

TO: House Judiciary and Civil Law Committee
FROM: Shannon Guernsey, Executive Director, Minnesota NAHRO
DATE: March 2, 2021

RE: Comments on HF450 – Right to Counsel in Public Housing Breach of Lease Cases

On behalf of Minnesota NAHRO and its members, thank you for the opportunity to provide comment on the proposed right to counsel in breach of the lease eviction proceedings involving public housing residents. Our comments with the approach of this bill are outlined below. Minnesota NAHRO members own, manage or administer the majority of subsidized rental housing in Minnesota including all public housing plus the administration of the Housing Choice Voucher (HCV)/Section 8 program. In addition, our members work with developers on a regular basis to preserve and develop affordable housing throughout the state.

As housing authorities, it is our mission to provide safe and affordable housing to our residents. As part of this mission, we are committed to helping our residents succeed in their tenancy, so they maintain safe and stable housing. However, as outlined below, the proposal of HF450 misses the mark and will have very little impact because it fails to address the preponderance of evictions cases that result in the loss of housing due to eviction.

Public Housing Residents Have More Due Process Protections Compared to Other Tenants

Many of the concerns raised by the proponent of this bill are concerns in the open market. However, in the area of public housing, residents currently have due process protections required by HUD rules and regulations. Specifically, before an eviction action can be filed, residents of public housing are provided the opportunity for an informal hearing. This informal hearing is adjudicated by a third-party hearing officer and the tenant is able to present their position.

It is also noteworthy, that these informal hearings most often result in an agreement between the parties to address the issues leading to the breach of the lease. Due to these proceedings, the tenant has the opportunity to address the lease violation and often the housing authority provides supports to help ensure the tenant can resolve the issue. Unfortunately, in some situations, the tenant fails to keep the agreement and further lease violations occur. In these limited circumstances, the housing authority may move forward with an eviction action.

Proposal Will Have Extremely Limited Impact on Households at Risk Due to Eviction

The proponents of this bill cite a 2019 study that demonstrates tenants who are represented in eviction proceeding have better outcomes compared to those who do not have representation. While this may be true, HF450 establishes the right to counsel in an extremely limited number of cases where the eviction is based on a breach of the lease in public housing. Thus, of the



approximately 13,000 eviction cases filed each year, very few of these involve public housing and even fewer involve breach of the lease. A vast majority of the eviction actions filed are not addressed by HF450 and will not address the many households at risk in the open market.

Moreover, the proponents of this bill also note that public housing serves some of the most vulnerable households in the state to justify the right to counsel. Public housing recognizes this and as such, HUD rules and regulations require a level of due process compared to the open market. Because of these protections, housing authorities are most often able to work with the tenant to resolve the lease violation and therefore avoid the need to file an eviction action at all.

Again, compared to the open market, public housing residents are provided the opportunity to address a lease violation, have an opportunity to be heard at a hearing overseen by a neutral third party and these protections occur before an eviction action is ever filed.

It is our hope that our comments will be taken into account as the committee considers the limited scope and impact HF450. Thank you again for the opportunity to submit our comments.