



Massachusetts Department of Public Health

150 YEARS
OF ADVANCING
PUBLIC
HEALTH

Community Sanitation Program

News, Reviews, and Questions

MEHA Annual Meeting – Awards - Education Seminar
Current Issues in Environmental Health
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Agenda

- **Housing Court Conference Summary**
- **New Law on Short-term Rentals: Chapter 337 of the Acts of 2018**
- **Condemnation Discussion**
- **Tiny Houses**
- **Questions**

HOUSING COURT DEPARTMENT FALL 2018 EDUCATION CONFERENCE

- Community Sanitation invited to host two 1-hour workshops
 - 30 attendees/workshop
 - Included Judges, Clerk Magistrates, Housing Specialists
 - Topics included
 - Inspections & Investigations
 - Mold
 - Condemnations
 - Submetering
 - Optional Equipment

HOUSING COURT DEPARTMENT FALL 2018 EDUCATION CONFERENCE

- Goal: Clarify How the Housing Code Impacts Local Health Actions
 - Inspections & Investigations
 - Local health must look into (investigate) every complaint, but may not result in an inspection
 - Mold
 - Can be cited in the housing code
 - Do not need to be expert or licensed
 - Condemnations
 - BOH should not be penalized for condemning and vacating
 - Who is responsible for the condition of the unit?

HOUSING COURT DEPARTMENT FALL 2018 EDUCATION CONFERENCE

- Goal: Clarify How the Housing Code Impacts Local Health Actions
 - Submetering
 - Clarified only applies to water & sewer
 - Begin upon new tenancy
 - Confirmation owner must “formally” end tenancy
 - Renewal of rental agreement does not constitute new tenancy
 - Optional Equipment
 - Any equipment or facility provided by the owner that the code does not require
 - Must be maintained, repaired, replaced until the end of the tenancy

HOUSING COURT DEPARTMENT FALL 2018 EDUCATION CONFERENCE

- What is a new tenancy?
 - Owner must formally end tenancy
 - Not a lease/rental agreement renewal
 - Housing Court does not have notice format available
 - Owner & Occupant should be referred to an attorney if you are asked for clarification

Short-Term Rentals

AN ACT REGULATING AND INSURING SHORT-TERM RENTALS

(Chapter 337 of the Acts of 2018)

- Chapter 64G, Section 1 Defines
 - **Short-term rental:** an owner-occupied, tenant-occupied, or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.
 - **Professionally-managed unit:** is 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence.

Short-Term Rentals

Definitions, cont'd.

- **Hosting Platform:** a service through a digital platform, third-party website, software, online-enabled application, mobile phone application or some other, similar electronic process that allows:
 - Advertising
 - Collect rent
 - Reserve accommodations
- **Bed and breakfast establishment:** a private owner-occupied house where not less than 4 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.
- **Bed and breakfast home:** a private owner-occupied house where not more than 3 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.
- **Intermediary:** a person or entity, other than an operator, that facilitates
 - The sale
 - Use or possession of an occupancy
 - Charges a room charge to the general public

Short-Term Rentals

Exemptions:

- Federal, state or municipal institution
- Religious, charitable, educational and philanthropic institutional dormitories
- Convalescent homes
- Religious or charitable homes for the aged, infirm, indigent or chronically ill
- Summer camps for children up to 18 years of age
- Bed and breakfast home
- Short-Term Rental <14 days/year but must register
- Lodging accommodations provided to seasonal employees by employers
- Alcohol and drug free housing that is certified pursuant to section 18A of chapter 17
- Tenancies at will or month-to-month leases
- Time-shares

Short-Term Rentals

- **Operator**

- Required to register under M.G.L. 62C, s. 67

*A person shall not operate a bed and breakfast establishment, hotel, lodging house, **short-term rental** or motel unless a certificate of registration has been issued to the person in accordance with section 67 of chapter 62C.*

- **Intermediary acting on behalf of the operator**

- Agreement with the operator to collect rent or facilitate the collection or payment of rent on behalf of the operator
 - Must obtain a certificate of registration from the commissioner (section 67 of chapter 62C)
 - Collect fees
 - Notify operator they must comply with all laws/regulations

Short-Term Rentals

- **DHCD**

- Promulgating regulations for registration
- Establishing registration fee
- Creating searchable database

- **Board of Health**

- Entitled to room tax
- May require registration/permit in addition to DHCD
- May be entitled to Community Impact tax
- Require inspections
 - Determine frequency
 - May charge inspection fee
 - Conduct Chapter II inspection

