

Amid a housing crisis, advocates push for tenants' rights



By [Sierra Marling smarling@richmondregister.com](mailto:sierra.marling@richmondregister.com), Dec 29, 2022, The Richmond Register

There were 559 eviction filings in Madison County from Oct. 2021 to Oct. 2022, according to data from the Legal Services Corporation.

Those evictions equate to approximately 559 local people left in a potentially unstable or unsuitable housing situation.

Affordable housing experts say the situation may be worsening.

According to the Kentucky Court of Justice, there was a 26% increase in eviction filings in Madison County from 2021 to 2022.

That increase, coupled with inflation and stagnant pay, creates a gap between available funds and the cost of living. That leaves some Madison Countians struggling to pay rent, while others are just one financial mishap away from a desperate situation, experts warn.

“Far too many times, when we go door-to-door and chat, we learn that the rent eats first,” said Michael Harrington, who volunteers as an organizer with the Madison County Tenants Union — a grassroots group of tenants across the county.

Harrington said his passion for housing came from his own experiences living in low-quality housing.

The organizer said he understands the frustration of living in housing with rent prices that conflict with the cost of living. Harrington also knows the struggle of managing maintenance issues that can fall on the tenant when a landlord does not fulfill their duty.

“I grew up dirt poor, like lots of people, and we had to rent,” he explained. “There was so much wrong with the unit... just basic kind of maintenance — things that we shouldn’t have had to have to deal with. When we had issues come up with maintenance and stuff, we should have been in a position where tenants and landlords are on equal footing to negotiate.”

Margaret Sites, an attorney with AppalReD Legal Aid whose primary focus is on housing, agreed with Harrington. She emphasized there is a lack of humanity in the eviction process.

“I think that, a lot of the times, landlords do not have incentive to negotiate with people because they don’t have to. Tenants have no leverage to make the landlords work with them. A lot of times landlords just have an idea that ‘this is business’ or ‘this tenant has become a problem for me’, and there’s no requirement that they mediate or sit down and talk. Instead, it’s just really easy for landlords to go get a forcible detainer and get rid of that person,” Sites said.

The attorney was drawn to her work in housing after seeing how the instability of the current housing system negatively affected her friends and family. She said she hopes to use her knowledge to keep others out of the types of situations they faced.

“There’s nowhere for renters to really go to learn their rights, so everybody’s kind of out there on their own having to take their landlord’s word for it. Their landlord is telling them what they can and cannot do under the lease, but that’s not really telling people what their rights really are,” Sites explained.

In an effort to assist locals in understanding their rights, she has worked voluntarily with the Madison County Tenants Union and facilitates trainings so that tenants understand their rights.

The Madison County Tenants Union facilitates efforts that work to reach the everyday tenant in Madison County so that they can be prepared to advocate for themselves and find resources in housing-related situations.

These efforts include providing trainings on tenants rights, speaking to press and housing organizations, and directing tenants to resources in the community. They also facilitate public community conversations and write-ins to send information to locals who may be interested in changing the housing sphere.

Harrington says the organization keeps themselves up-to-date on the needs of their neighbors by simply chatting with them regularly while trying to understand the ever-shifting needs of the locals.

“The biggest thing that we do is we go door-to-door to listen to our neighbors about the issues that we’re facing at their kitchen table...We get together and talk amongst each other about the conditions we’re facing, and figure out the pathways to where we can win some better support for renters that are in our local community,” he said.

Harrington explained that organizers will invite those neighbors to meetings in hopes that they will join them “to build for the kinds of changes that we’re fighting for in housing, where housing is a human right and nobody in Madison County is facing the winter and going into Christmas, wondering where they are going to sleep at night.”

Harrington expressed dismay at the way the current system is run.

The organizer said, while charitable organizations are doing great work, it is not enough to satisfy the sheer volume of the problems caused by the current system. That is also why organizations like the MCTU are important.

“We reach out and try and support as many services as we can. The reality is, the need is far greater than what local charitable services are able to handle. That’s why it is also important to have organized groups that are fighting for deep structural changes to policy. So that the kinds of things that put a family in Madison County in

the position of needing to access those charitable services get fixed. We need to get down to the root causes of why we have an economy that works for the very wealthy few at the expense of working families.”

Rental assistance programs

As an attorney with Legal Aid, Sites represents the everyday person in court— the neighbors MCTU represents in their grassroots efforts.

Sites said issues being faced on the legal side of the affordable housing battle includes the sheer amount of people requiring representation and communicating and enforcing tenants’ rights when they are evicted or faced with undue hardship brought on by landlord-related issues.

In her work, she has observed many landlord-tenant situations that may be remedied with communication and compassion.

For example, there has been additional money available for rental assistance since the COVID-19 lockdowns. After the expiration of the federal and state eviction moratoriums that protected renters from eviction during the pandemic, there is still rental assistance available through the Healthy at Home Eviction Relief Fund (HHERF), which is run through the Kentucky Housing Corporation.

According to Sites, the program is designed so that the landlord and the tenant apply together. The program then pays the back rent, plus three months of future rent, up to a total of 15 months, to compensate the landlord for payments.

Despite the relief available, Sites said she sees many cases in which landlords refuse to take the money.

