

Master Continued (06496)

1	LANDLORD AND TENANT ISSUES SUBCOMMITTEE	06/21/2007	Return to Lead with the Recommendation to Approve as Substituted	HOUSING COMMITTEE	09/12/2007	Pass
1	HOUSING COMMITTEE	09/12/2007	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER			Pass
2	Attorney's Office/Approval Group	09/13/2007	Approved As To Form			
2	Attorney's Office	09/13/2007	Fiscal Note Required / Approval	Comptroller's Office/Approval Group	09/13/2007	
2	Comptroller's Office/Approval Group	09/13/2007	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	HOUSING COMMITTEE	09/13/2007	

Text of Legislative File 06496

..Fiscal Note

Minimal impact on General Fund revenues.

..Title

SUBSTITUTE - Amending Sections 32.12(4) and 32.15(2) and creating Sections 32.12(17), 32.15(4), and 32.15(5) of the Madison General Ordinances to provide expanded tenant protection against landlord retaliation to include specifically refusals to renew leases and threats to undertake retaliatory behavior, as well as providing for the recovery of double damages by tenants that arise due to violations of these sections, and creating severability clauses for these Sections.

..Body

DRAFTER'S ANALYSIS: This proposal expands the protections afforded tenants in the City of Madison by specifically including refusals to renew leases within retaliatory behavior, as well as threats to engage in retaliatory behavior. These amendments are consistent with Wis. Stat. 704.45(1), and bring the Code closer in line with State law relating to retaliatory conduct by landlords. In addition, this proposal expands the type of tenant behavior protected under sec. 32.12 to include joining or attempting to organize a neighborhood watch group or a neighborhood association. This proposal also establishes a new section that allows for the recovery of double damages by a tenant against the landlord in a civil action that arises from violations of Secs. 32.12(4) and 32.15. Finally, the proposal creates severability clauses for these sections in the event of court invalidation of any portion of these sections.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (4) entitled "Retaliatory Eviction" of Section 32.12 entitled "Prohibited Practices" of the Madison General Ordinances is retitled "Retaliatory Conduct" and amended to read as follows:

"(4) Retaliatory Eviction Conduct.

(a) Except as provided in sub. (b), no landlord shall terminate a tenancy or give notice preventing the automatic renewal of a lease, or refuse to renew a lease, or constructively evict a tenant by means of the termination or substantial reduction of heat, water or electricity to the dwelling unit, or report the tenant to law enforcement authorities as having unlawfully entered or immigrated into the United States regardless of the validity of such a report, or threaten any of the preceding, in retaliation against a tenant because the tenant has if there is a preponderance of evidence that the action or inaction would not occur but for the landlord's retaliation against the tenant for doing any of the following:

- (a) 1. ~~Reported~~ Reporting a violation of this chapter or a building or housing code to any governmental authority, or ~~filed~~ file filing suit alleging such violation; or
- (b) 2. ~~Joined~~ Joining or ~~attempted~~ attempting to organize a tenant's union or association or a neighborhood watch group or a neighborhood association; or
- (c) 3. ~~Asserted~~ Asserting, or ~~attempted~~ attempting to assert any right specifically accorded to tenants under state or local law."

(b) Notwithstanding sub. (a), a landlord may bring an action for possession of the premises if the tenant has not paid rent other than a rent increase prohibited by sub. (a)."

2. Subsection (17) entitled "Severability" of Section 32.12 entitled "Prohibited Practices" of the Madison General Ordinances is created to read as follows:

"(17) Severability. The provisions of any part of this ordinance are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this ordinance that the same would have been adopted had such invalid provisions, if any, not been included herein."

3. Subsection (2) of Section 32.15 entitled "Retaliation Prohibited" of the Madison General Ordinances is amended to read as follows:

"(2) Retaliation shall include, but not be limited to, eviction ~~or threats of eviction~~, inconsistent rent payment

increases, failure to perform promised repairs, refusal to renew a lease or other harassment of the tenant committed by the landlord or his or her agents, or threatening any of the preceding. Any such acts shall be presumed to be retaliatory if committed within six months after the tenant has complained to any state or local investigatory or enforcement agency of violations of Secs. 32.05, 32.07, 32.11, 32.12 or 32.13 of the Madison General Ordinances or their statutory or administrative code equivalents. In order to overcome the presumption that such acts are retaliatory, the landlord must show by a preponderance of evidence that such acts were based upon good cause, as that term is used in this Chapter."

4. Subsection (4) entitled "Enforcement by Tenant" of Section 32.15 entitled "Retaliation Prohibited" of the Madison General Ordinances is created to read as follows:

"(4) Enforcement by Tenant. Any person suffering damages because of a violation by any other person of Section 32.15, or Section 32.12(4), may sue for damages therefor in any court of competent jurisdiction and shall recover twice the amount of such damages, together with costs, including reasonable attorney's fees. For the purpose of this section "damages" shall include but not be limited to financial losses, and also losses of health, peace, dignity and human rights of the tenant, including the rights to be free from the types of retaliation prohibited by section 32.15, or section 32.12(4)."

5. Subsection (5) entitled "Severability" of Section 32.15 entitled "Retaliation Prohibited" of the Madison General Ordinances is created to read as follows:

"(5) Severability. The provisions of any part of this ordinance are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this ordinance that the same would have been adopted had such invalid provisions, if any, not been included herein."