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**Via Email:**

Jecorey Arthur  
Councilperson  
Louisville Metro Council  
601 W. Jefferson Street  
Louisville, KY 40202  
[Jecorey.arthur@louisvilleky.gov](mailto:Jecorey.arthur@louisvilleky.gov)

*Re: Letter of support for the Displacement Risk Areas Ordinance from the Lawyers' Committee for Civil Rights Under Law*

The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) was created in 1963, at the request of President Kennedy, to mobilize the nation's leading lawyers as agents for change in the Civil Rights Movement. Today, the Lawyers' Committee uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have the voice, opportunity, and power to make the promises of our democracy real. Enforcing the Fair Housing Act (FHA) and promoting greater housing choice has long been a priority of the Lawyers' Committee. We have pursued that priority through a variety of strategies including the provision of technical assistance to local jurisdictions and community based organizations seeking to evaluate and adopt fair housing strategies.<sup>1</sup>

At the request of the Louisville Tenant Union, we have assessed the Displacement Risk Areas Ordinance and write this letter to voice support for the proposed Ordinance. It will likely be an effective tool to stem the tide of displacement from gentrifying neighborhoods thereby fostering greater integration as higher income residents, who are disproportionately white, move in and existing residents, who are disproportionately Black, are protected from being displaced to areas of greater racial segregation and concentrated poverty. In so doing, the proposed Ordinance would be consistent with the Louisville-Jefferson County Metro Government's (Metro) duty to affirmatively further fair housing. Indeed, it would be an innovative step towards that end that would provide a model for other jurisdictions around the country seeking to address similar challenges.

Although gentrification in large coastal cities may get most of the media coverage, it is increasingly playing out in cities like Louisville, as well.<sup>2</sup> Gentrification occurs when there is an

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<sup>1</sup> <https://www.lawyerscommittee.org/project/fair-housing-and-community-development-project/>.

<sup>2</sup> Wiltse-Ahmad, Alyssa, *Study: Gentrification and cultural displacement most intense in America's largest cities, and absent from many others*, National Community Reinvestment Coalition, March 18, 2019 (stating that while the most intense gentrification is happening in the country's largest cities gentrification was displacing residents of central city neighborhoods in many other cities as well).



influx of capital into a neighborhood along with wealthier newcomers.<sup>3</sup> This phenomenon causes the price of real estate to rise dramatically.<sup>4</sup> The result can be the rapid displacement of incumbent residents and businesses.<sup>5</sup> Although some speculate that increasing the housing supply should decrease the price of housing, studies have shown that new-market rate housing can put significant upward pressure on the lowest rents in the neighborhood proximate to the market rate development.<sup>6</sup> Louisville's own 2019 Housing Needs Assessment found that several central city neighborhoods were experiencing both large and small scale new investments and influxes of highly educated individuals putting existing residents and businesses in these areas at risk of displacement.<sup>7</sup> Based on the experiences of other metropolitan areas and given trends of new investment and migration into these neighborhoods by wealthier newcomers, displacement of much of the existing community is likely without an intervention like the Displacement Risk Areas Ordinance.<sup>8</sup>

As mentioned in the proposed Ordinance, Louisville is committed to affirmatively furthering fair housing as is required by the Fair Housing Act.<sup>9</sup> The duty to affirmatively further fair housing requires recipients of HUD funding to take affirmative steps, in addition to combatting discrimination, to remove barriers to housing opportunities for people with protected traits, including race.<sup>10</sup> This is generally achieved by addressing inequities in access to areas of opportunity and reducing racial segregation and concentrated poverty.<sup>11</sup>

As neighborhoods gentrify, residents of color are often displaced to areas of greater racial segregation and concentrated poverty.<sup>12</sup> In turn the neighborhoods they are displaced from are often transformed into exclusively or disproportionately white areas because income inequality that follows racial lines means that most people of color will no longer be able to afford to live in

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<sup>3</sup> Richardson, Jason et al., *Shifting Neighborhoods: Gentrification and Cultural Displacement in American Cities*, National Community Reinvestment Coalition, March 19, 2019.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Damiano, Anthony et. al., *Build Baby Build?: Housing Submarkets and the Effects of New Construction on Existing Rents*, University of MN Center for Urban and Regional Affairs, October 16, 2020; <https://www.tonydamiano.com/project/new-con/bbb-wp.pdf>.

