



# Lessons from the Marshall Fire – Our Law is Insufficient to Protect Renters

PRODUCED BY THE EAST COUNTY HOUSING OPPORTUNITY COALITION,  
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WITH ASSISTANCE FROM THE RESEARCH BOUTIQUE - NOVEMBER 17, 2022  
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After the Marshall fire, the East County Housing Opportunity Coalition (ECHO) sought to understand the experience of renters who were displaced through a total loss, or through smoke and ash damage. Since most of the media attention after the fire was focused on homeowners and rebuilding, ECHO wanted to ensure that renters' perspectives were not overlooked. So, we undertook an initiative to discover what we could about what renters were experiencing. In order to do this, we talked to renters at a community meeting, and posted on social media to get renters who would be willing to do an interview. We also created an on-line survey for renters and pointed people to it on social media. We interviewed renters and began to get an understanding of some of the issues facing renters who either lost their homes or experienced smoke and ash damage.

Through these in-person and on-line surveys and in facilitating legal services for fire survivors who were renters ECHO identified three major policy issue areas that repeatedly surfaced. These issues were **1.) habitability, 2.) retaliation, and 3.) price gouging**. We will address the nature of the problems we saw with each of those issues specifically and provide examples of residents who experienced each of these types of issues. We have many examples, but not all respondents allowed us to share their stories, so many of the stories will not be shared, or are shared with a different name. We encourage policy makers to examine the legal framework of the law for tenants and consider policy changes that will help renters.

## Habitability

Colorado has a warranty of habitability law, but it has shortcomings when it comes to renters and fires (and other disasters like floods). First, there is no statutory definition of when a unit is sufficiently remediated. If a tenant moves into a unit following remediation, and someone in the family experiences symptoms like headaches, respiratory problems or dizziness, there is no objective standard to determine that the unit has been sufficiently remediated. This puts the tenant in the position of trying to get the landlord to remediate adequately. What the landlord will do is often limited by what their insurance will pay for. But it is unclear what is enough for habitability after a fire, which could include toxic materials. Colorado developed remediation standards for methamphetamine labs, but smoke and ash and toxic fumes from burnt materials do not have any standards and a tenant cannot really know if a unit is "remediated."

**Recommendation: We recommend the law be changed to create an objective health-based standard for fire remediation.**

*Examples: Anna and her family did not lose much when it came to material possessions, but there was damage to their rental that she felt affected her family's health. The insulation needed to be replaced and the home needed to be cleaned by professionals. Her landlord was not helpful in remediating the damage. He did the minimal – duct cleaning and carpet steaming, which led to furnace damage and rodents in the home.*

*The water in the home was undrinkable due to the ash and smoke and the air was unhealthy. The family had to pay for four air purifiers as the landlord did not test the air in their home.*

*Hope and her elderly mom had damage on windows and doors in their rental after the Marshall Fire – melted insulation and sealants falling off. Bedroom window fittings were cracked or separated, leading to drafts. Their health has suffered since the fires. Her mom has had a bad upper respiratory infection and Hope's migraines have returned since the fires. The water in their unit was not drinkable and they had to let the shower run before use because the water smelled like burnt plastic and smoke. Hope and her mom both had problems sleeping in the apartment because their eyes burn so much. Her service dog developed allergies. They did not want to stay in the rental because of these health issues, but the property corporation would not release them from the lease. FEMA was denied because they had a 'livable' home and they did not qualify for most resources because they have smoke damage, but not loss of home.*

There is no clarity in the habitability law about who is responsible for remediating smoke and fire damage when there are multiple insured parties. When a renter has renter's insurance, a homeowner/landlord has insurance and a Homeowner's Association has insurance, a renter will often face a runaround in trying to get someone to take responsibility for remediation.

**Recommendation: We believe the statute should clarify this so insurance companies cannot take advantage of ambiguity.**

*Examples: Kana rented a place with another adult and two young children. As a result of the Marshall Fire, their rental had smoke and ash damage. Carpets were damaged, windows and window coverings needed to be replaced, ducts needed cleaning, insulation needed to be replaced, there was a need for new fire alarms and carbon monoxide detectors and the furnace and air conditioning units needed to be serviced. Her renter's insurance company would not move forward until the landlord / owner's policy disclosed what they were doing. It was very difficult for her to navigate the insurance and right path to take since the fire. Kana says it has personally been very demoralizing.*

*Brittany Ann was renting a single-family home with her husband and their two young children when the fires happened. Their rental home suffered from ash and smoke damage. The garage and its contents were the hardest hit. The family wanted to get the home cleaned up and safe to live in. Brittany Ann did have renters' insurance, CSAA, that helped with advanced living expenses, the hotel, and necessities, but only up to \$2500. They quickly exhausted that. They are working on an inventory list of their losses, especially the garage contents and think there will be a gap in insurance. There has been a bit of finger pointing between their insurance and property management insurance.*

*Jinnie had a good experience with her landlady who filed an insurance claim and did a deep cleaning of her rental unit, but the attic space of the townhome is owned by the HOA, as is the garage door and the exterior, so the landlady was limited in what she could do. For example, the landlady was not able to replace the attic insulation or clean the townhome exterior.*

Tenants lack information about their rights regarding habitability, especially if their lease was destroyed in a disaster. For example, a landlord is required by law to put the tenants up in other housing if the unit is not habitable. However, tenants do not always know they have this right and if they do not know they are sometimes told by the landlord, that they have to both pay for a hotel, and pay rent.

