City of Seattle

Seattle Renters' Commission

Dinah Braccio & Chloe Caswell, Co-Chairs

February 4, 2021

Re: *Pass ordinance to remove the practice of credit checks for rental applications*

Dear Honorable Mayor Jenny A. Durkan and Members of the Seattle City Council:

We, the Seattle Renters' Commission, is advocating for the City of Seattle to enact an ordinance in which they remove the practice of credit checks for rental applications.

Our global pandemic has now drawn out for longer than a year, and it has become clear that there will be incalculable economic and financial consequences. These economic consequences will not end when the pandemic ends, but will grow and deepen for years after. People are having to make difficult choices on what payments they can make and which payments they have had to defer.

In the past years we have passed a number of amazing renter protections in the City of Seattle, from Criminal Background to Source of Income. Both of those ordinances do nothing if landlords can require a 620+ credit score. In fact, if you look at landlord responses to many of Seattle's recent tenant protections they often respond with statements along the lines of, "Well then I will have to raise my credit score to ensure I get quality tenants." The Stranger, when reporting on the move-in fees payment plan reports, "Landlords have characterized it as a burden that could force them to raise rents, sell their properties to large management companies, or stop renting to people with poor rental or credit histories" (Groover, 2016). In response to Seattle's First-in Line Ordinance, even New York City tenant's attorney', Samuel Evan Goldberg weighed in saying, "'The danger for tenants' of Seattle's FIN law is that some landlords may choose to invoke stricter minimum screening requirements.' Stricter criteria could make it almost impossible for some tenants to rent an apartment- which he says is the opposite of the intent of this law," (Williams, T. 2020).

Let's not just make feel-good legislation. We were already over our heads with a housing affordability crisis. It is inevitable that Covid-19 will further decimate our communities and increase racial & economic disparity.

Removing credit checks from apartment applications can level the playing fields between the "Haves" and "Have Nots." This will be legislation that will make a positive impact on a great number of Seattleites and their access to greater housing choices.

We wouldn't be the first city to enact protections for renters in regard to credit checks. Minneapolis has made legislation they call "Inclusive Screening Criteria" in which the standards cannot be stricter than the standards of the ordinance but can be less restrictive. Within Minneapolis' Inclusive Screening Criteria, they state that landlords are not allowed to screen tenants based on credit score, and they

cannot screen out for insufficient credit history. The Seattle Renters' Commission does applaud the ordinance from Minneapolis, but still finds it does not fully address the systemic issues related to credit scores.

I. Credit History - What is included in a Credit Score.

The industry-standard of relying on credit scores to judge a person's future behavior as a tenant ends up pushing many applicants into substandard housing, paying additional deposits, or forcing them to move out of the city and further away from economic opportunity. Credit scores included in rental applications have not always been the standard. This practice has really taken off since the late 1990's. Housing is a basic need, and we allow landlords to affect our access to this basic need based upon our ability to make unrelated payments: medical bills, student loans, automobile payments, etc. So many variables are used to calculate a credit score that are unrelated to rent payments, and any one of them can negatively affect someone's credit score. A lowered credit rating can damage an applicant's chances for housing even with a perfect rent payment history.

Credit scores by themselves are not based upon the applicant's history of rent payment and do not predict the likelihood of paying rent on a regular and timely basis. Rental payments, cell phone payments, and others are not included in calculations for credit scores. When going through hardship, most people will pay their rent before they pay their other debts because they do not want to lose their housing. Therefore, even though a consumer is consistently paying rent on time, the fact that they let other payments lapse, such as student loans or medical debt, could still be a risk for having housing denied to them in the future.

It should be noted that there are some rental agencies that forward rent payment history to credit companies, however, these services are not free. In order to participate they require the tenant to register for online payments, pay with a credit card, and charge a convenience fee for the ability to report this data to credit companies. For obvious reasons, services like these are not accessible to lower-income tenants, who may not have access to online payments, or who do not have the ability to pay additional convenience fees.

II. Not Everyone Has Access to Credit.

In addition to credit scores not truly capturing a person's rental history, credit scores also are not something that everyone has access to. This can be referred to as credit-invisibility. Senator Tim Scott says "With gentrification and an increasing shortage of affordable housing, no one can afford to be 'credit invisible.' Having access to credit is like having access to a better life and if

minorities are being denied that because of the current system than other ways of ensuring access must be employed," (Steaks, 2018).

