

## **Justice in Action Affordable Housing Research Briefing**

Research Chairs: Fr. Robert Magoola (St. Mark's on the Campus Episcopal Church), Rev. Kirstie Engel (First UMC-Lincoln), Andrew Varsanyi (South Street Temple)

### **Hearing the Concerns of the People**

"I know graduate students who have found places to live when they come to Lincoln, but they're in terrible condition. I offered to let them stay in my basement during cold snaps because they have no heat."

"I'm fortunate to live in a nice retirement community, but I look around and notice there are very few people of color here. This community is segregated because certain populations simply can't afford to live here."

"When I applied for apartments, the big management companies all charged an application fee that I couldn't get back, even after they denied me. I paid \$600 in application fees and still didn't have a place to live."

"Volunteering at the city library, I have overheard the phone conversations of many unhoused folks and have noticed that they're trying to find rental units that don't have water leaks, unsafe electrical systems, insect infestations, but the cost of places without those issues is beyond what they can afford."

"As a Pastor working in this community I would like to purchase a home, but I can't afford one."

### **Selecting the Priority of Affordable Housing**

At our annual Community Problems Assembly on November 6, 2023, the 300 Justice in Action network members present voted to make Affordable Housing a priority.

### **Researching the Problem and Viable Solutions**

The Affordable Housing Research Committee held the following research interviews and meetings leading up to the Nehemiah Action Assembly with representatives from our faith communities. Our research interviews included:

1. Carrie Kuszak & Jodie Williams, Lincoln Housing Authority
2. Kaitlyn Evans & Rachel Tomlinson Dick, Housing Justice Clinic at the University of Nebraska College of Law (HJC)
3. John Turner & Robin Ambroz, Nebraska Investment Finance Authority
4. Lynn Fisher, Great Place Properties and Real Estate Owners & Managers Association
5. Brent Leutchens, Iron Oaks Properties
6. Melissa Ripley, Lincoln Homeless Coalition
7. Chelsea Egenberger, NeighborWorks
8. Lizzie Turner, Allie Christianson, & Sam Meier-Bates, Collective Impact Lincoln

## The Problem

Lincoln does not have enough affordable rental housing for the 31,000<sup>1</sup> households who earn less than \$40,000/year,<sup>2</sup> and affordable housing remains scarce all over Lancaster County. “Affordable” means the monthly rent payment amounts to 30% or less of a household’s total income. This impacts seniors with fixed incomes, families with young children, people with disabilities, people recovering from addiction and mental illness, those at risk of homelessness, people in the community who work for minimum wage, and others. If they are able to find affordable housing in Lincoln at all, people living at or below this income level are being pushed to neighborhoods that are further and further away from job opportunities and essential services like hospitals and supermarkets<sup>3</sup>.

Some reasons for this problem are:

- Source-of-Income Discrimination: Many low-income households may seek to pay rent with a housing voucher from the government or a local agency. Currently, the Lincoln Housing Authority has over 3,300 households waiting to receive a voucher,<sup>4</sup> and of those who obtain one, about 1 in 4 fail to find a property that will accept it, regardless of the applicant’s other qualifications.<sup>5</sup>
- Lack of variety in new construction: Not enough new housing is being added to the market for people with lower incomes. Over the next six years, Lincoln needs to triple the rate at which affordable units are built to keep up with demand.<sup>6</sup>
- Economic pressures: The largest provider of affordable housing in Lincoln is the private market; however, due to mounting economic pressures like higher property taxes and insurance rates, inflation, and increased labor and material costs, many “mom & pop” landlords are either forced to sell their properties to large corporations or raise rents.<sup>7</sup> These rising rents have led to economic strains on tenants, with evictions in Lancaster County increasing by 40% from 2020 to 2023.<sup>8</sup> In addition, service agencies like the Lincoln Housing Authority are not

<sup>1</sup> “Lincoln, Nebraska (NE) Income Map, Earnings Map, and Wages Data.” Accessed April 7, 2024.

<https://www.city-data.com/income/income-Lincoln-Nebraska.html>.

