

YOUR RIGHTS UNDER THE COMMUNITY RESIDENCE TENANCY LAW

WHAT DOES THE COMMUNITY RESIDENCE TENANCY (CRT) LAW DO?

The CRT law, codified at Massachusetts General Laws Chapter 186, section 17A:¹ (1) clarifies who in Department of Mental Health (DMH) community housing is entitled to regular summary process eviction proceedings in court; and (2) establishes procedures which must be followed prior to removing those DMH clients who are not entitled to summary process.

WHO HAS A RIGHT TO THE EXISTING SUMMARY PROCESS?

A person has a right to summary process if he or she is a client living in a community residence operated by DMH, contracted for by DMH, or licensed by DMH and: (1) is a lawful housing occupant who is a client in a program of residential care and services; (2) receives from the program care and services in a housing unit equipped with a kitchen and bathroom; and (3) occupies the unit either alone or with the occupant's family, as defined in the regulations of the department.

WHO HAS A RIGHT TO THE ADMINISTRATIVE DUE PROCESS PROTECTIONS OF THE CRT LAW?

Every occupant in a community residence operated by DMH, contracted for by DMH, or licensed by DMH who does not qualify for summary process is entitled to the due process protections of the CRT law.

WHAT ARE THE NEW DUE PROCESS PROTECTIONS OF THE LAW?

- The housing provider gives **written notice** to DMH and to the occupant of the proposed eviction, including reasons, facts and the sources of the facts; the right to a hearing and to be represented; and the occupant's right to look at his or her file.
- DMH appoints an impartial hearing officer who then conducts a **hearing** between 4 and 14 days after DMH receives the notice (unless a later date is agreed upon). Each side may present evidence, examine adverse evidence, and examine and cross-examine witnesses.

¹ Chapter 186, section 17A codified Chapter 237 of the Acts of 2002, An Act Relative to Community Residency Tenancy Protections, which was signed into law on August 9, 2002. This statute replaces the prior CRT law, section 308 of Chapter 38 the Acts of 1995, as amended by section 56 of Chapter 177 of the Acts of 2001.

- The provider must prove, by a *preponderance of the evidence*, either that the occupant **"has substantially violated an essential provision" of a written occupancy agreement** or **"is likely, in spite of reasonable accommodation, to impair the emotional or physical well-being of other occupants, program staff or neighbors."** In making its case, the provider may only present evidence, which is within the scope of the reasons for eviction set forth in the notice given to the occupant.
- The hearing officer issues a written decision based on the evidence, with findings of fact and legal conclusions. If there seems to be an appealable legal issue, the occupant or advocate should give the provider and the hearing officer notice of intent to appeal the matter to the Superior Court, ask for a stay, and find an attorney to handle the appeal. The provider may also appeal.
- If the occupant loses and would otherwise be homeless, DMH must take steps to assist the occupant to secure alternative housing in the least restrictive setting that is appropriate and available.

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