



Otis Glebe

Landlords: 'Why not tax electricians?'

by BILL SMITHERMAN

Lincoln, more than most, is a city of landlords and tenants. It is a city with a large transient student population and a great amount of public land that does not contribute to the city's tax base.

With tenants across the country constantly becoming more militant about their rights across the country, the question of who are Lincoln's landlords becomes important.

To answer this question the staff of the *Daily Nebraskan* undertook a major research project in the older areas of Lincoln. After identifying a large research area the staff spent several man-weeks with property records in the County-City Building recording the records of property ownership in the area.

The landlords who emerged were contacted and questioned. City property tax records also were examined.

The results of this study were not surprising. It showed several large property owners. Some appeared in records with back taxes and condemned buildings.

Many landlords complained of rising taxes and militant tenants. Some were defensive about saying anything at all.

Over-all the picture showed the seeds of maladies that have come to plague American cities as near as Omaha.

Lincoln landlord Otis Glebe, 1771 So. 8th, is listed as owning 26 properties in the studied area. On

these properties, according to tax records he owes the city \$435.60 in back taxes over the years 1967, 1968 and 1969. Two of his houses have been "red tagged" (declared to have some defect which makes them legally uninhabitable under the Lincoln Minimum Housing Code) by city housing officials.

Glebe said there is a trend in Lincoln toward "pretentious" housing. Because of this trend many tenants are being forced to rent units they cannot afford and do not want, he said.

This is "commercialism rather than humanism in housing," Glebe said. "I think that there is a place for every type of housing, whether it is a \$250,000 home or whether it is a modest place that an individual can afford and that he'd like to afford out of his own means rather than on government subsidy or being paid for by you or the other person who does work."

Glebe said that the trend toward "pretentious housing" was caused by governmental tyranny. As an example he referred to the Nebraska law which required every city in the state to have a minimum housing code.

"I don't think there should be arbitrary minimum housing ordinances that are established by a government body without the approval and vote of the people," Glebe said.

He pointed out that Lincoln voters defeated a minimum housing code by an almost three-to-one margin before the Legislature required it of the city.

Glebe called the Lincoln property tax "reasonably good" but added that property owners should not have to

carry the whole tax burden. People should be encouraged to own their own homes, not discouraged as they are by the present tax structure, he said.

In order to lighten the tax burden the government should end foolish spending, Glebe said. There is a great deal of waste in any bureaucracy, he added, and cited the minimum housing code and its enforcement as one example.

He attacked the policy of red-tagging a house under the minimum housing code, saying "you don't have more housing by destroying housing."

"To destroy competition is not in the best interest of the tenant," he continued. This may be best for a builder who wants to unload property on tenants, but it is not best for the tenant, Glebe said.

"The only way you can reduce rents is to have competition or have other housing available."

Red-tagging is "against the best interest of the tenant, the landlord, the taxpayer, the student, everybody. I don't see anyone being benefited, period."

Glebe added that the policy also encourages crime and vandalism through the creation of vacant houses.

Victor Gruenemeier, 1005 Claremont St., is shown as owning 23 properties in the study area. Tax records list him as owing \$906.74 in back taxes on these properties during the 1967-1969 period.

Gruenemeier called the Lincoln property tax unfair. "Why not tax electricians or some other occupation?" he said. "A tax on property is just as unfair as the cigarette tax."

He added that the city zoning policy puts a burden on the homeowner. All the new apartment houses are "way south" of O' St., he said, and new industrial property is going north, but property owners are forced to pay for new streets to get people to these new places.

Gruenemeier said he has never had one of his houses red-tagged because he makes improvements himself before someone moves in. He said he keeps up his property well, but that it is difficult because financing is hard to obtain.

"It's easy for new homes, but I'm in an old neighborhood and no one wants to back a person with financing an older home," Gruenemeier continued. "There should be some kind of federal aid to help home owners fix up their homes."

Lewis Berlowitz, 5835 "A" St., is listed as owning 22 properties in the study area. Records show more than \$6,600 in back taxes on these properties over the 1967-69 period.

Though Berlowitz is listed in the

The area of the study was designed to encompass primarily the older sections of Lincoln, those beginning to show decay.

