

**ESCROW, EVICTIONS, AND ENFORCEMENT: TACKLING
DETROIT’S RENTAL COMPLIANCE CRISIS**

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I. INTRODUCTION

Families first flocked to Detroit in the early 20th century, answering Henry Ford's call for workers to the tune of five dollars a day.¹ By the 1950s, Detroit had one of the largest populations in the country, beat only by New York City, Chicago, and Philadelphia.² With this, Detroit experienced multiple housing booms in the first half of the 20th century, building majority single-family homes to accommodate families.³ The city became home to a diverse population of Polish, Italian, Greek, and Chaldean immigrants.⁴ At the same time, the Black population grew as African Americans migrated from the South with the hopes of escaping racism and discrimination.⁵

Despite its epic rise, Detroit continues to grapple with the effects of its epic decline. Detroit was not the haven from racism that southern African Americans had hoped for.⁶ The auto industry struggled, and jobs plummeted.⁷ Tense race relations eventually culminated in the 1967 Riots and exodus of Detroit's white residents.⁸ As job opportunities in the city continued to dwindle in the late 20th century into the early 21st, more and more Detroiters fell into poverty.⁹ New housing construction virtually ceased.¹⁰ Between 2011 and 2015, a quarter of homes in Detroit foreclosed

1. Thomas J. Sugrue, *Motor City: The Story of Detroit*, HIST. NOW, Spring 2007, at 2, <https://www.gilderlehrman.org/history-resources/essays/motor-city-story-detroit> [https://perma.cc/67A8-5YS2].

2. *Detroit: Past and Future of a Shrinking City*, ECON. LEAGUE GREATER PHILA., <https://www.economyleague.org/resources/detroit-past-and-future-shrinking-city> [https://perma.cc/45J8-49HS] (last visited Mar. 30, 2025).

3. Simon Schuster, *Boom and Bust: Detroit's Housing Construction Trends*, DATA DRIVEN DET. (July 10, 2018), <https://datadrivendetroit.org/blog/2018/07/10/boom-and-bust-detroits-housing-construction-trends/> [https://perma.cc/N5WD-4PPX].

4. Neala Berkowski, *Detroit's Culture and Growth Shaped by Immigrant Communities*, MICH. DAILY (Feb. 1, 2015), <https://www.michigandaily.com/uncategorized/detroits-immigration/> [https://perma.cc/XCK5-2QPV].

5. *Id.*

6. Ebony JJ Curry, *A Glimpse at the Great Migration: How Black People Built, Fought, and Transformed Detroit*, MICH. CHRON. (Feb. 7, 2025), <https://michiganchronicle.com/a-glimpse-at-the-great-migration-how-black-people-built-fought-and-transformed-detroit-pbs-detroit-explores-the-legacy/> [https://perma.cc/C6EW-39DW].

7. Amy Padnani, *Anatomy of Detroit's Decline*, N.Y. TIMES (Dec. 8, 2013), <https://archive.nytimes.com/www.nytimes.com/interactive/2013/08/17/us/detroit-decline.html> [https://perma.cc/2YCB-YARG].

8. Sugrue, *supra* note 1.

9. In 1999, the poverty rate was 26.1%. By 2010 the poverty rate was 37.6%. DATA DRIVEN DET., SOUTHEAST MICHIGAN POVERTY REPORT 2 (2012), https://datadrivendetroit.org/web_ftp/Presentations/Forgotten_Harvest_Final_Cover.pdf [https://perma.cc/JKZ4-9RWQ].

10. Schuster, *supra* note 3.

because residents could not afford excessively high property taxes.¹¹ Ultimately, in 2013, Detroit became the largest city in the United States to file for bankruptcy.¹² While the city was once the homeownership capital,¹³ by 2017, most Detroit residents had become renters, rather than homeowners.¹⁴

Throughout this tumultuous period, enforcement of the city's housing code was not a priority.¹⁵ Now, as Detroit continues to rebuild and recover post-bankruptcy, the growing problem of decaying housing has brought code enforcement to the forefront.¹⁶ The quality of housing in Detroit is a desperate situation.¹⁷ A 2021 University of Michigan study found that almost 38,000 Detroit households are living in inadequate housing.¹⁸

11. Victor Williams & Brandon Carr, *Detroit Homeowners Demand Action After Being Overtaxed \$600M During Great Recession*, CLICK ON DET. (Apr. 14, 2022, at 22:04 ET), <https://www.clickondetroit.com/news/local/2022/04/15/detroit-homeowners-demand-action-after-being-overtaxed-600m-during-great-recession/> [https://perma.cc/Z4RA-NN43].

12. Quinn Klinefelter, *10 Years Ago Detroit Filed for Bankruptcy. It Makes a Comeback But There Are Hurdles*, NPR (July 22, 2023 at 06:00 ET), <https://www.npr.org/2023/07/22/1189093540/detroit-bankruptcy-comeback-hurdle> [https://perma.cc/2NCJ-J5HC].

13. Mark Van Allsburg, *Property Abandonment in Detroit*, 20 WAYNE L. REV. 845, 850 (1974).

14. Desiree Hatcher, *A Look at Detroit's Affordable Housing Market*, FED. RSRV. BANK CHI. (2017), www.chicagofed.org/publications/profitwise-news-and-views/2017/a-look-at-detroits-affordable-housing-market [https://perma.cc/CGY3-AVC]. A U.S. Census Bureau survey from 2023 concluded that most Detroiters had returned to being homeowners. The validity of this study is questioned, though. See Aaron Mondry, *Why Detroit's Majority-Homeowner Status Isn't as Hopeful as it Seems*, OUTLIER MEDIA (Sept. 24, 2024), <https://outliermedia.org/detroit-census-majority-owner-occupied-city/> [https://perma.cc/5MJ6-GKYW] (comparing the U.S. Census Bureau's study to Data Driven Detroit's, which concluded that only 38% of Detroiters are homeowners).

15. See generally Mitch Smith, *Detroit Takes On Problems That Were Once Beyond Reach*, N.Y. TIMES (July 16, 2023), <https://www.nytimes.com/2023/07/16/us/detroit-bankruptcy-anniversary.html> [https://perma.cc/3PQD-ES8W] (discussing Detroit's increase in code enforcement a decade after declaring bankruptcy).

16. See generally MATT KREIS ET AL., CTR. FOR CMTY. PROGRESS, *INVESTING IN THE VITALITY OF DETROIT'S NEIGHBORHOODS THROUGH IMPROVED RENTAL REGULATION 13* (2024), <https://communityprogress.org/wp-content/uploads/2024/05/2024-05-24-detroit-rental-report.pdf> [https://perma.cc/5Q7V-XKAT] ("Many rental houses, and in all likelihood most moderately-priced properties purchased by investors in Detroit, suffer from deferred maintenance and often require significant repairs. As a result, property owners or buyers must invest in repairs to bring them to a level where they do not pose imminent safety or health threats to their occupants.").

17. See *infra* note 18.

18. DET. METRO AREA CMTYS. STUDY, UNIV. MICH., *USING AMERICAN RESCUE PLAN FUNDS TO MEET DETROITERS' HOME REPAIR NEEDS 1* (Oct. 2021), <https://detroitssurvey.umich.edu/wp-content/uploads/2021/10/DMACS-ARPA-funds-to->

Moreover, renters and residents of color are more likely to be living in substandard housing than homeowners and white residents.¹⁹

Under-enforcement and noncompliance with the housing code leads to property destruction, accidents, and, in severe cases, death.²⁰ For example, in March of 2025, a disabled woman called 911 because a fire had erupted in her kitchen.²¹ Emergency services arrived at the apartment building in under four minutes but were unable to access the nearest fire hydrant.²² The hydrant was behind a locked gate, which is a code violation.²³ The circumstance forced first responders to use a hydrant a block away.²⁴ In turn, the resident lost expensive medical equipment and now has to find an accessible home to live in.²⁵

This Note argues that while Detroit's housing law appears comprehensive, it fails to hold noncompliant landlords accountable and does not provide low to middle-income tenants sufficient mechanisms to force landlords to comply with the law. First, Part II discusses the origins of rental housing laws in the United States and Michigan, and the history that influenced their creation.²⁶ In addition, Part II presents Detroit's current rental ordinances.²⁷ Next, Section III.A. describes the failures of these ordinances, as they provide no incentive for landlords to comply.²⁸ Finally, Part III.B. presents two proposals to remedy Detroit's housing obstacles.²⁹

meet-home-repair-needs-reduced.pdf [https://perma.cc/K7AQ-G6ED]. The study defines inadequate housing as "housing with major issues with exposed wires or electrical problems, broken furnace or heating problems, or lack of hot or running water." *Id.*

19. *Id.*

20. See *McDowell v. City of Detroit*, 730 N.W.2d 212 (Mich. 2007) (describing an electrical fire caused by faulty wiring which led to the death of six children); *Webster v. Shaw*, 63 N.E.3d 677 (Ohio Ct. App. 2016) (reversing trial court's grant of summary judgment after parents sued landlord following children's diagnosis of lead poisoning due to lead paint in rental home); *Washington v. Hous. Auth. of the City of Columbia*, 58 F.4th 170 (4th Cir. 2023) (reversing district court's dismissal of plaintiff's 42 U.S.C. § 1983 claim after man died of carbon monoxide poisoning due to faulty furnace); *Johnston v. Ross*, 590 S.E.2d 386 (Ga. Ct. App. 2003) (reversing trial court's dismissal of tenant's claim after she fell because staircase lacked handrail).

21. Walter Murphy, *Detroit Fire Department Cites Apartment Complex Over Fire Hydrant Access*, CBS NEWS (Mar. 4, 2025, at 07:56 ET), <https://www.cbsnews.com/detroit/news/detroit-fire-department-cites-apartment-complex-over-fire-hydrant-access/> [https://perma.cc/BZW3-GC9S].

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. See discussion *infra* Part II.

