



# HOMEOWNERS ASSOCIATION OF PHILADELPHIA **HAPCO**

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## HOUSE URBAN AFFAIRS COMMITTEE

### TESTIMONY OF

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### **In Comment Supporting House Bill 1714, Session of 2014**

Rental property owners across the state constantly experience a difficult situation. Tenants leave a dwelling unit without notice to the landlord and without providing a forwarding address, leaving items of personal property behind. Those items can consist of discarded furniture, clothing, sealed trash bags of unknown contents, and more. What is the responsibility of the property owner for those discarded items? May the owner simply throw away whatever the tenant leaves behind? Is there a requirement that the owner hold the property in safekeeping, however worthless and abandoned the discarded items may seem to be?

As has been pointed out by opponents of the Bill, the existing law, in Act 129, only really addresses these questions under two circumstances:

- 1) the good, law abiding tenant, leaves a property and properly provides notice or a forwarding address, and
- 2) the tenant has been evicted by court order, with execution by a sheriff.

The problem with the current law is the failure to appropriately address the enormous doughnut hole in the middle between the good tenant who provides a forwarding address, and the tenant who must be evicted by forcible order of court. What about the third type, and the most common circumstance: the inconsiderate tenant who disappears without notice or a forwarding address.

Despite claims to the contrary, the property owners across the state have consistently raised this problem before, during, and after the enactment of 129. This is especially true of the organization I represent, HAPCO, the Homeowners Association of Philadelphia, the largest rental property owner's organization in Pennsylvania. Owners seek, and have always sought, a

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solution to the actual problem: the tenant who just walks out, leaving junk behind, usually owing rent, already having caused the owner expense and lost time (taxes and bills take no breaks whether a tenant pays rent or not). The flaw in Act 129 which we highlight today was always considered as a subject for later amendment, to correct the significant problem left unanswered by the law.

The opponents of this bill have been clear; they insist that the act should not be amended. They have no answer to the obvious question, what to do in the real world with the things left behind. Look at photographs of what is left behind in the real world by real former tenant. The mattresses. The sofa. The food in the refrigerator. The black plastic bags. What - in the real world - do you do with that property?

The practical effect of the law, as it now exists, and as opponents of HB1714 insist must be the case, is an eviction complaint filed in our courts in every case where a tenant leaves things behind. And it happens every day... it is more the rule, that people always leave things behind. The current law requires landlords to make the following inappropriate choice: burden themselves and the courts with litigation in every case of a bag or a sofa left behind; or ignore the law. The first is a waste of resources and unfair to the landlord; ignoring the law is not an option, but will be the sure result.

Landlords have always dealt with this by making a well-considered judgment, in the exercise of good faith, that the tenant has left, is gone forever, and obviously not coming back. But the enactment of Act 129 now forbids a judgment call under any circumstances; now an owner cannot dispose of any of the property of the disappeared tenants, without a full activation of the court system.

Without the amendment as set forth in HB 1714, the owner of a property is forced to go to the significant expenditure and burden on the court system and sheriff's office by filing for a formal eviction, going to court, filing for a writ of possession, and paying for the sheriff's physical presence at the property. The law as it currently stands forces the owner to expend resources unnecessarily, and causes the legal system do the same, when common sense and common understanding recognizes when a tenant has disappeared without intention to return.

Opponents of HB 1714 dangle a doomsday case in front of you. They try to make you fearful that landlords across the state of Pennsylvania will simply use this amendment to wrongfully evict tenants, to use illegal self-help, to purposely and wantonly deprive tenants

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of their belongings. Nothing could be further from the truth. HB 1714 is not only practical and reasonable, but ample notice and other protections for the tenant are built in.

If a tenant is wronged, it will be because the landlord *violated* the law. And the law will penalize landlords who violate it; an aggrieved tenant has full recourse to the court, with the likelihood of substantial damages against the offending landlord. Landlords will know this, and be guided in very careful application of HB 1714, or suffer real consequences.

I ask you, what is fair? To require every landlord in the state to file an eviction action against every tenant who leaves things behind? Or empower a tenant to use the courts in those much less frequent circumstances where the landlord violates the law? Should every case go to court, as the tenant activists demand, or should court actions be only in those cases where there is some allegation of a violation. Clearly, an aggrieved tenant should be able to sue. Without HB 1714, landlords, who are aggrieved in every case where the tenant fails to trash or take their things with them, are required to file court action in every case. And it is the tenants who will suffer the adverse consequences of having judgments of evictions listed against them on their credit reports.

Finally, some opponents cite a resolution of a bar association against HB 1714. A review of the minutes of that association reveal that the opponents themselves wrote the resolution, and presented it without discussion in good faith with those of us on the other side, to obtain a real and fair hearing on the issue. That full and fair hearing is happening now, in front of you.

It is requested that you approve HB 1714.