

# Losing Perspective: A Response to the Losing Home Report

Toward more housing, more efficiency, and compassion.



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# SEATTLE FOR GROWTH

## **About Seattle For Growth**

Seattle For Growth is a 501(c) 4 non-profit advocacy organization that supports policies to create more housing of all kinds in all neighborhoods and all corners of the state for people of all levels of income. Created in 2013, Seattle For Growth is based in Seattle with statewide interest in housing issues and sustainable growth. Funding for our work is from private sources including developers, builders, rental management companies, and individuals.

## **About Roger Valdez**

Roger Valdez has worked in politics and public policy in Washington State and Seattle for more than 25 years, first working in the legislature as a session aid in 1994 in the State Senate. Since then he's worked mostly in education, health policy and in urban planning first as a neighborhood activist and then for the City of Seattle. Valdez, a recovering politician, ran for the legislature in 2002 and regrets his current role as troublemaker almost as much as you do.

## Summary

Last year, the Seattle Women’s Commission and the King County Bar Association published a report called, *Losing Home: The Human Cost of Eviction in Seattle (Losing Home)*. The report relied on one year of eviction filings in King County Superior Court, 1,218 filings, to make very broad claims about evictions and their impact. The report fails to clearly define “eviction” and the conclusions in the report about the nature and outcome of eviction filings suggest, without any evidence, racism by landlords against tenants when they attempt to remove tenants for cause. One out of three removals of tenants by law enforcement is at housing authority or non-profit housing agencies.

This response is intended to point out that eviction filings are rare, eviction even rarer, and that the real problem for poor people in Seattle isn’t eviction but housing scarcity perpetuated by a Seattle City Council unnecessarily limiting housing supply on behalf of incumbents, largely white homeowners (about 38 percent according to the 2010 Census), who do not want new housing in Seattle. In Seattle and statewide, families don’t need more rules and regulations; they need more housing.

## Introduction

What are the disturbing facts about evictions in King County? Well, if you believe the highly charged *Losing Home* report issued last year by the Seattle Women’s Commission and the King County Bar Association, you’d come away believing that evictions are the norm for people who rent housing and that landlords are racist and want to evict people of color.

But when the veneer of the report is peeled back and we look at what is really going on in rental housing in Seattle when it comes to eviction, we find what is disturbing is the use and abuse of data for political purposes to support more confusing and costly rules that will do nothing to address the real underlying problem Seattle has with housing: lack of supply and poverty.

## What’s really happening with evictions?

Let’s look at some basic facts in the data used for the *Losing Home* report. Out of 168,000 rentals only a tiny number of actual evictions occur according to the SWC.

### Evictions in 2017 in Seattle

Rental Households in Seattle*	168,295	
Number of eviction actions filed	1,218	0.7%
Actual evictions	585	0.3%

\*United States Census 2013-2017 American Community Survey 5-Year Estimates

What do we know about the 1,218 people evicted? We know very little. King County doesn’t keep records based on race or other demographics. There are 57 items in

the data available and used by the SWC (Attachment 1), not a single one is a demographic category. Instead the data collected ranges from the date of the filing to what the filing was for. And any review of the data is difficult because there are many gaps.

This data was compiled by the SWC with funding support from the Seattle City Council. In some categories like whether the tenant was represented by counsel are marked “n/a.” Generally that indicates “not available.” Some categories have just a “?” or “unclear.” The data is full of cases in which the data in the categories appears unknown. This makes it impossible to determine with certainty the nature and outcome of most of these cases filed. Drawing broad generalizations about “evictions” and race is impossible and doing so would be irresponsible. However, that’s exactly what the SWC does in the *Losing Home* report.

### **A look at one case**

Let’s look at one randomly selected case, 17-2-24599-2 SEA (Attachment 2). We know that the Seattle Housing Authority filed this case on 9/17/17. We can also see that this was a non-rent related case, and SHA was alleging “nuisance/waste – drugs’ against the tenant at 533 3rd Ave W Unit 305. We know that court costs were \$300 and that the tenant voluntarily vacated the unit where the rent was \$177 a month.