<sup>2</sup> “Impact Fees - Low and Moderate Income Housing.” City of Lincoln. Accessed April 7, 2024.

<https://www.lincoln.ne.gov/City/Departments/LTU/Transportation/ROW-Services/Impact-Fees/Low-and-Moderate-Income-Housing>. \$40,000 is equal to 60% of the area median income for a single-person household. While the Coordinated Action Plan explicitly states that Lincoln doesn’t have enough affordable homes for those making less than \$25,000/year, interviews and market research into recent housing developments indicate that those with slightly higher incomes are also not being served.

<sup>3</sup> Interview with Chelsea Egenburger of NeighborWorks, December 21, 2023.

<sup>4</sup> “Five-Year Strategic Plan FY 2023-2027 For HUD Entitlement Programs Beginning September 1, 2023.” City of Lincoln, September 30, 2023.

[https://www.lincoln.ne.gov/files/sharedassets/public/v/1/urban-development/docresources/hud/2023\\_2027-city-of-lincoln-consolidated-plan-and-ap-drat3-v1-060223.pdf](https://www.lincoln.ne.gov/files/sharedassets/public/v/1/urban-development/docresources/hud/2023_2027-city-of-lincoln-consolidated-plan-and-ap-drat3-v1-060223.pdf), p. 60

<sup>5</sup> Collective Impact Lincoln. “Proposals for Reform in Lincoln.” *Civic Nebraska*, June 28, 2021.

<https://www.civicnebraska.org/speakup/proposals-for-reform-in-lincoln/>.

<sup>6</sup> City of Lincoln, Nebraska. “Affordable Housing Coordinated Action Plan,” December 21, 2020.

<https://www.lincoln.ne.gov/files/sharedassets/public/v/2/urban-development/lincoln-affordable-housing-coordinated-action-plan.pdf>, p. 9. Of the 11,859 units constructed between 2014-2020, only 13% were affordable for those making 60% or less of the area median income.

<sup>7</sup> Interview with Lynn Fisher of the Real Estate Owners and Managers Association, January 23, 2024.

<sup>8</sup> Alan Dugger, Managing Attorney of Lincoln’s Tenant Assistant Project at the Housing & Food Insecurity Panel at Horizons Community Church, March 3, 2024.

receiving enough aid from the state and federal government to compensate for increased demand.

## The Research

As reported in Lincoln's Affordable Housing Coordinated Action Plan and as heard in the over 80 listening sessions held by Justice in Action leaders in the fall of 2023, the lack of affordable housing negatively impacts a broad section of Lincoln and Lancaster County.<sup>9</sup> As our affordable housing research team began meeting with community stakeholders, we heard:

"I see a crisis in the rental market, with an unmet need for one bedroom apartments for \$500 or less/month. And there's a particular need for affordable rentals for larger families who are often refugees or immigrants unable to afford the places they're settled in after their 90-day benefits end."<sup>10</sup>

"At the Homeless Coalition, we see a need for homes in the range of \$400/month for a single person or \$1000/month for a family. With our coordinated entry process, we used to be housing seven to eight families per week and now we're lucky to house one."<sup>11</sup>

"As a landlord, the largest group I see struggling are people over 65 on fixed incomes who haven't saved enough to keep up with the cost of living. We have older tenants who have been good tenants for years who are suddenly under water."<sup>12</sup>

"Section 8 Vouchers are the number one way to help people afford rent, but many landlords straight up won't accept them. The biggest reason I hear from them is that they believe low-income individuals won't be good tenants- it comes down to stigma and often racism."<sup>13</sup>

One of the top ten takeaways from Lincoln's *Affordable Housing Coordinated Action Plan* is that "by 2030, Lincoln will need 5,000 rental units affordable to the lowest income households. Of the 17,000 additional units, 5,000 of those units will need to rent below \$1000 a month."<sup>14</sup> Renters and owners alike report feeling the effects of the affordable housing problem. The *Action Plan* also reports that "Regardless of whether they were owner or renter households, over 65% of respondents interested in moving felt they could not find their preferred housing type. Both owners and renters felt strongly that they could not find their preferred housing type; however, renters, many of them looking to buy, felt this more acutely."<sup>15</sup> This impacts not only those households but also the local economy, as people

<sup>9</sup> City of Lincoln, Nebraska. "Affordable Housing Coordinated Action Plan," December 21, 2020.