27. *Id.*

28. See discussion *infra* Section III.A.

29. See discussion *infra* Section III.B.

II. BACKGROUND

A. Early Legislation

The first modern housing law aimed at protecting tenants was New York City's Tenement House Act of 1901.³⁰ The primary goal of the Act was to improve sanitary conditions to prevent the spread of disease³¹ after journalist Jacob Riis brought attention to the appalling conditions of Manhattan's tenement houses in his 1890 book *How the Other Half Lives*.³² In 1900, in response to the outcry from Riis's book, the New York Governor created the Tenement House Commission to assess the city's tenement houses and make recommendations for how to improve conditions.³³ Legislators signed the Commission's recommendations into law in April of 1901.³⁴ Prior legislation focused solely on major building failures, like fire prevention and building collapse.³⁵ The new Tenement House Act had broader goals like improving ventilation, increasing access to sunlight, strengthening protections against fires, and creating more hygienic conditions.³⁶ It also created a new Tenement Department, which had sole control over the implementation and enforcement of the new housing laws.³⁷

30. Judah Gribetz & Frank Grad, *Housing Code Enforcement: Sanctions and Remedies*, 66 COLUM. L. REV. 1254, 1259 (1966). The Tenement House Act defined a tenement house as:

[A]ny house or building, or portion thereof, which is rented, leased, let or hired out, to be occupied, or is occupied as the home or residence of three families or more living independently of each other, and doing their cooking upon the premises, or by more than two families upon any floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies, or some of them.

Tenement House Act, ch. 334, § 2(1), 1901 N.Y. Laws (1889).

31. Gribetz & Grad, *supra* note 30, at 1260.

32. Stuart Marques, *The Early Tenements of New York—Dark, Dank, and Dangerous*, NYC DEP'T OF REC. & INFO. SERV.: FOR THE REC. (May 17, 2019), <https://www.archives.nyc/blog/2019/5/16/the-early-tenements-of-new-yorkdark-dank-and-dangerous> [<https://perma.cc/ZFA5-X73K>].

33. Tenement House Dep't v. Moeschel, 72 N.E. 231, 232 (N.Y. 1904).

34. *Tenement Bills Signed*, N.Y. TIMES, Apr. 13, 1901, at 5, <https://timesmachine.nytimes.com/timesmachine/1901/04/13/117960883.html> [<https://perma.cc/5ZFM-Z39P>].

35. Gribetz & Grad, *supra* note 30, at 1259.

36. *Tenement Bills Signed*, *supra* note 34.

37. *Id.*

Initially, some responded to the Tenement House Act with resistance,³⁸ but academics have since recognized its revolutionary effects.³⁹ When the Act was first established, realtors held meetings where they argued that the new legislation was unconstitutional.⁴⁰ Property owners brought suits challenging the constitutionality of the Tenement House Act, but courts upheld the legislation.⁴¹ The Tenement House Act of 1901 was successful until the 1920s,⁴² when it began to struggle due to budget cuts.⁴³ Property owners now had no incentive to maintain their properties because the New York Tenement Department was conducting fewer inspections.⁴⁴ Despite these eventual struggles, scholars have celebrated the Tenement House Act for “its meticulous attention to problems of administration and enforcement of the law, and its formulation of rules which were objective and clear.”⁴⁵

B. Early Michigan Legislation

Michigan lawmakers implemented the state’s first housing code in 1917.⁴⁶ The Housing Law of 1917 created minimum requirements to promote the health and safety of residents.⁴⁷ It applied to “dwellings,” which the law defined as “any house or building or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings, either permanently or transiently.”⁴⁸ It created basic standards for room designs, like requiring windows in every room⁴⁹

38. *Tenement House Law Violently Attacked*, N.Y. TIMES, Sept. 13, 1901, at 12, <https://timesmachine.nytimes.com/timesmachine/1901/09/13/issue.html> [https://nyti.ms/4lsCmtW].

39. See Robert W. de Forest, *A Brief History of the Housing Movement in America*, 51 ANNALS AM. ACAD. POL. & SOC. SCI. 8, 10 (1914) (calling the New York Tenement House Act of 1901 an “epoch in tenement regulation”).

40. *Tenement House Law Violently Attacked*, *supra* note 38.

41. Stephen J. Polaha, *Housing Codes and the Prevention of Urban Blight—Administrative and Enforcement Problems and Proposals*, 17 VILL. L. REV. 490, 492 (1972). See *Tenement House Dep’t v. Moesch*, 72 N.E. 231 (N.Y. 1904), *aff’d per curiam*, 203 U.S. 583 (1906) (upholding Act as valid use of the state’s police power after tenement house owner refused to abide by order); *Adler v. Deegan*, 167 N.E. 705 (N.Y. 1929) (holding the Tenement House Act’s successor, the Multiple Dwelling Law, did not violate the state constitution’s Home Rule provision after city required tenement house owner to install lights in building hallways).

42. Polaha, *supra* note 41, at 493.

43. Marques, *supra* note 32.

44. *Id.*

45. Polaha, *supra* note 41 (footnote omitted).

46. 1917 Mich. Pub. Acts 167.

47. *Id.*

48. *Id.* § 2(1).

49. *Id.* § 19.

and mandating criteria for the size and height of rooms.⁵⁰ The new law improved sanitary conditions by requiring every home or apartment to have a sink with running water⁵¹ and have access to a sewer.⁵² In addition, the health department could deem a dwelling uninhabitable as a danger to health or life and order it vacated.⁵³ The new housing law created additional provisions for multiple dwelling units, such as extra fire protection requirements of “at least two independent ways of egress.”⁵⁴

To ensure rental properties met these standards, the Michigan Legislature required annual inspections of rental properties built after the law went into effect and required owners to receive a Certificate of Compliance (“Certificate”) before a tenant occupied the property.⁵⁵ If the owner rented out a property that did not have a Certificate, tenants could withhold rent until the property owner obtained one.⁵⁶ Without a Certificate, the owner was not able to evict the tenant due to nonpayment of rent.⁵⁷

To enforce the new laws, the Legislature made violations of the housing code a misdemeanor.⁵⁸ The municipality imposed a fine between ten to one hundred dollars for each day the violation existed.⁵⁹ If the owner defaulted in payment, they could face a sentence of incarceration of one day for each day the violation existed.⁶⁰ The fine amount and jail time length depended on whether the court found the violation was willful.⁶¹

Residents had mixed responses to the new housing law. Detroit builders and realtors reacted similarly to those in New York.⁶² Some blamed the new requirements as the reason business deals fell through.⁶³ Even the mayor of Detroit, Oscar Marx, shared this negative opinion.⁶⁴ Mayor Marx complained to the *Detroit Times*, saying “I am convinced that the code is nothing short of ridiculous.”⁶⁵ Others recognized the importance of the new laws but questioned certain aspects, finding the

50. *Id.* §§ 21, 22.

51. *Id.* § 34.

52. 1917 Mich. Pub. Acts 167 § 35.

53. *Id.* § 85.

54. *Id.* § 95.

55. *Id.* §§ 99, 113.

56. *Id.* §100.

57. *Id.*

58. 1917 Mich. Pub. Acts 167 § 101.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Rules Halt Apartments*, DET. NEWS, Aug. 19, 1917, at 8.

63. *Id.*

64. *Building Code is Under Fire*, DET. TIMES, Mar. 26, 1917, at 3.

65. *Id.*

laws too restrictive and limiting to the economic incentive to build.⁶⁶ In contrast, many welcomed the new laws. Prior to the new housing code, Detroit health officer Dr. William Price stated that “Detroit’s housing conditions, almost exclusively, are responsible for the marked increase in contagious diseases reported to the board of health”⁶⁷ Once Michigan passed the new legislation, another Detroit health officer, Dr. J.W. Inches, lauded the new housing code as “do[ing] more to improve the health of the city and to bring about good housing conditions than any legislation that has been adopted in years.”⁶⁸ While the housing law debate began with arguments on construction and health, it subsequently become inseparable from a larger fight for racial equality.

C. Post-1968 Legislation

The Civil Rights Movement made massive strides in the 1960s, leading to further housing reform.⁶⁹ Black Americans pushed for change in different ways, like participating in marches, organizing sit ins, or joining the Black Power Movement.⁷⁰ There were 159 race riots across the country in 1967 alone.⁷¹ Riots in Newark, New Jersey, and Detroit were “the most destructive.”⁷² The 1967 Riots in Detroit began with police raiding a “blind pig,” an establishment serving as a hub for Black Detroiters to drink and socialize, which had a reputation for prostitution and illicit drug use.⁷³ The police did not anticipate how many patrons would be at the blind pig, so they sat arrested individuals outside as they

66. James Wilson, Letter to the Editor, *Why People Don't Build*, DET. NEWS, May 22, 1919, at 4.

67. *Blames Housing Conditions for Disease Spread*, DET. NEWS, Sept. 9, 1916, at 3.

68. *Builders to Attack New Code*, DET. TIMES, June 16, 1917, at 1.

69. See generally Paul A. Jargowsky et al., *The Fair Housing Act at 50: Successes, Failures, and Future Directs*, 29 HOUS. POL'Y DEBATE 694 (2019) (examining the history of the Fair Housing Act of 1968 and its effects).

70. Leland Ware, *Civil Rights and the 1960s: A Decade of Unparalleled Progress*, 72 MD. L. REV. 1090, 1093 (2013).

71. *Id.* at 1093.

72. *Id.* In recent years there has been much debate surrounding language and the events in Detroit in 1967. This Note refers to it as a “riot” because that is the most commonly used term. Newer language includes “unrest,” “uprising,” or “rebellion.” See Bill McGraw, *Riot or Rebellion? The Debate on What to Call Detroit '67*, DET. FREE PRESS (July 4, 2017), <https://www.freep.com/story/news/2017/07/05/50-years-later-riot-rebellion/370968001/> [<https://perma.cc/7UHK-QYHT>].

73. Matthew D. Lassiter, *12th Street Blind Pig*, DET. UNDER FIRE, <https://policing.umhistorylabs.lsa.umich.edu/s/detroitunderfire/page/blind-pig1> [<https://perma.cc/8B97-868E>] (last visited Nov. 5, 2025).

waited for more vans to take them to jail.⁷⁴ Initially, a small crowd formed as individuals who were passing by joked with the arrestees.⁷⁵ Quickly, though, bystanders took issue with officers' rough treatment of the arrested individuals, and tensions between police and onlookers escalated.⁷⁶ By morning, over 3,000 people had assembled, and eventually violence broke out⁷⁷ as pressures from the systemic racism Black Detroiters faced daily finally boiled over.⁷⁸ Over a span of five days,⁷⁹ lootings, burglaries, and arsons took place.⁸⁰ Witnesses described the city as an "urban warzone," with the National Guard even being called as reinforcement for local police.⁸¹ Of the forty-three people killed, thirty-three were Black.⁸²

Following the end of the riots in Detroit, President Lyndon B. Johnson created The National Advisory Commission on Civil Disorders ("the Commission").⁸³ The President tasked the Commission with answering three questions about the racial uprisings across the country: what happened, why, and how to prevent it from happening again.⁸⁴ One factor the Commission identified as contributing to racial unrest was housing conditions within Black communities.⁸⁵ Specifically, in cities with racial disturbances, 47% of residences with non-white tenants were "substandard."⁸⁶ The Commission identified two causes of this low quality of housing: poverty and housing discrimination.⁸⁷ In Detroit, 40% of non-whites paid at least 35% of their income towards rent.⁸⁸ Households are typically considered "housing cost burdened" if more than 30% of their

74. Reynolds Farley, *Detroit Fifty Years After the Kerner Report: What Has Changed, What Has Not, and Why?*, 4 RUSSEL SAGE FOUND. J. SOC. SCIS. 206, 207 (2018).