As Seattle struggles with righting the wrongs created by redlining and restrictive covenants, we need to examine how credit scores directly undermine our goals to increase access to housing for populations who have been systemically barred from healthy, safe, and reliable housing. "The FICO score, for instance, principally looks at a consumer's payment history, the amounts she owes, the length of her credit history, new credit, and the types of credit she uses, while omitting factors such as employment history, salary, and other items that might suggest creditworthiness. As a practical consequence, traditional credit scoring tools may also perpetuate unfairness by denying certain groups favorable access to credit merely because they have been excluded from the credit market in the past." (Hurley, M. & Adebayo.J, 2016, p. 9).

A few notable populations that do not have access to credit reporting are:

1) Young adults- children just leaving home or freshly graduating college will not have credit or will have poor credit. Simply put, there are not many people graduating high school or college with a 740-credit score.

2) Immigrants- people moving to Seattle from out-of-country will not have a pre-existing credit score. They will have to work to build an American credit score, which means they will either be denied housing, or will need to be in a position where they can accumulate and then repay debts in The United States.

3) The formerly incarcerated- Being incarcerated does not allow someone to work on their debt for many years, leaving them with another barrier in accessing housing. Seattle has passed legislation barring landlords from denying housing to the formerly incarcerated however, landlords can circumnavigate this requirement by instituting unrealistic credit score requirements for their rentals.

4) Low-income families- A person must first have access to money in order to build credit. Requiring good credit from individuals with a low-income background creates more barriers to housing.

5) Victims of domestic abuse/Human-trafficking victims, etc.- There are instances where someone may need to have access to safe housing while not being able to build their own credit. Withholding access to bank accounts or credit cards is one of the ways some victims of domestic abuse are controlled by their abuser. Victims of human trafficking

are not going to have access to credit-building either, as they are unlikely to have government issued ID, access to money and bank accounts, or even their own address.

6) Communities of Color- Lending practices and credit agencies have their own history of policies that adversely affect communities of color. Some of these issues are covered more in-depth throughout this letter.

7) The LGBTQIA+ Community- Name changing and updating Social Security for the trans community can lead to inaccurate credit reporting. It is not easy to edit gender markers and names on credit forms and with credit reporting agencies. It can be years before a person's credit score is updated with this information. It can also cause trauma by "outing" a trans-person or forcing them to be dead-named by the rental agency.

When someone is applying for an apartment, and has been determined to have no-credit, most landlords consider this the same as having poor-credit. These applications will often be denied automatically, especially if the landlord is using screening services such as On-Site to automate their application screening. This means that applicants are being denied apartments with no actual proof that they are renters who cannot make timely and consistent rental payments.

III. Credit Scores perpetuate redlining.

Access to safe housing based on credit scores just perpetuates our history of redlining. Allowing landlords to do credit checks for potential tenants does not meet the criterion for Seattle's Race & Social Equity toolkit. Credit checks are not unbiased and, in fact, continue our punitive housing practices from the past. Take into consideration the excerpts below from "Past Imperfect: How Credit Scores and Other Analytics 'Bake In' and Perpetuate Past Discrimination": Credit Reporting and credit scoring are supposed to be entirely objective, with no room for flawed tools such as human judgment (and the biases built into human minds). Yet for the past two decades, study after study has found that African American and Latino communities have lower credit scores as a group than whites (and Asians, when the data is available). (pg 1.).

We would be doing a disservice to communities of color if we do not acknowledge the systemic issues around economic opportunity and equal and fair pay for people of color. We all acknowledge that communities of color have less income than white Americans.

African Americans earn only 64 cents for every dollar earned by whites, and Latinos earn only 73 cents. The difference is due to racial inequality in many settings, such as segregation in education, hidden biases in employment, and the collateral consequences of mass incarceration.

But the disparity in assets is even more stunning: African American families own less than seven cents for every dollar of white wealth. With fewer assets to draw one, people of color- and the friends and family who they might turn to- are far less able to cushion the blow of financial catastrophes, such as job losses, income reductions, sickness, or unplanned expenses. (pg. 1).

IV. Big Data Reporting

Although credit scores say that they remove reporting in regards to race, sex, religion, ethnic origin, and are supposed to give ratings based solely upon a person's financial activities, some of the metrics used by credit scoring companies are related to protected classes. Credit score can go down simply by affiliation. "Rather than being judged on their individual merits and actions, consumers may find that access to credit depends on a lender's opaque predictions about a consumer's friends, neighbors, and people with similar interests, income levels, and backgrounds," (Hurley.M & Adebayo.J, 2016, p.4).

