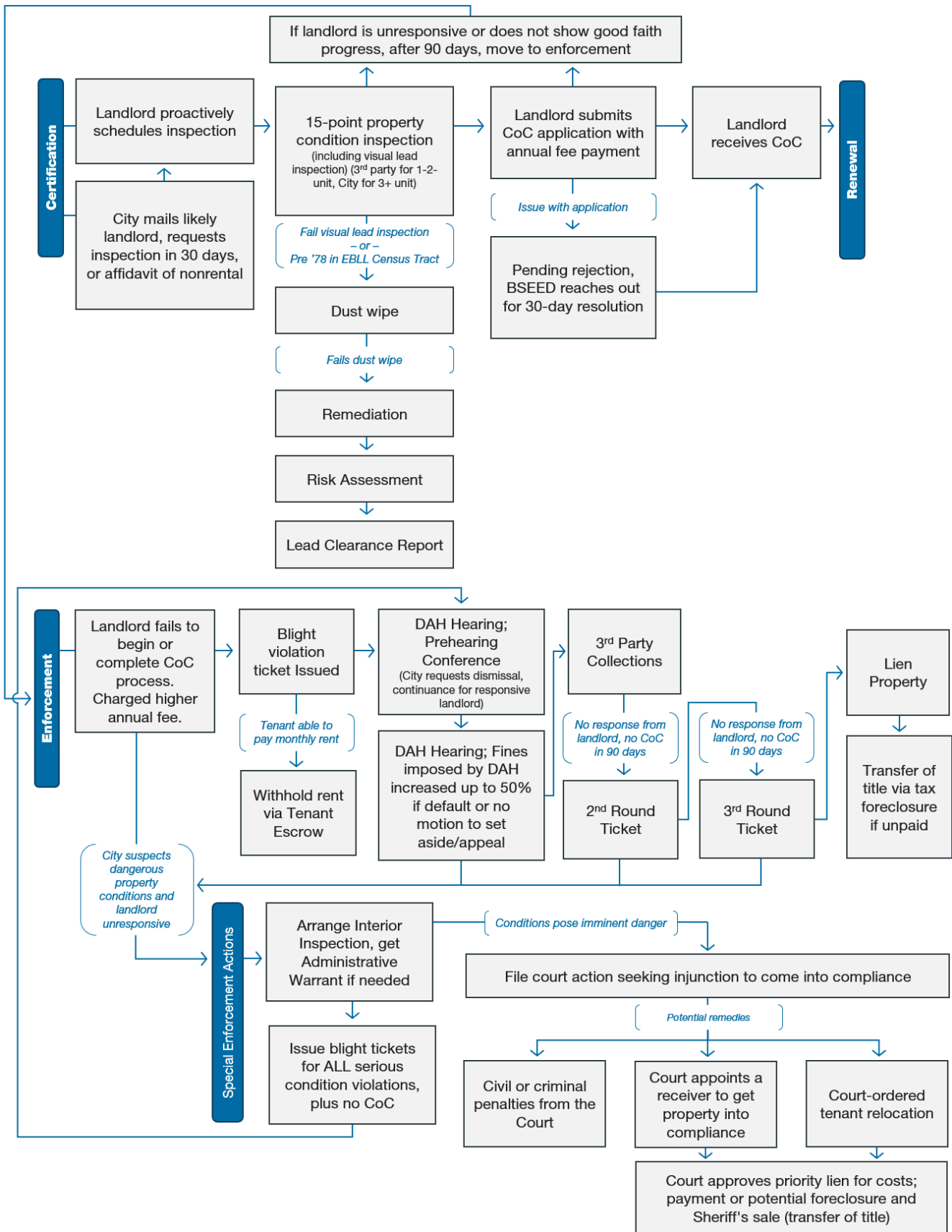
Information on these resources and tools should be readily available in concise, easy-to-read written materials provided directly to landlords and tenants, building on materials the City already provides, such as the Landlord Compliance Manual and materials prepared by the Office of Eviction Defense.

Finally, the Rental Program must be more transparent. At any time, landlords, tenants, or community residents should be able to easily access the following information online:

- Whether a property is on the City's list of known or likely rental properties.
- The identity of the owner and/or property manager.
- Whether the property has a CoC.
- If the property does not have a CoC, whether steps have been taken to obtain a CoC, such as status of condition inspection, or pending dust wipe test.
- What blight violation tickets for failure to obtain a CoC or other administrative violations are outstanding.
- If the property has outstanding blight violation tickets for code violations and the status of enforcement actions.

This information will help everyone understand the status of any individual property and the city's rental housing stock overall, and could serve as a public nudge to motivate greater landlord compliance.

Figure 4 | A New Approach to Rental Ordinance Enforcement



Section 3: Strategies for a New Rental Program

This section presents detailed recommendations of strategies for the City to implement the new approach laid out in Section 2. Each of the four subsections is aligned with one of the key principles of the new approach to the City's Rental Program.

I. Establish Achievable Property Standards Which Ensure a Sound Minimum Level of Health and Safety for All Tenants

Key Findings and Observations

As stated earlier, most Detroit landlords do not believe they can comply with the Rental Ordinance and still earn a reasonable income from the property. It is a matter of simple economics. The cost of repairs, the scarcity of contractors, the complexity and cost of navigating the Rental Program, and the slim margins landlords are operating under in a market where home values and achievable rents are low, all combine to discourage compliance.

The cost for an efficient landlord to bring a single-family property in reasonable condition—meaning no need for major repairs or major system replacement such as plumbing or HVAC—is estimated at \$7,000 to \$8,000. Adding the costs of lead remediation, over \$1,000 in City fees, and the often cited three-to-nine-month inspection process, to these costs adds multiple layers of expense and complexity, all of which make it difficult to comply with the current Rental Program in the Detroit housing market.

1. Detroit's lead standards are the most stringent in the nation

The full LIRA inspection standard is the most onerous lead inspection requirement used by cities which regulate lead hazards in rental properties in the nation, and it arguably goes beyond what is needed to protect the health and safety of Detroit's adults and children. Moreover, the economic and housing market realities in Detroit make achieving that standard all but impossible for most Detroit property owners.

The Detroit lead inspection process is also very complex, making it even harder to achieve compliance. Table 2, prepared by the BSEED in 2023, illustrates these complexities. Most rental properties in Detroit fall under the Interim Controls column.

Table 2 | BSEED Summary of Current Lead Inspection Requirements

Properties Built Before 1978					
	Interim Controls	Encapsulation or Enclosure	Abatement by Removal	Properties built after 1978	Properties with Federal Inspections
Registration	One-time registration in 2022 and then permanent unless ownership or use changes				
Inspection	1 and 2 family properties inspected by BSEED approved 3rd party and 3+ units inspected by BSEED				HUD Approved Inspection uploaded to eLAPS account
Lead Inspection/Risk Assessment	Every 3 years or if required after visual assessment	Every 4 years or if required after visual assessment	One-time clearance or if required after visual assessment	Not Required	Not Required
Visual Assessment	Annual	Annual	Annual	Not Required	Not Required
CoC Length	3 years, upon 2 consecutive CoCs it will be extended to 5 years	3 years, upon 2 consecutive CoCs it will be extended to 5 years	7 years	3 years, upon 2 consecutive CoCs it will be extended to 5 years	3 years, upon 2 consecutive CoCs it will be extended to 5 years

Detroit must regulate lead-based paint hazards, but effective mitigation can be done in a less costly way that allows for a far greater number of landlords to comply and increase the number of families living in safe conditions. It is far better to make sure that 50, 60, or 70 percent of Detroit’s rental housing is significantly safer, than to remedy 10 percent to more stringent standards, while providing no improvement for the other 90 percent.

Detroit is not the only city with an aging rental housing stock that is both costly to repair and often contains lead-based paint. As we noted in Section 1, many cities in the Northeast and Midwest including Buffalo, Toledo, Rochester (New York), and Minneapolis have adopted regulations to address the presence of deteriorated and unhealthy conditions in homes, including lead-based paint and other hazards.

We reviewed case studies and reports from the National Center for Healthy Housing (NCHH provided some limited support to this project), Centers for Disease Prevention and Control, the US Department of Housing and Urban Development (HUD), Better Lead Policy, county and municipal leaders in the field, and many others who specialize in healthy housing and lead prevention. We found several cities that have made significant progress in addressing lead hazards and

Detroit must regulate lead-based paint hazards, but effective mitigation can be done in a less costly way that allows for a far greater number of landlords to comply and increase the number of families living in safe conditions.

increased their number of safe rental properties. Many of these cities have adopted lead hazard or lead inspection standards that are less demanding than those in Detroit. We believe an approach that adjusts existing inspection standards to ensure far more rental properties in Detroit can come into compliance with a less ambitious, but still effective, standard is a critical step.

Based on our experience working with communities across the country and the literature available from NCHH and others in this field,²⁹ we identified proactive lead inspection programs in Buffalo, Baltimore and the state of Maryland, Pittsburgh, Toledo, and Rochester/Monroe County (New York) as being helpful in crafting a new approach for Detroit. All have had their challenges, but each have also had some success in beginning to or even significantly (in Rochester's case) addressing elevated blood lead levels.

The Trust for America's Health summarized some of the outcomes of the Rochester/Monroe County program since the lead ordinance was implemented in 2004:³⁰


- In 2004, 6.5 percent of the children tested had blood lead levels ≥ 10 $\mu\text{g}/\text{dL}$.
- In 2015, 1.4 percent of the children tested had blood lead results above this level.
- Between 1997 and 2011, the number of children with blood lead over 10 $\mu\text{g}/\text{dL}$ decreased roughly twice as fast in Monroe County as it did in the state of New York and nationwide.³¹

The Rochester program uses an inspection standard that includes a visual inspection plus dust wipes in areas with elevated blood lead levels. While Rochester still has work to do, these results would be a dramatic improvement for Detroit at this point in its journey.

2. Property condition standards should be streamlined

The lead inspection standards are not the only problematic feature of the Detroit Rental Program. As noted in Section 1, rental homes in Detroit have property condition challenges. Landlords fail the CoC property condition inspection 56 percent of the time. Some rental properties in Detroit are in worse condition than others, especially those that have been vacant for extended periods before being acquired for use as rental housing. However, it should still be possible to identify a critical checklist of health and safety requirements to inspect that can enable the majority of properties to achieve a CoC while protecting tenants' safety and quality of life.

Right now, the City's Landlord Compliance Manual **details 37 elements** BSEED and third-party inspection firms look for in the current property condition inspection.³² Everything on this list is a legitimate concern, but some may be excessive to achieve a CoC. Matters such as fence height and graffiti, for example, may have good reason for being part of the Property Maintenance Code, but do not rise to the level of fundamental health and safety matters.



Landlords fail the CoC property condition inspection 56 percent of the time.

²⁹ For example, NCHH lists Lead Poisoning Prevention Stories and Case Studies here: <https://nchh.org/who-we-are/nchh-publications/case-studies/lpp-stories-case-studies/>.

³⁰ "Rochester's Efforts to Prevent and Respond to Childhood Lead Exposure," Trust for America's Health, <https://www.tfah.org/story/rochesters-efforts-to-prevent-and-respond-to-childhood-lead-exposure/>.