**Recommendation: The legislature should require the landlord/property manager to inform the tenant about their rights under the law immediately after a disaster.**

*Examples: Beth wanted to stay in her rental once she felt safe enough to move back in. After pushing for professional cleaning and air quality testing, the property manager told her she was difficult and that they would not renew her lease, which expired in July 2022, nor would they release her from the lease early – even threatening to sue her if she left and did not pay the rent. Beth believes it is wrong that a property management company can remove people just because they want a safe and habitable home.*

*Kristen was renting a condominium when the Marshall Fires occurred with two young children. Her family was displaced to a hotel. Damage to her rental included a chemical smell that affected their health and belongings. She and her children suffered from headaches and sore throats. The landlord did not provide adequate remediation and did not give the family any break in rent while they were displaced.*

<b>Retaliation/Price Gouging</b>
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We talked to tenants who experienced smoke and ash damage and purchased air purifiers, air testing equipment, and ended up doing their own cleaning. However, not all remediation is appropriate for a tenant to do, such as insulation replacement, or carpet replacement. When tenants complained about smoke and ash damage, we found some that were told they would no longer be tenants when their lease was up, or if a month-to-month tenancy, they were given notice to terminate.

This is not clearly spelled out in the statute as retaliation, and it should be. It is our belief that some landlords wanted to terminate the lease so they could take advantage of the increase in rents being charged after the fire. We found it was not uncommon to hear of rent increases between 30 -50% and landlords wanted to take advantage of those increases.

*Examples: Grace and her mother struggled with damage to their rental unit after the Marshall Fire. They believed their home was uninhabitable but were prohibited from breaking their lease before it was up in July or else, they had to pay \$4,000. They looked for alternative housing and found that comparable properties within a ten-mile radius were not affordable. And to top it off, the property manager at their current damaged rental unit anticipated a \$1,000.00 per month increase. In doing research about her apartment complex on their web site she confirmed they were charging new tenants \$1,000 more per month for comparable units. The apartment is owned by an out-of-state corporation and the property manager is an employee of the corporation. They did see an affordable place in Boulder at the time but could not afford the \$4,000 to break the lease for their damaged apartment. Their landlord was not helpful at all, there was no remediation. Any request for repair was ignored or took months. In Grace's words "I have never in my life worked with such incompetent people and lack of human decency. They blame the corporation for not doing necessary repairs." Grace and other tenants went to the media as multiple tenants in their complex had similar issues and complaints. When they asked to waive the \$4,000 fee to break their lease, they received a letter from a lawyer saying they would get \$500 to be quiet and go away.*

*Mary Jane, a disabled adult who lived with two other adults in a rental prior to the Marshall Fire had to find new housing. She suffered from PTSD anxiety and trauma after the fire. She*

*believes there needs to be more affordable rentals to make sure people can stay in the community. One thousand families had to find rental properties and some rental agencies increased their prices significantly. There needs to be a law to make that illegal as it is immoral.*

We talked to many tenants who had to move out of the area because prices increased so dramatically that they could no longer stay in the area. In addition to being displaced, this created issues with children in their schools and transportation issues for many families. Tenants asked us, "Why doesn't our local government do something to stop the price gouging." We explained that Colorado's rent control statute would not allow local governments to take actions to keep rents stable, even for a period of time after a disaster.

**Recommendation: We believe the legislature should make an exception to the rent control statute, to allow temporary rent stabilization, post-disasters.**

*Examples: The rental home of Kenneth and his wife and four children burnt to the ground in the Marshall Fire – leaving them with feelings of grief and being uprooted. Thankfully, friends offered help and places to stay and donations of money, furniture, clothing, etc. from churches, individuals, and companies helped. The family was hoping to stay in Superior after they were displaced but could not find something affordable that also provided space for a family of six. The rent they were paying was market rate from a few years ago and everything currently offered was \$1200 to \$2000 more a month. It was very discouraging. Kenneth thinks the housing crisis and cost of housing added to the trauma of the fire and created more stress for families. Being displaced and having to move to a different neighborhood because of this has complicated their lives and added stress – as they could not find an affordable place near their children's schools, and it has been emotionally challenging for their kids being so far from their friends. It was very unsettling.*

*Harold, a middle-aged man renting a room in a private home, had to move to Denver due to price gouging and lack of supply in the Louisville/Superior area. Prices were quadruple his previous rent.*

*Leslie – a local firefighter has had this experience. “The Marshall Fire has made it unlikely I will find a remotely affordable rental in the area. Among other things, it has created a dearth of inventory; owners and property managers prefer tenants who lost homes in the fire, versus the average person, or even a responder to the fire; insurance companies are paying a far higher rental rate than the average rate prior to the fire, driving up rents throughout the area; this all means my annual increase in rent is likely to be significantly more than past years, and has high potential to drive me out. Thus, the very people who support this community, even save the lives and property of community members, are forced to either move away or live in unhealthy and inhospitable conditions.”*

*Here are a couple of additional points from Leslie that local and state elected officials may want to consider.*

*“My difficulty obtaining an affordable rental has nothing to do with a lack of desired tenant qualities. I am middle-aged, quiet, rarely home, and without pets. I have never missed a rent payment, have steady employment, a good amount of savings, and a high credit rating.*

*Despite being relatively easy to fix, rental units often lack important environmentally friendly amenities, many of which are especially important to tenants without a car. These include, e-bike plug ins, electric vehicle plug-ins, bicycle storage, and onsite composting.”*

## Conclusion

While much attention continues to be on the rebuilding process after the Marshall fire, the disaster revealed that Colorado’s statutory framework for renters is woefully inadequate to protect renters who have faced both a disaster and unnecessary hardship brought on by inadequate laws.

**We urge the legislature to examine the law regarding renters after a disaster and make changes so that those who have lost their homes, or their belongings do not face even greater hardship because of inadequate law.**