<https://www.lincoln.ne.gov/files/sharedassets/public/v/2/urban-development/lincoln-affordable-housing-coordinated-action-plan.pdf> p. 32

<sup>10</sup> Interview with Chelsea Eggenburger of NeighborWorks Lincoln, December 21, 2023.

<sup>11</sup> Interview with Melissa Ripley of the Lincoln Homeless Coalition, January 8, 2024.

<sup>12</sup> Interview with Brent Luetchens of Iron Oaks Properties, January 26, 2024.

<sup>13</sup> Interview with Chelsea Eggenburger of NeighborWorks Lincoln, December 21, 2023.

<sup>14</sup> City of Lincoln, Nebraska. "Affordable Housing Coordinated Action Plan," December 21, 2020.

<https://www.lincoln.ne.gov/files/sharedassets/public/v/2/urban-development/lincoln-affordable-housing-coordinated-action-plan.pdf> p. 9

<sup>15</sup> City of Lincoln, Nebraska. "Affordable Housing Coordinated Action Plan," December 21, 2020.

<https://www.lincoln.ne.gov/files/sharedassets/public/v/2/urban-development/lincoln-affordable-housing-coordinated-action-plan.pdf> p. 47

moving into new homes, particularly first-time home buyers, stimulate the economy through consumption. It also increases the likelihood that residents will leave Lincoln and Lancaster County in search of desirable housing in other communities.

Statements and statistics like these led the research team to decide to focus on the rental market, where Lincoln and Lancaster County's lowest income and most vulnerable individuals compete for a limited number of safe, available, and affordable units. Housing Choice, or Section 8, vouchers serve as a valuable tool to make quality homes available to those living on low incomes. Initially, the team sought to understand why fewer and fewer landlords are accepting these vouchers, and then, in a panel interview hosted by Horizon's Community Church with the University of Nebraska College of Law's Tenant Assistance Project (TAP), a deeper problem related to these vouchers was brought to light. According to their website,

"The Tenant Assistance Project officially launched in April 2020, as the state's first moratorium on eviction was set to expire. Prior to the Tenant Assistance Project, tenants would arrive at court unrepresented and often agree to an immediate eviction because they couldn't navigate the legal process themselves. Now, when tenants arrive for their hearing, they are greeted by a team of volunteers ready to help, and in nearly 98% of the cases, the tenant is able to avoid immediate eviction."<sup>16</sup>

Alan Dugger, Managing Attorney of Lincoln's Tenant Assistant Project, shared that:

"1 in 5 of those being served by the Tenant Assistance Project have a housing voucher. Getting evicted means they'll lose their voucher."<sup>17</sup>

And the statistics related to who faces eviction in Lancaster County Court, regardless of their voucher status, are even more concerning:

"28% of those represented by TAP in eviction court are Black and Indigenous People of Color, groups who make up just 5% of Lancaster County's general population."<sup>18</sup>

"67% of those TAP represented were considered extremely low-income, making 30% or less of the area median income."<sup>19</sup>

"In 2023, 1,309 children faced eviction in Lancaster County."<sup>20</sup>

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<sup>16</sup> "Tenant Assistance Project | Nebraska College of Law." Accessed April 7, 2024.

<https://law.unl.edu/tenant-assistance-project/>.

<sup>17</sup> Alan Dugger, Managing Attorney of Lincoln's Tenant Assistant Project at the Housing & Food Insecurity Panel at Horizons Community Church, March 3, 2024.