“I see a lot of situations where a tenant is being evicted for nonpayment of rent, and the rent money is there. The landlord is refusing the money and the tenant doesn’t understand why. Then the tenant is homeless, just over really minor concerns about program administration, minor delays, and getting funding. That’s really unfortunate,” the attorney said.

Sites said the reasoning could lie in the awkward administration of the program in its early stages.

However, according to the attorney, this is not the only program currently available to locals to help those struggling with housing.

There are many Madison County citizens who likely qualify for the housing choice voucher program, colloquially known as Section 8.

For those unfamiliar, the U.S. Department of Housing and Urban Development (HUD) website explains that “the housing choice voucher program is the federal government’s major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.”

The website further elaborates that the participant is free to choose any housing that meets the requirements of the program—including single-family homes, townhouses and apartments—keeping them from being forced into subsidized housing projects.

According to Sites and Harrington, the problem is that landlords in Madison County have historically refused to work with Section 8 and there are also not many places in the United States that have created legislation regulating the acceptance of public assistance for housing.

However, in 2018, the state of Washington passed legislation that prohibits landlords from denying or refusing to accept applications from those who utilize public assistance. In Chicago, it is illegal to discriminate based on a tenant’s income, so landlords cannot deny a Section 8 tenant solely due to the use of their voucher.

In Madison County, landlords do not have to work with tenants for state relief funds, accept Section 8 vouchers, nor do they usually have to accept rent payments after they are late.

The eviction process

The number of eviction filings in Madison County rose immediately following the expiration of Kentucky’s CARES act eviction moratorium in July 2020, jumping from 13 filings in July 2020 to 44 that September.

As an attorney with Legal Aid, Sites said she sees a general process in eviction procedures.

First, the landlord has to give the tenant notice they're going to evict them. That exact timing of that in relation to a late payment and fees depends on what the lease agreement says — if there even is a lease.

Landlords are not required to have a written lease in Kentucky.

The default for people with no lease in Madison County— if they pay rent monthly— is 30 days notice. For people with a written lease, Sites said there may be a shorter notice period, because it will be based on what is written in the lease. Often, she said that it is seven days, or even as short as three days.

Landlords must have a valid reason for giving a notice to vacate.

Reasons vary, but could be because the lease is expired. Tenants could also be in a month-to-month lease, meaning the person doesn't have an agreement to stay for a certain amount of time. In those cases, Sites said the landlord does not have to have a reason. They only have to notify the tenant with 30 days notice. The tenant can do the same.

Another reason, Sites said, is if the tenant breached the lease somehow, meaning they did not fulfill the requirements of the lease. This can happen due to reasons such as nonpayment of rent or failing to upkeep the property.

The second step to an eviction is — if the tenant does not vacate by the end of the notice — then the landlord has to file a court action, which is called a forcible detainer, with the Madison District Court. The court then sets the matter for a hearing. The court has to serve a summons on the tenant at least three days before the hearing.

At the hearing, the tenant has an opportunity to present any defenses, witnesses, any evidence that they have. The tenant also has a right to request a jury trial if there's any factual issues in the case. If the tenant loses, the judge will order the tenant to vacate in seven days. If the tenant wins, the eviction gets dismissed, and the landlord has to start over if they want to continue the eviction.

The speed of the eviction process often leaves people displaced, Sites said.

"There is a hearing, and then seven days notice to vacate. That can all happen in like two or three weeks time," she explained. "Kentucky Housing Corporation has been sending a representative to the courthouse in Madison County as well as some

other places, which is very helpful. Tenants are able to apply for rental assistance right here at the hearing, which really streamlines the process. Then, they can expedite the payment and—if the landlord won't take it—get it paid directly to the tenant so they can use it to relocate and find a new home. That takes about seven to 14 days. The problem with that, obviously, is that if you have to vacate in seven days, then seven to 14 business days leaves you with a gap period where you're going to be potentially homeless for some period of time. A lot of times, tenants really feel left in the dark, which is really confusing and hurtful to people. They do not understand why their life is being turned upside down."

Know your rights

Sites said the number one thing she recommends to tenants is to know their rights.

"People need to know their rights in general, even before they get to that point. Tenants also need to renew their lease. It is important because Madison County does not have the Uniform Residential Landlord Tenant Act (URLTA)," she stated. "It's very important for people to read their lease and understand what their rights are into the lease. and then if they have questions about their rights, or really, if they're in any kind of conflict with their landlord, if they're facing eviction, they need legal advice, then they can call Legal Aid"

According to Sites, URLTA is a state statute that contains rules about landlord-tenant relationships, but it only applies in counties and cities that have adopted it.

Nowhere in Madison County has done so, which means that landlords and tenants are operating on default rules for what's supposed to happen between a landlord and tenant. That means that all processes are run according to what is written in the lease.

Harrington encourages all Madison Countians who want to understand their rights, to come to their meetings.

He explained their organization is relevant to more than just the everyday home and apartment renters, further elaborating that there are different types of tenants, from the couch surfer, to the unhoused living in an encampment, to the homeowner whose home can be foreclosed on by a bank.

The Madison County Tenants Union has meetings on the second Thursday of every month that rotate between Richmond and Berea. Follow Madison County Tenants Union on Facebook for the venue and to get updates about housing in Madison County.



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