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Olympia Duhart

Nova Southeastern University - Shepard Broad Law Center, duhart@nsu.law.nova.edu

Eloisa C. Rodriguez-Dod

Nova Southeastern University - Shepard Broad Law Center

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EVALUATING KATRINA: A SNAPSHOT OF RENTERS' RIGHTS FOLLOWING DISASTERS

ELOISA C. RODRIGUEZ-DOD* AND OLYMPIA DUHART**

I. INTRODUCTION

Two years after Hurricane Katrina laid waste to the Gulf Region,¹ it is hard, if not impossible, for many people to return home. The powerful storm decimated parts of Mississippi, Alabama, and Louisiana.² It also displaced a record number of men, women, and children with some estimates as high as 800,000.³ Among those displaced, renters face additional difficulties. Renters, who comprise almost half of those displaced by Hurricane Katrina,⁴ are often last in line for government benefits and other assistance. Moreover, the hostility to renters' rights that continues to pervade the community after Katrina created additional obstacles for low-income renters attempting to

* Professor of Law, Nova Southeastern University, Shepard Broad Law Center; B.B.A., University of Miami; M.B.A., Florida International University; J.D., University of Miami. I express my gratitude to Warren Friedman for his assistance and contribution.

** Assistant Professor of Law, Nova Southeastern University, Shepard Broad Law Center; B.A. University of Miami; J.D., Nova Southeastern University. I thank Nicholas Seidule for his excellent work on this project.

1. The hurricane made landfall in Louisiana on August 29, 2005. Elisabeth Bumiller, *In New Orleans, Bush Speaks With Optimism but Sees Little of Ruin*, N.Y. TIMES, Jan. 13, 2006, at A12.

2. *FEMA's Manufactured Housing Program: Haste Makes Waste Before the Comm. on S. Homeland Sec. and Gov'tal Affairs*, 109th Congress (2006) (statement of Richard L. Skinner, Inspector General, U.S. Dept. of Homeland Sec).

3. About 1.5 million people were directly affected by Hurricane Katrina, and more than 800,000 people were forced to live outside of their homes. Department of Homeland Security, *Hurricane Katrina: What Government is Doing*, http://www.dhs.gov/xprepresp/programs/gc_1157649340100.shtm (last visited May 11, 2007) [hereinafter *What Government is Doing*].

4. In New Orleans, 55 percent of the housing units affected were rental units. National Low Income Housing Coalition, Preliminary Estimate 9-22-05, *Hurricane Katrina's Impact on Low Income Housing Units Estimated 302,000 Units Lost or Damaged, 71% Low Income*, <http://nlihc.org/doc/05-02.pdf> (last visited May 11, 2007) [hereinafter *National Low Housing Coalition*]. Forty-seven percent of the housing units in the entire Katrina-affected area were rental units. *Id.* By some estimates, almost 84,000 rental units were destroyed or heavily damaged by Katrina and the ensuing flood. Susan Saulny & Gary Rivlin, *Little Aid Coming to Displaced New Orleans Renters; Homeowners are Seeing Lion's Share of Post-Katrina Help*, N.Y. TIMES, Sept. 17, 2006, at 1.14; see also The Road Home Program, The Small Rental Property Program, <http://www.road2la.org/rental/default.htm> (last visited July 8, 2007) (stating that nearly 82,000 rental housing units received major damage or severe damage during Hurricanes Katrina and Rita).

resettle in the area.⁵ Further, even one-time homeowners have been forced to turn to rental housing⁶ as the long, slow recovery assistance process works its way through the region.

The difficulties facing renters in the New Orleans region after the storm are emblematic of the difficulties facing many “evacuees” who are forced to find temporary housing following a disaster. The staggering increase in disasters and catastrophes worldwide has led to a burgeoning transient population.⁷ “Hurricanes, tornados, forest fires, tsunamis, flooding, earthquakes and even terrorist attacks are destroying homes and livelihoods and displacing many families.”⁸

Among the obstacles for renters in the New Orleans region are the scarcity of land on the south shore of Lake Pontchartrain,⁹ increases in labor and material costs for repairs,¹⁰ higher insurance,¹¹ infrastructure uncertainty,¹² rental property inflation,¹³ uncertainty over flood protection,¹⁴ zoning restric-

5. See People’s Hurricane Relief Fund and Oversight Coalition, Tenants Rights Working Group, www.peopleshurricane.org (last visited July 8, 2007). The group targets local and federal officials to meet a list of tenant demands to protect the rights of renters impacted by Hurricane Katrina. *Id.*

6. Eric Dash & David Leonhardt, *Invasion of Reluctant Renters; So Many Evacuees and, Luckily, So Many Apartments in Cities of Refuge*, N.Y. TIMES, Sept. 16, 2005, at C1. Immediately following the storm, federal officials estimated that between 400,000 to one million people from the Gulf Region scattered across the nation in search of housing, “perhaps the country’s largest single migration since the Civil War.” *Id.* In New Orleans, scores of homeowners were forced to find temporary housing within the state while they waited for their house to be repaired or for the flooding to abate. *Id.*

7. Warren Friedman, *Denial of Housing to Renters Because of Criminal Background 1* (Nov. 8, 2006) (unpublished comment, on file with author).

8. *Id.*

9. THE ROAD HOME RENTAL HOUSING PROGRAM: CONSEQUENCES FOR NEW ORLEANS 11 (2006), http://www.bgr.org/Consequences_for_N.O._090516.pdf [hereinafter THE ROAD HOME]. The City of New Orleans is located on subsiding swampland on the delta of the Mississippi River. See SELECT BIPARTISAN COMM. TO INVESTIGATE THE PREPARATION FOR AND RESPONSE TO HURRICANE KATRINA, 109TH CONG., A FAILURE OF INITIATIVE 51 (2006), http://www.katrina.house.gov/full_katrina_report.htm [hereinafter A FAILURE OF INITIATIVE]. The city’s average elevation is six feet below sea level. *Id.*

10. THE ROAD HOME, *supra* note 9, at 11.

11. HUD Approves \$4.2 B for Louisiana’s “Road Home” Rebuilding Program, USA TODAY, July 11, 2006.

12. THE ROAD HOME, *supra* note 9, at 11.

13. *Id.* “It is not uncommon for apartments in the French Quarter to rent at rates three times higher than before Katrina.” Darryl Lorenzo Wellington, *New Orleans: A Right to Return?*, DISSENT, Fall 2006, <http://www.dissentmagazine.org/article/?article=695&print=1>.