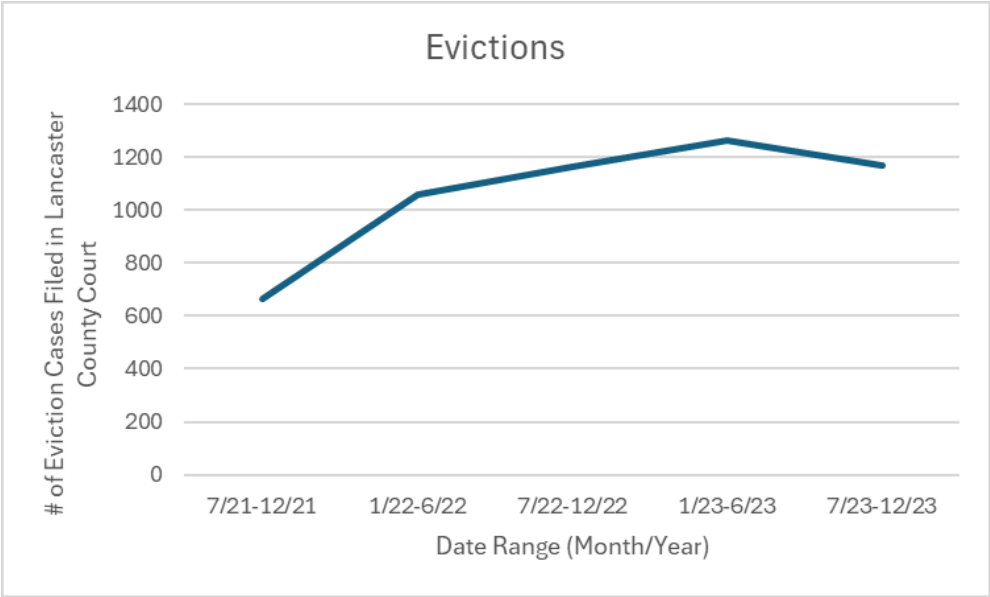
<sup>18</sup> Interview with Kaitlyn Evans and Rachel Tomlinson Dick of Housing Justice Clinic at the University of Nebraska College of Law (HJC), March 11, 2024.

<sup>19</sup> Interview with Kaitlyn Evans and Rachel Tomlinson Dick of the Housing Justice Clinic at the University of Nebraska College of Law (HJC), March 11, 2024.

<sup>20</sup> World-Herald, Lauren Wagner Omaha. "Mom, What Are We Gonna Do?": Evictions Take Toll on Nebraska Children, Disrupt Schools." JournalStar.com, March 6, 2024.

[https://journalstar.com/news/state-regional/education/mom-what-are-we-gonna-do-evictions-take-toll-on-nebraska-children-disrupt-schools/article\\_b84d1818-5ca4-5544-9bb5-802fb5a9a778.html](https://journalstar.com/news/state-regional/education/mom-what-are-we-gonna-do-evictions-take-toll-on-nebraska-children-disrupt-schools/article_b84d1818-5ca4-5544-9bb5-802fb5a9a778.html).

Data from the Supreme Court of Nebraska shown below<sup>21</sup> indicates that evictions have been on the rise in Lancaster County over the last three years, with 2021’s particularly low numbers due in large part to the CDC’s pandemic-related eviction moratorium that was terminated by Supreme Court action on August 26, 2021.<sup>22</sup>



Evictions impact more than just those individuals who are forced to leave their homes with just a few days notice. Matthew Desmond, author of *Evicted*, writes:

“Residential stability begets a kind of psychological stability, which allows people to invest in their home and social relationships. It begets school stability, which increases the chances that children will excel and graduate. And it begets community stability, which encourages neighbors to form strong bonds and take care of their block.”<sup>23</sup>

Eviction is the opposite of residential stability, and its negative impacts are felt right here in Lincoln and Lancaster County. A March 6, 2024 article for the *Lincoln Journal Star* profiles a Lincoln family with three young children facing eviction. The mother, Megan McCaul, said,

“Her son who has autism has a plan at school that rates his behavior on a percentage scale. He often gets 100% scores, but after she received her most recent eviction letter, he dropped to 76%...The Lincoln mom of three — with another on the way — said she’s only been evicted once. But she’s received seven of those letters since 2017, McCaul said, and each time her children’s stress spikes and their behavior changes. ‘The behaviors are changing because that

<sup>21</sup> State of Nebraska Judicial Branch. “Publications & Reports | Eviction Proceedings.” Accessed April 7, 2024. [https://supremecourt.nebraska.gov/administration/publications-reports?field\\_publication\\_report\\_type\\_target\\_id%5B%5D=467](https://supremecourt.nebraska.gov/administration/publications-reports?field_publication_report_type_target_id%5B%5D=467).