75. SIDNEY FINE, *VIOLENCE IN THE MODEL CITY: THE CAVANAGH ADMINISTRATION, RACE RELATIONS, AND THE DETROIT RIOT OF 1967* 160 (2007).

76. *Id.*

77. NAT'L ADVISORY COMM'N ON CIV. DISORDERS, *REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS* 49 (1968) [hereinafter COMM'N REPORT].

78. *Id.* at 3–4.

79. *Id.* at 59.

80. *Uprising of 1967*, DET. HIST. SOC'Y, <https://detroithistorical.org/learn/encyclopedia-of-detroit/uprising-1967> [<https://perma.cc/V7LE-WEAA>] (last visited Apr. 2, 2025).

81. *Id.*

82. COMM'N REPORT, *supra* note 77, at 60.

83. Farley, *supra* note 74, at 207.

84. COMM'N REPORT, *supra* note 77, at 1.

85. *Id.* at 5, 13.

86. *Id.* at 259. The areas examined were Tampa, Cincinnati, Atlanta, Newark, Northern New Jersey, Plainfield, New Brunswick, and Detroit. *Id.* at ix.

87. *Id.* at 259.

88. *Id.*

income is paid towards housing expenses.⁸⁹ Residents' inability to pay substantial rent prevented both the construction of new homes and the maintenance of old properties due to the lack of profit.⁹⁰ Furthermore, discrimination prevented Black residents from moving to different areas, such as the suburbs.⁹¹ As a result, housing discrimination encouraged landlords to increase the number of units within existing buildings, exacerbating deterioration and reinforcing overcrowding.⁹²

The Commission noted frustrations within these communities due to the underenforcement of housing laws⁹³ and made some recommendations.⁹⁴ Most of the cities with civil disturbances did not enforce penalties for housing code violations, even after tenants reported to the appropriate department.⁹⁵ In conclusion, the Commission offered two recommendations to remedy these issues. First, it urged lawmakers to introduce a federal fair housing law to prevent housing discrimination.⁹⁶ Second, the Commission encouraged cities to create urban renewal programs and revamp building codes to improve the quality of available housing.⁹⁷

The Michigan Legislature updated the housing code in 1968 in response to the riots and the Commission's report.⁹⁸ This is known as the Tenants' Rights Legislation.⁹⁹ The most important change the Legislature implemented was the codification of the implied warranty of habitability.¹⁰⁰ Previously, a rental agreement merely required the landlord

89. Mia Chapman & Lauren Lowery, *What is Affordable Housing?*, NAT'L LEAGUE OF CITIES (Jan. 8, 2024), <https://www.nlc.org/article/2024/01/08/what-is-affordable-housing/> [<https://perma.cc/CA44-2PB7>].

90. COMM'N REPORT, *supra* note 77, at 259.

91. *Id.*

92. *Id.*

93. *Id.* at 262–63.

94. *Id.* at 259.

95. *Id.*

96. COMM'N REPORT, *supra* note 77, at 263.

97. *Id.* at 262–63.

98. Marilyn Miller Mosier & Richard Soble, *Modern Legislation, Metropolitan Court, Miniscule Results: A Study of Detroit's Landlord-Tenant Court*, 7 U. MICH. J. L. REFORM 8, 15 (1973); Jonathon I. Rose & Martin A. Scott, "Street Talk" Summonses in Detroit's Landlord-Tenant Court: A Small Step Forward for Urban Tenants, 52 J. URB. L. 967, 969 (1975).

99. *Rome v. Walker*, 196 N.W.2d 850, 851 (Mich. Ct. App. 1972). This legislation includes six acts: 1968 Mich. Pub. Acts 112; 1968 Mich. Pub. Acts 267; 1968 Mich. Pub. Acts 286; 1968 Mich. Pub. Acts 297; 1968 Mich. Pub. Acts 295; 1968 Mich. Pub. Acts 344. *Walker*, 196 N.W.2d at 851, n.1.

100. MICH. COMP. LAWS § 554.139 (1968).

to supply the property.¹⁰¹ The implied warranty of habitability created a covenant for the landlord to keep the property in “reasonable repair” and in compliance with health and safety regulations.¹⁰² “Reasonable repair” has not been defined and is a question of fact in litigation.¹⁰³ Supporters of the legislation hoped that codifying the warranty of habitability would be a more efficient and effective incentive for landlords to maintain their properties because it eased the burden on code enforcement officials and courts by threatening the loss of rental income.¹⁰⁴ *Rome v. Walker*¹⁰⁵ later established in 1972 that the covenant to pay rent is dependent on the covenant to keep a rental in reasonable repair.¹⁰⁶ In other words, if a landlord brings a case against a tenant for nonpayment of rent, the tenant can raise the defense of withholding rent due to breach of the implied covenant of habitability.¹⁰⁷

With this legislation, the Michigan Legislature repealed MCL 125.501, which made housing code violations a misdemeanor.¹⁰⁸ Proponents of this repeal believed the shift from criminal to civil penalties brought multiple advantages. First, courts felt reluctant to impose stiff criminal sanctions for violations of housing law.¹⁰⁹ Second, defendant landlords did not need to be present for court proceedings, meaning the court could move forward with cases without having to locate the “phantom landlord.”¹¹⁰ Finally, by making penalties civil fines, enforcing departments could raise revenue to improve enforcement.¹¹¹

The new legislation created a route for tenants to bring a case against landlords in civil court.¹¹² With this, a tenant can make repairs and deduct the costs from their rent so long as the tenant was not the cause of the

101. John L. Zenor, *Judicial Expansion of Tenants’ Private Law Rights Implied Warranties of Habitability and Safety in Residential Urban Leases*, 56 CORN. L. REV. 489, 490 (1971).

102. *Id.* The warranty of habitability can be modified if the lease is longer than one year. MICH. COMP. LAWS § 554.633 (1979).

103. MICH. STATE UNIV. COLL. OF L., LANDLORD TENANT GUIDE 49 (2024), <https://www.law.msu.edu/clinics/2024%20LLT%20Guide-FINAL.pdf> [https://perma.cc/3ZTF-EJWW].

104. Nicole Summers, *The Limits of Good Law: A Study of Housing Court Outcomes*, 87 U. CHI. L. REV. 145, 158–59 (2020).

105. *Rome v. Walker*, 196 N.W.2d 850 (Mich. Ct. App. 1972).

106. *Walker*, 196 N.W.2d at 853. The first case nationwide to establish these covenants as reciprocal was *Javins v. First Nat’l Realty Corp.*, 428 F.2d 1071 (D.C. Cir. 1970).

107. *Walker*, 196 N.W.2d at 853; MICH. COMP. LAWS § 600.5720(1)(f) (1961).

108. MICH. COMP. LAWS § 125.501 (1917), *repealed by*, 1968 Mich. Pub. Acts 286.

109. Gribetz & Grad, *supra* note 30, at 1285.

110. *Id.* at 1285–86.

111. *Id.*

112. MICH. COMP. LAWS § 125.534 (2024).

damage and they gave the landlord adequate notice.¹¹³ Additionally, the tenant must have given the landlord “a reasonable time for repair.”¹¹⁴

Nonetheless, the Tenants’ Rights Legislation did not bring the revolutionary change legislators and housing advocates had envisioned.¹¹⁵ The drafters had hoped the new legislation would guarantee tenants higher quality housing and more permanency.¹¹⁶ Moreover, they aimed to grant tenants leverage against their landlords to force compliance.¹¹⁷ Unfortunately, this was not the result. The Michigan Supreme Court noted the bleak environment in Detroit’s Landlord Tenant Court in a 1979 case:

The atmosphere of the Detroit Landlord-Tenant Court where these cases originated does not encourage deliberate, reasoned and compassionate justice, although it deals with one of the basic material essentials of life, a roof over one’s head. Judges, litigants and court personnel are harassed and depressed. In many cases both the landlords and tenants are barely making it financially, and oftentimes they are not making it at all. Cases involve housing conditions that are not the most desirable. Consequently, relations are often strained and not infrequently beyond the breaking point. Many of the tenants do not understand their rights at all, although some understand them too well. Sometimes landlords are in the same posture. It would be difficult to handle these cases with justice in the best of circumstances. But circumstances are far from the best. The case load is incredible. The court facilities are just a little better than tolerable.¹¹⁸

Some scholars believe the failure of the Tenants’ Rights Act lies in its limitations on collective action.¹¹⁹ Others point to its reliance on economic

113. *Anchor Inn of Mich., Inc. v. Knopman*, 246 N.W.2d 416, 417 (Mich. Ct. App. 1976).

114. *LANDLORD TENANT GUIDE*, *supra* note 103, at 51.

115. Miller Mosier & Soble, *supra* note 98, at 61 (“One inescapable conclusion from the study results is that in 1970 and 1971 the reform legislation passed in Michigan was not meeting the goals that had been set for it in 1968.”); Ronald D. Glotta, *Tenant’s Attorney: Evaluation of Impact*, 2 U. MICH. J.L. REF. 247, 248 (1968) (“[T]he legislation has so balanced legal gains and losses for the tenant that it barely touches the housing problem.”).

116. Miller Mosier & Soble, *supra* note 98, at 15–16.

117. *Id.*

118. *Fed. Nat’l Mortg. Assoc’n v. Wingate*, 273 N.W.2d 456, 673 (1979).