14. THE ROAD HOME, *supra* note 9, at 11.

tions,¹⁵ and criminalization.¹⁶ Some of these problems can serve as a “snapshot” of sorts for the obstacles for renters who must find housing following a temporary, unforeseen displacement.

Part II of this article¹⁷ discusses legislation and attempted legislation impacting renters after Hurricane Katrina. Part III addresses the increase of rent after disasters and a suggested control. Part IV discusses the manner in which criminal backgrounds determine rental options following disasters. Lastly, Part V concludes with a call for the need to focus on reforms to address the housing crisis for renters during emergency situations.

II. RESTRICTIONS ON RENTERS: HITS AND MISSES

In the field of legislation concerning rental properties after Katrina, there have been some near hits and misses. Remarkably, some local lawmakers erected barriers, rather than relief, for the already embattled renters. One particularly egregious example of a legislative impediment to rental repatriation is St. Bernard Parish Code #670-09-06.¹⁸ Passed by the St. Bernard Parish Council in September 2006, the local ordinance placed a rental restriction on single family residences that prohibited landlords from renting to anyone other than blood relatives.¹⁹ The ordinance stated:

No person or entity shall rent, lease, loan, otherwise allow occupancy or use of any single family residence located in an R-1 zone by any person or group of persons, other than a family members(s) related by blood within the first, second or third direct ascending or descending generation(s), without

15. See discussion regarding Ordinance #670-09-06 *infra* section II and accompanying notes.

16. See discussion regarding the impact of criminal convictions on rental housing *infra* section IV and accompanying notes. Furthermore, the term “criminalization” in this paper is being used in a slightly different connotation than its dictionary meaning. It is being used expansively to refer to the criminal characterization of people who have either not gone through the justice system, or who are saddled with ancient, minor infractions.

17. This article includes in part material for a chapter originally written for REDEVELOPMENT AFTER A MAJOR DISASTER in the Law, Property, and Society book series of Ashgate Publishing (series editor, Robin Paul Malloy).

18. ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #670-09-06 (2006).

19. *Id.* The legislation did create an exception with Council approval. *Id.* In March 2006, the Parish originally approved an ordinance that placed a moratorium on single-family homes becoming rental properties “until such time as the post Katrina real estate market in St. Bernard Parish stabilizes.” ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #643-03-06 (2006). The ordinance under discussion here concerns an exception to the original moratorium.

first obtaining a Permissive Use Permit from the St. Bernard Parish Council.²⁰

The ordinance carried strict penalties. Violators were to be found guilty of a misdemeanor and subject to a fine “of not less than \$50.00 and not more than \$250.00 per day for each day of an un-permitted rental, lease, or occupancy of each property in violation” of the ordinance.²¹

The parish of St. Bernard also reserved the right to pursue civil remedies in the District Court of the parish against any person who allowed use of any property in violation of the ordinance, or anyone who occupied or used any property in violation of the ordinance.²² The St. Bernard Parish Council asserted that the ordinance was needed to “maintain the integrity and stability of established neighborhoods as centers of family values and activities . . .”²³

In its short, unhappy life, the ordinance quickly prompted a lawsuit grounded in challenges based on the Fair Housing Act of 1968,²⁴ 42 U.S.C. §1981, 42 U.S.C. §1982, 42 U.S.C. § 1983, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.²⁵ The plaintiff, the Greater New Orleans Fair Housing Action Center, Inc., (“GNOFHAC”) sought injunctive relief, declaratory judgment, and remedial relief.²⁶

20. ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #670-09-06 (2006).

21. *Id.* Each day of un-permitted occupancy of each property constituted a separate offense subject to a separate fine. *Id.*

22. *Id.*

23. *Id.* The ordinance was adopted by vote on September 19, 2006. ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #670-09-06 (2006). Five members of the council voted in favor of the ordinance; two members (including the chairman) voted against the ordinance. *Id.* Within one month, by its October 3, 2006 council meeting, the Parish was requesting a District Attorney opinion on the ordinance. See OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD ON TUESDAY, OCTOBER 3, 2006 1 (2006) <http://www.sbp.net/10-3-06minutes.doc> [hereinafter *October Minutes*].

24. See 42 U.S.C. § 3604(a) (2006). “The Fair Housing Act makes it unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, on the basis of race, color, religion, sex, familial status, national origin, or handicap.” 15 AM. JUR. 2D *Civil Rights* § 392 (2007).

25. The Equal Protection Clause states: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.” U.S. CONST. amend. XIV, § 1 (emphasis added).

26. Greater New Orleans Fair Hous. Action Ctr., Inc. v. St. Bernard Parish, Docket No. 2:06-CV-07185 (E.D.La. Telephone Conference Order, July 26, 2007). The Greater New

The basis for the civil rights complaint was rooted in the demographic composition of St. Bernard Parish, a community that sits a few miles east of downtown New Orleans.²⁷ St. Bernard Parish is overwhelmingly white.²⁸ Specifically, St. Bernard's population of 67,000 prior to Hurricane Katrina was nearly 90 percent white.²⁹ Among homeowners in the parish, there is a greater gulf between the black and white residents. White residents own 93 percent of all owner-occupied units in the parish.³⁰ Finally, minorities in the parish are disproportionately reliant on rental properties in the region: before the storm, nearly one in two black households in St. Bernard's and one in three Hispanic households in the parish were renters.³¹ By contrast, only one in four white households in St. Bernard were renters before the storm.³² The

Orleans Fair Housing Action Center ("GNOFHAC") argued that the council's enactment of the ordinance constituted "a practice and policy of housing discrimination on the basis of race and national origin." *Id.* It asserted that its injuries included interference with the organization's efforts to promote equal housing opportunity for its constituents, the depletion of resources needed to counter unlawful housing practices, and interference with the constituent's enjoyment of the benefit of living in an integrated community. *Id.* The GNOFHAC argued that the Fair Housing Act is violated "even when seemingly neutral zoning policies have a discriminatory effect on a particular protected class and cause harm to a community through the perpetuation of segregation." See Greater New Orleans Fair Housing Action Center, News Release: Fair Housing Center Files Suit Against St. Bernard Parish; Announces News Conference Regarding Lawsuit, Oct. 3, 2006, www.gnofairhousing.org (last visited July 8, 2007).

