

Tenant Bylaws Poses Challenges

Milford has passed a new regulation, *Article 37*, to be entitled “OCCUPANCY OF BUILDINGS”. The new bylaw has been approved by the Attorney General.

“What does the new By-Law mean to the Landlord?” First, any owner of a building planning to lease the property will have to register with the Board of Health. The fee for registering will be \$50.00 per year. At the time, the Board of Health will determine how many people shall occupy the building. Then, the Board of Health will post the occupancy number on the building for everyone to see.

The Board of Health will determine the number of people that can occupy an apartment by using the Massachusetts State Sanitary Code and the Board of Health Regulations. The overall goal of this By-Law is to adhere to the public health standard.

The By-Law heads in the right direction by limiting the amount of people in rental units. For example, if a 1500 square foot house has three bedrooms, and designed for a family of four, there should not be more than 4 individuals occupying this space because, with more, there is an increased likelihood of the spreading of communicable diseases, like Tuberculosis, the flu and other viruses, In addition, overcrowding of rental units imposes a fire hazard.

Second, landlords should look to this By-Law positively, as individuals searching for rental apartments will increase. If multiple people cannot live together in one apartment, then they may look for rental units nearby, and in essence, decrease vacancies.

One provision of the By-Law, which may be seen as heavy handed and has no immediate structure is the penalty part: **SECTION 6- Penalty states that “Any person or tenant violating any provision of this chapter shall be punished by a fine of not more than three hundred dollars (\$300.00). Each day’s violation constitutes a separate offense.”**

The Board of Health can fine the landlord or the tenant \$300.00 dollars a day for having too many people in the apartment. However, should the Board of Health decide to fine the tenant, it may be difficult to collect the money; *the tenant may have no real incentive to adhere to the law because they are paying for the rental of the property, and can allow others to stay with them in their apartments.*

This being the case, the Landlord then becomes the Board of Health’s main focus to limit the amount of people that can occupy a rental property; *they have an incentive not to violate the By-Law, as they are the property owners and the Town of Milford can lien their property if the fine goes unpaid.*

Simply stated, a landlord should be aware how many people are living in his apartments and should be encouraged to work with the Board of Health to remedy any questionable situation.

In my opinion, there should be stages in Section 6 of the penalty phase in order to safeguard everybody's rights. Both owners and tenants should be given warnings to vacate the individuals that are not on the lease agreement.

If the regulations are not followed, then the Board of Health can start to fine both the tenants and the landlords accordingly. Phases should be implemented in the penalty law in the form of 50.00 dollars a day, up to \$300.00 a day over a designated time period.

Overall, the intent of the law is a good one- **to protect the community**, but the enforcement and implementation is going to be very difficult to execute.

This article written by Attorney James P. Hentz, 35 Main Street in Milford, was published by the Milford Daily News and appeared on the Tuesday, March 14, 2006 edition; an online copy is available at www.MilfordDailyNews.com.