³¹ "Declines in Elevated Blood Lead Levels Among Children, 1997–2011," *American Journal of Preventative Medicine* 46, no. 3 (March 2014): [http://www.ajpmonline.org/article/S0749-3797\(13\)00622-3/fulltext](http://www.ajpmonline.org/article/S0749-3797(13)00622-3/fulltext).

³² Detroit Rental Ordinance (p 24–25): <https://detroitmi.gov/sites/detroitmi.localhost/files/2021-08/Landlord%20Guide.pdf>.

3. The process to obtain a CoC is overly complex

Finally, we note the complexity of the entire process. Landlords must arrange for multiple inspections over multiple days, typically spending anywhere from five to 10 hours on site, pay multiple inspection fees to either the City or third-party inspection firms, pay for review of both registration and CoC applications, and must continue to do so after receiving the CoC, as with annual visual inspections if lead hazards are addressed with interim controls. These many steps and the high cost of compliance place an undue burden on landlords.

Recommended Strategies

While the City cannot solve all these issues, it can adopt three distinct strategies to reduce the cost and complexity of complying with the current Rental Program to increase the number of properties that can achieve compliance and improve overall health and safety conditions for Detroit renters.

1. Adjust lead hazard inspection requirements to resemble those of other cities which have had success in reducing blood lead levels among residents of an aging housing stock.
2. Adopt a simplified property condition inspection checklist.
3. Shorten the timeline and reduce the number of steps and fees required for compliance.

Adopting these changes should dramatically increase the potential number of CoC-compliant properties. Coupled with implementation of other recommendations, we believe that the share of rental properties in Detroit with CoCs should be well above 50 percent.

Recommendation 1 | Adopt a new inspection standard and process based on visual inspection, with dust wipes in high EBLL areas.

We believe the best approach in Detroit follows, with slight modifications, that used in Rochester, New York, a municipality whose efforts to reduce elevated blood levels through its own periodic inspection program has been shown to be successful.³³

We believe this approach strikes an appropriate balance between a realistic strategy for Detroit landlords and the goal of keeping Detroit families safe. The City should, however, continue to consult with local and national lead-safe experts to track developments in this area and ensure that its approach best balances safety and practicality.

The City should consider the following specific steps to implement this recommendation:

1. Amend the Rental Ordinance to revise the LIRA standard requirement and to provide for the following elements:
 - All rental properties must pass a visual inspection. Multifamily properties would be subject to inspection in the same manner as they are currently.
 - If the property fails the visual inspection or if the rental property was built in 1978 or earlier and is in a census tract³⁴ with elevated blood lead levels (the City's previous standard for "elevated" has been a positivity rate of 12 µg/dL or higher within a zip code), then dust wipe sampling is required.

³³ See, for example, this Local Housing Solutions' case study of the Rochester lead law: <https://localhousingsolutions.org/housing-policy-case-studies/rochesters-lead-based-paint-prevention-ordinance/>.

³⁴ While zip code boundaries have been used for this in the past, we believe that zip codes are much too large to achieve effective targeting of efforts to areas with elevated blood lead levels.

- If the property passes the visual inspection and, if needed, the dust wipe sampling reveals no additional remediation is needed, the property is eligible to obtain a CoC as contemplated in Section 8-15-83(f)(1) of the Detroit City Code.
 - BSEED inspectors and third-party inspectors should complete visual inspections and take dust wipe samples where required as part of the property condition inspection.
 - The City should pay for the initial cost of dust wipe sampling, where needed, to ensure landlord costs remain consistent citywide. Dust wipe sampling is estimated to cost roughly \$100 to \$225 per property.
 - If properties fail the visual inspection and cannot pass the dust wipe sampling process, they will then need to obtain a lead clearance based on risk assessment standards. Necessary work must be done by a licensed contractor.
 - The requirement for annual visual inspections if interim controls are used to mitigate lead hazards should occur once at the midpoint of the CoC.³⁵
2. Provide any necessary training or certification to BSEED or third-party inspectors to ensure they are properly qualified to conduct visual inspections and take dust wipe samples. Last year, the City estimated the time and cost of providing this training to roughly 30 BSEED inspector and 15 third-party inspectors at 16 hours per inspector, plus \$350 in upfront fees, and \$400 per year per inspector in ongoing licensure fees. These inspectors may not need to become *state-certified* but, at a minimum, they will need to be trained to recognize and understand HUD minimum standards for visual inspections and to take dust wipe samplings.

Adopting this recommendation requires the City to establish a more achievable and appropriate baseline of safety across the City that screens for common lead hazards as part of a balanced review of necessary safety and health conditions. We encourage the City to think of the adoption of these new standards as a way of taking a step forward to establish a more achievable safety baseline. It is far better to bring a majority of Detroit's rental units into compliance at a less stringent standard, rather than perpetuate a condition where 90 percent of Detroit's rental units meet no standard whatsoever.

It is far better to bring a majority of Detroit's rental units into compliance at a less stringent standard, rather than perpetuate a condition where 90 percent of Detroit's rental units meet no standard whatsoever.

³⁵ Organizations like Better Lead Policy recommend visual reinspection every two years when interim controls are used. If there is strong pushback from local advocates, consider scaling back the current requirement that visual inspections are required every year to only once within the second year of the CoC.

Need to address recent state assertions

While this report was being developed, Community Progress was made aware that the Michigan Department of Health and Human Services (MDHHS) asserted in a memorandum to “Lead Inspection Trainers, Certified Inspector/Risk Assessors,” dated December 15, 2023, that only state-certified lead inspector/risk assessors can conduct dust wipe sampling, and they must do so as part of a full risk assessment in accordance with the Michigan Lead Abatement Act.³⁶ Our understanding is that this assertion is in response to questions about the City of Grand Rapid’s ordinance adopting a lead inspection approach that incorporated the use of dust wipe sampling.

We strongly believe the approach outlined at the beginning of this recommendation offers the most appropriate balance of safety, efficiency, and more achievable standards for Detroit at this time. However, we encourage the City to seek additional clarity from MDHHS on how its assertion applies in Detroit and could impact the above recommendation. Until this matter is resolved—be it through additional clarification from MDHHS, a different legal interpretation, or seeking a modification to state law—the City may consider modifying the above recommendation in the following way:

1. Amend the Rental Ordinance to revise the LIRA standard requirement and to provide for the following elements:
 - All rental properties must pass a visual inspection. Multifamily properties would be subject to inspection in the same manner as they are currently.
 - If the property fails the visual inspection **a risk assessment is required.**
 - BSEED and third-party inspectors should complete visual inspections as part of the property condition inspection, **but the City has a policy choice to make as to who conducts the risk assessment. Based on the City’s further investigation into the MDHHS memorandum, the City could have BSEED and third-party inspectors become state-certified and conduct the risk assessment themselves, or, choose to not have BSEED and third-party inspectors become state-certified and instead refer properties in need of a risk assessment to an independent, state-certified risk assessor.**
 - If properties fail **the risk assessment**, they will then need to remediate the hazards and obtain a lead clearance report based on risk assessment standards. Necessary work must be done by a licensed contractor.
 - Any rental property built in 1978 or before that passes a visual inspection and *has not* previously abated the presence of lead using a certified abatement worker pursuant to the rules promulgated under the Michigan Lead Abatement Act, should have a visual inspection occur once at the midpoint of the CoC (e.g., at 18 months if the CoC is 3 years).

There are a number of implications to this approach that make it **far less appealing than the recommendation we put forth.** For example, if the City chooses not to get BSEED and third-party inspectors trained to become state-certified, that choice may be more cost- and resource-efficient for the City itself, but the referral to a third-party lead inspector/firm would add significant cost and time for landlords. This choice would undermine some of the efforts we have made in this report to make it easier to comply and reintroduce another decision point at which landlords may choose not to comply.³⁷

³⁶ MCL 333.5451 *et seq.*

³⁷ This modified approach could impact some of the other recommendations made in this report. For example, the modified approach would raise the cost of an annual fee for those properties where a risk assessment is needed. In addition, the process charts we included in Figure 4 in Section 2 of this report that include a reference to “dust wipes” should be modified to consider this new approach.

Recommendation 2 | Adopt a simplified inspection checklist with 15 key life safety inspection points as the standard for issuing Certificates of Compliance

A review of the City's Landlord Compliance Manual and reports from landlords and others suggests that inspections are inconsistent, with different inspections covering different matters, some not fundamental to basic health and life safety. To ensure consistency across all inspections, we recommend the City create, publicly publish, and share with landlords an official health and safety inspection checklist. We suggest that it contain no more than 15 basic health and life safety matters that landlords can readily understand and comply with to ensure tenants have safe, habitable homes. Baltimore, among many other cities, has adopted a checklist of basic health and safety requirements that must be met in rental property inspections that is both easy to understand and accessible.³⁸

We recommend the City develop its own checklist based on its Property Maintenance Code appropriate for local rental housing conditions. Based on the Baltimore checklist, we recommend starting with the following:

1. Railings are installed for all interior or exterior stairs with three or more risers.
2. Gas and electric service are properly metered and active. There are no gas leaks.
3. Electrical system is in proper working condition, including:
 - a. No live electrical wires are exposed and all electrical outlets are protected by cover plates.
 - b. All wall lighting fixtures work and all wall switches are protected by cover plates.
4. Smoke detectors and carbon monoxide alarms are properly installed and operational.
5. Hot and cold running water are both provided, sinks are in working order, and the hot water has a minimum temperature of 110° and maximum of 140° Fahrenheit.
6. Plumbing fixtures do not leak, toilets properly flush, and there is no visible evidence of leaks in water and waste lines.
7. All windows that are designed to open are in working condition and have working locks.
8. All entry doors to individual dwelling units close and have a working lock.
9. Roof, exterior walls, and interior ceilings do not allow entry of rain, snow, or other weather elements.
10. Exterior gutter and downspout system is installed and works as designed.
11. The property has an operable heat supply system.
12. The interior of the property is clean and sanitary and there is no evidence of mold.
13. The exterior is free of rodent burrows and there is no interior evidence of potential rodent, insect, or pest infestation.
14. All rooms, including basement and attic rooms used for human habitation, have proper egress, as required by code.
15. A visual inspection [did/did not] reveal lead hazards and dust wipe sampling [is/is not] required.

All BSEED and third-party inspectors should be trained in the checklist the City adopts to ensure consistency across inspections. The checklist should be shared with landlords in advance of the CoC inspection to encourage them to bring properties in compliance prior to inspections. The visual lead inspection should be included as an item on the checklist, but a more detailed description of the lead clearance requirements should be posted and communicated to landlords separately to provide them with complete information about this important element.

³⁸ "Baltimore City Rental License Inspection Form," Baltimore City Department of Housing and Community Development, revised February 4, 2021, <https://dhcd.baltimorecity.gov/sites/default/files/1%20&%202%20FAMILY%20DWELLING%20INSPECTION%20FORM%20rev%202-4-21.pdf>.

Recommendation 3 | Combine the lead and property condition inspections, consolidate various fees and costs, and streamline the process of getting to compliance

Every time a landlord has to pay for another inspection, file a document with the City, or receive a document from the City, it represents an opportunity for that landlord to decide that compliance is too much of a burden and walk away. The process should be streamlined, and the number of steps reduced to the extent possible, consistent with responsible public policy. We recommend the following steps:

1. Amend the Rental Ordinance to ensure nothing limits BSEED or third-party inspectors from **conducting the visual lead inspection and taking dust wipe samples, if needed, at the same time** as they conduct the property condition inspection.

