

# The City of Takoma Park

Office of The City Council  
Councilmember, Ward 5  
(301) 891-7100  
marcelrich@starpower.net



**Marc Eirich**  
**Councilmember, Ward 5**

7500 Maple Avenue  
Takoma Park, MD  
20912

February 2, 2006

Dear Member of the Montgomery County Delegation,

I want to follow up on a number of concerns that were raised regarding this bill during the last County Affairs Committee meeting. I think it's important to recognize that we are in an extreme situation in the County and the threatened loss of both low-income and moderate income housing is very real. Measures that focus on people with disabilities, or on the elderly, are laudable, but not sufficient. So let me try to address some of the issues.

First, this bill would require the declaration of a rental housing emergency. It is not a bill for all times and all circumstances. It is for times like now when an already extreme housing crisis is being exacerbated by the condo conversion movement.

Second, the situation in the County is currently at that point because the condo market has heated up and created an environment where turning a building condo is far more lucrative than leaving it as rental. Why does this matter? If you think about the history of zoning in the County, the decision to create areas with higher density apartment complexes was predicated on the idea that this would provide a mix of housing stock that would be affordable to more moderate income families. The purpose in giving developers the denser zoning was to provide housing that would meet that need. To now allow them to take advantage of this hyper-inflated market breaks the bond that was implied when the zoning for the apartments was created. The loss of this housing is permanent and irreplaceable. No one can produce new units at these prices in today's real estate market, so the effect of allowing conversions to go forward unchecked will be to put unprecedented pressure on all rental housing and will, no doubt, lead to the displacement of thousands of people. It can't end any other way, if you think about it.

Third, landlords are not losing money renting in Montgomery County. That is simply a fiction that is not borne out by any evidence whatsoever. Tenants have seen enormous rent increases in the county in the last few years. Annual increases of 10% or more are not unusual, and I've seen cases where the rent increases were in excess of 40%. Landlords have been able to pretty much name their price in the current market.

It has been argued that if they are not allowed to sell their buildings, then they will disinvest and turn them into slums. The first antidote to this is the County Housing Department that performs

inspections and has the power to guarantee that this will not happen. Slums happen when building codes aren't enforced. I can tell you from a study performed by the University of Maryland for the City of Takoma Park that it is code enforcement(or the lack thereof), not limitations on investment that create slums. In that study they compared the condition of apartments in Takoma Park to those outside the City. The concern behind the study was that, because the City had rent control, our housing stock would be in worse shape than housing outside the City where there was no rent control. However, the findings of the report were the opposite - City housing was in better shape than housing outside the City, and, in interviewing landlords, they found that landlords in the City were no less likely to invest in their property than landlords outside the City. The difference, or reason for the difference, was not that we had rent control, the difference was that the City had an aggressive inspection practice that inspected all units in all buildings EVERY YEAR. If you don't want slums, enforce the building codes. A second reason not to be concerned is the market itself. Landlords are commanding extraordinary rents now. To diminish services would place those owners at a competitive disadvantage. They have a good thing going and they're not going to ruin it.

The fourth point I'll raise is that allowing the tenants to vote is not a catastrophe. It's the law in Washington DC. It works. It's constitutional. In the absence of a law like the one proposed, tenants are reduced to the status not unlike the status of tenants on English manors before the enclosure acts. There, after generations of farming the land, tenants were evicted en masse from the estates because landlords had decided that sheep raising was more profitable than crop farming - and sheep raising didn't require them to maintain the tenants that they'd supported on the estates. This is really no different. Instead of using the land for more profitable sheep farming, we're talking about using the land for more profitable condo conversion. At the end of the process, the result is the same - thousands will be displaced and have nowhere to go. It can't be, or shouldn't be, that families, working families that pay their rent and their taxes, have so little rights that their homes can be taken away on a few months notice simply because they have a lease instead of a mortgage. There is something very wrong with the picture, and something very wrong with our laws, if the profits of a few weigh so much more heavily on our sense of justice than the welfare of the many.

On the last point, I will concede that the law will likely reduce the "value" of some property. But we reduce the value of property all the time. Our homes are restricted to certain uses and sizes - such laws limit the income potential of all of our property. In this market, I could put a second house on my lot and sell it for probably \$750,000 and be a very happy man. But the law says I can't. The law says there are other community interests that mitigate against my self-interest. I accept that. Businesses are restricted through zoning to particular places of operation, they require parking, setbacks and other conditions to be met. Other laws limit their hours of operation - all infringements on their right to maximize their income. And we accept that.

The Supreme Court has held that in some areas a greater public purpose allows the government to take steps that might limit the profitability of an economic activity. Public utility commissions regulate returns on investment to utility companies. In Maryland, a hospital

commission regulates hospital rates. Rent control itself, not an issue here but an example of regulation of an economic interest, has been upheld. So yes, taking action here might limit the profitability of condo conversions. But it also serves a greater public purpose, a decent and responsible public purpose, and we ought to be willing to say that the cost to the community of allowing unfettered condo conversions is greater and more significant than the loss of profits to a few development companies.

And that is what we're really talking about here. The players in this drama on the development side are some of the biggest players in town. A condo conversion that I was called about yesterday in Bethesda has, behind it in a group of partners, nothing less than the Carlyle Group. There is so much money to be made that this is not about some kindly widow converting her 4-unit apartment and trying to secure her old age in the process. No. It's about the wealthiest and most privileged among us acting, as the company in question in Bethesda conversion described itself on its website, as "opportunistic investors." Well their opportunity is the flip side of someone else's tragedy. Limiting their "opportunities" will not send any of them home penniless, or without shelter. They will not struggle to make their mortgages, they probably won't have to sacrifice anything, if you constrain their ability to do condo conversions. You know this is true, you know who the players are.

So I'm asking you to please stand up for the little folks and the not quite so little folks in this County. The other legislative proposals you are considering have merit and should be passed, but none of them is as important, or effective, as MC-612-06.

I would be happy to talk to you at any time about this important piece of legislation.

Sincerely,

*Marc Elrich*

Marc Elrich

cc: Takoma Park City Council  
Montgomery County Council