27. Louisiana Plans, Long Term Recovery Planning, St. Bernard Parish, <http://www.louisianaspeaks-parishplans.org/IndParishHomepage.cfm?EntID=13> (last visited May 14, 2007). St. Bernard Parish is located between the Mississippi River and Lake Borgne. *Id.* The Parish covers 465 square miles in land area. *Id.*

28. Billy Sothern, *A Question of Blood*, THE NATION, Mar. 27, 2007, <http://www.thenation.com/doc/20070409/sothern>.

29. According to pre-Katrina statistics from the U.S. Census Bureau, the 2000 Full-count Characteristics of St. Bernard Parish showed that the demographic break-down was 84.3 percent white, 7.6 percent black, and 5.1 percent Hispanic. GREATER NEW ORLEANS COMMUNITY DATA CENTER, ST. BERNARD PARISH: PEOPLE & HOUSEHOLD CHARACTERISTICS 2 (2006), http://www.gnocdc.org/st_bernard/people.html [hereinafter PEOPLE & HOUSEHOLD CHARACTERISTICS].

30. According to one report, "whites own virtually all single-family homes in the parish (93 percent according to 2000 census data)." Lawyer's Committee for Civil Rights Under Law, Press Release, St. Bernard Parish Agrees to Halt Discriminatory Zoning Rule, <http://www.lawyerscommittee.org/2005website/publications/press/press111306.html> (last visited July 8, 2007).

31. Michelle Chen, *Housing Watchdogs Call Post-Katrina Ordinance "Racist"*, THE NEW STANDARD, Oct. 6, 2006, <http://newstandardnews.net/content/index.cfm/items/3731>.

32. *Id.*

displacement caused by Hurricane Katrina in nearby New Orleans also boosted the minority population in need of rental housing.³³

In their suit, the challengers argued that the ordinances passed by the parish had the intent and effect of denying rental housing availability for minorities.³⁴ The ordinance effectively restricted the bulk of the single-family home rentals in the Parish to whites.³⁵ The challengers contended that the zoning restrictions operated to discriminate against minorities in the housing market.³⁶ Interestingly, a member of the St. Bernard Parish Council who had voted against the ordinance also asserted in a local column that the restriction was intended to keep blacks from moving to the parish.³⁷

Courts have long recognized *de facto* racial discrimination of legislation by examining the discriminatory intent and impact of such laws.³⁸ Disparate impact is measured by the discriminatory effect a challenged legislation will have on a protected class.³⁹ Discriminatory intent examines the purpose for which the challenged legislation was enacted.⁴⁰ Not only did the St. Bernard Parish ordinance disproportionately limit the rental access of minorities, but the stated reason for the ordinance was to preserve the “integrity” of the community, which was predominantly white.⁴¹

Not surprisingly, the ordinance was met with a barrage of media criticism and community complaints from both civic and watchdog groups.⁴² Because Katrina had effectively decimated St. Bernard Parish, the need for

33. “African Americans were more likely to be flooded, more likely to be displaced, less likely to be able to return . . .” Gary Younge, *New Orleans Forsaken*, THE NATION, Sept. 18, 2006, <http://www.thenation.com/doc/20060918/younge>.

34. Greater New Orleans Fair Hous. Action Ctr., Inc. v. St. Bernard Parish, Docket No. 2:06-CV-07185 (E.D.La. Telephone Conference Order, July 26, 2007).

35. *Id.*

36. *Id.*

37. A journalist characterized council member Lynn Dean as “eccentric, outspoken and white – like the rest of the members [of the council].” Sothern, *supra* note 28. Dean discussed the ignoble motives of the ordinance in his column in the *St. Bernard Parish Voice*. *Id.*

38. See *Yick Wo v. Hopkins*, 118 U.S. 356 (1886). In *Yick Wo*, the United State Supreme Court reversed a Chinese challenger’s conviction under a facially neutral San Francisco ordinance as a violation of equal protection. *Id.*

39. See *Palmer v. Thompson*, 403 U.S. 217 (1971). The Court found no evidence in the record to show that the challenged state action affected “blacks differently from whites.” *Id.* at 225.

40. See *Washington v. Davis*, 426 U.S. 229 (1976).

41. ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #670-09-06 (2006).

42. See, e.g., *Fair Housing Centers Files Suit*, *supra* note 26.

affordable housing in the area was paramount. In addition, critics say the ordinance was a thinly veiled pretext for discriminating against blacks.⁴³

Council members from St. Bernard Parish defended the ordinance as an effort to maintain owner-occupied houses and keep out speculators.⁴⁴ The council members said their concern was that speculators would buy low-cost damaged homes, make minimal repairs, and then rent them out, "which could depress home values in traditionally owner-occupied homes."⁴⁵

In a subsequent incarnation, the legislation re-emerged as Ordinance #697-12-06.⁴⁶ In its more diluted form, the new ordinance on the zoning restrictions regarding the rental of single-family residences removed the consanguinity restriction and instead imposed a Permissive Use Permit for anyone who wishes to rent, lease, loan, or otherwise allow occupancy of any single family residence in an identified zone.⁴⁷

The newer ordinance retains the criminal sanctions,⁴⁸ as well as the civil penalties⁴⁹ that could be imposed for violations. The ordinance also exempts single family residences that were rental properties before the enactment of the ordinance.⁵⁰

Another prospective piece of legislation, which would have actually served the rights of renters trying to relocate after the storm, never got the

43. "This racist ordinance needs to be declared unconstitutional and the leaders closely monitored until they repent or resign." Sothern, *supra* note 28 (quoting Letter to the Editor, TIMES-PICAYUNE (New Orleans)).

44. St. Bernard Parish Government, Parish Council Proposing Major Changes to Rental Property Ordinance, Steve Cannizaro, <http://www.sbpq.net/dec0506f.html> (last visited July 8, 2007).

45. *Id.*

46. The St. Bernard Parish amended the ordinance at its Council Meeting on Dec. 19, 2006. ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #697-12-06 (2006); see also OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD ON TUESDAY, DECEMBER 19, 2006 9 (2006) <http://www.sbpq.net/12-19-06minutes.doc> [hereinafter *December Minutes*].