2. Amend the Rental Ordinance to **charge property owners a single, reasonable annual fee** designed to cover the costs to administer the Rental Program. Landlords currently pay several fees to different parties. Consolidating these into a manageable annual fee would significantly reduce the unpredictable cost of compliance. Elements of this to explore could include:

- Establish a schedule of reasonable annual fees to cover the costs of minimum inspections, dust wipe sampling,³⁹ City application review costs, and other relevant charges.
- Adopt a single annual baseline rental housing fee paid to the City. We suggest an average fee of \$125/year for single-family properties, and \$125 plus \$35 for each additional unit for multifamily properties, with adjustments based on prior performance as discussed later.⁴⁰ These amounts should reasonably cover the costs of the minimum property condition, visual inspection every three years, and the costs of reviewing registration and CoC applications.
- Allow landlords to schedule their inspections with third-party inspection firms approved by the City, provided that payment to third-party inspection firms is made by the City, not the landlord, based on a payment agreement between the City and third-party inspection firms under which they are reimbursed for the cost of inspections.
- Ensure Accela is configured to automatically monitor landlord and property information, and to automatically flag when the City needs to reinspect, adjust annual fees, or take other actions.

Table 3 | Proposed Changes to Cost of Compliance With Rental Ordinance

	Current	Proposed
Total inspection & review fees	\$940 to \$1,270	\$375
Annual cost of fees	\$313 to \$423	\$125
Cost of compliance	HIGH	MODERATE

3. **Eliminate registration as a separate element in the CoC application process.** Instead, automatically register landlords when they apply for the CoC. Eliminating this step is a simple way to streamline CoC requirements and can pay off in other ways, as we discuss later.

4. Administrative staff who manage incoming paperwork and applications do an excellent job of handling what is asked of them, but **building new administrative efficiencies into the intake process**

³⁹ We strongly recommend that the City cover the cost of dust wipe sampling. Otherwise, the annual charge may have to be increased.

⁴⁰ A survey of several cities found that annual rental fees tended to range from well under \$100 to a maximum of \$150. No annual fees should be charged to owners who currently have an active CoC until the year in which the CoC is up for renewal.

for CoC applications could both improve their ability to do their jobs and prepare BSEED to accommodate a greater flow of CoC applications into the system. Changes could include:

- Establish and communicate to applicants a reasonable timeline for review and processing of CoC applications. We believe five to 10 business days should be sufficient.
- Ensure Accela can be used to automatically track clerical staff activity rather than require separate reporting by staff, leaving more time to process CoC applications.
- Provide all clerical staff with auto-generated email responses they can send to owners when applications are approved or rejected. Staff should be able to easily attach the appropriate documents, such as an inspection report or CoC to auto-generated emails. Currently clerical staff must write individual emails and save and upload each document separately.
- When a CoC application is rejected, Accela should automatically notify the BSEED inspector who conducted the initial inspection, or a designated compliance manager if it was a third-party inspection, in order to initiate proactive outreach to bring them into compliance. Once the BSEED point of contact is notified, they should make a follow up phone call to the owner within three days to walk through the problems and work with the owner to identify ways to remedy them. At this stage, the CoC application should not be formally rejected, but treated as pending for up to 30 days while the inspector works with the owner to reach compliance.

II. Make the Rental Programs More Proactive and Performance-Based

The City's Rental Program is already proactive in that it requires regular inspections every three or more years for most rental properties. The City can leverage the changes we have suggested to further enhance the proactive nature of the Rental Program and to make it more attuned to the variations in performance between properties and owners. The goal is to reduce the regulatory burden on landlords who maintain their properties responsibly, while putting more pressure on those who are unable or unwilling to provide safe, decent housing to their tenants.

Key Findings and Observations

In most cities, most landlords provide, or want to provide, housing that meets basic health and safety standards. Most landlords hope to remain in business and make a reasonable annual return from their rent roll. Failure to address unsafe conditions increases their liability, decreases the value of their investment, and may reduce their rental income.

1. Need for data to inform understanding of which landlords are responsible...and which are not

Although accurate data is lacking, it is likely that most rental housing in Detroit meets or could meet the modest but important health and safety baseline we have suggested, at reasonable cost. Using those standards, in conjunction with reasonable fees and an ongoing commitment by the City to work with landlords to help them meet the standards, the City should be able to quickly expand the number of inspections of rental housing it conducts and ensure that most rental housing meets basic life safety needs.

That said, it appears equally likely that there are a significant number of rental homes in Detroit that are neither healthy nor safe by those standards and would require significant investment to become decent housing. At present, no one has a clear idea how many properties fall into this category. City officials, as well as the public, urgently need better data on the overall safety and quality of the rental housing stock in Detroit. The Rental Program provides the best framework within which to collect and monitor that data, and to develop strategies accordingly.

Through its proactive inspection system, the Rental Program should enable the City to distinguish between the already safe, livable properties; properties can be made healthy and safe with reasonable effort; and properties that require particular attention, increased inspections, enforcement, and other efforts to ensure they meet minimum standards or are removed from the rental stock.

Many of the steps we recommend throughout this report are not cost- or resource-neutral, such as training inspectors to conduct visual inspections and dust wipe samples, or to become state certified. The worse the property condition, the greater the cost to the City, not only in inspection time and effort, but in other areas as well. The City should consider designing its Rental Program to place a greater burden of paying for increased costs on those landlords who require the most resources to monitor or to bring into compliance with the City's standards.

2. A note on performance-based systems

A growing number of cities with rental regulation programs have adopted a performance-based approach to better and more equitably raise and allocate resources. To a limited degree, the City has already adopted such an approach by providing that the performance of an owner who complies for two consecutive three-year CoC cycles gets to have their CoC valid for five years instead of three.

Minneapolis is widely seen as a leader among cities with performance based rental housing systems. Without suggesting that Detroit emulate the Minneapolis program, their approach is informative.⁴¹

A major reason for the effectiveness of the Minneapolis model is that the city regularly collects and analyzes an extensive body of data on their rental properties. The City uses that data to assign properties to tiers, develop appropriate fee structures that reflect differences in performance, and systematically track landlord compliance.

Figure 5 | Minneapolis Rental Housing Tiers

The Property Conditions Tier focuses on the violations we find during an inspection. Properties with a higher property conditions tier will be inspected more frequently and charged a higher fee.

Tier	Inspection Cycle Detail
Tier 1	<p>Eight-year inspection cycle. Well-maintained, and meets minimum housing code. A property's tier is determined by looking back at the last two years of data. As a result, properties that have not been inspected or had any issues reported to the City in those two years may be labeled as Tier 1. If you are wondering if this applies to your rental, you can check the building's rental license certificate to see the last time inspectors were inside the property. Current issues may not be known to us if this date is more than two years ago.</p> <ul style="list-style-type: none"> Tier 1 (By Default), Properties that have not had a routine rental license inspection in over five years fall into the 1 (By Default) category. The 1 (By Default) will be noted on your rental license certificate. The fee and inspection cycle are the same as Tier 1.
Tier 2	Five-year cycle. Property is well maintained but has a few documented issues that may have an urgent impact on renter safety and habitability.
Tier 3	One-year cycle. Property may be poorly maintained. There are several documented issues, and it is likely that more than one has an urgent impact on renter health and safety.

⁴¹ See more about the Minneapolis tiered approach, including how properties are separated into tiers and a publicly facing dashboard of rental properties and their tiers at <https://www2.minneapolismn.gov/business-services/licenses-permits-inspections/rental-licenses/tiering/>.

Recommended Strategies

Recommendation 1 | Repurpose the registration component to create a master list of all known and likely rentals in Detroit

Building off the City's previous work, consider charging the Housing and Revitalization Department (HRD) to work with BSEED to build a database of all known rentals in Detroit.

We do not believe it is necessary to require landlords to register as a separate action. That said, it is crucial for the City to know who its landlords are and how to contact them. While the City should continue to use the CoC process to gather this information, it can build a broader, more comprehensive property database at the same time.

As a threshold level, the database should allow the City to sort rental properties into the following categories:

- Known rentals with a CoC
- Confirmed rentals in the CoC process
- Confirmed rentals not in the CoC process
- Likely rentals not in the CoC process

Property owners who are not renting and do not plan to rent a particular property can have the property removed from the list by submitting an affidavit, as was done in the Bagley Neighborhood Pilot.⁴²

The purpose of this list is not simply to develop a tool for more targeted, efficient ticketing. Instead, categorizing the universe of rental properties can also help develop more targeted outreach and enforcement strategies. For example, the City could investigate the category of properties "in the CoC process" to better understand how landlords pursue that process and make determinations about what events should trigger enforcement actions.

In addition to CoC status, other searchable data points that should be included in the database, many of which BSEED already tracks, are:

- Owner and property manager contact information
- Date and consideration of last arms-length property transfer
- Property type (single-family, duplex, multi-unit) and number of units
- Blight violation tickets or other enforcement actions taken against the property, including those outstanding and those that have been resolved in the last five years
- Outstanding debts by the owner to the City, including delinquent taxes and fees
- Other rental properties owned by the same owner
- Permits pulled for work on the property

Accela is already tracking BSEED and permit activity associated with all properties in the City, so it should be readily adapted to this task. Building this database should be given high priority and should be completed within one year or less. However, once the database has been created it must be maintained and updated on a timely basis if it is to remain useful over time.

Once the database has been created, it becomes a de facto landlord registration list. It can be used to bill owners for the annual fee, and to schedule CoC inspections.

⁴² The Rental Ordinance should provide that anyone submitting such an affidavit who is subsequently found to be renting the property would be subject to a severe penalty.

Recommendation 2 | Based on the new annual fee structure, adopt a fee schedule that benefits landlords who comply with Rental Program requirements

The shift to annual fees as a replacement for the current system should be structured so that landlords who meet the conditions of the Rental Program and maintain safe and healthy properties pay lower fees than those who impose disproportionate costs on the City for reinspection and enforcement.

Assuming the base structure recommended in the previous subsection, central features of this fee structure could include:

- Set a significantly reduced annual fee on properties that fully meet CoC requirements and incur no more than one blight ticket for property conditions during the term of the CoC.
- For landlords who comply with the registration and CoC requirements but require more City resources to bring into compliance, have more blight tickets for property conditions, or are delinquent on funds owed to the City, require *moderately* higher annual fees.
- For all landlords who do not comply with CoC requirements, have a CoC revoked, or incur repeated blight tickets for property violations, charge a *significantly* higher annual fee.

A proposed fee structure for single-family properties is shown in Table 4.

Table 4 | Proposed Schedule of Fees and Other Requirements for Rental Properties

	Group A	Group B	Group C
	<i>Timely compliance with CoC AND no more than one substantive* blight ticket during CoC term</i>	<i>Compliance with CoC but required more than one reinspection OR two to four substantive* blight tickets during CoC term OR delinquent on City taxes or fees</i>	<i>Failure to comply with CoC OR have CoC revoked for cause OR have five or more substantive* blight tickets during CoC term</i>
Annual Fee	\$125	\$175	\$300
From Initial CoC to 2nd CoC	3 years	3 years	3 years unless CoC revoked
From 2nd to 3rd CoC	4 years	3 years	Six months to 3 years based on performance at discretion of city
After 3rd CoC	Every 5 years	Every 3 years	Six months to 3 years based on performance at discretion of City
Other Provisions	Technical support for grants or tax benefits, Priority for public funds when available, Enhanced opportunities to acquire DLBA properties		May be required to participate in City-hosted or City-approved training program

*Blight ticket issued for substantive code violation on property, such as lack of heat during heating season, as distinct from administrative violation such as failure to obtain CoC or lesser condition violations, such as garbage containers being left too long at the curb.