Was there bias against this individual by SHA? Was this eviction fair? What is the race of this person? Maybe it was justified because of the lease violation. We also don’t know where this tenant eventually ended up, homeless or settled somewhere else. Of the 1,218 filings each one has a different story and the data collected by doesn’t really tell us much about each case and more importantly, taken together, there isn’t much that a quantitative evaluation would be able to conclude in general terms about “eviction” or what it means for the people involved. Even if we knew the details of what played out at 533 3<sup>rd</sup> Ave W, we could not and should not generalize that to all eviction actions.

### **What is eviction?**

The *Losing Home* report does not define exactly what eviction means. The term is thrown around so loosely in the report, it is unclear what the SWC really means by it. Technically, eviction is like a divorce, a decision by a court to end a legal relationship. In the case we just looked at, the tenant appears to have agreed to leave the premises. From the information we have on that case, the whole process took about two months, including whatever lead up there was to the actual filing. During this time the tenant was living in the unit while the dispute was sorted out.

The illusion created by the SWC report is that “eviction” is a discretionary process undertaken by landlords who just don’t like their tenants. In fact, it is an involved process with an uncertain outcome for both parties. Many tenants do have representation, and that makes sense since the process is an adversarial one.

Sometimes tenants prevail or a solution is worked out. It is important to note that the law mandates that a person cannot be removed from their unit because the landlord doesn't like them; the landlord has to go to court. This is expensive and if the landlord prevails, the tenant can be liable.

**Who is filing most eviction actions?**

Again, only a judge's order can complete an eviction. Landlords can't evict a person on their own. But who are the landlords that evict the most tenants? Private landlords initiated a majority of the actions, but the Low Income Housing Institute (67) and the Seattle Housing Authority (117) had the most eviction actions as landlords.

Total Non-Profit/SHA filings	Percent of total filings	Number of tenants vacated?	Number ousted by Sheriff?	Percent of total ousted by Sheriff?
294	24%	221	134	31%

According to the Seattle Housing Authority 51 of the filings resulted in a complete tenant removal in 2017 and in 2018 they had less than 30. Considering that the SHA is the city's largest landlord in the city with more than 6,000 units of housing serving many of the city's most vulnerable people, their eviction rate is surprisingly small. Still, the implication in the report is that eviction is a largely private sector undertaking something that simply isn't true.

To believe that all landlords are intent on evicting people based on race means the Seattle Women's Commission is accusing the Seattle Housing Authority and non-profit housing providers of racism, something completely unsupported by this or any other data.

**Is there a "power imbalance" between tenants and landlords?**

The answer, in a housing market with scarce housing, is, "Yes." But the question is why? Oddly, and in a way that alloys the cause with the wrong solution, the report, at page 79, agrees:

The power imbalance and lack of negotiating ability on the part of the tenant is very clear and ***practically null in the current housing market*** and there needs to be more regulation of lease agreements, which have become contracts of adhesion (emphasis added).

When housing is in short supply people with fewer dollars have fewer options and they must accept disutility in their living situation in order to stay housing. When there is an abundance of supply, landlords compete with landlords for tenants to avoid higher vacancy rates. Then prices fall either immediately or in the form of concessions (e.g. a free month of rent).

It fails any basic of test of reason to suggest that creating a change in the contractual arrangement between tenant and landlord would ameliorate the “current housing market.” Laws governing tenant and landlord relationships are neither necessary nor sufficient to the building and financing of more housing.

The authors of the report are less than transparent about their ultimate objective: to allow adverse possession by tenants of someone else’s property. If the current less than 1 percent rate of eviction filings is a “crisis” what percentage of evictions should there be? The answer for the authors, we guess, is zero. People have a right to housing, someone else’s property, even if they can’t pay for it.

The authors have access to powerful legislators who are readily drafting bills to complicate an already complicated eviction process. The authors have also gotten support of the region’s “Tech Giants” led by Amazon (see Attachment 3) to support Senate Bill 5600, a piece of legislation by lawyers and for lawyers that would simply alter the eviction process and do nothing to actually help someone who may be facing eviction for lack of being able to make a rent payment.