47. ST. BERNARD PARISH COUNCIL, LA. ORDINANCE #697-12-06 (2006). The Permissive Use Permit requirement also requires that landlords make a prior application to the St. Bernard Parish Planning Commission for "review, evaluation and recommendation concerning the matter." *Id.*

48. The violation of the ordinance constitutes a misdemeanor, and is subject to a fine of not less than \$50 a day and not more than \$250 for each day of un-permitted rental, lease, or occupancy. *Id.*

49. Civil penalties for tenants and landlords who violated the ordinance are not less than \$100 a day for each day of un-permitted occupancy, as well as administrative costs, court costs, and attorney fees for investigation and prosecution of the civil matter. *Id.*

50. *Id.* The council member who proposed the original legislation maintained the changes demonstrated the parish's intent to protect property values by maintaining owner-occupied neighborhoods than discrimination. Cannizaro, *supra* note 44.

requisite support to transform into law. The Elimination of Barriers for Katrina Act, H.R. 4213, would have provided a mechanism for people with criminal backgrounds to avail themselves of government assistance.⁵¹ Generally, the blanket exclusion in place for people with criminal backgrounds effectively denied affordable housing access for those with a prior criminal record.⁵² While landlords are vested with inherent authority to deny tenancy to those with criminal backgrounds, the application of this practice to Katrina evacuees proved especially problematic.⁵³

First, the use of the criminal background records for Katrina evacuees are riddled with problems. Some evacuees have criminal records for ancient, minor infractions.⁵⁴ Others have inaccurate records, which attach criminal records to the wrong renters.⁵⁵ Further, the notorious time delays caused by Katrina have all but stalled the criminal justice system in New Orleans.⁵⁶ The result is that many people charged with crimes were left in a criminal justice limbo that excluded them from rentals because of their arrests, but did not grant them a speedy resolution to the criminal charges.⁵⁷ Unfortunately, the proposed legislation died for lack of support.⁵⁸

III. RENT CONTROL MEASURES

The destruction of rental housing in New Orleans brought with it not only a rental housing shortage but also an increase in rents. As with a typical supply and demand market, the reduced supply of affordable rental housing

51. Elimination of Barriers for Katrina Victims Act, H.R. 4213, 109th Cong. (2005-2006). The proposed legislation would have suspended temporarily the application of laws which would have denied federal benefits and entitlements to victims of Hurricane Katrina or Hurricane Rita who would have been rendered ineligible because of convictions for certain drug crimes. *Id.*

52. See discussion *infra* section IV and accompanying notes.

53. Kirsten D. Levingston, *Help Storm Refugees Find Shelter*, CHRISTIAN SCI. MONITOR, Mar. 8, 2006, at 9.

54. *Id.* Those with outdated criminal backgrounds argue that the criminal backgrounds are unrepresentative of the lives they live today. *Id.* Further, the criminal background exclusion has a long reach, even impacting the family members of those convicted of crimes. *Id.* One mother of three from New Orleans reported that her entire family was unable to obtain housing in Texas because her husband had served time for possession of crack cocaine. *Id.*

55. The privatization of criminal background records has led many to question the veracity of backgrounds. Levingston, *supra* note 53, at 9.

56. Leslie Eaton, *Judge Steps in for Poor Inmates Without Justice Since Hurricane*, N.Y. TIMES, May 23, 2006, at A1.

57. *Id.*

58. GovTrack.us, Independently Tracking the United States Congress, <http://www.govtrack.us/congress/bill.xpd?bill=h109-4213&page-command=print> (last visited July 8, 2007).

has caused a demand for whatever units are available.⁵⁹ This demand has been followed by a hike in the rent charged for those units.⁶⁰

After Hurricane Katrina, the price of a rental unit soared by an average of about forty percent.⁶¹ For example, unfurnished condominium units that had been rented for \$1,200 a month before the hurricane hit were being rented within a few months thereafter at \$2,000 per month, a sixty-six percent rate hike.⁶² Some rentals even increased up to threefold the amount previously charged.⁶³

The skyrocketing rents have frustrated efforts to repopulate New Orleans and bring back the working class, especially minorities.⁶⁴ “[M]any lower-income residents . . . say they are unable to return [because they] have been priced out.”⁶⁵

Landlords have defended the need to charge higher rents by pointing out the increase in costs to repair the damaged and destroyed rental units.⁶⁶ The rising costs of insurance and labor have been passed off to tenants.⁶⁷ Understandably, landlords must recover these costs in order to repair and operate their rental units. However, some people have questioned whether there also may exist some price gouging in that landlords are taking advantage of the shortage in rental housing.⁶⁸ Whatever the case may be, the need and ability by landlords to increase rents have created a housing crisis for the poor and lower-income working classes.

Louisiana, like the majority of states, does not have a rent control statute in place.⁶⁹ A landlord has a right to control and dispose of rental property “for valid consideration.”⁷⁰ This right cannot be abridged except by state law.⁷¹ However, without any controls in place, New Orleans is finding

59. Gwen Filosa & Michelle Hunter, *Rental Quandary: Scarce Units, Costly Repairs and Surging Rents Hit Tenants and Landlords Hard*, TIMES-PICAYUNE, Dec. 12, 2005, at 1.

60. See *id.*; Greg Thomas, *Local Rents Expected to Skyrocket*, TIMES-PICAYUNE, Oct. 12, 2005, at C-12; Karen Brooks, *Study: Katrina Hit Black Areas Hardest New Orleans Advised to Work on Ways to Bring Minorities Home*, DALLAS MORNING NEWS, Jan. 27, 2006, at 3A.

61. *Id.*

62. See Thomas, *supra* note 60, at C-12.

63. Filosa & Hunter, *supra* note 59.

64. Brooks, *supra* note 60, at 3A.

65. *Id.*

66. Filosa & Hunter, *supra* note 59; Thomas, *supra* note 60, at C-12.

67. Filosa & Hunter, *supra* note 59.

68. *Id.*

69. See Rent Control Laws by State, Nat'l Multi Housing Council, February 10, 2006, <http://www.nmhc.org/Content/ServeContent.cfm?IssueID=66&ContentItemID=1162&siteArea=Topics> (last visited July 8, 2007).

