

HOUSE No. 4075

By Ms. Walz of Boston, petition of Martha M. Walz and others (with the approval of the mayor and city council) relative to the administrative disposition of violations of certain housing, sanitary and building codes of the city of Boston. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

PETITION OF:

Martha M. Walz
Jeffrey Sanchez
Kevin G. Honan

Michael J. Moran
Elizabeth A. Malia

In the Year Two Thousand and Seven.

AN ACT REGARDING A SPECIAL LAW FOR THE ADMINISTRATIVE DISPOSITION OF CERTAIN VIOLATIONS UNDER THE HOUSING, SANITARY, AND BUILDING CODES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any special or general law to the
2 contrary, the commissioner of the inspectional services department
3 for the City of Boston shall have the authority to implement a
4 system for the administrative disposition of non-criminal violations,
5 passed by Boston City Council pursuant to Section 21D of Chapter
6 40 of the Massachusetts General Laws, under the state housing, sani-
7 tary, or building codes.

1 SECTION 2. The commissioner of the inspectional services
2 department, hereinafter "the commissioner," shall have the authority
3 to hire and designate such personnel as may be necessary to imple-
4 ment the provisions of these sections and in no case shall the amount
5 expended by the administration of this section exceed eleven percent
6 (11%) of the total amount of the annual code violation receipts col-
7 lected by the collector-treasurer.

1 SECTION 3. It shall be the duty of every officer and inspector
2 who takes cognizance of a violation of any provision of any rule,
3 regulation, order, ordinance, or by-law regulating the housing, sani-
4 tary, or building codes established in the City of Boston, to give the
5 offender a notice forthwith, which shall be in tag form as provided in
6 these sections to appear before the commissioner or the commis-
7 sioner's designee during regular office hours, no later than twenty-one
8 (21) days after the date of such violation. All tags shall be prepared
9 in triplicate and shall be prenumbered.

1 SECTION 4. Said tag shall be affixed securely to the building, or
2 for buildings with an onsite professionally-managed property office,
3 delivered to said office during normal business hours, and shall con-
4 tain, but shall not be limited to the following information: the date,
5 time, and place of the violation, the specific violation charged, the
6 name and badge number of the officer or inspector and his/her divi-
7 sion, a schedule of established fines, instructions for return of the
8 tag, and a notice which reads: "This notice may be returned by mail,
9 personally, or by an authorized agent. A hearing may be obtained by
10 written request of the owner of record of the property. Failure to
11 obey this notice within twenty-one (21) days after the date of the
12 violation may result in a lien placed on said property."

1 SECTION 5. Within three (3) business days of the completion of
2 each shift, the officer or inspector shall give to his/her superior those
3 copies of each notice of such violation taken cognizance of during
4 such shift. Said superior shall retain and safely preserve one (1) of
5 such copies and shall at a time no later than the beginning of the next
6 business day after receipt of such notice deliver another of such
7 copies to the commissioner or hearing officer before whom the
8 offender has been notified to appear. The commissioner or hearing
9 officer shall maintain a docket of all such notices to appear.

1 SECTION 6. Any person notified to appear before the commis-
2 sioner, as provided in these sections, may appear before such com-
3 missioner, or his/her designee, and confess the offense charged,
4 either personally or through an agent duly authorized in writing or
5 by mailing the notice and payment of the fine provided therein to the
6 commissioner, any such payment shall be made only by cash or

7 bank-issued check if made in person or by bank-issued check made
8 payable to the City of Boston if mailed and delivered to the col-
9 lector-treasurer. Payment of the fine shall operate as final disposi-
10 tion of the matter. Notice affixed to the property or delivered to an
11 onsite professionally-managed property office as provided in these
12 sections shall be deemed to be sufficient notice, and a certificate of
13 the officer or inspector affixing such notice that it has been affixed
14 thereto, in accordance with these sections, shall be deemed prima
15 facie evidence thereof and shall be admissible in any judicial or
16 administrative proceeding as to the facts contained therein.

1 SECTION 7. The commissioner shall, from time to time by rule
2 or regulation establish a schedule of fines for violations subject to
3 this section committed within the City of Boston provided, however,
4 that all such fines shall be uniform for the same offense committed
5 in the same zone or district, if any; and provided further that any fine
6 established under the provisions of these sections for all violations
7 shall not exceed the maximum allowable under the relevant sections
8 of the housing, sanitary, or building code, excluding late fees which
9 shall not exceed twenty percent (20%) of the original fine amount
10 for any payments made after the twenty-one (21) days and twenty
11 percent (20%) of the original fine amount for any payment made
12 after thirty (30) days after a notice of non-payment has been sent
13 out, but before the commissioner notifies the collector-treasurer, as
14 provided below.

