
THE HAMPDEN COUNTY HOUSING COURT: AN OVERVIEW

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The Hampden County Housing Court demonstrates a unique innovation in specialized court systems. A limited subject-matter jurisdiction combines with flexible procedures and practices to shape this court's goals and achievements. The tone of the housing court is progressive. It is completely devoted to prompt action: technical delays are cut to an absolute minimum. In every instance the court attempts to clarify, simplify and explain to both counsel and litigants the procedures and their consequences. Pro se appearances are particularly encouraged; forms have been designed, rules adopted, and instructional information prepared to achieve this goal.

Strong support by the local newspapers, the determined efforts of State Senator Alan Sisitsky, and the work of an extremely active citizens' committee prompted the legislation creating this court. Drawing on the experience, forms and procedures of the older Boston Housing Court,¹ the Hampden County Housing Court was able to become fully operational by January 1, 1974. Despite judicial diffidence, skepticism from the legal community, and rather genuine alarm from both the real estate

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1. Legislation creating the Boston Housing Court was enacted in 1972. MASS. ANN. LAWS ch. 185A (Michie/Law Co-op. 1977). This court was the first housing court created in the Commonwealth. Although the jurisdiction of the Boston and Hampden Courts always has been concurrent with, and not exclusive of, the other trial courts, the Boston court quickly became the principal vehicle for the resolution of housing disputes, particularly landlord and tenant, in the city of Boston.

community and apartment owners' associations, public acceptance of this judicial reform has been generally favorable.

Both its enabling legislation² and its inherent judicial powers³ contribute to the structure of the Hampden County Housing Court. In addition to providing the court with the requisite power, the enabling legislation establishes the duties and prescribes the penalties necessary for comprehensive enforcement of existent housing standards. There are various sources for these standards. For example, legislation establishes minimum standards of fitness for places of human habitation.⁴ Statewide building, plumbing⁵ and electrical⁶ codes are also in force. These codes are subject to local enforcement by criminal fines, which vary from \$10.00 to \$500.00 for each day the violation continues.⁷ There are also various other housing regulations, private attorney general remedies,⁸ and rent abatement and rent withholding provisions.⁹ In addition, there are statutes which negate contractual waivers of notice and acts of negligence and various other commonly oppressive lease provisions.¹⁰ All of these statutes provide the housing court with a broad range of remedies. In effect, the scope of the legislation and consumer protection regulations establish a liberal approach to landlord-tenant disputes.

In addition, the housing court exercises the full range of powers of any

2. MASS. ANN. LAWS ch. 185B (Michie/Law Co-op. 1977). This statute establishes the places for holding court (§ 4), the days and hours for transacting business (§ 5), procedural rules and forms (§ 7), and the duties of clerk and Assistant (§ 14) and of Housing Specialists (§ 16).

3. "The housing court shall have common law and statutory jurisdiction concurrent with the district courts and superior court of all crimes and of all civil actions, arising within the county," under specified health laws and under any "Law, ordinance, rule or regulation as is concerned with the health, safety or welfare of any occupant of any place used, . . . as a place of human habitation. The housing court shall also have jurisdiction in equity, concurrent with the district courts, the probate court, the superior court and the supreme judicial court, of all cases and matters so arising." MASS. ANN. LAWS ch. 185b, § 3 (Michie/Law Co-op. 1977).

4. MASS. ANN. LAWS ch. 111, §§ 127A-127N (Michie/Law. Co-op. 1978).

5. MASS. ANN. LAWS ch. 142, § 13 (Michie/Law. Co-op 1978) (plumbing inspectors shall make and amend reasonable and uniform rules and regulations for their respective cities and towns).

6. MASS. ANN. LAWS ch. 143, § 3L (Michie/Law. Co-op 1978) (the board of fire prevention regulations is directed to promulgate rules and regulations "relative to the installation, repair and maintenance of electrical wiring and electrical fixtures").

7. MASS. ANN. LAWS ch. 111, § 127B (Michie/Law. Co-op 1978).

8. MASS. ANN. LAWS ch. 186, § 14 (Michie/Law. Co-op 1978).

9. MASS. ANN. LAWS ch. 111, § 127L, ch. 239.8A (Michie/Law. Co-op 1978).

10. MASS ANN. LAWS ch. 186, §§ 15A, 15C, 15D, 15E & 15F (Michie/Law. Co-op 1978).

trial court in Massachusetts, both at law and in equity.¹¹ The court was able to adapt its procedures to those employed in the district courts regarding criminal complaints.¹² The broad power and flexibility of the housing court permits prompt adjudication based upon complaint, but retains all of the safeguards of the Superior Court, such as the right to jury trial in criminal and civil matters.¹³ The court possesses jurisdiction over all small claims and summary process disputes regarding the possession of land and tenements.¹⁴

Although the jurisdiction of the housing court is broad, it is limited in two significant respects. First, the territorial jurisdiction of the court is limited to Hampden County.¹⁵ The area contains twenty-three communities; only four of these communities are large enough to be considered cities. About four-fifths of the 500,000 people living in the area reside within twenty miles of the courthouse, in either urban or suburban settings. Significantly, Hampden County has well-developed social service agencies, which are both publicly and privately funded.

