



Charlotte City Council
Great Neighborhoods Committee
Summary
February 17, 2021

COMMITTEE AGENDA TOPICS

- I. Nuisance Abatement – Non-Residential Building Code Update (Informational)
- II. Fair Chance Housing Update (Informational)
- III. Source of Income Discrimination (Action)

COMMITTEE INFORMATION

Committee Members Present: Malcolm Graham (Virtual), Tariq Bokhari (virtual), Victoria Watlington (virtual), Braxton Winston (virtual)

Committee Members Absent: Julie Eiselt

Other Council Members Present: Renee Johnson (virtual)

Guests: Fulton Meachem, INLIVIAN
Kim Graham, Greater Charlotte Apartment Association

Staff Resources: Shawn Heath, City Manager’s Office
Pamela Wideman, Housing & Neighborhood Services
Willie Ratchford, Community Relations
Anna Schleunes, City Attorney’s Office
Warren Wooten, Housing & Neighborhood Services
Jane Taillon, Housing & Neighborhood Services

Meeting Duration: 12:00 PM – 1:50 PM

Video available online: <https://www.youtube.com/watch?v=CyRLbA8mZQs>

MEETING MATERIALS

All meeting materials are available online at https://charlottenc.gov/CityCouncil/Committees/Pages/Neighborhood_Development.aspx

- 1. Presentation – Nuisance Abatement – Non-Residential Building Code Update
- 2. Presentation - Fair Chance Housing Update
- 2. Presentation – Source of Income Discrimination

DISCUSSION HIGHLIGHTS

Council member Graham called the meeting to order and asked everyone to introduce themselves. Pamela Wideman provided an overview of the meeting agenda.

Nuisance Abatement – Non-Residential Building Code Update

Jane Taillon provided an update of the review process of the Non-Residential Building Code (NRBC). Staff has been meeting with stakeholders and has identified several opportunities for updating the NRBC. The potential changes include increasing civil penalties to be more in line with recent updates to the Minimum Housing Code, and updating various maintenance standards including adding a requirement for heating, cooling and ventilation systems, clarifying life safety systems, clarifying electrical safety requirements and that doors must be operable, adding specific requirements for rafters and joists, and adding requirements for wall and ceiling coverings particularly for motels. Ms. Taillon explained

that the next step in the review process is to conduct community meetings for feedback. Staff will bring back the findings of the community meetings together with final recommendations, to the Committee for consideration in March.

Fair Chance Housing Update

Willie Ratchford reminded the Committee of the direction that the Committee provided to survey landlords and gather other data to determine current practices and scope of the problem locally, develop and enhance education opportunities for the court system, landlords, and people involved in the justice system, and consider additional recommendations. He summarized the current local fair housing ordinance and explained that in the last five years one case has been received for potential discrimination based on criminal background. Under the fair housing ordinance, all rental applicants are guaranteed the right to file a complaint if they believe there has been discrimination because of a criminal record. Mr. Ratchford provided an overview of the HUD guidance on the use of criminal background checks in rental transactions. He explained that staff has met recently with the Reentry Housing Alliance (RHA), and clarified that they support a two-phase approach to first increase landlord and tenant education and awareness, following by considering an amendment to the Fair Housing Ordinance to add protections to people with criminal backgrounds if Phase I does not result in improved landlord compliance and increased housing opportunities.

Warren Wooten and Anna Schleunes reviewed the findings of the research that was conducted. Pamela Wideman reviewed the findings of a survey of local landlords and property managers, including the demonstrated need for more education for landlords. She also shared feedback received from the Greater Charlotte Apartment Association and affordable housing developers.

Mr. Ratchford shared the path forward, including continuing to investigate complaints as they are received; updating education and outreach materials to incorporate fair chance housing best practices, translation to other languages and implementing education and outreach locally; expanding existing and creating new partnerships to increase landlord education and tenant awareness including for those currently incarcerated; identifying the magnitude of the problem particularly as increased education leads to increased awareness and fair housing complaints; working with North Carolina's Task Force for Racial Equity in Criminal Justice; continuing research of other states for best practices; and monitoring evolving changes at the federal level. Periodic updates will be provided to the Committee.

Council member Graham agreed that we need a comprehensive education campaign including public service announcements, billboards, radio and television advertisements as well as utilizing the City's public access channel to communicate this important message to the community.

Council member Winston shared that he believes that we need to figure out something bold that gets a lot of people housed, and that this conversation intersects the source of income discrimination issue.