But even more telling about the real balance of power, based on the *Losing Home* report, the Seattle Mariners have given the Housing Justice Project exactly what it asked them for, \$3,000,000 (Attachment 4 and Attachment 5). How this money might be used is discussed later, but taken together with the legislature’s actions and a myriad of laws attempting to favor tenants passed by the Seattle City Council, this hardly indicates a state of affairs in which “tenant advocates” at least, are on the downside of a “power imbalance.”

### **Is eviction the leading cause of homelessness?**

The *Losing Home* report makes the claim that, “eviction is one of the leading causes of homelessness.” However, locally, there is no collection of any data that would indicate what happens to a person once evicted. So there simply isn’t any way to make this claim for Seattle evictions.

The data that has been collected, a sample of homeless people participating in the one night count found that about 1 in 10 said eviction was part of their homelessness. Here’s what that report found.

Approximately 21% of survey respondents indicated that issues related to housing affordability were the primary conditions leading to their homelessness, including eviction (11%), inability to afford a rent increase (6%), family or friend could no longer afford to let them stay (2%), and foreclosure (2%).”

*From the Seattle/King County Count Us In report 2018 (point in time count of homeless people)*

It isn't possible to argue that 11 percent is a "leading cause." Furthermore, that data is hardly a valid sample of homeless people since the one night count is only at one point in time and the participants in the survey is an even smaller subset of that number. Making the claim that evictions in Seattle are a "leading cause of homelessness" is not sustainable.

### **Is eviction a "crisis" or "civil rights" issue?**

The simple answer is, "No." A more thorough answer would be, "We don't have enough data to answer that question, and we don't have the tools in place to measure what matters."

Still, the SWC grossly overreaches when it suggests the following in their report:

While information on landlord demographics in Seattle is limited, a recent survey of 4,236 Seattle landlords suggests that white landlords make up a large portion of all landlords within Seattle. Of the landlords surveyed, almost 82% identified as white, far greater than the Seattle population as a whole. Given the risk of implicit bias of landlords and our findings that people of color were more likely to be evicted for small amounts of money, it is likely that racial discrimination influences the prevalence of evictions among people of color and should be further studied.

The SWC is essentially saying, "we don't know anything about landlords but they can't be trusted not to be racists and they are mostly white." This paragraph is not only embarrassing to the City of Seattle – implying that the Seattle Housing Authority and the non-profits it funds are racist – but is profound malpractice, wrong, and defamatory and should be deleted from the report.

Eviction is a rare occurrence, happening in a vanishingly small number of tenancies. When considering the number of people in Seattle who rent housing less than one percent end up having an eviction filed against them, and even fewer ends up "evicted," that is, leaving the unit. Where did those 585 people who were evicted go? We don't know. Is getting evicted a painful and horrible process? I think we can say the answer to that is yes.

It also would not be surprising, as suggested by the report without any corroboration by quantitative data, that most people who end up in the eviction process are people of color. The SWC suggest 31 percent of the people in the system in 2017 were black while blacks represent 7.1 percent of the population. The argument that there is a disproportionate impact of housing scarcity on people of color is believable even if largely a correlative relationship.

What the report's data doesn't support is the charge that landlords as a group are racist perpetrating a massive infringement on the civil rights of people of color; that accusation is egregious and it isn't supported by any data anywhere. What we do know is that when prices are high poor people suffer most because they have less

money to spend, and poor people are disproportionately people of color; prices are high when housing is in short supply. Therefore, we believe that it is far more supportable to argue that rules that limit supply are inherently racist because they disproportionately affect people of color.

### **Limitation of housing supply is the real civil rights issue: More rules are racist!**

Last year Seattle For Growth [submitted comments](#) to Department of Housing and Urban Development for possible revisions of the Fair Housing Act (Act), the landmark legislation signed by President Lyndon Johnson in 1968. We said then that,

The intention of the Act – fairness – has been undermined by housing scarcity created by local governments seeking to protect the rising value of investments in single-family housing by restricting housing supply with rules, regulations, and taxes. Less housing means existing property owners see their investment rise.

