

**DRAFT REPORT: Waitlists for Rental Units in Ann Arbor**

Renters Commission Waitlist Working Group Summary Report

## **Purpose**

This report was commissioned by the Ann Arbor Renters Commission and written by a subgroup of its members in response to public input from city residents regarding waitlists for rental units. These waitlists were recently instituted by many landlords in the city and often include fees, raising concerns about their impact on tenants, particularly low-income tenants. In this report we compile available information on the waitlist policies of Ann Arbor landlords and also discuss what we know about the impact of waitlist fees on tenants. We seek to provide these important facts to the Renters Commission and to City Council with the hope that this report can inform any future efforts to regulate waitlists and waitlist fees.

## **Background**

In August 2021, the Ann Arbor City Council passed an amendment to the already existing [Early Leasing Ordinance \(ELO\)](#) that prohibits landlords from showing apartments in-person to, or signing new lease agreements with, prospective tenants before 150 days are remaining on the current tenant's lease. For instance, for a lease that ends August 31st 2023, the landlord cannot show or sign a lease with a prospective tenant until March 18th 2023. Before the ELO was amended in 2021, the older version of the ELO allowed landlords to start showing apartments, or signing subsequent leases, after 70 days of the current leasing period had passed.

About one month after the new ordinance was passed, the [Washtenaw Area Apartment Association \(WA3\)](#), which represents rental property owners, [filed a lawsuit](#) against the city of Ann Arbor seeking to overturn the ordinance. The WA3 voluntarily [dismissed the lawsuit](#) in December 2021.

As the ELO prohibits landlords from signing new leases for the fall until March of that same year (generally about 5 months before the lease would begin) many landlords began to maintain reservation lists or waitlists for prospective tenants interested in certain units. Several landlords charge a fee to be placed on the waitlist. Some landlords charge fees that are refundable, others apply only non refundable fees. Other landlords instructed prospective tenants to sign leases before the 150 day point but waited to countersign the lease.

Currently, landlords are reaching out to tenants and requesting renewal commitments well in advance of the 150 day time point (before the end of the lease) required by the [Early Leasing Ordinance](#). As incentives to renew early, some [landlords are offering](#) to cap the rental rate for the following year. Additionally, some landlords are requiring interested tenants to sign a lease for the following term, which the landlords don't countersign until the 150 day deadline.

## **Waitlist Policies**

Definition of a waitlist fee.

What are the names that landlords are using for these fees?

Are the waitlist agreements contracts? Spoken? Written?

- **Waitlist Agreement** - Since September 2021, landlords have begun asking tenants to enter into verbal or written waitlist agreements to secure a spot on reservation lists or waitlists for occupied apartments. These agreements are also known as “holding” or “options” agreements. [Table 1](#) contains a non-exhaustive list of landlords who have been following this practice. A sample waitlist agreement form that some tenants received in Fall 2021 is shown in [Figure 1](#).
- **Waitlist fees** - Some landlords charge tenants a waitlist fee to join a list of prospective tenants who will be prioritized in an ordered manner to receive the chance to sign a lease. Landlords use different terms to describe these fees such as “application fees” or “holding fees”. These fee amounts range from \$150-\$500 per unit.
- **First notification to tenants** - Many landlords begin advertising apartments for for the next leasing cycle less than three months after the current leasing period begins. Last year, tenants whose leases began in August 2021 were notified that landlords would open waitlists for their apartments by November 2021.
- **Rationale provided by landlords** - In their communication to tenants, landlords have provided one of the following reasons for maintaining these waitlists:
  - Landlords claim to receive phone calls from "hundreds of tenants" who prefer to look for rental housing 10 months ahead of time.
  - If they complied with ELO timelines, their operations would be affected quite severely because their leasing staff would have limited work in the fall and winter months.
  - Following ELO timelines would “flood the housing market causing a wave of demand and inflation”.
- **Refund policy** - Landlords did not adopt a uniform refund policy. Some landlords stated that the waitlist fee would be entirely non-refundable if the applicant decided not to proceed with the preferred unit. A sample email between a local landlord and tenant in Oct 2022 on the subject of waitlist fees is shown in [Figure 2](#).