Recommendation 3 | Adopt a new reinspection schedule that benefits landlords who comply with Rental Program requirements

As noted in Table 4, landlords who readily comply with Rental Program requirements should be subject to less frequent inspections. Conversely, known problem landlords and properties should be inspected more often. Our recommendations for a revised inspection schedule could include:

1. For properties in full compliance with their first CoC and again with their second CoC three years later, the next (third) CoC should be four years later, and if compliance is still in place, all future CoCs should be five years apart. This is a slight modification to the City's current practice.
2. Conversely, properties that fail to maintain compliance with the Rental Ordinance, have their CoC revoked, or are cited for five or more blight violations for property conditions during the initial three-year period, their next CoC would be for a period that could be shorter than three years at the discretion of BSEED and could be as short as six months.⁴³ This provision needs to be carefully crafted to ensure that any reduction in the duration of the CoC or imposition of higher fees is proportionate to the severity of the violations.
3. Using the database described above, the City should schedule proactive inspections of all properties that have not attempted to seek a CoC. To facilitate matters, if some landlords refuse entry to their properties, the City should work with the court to set up a regular administrative warrant call to issue warrants for interior inspections of these properties to the extent that the City has the capacity to conduct such inspections. BSEED should issue tickets for all property condition violations observed in addition to failing to comply with lead and CoC requirements.
4. Ensure Accela is configured to monitor landlord and property information and to automatically flag when the City needs to reinspect, adjust annual fees, or take other action.

III. Move Towards a More Compliance-Driven Enforcement Approach

Key Findings and Observations

As mentioned in Section 2 the central mission of the Rental Program is to bring about landlord compliance and a healthy, safe rental housing stock. That calls for a balanced approach of incentives to comply with Rental Program requirements, and consequences for failure to do so. In this report, we have laid out a variety of strategies that will make it less costly, complicated, and time-consuming to achieve compliance. Those incentives will be far more effective if landlords also know that the consequences for noncompliance are serious, consistent, and difficult to avoid. This will require significant changes in the enforcement process.

1. Blight violation tickets are not resulting in compliance

If a landlord fails to obtain a CoC, the principal and in most cases the only tool used by the City is to issue a blight violation ticket. BSEED currently issues blight violation tickets for failure to register properties (\$250), obtain lead clearances (\$500), or obtain CoCs (\$250) along with an administrative fee. Subsequently, the Department of Appeals and Hearings will schedule a hearing on the tickets, the timing of which depends on the case load. In some cases, hearings are not scheduled until six months or more after the ticket is issued. The landlord can request that hearings be continued to gain additional time to come into compliance.

⁴³ If interim controls continue to be used to address lead, it may be that a single visual inspection at the midpoint of longer-term CoCs, perhaps even a self-certification, is appropriate to ensure there is no deterioration.

If the landlord pays the ticket before the hearing, they receive a 10 percent discount. If they pay on the day of the hearing, the administrative fee is waived. If they pay after the hearing is held and the fines have been confirmed by the DAH hearing officer, they are charged a 10 percent late fee. If a landlord still does not pay the ticket, it is assigned to a third-party firm for collection. No other enforcement action is taken, other than writing additional blight violation tickets for noncompliance.

If the first round of blight violation tickets fails to result in compliance, the City can issue additional rounds of the same tickets. The amount of the fine can be increased in the second and third rounds, although the City does not appear to do this regularly.

Blight violation tickets rarely result in compliance. Since 2018, of the nearly 30,000 parcels that received at least 1 blight violation ticket for lacking a CoC, less than 7 percent of those properties ultimately received a CoC, as shown in Figure 6. Most landlords effectively ignore the ticket. They neither made any payment nor obtained a CoC. Over \$7.8 million in fines are outstanding on noncompliant properties, representing over 36,000 tickets.

There are four primary reasons blight violation tickets appear to be an ineffective enforcement tactic:

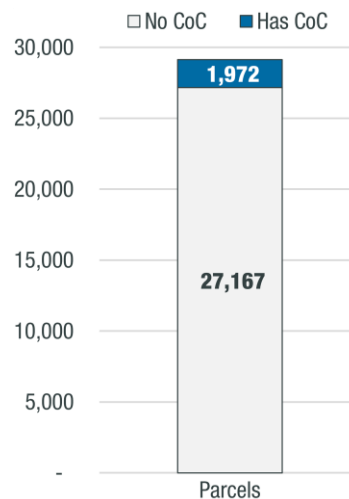
1. **Landlords fail to appear at DAH hearings.** For each blight violation ticket, landlords are given the opportunity to appear at the DAH to contest the ticket. According to information provided by the City, just over 15 percent of landlords cited appear at these hearings.
2. **Personal collections strategies are often ineffective.** At the DAH hearing, a hearing officer enters a judgment and fine amount if warranted. If this judgment is not appealed and the fine not paid, the matter is referred to a private collection firm under contract by the City. These firms are skilled in collecting personal judgments such as these DAH orders against known individuals.

Many rental property owners, however, are not individuals for legal purposes. Many are LLCs which make it difficult to identify the responsible owners, where they may be. Moreover, LLCs typically do not have personal bank accounts that can be located, nor jobs with wages that can be garnished.

But even if the owner is an individual, personal collection tactics are time- and resource-intensive. With tens of thousands of current and potential future unpaid judgments for violations of the City's Rental Ordinance, the resources needed to investigate, find, and collect fines from owners at a level where it might influence the CoC compliance rate is well beyond what is realistic or achievable.

Garnishing the wages of an individual landlord owner, especially a small mom-and-pop landlord, would only work against their having the resources to address violations and bring their property into compliance. Similarly, criminal prosecution to pursue debt would have the same effect, but worse, and would be ineffective against corporate owners. In short,

Figure 6 | Compliance Status of Parcels Issued CoC Blight Violation Tickets



The current system effectively allows a landlord to ignore collections without any meaningful penalty.

the current system effectively allows a landlord to ignore collections without any meaningful penalty.

3. **Ticketing processes start over when ownership changes.** Since the City issues the blight violation ticket to the property owner, rather than tying the debt to the property, an owner can avoid responsibility for that ticket by transferring title to another owner. The City must then begin the process again, writing new tickets to the new owner, who can then transfer the property again. While it is unclear how often this takes place, anecdotal evidence from inspectors and others suggests that it happens frequently enough to be a matter of concern.
4. **Penalties for noncompliance are not severe enough.** Over half of the owners of properties without a CoC chose to pay their blight violation tickets in part or in full, forestalling any obligation to comply. The City may issue a second round of tickets, at which point the same outcome is repeated. The tickets become a cost of doing business since paying the fines is more cost-effective than incurring the far greater cost of compliance. This illustrates an imbalance in the current system that must change: 1) The cost of compliance is too high, and 2) The penalty for noncompliance is too low.

Maximizing collection of unpaid blight violation is not the sole answer, or even a good answer, to enhancing enforcement. However, blight violation fines are currently the only tool the City uses to impose consequences for noncompliance with the Rental Ordinance. While the blight violation tool needs to be improved, the available tools and consequences must also expand. The City needs a progressive enforcement toolkit.

The City's Law Department files cases and seeks court injunctions to compel compliance where property owners fail to maintain properties to minimum legal standards. This has historically been used sparingly on properties where there are extensive or life-threatening violations, rather than as a tool to compel owners to obtain a CoC. While time- and resource-intensive, it has been used successfully by the Law Department and they have indicated interest in expanding its scope. It is critical, however, to understand to what extent the Law Department has the capacity to expand its use beyond current levels.

Imbalance in the current system that must change: 1) The cost of compliance is too high, and 2) The penalty for noncompliance is too low

2. The Rental Property Escrow Program is rarely used and does not effectively compel compliance

The Rental Property Escrow Program has historically been viewed by many as a vehicle for tenant protection. It should be seen instead as a publicly enabled private enforcement tool to allow rent-paying tenants in good standing to put pressure on landlords to incentivize CoC compliance by cutting off their revenue stream.

Under this program, an eligible tenant of a one- or two-unit rental property which lacks a CoC can apply to the City's Rental Property Escrow Program managed by BSEED. If accepted, the tenant then makes their monthly rental payments to the account set up by BSEED. Once a landlord obtains a CoC for the property, BSEED remits the collected payments to the landlord and the account is closed. If the landlord does not comply, BSEED remits the amount back to the tenant.

Critically, this tool only works if the tenant is prepared to pay their rent in full into the escrow account. In the past six years, the City estimates that no more than 100 tenants have utilized the escrow program, and currently there are only five in the program. Those numbers are insignificant in comparison to the tens of thousands of noncompliant rental properties. Most of the escrowed rent has ended up being returned to the

renters because the landlords' failed to obtain a CoC. In short, in its current form, the Escrow Program is not an effective enforcement tool.

While the City could better promote the escrow program, the low participation is also a function of the eligibility requirements imposed by the City.⁴⁴ To apply, a renter must:

- Have a written lease agreement that does not expire within the next 90 days.
- Provide proof of the last three months' rental payments.
- Provide an ID card.
- Not have any pending litigation at the property.
- Be renting in a property with no more than two units.

Most of Detroit's renters cannot meet these requirements. Many, if not most, renters operate on month-to-month oral agreements, do not have written leases, and pay rent in cash. Until eligibility requirements are changed to reflect Detroit's rental realities, the escrow program will remain a marginal program.

The Rental Property Escrow Program may not only be ineffective, it also may be doing harm in its current form. Tenant advocates report that the 36th District Court has on occasion found that a tenant's failure to participate in the program is a barrier to counsel raising important defenses in their eviction cases that would otherwise be available to these tenants under state law.

Recommended Strategies

The City will not realize the full benefits of changes to the inspection procedures and requirements without also making significant changes to its enforcement approach. To that end, we recommend that the City:

1. Increase penalties for repeated noncompliance or nonresponse.
2. Collect fines owed by problem owners through the property tax system.
3. Work with the Law Department to refer selected landlords or properties for court action.
4. Develop and communicate a clear and consistent framework for progressive enforcement actions.
5. Restructure and relaunch the Rental Property Escrow Program.
6. Advocate for changes to state law to establish a tenant cause of action.

Many of these recommendations can be implemented now without a change to the Rental Ordinance. Those that do require a change to the Rental Ordinance are noted below.

Recommendation 1 | Increase penalties for repeated noncompliance or nonresponse

In parallel with the changes to the CoC process and fee structure, which should make it significantly easier for landlords to comply with the ordinance, the City should also impose more stringent penalties for failure to comply. These changes include amending the Rental Ordinance to:

1. **Increase the annual fee for properties that are repeatedly noncompliant.** That will incentivize compliance while allowing the City to recover the costs of pursuing noncompliant owners.
2. **Use the enforcement process to open lines of communication between the City and property owners.** Currently, an owner can ignore a DAH hearing without serious consequences. While this is a problem from a legal standpoint, it also means that the City is missing a valuable opportunity for a

⁴⁴ BSEED Rental Escrow Application Form, <https://app.smartsheet.com/b/form/8c10b16330a7458b905c23833a66763b>.

face-to-face engagement with the property owner where they could clarify expectations and resolve barriers to the owner's complying with the Rental Ordinance.