1 SECTION 8. Any person notified to appear hereunder that fails
2 to appear and, if a fine is provided hereunder, fails to pay the same,
3 or having appeared seeks to engage the procedures established by
4 these sections, the commissioner or his/her designee shall forthwith
5 schedule the matter before a person hereafter referred to as a hearing
6 officer, said hearing officer to be the commissioner or such other
7 person or persons as the commissioner may designate. Written
8 notice of the date, time, and place of such hearing shall be sent by
9 first-class mail to the owner of record of the property where the vio-
10 lation occurred. Said hearing shall be informal, the rules of evidence
11 shall not apply, and the decision of the hearing officer shall be final
12 subject to judicial review as provided under Chapter 30A of the
13 Massachusetts General Laws.

1 SECTION 9. It shall be the duty of the commissioner to notify
2 the collector-treasurer forthwith that such matter has been so dis-
3 posed in accordance with law, provided however, that a certified
4 receipt of full and final payment from the commissioner shall also
5 serve as notice to the collector-treasurer that said violation has been
6 disposed. The notice to appear provided herein shall be printed in
7 such form as the collector-treasurer may approve. The commis-
8 sioner shall distribute such notices to the supervisors of the officers
9 and inspectors and shall take a receipt thereof. The collector-trea-
10 surer shall approve such other forms as he/she deems appropriate to
11 implement these sections, and said forms shall be printed and used
12 by the City of Boston.

1 SECTION 10. Any person notified to appear before the commis-
2 sioner, as provided herein, may without waiving the right to a
3 hearing provided by these sections, and also without waiving judi-
4 cial review as provided by Section 14 of Chapter 30A of the Massa-
5 chusetts General Laws, challenge the validity of the violation notice
6 and receive a review and disposition of the violation from the com-
7 missioner or a hearing officer by mail. The alleged violator may,
8 upon receipt of the notice to appear, send a signed statement of
9 objections to the violation notice as well as signed statements from
10 witnesses, police officers, government officials, and/or other rele-
11 vant parties. Photographs, diagrams, maps, and other documents
12 may also be sent with the statements. Any such statements or mate-
13 rials sent to the commissioner for review shall have attached the per-
14 son's name and complete address as well as the ticket number and
15 the date of the violation. The commissioner or hearing officer, shall,
16 within twenty-one (21) days of receipt of said material, review the
17 material and dismiss or uphold the violation, and notify by mail the
18 alleged violator of the disposition of the hearing. If the outcome of
19 the hearing is against the alleged violator, the commissioner or
20 hearing officer shall explain the reason(s) for the outcome on such
21 notice. Such review and disposition conducted by mail shall be
22 informal, the rules of evidence shall not apply, and the decision of
23 the commissioner or the hearing officer shall be final subject to any
24 hearing provisions provided by these sections or to judicial review
25 as provided under Section 14 of Chapter 30A of the Massachusetts

26 General Laws. Each violation issued shall contain a statement
27 explaining the procedure to adjudicate the violation by mail.

1 SECTION 11. For any person that fails to appear in accordance
2 with said notice, the commissioner may, based upon the number of
3 and/or the dollar amount of the violation(s) on the property and after
4 establishing to the reasonable satisfaction of the collector-treasurer
5 that the requirements referenced herein have been met, request that
6 the collector-treasurer place a lien on the property and that the
7 matter be placed on record and handled in accordance with estab-
8 lished procedures of the collector-treasurer consistent with Chapter
9 60 of the Massachusetts General Laws. Any such persons shall be
10 notified via certified mail of the request for the placement of a lien
11 on the property. All such liens shall be filed once per year, as
12 directed and determined by the collector-treasurer, and not removed
13 until after notice from the commissioner that all such matters have
14 been disposed of in accordance with law. Upon such notification to
15 the collector-treasurer, additional charges equal to the amount
16 required to file the lien and the amount required to remove the lien
17 shall be assessed against the owner of record for the purpose of
18 ensuring that all costs associated with filing and releasing are recov-
19 ered.

1 SECTION 12. If any provision of these sections or the applica-
2 tion of such provision to any person or circumstance shall be held
3 invalid, the validity of the remainder of this act and the applicability
4 of such provision to other persons or circumstances shall not be
5 affected thereby.