70. LA. REV. STAT. § 9:3258 (2006).

71. *Id.*

itself gripped by surging prices in the midst of the housing crisis. Thus, Louisiana should consider enacting a statute that would permit certain controls on rent increases when exigent circumstances exist.

Florida is one example of a natural disaster-prone state that has such a statute in place. Under Florida law, counties and municipalities may impose rent controls as “are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.”⁷² Any such measure would expire within one year unless extended or renewed by adoption of a new measure.⁷³ Had a similar statute been in place in Louisiana, the City of New Orleans could have effectively adopted an ordinance that would have curbed the soaring rents.

However, a review of the Florida statutes also reveals certain deficiencies in solving any exigent housing crisis. First, the damage and destruction that can occur from a natural disaster, such as Katrina, can render a city virtually paralyzed, requiring quick and immediate solutions. Although Florida law allows local governments to adopt and impose rent control measures upon finding that a grave housing emergency exists, any such local law will not be effective unless and until approved by the voters of the particular district.⁷⁴ When an emergency exists due to a natural disaster, it may be difficult to quickly organize and operate polling places to permit the residents to vote. In addition, the local residents may be so scattered that they may not be able to effectively vote.⁷⁵

72. FLA. STAT. § 125.0103(2) (2006); FLA. STAT. § 166.043(2) (2006). In 1992, South Florida experienced the devastation of Hurricane Andrew, then the “most costly disaster in [U.S.] history.” Mike Williams, *Hurricane Andrew: One Year Later*, ATLANTA J. & CONST., Aug. 22, 1993, at A1. “More than 80,000 homes were destroyed or damaged.” John W. Mashek, *Bush Seeks \$7.6b for Storm Relief*, BOSTON GLOBE, Sept. 9, 1992, at 1. The storm’s destruction created a housing shortage, making it difficult for displaced homeowners and tenants to find available housing. Howard W. French, *After the Storm: “House for Rent” Becomes a Rarity*, N.Y. TIMES, Sept. 6, 1992, at 34. The State Attorney General’s Office investigated thousand of complaints about price gouging, including high increases in rentals. Mashek, *supra* note 72, at 1. Despite the complaints, and despite the ability to adopt rent control measures during such a housing emergency, there is no evidence that Dade County or any affected city adopted any ordinance controlling rent.

73. § 125.0103(3); § 166.043(3).

74. § 125.0103(5); § 166.043(5).

75. See Damian Williams, Note, *Reconstructing Section 5: A Post-Katrina Proposal for Voting Rights Act Reform*, 116 YALE L.J. 1116, 1119-20 (2007) (describing the electoral problems encountered in the aftermath of Hurricane Katrina); Jeff Crouere, *Across State Lines: Louisiana, CAMPAIGNS & ELECTIONS*, Feb. 2006, at 30 (noting that, due to the hurricane, the Louisiana Secretary of State postponed the February 2006 New Orleans’ mayoral election because it was logistically impossible to hold).

Second, the Florida statutes provide that no rent controls may be imposed on rentals “used or offered for residential purposes as a seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings.”⁷⁶ Unfortunately for New Orleans, the majority of the damage and destruction occurred to areas of the city where the more affordable housing units were located.⁷⁷ Residents have been forced to search for housing advertised as “luxury” apartments.⁷⁸ Adopting the proviso in the Florida statutes excepting luxury apartments would possibly serve to continue the rental increase quandary. If “luxury” apartments are the only form of available housing, and if the landlords of these units could, under the statutes, easily increase rents to whatever rate the market will bear, then a bad situation is simply made worse. Therefore, any such statute should permit adoption of local rent control ordinances that could apply to all rental housing, including luxury apartments.

Consequently, disaster-prone states, such as Louisiana, should consider adopting statutes similar to those enacted in Florida. However, adopting the Florida statute *in toto* may simply create a type of Gordian knot⁷⁹—although local governments will have certain power to adopt rent control measures, the voters may not approve the measures or the ordinance may not effectively control soaring rents. Thus, the state legislature should take heed and adopt a version that could immediately and effectively strike at the heart of the matter—give local governments greater power to control skyrocketing rents during exigent housing situations.

IV. CRIME AND PUNISHMENT—A LANDLORD’S WAY

Rental housing problems can exact a demanding toll on criminals and alleged criminals. Individuals with past arrest or conviction records, and particularly those who have served jail time, generally find it more difficult than others to integrate into society because they cannot readily secure jobs

76. § 125.0103(4); § 166.043(4). These statutes define “luxury apartment building” as a building “wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds \$250.” § 125.0103(4); § 166.043(4).

77. See Williams, *supra* note 75, at 1118; Filosa & Hunter, *supra* note 59.

78. Filosa & Hunter, *supra* note 59.

79. “The Gordian Knot is a legend associated with Alexander the Great. It is often used as a metaphor for an intractable problem, solved by a bold stroke (‘cutting the Gordian knot’).” Answers.com, Gordian Knot, <http://www.answers.com/topic/gordian-knot> (last visited July 9, 2007).

or affordable housing.⁸⁰ This failure to obtain affordable housing generally leads to homelessness⁸¹ and may eventually lead to recidivism.⁸²

Although some convicts may be able to live with their families, others are not so fortunate.⁸³ These individuals typically must resort to public housing.⁸⁴ Under federal regulations currently in place, state public housing authorities may require criminal background checks of prospective and current tenants.⁸⁵ Consequently, in a majority of states, the public housing authorities consider a person's criminal background, including an arrest that did not lead to conviction, in making individualized determinations as to an applicant's eligibility for public housing.⁸⁶ In addition, three states immediately reject any applicant who has a criminal record.⁸⁷ These federal regulations allow the public housing authority not only to deny housing to the alleged criminal but may also deny housing to the criminal's family if he or she were to live with the family.⁸⁸

This problem regarding the lack of housing for persons with criminal records is of particular concern in New Orleans after Hurricane Katrina due to various factors. The crime rate in New Orleans was incredibly high prior to the hurricane; thus, a disproportionately large number of individuals could or would have been denied public housing.⁸⁹ However, both public and private rental housing was already scarce before the hurricane,⁹⁰ and, obviously,

80. Levingston, *supra* note 53, at 9; CORRINE CAREY, NO SECOND CHANCE: PEOPLE WITH CRIMINAL RECORDS DENIED ACCESS TO PUBLIC HOUSING 16 (Human Rights Watch 2004); PAUL SAMUELS & DEBBIE MUKAMAL, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS 10-16 (2004), http://www.lac.org/lac/upload/lacreport/LAC_PrintReport.pdf.