Through a change to the ordinance, the City could **authorize BSEED to increase a blight violation fine by up to 50 percent** if the owner either: (a) fails to appear or file a motion to set aside within 30 days of a DAH hearing; or (b) fails to pay or appeal a DAH judgment in 45 days; or (c) fails to enter into a continuance plan. This would be in addition to the escalating fines the City can impose for second and third rounds of blight violation tickets.

3. **Allow BSEED to terminate a CoC, or accelerate the termination date of a CoC**, for a rental property if three or more substantive blight violations remain uncorrected 30 days following a DAH determination. This should motivate owners to keep their properties in good condition after they have received a CoC and accelerate enforcement against those who fail to do so.

Recommendation 2 | For problem owners, collect unpaid blight violation fines through the property tax system

As noted above, efforts to collect fines through personal collections often do not result in compliance, particularly with respect to properties owned by LLCs. This is unlikely to change unless there are meaningful consequences for noncompliance. One of the most compelling consequences is the possible loss of ownership.

For problem landlords, the City should **attach unpaid blight tickets to the property tax bill**, as allowed by state law. This procedure attaches liability to the property (*in rem*) as opposed to attaching personal liability to an elusive owner (*in personam*). It enables the City to collect unpaid tickets in the same manner as delinquent property taxes, ultimately resulting in Wayne County being able to foreclose on the property and transfer title to a new owner if the landlord refuses to comply and pay. While the number of income-producing properties that will end up in the hands of the County is likely to be small, it would likely encourage owners to comply to avoid the possibility of that happening. We do not recommend the City attach every unpaid blight violation to the property tax bill at this point, but rather, that the City adopt formal criteria to guide when this tool should be used. In a preceding memorandum (see Appendix B) we suggested potential criteria that the City could apply.

State law already allows the City to enforce unpaid blight tickets through the property tax foreclosure process. The City could consider changing the Rental Ordinance to clarify that authority.

Recommendation 3 | Work with the Law Department to develop criteria to guide referral of landlords or properties for court action

The City should work with the Law Department to establish when and how the court system should be used, for example: when landlords with large property inventories continue to avoid compliance; when the City might need authority to repair or manage properties where tenants are living in unsafe conditions; or when tenants must be relocated for their safety.

The City should explore three specific strategies:

1. **Seek injunctions and court orders.** The City could seek injunctions and court orders mandating that owners bring their properties into compliance with the Rental Ordinance. This might be useful where a landlord owns multiple properties that are all clearly in violation of the City's Property Maintenance Code and Rental Ordinance.

2. **Pilot rent receivership.** For select multifamily properties, the City could pilot a receivership program. The City would ask the Court to appoint a responsible third-party receiver for a CoC-lacking property of particular concern. The receiver would be responsible for managing the property and bringing it into compliance. The receiver would collect rents, borrow against the rent roll if necessary, and secure their costs as a priority lien against the property.⁴⁵

Receivership has proven to be an effective tool in other cities, notably the Chicago Troubled Buildings Initiative administered by the Community Investment Corporation.⁴⁶ Were Detroit to pilot a receivership program, it would have to establish that enough willing, capable receivers are available, and develop criteria to determine which properties would be suitable for receivership.

3. **Relocate tenants in unsafe properties at the landlord's expense.** Where tenants are living in unsafe properties, the City should be ready to relocate them and charge the landlord for the costs of relocation. To make this work, the City must establish an adequately funded, equitable, and efficient relocation program. Elements of this program should include:

- The City should determine whether this responsibility should be housed in HRD, which currently administers City responsibilities under the Michigan Uniform Relocation Act (MCL 213.321 et seq.) or in BSEED in conjunction with its enforcement of the Rental Program.
- In either case, the City should hire or cross-train existing staff to act as relocation specialists and establish a relocation assistance fund to cover the initial costs of the program. While the costs would be assessed against property owners, those funds will only be realized after the fact, in most cases. Depending on capacity and resources, the City may limit its initial involvement to a small number of highly visible cases.
- The City would apply all costs of relocation as a priority lien against the property. While we believe that the City has clear authority to do this, we suggest adding language to that effect to the Rental Ordinance.

Minneapolis runs a similar program that requires landlords whose licenses are revoked or whose properties are condemned to pay for tenants' relocation costs.⁴⁷ If the landlord does not pay, the City will cover the relocation costs from a revolving fund and then add the costs to the property's tax bill.⁴⁸ It should be stressed that no tenant should ever be compelled by the City to vacate their home because of the landlord's failure to comply with administrative requirements having to do with the CoC, or because of blight violations that do not make the home unsafe for human habitation.

Recommendation 4 | Develop a clear and consistent framework for progressive enforcement actions

Once the City implements these recommendations, it will have access to a far more extensive range of enforcement actions. The City then must develop a consistent enforcement framework for all these actions to

⁴⁵ The receivership order could also set conditions that the owner would have to meet to regain control of the property, which could include ongoing monitoring or even posting a bond that the City could use in the event of future deficiencies. Failing that, the City or the receiver could foreclose on the receiver's lien.

⁴⁶ "Programs - Troubled Buildings Initiative," Community Investment Corporation, <https://www.cicchicago.com/programs/troubled-buildings-initiative/>.

⁴⁷ Minneapolis, Minnesota, Municipal Code s. 244.1950.

⁴⁸ Marissa Evans, "Minneapolis City Council passes tenant relocation assistance ordinance," *Star Tribune*, January 10, 2020, <https://www.startribune.com/minneapolis-city-council-passes-tenant-relocation-assistance-ordinance/566892842/>.

maximize their effectiveness, ensure they are coordinated with one another, and make clear to all parties how they will be used and what the consequences of noncompliance are.

The basic approach is straightforward: The City and its inspectors, including third-party inspectors, must work closely with landlords to help them comply with the Ordinance and avoid involvement with the enforcement process. If landlords do not achieve compliance after a clearly defined and reasonable timeframe, it must be made clear that enforcement will begin.

The initial enforcement steps in a progressive enforcement scheme still focus on compliance. The initial citations should be issued with the clear intention of using DAH as a forum to discuss the owner's concerns and develop a plan towards compliance. But if a plan cannot be worked out, a landlord may be subject to fines, may have the fines added as liens against the property and subject to collection in the same manner as delinquent property taxes. Ultimately, landlords who continue to ignore the Rental Ordinance and deliver unsafe living conditions will be subject to court action.

The City should develop clear criteria for when it will use each of the progressive enforcement tools and make this information available through written materials and on the BSEED and DAH websites. More recommendations on external communication and transparency are shared in the next subsection.

Recommendation 5 | Restructure and relaunch the City's Rental Property Escrow Program

The Rental Property Escrow Program can be a strong enforcement tool to penalize landlords for failing to maintain their properties and motivate them to bring those properties into compliance by reducing or eliminating their rental income. Los Angeles has made its escrow programs a foundational element in its code enforcement strategy.⁴⁹

To make its Rental Property Escrow Program an effective enforcement tool, the City should:

- Amend the Rental Ordinance to allow the City to move administration of the tenant escrow account to a different City department with additional capacity or to a third-party partner that already has capacity and trusted relationships with renters. Los Angeles contracts with multiple social services agencies to administer their escrow program.
- Expand eligibility by simplifying access to the program and making any tenant eligible who can deposit the rent into escrow in a timely fashion each month. Los Angeles' program does not impose requirements like Detroit's for its escrow program.
- Ensure landlords who comply are only refunded those prorated portions of the rent applicable to the period of time *after* the date on which the landlord completed the required repairs.

The City should clarify to the 36th District Court that the escrow program is an enforcement tool, rather than a step in the eviction process. Michigan tenants, moreover, already have the right under state law to withhold their rent when landlords fail to maintain the property, whether they have a formal lease or are current on their rent or not.⁵⁰ They do not need to participate in the City's escrow program to exercise that right.

⁴⁹ "Getting Help with REAP!", Los Angeles Housing Department, <https://housing2.lacity.org/residents/getting-help-with-reap>.

⁵⁰ MCL 554.139.

Recommendation 6 | Advocate for change to state law to establish a tenant cause of action

While the City is principally responsible for Rental Program enforcement actions, tenants can also hold noncompliant owners accountable. Allowing tenants to collect statutory attorney's fees if they prevail in a civil action against their landlord for noncompliance could be a powerful tool. Tenants can raise these claims affirmatively or as a counterclaim in an eviction action.

This change would leverage the City's existing investments in its Right to Counsel program to improve rental conditions. A tenant cause of action with the ability to recover attorney's fees would, for example, provide a way for the Right to Counsel program to recoup costs associated with raising claims related to the condition of the property and to attempt to secure repairs through eviction cases.

Locally established private causes of action exist in Michigan, such as Ann Arbor's nondiscrimination ordinance which creates a private right of action allowing victims of discriminatory actions in violation of the ordinance to bring a civil action for injunctive relief and damages, including reasonable attorney's fees.⁵¹ However, our discussions with Law Department attorneys suggest that a tenant cause of action with clear authority to seek attorney's fees if they prevail would be more effective and legally defensible if established by state statute, as opposed to a local ordinance. We urge the City to work with its legal aid partners to draft and advocate for an amendment to state law providing such an explicit tenant cause of action.

IV. Make the Rental Program Open and Responsive to Landlords, Tenants, and the Community

While most of this report has focused on making it easier for landlords to comply with the Rental Program and on enhancing the City's enforcement approach, some key steps remain to ensure that the program truly benefits and is accessible to both landlords and tenants.

Key Findings and Observations: Landlords

Should the above recommendations be adopted, they would be a major step towards both making it more economically viable for landlords to comply and motivating them to do so. Even with these changes, however, many landlords will still struggle to afford the level of repairs that are needed to bring their properties into compliance.

As is widely true elsewhere, few financial programs or incentives to assist landlords to repair rental properties exist in Detroit. The City has prioritized its limited repair subsidies principally to encourage homeownership and to, a much more limited extent, support rehabilitation of multifamily rental properties. As a result, there are few public funds available to private owners of the roughly 70,000 single-family rental homes which house nearly half of Detroit's renters.

The central issue is the extremely slim margin by which most Detroit landlords operate. One landlord we interviewed explained that he considered himself very "lucky" if he generated \$200/month in net operating income (NOI) from each single-family rental property. This is a miniscule return for most landlords. The hypothetical example in Table 5 shows that at a rent of \$1,200/month, a significant rent level for many Detroit neighborhoods, a responsible landlord may have difficulty making even that modest amount.

⁵¹ City of Ann Arbor, Municipal Code s. 9:164,

https://library.municode.com/mi/ann_arbor/codes/code_of_ordinances?nodetd=TITXPOR_CH112NSC

This does not mean that all landlords should be entitled to direct public subsidy to defray their repair costs, but it does indicate the importance of finding ways to reduce costs, finding financial or other types of landlord incentives, and working closely with the landlord community to fully understand how they will be affected by any changes to the Rental Program.

