

# Journal's "Landlord Games" and the LLC Taskforce

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The Apartment Association does not support bad actors. None of those owners featured in the Journal are members of the Association. All property owners pay a cost when someone fails to pay their taxes, or their property is foreclosed and abandoned.

The Association sees the importance of the city, and private investors working together to make rental housing, and therefore neighborhoods, succeed for the mutual good of both.

Rental housing is an important and integral element of Milwaukee. About 58% of the residents of Milwaukee are tenants.<sup>1</sup> In some neighborhoods, such as 53233 the number of renters exceeds 97%.<sup>2</sup> The success or failure of neighborhoods and rental housing are closely tied.

Rental Housing is the largest small business in Milwaukee with over \$7 billion<sup>3</sup> invested in Milwaukee. Rental properties account for well over a half billion dollars a year of economic impact, starting with \$190 million in property taxes, sewer and water charges, maintenance, insurance and everything else that goes into running rental housing. The Census Bureau found the yearly median operating costs per unit for multifamily rental properties vary between \$3,600 per unit for small properties and \$5,170 per unit for large properties,<sup>4</sup> adjusted to 2016 dollars.<sup>5</sup> These numbers exclude interest and mortgage servicing.

Providing rental housing in older, poorer neighborhoods is difficult, challenging and unappreciated work. Many have failed, some are opportunists or worse, but the majority were simply overwhelmed financially and mentally by the task at hand.

Owners are impacted by the financial and social problems of their tenants, the high costs of maintenance and lack of capital to address those problems. It is not the owner's lifestyle that contributes to insect infestations or broken windows, yet it is the owner and not the occupant that is accountable both financially and recently in the media.

Not only do private owners suffer these burdens. One only needs to look at the long history of failure<sup>6</sup> among Milwaukee's nonprofit housing providers. These groups had every advantage over the small private investor. They had significant financial resources, typically through Block Grant and other government funding and grants; they had well-paid and well-educated staff; they often obtaining

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<sup>1</sup> <https://www.census.gov/quickfacts/table/RHI125215/5553000>

<sup>2</sup> <https://censusreporter.org/profiles/86000US53233-53233/>

<sup>3</sup> MPROP assessor records October 2015

<sup>4</sup> <http://www.census.gov/housing/poms/publications/statrep4.html>

<sup>5</sup> <http://www.in2013dollars.com/1995-dollars-in-2015?amount=3300>

<sup>6</sup> <http://webcache.googleusercontent.com/search?q=cache:pwf1CwUZOUJ:www.jsonline.com/news/milwaukee/32562704.html+&cd=1&hl=en&ct=clnk&gl=us&client=safari>

*West End joins a list of other nonprofit housing organizations that have failed in the last 10 years, including Walker's Point Development Corp., East Side Housing Action Coalition and Community Development, and the Westside Conservation Corp.*

properties without costs, and they had access to the best tenants on Rent Assistance. Nearly all of Milwaukee's nonprofit housing providers failed financially.

Or one could look at the Housing Authority's budget to see the costs they incur housing to low income Milwaukeeans. Here too is an organization that gets Rent Assistance tenants, tenants who risk losing their housing subsidy if they fail to comply with the rules or pay their rent. HACM does not rent to the populations with poor rental histories, leaving the segment most in need of housing to the private sector.

Milwaukee should strive to encourage a successful private rental housing market in this once great city, but since the mid-1980s' the city adopted a culture of hatred towards private rental owners. That has not produced positive results, but instead, discourages the right people from participating.

If Milwaukee rental housing became more sustainable, where people willing to invest their time and money were to make reasonable profits, it would be harder for the few charlatans to exist because of increased competition for available properties. An added benefit is more interest in investing in Milwaukee's rental housing will result in an increase in values and therefore an increase in the tax base.

Alderman Witkowski, who is the co-author of this proposal, created a Local Business Action <sup>7</sup> <sup>8</sup> Team to help small business succeed. Rental housing is the largest segment of small business within the city and one that may have the greatest impact on the well-being of the city. With our half billion dollars a year of economic impact, a similar effort should be undertaken towards making private rental housing more successful.

Let's look at the recent Journal Sentinel series on landlords.