<sup>22</sup> Sullivan, Ryan. “Examination of Eviction Filings in Lancaster County, Nebraska, 2019–2021,” n.d.

<sup>23</sup> Desmond, Matthew. *Evicted: Poverty and Profit in the American City*. New York: B/D/W/Y Broadway Books, 2017., p. 296

consistency is gone,' McCaul said. 'Because now I have to focus somewhere else, instead of on our normal routine.'"<sup>24</sup>

While free legal representation has proven to be a successful intervention in preventing evictions that require tenants to vacate their homes immediately, members of the Housing Justice Clinic (HJC) at the University of Nebraska College of Law suggested to us that a more proactive approach would be pre-eviction mediation, which, they said, could result in better outcomes for both landlords and tenants.

Writing for Avail, a company that claims to "offer the only end-to-end platform that helps landlords scale from beginner to professional with tools, support, and education,"<sup>25</sup> Casey Schwab, JD, notes that from a landlord's perspective, "Statistics show that resolving a single dispute outside of court, as opposed to going to trial, is the most business rational choice from an economic perspective. This is due to the unpredictability of court, the time-value of money, and the sheer inefficiency of eviction courts."<sup>26</sup> Mediation helps responsible landlords save time and money.

Pre-eviction mediation not only serves the interests of landlords with negligent tenants, but also tenants with negligent landlords. As TAP team members with the HJC told us, "There are people facing eviction who have legitimate grievances that could make not paying rent a reasonable action, but because eviction cases move so fast, there's not time to address those. Mediation would be much better. It could catch landlords who aren't doing maintenance or who have code violations. Right now, even if a landlord isn't following the law or upholding their end of a lease, if a tenant doesn't pay, the landlord can still evict them."<sup>27</sup> Mediation provides tenants with an equal chance at legal protection.

According to the National Center for State Courts,

"Eviction diversion programs [which in many cases include mediation] provide landlords and tenants with time, information, and resources to resolve their housing problems outside of the traditional litigation process...By moving services upstream, parties have the potential to resolve their issues quickly and affordably. The housing provider can avoid paying filing fees and attorney's fees, and the tenant does not risk the negative consequences associated with having an eviction filing attached to their name. Pre-filing resolution also reduces the burden on the court system, preserving court resources for the landlord-tenant disputes that most require their attention."<sup>28</sup>

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<sup>24</sup> World-Herald, "'Mom, What Are We Gonna Do?'" JournalStar.com, March 6, 2024. [https://journalstar.com/news/state-regional/education/mom-what-are-we-gonna-do-evictions-take-toll-on-nebraska-children-disrupt-schools/article\\_b84d1818-5ca4-5544-9bb5-802fb5a9a778.html](https://journalstar.com/news/state-regional/education/mom-what-are-we-gonna-do-evictions-take-toll-on-nebraska-children-disrupt-schools/article_b84d1818-5ca4-5544-9bb5-802fb5a9a778.html).

<sup>25</sup> Avail, part of the Realtor.com network. "About Avail | Avail." Accessed April 8, 2024. <https://www.avail.co/about>.

<sup>26</sup> JD, Casey Schwab. "Landlord Tenant Mediation: A Modern Approach to Tenant Issues." *Avail* (blog), January 19, 2016. <https://www.avail.co/education/articles/landlord-tenant-mediation-a-modern-approach-to-tenant-issues>.

<sup>27</sup> Interview with Kaitlyn Evans and Rachel Tomlinson Dick of the Housing Justice Clinic at the University of Nebraska College of Law (HJC), March 11, 2024.

<sup>28</sup> National Center for State Courts (NCSC). "Eviction Diversion Considerations – Timing and Entry Points." Accessed April 7, 2024. <https://cdm16501.contentdm.oclc.org/digital/collection/ctcomm/id/296>.