119. Glotta, *supra* note 115, at 248 (“The poor tenant would have been much better served had the new legislation strengthened his capacities to carry on the collective struggle rather than his capacities to carry on individual court action.”).

penalties, which may encourage landlords to abandon properties.¹²⁰ Finally, some suggest the issue rests in the long “implementation chain” a tenant must succeed in to see meaningful change.¹²¹ Any mistake within one of the many “links” within this chain can prevent a tenant from getting the relief this legislation intended.¹²² Regardless of the reasons for this failure, the Tenants’ Rights Legislation remains the basis of Michigan’s rental housing laws, and is the foundation for Detroit’s rental ordinances.

D. Current Detroit Housing Law

Michigan housing law is the minimum standard for communities within the state,¹²³ but municipalities may legislate to provide broader protections.¹²⁴ Most of Michigan’s rental housing law, such as obtaining a Certificate, applies only to multiple dwelling units (apartments) and rooming houses.¹²⁵ Detroit’s Code is broader, as it applies to any dwelling intending to be occupied “for living, cooking, eating, sanitation, and sleeping.”¹²⁶ This definition is more tailored toward Detroit’s specific needs because 90% of “rental properties in Detroit are single-family

120. Kenneth A. Neal, *The New Michigan Landlord-Tenant Law: Partial Answer to a Perplexing Problem*, 15 WAYNE L. REV 836, 852 (1969) (“At best, any housing law directed at the slum housing market, based upon penalties, either civil or criminal, is a stop-gap measure Slum housing is an economic problem that cannot be solved by imposition of economic penalties which are disproportionate to the economic benefits possible if there is code compliance.”).

121. Rose & Scott, *supra* note 98, at 979.

122. *Id.* Rose & Scott list this “implementation chain” for a “premises in poor repair” as:

1. Tenant withholds rent
2. Tenant understands right to ignore landlord’s notice to pay or move (“notice to quit”)
3. Tenant not intimidated by landlord
4. Tenant receive summons
5. Tenant reads and understands summons
6. Tenant not frightened by summons into nonappearance or disadvantageous settlement
7. Tenant aware of defenses to the action
8. Tenant asserts defenses correctly
9. Enough time is allowed for trial
10. Fair trial is allowed by court or jury
11. Tenant receives money damages

Id. at 1012.

123. MICH. COMP. LAWS § 125.408 (1948).

124. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 2, § 35 (2019).

125. MICH. COMP. LAWS § 125.529 (1917).

126. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 1, § 5 (2019).

homes,” not apartments.¹²⁷ Without this expanded definition, the majority of Detroit’s rental units would not be subject to all rental regulations.

The first step to operating a rental property in Detroit is to register the property online with Detroit’s Buildings, Safety, Engineering, and Environmental Department (BSEED).¹²⁸ This requires basic information, such as its location and the contact information of the owner, property manager, and property caretakers.¹²⁹ Along with these details, Detroit’s housing code requires owners to report whether their building has had lead paint abatement or “interim controls performed to control lead-based paint hazards” to comply with Michigan’s lead safe housing registry.¹³⁰

Next, the owner must obtain a Certificate of Compliance.¹³¹ To do this, they must schedule an inspection with a third party or BSEED and may need to pass a second inspection if the property is not compliant at the initial inspection.¹³² Finally, properties built before 1978 must pass an additional lead inspection, separate from the Michigan lead safe housing registry.¹³³ Once the owner completes these steps, they must submit documentation to the city.¹³⁴ Then, the City will issue the Certificate.¹³⁵ A Certificate is valid for three years and can possibly be extended if a property is compliant “for two consecutive periods prior to expiration.”¹³⁶

127. KREIS ET AL., *supra* note 16, at 11.

128. CITY OF DET., CITY OF DETROIT NEW RENTAL ORDINANCE: RENTAL HOUSING SAFETY PROGRAM, 5 (2025), <https://detroitmi.gov/sites/detroitmi.localhost/files/2025-09/New%20Detroit%20Rental%20Ordinance%20August%20Update.pdf> [<https://perma.cc/DP9J-CWM6>].

129. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 81 (2019); *Landlord Rental Requirements*, CITY OF DET., <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department/bseed-divisions/property-maintenance/tenant-rental-property/landlord-rental-requirements> [<https://perma.cc/EQ4H-KLBN>] (last visited Feb. 20, 2025).

130. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 81 (2019); MICH. COMP. LAWS § 333.5474(b) (1978).

131. *Certificate of Compliance*, CITY OF DET., <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department/bseed-divisions/property-maintenance/tenant-rental-property/certificate-compliance> [<https://perma.cc/BW5P-8NDS>] (last visited Mar. 3, 2025).

132. *Id.*

133. *Id.*

134. *Id.*

135. *Id.*

136. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 83(f)(1) (2019).

BSEED manages the enforcement of the city's housing code.¹³⁷ Seven divisions make up BSEED.¹³⁸ They oversee nearly every aspect of building laws in Detroit, including zoning, construction, permits, and the environment.¹³⁹ One of its roles is issuing tickets for blight violations, along with the local police.¹⁴⁰ In a property maintenance context, blighted properties are those that are “no longer in acceptable or beneficial condition to its community.”¹⁴¹ Blight tickets address a wide variety of violations.¹⁴² These include mundane violations, like unshoveled snow or leaving garbage cans at the curb past designated times, to more serious violations, such as failing to register a rental property, failing to obtain a Certificate, or illegal dumping.¹⁴³ The Department of Appeals and Hearings (DAH) adjudicates these blight tickets.¹⁴⁴ It “serves as a ‘blight court,’ providing due process, including the right to appeal a ticket if [the owners] already addressed the issue or believe the ticket was improperly written.”¹⁴⁵

An owner cannot rent out a dwelling without a Certificate.¹⁴⁶ As stated above, renting out a property without registering it or obtaining a Certificate is a “blight violation.”¹⁴⁷ Because of this, if a tenant is renting a dwelling without a Certificate, the tenant can pay rent into an escrow account to force the landlord to comply, or else the landlord will not receive rent.¹⁴⁸ If the property owner obtains a Certificate within ninety

137. *Buildings, Safety, Engineering, and Environmental Department*, CITY OF DET., <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department> [<https://perma.cc/E27U-XE63>] (last visited Apr. 13, 2025).

138. *BSEED Divisions*, CITY OF DET., <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department/bseed-divisions> [<https://perma.cc/PJ3G-4FJ6>] (last visited Mar. 7, 2025).

139. *Id.*

140. *Blight Ticket Information*, CITY OF DET., <https://detroitmi.gov/departments/department-appeals-and-hearings/blight-ticket-information> [<https://perma.cc/P5KD-79SB>] (last visited Mar. 7, 2025).

141. Joseph Schilling & Jimena Pinzon, *The Basics of Blight: Recent Research on Its Drivers, Impacts, and Interventions*, VACANT PROP. RSCH NETWORK, no. 2, 2016, at 1, 3, https://vacantpropertyresearch.com/wp-content/uploads/2016/03/20160126_Blight_FINAL.pdf [<https://perma.cc/SAB6-C5KT>].

142. *Blight Ticket Information*, *supra* note 140.

143. *Id.*

144. *Id.*

145. *Mayor Appoints Julianne Pastula Director of Administrative Hearings*, CITY OF DET. (Oct. 11, 2023), <https://detroitmi.gov/news/mayor-appoints-julianne-pastula-director-administrative-hearings> [<https://perma.cc/N47B-JWGR>].

146. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 2, § 35 (2019).

147. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 2, § 36 (2019).

148. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 82(d) (2024). An escrow account is a bank or third-party account, usually set up in the tenant's name, where the tenant

days, the rent paid into the escrow account is paid to the owner.¹⁴⁹ If the owner does not obtain a Certificate within that period, the rent is returned to the tenant.¹⁵⁰ The tenant continues paying into the escrow account, and if the owner still has not obtained a Certificate after another sixty days, the rent is returned to the tenant.¹⁵¹ This cycle continues until the owner finally obtains a Certificate.¹⁵² As long as the tenant is paying rent into the escrow account, the landlord cannot evict the tenant for nonpayment of rent.¹⁵³ The landlord can, of course, evict the tenant if there are different justifications for eviction.¹⁵⁴

Most rental properties in Detroit are not registered and do not have a Certificate.¹⁵⁵ Since the City enacted this current system in 2017, only 20% of rental properties have registered.¹⁵⁶ Moreover, less than 10% of rental properties have gone through the full process and successfully obtained a Certificate.¹⁵⁷ This is likely due to the economic investment required to become compliant.¹⁵⁸ For example, estimations show that, on average, doing basic repairs to a single family property costs around \$7,000.¹⁵⁹ Implementing interim lead controls can cost \$2,500 to \$3,000, while fully abating a single family home from lead hazards can cost up to \$35,000.¹⁶⁰

deposits full or partial rent payments to demonstrate their willingness and ability to pay rent while withholding it until the landlord resolves a legally required repair issue. MICH. STATE UNIV. COLL. OF L., A PRACTICAL GUIDE FOR TENANTS & LANDLORDS 27, <https://www.legislature.mi.gov/Publications/tenantlandlord.pdf> [<https://perma.cc/AMG5-YEL9>].

149. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 82(d) (2024).

150. *Id.*

151. *Id.*

152. *Id.*

153. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 82(d) (2024).

154. DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, §82(e) (2024).

155. *Mayor Duggan and Council Member Mary Waters Propose Changes to City's Rental Ordinance to Ensure More Safe, Quality Housing for Detroiters*, CITY OF DET. (July 22, 2024), <https://detroitmi.gov/news/mayor-duggan-and-council-member-mary-waters-propose-changes-citys-rental-ordinance-ensure-more-safe> [<https://perma.cc/DR98-DDJA>] [hereinafter *Rental Ordinance Changes*].

156. This statistic is based off an approximation of rental properties in the city. KREIS ET AL., *supra* note 16, at 16.

157. Aaron Mondry, *Why Most Detroit Rentals Aren't Up to Code—and How the City Could Fix That*, OUTLIER MEDIA (June 25, 2024), <https://outliermedia.org/rental-registry-detroit-ordinance-landlords-inspections/> [<https://perma.cc/NSZ4-DZF9>].