However beneficial this is to people who are already housed, when housing is in short supply, prices and rents go up, consuming a greater share of household income.

This, of course, disproportionately impacts households with less money. People of color in the United States own more poverty than white people; a Kaiser Family Foundation analysis of Census data found that 22 percent of black families and 20 percent of Hispanic families are in poverty compared to 9 percent of white families.

The Seattle City Council has engaged in a relentless effort to fee, fine, tax, rule, and otherwise limit the production of housing then declaring Seattle has a “housing crisis,” and then imposing more fees, fines, taxes, and rules in the name of correcting “affordability.” This is gross misgovernment. Worst of all, it creates housing scarcity. That deliberately imposed scarcity, we think, possibly makes their regulatory overreach actionable as a violation of civil rights and the Fair Housing Act; the price burden created by regulation falls unfairly on people of color.

While there is no question that eviction creates adverse impacts and that those impacts are absorbed by poor people and that poor people are disproportionately people of color, the real problem is the lack of housing options created by regulation that makes housing scarce; when housing is scarce it is expensive and that hurts poor people the most. Evictions, when they happen because of inability to pay rent, are not the cause of housing problems or homelessness, they are the symptom of housing scarcity.



## **What's are the solutions to Seattle's and Washington's housing issues?**

While the number of evictions is small compared to the number of overall people who pay rent and who work with landlords to deal with various issues and problems associated with their tenancy, there are things that can be done to positively affect eviction filings.

### **An Eviction Prevention Fund**

The Seattle Mariners (under investigation, notably, for racism by Major League Baseball) have already given \$3,000,000 for the Housing Justice Project to presumably represent the small number of eviction actions in King County and perhaps resolve smaller financial problems that are claimed by the SWC as the source of homelessness.

We support this contribution and have suggested that such a fund be permanently established by the state (Attachment 6). In 2017, the Mariner's funding would have represented an average subsidy of \$2,463 for each of the cases filed. Is this enough? Would this resource have prevented homelessness or eviction?

Again, we simply don't know. We'd suggest the Mariners condition their funding on a hearty program of evaluation not just of the use of the funding but of the whole eviction process to fill in all those blanks in the data collected by the SWC. A sustained program of representing tenants with private dollars is just, and supporting tenants with small financial issues is compassionate and efficient. And the legislature should require courts to track the outcomes of filings and demographics of tenants and landlords.

### **Make tenant land lord law easy to understand and predictable**

Today's rules governing the relationship between landlord and tenant are bewildering to both tenants and landlords. For tenants this often means they don't know their rights and responsibilities, setting false expectations and exposing them to risk. For people who rent and manage property the myriad of rules makes management more expensive, a cost passed through to tenants, and riskier creating the potential of liability for a mistake. Yet the Seattle City Council and legislature are making this process much more complicated and confusing. This will cause smaller, hands-on landlords to stop renting their property, a net loss of supply, or require hiring management companies with less direct contact with tenants.

### **Implement statewide regulatory reform to allow more housing production**

Housing is too expensive to produce whether it is for-profit housing or subsidized non-profit housing. There are too many local rules favoring existing homeowners, too many taxes on production, and too many fees all accompanied by an arcane and lengthy permitting process. The legislature should work to eliminate all barriers to the market for housing producers, make housing that is safe and health easy to

permit and build. When for-profit housing is abundant, prices go down. The market can produce housing for people who earn housing at 60, 50, even 40 percent of Area Median Income if it is allowed. This means subsidies can help more people at much lower levels of income with more complex needs.

### **Reform the Housing Trust Fund**

The state's leading housing subsidy program and non-profit housing producers don't need more money; the program needs fewer rules and to be more efficient with the dollars it already has. The Housing Trust Fund (HTF) is a program with great potential but it has been unfairly distributed, with urban areas getting more and more money for fewer, and fewer units. What's needed is more direct cash subsidy for people who are already paying rent in market rate units but that are "cost burdened," more low and no barrier housing for people with complex needs or who are chronically homeless, and bigger set asides for homeownership and rural housing.