Mediation is best conducted before an eviction is ever filed. A study comparing pre- and post-filing eviction mediation cases in Hawaii found that “tenant-landlord mediations held before a landlord filed for eviction were far more successful at reaching a settlement than mediations that were held after a landlord already filed for an eviction. Eighty-seven percent of pre-litigation mediation cases were settled, compared to 52% of post-litigation cases during the pandemic and 47% of pre-pandemic, post-litigation cases.”<sup>29</sup>

While pre-eviction mediation has the potential to help all landlords and tenants experiencing disputes or other circumstances that could lead to eviction, it particularly stands to prevent voucher-holders from getting an eviction on their record and losing that voucher at a time when it is so difficult to find a landlord who will accept one in the first place. Admittedly, pre-eviction mediation does not increase the number of affordable homes on the market or affordable apartments available for rent, which is a critical need in Lincoln and Lancaster County. It can, however, keep people in their homes, and contribute to stability for both tenants, landlords, and neighborhoods. Given the demographics of those facing eviction in Lancaster County it also stands to positively impact the most marginalized in our community, especially children and People of Color.

As acknowledged in Lincoln’s *Affordable Housing Coordinated Action Plan*, “Multiple factors influence the cost of housing and the ability to produce affordable housing; therefore, multiple partners will have to be called upon to address housing needs.”<sup>30</sup>

With the recognition that pre-eviction mediation will not solve all of Lancaster County’s affordable housing problems but that it *will* positively impact the housing stability of the most vulnerable among us, Justice in Action recommends the following:

### **Proposed Solution**

To increase housing stability by supporting a pre-filing eviction mediation program. Mediation serves both renters and owners<sup>31</sup> by providing equal opportunities for both landlords and tenants to avoid instability and costly evictions.

### **Further Recommendations and Areas for Research**

- This program could be designed in partnership with the National Center for State Courts, which has developed a diagnostic tool to determine the level of eviction diversion most appropriate

<sup>29</sup> <https://nlihc.org/resource/research-demonstrates-importance-holding-tenant-landlord-mediation-prior-eviction>

<sup>30</sup> City of Lincoln, Nebraska. “Affordable Housing Coordinated Action Plan,” December 21, 2020.

<https://www.lincoln.ne.gov/files/sharedassets/public/v/2/urban-development/lincoln-affordable-housing-coordinated-action-plan.pdf> p. 9

<sup>31</sup> “Landlord Tenant Mediation”, *Avail*

<https://www.avail.co/education/articles/landlord-tenant-mediation-a-modern-approach-to-tenant-issues>

for diverse state and local courts and, in addition, offers free consultation.<sup>32</sup> Furthermore, models such as those from Philadelphia, PA<sup>33</sup> and Johnson County, KS<sup>34</sup> should be explored.

- This program could potentially be funded using the “in-lieu” of contributions made to the City of Lincoln by developers who receive Tax Increment Financing (TIF) for new developments but opt not to include any affordable housing units in their development.<sup>35</sup> While the method for determining the amount of those contributions and their use once held by the city remains unclear, the Department of Urban Development who wrote the city’s TIF guidelines should be consulted and encouraged to collaborate with other community stakeholders to make pre-eviction mediation possible.

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<sup>32</sup> NCSC. “Eviction Diversion Planning,” January 20, 2022.

<https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/eviction-diversion-diagnostic-tool/eviction-diversion-planning>.

<sup>33</sup>PHL Eviction Diversion,” <https://eviction-diversion.phila.gov/#/>

<sup>34</sup> “Johnson County Court extends eviction mediation program to settle disputes, decrease homelessness,” April 9, 2024. <https://mediate.com/news/johnson-county-court-extends-eviction-mediation-program-to-settle-disputes-decrease-homelessness/>

<sup>35</sup> City of Lincoln, “Tax Increment Financing Policy Guidelines, 2022.” Accessed April 7, 2024.

<https://www.lincoln.ne.gov/files/sharedassets/public/v/1/urban-development/redevelopment/tif-policy-revised-2022-final.pdf>