<sup>7</sup> Louisville Housing Needs Assessment, Louisville Metro Government Office of Housing and Community Development, <https://louisvilleky.gov/housing/document/hnafinal190222pdf>

<sup>8</sup> *Shifting Neighborhoods*.

<sup>9</sup> 42 U.S.C. § 3608.

<sup>10</sup> *Affirmatively Furthering Fair Housing*, U.S. Department of Housing and Urban Development, What is AFFH?, [https://www.hud.gov/AFFH#\\_What\\_is\\_AFFH?](https://www.hud.gov/AFFH#_What_is_AFFH?).

<sup>11</sup> Id.

<sup>12</sup> Feder, Sandra, *Stanford professor's study finds gentrification disproportionately affects minorities; Disadvantaged residents from predominately Black neighborhoods have fewer options in face of gentrification*, Stanford News, December 1, 2020, <https://news.stanford.edu/2020/12/01/gentrification-disproportionately-affects-minorities/>.



the gentrifying area.<sup>13</sup> Gentrification's trend of displacing residents of color and creating new disproportionately white communities and racially segregated areas of concentrated poverty make it a potent segregative force.

Having identified several areas of the city where Black residents are threatened by displacement, Metro has a duty to mitigate that displacement in order to prevent racial segregation and the concentration of poverty. The Displacement Risk Areas ordinance will disincentivize developments that would create displacement pressures and encourage the creation of more housing affordable to the existing residents. It will do this by requiring developments seeking to use Metro resources as part of the project to undergo an assessment to determine the risk of displacement associated with the proposed project. Residential components of proposed developments must create housing that is affordable to those earning the median income of the particular neighborhood in order to pass the assessment. Only developments that pass the assessment would be able to take advantage of Metro resources. This will ensure that Metro resources are not utilized for developments that will lead to displacement.

The proposed Ordinance is similar to Boston's amended zoning code that requires an Affirmatively Furthering Fair Housing Assessment for proposed developments.<sup>14</sup> Boston's AFFH assessment requires consideration of the impact of the development on residents of the area that have been historically discriminated against. In areas where there is a risk of displacement the proposed developments must take additional steps to prevent displacement like building more affordable units and more deeply affordable units and units that reflect the family sizes of the area. Like the Boston AFFH assessment, the proposed Ordinance's displacement assessment is a deliberate step to ensure that gentrification results in more integrated neighborhoods instead of more segregated ones by preventing reducing displacement. These are huge steps towards Metro meeting its commitment and obligation to affirmatively further fair housing.

Furthermore, the proposed Ordinance does not target neighborhoods by race or confer specific housing benefits on individuals because of race. That makes it a deliberate step toward ending racialized housing injustice without creating a system that relies on racial classifications to do so. Accordingly, the proposed Ordinance does not raise any Equal Protection Clause concerns.

Gentrification has been changing the face of working class communities, displacing residents and businesses across the country for years. In some cities gentrified, neighborhoods become off limits to people of color because of the rising cost of real estate and income inequality. In that

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<sup>13</sup> Shifting Neighborhoods.

<sup>14</sup> Boston to Become First Major City in the Nation to Include Fair Housing Requirements in Zoning Code; Zoning amendment represents one step in City's efforts to strengthen fair housing practices, Mayor's Office, December 9, 2020, <https://www.boston.gov/news/boston-become-first-major-city-nation-include-fair-housing-requirements-zoning-code>.



way gentrification has operated as a contemporary tool to deny people of color the same housing choices enjoyed by whites. Bold steps like this by local governments are necessary to negate gentrification's tendency to uproot communities with rich histories and create racially exclusive neighborhoods. If successful other jurisdictions will likely be inspired to follow suit because gentrification is a threat to working class, inner city neighborhoods in cities across the country and to date other tools like inclusionary zoning have not been sufficient to preserve housing, culture or choice for those residents.

Respectfully,

/s/ Brook Hill