### **Conclusion**

Housing insecurity is real. Institutional racism exists. The greatest threat to people with less money is inflation, especially for basic needs like housing. We have it within our grasp to increase supply if we find the political will. We don't need more affordable housing; we need more housing so that it is affordable to more people. Tenants are empowered when they have more choices and simpler rules; the best tenant empowerment program is a lot of housing supply.

People who risk their private property by renting it can lower barriers and prices when their risk is offset by more certainty. People who are short on rent don't need programs or promises they need cash. Leadership isn't finding a villain to punish, but working together to give the state what it needs: more housing of all kinds in every neighborhood and corner of the state for people of all levels of income.

## Appendix

### *Comments Submitted to the Department of Housing and Urban Development on the 50<sup>th</sup> Anniversary of the Fair Housing Act*

Housing policy should favor solutions that are fair, efficient, and increase housing supply. We support more housing of all kinds in every neighborhood for people of all levels of income.

#### **Introduction**

Denying access to housing based on race is unacceptable and inconsistent with American and basic moral principles of fairness and equal opportunity. The Fair Housing Act (Act) enshrined these principles in 1968, and the implementation of the Act over the years has made strides toward eliminating discrimination in housing access.

But this progress has hit a hard barrier: the economic interests of incumbent homeowners have taken precedent over the need for more housing, especially in thriving, prosperous, and growing cities.

The intention of the Act – fairness – has been undermined by housing scarcity created by local governments seeking to protect the rising value of investments in single-family housing by restricting housing supply with rules, regulations, and taxes. Less housing means existing property owners see their investment rise. However beneficial this is to people who are already housed, when housing is in short supply, prices and rents go up, consuming a greater share of household income. This, of course, disproportionately impacts households with less money. People of color in the United States own more poverty than white people; a Kaiser Family Foundation analysis of Census data found that 22 percent of black families and 20 percent of Hispanic families are in poverty compared to 9 percent of white families.

Therefore, restrictive land use and housing policies are, in fact and practice, discriminatory housing policy. Each and every limit or slow down of housing supply enacted by local government that is not for purposes of health and safety of residents or the community will mean higher prices, and those higher prices hurt families of color harder than white families.

Furthermore, ameliorating these restrictive policies through subsidies is unacceptable; buying down the high price of housing created by policies deliberately aimed at limiting housing supply means families with less money must wait in longer and longer lines for vouchers or units. Today's system of offsetting high prices with subsidies is a modern day iteration of separate but equal, two systems of housing, one for people who already own their homes and one for everyone else. The problem is, however, that the two systems aren't equal at all, one

serves incumbent homeowners and the other inefficiently distributes public funding for housing to people who have less money.

So as the Department of Housing and Urban Development (HUD) considers changes to the Affirmatively Furthering the Fair Housing Act (AFFHA) Regulations it must take into account the current state of local regulation: local governments are imposing restrictions on housing, calling the resulting shortage a crisis, then squeezing money for subsidies to off set the consequences of those restrictions. Not only is this illogical, it is unfair and discriminatory.

### **Approach**

Going forward, HUD should emphasize outcomes for local governments rather than plans. We suggest considering an approach like the one offered by the Mercatus Center in comments by Salim Furth and Emily Hamilton. Using HUDs existing Fair Market Rent (FMR) calculation, growing cities that have rents that have risen faster than inflation over the last 5 years and have issued building permits for less than 5 percent net growth in housing units would not be eligible for Community Development Block Grants (CDBG).

Local communities also should consider and be allowed to use CDBG funds to reduce cost burden with direct subsidies to families under 30 percent of Area Median Income (AMI). These families and individuals are already housed, and direct cash assistance would help those families faster.

Jurisdictions seeking CDBG funding should have a list and proposed legislation or rule changes that would safely reduce burdens on housing supply by lowering costs and time to market as part of their application.

### **Conclusion**

Funding from the CDBG program should be exclusively given to local jurisdictions that measure housing issues using established FMR and market data to analyze price trends, the impact that regulation has on prices, establish serious efforts to roll back and eliminate regulation that limits supply, and proposes models for subsidy dollars that are not reliant on capital expenditures but investment in reducing poverty and creating improved access to economic opportunity for families.