



## Some Facts about LB 85 and Pro-Active Rental Property Registration and Inspection

***LB 85 will push the City of Omaha to take action to preserve the safety of families in rental housing & vitality of older neighborhoods--action it has refused to seriously consider until recently.***

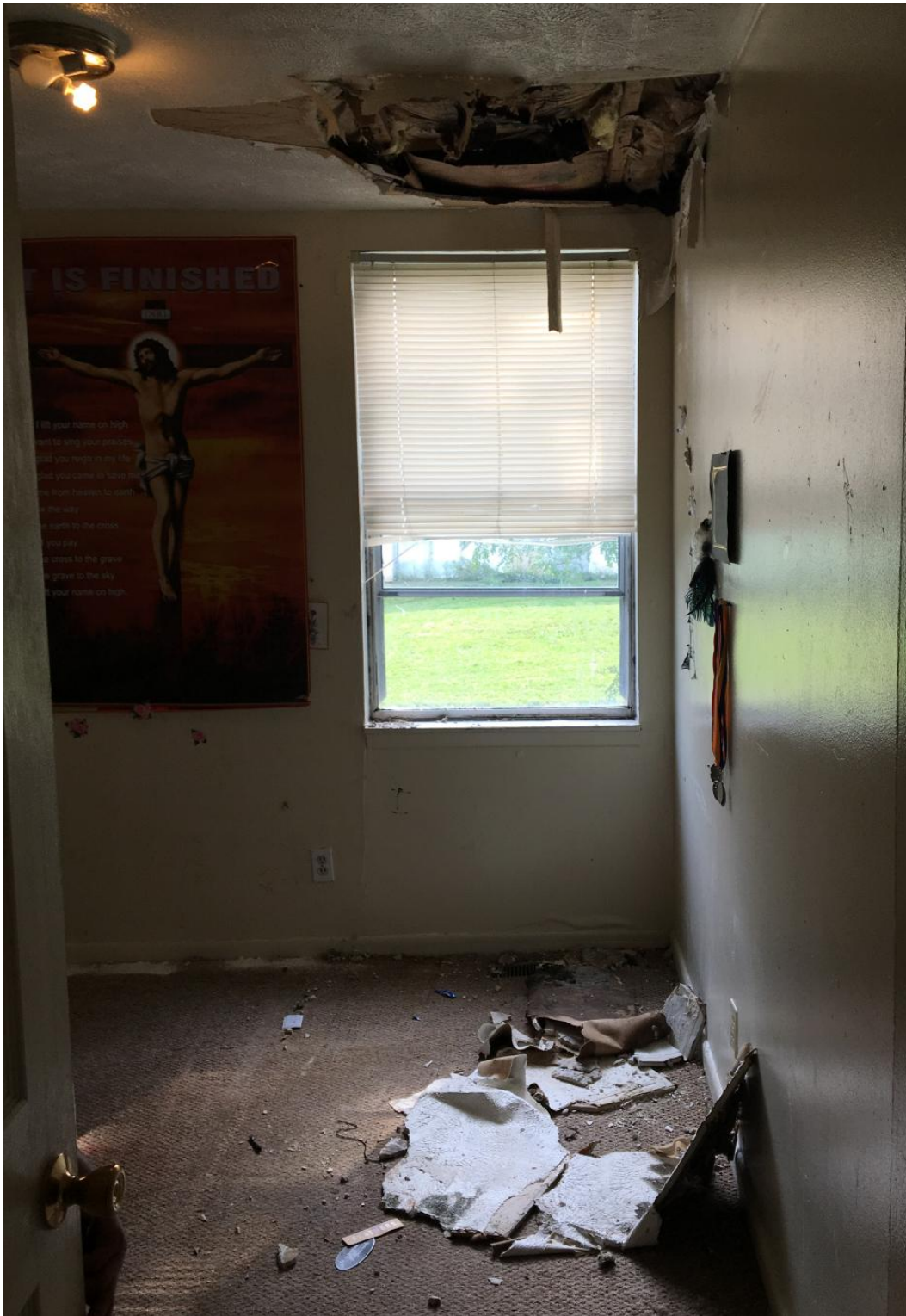


Photo courtesy of Restoring Dignity

<https://rdomaha.com/2019/01/09/the-housing-rights-movement-of-omaha/>



## Some Facts about LB 85 and Pro-Active Rental Property Registration and Inspection

### 1. OMAHA HAS A 100% COMPLAINT BASED SYSTEM WHICH ALLOWS MORE AFFORDABLE RENTAL PROPERTY TO DETERIORATE

- **Yale Park Apartments:** In September 2018, the City had to evacuate 500 people from 100 units at the Yale Park Apartments because the tenants lives were at risk because of over 2000 code violations ranging from gas leaks to electrical wiring, pest infestations to mold.
- **TIF request by Developer:** In January 2019, a local developer sought \$285,000 in TIF funding to redevelop older buildings into rental property. Over 20 tenants, community organizations and business owners testified about the serious problems in most of this developer's 1000+ low end rental properties in Omaha.
- **3/4ths of Code Violations are in Rentals:** There are currently over 1,400 open housing code violations cases in Omaha and 75% of the violations are in rental property even though rental property accounts for only 43% of Omaha's housing stock.
- **3/4ths of 300+ Housing demolitions** since 2015 have been former rental properties, resulting in millions spent on demolition and cutting weeded lots. The value and appeal of surrounding properties are reduced. The demolition pipeline in Omaha is fueled by rental property that is allowed to deteriorate, and then abandoned.

### 2. COMPLAINT-BASED HOUSING ENFORCEMENT FAILS BECAUSE TENANTS FEAR LOSING THEIR PLACE TO LIVE, NO MATTER HOW BAD IT IS

- Omaha's system is 100% complaint-based and requires the name, address and phone number of the person making the complaint and for the tenant to allow the inspector into the unit. The City must give landlords 15 days' notice before the inspection if the landlord requests.
- Without a complaint, there is no enforcement of minimum standards in Omaha. As the Chief Housing inspector said at Yale Park, "The City is forced to put on blinders."
- When a gas leak caused an explosion in one Yale Park unit in 2016, badly burning a child, Omaha could not inspect conditions at other units because no one filed a formal complaint;
- The Nebraska Supreme Court found that tenants are generally afraid to complain. The court stated that "the record supports La Vista's concern that tenants are reluctant to report maintenance problems." (285 Neb. 676).