158. KREIS ET AL., *supra* note 16, at 21.

159. KREIS ET AL., *supra* note 16, at 13.

160. *Id.* Interim lead controls include “special cleaning and dust removal procedures, stabilization of the existing paint film, and special treatment of friction and impact surfaces.” *Reducing Lead-Based Paint Hazards Using A Combination of Abatement and Interim Control Techniques on Windows*, U.S. GEN. SERVS. ADMIN. (July 5, 2016),

These renovation costs are particularly high due to the age of Detroit's housing,¹⁶¹ since 90% of homes in the city were built before 1980, with one-third built before 1940.¹⁶² Additionally, owners cannot pass these renovation costs onto the tenant through raising rent because most residents already struggle to pay rent.¹⁶³

The issue of unregistered and noncompliant rental properties in Detroit is so pervasive that even landlords who likely could afford to obtain a Certificate often do not complete the process. To illustrate, The Scott at Brush Park is an apartment building that advertises itself as being "luxury."¹⁶⁴ Its cheapest apartment, a 683-square-foot one-bedroom, starts at \$1,715 a month.¹⁶⁵ Despite this high price tag, the owners have not registered it as a rental property, and therefore, the building does not have a Certificate allowing the owners to legally rent apartments to tenants.¹⁶⁶

While few properties comply, there is value in having a certificate system like this if the city properly enforces it. *Jones v. Horizon Trust Company* is an example of a situation that could have been avoided had the property owner followed the law.¹⁶⁷ In this case, a tenant sued his landlord after falling into a hole in the rental property's driveway created by an open pipe.¹⁶⁸ Both the plaintiff and defendant believed that the pipe belonged to the City of Detroit.¹⁶⁹ In defiance of the rental ordinances, the property "had never been inspected" and did not have a Certificate.¹⁷⁰ The court acknowledged that officials designed the certificate system to prevent accidents such as this, stating "[h]ad [the owner] complied with the Detroit ordinance requiring the certificate of compliance, the City

<https://www.gsa.gov/real-estate/historic-preservation/historic-preservation-policy-tools/preservation-tools-resources/technical-procedures/reducing-leadbased-paint-hazards-using-a-combination-of-abatement-and-interim-control-techniques-on-windows> [https://perma.cc/EJ72-SM2K].

161. Mondry, *supra* note 157.

162. KREIS ET AL., *supra* note 16, at 12.

163. KREIS ET AL., *supra* note 16, at 5.

164. THE SCOTT AT BRUSH PARK, <https://www.thescottdetroit.com> [https://perma.cc/6UNG-7DFJ] (last visited Feb. 20, 2025).

165. *Floor Plans*, THE SCOTT AT BRUSH PARK, <https://www.thescottdetroit.com/floorplans> [https://perma.cc/97PA-JY74] (last visited Dec. 16, 2025).

166. *Rental Compliance Map*, CITY OF DET., <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department/bseed-divisions/property-maintenance/tenant-rental-property/rental-compliance-map> [https://perma.cc/D2TD-HK9G] (last visited Dec. 16, 2025) (search in address search bar "3150 Woodward").

167. *Jones v. Horizon Tr. Co.*, No. 17-11304, 2019 WL 764347 (E.D. Mich. Feb. 21, 2019).

168. *Id.* at *1–2.

169. *Id.* at *9.

170. *Id.* at *3.

would have been permitted to discover the pipe defect and fix it, possibly preventing the incident from occurring at all.”¹⁷¹

In response to the widespread lack of compliance, Detroit officials recently passed legislation to make it easier for landlords to comply.¹⁷² They based these updates on a report from the Center for Community Progress,¹⁷³ a national nonprofit organization that helps communities address “vacancy and property deterioration.”¹⁷⁴ The new ordinances combine the property and lead inspections, which lowers the cost of inspection.¹⁷⁵ Additionally, the Detroit City Council decreased the number of inspection requirements from thirty-seven to fifteen, removing ones that “are purely cosmetic and unrelated to health and safety.”¹⁷⁶ Under the old ordinance, owners failed the inspection 56% of the time.¹⁷⁷ Officials hope that by making the process simpler and more affordable, more landlords will comply.¹⁷⁸

The updates to Detroit’s ordinances include changes to the escrow account that officials claim will make it more accessible to tenants.¹⁷⁹ Despite the language of the previous ordinance seemingly making an escrow account available to any tenant living in a noncompliant rental property,¹⁸⁰ additional requirements were added in practice.¹⁸¹ These included limiting escrow accounts to single family homes or duplexes, requiring proof of payment of the last three months’ rent, and that the

171. *Id.*

172. *Rental Ordinance Changes*, *supra* note 155.

173. *Id.*

174. *About*, CTR. FOR CMTY. PROGRESS, <https://communityprogress.org/about/> [<https://perma.cc/3ERX-VP32>] (last visited Apr. 11, 2025).

175. *Rental Ordinance Changes*, *supra* note 155.

176. *Id.* Compare CITY OF DETROIT, DETROIT RENTAL ORDINANCE: HOW TO OPERATE A RENTAL PROPERTY IN THE CITY OF DETROIT 24–25, <https://detroitmi.gov/sites/detroitmi.localhost/files/2021-08/Landlord%20Guide.pdf> [<https://perma.cc/676U-3ESY>] (last visited Dec. 16, 2025) (listing the former thirty-seven rental checkpoints) with CITY OF DETROIT, CITY OF DETROIT NEW RENTAL ORDINANCE:

RENTAL HOUSING SAFETY PROGRAM 4 (Aug. 2025), <https://detroitmi.gov/sites/detroitmi.localhost/files/2025-09/New%20Detroit%20Rental%20Ordinance%20August%20Update.pdf> [<https://perma.cc/DP9J-CWM6>] (showing the revised rental checklist).

177. KREIS ET AL., *supra* note 16, at 30.

178. *Rental Ordinance Changes*, *supra* note 155.

179. *Id.*

180. “Tenants of an occupied rental property that lacks a Certificate of Compliance shall pay the rent that would otherwise have been due into an escrow account, which is established by the Buildings, Safety Engineering, and Environmental Department with a third-party financial institution.” DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 82(d) (2024).

181. See *Rental Ordinance Changes*, *supra* note 155; see also text accompanying notes 182–86.

tenant have no pending litigation in court.¹⁸² As a result, only twenty tenants a year typically qualified for the city's escrow program.¹⁸³ Another change affecting escrow accounts is that the Housing and Revitalization Department (HRD) will now manage these accounts, rather than BSEED.¹⁸⁴ Additionally, the City Council lengthened the amount of time the landlord has to correct violations from ninety days to one hundred twenty days.¹⁸⁵ Like the previous ordinance, if a violation has not been corrected during the 120 day period, HRD will return the rent payment to the tenant.¹⁸⁶

Despite the similar language of the old and new ordinances,¹⁸⁷ city officials are promising major changes through this revamp.¹⁸⁸ The effects are yet to be seen as HRD's escrow account remains unavailable as of November 2025, even though the new ordinance came into force on January 1, 2025.¹⁸⁹ In sum, through these changes, officials have a goal to increase compliance by 30% within two years.¹⁹⁰

In 2022, the Detroit City Council amended the housing ordinances to create a Right to Counsel program for residents facing eviction or "housing-related administrative proceedings which threaten the occupancy of their homes."¹⁹¹ To qualify, the ordinance requires tenants to have an annual gross household income no greater than 200% of the

182. *Rental Ordinance Changes*, *supra* note 155.

183. *Id.*

184. Detroit, Mich., Ordinance 8-15-86 (Oct. 29, 2024).

185. *Id.*

186. *Id.*

187. Compare DETROIT, MICH., MUN. CODE ch. 8, art. 15, div. 3, § 82(d) (2024) ("Tenants of an occupied rental property that lacks a Certificate of Compliance shall pay the rent that would otherwise have been due into an escrow account, which is established by the Buildings, Safety Engineering, and Environmental Department with a third-party financial institution.") with Detroit, Mich., Ordinance 8-15-86 (Oct. 29, 2024) ("Tenants may pay their rent into the escrow program...if the rental property where they reside lacks a Certificate of Compliance or has documented property maintenance violations that pose a safety risk to the tenant.").

188. *Rental Ordinance Changes*, *supra* note 155.

189. *Rental Property Escrow*, CITY OF DET., <https://detroitmi.gov/departments/buildings-safety-engineering-and-environmental-department-bseed/bseed-divisions/property-maintenance/tenant-rental-property/rental-property-escrow> [<https://perma.cc/L3SZ-56BX>] (last visited Nov. 15, 2025).

190. Nick Manes, *Detroit Landlords Support Proposed Rental Ordinance Overhaul—But 'Still Digesting' The Measure's Details*, CRAIN'S BUS. DET. (Aug. 5, 2024), <https://research.ebsco.com/linkprocessor/plink?id=ce49bb8b-a8ef-3ab4-a290-7a9d1ea03c48> [<https://perma.cc/WXB5-VKE4>].

191. DETROIT, MICH., MUN. CODE ch. 22, art. 10, div. 1, § 1 (2024) (effective May 19, 2022).

federal poverty guidelines.¹⁹² This Right to Counsel program has greatly increased the amount of tenants who have legal representation in eviction cases.¹⁹³ Prior to this amendment, only 4% of tenants had attorneys in eviction proceedings, while counsel represented 83% of landlords.¹⁹⁴ In contrast, in 2024, counsel represented 77% of tenants in eviction cases.¹⁹⁵ However, officials estimate that 20% of tenants at the 36th District Court for eviction cases will not qualify because their annual income is too high.¹⁹⁶ Thus, while the Right to Counsel program has increased tenant representation in eviction matters, there are still gaps for many tenants facing substandard housing.

Despite these recent positive changes, lawmakers have written Michigan law and Detroit ordinances to allow landlords to supply substandard housing without affording significant protections to tenants.¹⁹⁷ Landlords know the repercussions for not complying with the housing law is minimal, and because of it, tenants suffer.¹⁹⁸ There are simple changes that the Detroit City Council could adopt that would increase tenants' power to force landlords to comply, thereby easing the burden on the city. These proposals are explored below.

III. ANALYSIS

A. Certificates of Compliance Are Ineffective

Current laws give tenants, particularly low-income tenants, few options to force their landlord to comply with the housing code.¹⁹⁹ Michigan's housing law allows landlords to file a case to evict a tenant for nonpayment of rent without a Certificate if the tenant is not paying the

192. DETROIT, MICH., MUN. CODE ch. 22, art. 10, div. 1, § 3 (2024) (effective May 19, 2022).

193. *Id.*

194. STOUT RISIUS ROSS, LLC, THE ESTIMATED ECONOMIC IMPACT OF AN EVICTION RIGHT TO COUNSEL IN DETROIT 10 (2022), <https://www.rocketcommunityfund.org/wp-content/uploads/2022/05/The-Estimated-Economic-Impact-of-an-Eviction-Right-to-Counsel-in-Detroit.pdf> [<https://perma.cc/3362-B7H8>] [hereinafter STOUT REPORT].