This investigative reporting – using easily available public records – showed that the individual owners behind LLCs could be revealed and that other properties owned by these individuals or different LLCs could also be exposed. Changes in the LLC laws are not necessary, contrary to the assertions of Aldermen Murphy and Witkowski that bad landlords are operating in secret. The City Attorney's office has recently been successful in having a receiver appointed for the various ownership entities used by inner city landlord

Within existing laws, the city could have caused most of the featured landlords out of business, through docketing judgments, enforcing code enforcement fines, and foreclosing on tax delinquent properties. For whatever reason the city allowed these owners to continue unabated.

Perhaps most troubling is the relentless attack on James H. Herrick, who works for Baird, that went as far as the Mayor suggesting he be fired from Baird. Herrick is not a member of the Association nor known to us.

Let's look at the Journal article. Inspectors show up and find that basement doors illegally padlocked. The article states the owner's manager did this in an attempt to keep drug dealers from entering the property. There is no argument that inoperable fire doors are an unreasonable risk to occupants. Clearly, this was a novice mistake made by someone who did not understand fire codes.

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<sup>7</sup> <http://communityjournal.net/helping-small-businesses-thrive-local-business-action-team-to-hold-public-forums/>

<sup>8</sup> [http://city.milwaukee.gov/lbat#.WHDmybGZM\\_U](http://city.milwaukee.gov/lbat#.WHDmybGZM_U)

The correct response by DNS would be for the inspector to explain the problem and demand the owner's rep immediately remove the padlocks. If the owner did not comply, the Department of Neighborhood Services has an essential services program where the city can contract a repair and then bill the owner.

Instead, the inspection supervisor chose to placard the building and force 50 families out onto the street. Closing a 50 unit building would not have been the DNS response had the property been located on the Eastside, Bayview or the Southwest side. In these more affluent neighborhood they would have compelled a solution that kept the tenants safely in their homes.

But this building was occupied by poor, minority occupants and the city's response was harsh as it typically is in these neighborhoods. The DNS employees who acted out of spite towards the owners and a disregard of the tenant population, instead of attempting to protect the homes of 50 low income, primarily minority tenants, should lose their jobs.

The 50 unit building remained closed for months. It is no surprise that the building ended in foreclosure and sold at a distressed price due to this.

The owner' use of single property LLCs, in this case, were an advantage to the city. Because the owner had his properties in separate LLCs, this allowed only this one to be foreclosed upon, instead of all 12. In fact, it is a lending industry practice in larger real estate deals to require single asset entities<sup>9</sup> <sup>10</sup>to separate liability from one project and others with a similar ownership interest.

It would be in Milwaukee's best interest if every investment property were in a properly segregated LLC. That way a failure at one property<sup>11</sup> would not have a domino effect and bring down perhaps dozens or more other properties that are under similar ownership.

Then Journal and Mayor call for Herrick, the owner to lose his job. What advantage does the city receive in this? If he loses his job, his remaining properties will likely fall into financial problems as well, resulting in more boarded buildings, displaced tenants, and distressed sales.

Similarly, what did the city gain by the public attack on NBA basketball star Devin Harris? While it may have been expedient in causing the payment of some fines and taxes, overall it sent a clear warning to others with capital "Do not invest in Milwaukee. If you fail, you will be ridiculed and perhaps lose your career." A private conversation with Harris would have yielded similar results, while not discouraging investment by others who have resources.

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<sup>9</sup> [http://www.c-loans.com/pre\\_joomla/educational\\_pages/structured\\_finance/single\\_asset\\_entities.html](http://www.c-loans.com/pre_joomla/educational_pages/structured_finance/single_asset_entities.html)

<sup>10</sup> [http://m.sutherland.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRV56Pab6TfzcRXncKbDtRr9tObDdEv4JCs0!/fileUpload.name=/2010%20A%20%20C%20A0Adams%20J%20%20C%20A0Kirkham%20-%20The%20Real%20Estate%20Lender's%20Updated%20Guide%20\(DePaul%20Business%20%20C%20A0C.pdf](http://m.sutherland.com/portalresource/lookup/poid/Z1tOI9NPluKPtDNIqLMRV56Pab6TfzcRXncKbDtRr9tObDdEv4JCs0!/fileUpload.name=/2010%20A%20%20C%20A0Adams%20J%20%20C%20A0Kirkham%20-%20The%20Real%20Estate%20Lender's%20Updated%20Guide%20(DePaul%20Business%20%20C%20A0C.pdf)

<sup>11</sup> <http://www.wardandsmith.com/articles/the-benefits-of-using-multiple-single-asset-limited-liability-companies-for-investment-properties>