



**ACLC Position Statement on City of Gainesville and Alachua County Residential
Rental Unit Permit Repeal**

The Alachua County Labor Coalition understands City and County staff's rationale for recommending repeal of the Residential Rental Unit program, given the enactment of HB 1417. However, we can still protect renters, and the City and County have a duty to do so.

Some officials have expressed a desire to not "skirt" the new law, which is understandable because they want to avoid making Gainesville and Alachua County a target of the Legislature's again. However, we've seen no compelling evidence that Residential Rental Unit Permit programs like these were the intended target of HB 1417. Many Legislators openly thought they were banning rent control, despite having passed a ban in the *Live Local Act*. The text of the bill itself targets things like notice requirements, fees charged by landlords, and permissible and impermissible lease provisions—for example, some Florida communities, including the City of Gainesville, were looking into requiring that current tenants have a right to first refusal for renewal leases. The only part of our program that was preempted is the disclosure, or educational, components.

This is not conjecture. We worked with local attorney Scott Bird to dissect HB 1417 and explore potential alternatives. The resulting legal analysis and memo has a simple takeaway: **HB 1417 preempts local governments from regulating the landlord-tenant relationship and residential tenancies. Neither of which exists when a rental unit is unoccupied or held out for lease. Period.**

There is no doubt the state preempted the City's and County's ability to require landlords or their agents to educate their renters on the rights and responsibilities of

landlords and tenants. However, that educational responsibility can and should be transferred to the City and County. The "Florida's Landlord/Tenant Law" brochure prepared by the Florida Department of Agriculture and Consumer Services, the self-inspection checklist should be mailed to all rental units in the city and county annually, and the "Tenant Bill of Rights and Responsibilities within the City of Gainesville" (in the City) or "Alachua County Tenants Bill of Rights" (in the County).

There are two pathways for saving habitability and money-saving water & energy efficiency standards.

The first, and most preferred, pathway is moving *all* of the living standards enumerated in Section 14.5-4 into the Building Code by way of a *local technical amendment* to the Florida Building Code. There is no provision contained in that section that our attorney flagged as impermissible under state law.

Four-year rolling inspections are unfortunately a casualty of HB 1417. However, inspections can and should be performed around the time a rental unit turns over via a *local technical amendment* to the Florida Building Code that requires landlords or their agents to obtain a permit whenever a unit is held out for lease. If the political will exists, this could be easy because all that is required is a "finding of fact" that substandard rental housing is a problem in the City of Gainesville & Alachua County and recognizing the Building Code is meant to prevent and/or correct substandard housing. Importantly, these facts have already been found by previous Commissions and are listed at the beginning of the original and amended ordinances. So, while inspections cannot be performed every four years if a unit is rented by the same person or family for four or more years, they can still be universal.

There are also two benefits to moving the standards into the Building Code that do not exist with the current program. First, requiring building permits whenever a unit is held out for lease incentivizes rental unit price stability. Rational landlords will want to avoid increasing renewal rates to levels that tenants will not accept because if the tenant leaves, they will have to go through the permitting and inspection process. Relatedly,

this will give renters a little bit of leverage in an otherwise horribly imbalanced negotiation.

Second, moving the standards into the Building Code will allow the City and County to apply them to large apartment complexes. This will make the program more fair. While Chapter 509 of the Florida Statutes preempts regulating public lodging establishments (a.k.a. large complexes) as businesses, it does NOT preempt regulating building standards. Applying the living standards to large complexes through the Building Code is simply the right thing to do; it's fair to small landlords and to tenants of large complexes.

The second, less preferred, pathway for saving habitability and money-saving water & energy efficiency standards is to amend the ordinance, rather than repealing it. If any Commissioner is interested in this pathway, we're happy to have a conversation. But the ACLC strongly supports going down the Building Code route.

In addition to preserving the educational and living standards components of the Residential Rental Unit Permit program, we urge the City and County to *finally* move forward with a landlord-tenant mediation program. The City and County should also consider offering the mediation service to commercial tenants and landlords. One attendee at our Community Meeting reported that many new entrepreneurs she has worked with have struggled to resolve disagreements with their commercial landlords and would have benefitted from having access to a mediation forum. This would further the City's and County's goal of encouraging equity because it would be especially helpful to first-generation entrepreneurs and business owners.

It is time to get the landlord-tenant mediation program off the ground. Nothing in HB 1417 preempts it and it has the potential to be beneficial to *both* renters *and* landlords.