### Impacts of Waitlist Fees

Below are some concerns shared by tenants or parents of tenants who submitted complaints about waitlist policies:

- Waitlist fees are much higher than other fees that they are aware of such as application fees that range between \$50-100. Waitlist fees are in some cases \$500.
- Asking current tenants to join waitlists for their own apartments is a way of coercing tenants into renewing their leases early.

- Tenants who did not sign leases for units that they were waitlisted for reported facing difficulties in getting their waitlist deposits back. Student Legal Services has been working with students who paid waitlist fees but did not secure an apartment unit.

## **Regulating Fees**

<https://docs.google.com/document/d/1U6kIfIJsDs6SZWtC1J1bqwrI0P7u7Wh0p2NaH8OjO7E/edit>

## **Proposed next steps**

1. Expand the scope of this report to include miscellaneous fines and fees including late rent fees, application fees, cleaning fees, etc.
2. Review how fees are charged by landlords and regulated by other city governments.

## **Sources of information**

We reviewed a few sources while preparing this report:

1. The Ann Arbor Department of Rental Housing developed a [form](#) to address tenant's complaints of ELO violations. The Renters Commission received access to the log of complaints, and copies of redacted leasing complaint forms and attachments of emails exchanged between tenants and landlords in September 2022.
2. Since Fall 2021, tenants have informed the University of Michigan Graduate Employees' Organization (GEO) and the Ann Arbor Tenants Union (AATU) about what they considered violations of ELO. The authors of this report reviewed all complaints pertaining to waitlist agreements.
3. The University of Michigan Student Legal Services received complaints from tenants who were being asked to join waitlists in Fall 2021, and tenants who were having difficulty getting waitlist fees refunded in 2022.

Figure 1: "Lease Option" Form from ISSA Properties

**LEASE OPTION**

I/We \_\_\_\_\_ (Prospects) hereby agree to pay \$ \_\_\_\_\_ (Option Fee), to ISSA Properties, agent for Landlord, for the right and option (Option) to execute a Residential Lease for the apartment below. This Option is not binding until the Option Fee is paid in full and all monies paid towards this purchase are non-refundable.

Landlord: \_\_\_\_\_  
Address: \_\_\_\_\_ Apt # \_\_\_\_\_

**Option Payment Schedule**

Due Upon Option Signing: \$ \_\_\_\_\_ = First Month's Rental Installment  
Due Date \_\_\_\_\_: \$ \_\_\_\_\_ = 1.5 x Rental Installment + \$150.00

Prospects further agree that within 72 hours after 12:01am on March 19, 2022, they will choose whether or not to exercise this Option by executing a Residential Lease. Upon execution of a Residential Lease by Prospects, the Option Fee shall be applied to the Residential Lease. If Prospects fail and/or refuse to execute a Residential Lease, the Option Fee shall be retained by ISSA Properties as liquidated damages.

The foregoing \_\_\_\_\_ 20\_\_\_\_ by,  
Signature \_\_\_\_\_  
Email \_\_\_\_\_  
Cell \_\_\_\_\_  
Signature \_\_\_\_\_  
Email \_\_\_\_\_  
Cell \_\_\_\_\_  
Signature \_\_\_\_\_  
Email \_\_\_\_\_  
Cell \_\_\_\_\_

Authorized ISSA Properties Representative: \_\_\_\_\_  
Office Use: Date \_\_\_\_\_ Time \_\_\_\_\_ Available Date to Sign \_\_\_\_\_  
Transfer from bld \_\_\_\_\_, apt \_\_\_\_\_ Name of Resident Transferring: \_\_\_\_\_  
per month \_\_\_\_\_