195. CITY OF DET., POWERPOINT PRESENTATION ON RIGHT TO COUNSEL: 2024 ORDINANCE REPORT slide 6, <https://detroitmi.gov/sites/detroitmi.localhost/files/2025-03/2024%20Ordinance%20Report.pdf> [<https://perma.cc/8CY7-S9ZE>].

196. *Id.*

197. *See, e.g.*, DETROIT, MICH., MUN. CODE ch. 22, art. 10, div. 1, § 1 (2024) (effective May 19, 2022); DETROIT, MICH., CODE ch. 22, art. 10, div. 1, § 3 (2024) (effective May 19, 2022).

198. *See* Section III.A.

199. *See infra* Section III.A.

withheld rent into an escrow account.²⁰⁰ In response, the tenant can prevent eviction by showing “[t]hat the plaintiff committed a breach of the lease which excuses the payment of rent if possession is claimed for nonpayment of rent.”²⁰¹ To assert this defense, a tenant first has to know that such a defense exists. Unfortunately, data shows that few tenants are aware of these defenses.²⁰² Even if the tenant does assert a defense, the court would likely order the tenant to pay rent into an escrow account.²⁰³ The tenant has to prove that “but for the repair and maintenance required, they were ready, willing, and able to pay the entire rent amount due.”²⁰⁴ Thus, for a tenant to be able to take advantage of any legislative protections, they must be able to afford their rent.

In contrast, the law provides many more protections for landlords. While operating a rental property without a Certificate is unlawful, the only real consequence of not obtaining one is a blight violation ticket.²⁰⁵ During the COVID-19 pandemic, 89% of landlords filing for eviction did not have a Certificate.²⁰⁶ Among these, “less than 3% of cases that ended in a judgment” obtained a Certificate by the end of the case.²⁰⁷ Under the updated 2025 ticket costs, the first fine for not obtaining a Certificate costs \$250; the second, \$500; and the third, \$1,000.²⁰⁸ There are similar fines for not registering the property and, depending on the age of the building, for not obtaining a lead paint clearance.²⁰⁹ As discussed above, the cost to bring an older property into compliance is often much higher than these

200. MICH. COMP. LAWS § 125.530(5) (1917).

201. MICH. COMP. LAWS § 600.5720(1)(f) (1961).

202. Miller Mosier & Soble, *supra* note 98, at 61 (finding less than 35% of tenants raised any defenses in Detroit’s Landlord Tenant Court); *see also* Paula A. Franzese et al., *The Implied Warranty of Habitability Lives: Making Real the Promise of Landlord-Tenant Reform*, 69 RUTGERS L. REV. 1, 22 (2016) (showing tenants used defenses in 0.2% of eviction cases in Essex County, New Jersey).

203. MICH. COURT RULE r. 4.201(I)(2).

204. LANDLORD TENANT GUIDE, *supra* note 103, at 37.

205. *See* footnotes 206–17 and accompanying text.

206. Alexa Eisenberg & Katlin Brantley, *Crisis Before the Emergency: Evictions in Detroit Before and After the Onset of COVID-19* 12 (June 2022) (unpublished manuscript) (on file with Poverty Solutions at the University of Michigan).

207. ALEXA EISENBERG & KATLIN BRANTLEY, U. OF MICH. POVERTY SOL’NS, A PUBLIC HEALTH CRISIS, NOT A PROPERTY DISPUTE: LEARNING FROM COVID-19 EVICTION RESPONSE MEASURES IN DETROIT 6 (2022), <https://sites.fordschool.umich.edu/poverty2021/files/2022/11/PovertySolutions-Learning-from-COVID-19-Eviction-Response-Measures-in-Detroit-policybrief-111122.pdf> [https://perma.cc/8C5W-J6BY].

208. Detroit, Mich., Ordinance 2024-26 (Oct. 29, 2024).

209. *Id.*

finer.²¹⁰ Additionally, blight tickets often go unpaid.²¹¹ There are usually long intervals between ticketing and following up, or a large amount of tickets before escalating, which provides no incentive for property owners to invest in their buildings.²¹²

For example, the Fee Apartments is an apartment building that currently has all units occupied.²¹³ The current owner registered it as a rental property in 2022 but does not have a Certificate.²¹⁴ Despite this, the building has only received one blight ticket in 2007 under the previous owner.²¹⁵ This ticket was \$305 for the failure to obtain a Certificate, and has never been paid.²¹⁶ Thus, the City has not reticketed the Fee Apartments in the almost two decades it has been unlawfully operating. In addition, the former property owner who received the ticket has over thirty-eight blight tickets in her name.²¹⁷ Despite this, the owner could evict tenants for nonpayment of rent, even though the property was not being lawfully rented out.

While there are few roadblocks for landlords to evict, the effects of an eviction on a tenant are enormous and long lasting. Without stable housing, it is difficult to maintain regular employment.²¹⁸ A study from Harvard University concluded that workers whose landlords had evicted them or were subject to “other involuntary move[s]” were 11% to 22%

210. See discussion *supra* Section II.D.

211. Kayleigh Lickliter, *Detroit Takes Aim at ‘Ineffective’ Rental Ordinance*, BRIDGE DET. (July 24, 2024, at 07:30 ET), <https://www.bridgedetroit.com/detroit-takes-aim-at-ineffective-rental-ordinance/> [<https://perma.cc/5KPD-GG5A>]. As of April 2025, there are \$61,000,000 worth of blight tickets in collections. *Blight Violations*, CITY OF DET. OPEN DATA PORTAL, <https://data-detroitmi.hub.arcgis.com/apps/detroitmi:blight-violations-dashboard/explore> [<https://perma.cc/FAN6-YALE>] (last visited Apr. 5, 2025).

212. For example, a crypto currency based real estate agency bought the Cadieux Apartments in 2022. By 2024, it had accumulated almost 200 blight tickets before the city filed a lawsuit. Aaron Mondry, *Judge to ReallIT Tenants: Put Rent Into Escrow or Risk Eviction*, OUTLIER MEDIA (Oct. 7, 2025), <https://outliermedia.org/realt-tenants-detroit-real-estate-judge-escrow/> [<https://perma.cc/QPY5-4FXF>].

213. *The Fee Apartments*, MIDTOWN DET. APARTMENTS, <https://midtowndetroit.com/property/?pid=3&location=1> [<https://perma.cc/H73B-6Y6A>] (last visited Feb. 20, 2025).

214. *Rental Compliance Map*, *supra* note 166 (search in address search bar “68 West Ferry”).

215. *Blight Violation Case History*, CITY OF DET., <https://app.detroitmi.gov:8443/DAHOnline/Default.aspx> [<https://perma.cc/RN72-5YFS>] (click the blue plus sign on the right; then enter “68” in “Violation Street #”; then select “Ferry” in “Violation Street” dropdown; then select “Find”).

216. *Id.* (search “07026942” in “Enter a Ticket Number”; select “Click Here to Find Ticket”) [<https://perma.cc/6KQF-TFPP>].

217. *Id.*

218. STOUT REPORT, *supra* note 194, at 76.

more likely to be laid off than workers who had not.²¹⁹ In a market short on available housing, it is unlikely that a tenant will be able to find housing in satisfactory condition.²²⁰ Additionally, having a record of eviction makes finding a safe place to live even more difficult, both in the housing quality and crime rates.²²¹ Besides the financial toll, eviction can adversely affect an individual's health.²²² People who have been evicted are more likely to suffer from conditions like high blood pressure and mental health struggles.²²³ Children in families that have been evicted are predisposed to having academic issues and food insecurity.²²⁴ In addition, Black women are disproportionately evicted, exacerbating racial and gender disparities.²²⁵ In sum, an eviction can send an individual and their family on a negative trajectory that is difficult to recover from.

A common suggestion is to require landlords to file their Certificate to establish standing to evict.²²⁶ The court has responded to this contention multiple times. In 2017, then Chief Judge Nancy Blount told reporters that the court could not delay cases because a landlord has not obtained a Certificate and that the legislature would need to pass a law to mandate such Certificate requirements.²²⁷ Next, a few years later, during the COVID-19 pandemic, Chief Judge William McConico announced that the court was requiring landlords to be registered and have a Certificate to begin eviction proceedings.²²⁸ This was a move that began being pushed for shortly after the Tenants' Rights Legislation was created.²²⁹

219. *Id.* at 77.

220. David A. Super, *The Rise and Fall of the Implied Warranty of Habitability*, 99 CAL. L. REV. 389, 409 (2011).

221. Joshua Akers & Eric Seymour, *The Eviction Machine: Neighborhood Instability and Blight in Detroit's Neighborhoods 7* (Poverty Sols. Univ. Mich., Working Paper No. 5-19, 2019); Cleo Bluthenthal, *The Disproportionate Burden of Eviction on Black Women*, CTR. FOR AMER. PROG. (Aug. 14, 2023), <https://www.americanprogress.org/article/the-disproportionate-burden-of-eviction-on-black-women/> [<https://perma.cc/ZCY3-H8FH>].

222. Hugo Vasquez-Vera et al., *The Threat of Home Eviction and Its Effects on Health Through the Equity Lens: A Systematic Review*, 175 SOC. SCI. & MED. 199 (2017).

223. *Id.*

224. Bluthenthal, *supra* note 221.

225. *Id.*

226. Akers & Seymour, *supra* note 221, at 32.

227. Christine MacDonald, *Persistent Evictions Threaten Detroit Neighborhoods*, DET. NEWS (Oct. 16, 2017, at 16:15 ET), <https://www.detroitnews.com/story/news/special-reports/2017/10/05/detroit-evictions-threaten-neighborhoods-rentals/106315064/> [<https://perma.cc/BGU7-MP4K>].

228. Sarah Cweik, *Detroit's 36th District Court Adopts CDC Eviction Moratorium*, MICH. PUB. (Aug. 5, 2021, at 21:21 ET), <https://www.michiganpublic.org/law/2021-08-05/detroits-36th-district-court-adopts-cdc-eviction-moratorium> [<https://perma.cc/H2MB-DQFP>].