From our interviews and observations, it is apparent that there are significant barriers of mistrust between the City and the landlord community. Our interviews found a widespread perception that BSEED exists mainly to generate revenue for the City through blight violation tickets. Moreover, landlords are wary of any incentives the City may offer to increase compliance with the Rental Ordinance unless they explicitly recognize and address the economic difficulty of achieving compliance in most Detroit neighborhoods.

Table 5 | Estimated Costs and Return to Operate a Rental Single-Family House in Detroit

Operating & Fixed Expenses	Annual	Monthly
Sewer & Water	\$960	\$80
Repairs & Maintenance	\$1,800	\$150
Property Taxes	\$2,000	\$167
Insurance	\$2,600	\$217
Replacement Reserves (15% of debt service)	\$540	\$45
Debt service (6% for 30 years)	\$3,600	\$300
Total expenses	\$11,500	\$959
Gross rent revenue	\$14,400	\$1,200
Less 10% vacancy and collection allowance	(\$1,440)	(\$120)
Net revenue	\$12,960	\$1,080
Net cash flow before income taxes	\$1,460	\$122

Note: Landlord assumed to have bought the house for \$62,500 with 20% downpayment and a mortgage on \$50,000.

Recommended Strategies: Landlords

Recommendation 1 | Build additional landlord incentives

BSEED and HRD should jointly create a Landlord Incentive Program for compliance.⁵² They should work with responsible landlords to define the qualifications for the program and create a package of resources that landlords might consider compelling incentives. Qualified landlords might include those who are working towards a CoC or whose properties have CoCs, and who have not received any blight violation tickets in the last six months. Some possible incentives could include:

1. Reducing outstanding blight violation fines or providing amnesty for certain past violations if the landlord obtains a CoC.

⁵² The City currently lists three incentives here: <https://detroitmi.gov/departments/housing-and-revitalization-department/developers-and-contractors/landlord-resources>.

2. Having the City work with DLBA to develop enhanced opportunities to acquire DLBA property for landlords with a solid track record of rehabilitating vacant property and obtaining CoCs.
3. Helping landlords secure other City, state, or private funds or incentives by providing application support or preferential consideration for such programs if appropriate. Some of these programs include:
 - Attainable Housing Exemption Certificate, a tax incentive to provide owners of one to four-unit rental properties a tax incentive for up to 12 years to enable the “renovation and expansion of aging facilities and assist in the building of new facilities.”⁵³ Rental properties that are one to four-units are an essential part of Detroit’s neighborhood fabric. As such, the exemption should be designed in a way that owners of these smaller properties can readily navigate the exemption process.
 - Rental Housing Exemption Certificate, a tax incentive to provide owners of four-unit or more rental properties a tax incentive for up to 12 years to enable the “renovation and expansion of aging facilities and assist in the building of new facilities.”⁵⁴
 - City’s Duplex Repair Program (if the program is expanded in the future).⁵⁵
 - The Michigan Saves Lead Poisoning Prevention Fund.⁵⁶
4. Exploring use of tax increment financing through local brownfield redevelopment authorities to support housing improvements recently authorized by the State Legislature (Act 90 of 2023). This may be a valuable new tool, although it is not yet clear exactly how this program will be implemented at the local level.⁵⁷
5. Offering a low-interest loan program for qualified landlords, together with local lenders and nonprofit partners. Such a program is likely to require some combination of negotiating with lenders for concessionary loan interest rates, along with a public or philanthropic source of an annual interest rate subsidy or loan write-down.⁵⁸ The Philadelphia Rental Improvement Fund may have features that would be appropriate to replicate in Detroit.⁵⁹
6. Working with tenant advocates and the 36th District Court to determine if qualified landlords could receive preferential treatment when assigning hearing dates in the eviction docket, since landlords repeatedly cited delays in eviction as a problematic issue. This is **not** a recommendation that eviction should be any easier for landlords, but to recognize that it may be appropriate to grant landlords who offer decent, safe homes some preference over those who do not.

⁵³ “Attainable Housing Exemption,” State of Michigan, <https://www.michigan.gov/taxes/property/exemptions/attainable-housing-exemption>.

⁵⁴ “Residential Housing Exemption,” State of Michigan, <https://www.michigan.gov/taxes/property/exemptions/residential-housing-exemption>.

⁵⁵ “City of Detroit announces Detroit Duplex Repair Program to support duplex and small-scale rental innovations,” City of Detroit, November 1, 2023, <https://detroitmi.gov/news/city-detroit-announces-detroit-duplex-repair-program-support-duplex-and-small-scale-rental>.

⁵⁶ “Lead Poisoning Prevention Fund,” Michigan Saves, <https://michigansaves.org/leadfund/>.

⁵⁷ “MSHDA Housing Tax Increment Financing (TIF) Program,” Michigan State Housing and Development Authority, <https://www.michigan.gov/mshda/developers/tax-increment-financing-tif>.

⁵⁸ For example, if it were possible to negotiate a 6% annual rate with lenders, \$480/year in subsidy would reduce the rate to 3% for a \$20,000, 20-year, fixed-rate loan.

⁵⁹ “Rental Improvement Fund,” Philadelphia Housing and Development Corporation, <https://phdcphila.org/residents-and-landlords/landlords/rental-improvement-fund/>.

Recommendation 2 | Offer a landlord training program

The City should work with responsible landlords, developers, and subject matter specialists to develop and offer a menu of training programs for landlords. This training program would offer a variety of options designed to be useful to:

- New or inadvertent⁶⁰ landlords who want to understand how to be a responsible landlord and how to comply with City requirements.
- Problem landlords who fail to comply with City requirements and may be required to undergo training as a condition of receiving a CoC.
- Landlords seeking to improve their skills or knowledge in particular areas, such as legal responsibilities, property management skills, or to better understand financing options.
- Individuals considering buying property to operate as rental housing.

The City would not have to start from scratch. A wide variety of training programs and curricula have been developed by local governments, experts, and trade associations that can be useful to the City as it designs its program.⁶¹ The courses or workshops could be offered directly by the City, by qualified third parties under City auspices, or independently by third parties.

Key Findings and Observations: Tenants

The ultimate purpose of the Rental Program is to ensure that Detroit's renters can live in decent, healthy, and safe conditions. While this report is largely focused on facilitating landlord compliance with the Rental Ordinance and enhancing the City's enforcement tools, the purpose is to improve the quality and safety of rental housing for tenants. If the City's efforts inadvertently lead to significant numbers of tenants being displaced, that undermines the entire purpose and value of the program.

Detroit's tenant population is extremely vulnerable to eviction and displacement. Most tenants do not have a written lease. Although Detroit rents are relatively low, the incomes of the city's tenants are so low that more than half are cost-burdened. The most recent available data shows that, although evictions for nonpayment of rent are still below pre-pandemic levels, no-cause evictions—the types of evictions filed against tenants without leases—have increased dramatically since before the pandemic.⁶² No-cause eviction cases made up 53 percent of eviction cases in December 2022, the most recent month for which there is data available. Eviction filings are rebounding after the pandemic, with 22,840 cases filed in the 36th District Court in 2022, the most recent year for which there is publicly available data.⁶³

Recommended Strategies: Tenants

These recommendations are in addition to tenant-related recommendations dealing with rent escrow and private right of action included in the section on enforcement. Those recommendations serve dual purposes, both as tenant protection tools, and as what can be considered publicly enabled private enforcement tools.

⁶⁰ Individuals who have become landlords by virtue of inheriting or otherwise obtaining a property that they seek to use for rental occupancy.

⁶¹ "Landlord Training Program," City of Milwaukee, <https://city.milwaukee.gov/DNSPrograms/ltp>; "Good Landlord Program," City of Ogden, <https://www.ogdencity.com/203/Good-Landlord-Program>; "Property Management Training," Community Investment Corporation in Chicago, <https://www.cicchicago.com/programs/property-management-training/>.

⁶² "No-Cause Eviction," The Eviction Machine, <https://www.evictionmachine.org/data-tools/trends/no-cause-evictions>.

⁶³ "Interactive Court Data Dashboard," Michigan Courts, <https://www.courts.michigan.gov/publications/statistics-and-reports/interactive-court-data-dashboard/>.

Recommendation 3 | Enhance protection for tenants from retaliatory actions

The City should amend the Rental Ordinance to strengthen protections for tenants against retaliation by expanding the definition of retaliatory eviction, increasing the penalty for violations, and allowing the tenant to bring a private right of action to enforce these provisions of the ordinance.

Cincinnati recently strengthened its local ordinances prohibiting retaliatory evictions along similar lines. Its new ordinance allows tenants to seek damages of at least \$1,000 and reasonable attorney's fees if their landlord engages in unlawful retaliation.⁶⁴

Recommendation 4 | Support additional tenant education about tenant rights and protections

The City, through BSEED, HRD and the Office of the Right to Counsel, should work with local partners to enhance existing programs and develop new education and outreach efforts to inform tenants of their rights and of the anti-retaliation protections that exist under state and local law. The City could consider the following:

- Create a team of four Community Ambassadors to help educate tenants about their rights and bridge the gap between tenants and the City's code enforcement department, similar to the City of Syracuse.⁶⁵
- Provide funding to qualified nonprofits to educate tenants about their rights and help tenants obtain redress for unhealthy conditions or inappropriate landlord actions. The City of Austin provides funding to BASTA Austin, a nonprofit specifically dedicated to helping improve rental property conditions.⁶⁶
- Explore additional changes to state law to increase tenant protections, including creating a private right of action for tenants of properties that do not have a CoC, as discussed earlier, or adopting a "just-cause eviction" standard in state law.⁶⁷

Key Findings and Observations: Increased Transparency

The City needs to do more to make the Rental Program widely transparent. Landlords reported not knowing what else was needed or where they were in the process, while other stakeholders were widely confused about process for obtaining a CoC from BSEED and the enforcement process. While the City's website contains reasonable information about how to comply, more information and outreach are needed.

Increased transparency is not only so landlords will know how to comply, but so that tenants know their rights and responsibilities. Landlords, tenants, and the many Detroiters who are engaged with their neighborhoods and care about their city will all benefit from being able to access information about efforts to improve the quality and safety of the rental housing stock, how to report problems, and where to provide feedback. The materials the City has developed for landlords, including the Landlord Compliance Manual, the DAH Blight Manual, and other resources, are only a first step.

⁶⁴ City of Cincinnati Municipal Code, § 871-10.

⁶⁵ "Upstate New York: Housing, Health, and Safety," Center for Justice Innovation, <https://www.innovatingjustice.org/housing-health-safety>.

⁶⁶ BASTA Austin, <https://bastaaustin.org/>.

⁶⁷ The principal feature of a "just-cause" eviction law, as it operates in New Jersey and a few other states, is that it prevents a landlord from evicting a tenant upon expiration of a lease, or arbitrarily in the absence of a lease. If the tenant upholds their part of the relationship by paying rent on time and acting appropriately, they may not be evicted without cause unless the landlord needs the premises for their own family's use.

Recommended Strategies: Increased Transparency

Recommendation 5 | Develop an ongoing outreach strategy around the Rental Program

Once the new Rental Ordinance has been introduced and the City has made an internal decision about the other recommendations it plans to adopt, it should begin planning an extensive six-month outreach program designed in partnership with landlord, tenant, and neighborhood advocacy organizations. Launching as soon as the new ordinance is passed, the outreach program should explain the changes being made to the Rental Ordinance and the Rental Program, how they reflect the need to fix a broken system, how they address stakeholders' concerns, and how they will work.

