

Navigating the Housing Court

Massachusetts Health Officers Association
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Have you done everything you can to prepare your case for court?

- Orders served properly?
- Time limits to correct violations have expired?
- Reinspection(s) have been conducted?
 - Violations are uncorrected or not corrected in a way that satisfies your orders
- Taken every step possible to avoid taking legal action

Filing Your Case

Civil or Criminal Complaint?

Civil Complaint

- Preferred way to file
- Case can move faster, especially when violations pose a threat to occupant or public safety
- Mediation can be used to reach a legally binding agreement
- Notice is served by you through a sheriff or constable

Filing Your Case

Civil or Criminal Complaint?

Criminal Complaint

- Case goes directly to a hearing in front of the Judge or Magistrate
- Harsher penalties for noncompliance

(Criminal Record – Fines - Jail)

- The court will do service for you
- Cases filed as a Criminal Complaint can be converted to a Civil Complaint

Serving the Complaint

- A court summons must be served upon the defendant
 - Tells them that court action is being taken against them and when and where to appear
- Service is done thru a sheriff or constable also called a “process server” who will then provide a “return of service” once the summons and complaint have been properly served
- Each person named as a defendant must be served separately (co-owners of a property)

Serving the Complaint and Summons

Sheriff or Constable may:

- Give a copy of the complaint and summons in person to the defendant(s)
- Leave a copy at the defendant's residence as well as send a second copy via first class mail



Filing Proof of Service

- The process server may file the proof of service directly to the court but in most cases will provide it to you
- If provided to you then it is up to you to file the proof of service with the court
- Once you receive the proof of service get it to the court immediately
- **Improper service of the complaint and summons is grounds for your complaint to be dismissed!**

Court Preparation

Being prepared in court will:

- Strengthen your case
- Help your case move forward quickly
- Avoid embarrassment, especially when presenting to a Judge or Magistrate
- Provide for a better outcome in your favor
- Instill confidence that the court may have in you and your case when ruling

Court Preparation

- Check all your documents to ensure your notes are accurate, organized, and easily understood
- Have copies of all your documents associated with the case
- Make copies to give to the court or other party if requested (this goes for photographs as well)

The Day of Court

- Double and triple check that you have all your paperwork and evidence that you're going to need for your case(s)
- Dress appropriately
- Arrive early, being late can have serious consequences
- Find your court room ahead of time
- Check your cell phone to ensure that it's on vibrate or silent mode, better yet turn it off when you head into the court room or mediation!
- **RELAX!**

The Day of Court

- You and the defendant will likely be present waiting for the court room to open and the cases on the docket that day to be read
- See if the defendant will be open to sitting down with a court mediator first instead of going in front of the Magistrate or the Judge
- Don't get into a confrontation with the other party!

Mediation

Although not required it should always be attempted

- Shows you're interested in using every avenue available to reach compliance
- "This is real" may become apparent to the defendant and they may be more willing to negotiate an agreement instead of going in front of a judge
- Less of a formal setting which may allow both parties to comfortably work out an agreement
- Gives you an idea of what the other party is going to present for a defense if you have to go in front of a judge
- Mediators are typically Housing Specialists that understand what can and cannot be agreed to



Mediation

- If you don't reach an agreement, you end mediation and go in front of the Magistrate or Judge
- Your signed agreement is an order of the court and carries the same penalties if not complied with, similar as if it was issued in front of a Judge
- Both parties can feel they had more control over the outcome and the defendant may be more willing to comply with your order
- It gets you out of court faster!

The Trial

Before your case is called

- Check your paperwork and evidence to ensure you have everything and its in order
- Turn your cell phone off
- Get rid of gum, remove your hat
- Patiently wait

The Trial

- Take your place in front of the bench where the court officer directs you
- Lay out your paperwork of evidence so you can access it quickly during the trial
- Make a separate pile for copies which you can present to the court official or defense if requested
- Remain silent

The Trial

- Plaintiff (Health Department)
 - Typically, you will be asked to present first
- Start at the beginning of the case
 - Complaint received
 - Inspection date and time set
 - Inspection completed with results
 - Date orders issued and how service was done or attempted
 - Date orders were served to the defendant
 - Date reinspection(s) done – uncorrected violations
 - Any communication you had with the occupant and/or property owner

The Trial

- Defendant (Property Owner/Occupant)
 - Present their case and why they feel they shouldn't have to comply with your order or parts of it
 - Offer evidence and supporting documentation (if they have any)
 - Answer questions from the Judge as directed
 - Ask for additional time to comply
 - Be prepared with an answer if the judge asks you if you would agree to additional time to comply
 - If possible be flexible as this may get you an agreement with the defendant

The Trial

Your role when the Defendant is presenting

- Pay attention to what is being presented
- Present any requested paperwork or evidence to the court officer if ordered by the judge
- Answer any questions the judge directs you to answer
- Don't interrupt, you'll have another opportunity to speak
- Stay cool, even though you may not agree with what is being presented

What would you like the court to do?

- What is your ask?
 - Don't ask the court what you should do, go to court knowing what you want them to order the defendant to do, then ask the court.
- The court is not there to punish defendants but to ensure compliance with the State Sanitary Code

Questions

