M E M O R A N D U M

TO:	Mayor and Council Members
FROM:	José G. Roig, Director, Austin Code Department
DATE:	November 15, 2022
SUBJECT:	Department Response to the Office of the City Auditor Recommendation Number Three of October 2020 Repeat Offender Program Audit

The purpose of this communication is to provide an update on actions underway by the Austin Code Department (ACD) in response to Recommendation Three in the *2020 Austin Code Department Repeat Offender Program Audit*:

> In order to improve Repeat Offender Program outcomes, the Director of the Austin Code Department should work with the City Law Department and City Council to revise the Repeat Offender Program ordinance. Revisions to the ordinance should include consideration of:
>
> a. Redesigning Austin's Repeat Offender Program to require full rental registration across the City;
> b. Renaming Austin's Repeat Offender Program;
> c. Proposing an alternate fee schedule that accurately reflects the difference in workload and greater costs incurred to enforce the Repeat

Consideration of Renaming the Program

At the recommendation of the auditor and stakeholder groups, ACD has made the decision to rename the program. This will not require Council action or changes to the existing ordinance. However, the department will delay renaming the program until any potential program modifications are finalized, which will allow the program name to adequately reflect the program inclusions. The department will re-engage stakeholder groups as part of the process for program renaming.

Considerations of Proposing Alternative Fee Schedule and Full Rental Registration

ACD took the following steps in response to the audit recommendations to consider proposing an alternative fee schedule and to consider redesigning the program to require full rental registration:

*   Conducted a comprehensive public input process to gather feedback on potential changes to the Repeat Offender Program (ROP), including to program fees and the possibility of requiring full rental registration.

- Initiated discussions with program stakeholders about potential revisions to the current ordinance and modifications to the current program, including changes to program fees and the possibility of requiring full rental registration.

- Reviewed recommendations from program stakeholders and public input with the City Law Department in relation to changes to program fees and the possibility of requiring full rental registration.

- Researched rental registration programs in Texas cities and cities outside of Texas.

Public Input

ACD elicited feedback from the public by:

- Conducting a survey that was live for participation for ninety-one (91) days and made available in English, Spanish, Simplified Chinese, Vietnamese, and Arabic.

- Gathering in-person survey responses from tenants of properties on the Repeat Offender Program with the assistance of Austin Code neighborhood liaisons.

- Promoting the survey online through:
  - A bilingual press release distributed to media contacts via a mass email client, which led to an interview and story with Spectrum News and the release being published by two news outlets, FOX 7 and the Austin Monitor.
  - Social media advertisements through Twitter, Instagram, Facebook, and NextDoor which had a combined reach of over 109,983 Austin residents.
  - Radio advertisements in English and Spanish on La Zeta and Lucy Radio stations.
  - Online pop-up ads.
  - Flyers at local libraries.
  - Mass email communications to contacts in the City of Austin's Community Registry of neighborhood associations and community groups.
  - Email invitations to key stakeholders to participate in the survey.