It is crucial the City pursue such an outreach effort *before* it begins to use the new enforcement tools. Considering the high levels of distrust between City agencies and many key stakeholders, the City must make sure that clear and consistent information is widely provided so that landlords, tenants, and others understand fully what the City plans to do, under what circumstances each tool will be used, and why the City has chosen these options.

This initial outreach effort should be the beginning of an ongoing commitment by the City and BSEED to transparency in their activities vis-a-vis the city's rental housing stock. The City should develop a long-term, ongoing communications strategy. This may include creating formal advisory groups of landlords, property managers, tenants, and neighborhood advocates, with which senior City leadership would meet on a regular basis. It could include regular neighborhood forums around the city and email newsletters and updates.

Recommendation 6 | Develop an interactive public dashboard for information about the status of existing rental housing and CoCs

The City should develop a public-facing dashboard using the list of known and likely rental properties to enable any landlord, advocate, renter, prospective tenant, or concerned citizen to obtain information about the status of rental properties in Detroit. Users could find out which properties have been determined to be decent, safe housing, and the status of other properties in the compliance or enforcement process. The CoC status could include the following searchable information:

- identity of the owner or property manager (not contact information)
- whether the property has a CoC
- if the property does not have a CoC, what steps if any have been taken in the CoC process, such as condition inspection or pending lead dust wipe
- if the property has outstanding blight violation tickets either for CoC noncompliance or for substantive housing condition violations and the status of additional follow up actions (e.g., court action)

Other information could be added as appropriate or as available. The City of Minneapolis maintains a similar dashboard of all rental properties with active rental licenses publicly available on its website.⁶⁸

⁶⁸ "Minneapolis DataSource – 2024 Rental Tiering Dashboard," City of Minneapolis, <https://www.minneapolismn.gov/government/government-data/datasource/2024-rental-tiering-dashboard/>.

Section 4: Implementing & Measuring the New Rental Program

Once the City has decided how to move forward, it must establish realistic but flexible goals, timelines, and measurable benchmarks to track their progress towards implementing a new approach to the Rental Program. Community Progress offers initial goals and next steps in this section.

1. Establish meaningful but achievable goals

Initial goals for the Rental Program's implementation could include:

1. By December 31, 2024, the City should have passed the new Rental Ordinance, trained inspectors as needed to conduct combined condition/lead inspections, and prepared new informational material for landlords, tenants, and the community.
2. At that point, City staff should develop a series of goals for each of the next five years with respect to
 - Change in number of CoC inspections conducted annually.
 - Change in number of reinspections conducted annually.
 - Change in number of active CoCs by the end of each year.

These goals should be based on a careful assessment of how the new program will operate, and the available resources for implementation

3. In addition, the City should establish specific outcome metrics for the program. These may include:
 - Change in number of tenant complaints about property condition.
 - Change in number of BSEED or court orders to vacate the premises.
 - Change in number of rental properties with repeat violations issued by BSEED.
 - Change in reported elevated blood lead level rates, either in specific high-risk areas or citywide.
 - Other metrics to be determined.

These metrics should be developed in conjunction with community representatives, as well as with experts on health and housing conditions.

2. Establish a detailed timeline for the next year, from now through June 2025

Most of our recommendations begin with City Council working with the City and other advocates to pass changes to the Rental Ordinance. Once this happens, many of the recommendations in this report can and should be prioritized for implementation the following year (Table 6).

Table 6 | Initial Steps to Implement the New Rental Program by July 1, 2025

Implementation Action	Agency
Finalize amendments to Rental Ordinance via City’s legislative process.	City Council in partnership with the Mayor’s Office, City Departments, and landlord/tenant stakeholders
Communicate and review proposed ordinance changes with appropriate stakeholders via City’s legislative process.	
Introduce Rental Ordinance by July 1, 2024 with effective date of January 1, 2025.	
Create and fill senior-level position in BSEED dedicated to the rental program, supported by a project manager	BSEED
Distribute materials describing changes to the Rental Ordinance and to the Rental Program procedures within three months of adoption. Initiate program of neighborhood and landlord/tenant outreach and trust-building.	BSEED, HRD
Meet with key City agencies to determine additional capacity and training (see Table 7), if any, needed to implement ordinance changes.	Mayor’s Office
Upon passage of amendments, work with Procurement to negotiate standardized, discount rate payment agreements with third-party inspection firms. Ensure all third-party inspectors are trained for combined inspections by June 30, 2025.	BSEED, Procurement
Initiate training (and if necessary, certification process) for BSEED inspectors to do combined condition/lead training. Have all inspectors trained by June 30, 2025.	BSEED
Ensure availability of adequate capacity of local testing sites to perform timely tests on dust wipes.	BSEED, Health
In conjunction with HRD and Mayor’s Office, BSEED develops a plan for phased implementation of the revised Rental Program, based on clearly defined criteria.	BSEED, HRD, Mayor’s Office
Establish single annual registration/CoC rates for landlords.	BSEED
Finalize and implement policy under which blight violations are added to property as tax liens.	Law
Finalize and disseminate procedures and guidelines for revised enforcement of blight violations and court actions.	Law, BSEED
Finalize and disseminate procedures and guidelines for rent receivership.	Law
Begin process of drafting, in conjunction with tenant advocates, changes to state law to clarify tenants’ private right of action in eviction cases.	Law, Right to Counsel
Work with landlords to adopt initial framework for Compliance Incentive Program.	BSEED, HRD
Roll out initial phase of enforcement by April 2025.	BSEED
Adopt revised tenant escrow program and identify potential third-party administrator.	HRD

It is critical the City have the capacity to carry out these implementation steps. To the extent that capacity—in personnel, training, or other requirements—is not already in place, the City must build it out as soon as possible. Key capacity issues are summarized in the table below.

Table 7 | Potential Capacity Issues by City Agency

Agency	Potential Capacity Questions
BSEED	Capacity to manage third-party inspection contracts either directly or through third-party entity Retraining of administrative staff Training of inspectors for combined condition/lead inspection Changes to Accela reporting and tracking system to reflect the needs of the revised Rental Program
HRD	Capacity needed to manage tenant escrow program
LAW	Capacity of staff to handle anticipated increase in blight violation liens and court appearances
DAH	Hearing officer and hearing room capacity to handle anticipated increase in blight violations

Appendices

Appendix A:

Recommendations Table

1 Establish achievable property standards which ensure a sound minimum level of health and safety for all tenants

1 Adopt a new inspection standard and process based on visual inspection, with dust wipes in high EBLL areas

Revise the LIRA standard requirement and to provide for the following elements:

- All rental properties must pass a visual inspection, if they fail visual or pre-78 and are in a census tract with high EBLL, dust wipe sampling is required
- BSEED/third-party inspectors will complete visual inspections and dust wipe samples as part of the property condition inspection.
- The City pays for the initial cost of dust wipe sampling
- If property fails dust wipe sampling, obtain lead clearance and work done by a licensed contractor
- Require visual inspections if interim controls are used to mitigate lead hazards at the midpoint of the CoC

If necessary, provide any training/certification to inspectors to do visual inspections and dust wipes

2 Adopt a basic health and safety inspection checklist of 15 key life safety inspection points, inclusive of lead visual inspection, as the standard for issuing CoC

Post checklist on the City's website and share with landlords prior to inspection

Train all BSEED/third-party inspectors in this checklist to ensure consistency across inspections

3 Combine the lead and property condition inspections, consolidate various fees and costs, and streamline the process of getting to compliance

Ensure nothing limits BSEED/third-party inspectors from completing visual lead inspection and dust wipe samples concurrent with the property condition inspection

Charge property owners a single, reasonable annual fee that covers all costs to administer the Rental Program

- Average fee of \$125/year, plus \$35 for each additional unit, fees increased based on performance issues
- Third-party inspection firms would be reimbursed by the City, not directly paid by the landlord
- Configure Accela to automatically flag when the City needs to reinspect, adjust annual fees, or take other actions

Eliminate registration as a separate element in the CoC application process, automatically register landlords when they apply for the CoC

Build new administrative efficiencies into CoC application intake process, e.g.:

- Establish/communicate timeframe (5-10 business days) for review/processing of CoC application
- Use Accela to automatically track clerical staff activity, eliminating need for separate reporting by staff
- Auto-generate approval/denial email responses for staff and enable them to easily attach necessary documents
- When CoC is denied, use Accela to automatically notify the BSEED inspector who conducted the initial inspection, or a designated compliance manager if it was a third-party inspection. They then reach out to owner to get to compliance in 30 days. CoC won't be formally denied until after then.

2 Make rental regulations more proactive and performance-based

1 Create a master list of all known and likely rentals in Detroit

Ensure database can sort rental properties into key categories and based on relevant property information e.g.:

- Known rentals with a CoC, confirmed rentals in the CoC process, confirmed rentals not in the CoC process, likely rentals not in the CoC process
- Owner and property manager, property type, blight violation tickets or other enforcement actions taken against the property, in last 5 years, debts owed to the City, permits

Use database to bill owners for CoC annual fee and proactively outreach to schedule CoC inspections

- Enable owners who are not renting their property to submit an affidavit to be removed from the database

2 Adopt a fee and reinspection schedule that benefits landlords who comply with Rental Program requirements

Charge reduced fee/longer term for properties compliant properties; \$125, 3-year CoC renewal period, progressing up to 5 years

Charge moderately higher fee/shorter term for concerning properties: \$175, 3-year CoC renewal period

Charge significantly higher fee/shortest term for problematic properties: \$300, CoC renewal period as short as 6 months

Configure Accela to automatically flag when the City needs to reinspect, adjust annual fees, or take other action based on landlord and property information

3 Move towards a more compliance-driven enforcement approach

1 Increase penalties for repeated noncompliance or nonresponse

Increase the annual fee for properties that are repeatedly noncompliant (as referenced above)

Incentivize owners to show up/respond to DAH hearing and open a line of communication with the City by increasing a blight violation fine by up to 50 percent if they fail to appear, file a motion to set aside, pay, appeal, or enter into a continuance plan

Allow BSEED to terminate a CoC, or accelerate the termination date of a CoC, if 3 or more substantive blight violations remain uncorrected 30 days following a DAH determination

2 For problem owners, collect unpaid blight violation fines through the property tax system

Establish criteria to guide when City will attach unpaid blight tickets to the property tax bill

Implement a streamlined process to attach unpaid blight tickets to the property tax bill

3 Work with the Law Department to develop criteria to guide referral of landlords or properties for court action

Seek injunctions and court orders mandating that owners bring their properties into compliance with the Rental Ordinance

Pilot rent receivership for key multifamily properties

Relocate tenants in unsafe properties and apply all costs of relocation as a priority lien against the property

4 Develop and communicate a clear and consistent framework for progressive enforcement actions

5 Restructure and relaunch the City's Rental Property Escrow Program

Move administration of the tenant escrow account to a different City department or to a third-party partner

Expand eligibility to make any tenant eligible who can deposit the rent into escrow in a timely fashion each month

Clarify to the 36th District Court that the escrow program is an enforcement tool, rather than a step in the eviction process