81. See, e.g., Levingston, *supra* note 53, at 9; CAREY, *supra* note 80, at 16.

82. See CAREY, *supra* note 80, at 43. "[S]uccessful reentry into society is much more difficult for people who have been arrested or convicted of crimes." SAMUELS & MUKAMAL, *supra* note 80, at 8.

83. CAREY, *supra* note 80, at 16.

84. *Id.*

85. 24 C.F.R. § 960.203(c)(2)-(3) (2006); 24 CFR §§ 5.901-5.903 (2006).

86. See SAMUELS & MUKAMAL, *supra* note 80, at 8, 16.

87. *Id.* at 16.

88. CAREY, *supra* note 80, at 21 n.51.

89. See ACORN, REBUILDING AFTER HURRICANE KATRINA: ACORN PLANNING PRINCIPLES 16 (2006), http://www.acorn.org/fileadmin/KatrinaRelief/report/Planning_Principles.pdf.

90. See Deon Roberts, *Real Estate Expert: N.O. Population Will Recover Slowly*, NEW ORLEANS CITYBUSINESS, Feb. 1, 2006, at 1; Marcia Johnson, *Addressing Housing Needs in the Post Katrina Gulf Coast*, 31 T. MARSHALL L. REV. 327, 328 (2006).

worsened thereafter.⁹¹ In addition, after Hurricane Katrina, the criminal system radically disintegrated. There were increased incidents of arrests, many of which were for misdemeanors.⁹² Nonetheless, these arrests have created criminal records for those particular individuals. And to make matters worse, many pending criminal cases were brought to a standstill due to the hurricane's physical destruction of court files and evidence.⁹³ This great number of unresolved cases has added to the numbers of criminals and alleged criminals that cannot readily find public housing. As public housing is not feasible for these individuals, they must turn to more costly private rentals in an attempt to find a place to live.⁹⁴

A private landlord is generally free to choose to whom he or she rents real property. The only limitations generally imposed are found under the Fair Housing Act (FHA).⁹⁵ The FHA makes it unlawful for a landlord "[t]o refuse to . . . rent . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin."⁹⁶ Additionally, a landlord may not "discriminate in the . . . rental, or . . . otherwise make unavailable or deny, a dwelling to any . . . renter because of a handicap" of the renter or anyone who will reside with or is associated with the renter.⁹⁷ Thus, as long as a private landlord does not discriminate against one of these protected classes, the landlord may, in his or her discretion, freely implement any selection criteria in renting to prospective tenants.

91. See Michelle Chen, *New Orleans' Displaced Struggle for Housing, Jobs, Neighborhoods*, NEW STANDARD NEWS, Oct. 21, 2005, <http://newstandardnews.net/content/index.cfm/items/2514>; Filosa & Hunter, *supra* note 59.

92. See Levingston, *supra* note 53, at 9.

93. See generally Christopher Drew, *In New Orleans, Rust in the Wheels of Justice*, N.Y. TIMES, Nov. 21, 2006, at A1.

94. This discussion will focus on the concerns associated with rentals by private landlords to those with arrest or conviction records, with a look at the crisis which has unfolded in New Orleans. For a more complete discussion of public housing issues, see generally James C. Smith, *Disaster Planning and Public Housing: Lessons Learned from Katrina, to be published in RE-DEVELOPMENT AFTER A MAJOR DISASTER in the Law, Property, and Society book series of Ashgate Publishing (series editor, Robin Paul Malloy); see also CAREY, supra note 80.*

95. 42 U.S.C. § 3604. This is the only limitation for landlords that do not participate in public housing programs, such as Section 8. As stated earlier in this article, some state and local governments have enacted more restrictive statutes and ordinances limiting a landlord's right to freely rent to prospective tenants. Much of this legislation has been subject to challenge. Most recently, the City of Hazleton, Pennsylvania was sued in federal court over its enactment of an ordinance prohibiting private landlords from renting to illegal immigrants. *Lozano v. City of Hazleton*, No. 3:06-cv-1586 (M.D. Pa. 2007).

96. 42 U.S.C. § 3604(a).

97. § 3604(f).

No known law exists preventing a landlord from conducting a criminal background check before renting to a prospective tenant. Only one state requires a landlord to conduct criminal background checks, but only under limited circumstances.⁹⁸ Private landlords in Arkansas may be ordered to perform a criminal background check of a prospective tenant if a municipality's criminal nuisance abatement board declares the premises to be a public nuisance.⁹⁹ Thus, the implementation of criminal background checks is mostly the prerogative of a private landlord. Given the shortage of housing after Hurricane Katrina's destruction of New Orleans, and given that criminal background checks are already an impediment to securing public housing, a private landlord's implementation of a criminal background check for prospective tenants in New Orleans compounds an already existing housing crisis for those with arrest records.¹⁰⁰

These criminal background checks serve no purpose to private landlords other than permitting them to have some basis on which to exclude prospective tenants from renting the premises.¹⁰¹ Under the common law, landlords are generally not liable to tenants for crimes committed against them by other tenants.¹⁰² However, liability may attach if the landlord 1) had actual or constructive knowledge that would make the tenant's conduct reasonably foreseeable and the landlord did not take reasonable precautions;¹⁰³ 2) had a special relationship with the perpetrator or victim;¹⁰⁴ or 3) assumed an im-

98. ARK. STAT. § 14-54-1705 (2006).

99. *Id.*

100. As it is, many private landlords have been using consumer credit checks when screening prospective tenants. This too serves as a deterrent to criminals, particularly those who have served a sentence, in obtaining affordable rental housing as their crimes generally affect their credit status. See CAREY, *supra* note 80, at 32 n.104. Credit checks generally require an applicant's consent. 15 U.S.C. § 1681b; see also FLA. STAT. § 501.005 (2006) (consumer may request a "security freeze" prohibiting release of consumer report information without consumer's consent). However, in Florida, a consumer may not freeze information in the consumer report if it concerns and is used solely for tenant screening. § 501.005(12)(j).