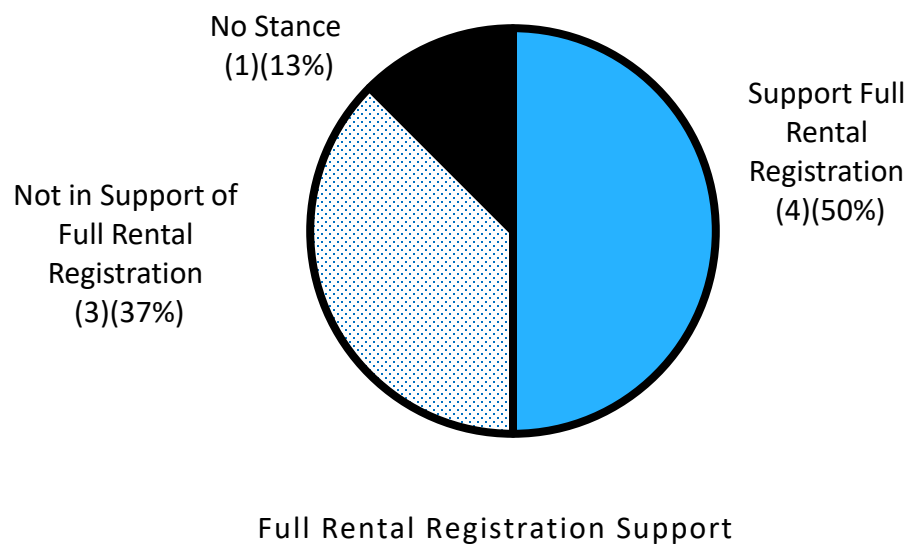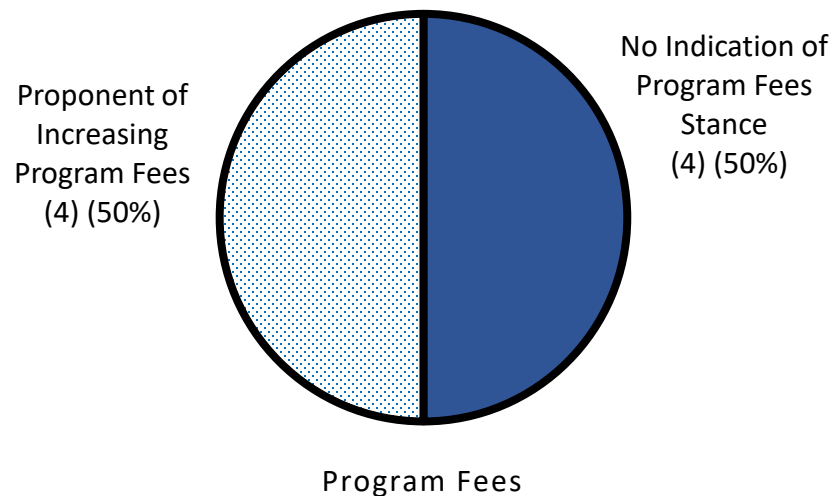More than 1,250 responses to the survey were collected through the public input initiative, and:

- 60% of the respondents self-reported as tenants.
- 52% of the respondents were in favor of full rental registration.
- 76% of the respondents were in favor of periodic inspections.
- 75% of the respondents were in favor of prioritizing tenant feedback.

Program Stakeholder Engagement

ACD met with eight stakeholder groups:

- Austin Apartment Association
- Austin Board of Realtors (ABoR)
- Austin Tenants Council
- Austin Women in Housing
- Building and Strengthening Tenant Action (BASTA)
- HousingWorks Austin
- Tenant Advocates Defending Healthy Housing (TADHH)
- TI Communities

Feedback related to fees and full rental registration is summarized in the following charts:

Proponent of Increasing Program Fees (4) (50%)

No Indication of Program Fees Stance (4) (50%)

Program Fees

_____

No Stance (1)(13%)

Not in Support of Full Rental Registration (3)(37%)

Support Full Rental Registration (4)(50%)

Full Rental Registration Support

As the above charts demonstrate, there was not consensus among the stakeholder groups on fees or on whether the department should implement a full rental registration program. However, all stakeholder groups the department met with did share consensus about the following:

- The department should hold property owners and property managers accountable who are continually out of compliance with City Code and are putting tenants at risk.

- Tools and approaches should be identified for getting properties off the Repeat Offender Program faster.

- The department should increase education, outreach, and visibility at properties.

Additionally, Austin Code met with the Office of Civil Rights, the Equity Office, and the Housing and Planning Department to gain additional perspective.
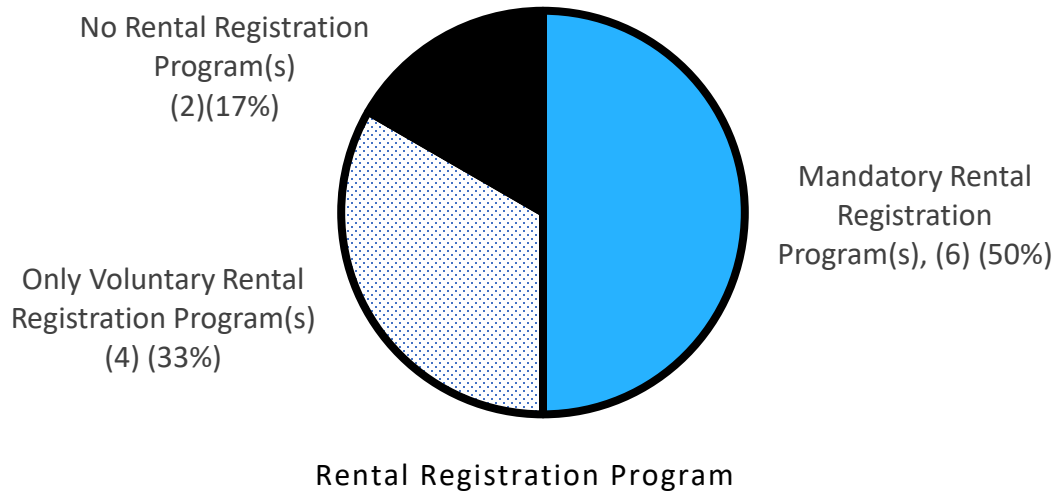
City Research

ACD researched a total of twenty-six cities: twelve Texas cities and fourteen cities outside of Texas. ACD confirmed that all cities with mandatory registration programs do collect fees, however; the fees collected do not cover the cost of service. This results in the programs being funded by the general fund.