- When tenants moved out of Yale Park apartments, Restoring Dignity made inspections in 37 of their new apartments and found this snapshot of Omaha's low-income rental housing conditions:
  - 27 had poor air quality
  - 15 had mice
  - 15 had roaches
  - 13 had water leaks
  - 7 had bedbugs
  - 7 had fire safety issues
  - 6 had major heat emergencies
  - 5 had major electrical issues
  - 3 had mold



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### **3. THE CITY HAS KNOWN ABOUT THIS PROBLEM FOR YEARS, BUT DONE LITTLE ON IT UNTIL RECENT WEEKS**

- In 2004 Family Housing Advisory Services (FHAS) did a full analysis of impediments to fair housing choices, including violations of minimum dwelling standards.
- In 2010 a FHAS update called for a study of instituting registration and routine inspections to ensure minimum dwelling standards are maintained.
- In 2011 FHAS notified the Omaha Planning Department that over 1/3 of code violations were west of 42<sup>nd</sup> St and also noted La Vista's experience showed significant metro-wide violations.
- In 2016 OTOC began raising rental property code enforcement issues with the city.
- In February, 2017 Omaha's Superintendent of Code Enforcement, Jay Davis, joined Council Bluffs' Chief Building Official, Steve Carmichael, at a public meeting hosted by OTOC where they stated publicly that Omaha needs a system of proactive inspections.
- In May 2017, at a Candidate Accountability Session, OTOC asked the candidates who eventually became all seven of the current Omaha City Council members to learn about proactive registration and inspection because there was serious and growing problem of dangerous living situations for renters. All seven agreed to learn about proactive systems.
- At the annual budget hearing on July 31, 2018, OTOC leaders testified about the need for a proactive registration and inspection system. In early August, 2018, the Omaha World Herald published an OTOC op-ed arguing in favor of registration and inspection.
- On September 20, the day that 500 people had to be evacuated from Yale Park Apartments, Mayor Stothert said that the City was looking at proactive inspections as a strategy to prevent another Yale Park from occurring.
- But since September 20, the Mayor has expressed her opposition to any system of registration and inspection including providing wildly inflated figures to the Urban Affairs Committee about what such a system would cost and how many inspectors would be needed to run such a system. Mayor Stothert's letter claimed the city would have to hire 113 inspectors, while her Chief Housing Inspector, Scott Lane, was testifying that Omaha would have to hire 8 to 15 new inspectors. Those figures echo the figures propounded by the Metro Omaha Property Owners Association (MOPOA) which has opposed virtually all improvements to the Omaha City Code.