This is more than evident when you look at a consumer's zip code. Guilty by association, a person who is living in a lower-income zip code can automatically receive a lower credit rating. "Your address will affect the types of credit offers that are tailored to you… These are likely to be based on your Zip-4 aggregate score, rather than your specific credit score. This practice is known as 'steering.'" (Badcredit.org, 2020). It appears that this loophole, although it reinforces systemic racism, is still a legal practice in credit score aggregating. "If you're going to exclude someone's race, which is a protected class characteristic, as to whether or not they're eligible to receive credit, but use neighborhoods instead and happen to know that neighborhoods correlate very strongly to race… then you're still effectively using race in a way that's acceptable, legal, but unfair." (Badcredit.org, 2020).

The age of Big Data is relatively new. Big Data is the process by which a Third Party data company gathers and collects information on consumers. Most of this data is used for marketing purposes, but as the industry grows, it becomes apparent how little transparency there is with the data. In the Executive Report "Big Data: Seizing Opportunities, Preserving Values," the Obama Administration says this about the use of Big Data and credit scores:

> "Fueled by greater access to data and powerful analytics, there are now a host of products that 'score' individuals beyond the scope of traditional credit scores, which are related by law. These products attempt to statistically characterize everything from a consumer's ability to pay to whether, on the basis of their social media posts, they are a 'social influencer' or 'socially influenced.' While these scores may be generated for marketing purposes, they can also in practice be used similarly to regulated credit scores

in ways that influence an individual's opportunities to find housing, forecast their job security, or estimate their health, outside of the protections of the Fair Credit Reporting Act or Equal Credit Opportunity Act. Details on what types of data are included in these scores and the algorithms used for assigning attributes to an individual are held closely by companies and largely invisible to consumers. That means there is often no meaningful avenue for either identifying harms or holding any entity in the decision-making chain accountable." (May 2014, p 45-46).

V. Data Breaches and Inaccurate Data

It is also well known that credit reporting agencies have had issues with data breaches and accurate reporting. Why would we allow someone's access to housing be tied to such an inconsistent and easily hacked data point? Many people have examples of there being incorrect information on their credit scores. "The three major credit bureaus, Equifax, TransUnion and Experian, found that civil judgement and tax lien data was often being reported inaccurately and not being updated enough to serve its intended purpose. When listed on a credit report, these pieces of public information can be a major obstacle to obtaining credit," (Streaks 2018).

There are several notable large credit breaches we have seen with Equifax, Experian and TransUnion. Those data breaches allowed the private and financial information of millions of Americans to be shared with strangers. Identity theft can ruin a consumer's Credit Score and may not be caught until irreparable damage is done. In September 2017, half of everyone in the country had their personal information compromised from mid-May through July 2017 in one of the worst data breaches of all time. 145.5 million customers' Social Security numbers and sensitive data was at risk. In 2013, a breach from Target compromised 40 million credit and debit card numbers. In 2013, Yahoo had one of the worst data breaches in recent history; 3 billion accounts were compromised in a 2013 data leak, but the news was not reported until 2017! (The 12 Worst Data Breaches in the Last Decade, Sunmark Credit Union).

Even without breaches, credit reports have been found to be faulty. "A 2013 Federal Trade Commission (FTC) study found that twenty-six percent of the consumers surveyed had errors in their credit reports, and these mistakes were material for thirteen percent of consumers, potentially resulting in denials, higher rates of interest and other less-favorable terms. These errors also disproportionately impacted individuals with lower levels of education, (Hurley M & Adebayo J. 2016, p.9). This is a huge barrier to housing. Correcting these inaccuracies falls upon the consumer. Battling a credit agency requires that the consumers know their rights.

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In conclusion, The Seattle Renters' Commission believes that the inequitable practice of screening apartments by credit score should have been banned years ago. Now that we are facing the biggest economic, health, and housing crisis of our century, the only right choice is to act. The outbreak of the Covid-19 pandemic has made even more clear the effects of economic disparity in our city and in our nation. The economic misfortune of lost jobs will not be solved by an eviction ban. We need real impactful legislation, and banning credit checks in rental applications is one of the most healing gestures we can make as we all repair collectively.

Thank you for your consideration.

The Seattle Renters' Commission

CC: Andres Mantilla, Director, Seattle Department of Neighborhoods

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