The court's subject matter jurisdiction is limited to statutes specified in the enabling legislation as well as to "any other general or special law, ordinance, rule or regulation as is concerned with the health, safety or welfare of any occupant of any place used, or intended for use, as a place of human habitation."¹⁶

Subject-matter jurisdiction poses a threshold question in every case; this issue is often difficult to resolve. In *Police Commission v. Lewis*,¹⁷ the Supreme Judicial Court indicated some of the contours of this issue:

There are many conceivable disputes that affect the 'health, safety or welfare' of occupants of housing, but not all are property within the ambit of the Housing Court since it is a Court of limited jurisdiction. Although we need not at this time delineate the exact scope of

11. MASS. ANN. LAWS ch. 185B (Michie/Law. Co-op 1977).

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. MASS. GEN. LAWS ch. 185C § 3 (Michie/Law. Co-op 1977). *See also* 1979 Mass. Acts ch. 72, clarifying jurisdiction to include: "all housing problems, including all contract and tort actions which affect the health, safety, and welfare of the occupants or owners thereof."

17. ____ Mass. ____ 357 N.E.2d 305 (1976). *See Chakrabarti v. Marinello*, Mass. Adv. Sh. 537 (1979); *Haas v. Breton*, Mass. Adv. Sh. (March 23, 1979) which prompted the legislature to amend the jurisdiction section of ch. 72.

the Housing Court's jurisdiction, it is apparent from our prior discussion that police protection and allocation of police resources, despite their significant impact on the welfare and safety of Boston residents, are not sufficiently related to housing to come within the Housing Court's jurisdiction as defined by G.L. Chap. 185A Sect. 3.

In both civil and criminal cases, the housing court reads the subject-matter jurisdiction issue expansively. However, unless some direct relationship to housing can be established, structures wholly devoted to commercial, industrial or institutional or public purpose other than housing lie outside the jurisdiction. In criminal cases, questions often arise regarding vacant lots, abandoned buildings, closed apartment units, and buildings where the use has been changed; the court in these cases must decide whether these structures in some way relate to the "health, safety, or welfare of occupants of places used or intended for use as a place of human habitation." The jurisdiction in civil matters has been found to attach in tort, contract, fraud, equity, environmental protection, consumer protection, zoning and any other matter which directly affects human habitation.

The work of the court is comprised of four general types of cases: summary process, small claims, criminal and civil. The vast number of summary process cases concern non-payment of rent; while most of these cases involve neglect to pay rent, often tenants refuse to pay rent because of housing deficiencies. In these cases where speed is essential, the housing court usually produces a written report within one week of the initial hearing. Similarly, in small claims cases the court seeks speedy resolution of disputes, often in the form of on-site inspections and mediation.

In the vast majority of criminal cases, the defendant enters a not-guilty plea. However, after two or three continuances, the prosecution usually reports that the violations have been satisfactorily corrected and the case is then dismissed. Such subjects as exterior rubbish and debris, rodent and pest infestation, peeling paint and plaster, leaking faucets and sagging steps, defective locks, loose and broken windows, boarding and securing abandoned buildings and a hundred other seemingly petty details constantly are brought on complaints. Each complaint is followed to a conclusion through either compliance or abandonment and eventual demolition of the structure.

The more traditional court business consists of the civil side of the court, where parties have available all the customary procedures in all courts of general trial jurisdiction. Even in this area the court tries to encourage pro se appearances and prompt hearing schedules. It thus seems

that the housing court resolves issues quickly, perhaps because of the qualified experts and the specialized subject matter, or perhaps because of the general adaptability of the court itself.

In conclusion, it has been the continual aim of everyone involved with the Hampden County Housing Court to minimize the public impression of courts as forbidden places. People have entered this court with the belief that it really is a people's court, where plain language is spoken about everyday problems and matters are brought to a head in the shortest possible time consistent with fair play and the right to have both sides of any dispute fully heard. If the court can maintain this result, it will continue, as it must, to prove its worth.

