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February 1, 2021

To: Representative Mike Lefor
Chairman, North Dakota House of Representative Committee on
Industry, Business, and Labor
From: Larry Richards, Attorney at Law

RE: Testimony Regarding House Bill No. 1438—Notice of Intention to Evict

Mr. Chairman and members of the committee I have reviewed this proposed bill and wanted to express my opposition to its enactment.

As an attorney, a great deal of my law practice currently involves landlord/tenant law, including representing landlords and some tenants in eviction proceedings. I have several concerns regarding this piece of legislation which, at first glance, appears well-meaning, but in actuality has significant consequences on eviction proceedings.

First, the Notice of Intention to Evict form is one that is often drafted by many landlords and who also arrange to have it served without the assistance of an attorney. This practice has not created much difficulty because many of the forms found on the internet are sufficient for this purpose because North Dakota's requirements for the Notice of Intention to Evict form mirror most other states' requirements. This would change with this legislation and undoubtedly create situations where landlords will find the eviction they started would have to be started over or just outright dismissed by the Court because they did not comply with the "technicality" of listing a nonprofit legal assistance organization. This sort of delay places a landlord in a precarious situation where a tenant who is possibly being evicted for destruction of property or drug use (this conduct would be covered by subsection 8 of NDCC section 47-32-01) continues in possession which places the landowner's entire property at risk for even longer.

Second, I would also note that, other than perhaps individuals being evicted for holding over after a mortgage foreclosure (subsection 5 of NDCC Section 47-32-01), all of the other causes for evictions this new notice requirement would apply to do not necessarily involve a tenant in a financial hardship situation. To me it seems presumptuous that we should try and refer this particular class of individuals to a system designed to assist the poor when it is just as likely they can afford to retain their own attorney.

Third, while we currently have little in the way of low-income legal service organizations, this may not always be the case. So, it seems troublesome to me that landlord's will end up picking and choosing which nonprofit legal service organization to put in this form. I would recommend a DO NOT PASS recommendation.

Testimony on Bill 1438


Pg. 2

2/1/2021

Finally, please note that, while I am an attorney, I present this testimony in my individual capacity. I do not present this testimony on behalf on any individual, corporation or other entity. I have not and will not receive any compensation for the presentation of this testimony.

Thank you for your time and consideration as well as your service to the State of North Dakota

Sincerely,



Larry J. Richards
Attorney at Law