

Civil Cases

G.L. c. 111 §127A-I; G.L. c. 185C §3; Massachusetts Rules of Civil Procedure Rule 65

The goal of civil code enforcement cases in the Housing Court is to get properties brought into compliance with the Codes.

The Housing Court has jurisdiction over residential property and other property which effects residential property - e.g. buildings which pose a risk to the health or safety of residential occupants or the public because of fire or structural risks.

If an owner or person in control of property does not make repairs after a written order by the local BOH/Commonwealth to do so, the BOH/Commonwealth may file a verified complaint and affidavit* with a petition for injunctive relief or a petition to enforce the Sanitary Code* to order the defendant to make certain repairs or to refrain from violating the Codes. Injunctive relief can be in the form of a temporary restraining order, preliminary injunction or a permanent injunction.

If the Code violation is an emergency (e.g. no heat, no water, no utilities), the BOH/Commonwealth may file a request for an immediate temporary restraining order (TRO) to prevent immediate and irreparable harm to the occupants of residential property. The TRO will expire and the plaintiff must return to court for a preliminary or permanent injunction if further relief is needed.

The Massachusetts Rules of Civil Procedure apply in the housing court. This includes the requirements for service of the complaint and motion by the BOH/Commonwealth as found in MRCP Rule 4. In an emergency situation, the plaintiff may file with the Clerk's Office a motion for a short order of notice to schedule a hearing earlier than anticipated by the Rules.

While civil code enforcement cases are usually not assigned a tracking order in the Housing Court, the parties may request an individualized scheduling order if the case involves more than injunctive relief.

In a civil case, the BOH/Commonwealth's burden of proof is a preponderance of the evidence.

*sample attached

COMMONWEALTH OF MASSACHUSETTS
NORTHEAST HOUSING COURT

Plaintiff

- v. -

No.

Defendant

PETITION TO ENFORCE THE STATE SANITARY CODE
UNDER GEN.L. C.111 §127C

Pursuant to Gen.L. c.111 §127C, the plaintiff says that he is
that premises at _____
were inspected on _____
by _____
and that, in accordance with the attached report, the premises were
found to be in violation of the State Sanitary Code, which conditions
were not substantially caused by the tenants or persons under their
control, and endanger or materially impair the health, safety and
well-being of the occupants, that repeated attempts have been made to
have the owner make necessary repairs, but the owner is absent and
beyond legal jurisdiction; wherefore, your plaintiff requests that,
after due notice and a hearing, all rents be paid into Court, and
thereafter used to correct all code violations, under the supervision
of _____

Signature and Date

Name

Address and Telephone

**COMMONWEALTH OF MASSACHUSETTS
HOUSING COURT DEPARTMENT
Northeast Housing Court
2 Appleton Street
Lawrence, Massachusetts 01840
(978) 689-7833**

Susan M. Trippi
Clerk-Magistrate

Hon. Fairlie A. Dalton
First Justice

November

Re: _____

vs: _____

No: 16H77CY _____

INDIVIDUALIZED SCHEDULING ORDER

Please take notice pursuant to Standing Order 1-04, that the above entitled matter is assigned to an Individualized Track that supersedes any prior Scheduling Orders, and that the following deadlines apply:

All Discovery and Depositions Completed:	12/01/2016
Rule 16 Pretrial Conference and Trial Set:	12/08/2016
Dispositive Motions Served and Filed:	01/31/2017

Susan M Trippi
Clerk-Magistrate

NORTHEAST HOUSING COURT
2 Appleton Street
Lawrence, Massachusetts 01840
(978) 689-7833

VERIFIED COMPLAINT AND AFFIDAVIT

Plaintiff's Name

Defendant's Name

Address

Address

City Zip Code

City Zip Code

Telephone

Telephone

I state under the pains and penalties of perjury as follows:

Therefore, I am asking the Court to: _____

Date

Signed under penalties of perjury

COMMONWEALTH OF MASSACHUSETTS

, SS:

HOUSING COURT DEPARTMENT
NORTHEAST DIVISION

Plaintiff

- v. -

Docket No.

Defendant

ORDER OF NOTICE

It is ordered that the _____ give notice to all parties to appear before the Court at the below-indicated session on the _____ day of _____, 20____ at _____ o'clock by causing to be served upon each party a copy of this order, together with copies of the foregoing Complaint and/or Motion for/to _____, at least _____ day(s) before said date.

Superior Court – Lowell
Courtroom 1
360 Gorham Street
Lowell, MA 01852

Juvenile Court – Lynn
Courtroom 1
139 Central Avenue
Lynn, MA 01901

J. Michael Ruane Judicial Center
4th Floor, Courtroom D
56 Federal Street
Salem, MA 01970

Fenton Judicial Center
2nd Floor, Courtroom 3
2 Appleton Street
Lawrence, MA 01840

Date:

FAIRLIE A. DALTON
FIRST JUSTICE

MASSACHUSETTS GENERAL LAWS
CHAPTER 79A
RELOCATION ASSISTANCE

Chapter 79A Section 13. Enforcement of state sanitary code - displacement of persons - moving expenses - state financial assistance - reports.

Any public agency displacing one or more persons by issuing an order to vacate real property for the purpose of enforcing Article II of the state sanitary code, pursuant to section one hundred and twenty-seven B of chapter one hundred and eleven, 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. The provisions of this section shall apply only to real property which is not part of or constitutes the entirety of a project where relocation payments would otherwise be required.

In instances where such enforcement results in the eviction of occupants, the state shall reimburse the locality carrying out such enforcement for fifty per cent of the costs of providing such relocation assistance and moving payments. Such state financial assistance shall be contingent upon the provision of relocation services and payments as documented by periodic reports as required by regulation pursuant to section twelve.