229. Miller Mosier & Soble, *supra* note 98, at 68–69.

Subsequent to this order, Judge McConico told reporters that the Michigan Supreme Court Administrative Office reversed this announcement, saying that “they said it was a block of access to the courts and that I couldn’t do that.”²³⁰ Finally, in 2022, then General Counsel for the 36th District Court Judge Shawn Jacque said that the court “does not have a policy regarding Certificates of Compliance.”²³¹ Instead, Judge Jacque explained that tenants can defend an eviction for nonpayment of rent by highlighting the landlord’s lack of a Certificate, as long as the tenant has paid their withheld rent into an escrow account.²³² Thus, while requiring landlords to show proof of their compliance before filing for eviction would be a simple solution, it is not a viable option unless legislators change the law.

B. Solutions

1. Expanding Rent Withholding

The Michigan Legislature should reinstate a modernized version of MCL 125.500.²³³ This statute declared that:

If any building hereafter constructed as or altered into a dwelling be occupied in whole or in part for human habitation in violation of the [Certificate requirement], during such unlawful occupation no rent shall be recoverable by the owner or lessee of such premises for said period, and no action or special proceedings shall be maintained therefor or payment of such for possession of said premises for non rent, and said premises shall be deemed unfit for human habitation and the health officer may cause them to be vacated accordingly.²³⁴

Thus, a landlord could not collect rent until they obtained a Certificate.²³⁵ In 1939, the Michigan Supreme Court interpreted this statute as allowing a landlord to evict a tenant for nonpayment of rent,

230. Allie Gross, *Rule Breaking Landlords Could Evict Thousands of Tenants*, BRIDGE DET. (June 28, 2022, at 13:58 ET), <https://www.bridgedetroit.com/seeking-stability-the-system-of-chaos-for-detroiters-facing-eviction/> [<https://perma.cc/WA8T-J6JN>].

231. *Id.*

232. *Id.*

233. MICH. COMP. LAWS § 125.500 (1917), *repealed by*, 1968 Mich. Pub. Acts 286.

234. *Id.*

235. *Id.*

even if the landlord did not have a Certificate.²³⁶ Important, though, to this interpretation is that the landlord renting without a Certificate was a criminal offense under the prior laws.²³⁷ The court reasoned that:

[I]t would be absurd to hold, in the face of the concluding provision of the same section, reading: “and said premises shall be deemed unfit for human habitation and the health officer may cause them to be vacated accordingly,” that the landlord is barred from obtaining the possession incident to his title and must leave the tenant in possession while he, the landlord, incurs added penalty or possible imprisonment for each day the tenant remains, as provided in the next section.²³⁸

Legislators repealed MCL 125.500 as part of the Tenants’ Rights Legislation,²³⁹ and MCL 125.530 was put in place, which required placing withheld rent into an escrow account.²⁴⁰ Rent escrow requirements were created out of concern for tenants abusing the new defenses by asserting the defense to avoid paying rent.²⁴¹ Additionally, the new legislation erased the barrier for landlords to receive a money judgment for past due rent if their property did not have a Certificate when it was being rented.²⁴²

In 2023, Representative Jason Morgan introduced a bill to modify MCL 125.530.²⁴³ The proposed amendment was essentially MCL 125.500. It advocated for removing the requirement that a tenant pay rent into an escrow account when they are withholding rent.²⁴⁴ In addition, the bill would have prevented actions for possession for nonpayment of rent when no Certificate was issued, or if the City had suspended it.²⁴⁵ Unfortunately,

236. *Barsky v. Litwin*, 287 N.W. 339, 340 (Mich. 1939) (“The provision that ‘during such unlawful occupation no rent shall be recoverable by the owner or lessee of such premises for said period, and no action or special proceedings shall be maintained therefor or payment of such for possession of said premises for nonrent,’ relates to actions to collect rent for use and occupation forbidden by law.”).

237. *Id.* at 340.

238. *Id.*

239. MICH. COMP. LAWS § 125.500 (1917), *repealed by* 1968 Mich. Pub. Acts 286.

240. 1968 Mich. Pub. Acts 286.

241. Jana Ault Phillips & Carol J. Miller, *The Implied Warranty of Habitability: Is Rent Escrow the Solution or the Obstacle to Tenant’s Enforcement?*, 25 CARDOZO J. EQUAL RTS. & SOC. JUST. 1, 21 (2018).

242. Glotta, *supra* note 115, at 250.

243. H.R. 5763, 102d Leg., Reg. Sess. (Mich. 2023).

244. *Id.*

245. *Id.*

this proposed amendment died in committee when the Michigan Legislature's term ended in December 2024.²⁴⁶

The essential difference between the previous and the current law is that the current law only gives protection to tenants who can afford their rent. The tenant can receive their rent back after paying into the rent escrow account for 120 days under the updated ordinance.²⁴⁷ If the tenant does not pay into the rent escrow account, the landlord can get a summary eviction for nonpayment of rent, even without a Certificate.²⁴⁸ This creates a barrier for low-income tenants. If the tenant who is unable to afford their rent did not have to contribute to an escrow account while the landlord is working to bring the property into compliance, they might have the opportunity to accumulate savings during this period, thereby enabling them to cover future rent. Also, while this change would greatly benefit tenants, it is not too different from current laws.²⁴⁹

Implementing rent withholding without paying into an escrow account gives more power to low-income tenants to force compliance, rather than having to rely on the City to issue blight tickets. Additionally, rent withholding provides more of an incentive for a landlord to gain a Certificate than blight tickets do, as the price of the ticket for not having a Certificate is often much less expensive than getting the property up to code.²⁵⁰ Furthermore, the City's inconsistent citation of buildings allows owners to pay small fines—if they do pay them at all—rather than incentivizing the financial investment required for compliance and a Certificate.²⁵¹

One challenge to enacting legislation such as this is the concern that landlords will abandon properties due to the lack of significant profit.²⁵² Ordinances need to both assist good landlords who want to provide quality housing and incentivize landlords who are more akin to a “slumlord” to comply. In 2017 the *Detroit News* interviewed a property management company in Detroit that broke down the typical yearly expenses associated

246. *Id.*

247. Detroit, Mich., Ordinance 8-15-86 (Oct. 29, 2024).

248. MICH. COMP. LAWS § 125.530(5) (1917). Tenants can raise a defense that the landlord “committed a breach of the lease which excuses the payment of rent if possession is claimed for nonpayment of rent.” MICH. COMP. LAWS § 600.5720(f) (1961). There are some hurdles to this defense, though. The tenant would first need to know that such a defense exists, and the court would like order rent to be paid into an escrow account. MICH. COURT RULE r. 4.201(I)(2).

249. *See* MICH. COMP. LAWS § 125.530 (1917).

250. *See* Section II.D.

251. *See supra* Section III.A.

252. *See* notes 269–72 and accompanying text.

with owning a rental property.²⁵³ The owner of a property who charges \$750 per month in rent could expect to make a profit of \$1,350 a year.²⁵⁴ Another landlord said that typical multifamily properties require around 90% of its units filled with rent paying tenants to be profitable.²⁵⁵ With such slim profit margins, even a small change in income can eliminate profits or lead to losses, making it cheaper and easier for the landlord to abandon the property.²⁵⁶

To prevent property abandonment, Detroit officials should offer long-term financial incentives to bring noncompliant properties into compliance. Detroit previously ran multiple programs designed to help landlords make their properties compliant with housing codes.²⁵⁷ One program allowed owners of single family or multi-family properties to get a \$750 rebate per unit, for up to ten units, if they obtained a Certificate and met certain other requirements.²⁵⁸ Another program gave owners of duplexes, flats, or triplexes up to \$15,000 per unit or \$45,000 per structure to make repairs that made the building compliant and obtain a Certificate.²⁵⁹ To qualify for the second program, the landlord needed to be a resident of Detroit, own less than two rental properties, and attend two free training classes.²⁶⁰ In addition, for this second program, updated units had to comply with affordable housing standards for five years.²⁶¹

253. Christine MacDonald, *Detroit Evictions: Crackdown Could Worsen Issues*, DET. NEWS (Oct. 6, 2017, at 11:32 ET), <https://www.detroitnews.com/story/news/special-reports/2017/10/05/detroit-evictions-landlords/106351462/> [https://perma.cc/7NYU-N34H].

254. *Id.* This estimate does not include any major upgrades, “like a new roof.” *Id.* Today, landlords can expect their initial costs to be slightly lower under the new ordinances because of the reduced amount of inspections and inspection fees. See *Rental Ordinance Change*, *supra* note 155.

255. Aaron Mondry, *Why Are Detroit’s Biggest Landlords Struggling?*, OUTLIER MEDIA (Sept. 11, 2025), <https://outliermedia.org/detroit-rental-market-multifamily-apartment-buildings-foreclosure/> [https://perma.cc/P2YL-K89B].

256. See Sandra N. Conchado & William P. Nolan, Note, *Building Abandonment in New York City*, 16 N.Y. L.F. 798, 816 (1970) (“Why should a landlord try to help his building and his tenants when he can only sustain economic loss? Abandonment presents the easy way out.”).

257. See *Detroit Duplex Repair Program*, CHN HOUS. PARTNERS, <https://chnhousingpartners.org/detroit/duplexrepair/> [https://perma.cc/7GNN-U9QE] (last visited Mar. 3, 2025).

258. *Id.*

259. *Id.*

260. *City of Detroit Announces Detroit Duplex Repair Program to Support Duplex and Small-Scale Rental Innovations*, CITY OF DET. (Nov. 1, 2023), <https://detroitmi.gov/news/city-detroit-announces-detroit-duplex-repair-program-support-duplex-and-small-scale-rental> [https://perma.cc/Y4PW-ZFT8]; *Detroit Duplex Repair Program*, *supra* note 257.

261. *Detroit Duplex Repair Program*, *supra* note 257.

Unfortunately, these programs are no longer running. There is no information on why the programs closed, but they were partially funded by the American Rescue Plan Act.²⁶² It is likely that there are no more funds available. Thus, funding for a successful long-term program would likely need to be sourced outside of the city government.