Although ACD reached out to all twenty-six researched cities to obtain evidence of program success for mandatory full rental registration programs, ACD was not able to identify a single study to indicate program success of full rental registration in any of the cities researched.

Furthermore, of the fourteen cities outside of Texas:

- Five of the cities confirmed they have never had any type of rental registration program.

- One of the cities has only had a voluntary program.

- Eight indicated that they have had mandatory registration programs, but either did not respond to our requests to gather success metrics; or confirmed they have never formally evaluated their programs to measure success.

Of the twelve Texas cities researched, only half of the cities have mandatory rental registration programs. See chart below:

No Rental Registration Program(s) (2)(17%)

Only Voluntary Rental Registration Program(s) (4) (33%)

Mandatory Rental Registration Program(s), (6) (50%)

Rental Registration Program

Mandatory Rental Registration Program(s)	Only Voluntary Rental Registration Programs	No Rental Registration Program(s)
• Arlington • Dallas • Ft. Worth • Houston • Lewisville • Richardson	• Hurst • Plano • Mesquite • Sugarland	• San Antonio • Irving

Of the six Texas cities researched that have mandatory rental registration programs, five of the cities confirmed they have never formally evaluated their programs. Only one Texas city researched, Houston, confirmed there has been a formal evaluation of their mandatory registration program. However, they did not respond to ACD's request to provide the evaluation information.

Conclusion
Renaming of the Program
The program will be renamed once program changes are defined and implemented.

Alternative Fee Schedule
The current fee structure only captures the cost of the registration process and does not attempt to capture any proactive inspection costs incurred as a result of the current ordinance. ACD recommends pursuing an alternate fee structure that includes a per unit cost as part of the registration requirement. This structure will better reflect the true costs of the program and creates a more equitable fee structure, as larger properties will pay a larger sum in comparison to smaller properties.

It is important to understand that any fee proposal cannot exceed the cost of service for the program. Additionally, program fees cannot be designed to serve a punitive function. Austin Code will work with the Law Department and the Budget Office to design and implement a new fee structure for the FY2024 budget.

Full Rental Registration
In response to the Auditor's recommendations to consider requiring full rental registration across the city, the department gathered public input, engaged stakeholders, and performed research to aid the consideration of this recommendation.

After considering public input data and stakeholder engagement feedback, ACD has decided not to pursue full rental registration at this time because there is not significant evidence to indicate mandatory full rental registration program success (see City Research on page 4), and because the department is not presently resourced to successfully implement such a program.

Should Council provide direction to pursue a full rental registration program, Austin Code recommends engaging an outside research vendor to help identify success metrics and support with the design of what the Austin program should include.

Next Steps
ACD will work with the law department to prepare a draft ordinance. ACD anticipates bringing this forward for Council's consideration in early 2023. Some of the department's proposed changes to the ordinance and program will include:

- Modifications to the current 2-5-2 criteria language to create a tiered structure to account for property size. The current 2-5-2 criteria requires enrollment in the rental registration for multi-family and single-family rental properties (not occupied by the owner) if they have received the following within 24 consecutive months at the same property:
  - 2 – Two or more separate notices of violation not corrected within the allotted time
  - 5 – Five or more separate notices of violation—of any type—issued on separate days regardless of whether they were corrected or not
  - 2 – Two or more citations
- Expanding the reach of the suspension process, to include mandatory minimum lengths based on the number of suspensions.
- Examining and modifying the criteria for violations that qualify a property to be included on the program to account for the reasonable responsibility of the property owner for violations.
- Expanding the new owner clause timeline, allowing for extended time frames for new owners to resolve repairs and account for supply chain issues.
- Develop new fee calculation to account for the size of the property.

Should there be any questions, concerns, or recommendations for Austin Code in this regard, or if additional details are needed, please contact Assistant Director Daniel Word at 512-974-6559 or Daniel.Word@austintexas.gov.

cc: Spencer Cronk, City Manager

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