Basically, the area studied was bordered by Van Dorn Street on the south and 27th St. on the east. Western and northern boundaries were the city limits. Also considered were some of the properties in an area bordered by Vine St. on the south, Cornhusker Highway on the north, 33rd St. on the east and 27th St. on the west.

Most of the property in these sections was considered. The downtown core and some newer developments were excluded.

city directory as owner of Lincoln Realty Co., that firm proved impossible to locate. Berlowitz could not be reached for comment at his home address.

Andrew Van Horn, who is listed as owning 38 properties in the study area, echoed other landlords that there is profit in being a landlord only with the proper tenants. County records show Van Horn Realty as owing more than \$3,400 in back taxes on these properties during the 1967-69 period.

Van Horn said that if tenants take care of property and pay rent on time, being a landlord can be profitable. "But, it is very close," he continued. "If you lose a month or

two's rent you're up against the wall financially."

He criticized the property tax as being too high and unduly burdensome to the property owner. The retail sales tax seems to be the most fair tax, he added.

Shown as owning 46 lots in the study area, Walter Lybarger 2931 N. 6th St. is one of the largest land owners.

He attacked rising labor costs and taxes as major problems of Lincoln landlords. Lybarger added that he did not have difficulties maintaining his property because he does the work himself, but that labor costs are prohibitive for landlords who can't. Lybarger said.

City property tax is getting to the place where it robs people," "it seems like the city wants to own all the land, and they're going to have more than they know what to do with if taxes don't come down. It's just getting too expensive to own land."

Lybarger added that every raise in taxes causes a raise in rents. "I don't know how a man with a family of six or seven can afford rent and groceries," he said.

The 35-year veteran landlord said it is possible to make a profit as a landlord only if the landlord knows how to handle tenants.

"You have to be strict and firm

with tenants or they'll wreck your property, beat you out of your rent and move out," Lybarger said. "Tenants can break a man if he doesn't know how to handle them."

Dan Cuda, sales manager of Action Realty, which is listed as owning 17 properties in the study area, said that the two major problems of landlords are collecting rents and having tenants give notice when they move.

"Some tenants seem to think the landlord has his property paid for and will not miss a month's rent if they move out without telling him," Cuda said. "But, many times this is not the case. The landlord is counting on rent income to keep up payments on his mortgage and cover operating expenses."

He said that rents in Lincoln are higher than those in cities of the same size in surrounding states. One of the principle reasons for this is Lincoln's high property tax scale, he noted.

Henry Schmidt, who is listed as owning 11 properties in the study area, said that it is very difficult to make money as a landlord in Lincoln. His complaints were much the same as those of other landlords.

"If housing is damaged, you can't get anyone to do repairs," Schmidt said. "Property taxes are also getting way out of line."

Publications and statements of the citywide tenants association accuse landlords of not maintaining their property and of charging rents that are out of line. Landlords answer that even with high rents, taxes and labor costs make it impossible for them to maintain their property.

So, the dilemma continues. Both landlords and tenants are caught in a spiral of rising taxes and rents in a constantly tightening housing market as more students come to town and older housing becomes unlivable.

These are the seeds that have germinated into full scale urban blight in many American cities. The course Lincoln will take is still undecided. It rests in the hands of the city, the property owners, and the organized tenants.



Tenants' Rights: 'They have to fight'



by BILL SMITHERMAN

"In 1863, a New York landlord sued a tenant for back payment of rent even though the upper-floor apartment the tenant had occupied was burned out by fire," reports a recent issue of *New York Magazine*.

"The landlord's reasoning was that the tenant still had access to the land under the charred remains-and of course, land was more important than any structure built on it."

The landlord lost, and since then tenants in cities across the country have come to have rights more in keeping with their situation as urban dwellers. But, true tenants' rights have been slow in coming to Nebraska, a rural state without, until fairly recently, large urban populations.

The plight of the urban tenant dates back many centuries and stems from one main cause, according to Bruce Hamilton, director of Lincoln Legal Services.

In the common law of England and early America the tenant rented only the land from his landlord, Hamilton said. Any buildings on the land were unimportant.

So, as long as the landlord gave the tenant access to the land, the tenant was obliged to pay his rent. The obligations of the landlord and tenant were independent of one another. And this made sense in agrarian days, Hamilton said.

But what was logical for a farmer in the old country is not necessarily logical for someone living in a basement apartment on R Street.