### **4. THE MOST LIKELY WAY THAT THE CITY OF OMAHA WILL ADOPT SOME MEANINGFUL REFORM TO THE FAILED COMPLAINT BASED SYSTEM IS IF THE UNICAMERAL PUSHES THEM TO MAKE GOOD FAITH REFORMS**

Omaha housing, church and community organizations want to work with the City to develop a proactive system that is cost effective, affordable and focuses on the problem landlords to the extent possible under the law. We prefer local action by the City. But voting FOR LB 85 on the first round will make that outcome more likely.

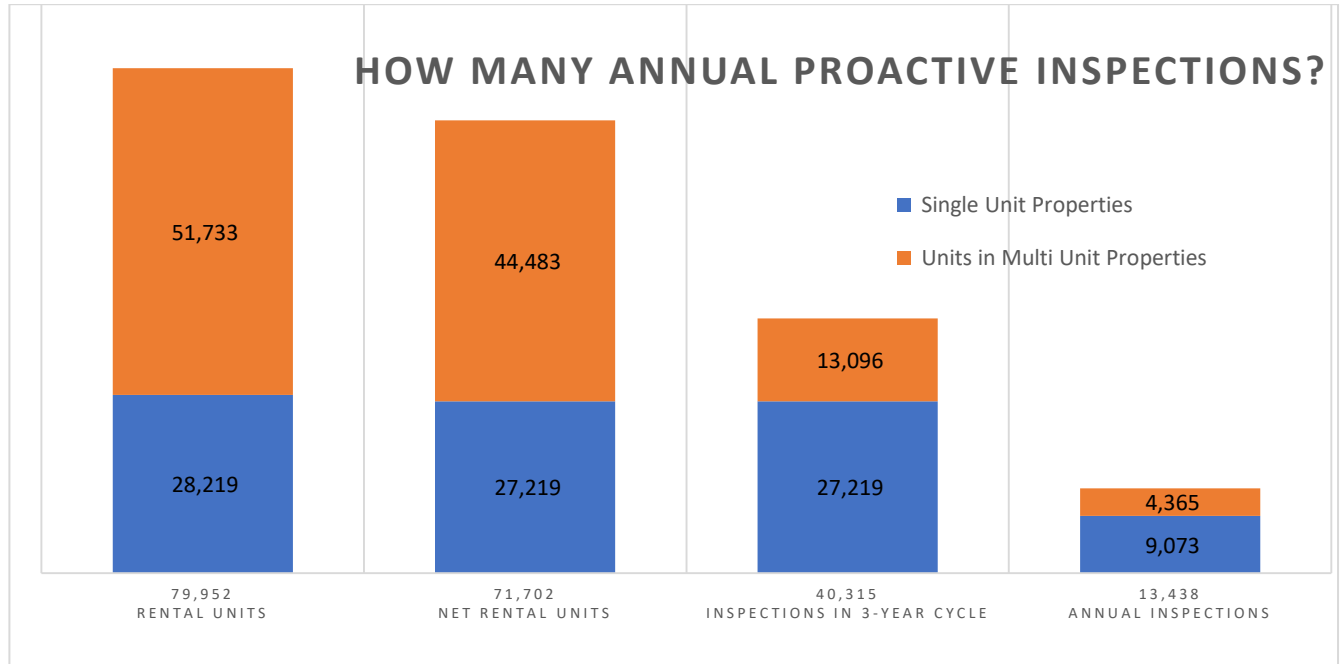
### **5. PROACTIVE REGISTRATION & INSPECTION IS COST EFFECTIVE AND HAS BEEN ADOPTED BY MANY MIDWEST CITIES AND ACROSS THE US**

- Proactive inspections have been used effectively for decades in all Iowa cities with population over 15,000.