Received  
Thursday  
October 28,  
2021

## Figure 2: Correspondence to the Ann Arbor Renters Commission Regarding Landmark Apartments

<p>Subject: Re: Follow-Up for Landmark Apartments: To: &lt;<a href="mailto:landmark5@emailrelay.com">landmark5@emailrelay.com</a>&gt;</p> <p>Hi,</p> <p>Is the application and service fee refundable if we do not get a space?</p> <p>Thank you,</p> <p>██████████</p> <p>On Tue, Oct 4, 2022 at 1:22 PM &lt;<a href="mailto:landmark5@emailrelay.com">landmark5@emailrelay.com</a>&gt; wrote:</p>	<p>Hi ██████████,</p> <p>We unfortunately do not refund the application fee and admin fee.</p> <p>Thank you,</p> <p>██████████ Leasing and Marketing Manager</p> <p>Our mailing address is:</p> <p>Landmark <a href="https://www.landmarkapartments.com">1300 South University Ave</a> Ann Arbor, MI 48104</p>
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Hello

I am writing with questions about the leasing practices of Landmark apartments, and what appears to be most of the high rise buildings for student housing in AA.

My ██████████ is a ██████████ living in a ██████████ and feeling the pressure to sign something now for next year.

Below please see her email thread with Landmark.

They are charging \$375 application fee and admin fee NOW to get on the waitlist.

They are not counter-signing leases until Mar 5, 2023, which I guess is good to abide by the new ordinance. But it does not even guarantee an apartment to lease until that time.

So... if accepted, the kids have paid \$375 fee which goes toward nothing. Just an additional fee in their pockets.

If NOT accepted, this fee is non-refundable, the kids are out \$375 - or more depending on how many buildings they applied to - and they also have nowhere to live, and need to restart their search on, or more likely after, March 5, which is quite late in the game. In the meantime, they may lose out on another housing opportunity.

Per Landmark's website, they have 608 occupants at \$375 each is \$228,000 for the kids who get accepted! How many kids do we think they are NOT accepting because of space limitations? I find this practice ridiculous and should be illegal.

I could perhaps understand a \$100 non-refundable application fee. Anything other than that is criminal honestly.

## Purpose of Report

- Why are we writing this.
- For whom / by whom
- Provide an overview of waitlist policies to inform potential regulations of these policies
- Qualitatively determine the impact of waitlist policies on tenants

## Context

## Waitlist Fees

**Table 1. List of landlords whose tenants have informed UM GEO, UM Student Legal Services or city staff about waitlists**

This is a nonexhaustive list of landlords who tenants reported to the city/GEO/U-M Student Legal Services for maintaining waitlist agreements:

<b>Landlord</b>	<b>Maintaining waitlists?</b>	<b>Waitlist fee amount</b>	<b>Refundable?</b>
University Towers	Yes	\$0	
Varsity Management	Yes	\$150 per unit	Nonrefundable
Varsity Apts	Yes	\$325 per unit	Partially refundable (\$75 refunded) if landlord cannot provide unit
Landmark	Yes	\$375 per unit	Nonrefundable
The One	Yes	\$50 per unit	NA
Issa Properties	Yes	\$500 per unit	Refundable, if landlord could not provide unit. Nonrefundable if tenant did not sign lease.
Cabrio Properties	Yes	NA	Refundable if landlord cannot provide a unit. Nonrefundable if tenant did not sign a lease.
Campus Management	Yes	NA	NA
Cappo/Deinco	Yes	NA	NA
Eladott	Yes	NA	NA
IPM (Investor Property Management)	Yes	NA	NA
Michigan Rental	Yes	NA	NA
NAM Investment	Yes	NA	NA



Old Town	Yes	NA	NA
Oxford	Yes	NA	NA
Prime Student Housing	Yes	NA	NA
Vic Village	Yes	NA	NA