Yet, Nebraska laws still are one-sided in favor of the landlord, Hamilton said. Tenants in Nebraska still have very few legal rights. What

rights they do have will be considered later.

There are legal steps being taken in the courts and legislature to change this situation, but they are moving slowly. Hamilton attributed this slowness to landlords' power and tenants' lack of it.

This spring, a bill was drafted by the newly-formed Statewide Housing Coalition and presented to the legislature by Sen. John DeCamp of Neligh which would have made the obligations of tenant and landlord dependent. Under this proposal if the landlord didn't fulfill his obligations, the tenants would not be required to fulfill his.

The bill would also have made a city's minimum housing code an understood part of every lease. But, LB 901 was defeated in committee after a stormy public hearing.

The measure would have allowed a tenant in housing below standards of the minimum code to make repairs and deduct them from his rent if his landlord refused to cooperate. It also stipulated that the landlord could not evict the tenant or raise his rent for one year if the tenant took advantage of the law.

Hamilton said the bill was necessary to prevent the exploitation of tenants. But Lincoln landlord Otis Glebe disagreed.

He called the coalition proposal "arbitrary and undemocratic" and added that it didn't help the owner or the tenant. Glebe said the tenant would lose from the bill because it would force landlords to close some "unpretentious housing" that people need and could afford.

Hamilton said that a judge in the District of Columbia recently made tenant-landlord contracts there dependent through a court ruling, but the ruling applies only for the District of Columbia. In Washington, D.C., if a landlord does not fulfill his obligations and keep his property up to minimum housing code standards the tenant is legally able to withhold rent payment.

Hamilton said there is a chance this could be brought about by court rulings in Nebraska. So far, though, no tenant has won an eviction case by using the argument that his landlord is not living up to the code.

However, no case of this type has even been appealed in Nebraska, he said. The reason for this is cost. Even though Lincoln Legal Services provides free counsel to low income tenants, the tenant must still pay court costs. In a long case these are prohibitive for many people, he said.

But tenants do have some rights. A tenant a written lease and with his rent paid must be given a full pay period (usually 30 days) notice that he must move. Likewise, he must give his landlord at least a pay period's notice if he intends to move.

Hamilton added that notice to vacate must be given for a full pay period. For example, if rent is due and paid up April 1st and the tenant gets an eviction notice April 2nd, he is not required to move until the end of the May pay period.

A notice to vacate must be written to be legal, he said. If the tenant then does not move after the legal time, the landlord may go to court and have him evicted.

If a tenant is behind on his rent his

landlord can send him a three-day eviction notice. But, Hamilton said, if the tenant pays the rent within the three days the eviction notice becomes invalid and the landlord must give the usual one pay period notice if he still wants the tenant to move.

Hamilton said landlords and tenants rarely show up at eviction hearings, and the landlord gets a judgment by default. But, if the tenant shows up and the landlord doesn't, the tenant gets the default judgment. Then the landlord must file a new eviction action in court and this may buy time for a tenant to find some place else to live, he said.

Sometimes landlords will ignore the methods of due legal process and try to evict tenants themselves, he said. Their methods range from locking a tenant out of his apartment to taking his personal property to turning off his

utilities.

All of these "self-help" methods are strictly illegal, Hamilton said. But, rather than go through the expense and time of a court fight most people will simply give the landlord what he wants.

A tenant is entitled to his right of privacy. A landlord can legally come into a rented unit only to make repairs, to inspect to see if repairs are necessary or to show the property for sale or to prospective renters if notice to vacate has been given. The landlord cannot just walk in at any time, he said.

Hamilton added that the tenant has the right to demand advance warning of his landlord's visits. He also has the right to put a lock on the door to keep out a snoopy landlord.

But, if the landlord doesn't like being denied access to his property,

there is nothing to stop him from giving his tenant one pay period notice.

"Even though the law is one-sided in favor of the landlord, tenants aren't taking advantage of the rights they do have," he said. Failure to challenge the injustice makes landlords think they can get away with anything, and it can't possibly change the law, Hamilton added.

He said the statewide coalition didn't really expect the passage of its measures this year. But, he added they would be back next year with new proposals.

"The important thing is that we continue to work and challenge the way things are now to bring about change," he said. "Tenants can't expect to sit still and get any more rights than they have now. They will have to fight for them."