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- The National League of Cities has encouraged cities to move away from reactive complaint-based systems toward pro-active inspections to prevent deterioration of housing and preserve health of tenants. It is used in Kansas City, Minneapolis, La Vista, Council Bluffs, and Carter Lake.
- Omaha has about 80,000 rental units. LB 85 authorizes Omaha to use a three-year inspection cycle, exclude properties which are already inspected and do sampling of the units in multi-unit properties. So only about 13,438 residential would have to be inspected each year of a three year cycle. (4,365 apartments and 9,073 single family homes)



### 6. OMAHA WOULD HAVE TO HIRE ABOUT 13 NEW INSPECTORS

- Housing code inspectors can complete proactive inspections on at least 1,000 to 1,500 units per year based on the experience of inspectors in comparable cities
- If inspectors complete inspections on only 1,000 units/year or 4.3 per day, Omaha needs 13 new inspectors to complete 13,438 inspections each year over a three year cycle.
- At the hearing on LB 85, the Omaha Chief Housing Inspector testified LB 85 would require 8 to 15 new inspectors. The Mayor submitted testimony that the City would hire 113 new inspectors. We don't believe the testimony supports the Mayor's testimony.

### 7. NEW INSPECTORS COULD BE FUNDED BY A SMALL REGISTRATION FEE PAID BY OWNER AND PROBABLY PASSED ON TO THE TENANTS

- Based on prior City of Omaha budget figures, each new inspector could cost City at most about \$100,000 in salary, benefits, employment taxes. So the City would need about \$1.3 Million in new revenue to pay for new inspectors and another \$700,000 for supervisors and support.
- The City can raise these funds by charging an annual fee of \$50 for all 28,219 single family rental houses (raising \$1,410,950 in revenue) and an annual fee of \$20 for all 51,733 units in multi-unit apartments (raising \$1,034,660 in revenue).
- Council Bluffs is successfully collecting on 85% of their rental units based on census estimates. If Omaha collects 85% of its fees, it will collect \$2.1 Million and cover the cost of the system.
- **Average Cost to Tenant** if the Landlord passes fees to tenant: \$2.55 per month.





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### 8. LB 85 WILL HELP THE CITY RETURN TO FEDERAL COURT TO GET BETTER, MORE EFFICIENT PROCEDURES TO ENFORCE THE LOCAL HOUSING CODE.

- Currently the City of Omaha does not control how it runs its Code Enforcement Division. The federal court does, thanks to a 2015 consent decree between the City and the Metro Omaha Property Owners Association. As a result, a one-hour inspection can result in two or more hours of paperwork back in the office to meet the consent decree requirements.
- LB 85 leaves alone the basic structure for responding to housing code complaints, with its due process protections in place. But LB 85 will help to prompt modifications in standard operating procedures to improve efficiencies. The decree allows that procedures “**may be modified by the City as necessary to accommodate ... changes in circumstances, or administrative operating efficiencies, provided that the essential procedures and safeguards granted to property owners are not impaired.**” Passage of LB 85 will prompt the City to go back to court to get needed changes made.
- The consent decree allows the City to implement registration and inspection, per its Law Department, in the Omaha World Herald, January 25, 2015: “What if, Catherine Mahern, a Creighton University law professor, asked, a future City Council wanted to require registration of landlords and routine inspections of rental housing, such as Lincoln and La Vista do, as opposed to Omaha’s current complaint-based system? Deputy City Attorney Alan Thelen said the consent decree covers only the items spelled out in the settlement agreement. “If it’s a direct change that’s an element of the settlement or that the court decreed, then we’d have to go back to the judge,” Thelen said. But other changes to city law, such as a registration and inspection ordinance, would not require consent from the property owners or review by the judge under the consent decree, he said.”

### 9. BETTER REGULATION LEADS TO HEALTHIER RENTAL MARKETS

- Since La Vista instituted their registration and inspection system in 2010, median monthly rent in La Vista has increased an average of 1.8% per year, compared to 2.8% per year in Omaha. That is, rent increases have averaged 36% less in La Vista than Omaha.
- Since Council Bluffs instituted their system in 2015, median monthly rent has increased 1.5% per year, compared to Omaha’s 2.6% annual increase. That is, 42% lower.
- Good regulation leads to a healthier rental market, not a more expensive market.
- Inspections to prevent deterioration are the most cost-efficient way to save, and in effect create, affordable housing.