

BURLINGTON HOUSING BOARD OF REVIEW

Monday, December 5, 2022

7:00 p.m.

The meeting will be REMOTE ONLY. You can join the meeting via Zoom:

<https://zoom.us/j/91780521708>

Or One tap mobile :

US: +13017158592,,91780521708# or +13052241968,,91780521708#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

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Webinar ID: 917 8052 1708

International numbers available: <https://zoom.us/u/ada9GPR9VT>

AGENDA

1. Presentation by William Ward, Director of Permitting and Inspections, Potential Changes to Chapter 18
2. Mae Quilty (tenant); Melissa Rubinchuck Parr (landlord) (security deposit case) re: 21 Ledge Road, Apt. B

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**Permitting and Inspections Department**

645A Pine St, PO Box 8
Burlington, VT 05402-08

VOICE (802) 863-04

FAX: (802) 652-42

To: Housing Board of Review
From: William M. Ward *WmW*
Date: November 30, 2022
Subject: Possible change to Chapter 18

Summary

During the previous two years our inspection staff has seen an increase in the number of housing inspections that take 3 or more re-inspections before all deficiencies are corrected and the property comes into compliance. The additional inspections reflect increased time that tenants live in rental units with deficiencies and the repeated inspections reduce the efficiency of the Housing Division staff. In searching for creative solutions other communities are using to address problem properties I found the City of Orlando Florida uses their compliance Board to address non-compliant properties. I would like the Burlington's Housing Board of Review to provide their feedback on a proposal to implement a similar ordinance in Burlington.

Timeline of typical inspection

Burlington's Code Enforcement Inspectors in the Housing Division complete routine and complaint inspections of rental properties. A typical initial inspection can find one or more violations that the inspector notes in a written order requiring any deficiencies to be remedied by a comply-by date in 30 days in most cases. A first follow up inspection occurs approximately 30 to 40 days after the initial inspection. If needed, a second follow up inspection would be another 30-60 days after that depending on extension requests by the property owner. Extensions are often granted on request of a property owner who hires a contractor with a repair schedule that is later than the scheduled inspection date.

If a third re-inspection occurs it can add another 30 to 60 day delay in verifying compliance with the original deficiencies. A third re-inspection only occurs in about 1 percent of all the properties inspected but the total time taken from the initial inspection date is 120 days or more for these cases.

Current penalties

When a rental property is inspected and any deficiencies are corrected on the first re-inspection there are no fees. If the deficiencies are not corrected on the date of the first re-inspection there is a \$75 per unit fee for non-compliance. If the deficiencies are not corrected by the second re-inspection date there is a \$150 per unit fee for non-compliance. If the deficiencies are not corrected by the third re-inspection date there is a \$300 per unit fee for non-compliance for this or any subsequent inspection.

Inspectors can also issue \$100 municipal tickets for each deficiency found on re-inspection and \$200 for a second offense. Tickets provide the property owner 21 days to respond and appeals can take months to resolve without immediate relief for the tenant.

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The housing ordinance includes provisions for criminal charges for violations but the courts are already overwhelmed which makes them less likely to hear a case and provide relief for tenants as quickly as the Housing Board of Review.

Orlando Ordinance

The City of Orlando, Florida ordinance notes that minor violations shall not exceed one hundred twenty (120) days, and the time given to comply with major violations as defined in their code shall not exceed forty-five (45) days. It further states that any violation not corrected in the time and manner specified in the notice pursuant to this Section may be referred to the Code Enforcement Board.

The relevant provision of ordinance is below:

Sec. 5.04. - Enforcement Procedure

(5) Should the violation continue beyond the time specified for correction, the Code Officer shall notify the Code Enforcement Board and request a hearing. The Code Enforcement Board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed to said violator as provided in Sec. 5.09. If notice by personal service or by mail is not feasible, the City Attorney's Office may opt to serve notice by publication as provided in Sec. 5.09. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the Code Officer, the case may be presented to the Code Enforcement Board even if the violation has been corrected prior to the Board's hearing, and the notice shall so state.

Orlando Code Enforcement reported being very successful in getting compliance with this method. Their Board agenda has approximately 80 units a month scheduled to appear. Approximately 1/3 of those cases come into compliance before the hearing. Burlington's per capita rental units could be as high as 6 scheduled per month based on Orlando's scale. Our actual experience suggests that only 1 or 2 Burlington rental properties per month would need to be presented to the Board for a hearing.

Recommendation

I am considering a request to City Council that Burlington amend Chapter 18 to provide for a public hearing to be set automatically upon the code inspector's finding that a property was not brought into compliance by conclusion of the third scheduled re-inspection. The primary function of the board in such a hearing would be to uphold the inspector's findings and require prompt compliance or find in favor of the property owner and grant the additional time they request. I look forward to meeting with you and answering any questions you may have.

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Minutes

Board Members Present: Betsy McGavisk, Evan Litwin, Olivia Taylor, Josh Wronski

Staff present: Lisa Jones

1. Presentation by William Ward, Director of Permitting and Inspections, Potential Changes to Chapter 18
Present were Bill Ward and Patti Wehman from DPI.
Bill Ward presented his proposal for changes to Chapter 18 that would allow DPI to refer minimum housing cases to the Board in instances where a landlord has not complied with an order after a second reinspection of the property. While there are legitimate reasons for a landlord needing an extension, DPI is finding that a few landlords are just dragging their feet about making repairs that have been cited. That means that a tenant may be waiting months for a repair. DPI is looking for a better process to address those cases – how can we get compliance without the involvement of criminal court? DPI has the option of ticketing property owners for violations or to bring a case to court. DPI's goal is to get compliance and looking for a better tool to do that. Bill Ward researched what Orlando, FL is doing; that is, referring cases to a local board as a way to get compliance. Orlando finds that many landlords come into compliance when a case is referred. Bill Ward emphasized again that a referral would be for unique situations; most property owners comply on the first reinspection date or they request an extension. He estimated that 1-2 cases per month would go to the Board – referrals would not involve life safety issues. Patti Wehman said that DPI is just looking for a new tool to gain compliance.
Betsy McGavisk asked what would the orders look like – options to either extend deadline or deny?
Bill Ward responded that like other code cases before the Board, the Board would either find in favor of the property owner or the inspector.
Betsy McGavisk also asked whether Bill Ward had talked to City Council yet?
Bill Ward stated the Council is generally supportive of the idea; they were interested in feedback from the Board.
Betsy McGavisk asked Lisa Jones her thoughts on the potential additional caseload.
Lisa Jones said it sounded as though the additional caseload would not be a lot. However, she asked the Board to keep in mind what impact additional cases would have in the Board's busy months for tenants waiting for a hearing in security deposit disputes.
Betsy McGavisk stated she would want to make sure to look at different scenarios and see what is changing in the ordinance. She also asked what the next steps are.
Bill Ward stated DPI would draft the actual changes to the ordinance, the changes would go to City Council, then the ordinance committee and then back to the Council.
The Board expressed their general support for the idea.
2. Mae Quilty (tenant); Melissa Rubinchuck Parr (landlord) (security deposit case) re: 21 Ledge Road, Apt. B

This case was settled by the parties prior to the hearing.

Meeting was adjourned at approximately 8:02pm.

Board went into executive session.