4 Make the rental program open and responsive to landlords, tenants, and the community

1 Build additional landlord incentives

Reduce outstanding blight violation fines or provide amnesty for certain past violations if the landlord obtains a CoC

	Offer preferential priority for DLBA properties to landlords with a solid track record of rehabilitating vacant property and obtaining CoCs
	Help landlords secure other City, state, or private funds/incentives via application support or preferential consideration (e.g., tax exemptions, duplex repair program, Michigan Saves Lead Poisoning Prevention Fund)
	Explore use of recently authorized tax increment financing to support housing improvements
	Partner with local lenders/nonprofit partners to offer a low-interest loan program for qualified landlords
	Work with tenant advocates and the 36th District Court to determine if qualified landlords could receive preferential treatment when assigning eviction docket hearing dates
2	Offer a landlord training program
	Develop and launch a range training programs (e.g., for new/inadvertent landlords to understand City requirements, problem landlords, landlords looking to deepen their knowledge of specific areas like property management skills, and individuals considering buying a rental property)
3	Enhance protection for tenants from retaliatory actions
	Expand the definition of retaliatory eviction, increase the penalty for violations, and allow the tenant to bring a private right of action
4	Support additional tenant education about tenant rights and protections
	Create a team of Community Ambassadors to help educate tenants about their rights
	Provide funding to nonprofits to educate tenants about their rights and help tenants obtain redress for unhealthy conditions/inappropriate landlord actions
	Explore state law change to create a private right of action for tenants of properties without a CoC, or adopt a “just-cause eviction” standard

Appendix B: Memorandum to City on Blight Violation Liens

Memorandum

TO: Andrea Taverna, Senior Advisor to the Deputy Mayor, City of Detroit

CC: Adam Kokenakes Program Analyst IV, Housing & Revitalization Dept., City of Detroit
Elaina Peterson, Program Analyst III, Housing & Revitalization Dept., City of Detroit

FROM: Matt Kreis, General Counsel, Center for Community Progress

DATE: December 21, 2023

RE: Enhancing enforcement of unpaid blight violation fines

The City of Detroit (City) asked the Center for Community Progress (Community Progress) to help develop options to consider as it seeks to adopt more effective and equitable approaches to incentivize landlords to comply with the City’s rental ordinance.¹ This informal memorandum provides the City’s Mayor’s Office and Law Department with one suggestion to enhance the use of the primary enforcement tool currently used by the City to compel property owners to comply with the rental ordinance: blight violation tickets and fines.

By allowing unpaid blight violation fines to be enforced in the same manner as delinquent property taxes, the City may incentivize more property owners to (a) comply with the rental ordinance to avoid future fines and (b) pay the fines to avoid the risk of losing the property through property tax foreclosure, as allowed in Michigan law.² Anecdotally, and supported by the City’s data, many landlords—especially those landlords incorporated as LLCs—simply ignore the City’s tickets and the associated fines.³

Enhancing the effectiveness of unpaid blight violation fines, however, is just one of a broad range of new policies and strategies that are needed to improve compliance with the rental ordinance. The economic reality of owning rental property in Detroit (e.g., home values often not high enough to support significant improvements to housing stock built prior to 1978; extensive cost of full compliance, including lead clearance under the standards of the ordinance currently in place; increased rents to offset improvements make housing unaffordable), the financial wherewithal of “Mom & Pop” landlords (e.g., individuals/families who own 4 total units or less), and a range of other factors all impact the compliance rate. This new strategy will not solve those challenges.

It should be noted that the City’s decision to explore this new approach is something that will require regular monitoring to ensure its implementation is both effective and avoids unintended and inequitable consequences. While this strategy should not, and legally cannot, be used against owner-occupied

¹ There are an estimated 80,000 rental properties in Detroit, most of which are single family rental homes. Little more than 15,000 are registered with the City, as required by the ordinance. Just more than 8,000 have an active Certificate of Compliance (COC), meaning they have passed basic property maintenance inspections and obtained a Lead Clearance report (LC), which is required in order to legally rent the property.

² See MCL 117.4r.

³ According to the City’s “Bagley Pilot” data tracking increased enforcement in the Bagley neighborhood, there were 2,665 tickets issued for noncompliance with the rental ordinance that were adjudicated by the Department of Administrative Hearings (DAH) as “Responsible.” Roughly 2,419 of those tickets were “Responsible by Default.” In other words, the owner simply did not appear for more than 90% of these hearings. Whether these landlords complied or eventually paid the tickets or not is unclear (roughly 16% of judgments paid, so likely not).

properties,⁴ the intent is not for this strategy to be used by the City to acquire rental properties through tax foreclosure or to displace existing tenants. For this reason, the City’s legal counsel will need to be involved in the consideration of this policy, as well as with the implementation, review, and monitoring of the policy moving forward.

Why add unpaid fines to the property tax bill?

The intent of fines assessed for noncompliance with the rental ordinance is to convince property owners that the consequences of noncompliance outweigh the costs of compliance. Unfortunately, those “consequences” have not convinced enough landlords to comply.

While economic factors likely play a significant role, a problematic aspect of the blight violation tool is that judgments of the DAH are essentially personal judgments that are often difficult to enforce against many property owners. The DAH engages in a variety of tactics to collect these unpaid judgments against the property owners, often through a collection law firm contracted by DAH. Tactics include continued outreach and notice, charging interest on unpaid amounts, offering payment plans, and even looking to collect these amounts directly from owners’ bank accounts or by garnishing the owners’ wages, if an account or job can be found.

Many rental property owners, however, are not individuals. Many are LLCs that are adept at making it difficult to identify who the responsible owners of the LLC actually are, or where they may be located, or where they might bank or keep their resources. Moreover, LLCs typically don’t have personal bank accounts that can be located, or a job with wages that could be garnished.

Even if the owner is an individual, personal collection tactics are time- and resource-intensive. With many thousands of current and potential future unpaid judgments for violations of the City’s rental ordinance, the amount of resources needed to investigate, find, and collect from the appropriate owners to actually influence the COC compliance rate is simply not a realistic or likely achievable number.

A more efficient approach is to tie enforcement of an unpaid judgment to the property that is in violation. Michigan law allows home rule municipalities to convert unpaid blight violation judgments to a lien against the property itself.⁵ If unpaid, this lien can be collected in the same way that delinquent property taxes are collected by the County Treasurer.⁶ Thus, if the owner chooses to not pay the lien, the consequence could include the loss of the property through tax foreclosure.

The theory is that this tactic would increase the likelihood that the owner will comply, not to force a transfer of the property over perhaps a couple of thousand dollars in fines. However, this new “consequence,” a potential loss of the income generating property, may also be more effective at getting the attention of a wider range of rental property owners—including LLC owners.

While any new or expanded process takes time to iron out some kinds, the City has in place processes and expertise to make this work. Eventually, this type of strategy could be used more systematically to reduce the timely and costly burden of personal collection tactics against entities or persons that are difficult to find or collect against.

We anticipate this strategy will be most effective at inducing compliance and/or payment from those landlords that are LLCs or other types of corporations and where the property is also located in a

⁴ See MCL 117.4r(3).

⁵ MCL 117.4r(1).

⁶ MCL 117.4r(3).

neighborhood market that is trending upwards. On the flip side, the City will want to closely monitor the impact of this new enforcement strategy on smaller, Mom & Pop landlords, especially where those landlords own property in weaker neighborhood markets and have demonstrated some measurable willingness to comply (e.g., applied for funding, have completed incremental repairs). It will be important to establish appropriate “exist strategies” to mitigate the

What does implementation look like?

We propose the City create a policy to guide the use of this new enforcement strategy that focuses on the amount of unpaid blight violation fines assessed against property that is not in compliance with the rental ordinance, rather than on the type of ownership. Our review of relevant data did not establish one clear type of rental property owner that got more blight violation tickets than others; indeed, factors other than just ownership played a role (e.g., out of state LLC owners generally were issued more tickets than out of state individual owners, but the reverse was found for in state/local owners).

By establishing a minimum amount owed instead, the City can focus on those landlords who have been given at least one chance to comply and have failed to do so. The minimum amount we recommend, \$1,500, anticipates that most landlords are issued three tickets totaling \$1,000 (\$250 for no registration, \$250 for no COC, and \$500 for no lead clearance) in the first round of ticketing for noncompliance. It is not until a second round of tickets are issued against that same property that a landlord under this proposal would face having unpaid amounts added as a lien against the property.

If the City wishes to avoid having unpaid fines secured by liens against a specific property owner or property owner type, it could develop a separate protocol with BSEED to work with certain landlords after issuing the first round of tickets. There could be an additional requirement for these landlords to agree to meet certain performance benchmarks, noting, however, the City has had mixed success entering into and enforcing such agreements (e.g., consent agreements) with landlords in the past.

A proposed policy is below. Recognizing that the City will likely need time to develop a process for recording a lien and otherwise implementing this policy, we also propose some considerations to “pilot” the use of this strategy with a much more narrow subset of properties.

Proposed Policy

Unpaid blight violation fines assessed against an owner of real property may be secured by a lien against that property. Pursuant to the City’s authority under MCL 117.r(3), the lien may be enforced in the same manner as delinquent property taxes if it remains unpaid in the following circumstances:

1. If a determination has been made by a hearing officer of the City’s Department of Administrative Hearings (DAH) that an owner of real property has failed to correct one of the below listed violations and the violation(s), to the best of the City’s Buildings, Safety, Engineering and Enforcement Department knowledge, remain uncorrected:
 - a. Failure to obtain a Certificate of Compliance in accordance with Section 8-15-81
 - b. Failure to obtain a Lead Clearance Report in accordance with Section 8-15-83

- c. Failure to comply with an emergency or imminent danger order concerning an emergency condition, an imminent danger, an unsafe or unsanitary condition, or unlawful occupancy⁷
 - d. Failure to maintain a vacant building or structure in accordance with the requirements of Section 8-15-113⁸
2. If the aggregate amount of the unpaid blight violation fines associated with the property is at least \$1,500, not inclusive of any administrative or other costs that may have been imposed by the DAH, and the most recent fine or fines that brought the aggregate total amount owed to more than \$1,500 have gone unpaid for at least 90 days after being assessed; and
 3. The owner has not claimed, and is not entitled to claim, a Homeowner's Principal Residence Exemption for the property.

Pilot Proposed Policy

Unpaid blight violation fines assessed against an owner of real property may be enforced with the same criteria as detailed in the "Proposed Policy," except that #2 in the "Proposed Policy" could be replaced by one or more of the following criteria:

- If the aggregate amount of unpaid blight violations associated with the rental property inventory of a single property owner places the total amount owned in the top ten of other owners, excluding any governmental or nonprofit rental property owners;
- If the property was assessed a second round of blight violation fines as part of the City's Bagley Pilot, and the fines assessed in the second round have remained unpaid for at least 90 days; and/or
- If the property was assessed a third round of blight fines as part of the City's Bagley Pilot, and the fines assessed in the second round have remained unpaid for at least 60 days.

The recommendations proposed in this preliminary memorandum are intended to provide the City a starting point from which to formulate its own policy moving forward. We are available to further brainstorm additional options as needed.

⁷ The intent of this memo is to focus on noncompliance with the City's rental ordinance. However, this category of violations seemed appropriate to include for the City's consideration given the elevated danger posed by noncompliance.

⁸ See Footnote 7.