Nevertheless, Detroit's new Payment in Lieu of Taxes (PILOT) program may offset disincentives from expanded rent withholding without requiring any spending from the city. This program is an expansion of Michigan's Neighborhood Enterprise Zone (NEZ) program, which allows local units of government to reduce property taxes in certain designated areas to encourage revitalization for up to fifteen years.²⁶³ Detroit's PILOT program gives eligible properties significant breaks in property taxes by basing taxes on the affordability of rent rather than property value.²⁶⁴ In addition, the PILOT program expands upon the NEZ by offering developers the tax break for an additional fifteen years and by shortening the approval process.²⁶⁵ Both new properties and rehabilitated ones are eligible, so long as the property has a Certificate.²⁶⁶ This system could prove especially effective in Detroit because the city has particularly high

262. *Id.*

263. MICH. ECON. DEV. CORP., NEIGHBORHOOD ENTERPRISE ZONE (NEZ) (2020), <https://www.michiganbusiness.org/4a817b/globalassets/documents/reports/factsheets/neighborhoodenterprisezone.pdf> [<https://perma.cc/LU35-XTL9>].

264. *Payment in Lieu of Taxes (PILOT)*, CITY OF DET., <https://detroitmi.gov/departments/housing-and-revitalization-department/housing-development/payment-lieu-taxes-pilot> [<https://perma.cc/R7BG-SDGH>] (last visited Nov. 20, 2025). While the City refers to the PILOT benefit as a property tax break, the ordinance states that PILOT properties are exempt from property taxes and are instead subject to a "service charge" determined by property's affordability. *Compare id.* ("A PILOT is a tax incentive that calculates property taxes as a percent of rental revenue, instead of tying them to property value."), *with* Detroit, Mich., Ordinance 44-4-114(a) (Oct. 29, 2024) ("Eligible housing projects for persons of low and moderate income and the property on which they shall be constructed shall be exempt from all property taxes from and after the commencement of occupancy, The City will accept payment of an annual service charge for public services in lieu of all property taxes as set forth in this section.").

265. *City's New PILOT Ordinance Unlocks Massive Wave of Affordable Housing Development; 2,400 Units Approved, Applications for 6,000 More in Approval Process*, CITY OF DET. (Oct. 8, 2025), <https://detroitmi.gov/news/citys-new-pilot-ordinance-unlocks-massive-wave-affordable-housing-development-2400-units-approved> [<https://perma.cc/VV36-PB94>].

266. *Id.*

property tax rates.²⁶⁷ As of October 2025, the City has approved 2,400 units, with another 6,000 applications pending.²⁶⁸

This program is a good starting point to reform Detroit's housing issues, but lawmakers need to expand it to be fully transformative. For instance, the PILOT program only applies to multiple dwelling properties.²⁶⁹ Yet, as discussed previously, the majority of Detroit renters live in single family homes.²⁷⁰ Skeptics of the program have expressed concern that rentals created by PILOT will only yield studio or one-bedroom apartments rather than housing with capacity to accommodate larger families.²⁷¹ While this is a valid concern, the City only authorized the new PILOT program last year.²⁷² Depending on its success, it is possible the City may expand the program in the future.

2. *Expanding Right to Counsel*

Detroit should expand its Right to Counsel program to include non-attorney trained legal advocates. This expansion could have two main benefits: easing the burden on Right to Counsel attorneys and enabling individuals from a larger range of incomes to receive legal guidance.²⁷³ First, proponents of the Right to Counsel program have expressed concern that the program cannot provide worthwhile representation because of the limited number of available attorneys compared to the large number of tenants needing counsel.²⁷⁴

Another concern with the current Right to Counsel program is the gap it leaves for those who earn too much to qualify for aid but not enough to

267. LINCOLN INST. OF LAND POL'Y AND MINN. CTR. FOR FISCAL EXCELLENCE, 50-STATE PROPERTY TAX COMPARISON STUDY 2 (2023), <https://go.lincolninst.edu/50-state-property-tax-comparison-for-2022.pdf> [<https://perma.cc/RNX5-78EN>]. In a study of property tax rates in the seventy-four largest cities in the United States in 2022, Detroit was ranked highest with a rate of 3.21%. *Id.*

268. Arianna Heyman, *Detroit Accelerates Affordable Housing with 'Payment In Lieu of Taxes' Program*, CLICK ON DET. (Oct. 8, 2025), <https://www.clickondetroit.com/news/local/2025/10/09/detroit-accelerates-affordable-housing-with-payment-in-lieu-of-taxes-program/> [<https://perma.cc/8YEQ-P2PS>].

269. Detroit, Mich., Ordinance 44-4-112 (Oct. 29, 2024).

270. *See* discussion *supra* Section II.D.

271. *Concerns: Draft Fast Track PILOT Housing Ordinance*, DET. PEOPLE'S PLATFORM (Oct. 8, 2024), <https://www.detroitpeoplesplatform.org/housing-justice/concerns-draft-fast-track-pilot-housing-ordinance/> [<https://perma.cc/J83Q-2HJJ>].

272. Heyman, *supra* note 268.

273. *See infra* notes 294–98 and accompanying text.

274. Gross, *supra* note 230 (“If you have a situation like we’ve seen with indigent defense in criminal cases, where the attorney representing the defendant is overworked, underpaid, and forced to take on far too many cases to be able to litigate them to the full extent that they should, then it really is not going to be meaningful representation.”).

independently afford a lawyer.²⁷⁵ Currently, tenants must have an income of less “than 200% of the federal poverty guidelines” to qualify for the Right to Counsel program.²⁷⁶ For 2025, a single person household must make \$15,650 or less to fit within the poverty guideline.²⁷⁷ Based on these requirements, for a single person household to have an income less than 200% of the federal poverty guidelines and therefore qualify for the program, their yearly income can be no greater than \$31,300. For a household of four to qualify, their total yearly income must be under \$64,300. The median income in Detroit was \$43,751 in 2024.²⁷⁸ Though this amount is over the threshold for a single person to qualify for the Right to Counsel program, it is unreasonable to expect an individual making that amount to be able to afford an attorney. Hence, while the Right to Counsel program can positively affect low-income individuals, a gap in assistance remains for those who make too much to qualify but not enough to hire an attorney on their own.

To address these gaps in representation, Detroit should adopt an initiative like New York City’s Navigator program.²⁷⁹ This program uses “trained and supervised individuals with no prior formal legal training to provide one-on-one assistance to unrepresented litigants in the city’s Housing and Civil Courts.”²⁸⁰ The purpose of the program is to support unrepresented litigants through non-legal support.²⁸¹ The duties of a Court Navigator include helping litigants fill out court documents, organizing

275. See generally CITY OF DET., POWERPOINT PRESENTATION ON RIGHT TO COUNSEL: 2023 YEAR IN REVIEW REPORT slide 2, <https://detroitmi.gov/sites/detroitmi.localhost/files/2024-04/2023%20Ordinance%20Report.pdf> [<https://perma.cc/2GG3-HVYC>] (stating that 20% of tenants do not qualify because their income is too high).

276. Dustin Dwyer, *Free Legal Representation Now Available for Many Detroiters Facing Eviction*, MICH. PUB. (Mar. 1, 2023, at 20:15 ET), <https://www.michiganpublic.org/community/2023-03-01/free-legal-representation-now-available-for-many-detroiters-facing-eviction> [<https://perma.cc/58M6-QBNM>].

277. *Poverty Guidelines*, OFF. OF THE ASSISTANT SEC’Y FOR PLAN. & EVALUATION, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines> [<https://perma.cc/HJ2S-3JNW>] (last visited Apr. 6, 2025).

278. CITY OF DETROIT UNIV. ECON. OUTLOOK ANALYSIS P’SHIP, CITY OF DETROIT ECONOMIC OUTLOOK 2024–2029 19 (2025), https://lsa.umich.edu/content/dam/econ-assets/Econdocs/RSQE%20PDFs/RSQE_Detroit_Forecast_Feb2025.pdf [<https://perma.cc/5NQN-NXCA>].

279. REBECCA L. SANDEFUR & THOMAS M. CLARKE, AM. BAR FOUND., ROLES BEYOND LAWYERS 3 (2016), https://www.americanbarfoundation.org/wp-content/uploads/2024/03/new_york_city_court_navigators_report_final_with_final_links_december_2016.pdf [<https://perma.cc/88X8-DBF5>].

280. *Id.*

281. *Court Navigator Program*, N.Y.C. CTS., https://ww2.nycourts.gov/courts/nyc/housing/rap_prospective.shtml [<https://perma.cc/BM9C-NTLZ>] (last visited Mar. 4, 2025).

necessary paperwork for their case, and attending negotiations with opposing counsel and court proceedings.²⁸² The Navigators have had a positive influence over court outcomes.²⁸³ Cases with assistance from a Navigator had double the number of defenses raised than cases without.²⁸⁴ Additionally, litigants with help from a Navigator got the court to order repairs “50% more often than unassisted litigants.”²⁸⁵

For a system like Court Navigators to be effective in Detroit, the City must address the laws at the center of the issue. Having more guidance in a system that is not working can only effectuate so much change. With that said, it would still be valuable to introduce a Navigators program, even while the landlord tenant court remains in its current state.

IV. CONCLUSION

It has been over a century since Michigan first introduced housing laws. Much has changed since then, but the issue still remains: Detroit residents need help ensuring safe housing. The Certificate of Compliance was introduced to try and alleviate this issue. It was not the fix advocates had hoped for, and neither was its modernized version sixty years later. Tenants in Detroit struggle to benefit from the laws designed to protect them. Landlords have little incentive to invest in their properties to be compliant with the law. Legislators can address these issues by allowing tenants to withhold rent without placing it into an escrow account.²⁸⁶ This expansion would give even the poorest of tenants some leverage to encourage their landlord to comply. Additionally, the City itself can provide a tax incentive to assist landlords in the expensive process of making a property compliant.²⁸⁷ Finally, lawmakers can expand the Right to Counsel program to help more Detroiters by broadening the income requirements and creating non-attorney Court Navigators to guide tenants.²⁸⁸ By making these changes, Detroit can help its citizens avoid evictions and their lasting negative effects, and make the city a greater place to call home.

282. *Id.*

283. See SANDEFUR & CLARKE, *supra* note 279, at 4.

284. Fern Fisher, *Navigating the New York Courts with the Assistance of a Non-Lawyer*, 122 DICK. L. REV. 825, 832–33 (2018).

285. *Id.*

286. See discussion *supra* Section III.B.1.

287. See discussion *supra* Section III.B.1.

288. See discussion *supra* Section III.B.2.