Short-Term Rentals

- **DPH**

- Asked if the Licensing of Online Home Rental Services memo, 2014, remained valid
 - Chapter 337 of the Acts of 2018 does not supersede local licensing authority under MGL c. 140, s. 23, and while it revises the definition of “lodging house”, it does not substantially change it
 - Cities and towns may choose to:
 - Continue to regulate hotels, motels, lodging houses, and B and B’s as they have before and require licenses or permits under c. 140 or,
 - Discontinue local licensing and defer to the state registration under c. 62C, s. 67
 - Memo is now outdated and should minimally reference the requirements of the new law

Condemnations

- Will condemnation achieve the goal of promoting and protecting the health of every member of the community?
- Does threat of harm to individual outweigh harm which may result from removing individual from home?
- Applies equally to rental & owner-occupied units

Condemnations

What factors should be considered for condemnation?

- Threat to occupants
- Severity of violation(s)
- Time needed to repair

What does “unfit for human habitation” mean?

- Condition meeting the standard to close down, condemn, or demolish [MGL c. 111, § 127(B)]
- Immediate harm/threat to occupant, other legal means could not sufficiently remove the condition

What is the difference between “unfit for human habitation” and “conditions deemed to endanger”?

- Condition which “may” impair the health & safety of occupant or public



Condemnations



Non-Emergency 410.831 (B) (C) (E) (F)

- Notification
- Hearing
- Finding
- Order to Condemn, Vacate and/or Secure
- Placard
- Demolition

Emergency 410.831 (D) (E) (F)

- Finding
- Order to Condemn, Vacate and/or Secure
- Placard
- Demolition
- (Notification and Hearing waived)

Condemnations

Which Way
Should I go?

Non-Emergency 410.831 (B) (C) (E) (F)

- Notification
- Hearing
- Finding
- Order to Condemn, Vacate and/or Secure
- Placard
- Demolition

Condemnations

- **Finding 410.831(A)**
 - Inspection reveals dwelling unfit for human habitation
 - Written finding includes a statement of the material facts and conditions upon which the finding is based
- **Notification 410.831(B)**
 - Provide to owner & occupant(s) prior to finding
 - Address
 - Copy of inspection report
 - Statement board will consider issuing a finding
 - Finding may result in condemnation, vacate building, secure
 - Statement of time, location
 - Properly served, 410.833(B), same as orders

Condemnations

- **Hearing 410.831(C)**
 - If occupied, prior to finding
 - Hearing at least 5 days after service of notice
 - Hold public hearing
 - Owner/Occupant provide testimony, witnesses why should or should not be found unfit
- **Condemnation, order to vacate, order to secure 410.831(E)**
 - Board finds unfit for human habitation, may
 - Issue order condemning the dwelling, or portion
 - Issue order to vacate (how much time will you give occupants?)
 - Issue order to owner to secure the dwelling, or portion
 - No dwelling ordered secured may be occupied without written permission of the board
- **Placarding 410.950(A)**
 - Once 7 day period to request hearing has passed

Condemnations

Which Way
Should I go?

Emergency

410.831 (D) (E) (F)

- Finding
- Order to Condemn, Vacate and/or Secure
- Placard
- Demolition
- (Notification and Hearing waived)

Condemnations

- **Emergency 410.831(D)**
 - Board of health determines, in writing, that the danger to the life or health of the occupant(s) is so immediate that no delay may be permitted
 - Immediately issue finding unfit
 - Without notification or hearing
 - Determination and finding sent to
 - Owner
 - Each affected occupant
- **Demolition**
 - 1 year after order to secure, no compliance
 - Hold hearing prior to demolition

Condemnations

- 410.950(C)
 - Any person refusing to leave a dwelling or portion condemned and placarded
 - May be forcibly removed by
 - Local health authority
 - Local police
- Once an occupant is ordered to vacate, what is your legal obligation?
 - MGL C. 79A, §13, shall provide relocation assistance and a relocation payment to such person or persons for actual reasonable documented expenses in moving his personal property from the real property, unless such payment is otherwise provided
 - Provision for state reimbursement of 50% (Note: this has not been funded)

Condemnations

- Expenses incurred for relocation or securing dwelling

MGL C. 111, §127B

- May attach expenses as municipal lien on the property

MGL C. 139, §3A is adopted into 127B

- Addresses burnt or dangerous buildings but adopted into other statutes

Tiny Houses