101. See CAREY, *supra* note 80, at 19, 21. "Exclusions based on criminal records are usually justified in terms of promoting the safety of . . . tenants." *Id.*

102. See 57A AM. JUR. 2D *Negligence* § 98 (2007).

103. See, e.g., *T.W. v. Regal Trace, Ltd.*, 908 So. 2d 499, 506 (Fla. Dist. Ct. App. 2005) (landlord had duty to warn tenants of alleged sexual assault committed by one tenant on another minor tenant); *Thompson v. Tuggle*, 183 S.W.3d 611 (Mo. Ct. App. 2006) (landlord did not breach duty where it had no knowledge that tenant owned gun); *Western Investments, Inc. v. Urena*, 162 S.W.3d 547, 549 (Tex. 2005) (question of fact as to whether landlord's knowledge of other crimes in the area rendered tenant's assault by another tenant reasonably foreseeable by landlord); *Johnson v. Slocum Realty Corp.*, 595 N.Y.S.2d 244, 245 (N.Y. App. Div. 1993) (landlord has duty to protect tenants from "foreseeable criminal intrusions").

104. See, e.g., *Foxworth v. Housing Auth. of Jefferson Parish*, 590 So. 2d 1347, 1348-49 (La. Ct. App. 1991) (landlord has no duty to control actions of tenants unless some special

plied or express obligation to provide security to the tenant and breached that obligation.¹⁰⁵ The latter two reflect the state of the law in Louisiana.¹⁰⁶

In the Louisiana case of *Smith v. Howard*, a tenant shot and killed another tenant, whom she believed to be a burglar outside her window.¹⁰⁷ The victim's estate sued both the tenant and the landlord.¹⁰⁸ The complaint alleged that the landlord caused the victim's death by failing to

- 1) evict [the other tenant] after her neighbors reported to the [landlord] that she was a threat to their safety and to the safety of visitors;
- 2) maintain a proper screening program so as to avoid renting to tenants with a history of violent propensities;
- 3) maintain policies requiring tenants to state whether they have any dangerous weapons;
- 4) have a program for following up reports of violent conduct by tenants against other tenants or visitors;
- 5) insure the safety and security of guests;
- and 6) warn tenants and guests on the premises of the dangers posed by the tenant.¹⁰⁹

The appellate court affirmed the trial court's dismissal of the complaint.¹¹⁰ The court relied on the well settled law that, unless a special relationship exists, there is no duty to control the actions of a third person and prevent him from causing harm to someone else.¹¹¹ The court further noted that landlords do not have a special relationship with those who live on their premises, and, accordingly, owe no such duty to a tenant.¹¹² Therefore, because landlords will suffer no liability, criminal background checks create unnecessary impediments to some prospective tenants who are in dire need of affordable rental housing.

relationship, such as lease provision requiring protective services, exists); *N.W. v. Anderson*, 478 N.W.2d 542, 543 (Minn. Ct. App. 1991) (landlord has no duty to warn tenants unless landlord has "special relationship to either the [tenant] whose conduct needs to be controlled or to the foreseeable victim of that conduct").

105. *See, e.g., Foxworth*, 590 So. 2d at 1348 (landlord has no duty to provide security unless landlord assumed the obligation); *Holley v. Mt. Zion Terrace Apartments, Inc.*, 382 So. 2d 98 (Fla. Dist. Ct. App. 1980) (part of rent dedicated expressly for security creates question as to landlord's contractual liability to provide such protection).

106. *See Smith v. Howard*, 489 So. 2d 1037, 1038 (La. Ct. App. 1986); *Foxworth*, 590 So. 2d at 1348; *Terrell v. Wallace*, 747 So. 2d 748 (La. Ct. App. 1999).

107. *Howard*, 489 So. 2d at 1038.

108. *Id.* at 1037-38.

109. *Id.* at 1038.

110. *Id.*

111. *Id.*

112. *Howard*, 489 So. 2d at 1038.

The majority of those with arrest records in the United States are people of color.¹¹³ In New Orleans, the rate of arrest of black men increased after the hurricane.¹¹⁴ Using arrest and conviction records as a basis to deny private rentals may lead to unjust and catastrophic results. Arrests have included offenses that range from small infractions to felonies.¹¹⁵ Minor infractions may include crimes such as “taking items from hardware stores and convenience stores and ‘disturbing the peace.’”¹¹⁶ Currently, a private landlord may readily investigate an applicant’s criminal background, and many are doing just that.¹¹⁷ Unlike consumer credit checks that require the person’s consent due to privacy concerns,¹¹⁸ a defendant’s consent is not required to obtain a copy of the defendant’s criminal record¹¹⁹. In many instances, arrest and conviction records are easily available on the Internet; however, the results of such a search may be inaccurate or may lead to incorrect or misleading conclusions. Although a majority of states allow defendants to seal or expunge records of arrests that did not lead to conviction,¹²⁰ thirty-three states prohibit the sealing or expungement of any conviction records and seventeen states allow only some conviction records, such as first-time offenses, to be sealed or expunged.¹²¹ Criminal records in twenty-eight states are available on the Internet,¹²² in addition to records available at the courthouse. In Louisiana, records of convictions, whether old or minor, are available for review.¹²³ In addition, the state makes accessible records of defendants on parole.¹²⁴ The state does, however, permit the sealing of some

113. See generally, U.S. Dep’t of Justice, Bureau of Statistics, Profile of Jail Inmates, 2002, <http://www.ojp.usdoj.gov/bjs/pub/pdf/pji02.pdf> (last visited July 9, 2007); U.S. Dep’t of Justice, Bureau of Statistics, Blacks Were Almost Three Times More Likely Than Hispanics and Five Times More Likely Than Whites to be in Jail, <http://www.ojp.usdoj.gov/bjs/glance/jailrair.htm> (last visited July 9, 2007).

114. See George Ploss, *America’s Real “Prisoner’s Dilemma,”* UNIVERSITY WIRE, Mar. 27, 2007.

115. See Levingston, *supra* note 53, at 9.

116. The Praxis Project, Missing Stories From Katrina Coverage: Survivors Locked Up in Makeshift Jail, http://www.thepraxisproject.org/tools/YMC_katrina.doc, (last visited July 9, 2007).

