

1-20-12 Housing Horrors

I have always felt that, despite the challenges of enforcing the housing code, it was worth the effort because at least someone was helped; either the tenant or the “landlord”. I’m not a fan of that lord word because it conjures up images of a feudal system or the contemporary person who doesn’t really care about the tenant, as in the so-called slum lord. I haven’t worried about meeting that kind of person because the Massachusetts State Sanitary Code takes care of that. Well, it does if it is enforced. There is no room for the uncaring lords of any kind; the code is referred to as the Sanitary Code because in Paul Revere’s time, sanitary and safe conditions were what renters needed and that first Board of Health was making sure that it would be provided. Or else! Or else pay fines. Or else go to court.

Little did Paul Revere, the first chairman of Massachusetts’ first Board of Health, realize that two hundred years later, we would be battling a role reversal of sorts, where tenants routinely take advantage of the fact that the Sanitary Code was written in their favor to protect them. That was the intention. It was needed and always will be, I suppose. But it was not the intention of the housing code to allow rent-free living and/or abuse of the property.

HOWEVER, there is a section of the Sanitary Code addressing the responsibilities of the tenant. The tenant is responsible for maintaining the property and keeping it free from rubbish, garbage and other sources of filth and disease. Sounds easy enough and it truly is their responsibility. A rental property is not a free ride to do whatever you want, if you want to slam, scrape, scour, scuff, scratch, snub and soil the living daylight out of the place. Daylight is important. We require sunlight for vitamin D and it is the great sanitizer. And daylight also stands for understanding and awareness. Ahhh...understanding and awareness; they are such useful qualities!

When the tenant does not understand or realize his or her responsibility for maintaining the property, all hell breaks loose, with the owner feeling like the punished one, unfortunately. At that point, my job is the same as before: enforce the code. At this point in the code enforcement, my emphasis is geared toward explaining to the tenant the need to maintain the property, with the possibility of fines and court involvement, if cooperation is not obtained.

In the meantime, the owner of the ruined property is left holding the bag in a bad situation. In this case, however, he or she is not to blame at all. How costly is that bag? Well, the owner is responsible for using a constable for notices of eviction. That costs. If the tenant left or was forced to leave because of making the place uninhabitable, the owner is responsible for storage of the tenants’ possessions. No, it can’t be the owner’s garage. The possessions have to go to a storage facility and have to be moved by a bonded moving company so that the possessions are insured for damage. Very costly.

At this point in time I do wish the court system would assist the big picture in a more timely manner when there is proof of neglect on the part of the tenant. Personal property has

been damaged and they should be held responsible. Even when the rent hasn't been paid, it can take months to actually get the tenants out. It does not benefit society as a whole to allow people to be freeloaders. They lose their sense of responsibility and convince themselves that it is acceptable behavior. That is not a good thing for our country.

I will and do go to court to assist the owner, just as I do to assist the tenant. It is the same code and it is enforceable. There's a good reason why Paul Revere saw it fitting to include fines and court. He knew that consequences had to be allowed to follow on the heels of certain behaviors and conditions. Those undesirable consequences can be prevented by responsible actions. The choice is made clear in the code. That was good parenting on the part of our forefathers!

So, while excellent guidance and structure is all there, including the possibility of the "family meeting" by having a hearing, Paul Revere also knew that the talking process cannot go on forever. Thus, when a person is not satisfied with the outcome of a hearing with the local board of health, they can "seek relief in a court of competent jurisdiction". And that is just what is needed when people turn housing into a horror show.

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For more information on the rights and responsibilities of tenants and/or property owners, see the Office of Consumer Affairs section of the Mass.Gov website.

<http://www.mass.gov/ocabr/consumer/housing/tenant-and-landlord/landlord-rights.html>