Council member Johnson shared that there is much more information available in the community demonstrating that this is a problem. She believes there must be action and ordinances for landlords receiving any City development funds.

Council member Graham asked if any action on this item is needed. Ms. Wideman clarified that this was an informational update for the Committee on the path forward.

Source of Income Discrimination (SOID)

Pamela Wideman explained that this is a continuation of the February 8th City Council discussion; at that meeting SOID was referred back to Committee. She reviewed the recommendations that were shared with Council on February 8th:

- Adopting a policy requiring mandatory acceptance of Housing Choice Vouchers (HCVs) and other forms or rental subsidy in all City supported housing. Ms. Wideman explained that staff is examining if this can also apply to voluntary affordable housing units achieved in rezonings and Tax Increment Grants (TIG).
- Encouraging and monitoring changes to the HCV program at the federal level.
- Creating a Council appointed ad hoc Advisory Group to develop HCV program enhancements and process improvements.
- Considering amending the fair housing ordinance if HCV program enhancements and process improvements are not successful.

Ms. Wideman explained that based on Council's February 8th discussion, the timeline has been adjusted to December 2021, with periodic updates to the Committee throughout the year. She also asked the Committee to let staff know if they have any more requests for data.

Council member Graham explained that he invited the CEOs of INLIVIAN (housing authority) and the Greater Charlotte Apartment Association (GCAA) to provide brief remarks today.

Kim Graham, Executive Director of the GCAA, shared that GCAA members accept most forms of income, including social security, disability, alimony and other documented income sources. The major issue with landlords is the HCV program and the contract required by HUD. Ms. Graham shared that there are many issues with the HCV program and contract. She shared a short list of some of the issues with the HCV program, including:

- A normal lease-up can happen in as little as three days. Under the HCV program, lease-up can take up to 60-days to have the contract executed, inspection completed, receipt of security deposit and first month's rent from the housing authority.
- It's easy for the housing authority to terminate the contract at any point in the lease term without advance notice to the landlord, which leaves landlords in the lurch to quickly prepare the unit for re-rental and to find new renters.
- Even at the end of the lease term, good cause must be shown to the housing authority to justify repossession of the unit by the owner; this is not the case with normal rental situations.
- The HCV amount does not guaranty the full rent, just the portion the housing authority will pay; landlords are put in the position of having to do twice as much work to collect monthly rent.
- During the contract term the rent may at no time exceed the reasonable rent determined by the housing authority under HUD guidelines.
- Rent increases are only by annual recertification and the voucher does not cover any gaps with the payment standards; gaps between reasonable rents and market rents can be several hundred dollars per month, and this lost revenue adds up.
- It's difficult to terminate tenancies, as it can only be done for specific reasons under the HCV contract.
- The owner must maintain the unit in accordance with the HCV housing quality standards and must remedy any alleged deficiencies upon demand by the housing authority, even though the condition of the unit may have been fully compliant with all other state, local and federal housing regulations.

Fulton Meachem, CEO of INLIVIAN, shared that SOID is not a HCV program issue. It is a people issue that poses barriers to opportunities to upward mobility. He recognized the over 1,300 housing providers that work with INLIVIAN daily to ensure families have a place to call home. Mr. Meachem shared that INLIVIAN has implemented a series of program enhancements focused on how to provide landlord retention and recruitment. Much of these improvements came from INLIVIAN's housing advisory committee as well as working with the GCAA. He shared that he believes that some of the things GCAA has said are mischaracterized. INLIVIAN is not asking anyone to change any payment standards, selection criteria, change their rents or lower their rents, etc. INLIVIAN is simply saying that people should not be discriminated against because of their source of income. He believes that the economic mobility and housing barriers caused by SOID constitute a need for a policy action

Council member Winston shared that the policy should be changed. If there is going to be change, it needs to be dealt with at the local level. He suggests asking the City attorney to go into closed session to talk about a legal strategy for changing the local fair housing ordinance with language to end SOID. This would not preclude working together to find other common ground solutions to the challenges of getting rid of SOID.

Council member Johnson shared that she agrees that this should be addressed now. She does not know what another ad hoc committee could do that hasn't been done already. She supports having the City's legal department look at enforcement options. She asked Mr. Meachem what entities are on INLIVIAN's ad hoc committee, what rent is being paid for HCV vouchers, and how long INLIVIAN has been working with the City on this issue.