117. CAREY, *supra* note 80, at 19.

118. See *supra* note 100 and accompanying text.

119. SAMUELS & MUKAMAL, *supra* note 80, at 15.

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. SAMUELS & MUKAMAL, *supra* note 80, at 15; see also La. Dep’t of Public Safety and Corrects, Parole Board Dockets, <http://www.corrections.state.la.us/Offices/paroleboard/paroledockets.htm> (last visited July 9, 2007).

arrest records if the arrest did not lead to conviction and, at least, some arrest records are shielded from the public eye.¹²⁵ Nonetheless, there is no prohibition on using these records as a basis for denial of rental housing. But what happened to “innocent until proven guilty”? Is a minor or old conviction really a credible and reasonable basis on which to deny housing? Something needs to be done to relieve this problem.

Louisiana should consider enacting a law, similar to a bill proposed in Illinois,¹²⁶ that would limit a private landlord’s ability to deny housing based on any arrest or conviction records. In January 2005, Illinois Rep. Chapin Rose introduced a house bill, amending its Landlord and Tenant Act, that would permit a private landlord to perform criminal backgrounds checks on prospective tenants; however, the original version of the bill noted that a “landlord may refuse to lease the property . . . if the criminal background check of the person contains any *felony convictions* or indicates that the person is a *registered sex offender*.”¹²⁷ Consequently, only those actually convicted of committing certain egregious crimes would be susceptible to being denied a private rental.

Some may argue that a reason for conducting a criminal background check is to circumvent the FHA and serve as a pretext to discrimination.¹²⁸ The proposed Illinois bill, both in its original and amended versions, includes a proviso that “[t]he landlord may not use the criminal background check to discriminate against a protected class.”¹²⁹ Thus, the bill recognized the dan-

125. See LA. REV. STAT. § 44:9 (2006); see also SAMUELS & MUKAMAL, *supra* note 80, at 15.

126. See H.B. 0367, Illinois State Assembly, 94th General Assembly (2005), available at <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=367&GAID=8&DocTypeID=HB&LegID=14619&SessionID=50&GA=94> (last visited July 9, 2007) [hereinafter Illinois Bill].

127. *Id.* (emphasis added). The bill was later amended in February 2005 to permit the landlord to refuse to rent to a prospective tenant if:

- (i) the individual's tenancy would constitute a direct threat to the health or safety of other individuals or the individual's tenancy would result in substantial physical damage to the property of others; or
- (ii) the individual has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in the federal Controlled Substances Act or the Illinois Controlled Substances Act.

Id. Unfortunately, this amendment would seemingly permit a landlord to interpret an arrest or conviction record and determine that renting to such individual could create a threat under subsection (i). This proposed bill is still pending, and the legislative session ended *sine die*. *Id.*

128. See, e.g., Eliza Hirst, *The Housing Crisis for Victims of Domestic Violence: Disparate Impact Claims and Other Housing Protection for Victims of Domestic Violence*, 10 GEO. J. ON POVERTY L. & POL'Y 131, 133 (2003).

129. Illinois Bill, *supra* note 126.

gers concomitant with permitting a landlord to employ a criminal record as a basis for refusing to rent to a tenant.

V. CONCLUSION

Two years after Katrina left her mark on the Gulf Coast, renters are left with few options to resettle in their former communities. Funding programs set aside to benefit renters are few and far between. Landlords who own from one to four rental units can tap into \$869 million in public funding,¹³⁰ which pales in comparison to the \$7.5 billion devoted to owners of damaged homes.¹³¹

In January 2007, The Road Home launched a Small Rental Property program, which was designed to provide incentives to rebuild affordable rental housing.¹³² Even though there may be proposed tax incentives to lure developers back into the area, such solutions may address long-term needs but do little to fill the immediate need for affordable rental communities. Not only are renters priced out of communities, but minority renters are also faced with bias in the market.¹³³

Moreover, various attempts at enacting legislation have exacerbated the problem through limiting access to rentals. Other curative measures—such as the proposed legislation to eliminate barriers—have simply been abandoned. The tension created by the landlord's ability to deny housing to renters with criminal backgrounds highlights competing policy concerns in the region. On one hand, there is the need to protect the safety of the residents

130. David Hammer, *Relief Far Off for La. Rental Owners*, TIMES-PICAYUNE, Jan. 4, 2007, available at <http://www.nola.com/printer/printer.ssf?base/news-7/1167893962187170.xml&coll=1> (last visited July 9, 2007). The program will be managed by the federal Department of Housing and Urban Development, the state Office of Community Development and privately-contracted manager ICF International. *Id.*; see also THE ROAD HOME, *supra* note 9, at 5.

131. Hammer, *supra* note 130, at 1.

132. See The Road Home, Press Release, Rental Property Owners Encouraged To Apply To *The Road Home* Small Rental Property Program, Jan. 29, 2007, http://www.road2la.org/news_releases/rental_launch_012907.htm. The Small Rental Property program provides incentives, such as no interest forgivable loans, to property owners to rent their small-scale rental properties to low- and moderate-income tenants at affordable rates. *The Road Home, Overview of Small Rental Property Program*, <http://www.road2la.org/rental/overview.htm> (last visited July 9, 2007).

133. A recent study revealed that black residents “encountered discrimination nearly six times out of 10 when apartment hunting in the New Orleans area post-Katrina.” Gwen Filosa, *Bias is Found in Rental Market*, TIMES-PICAYUNE, Apr. 25, 2007, <http://www.nola.com/printer/printer.ssf?base/news-81177482229124760.xml&coll=1> (last visited July 9, 2007).

of rental property by properly screening out criminals. On the other hand is the need to provide affordable housing access for those with a prior criminal record.

As the rebuilding process continues in the Gulf Region, the difficulties for renters presented by legislation and criminalization demonstrate that there is a need to focus the lens on these issues which impact renters. The obstacles that were presented by the hurricane, the flood, and the ensuing housing difficulties have a pronounced negative impact on the minority communities. The snapshot of the housing crisis for New Orleans serves as a powerful reminder for other communities suddenly forced to rebuild.

As one commentator noted, "The most important thing that needs to be saved (and rebuilt) is lower and middle income housing, shotguns, double shotguns, corner stores, Creole cottages and camelbacks all combining to make an urban fabric that does not exist in any other city."¹³⁴

134. Erin Rensink, *New Orleans*, quoted in CNN REPORTS KATRINA STATE OF EMERGENCY 168 (2005).