Mr. Fulton explained that INLIVIAN created a housing provider advisory committee three years ago to ask providers to bring to INLIVIAN issues with the HCV program. They did the same with the GCAA over the same period of time. This resulted in enhancements made to the program, such as paying market rents, working on reducing the time of inspections, and providing a \$250 signing bonus and a \$1,000 risk mitigation fund. He shared that INLIVIAN first started talking about the issue in 2017 when the board sent emails to City Council, and that he has been talking to staff for many

years. He explained that the issue of SOID is a broad issue that not only deals with HCVs, but also other forms of income such as disability and social security.

Council member Graham, to provide each guest an equal amount of time, asked Ms. Graham if she had anything that she would like to add.

Ms. Graham shared that GCAA is fortunate to have INLIVIAN as a member, along with many other affordable housing developers and providers. Last January, GCAA held a SOID round table and invited INLIVIAN, elected officials, grass roots organizers, and others. She asked Mr. Meachem which market-rate rental providers are on the INLIVIAN committee, and if they aren't members of the GCAA, to please invite GCAA members. There are GCAA members that are deeply rooted in and have a heart for this community and would be very open to these types of discussions.

Council member Bokhari shared that he believes there are only two options, a carrot and a stick. The stick is creating an ordinance that, without authority from the general assembly, would not be enforceable but could be advocated for at the state level with a strong business case; developing this business case would be a full-time job. Adding words to the ordinance would result in the probability of the City being sued, and may anger Raleigh by doing something that we do not have the authority to do. The carrot is a partnership such as the recommended ad hoc advisory group to help achieve the desired outcomes.

Council member Graham shared that the staff recommendation to create an ad hoc committee provides an opportunity to make sure it is fair and balanced with a charge to move forward.

Council member Winston shared that he believes that amending the fair housing ordinance should be done as a first step, and the other recommendations could be done concurrently to create common ground approaches to deal with the complaints of the rental industry.

Council member Watlington commented that she is glad to see the recommendation for a shorter timeframe. Right now, there's nothing happening at the state level that would enable us to amend the ordinance without a confrontation. The data that would be gathered by the ad hoc group will help us fight in court to establish a disparity, but won't tell us if rents are going to be raised. She realizes that we will not be able to forecast at the end of the process and better than we can now.

Ms. Wideman shared that one of the things we will be able to do is to work with INLIVIAN to understand how many vouchers are being returned and why, and if those being returned are successfully redeployed. This will give us more information than we have today. What we all want to see is more vouchers being accepted which equates to more people being housed. We need to hear from market-rate landlords. If we get to end of the process and did not see improvement of voucher use based on metrics set by the ad hoc group, then this would set us up to prove that we've tried on the local level and that there is a disparate impact, which gives us a business case to pass a local ordinance.

Council member Johnson shared that she is concerned that INLIVIAN has been working with the City since 2017 and has provided the information. We can address this via a City ordinance that requires landlords and developers that take City funding to not discriminate based on income or reentry status. We do not need another ad hoc group to do this.

Council member Winston said that he would like to make a recommendation to full Council to consider going into closed session under attorney client privilege to discuss a legal strategy to amend our local fair housing ordinance. This is not a legislative issue but a legal issue. The change needs to be made in our local ordinance, and a conversation with the City attorney to develop a legal strategy that could foresee what the legal challenges could be is the appropriate thing to do. He does not believe that this precludes the other recommendations.

Ms. Wideman shared that she recommends holding off on convening an ad hoc group until the outcome of the legal discussion is completed.

Council member Bokhari shared that he does not believe a closed session is needed. Instead, someone can talk to the City attorney. He does not believe that the City attorney will have anything new to share on this topic beyond what has been shared already.

Mr. Graham shared that he also does not believe that the City attorney will have anything new to share on this topic.

Anna Schleunes also shared that she is not sure that the legal analysis that has already been provided is going to change. From a defense standpoint, the stronger the business case that we can make for an ordinance change, the stronger our defense becomes if it is challenged.

Council member Bokhari asked to clarify that the recommendation to go to closed session would be decided by full Council. Council member Graham said yes.

MOTION AND VOTE. Council member Winston made a motion to accept staff recommendations as outlined and amended, in addition to making a recommendation to full Council to enter a closed session to confer with the City attorney about legal implications regarding a source of income ordinance. Council member Watlington seconded the motion. The vote was 3:1 in favor of the motion (Graham, Watlington and Winston voted in favor of the motion, Bokhari voted against)

Meeting adjourned at approximately 1:50 pm.