



CITY COUNCIL PUBLIC SAFETY COMMITTEE - SUB-COMMITTEE

on Eviction Crisis Plans and Protocols

3/8/2017

Public Safety Subcommittee

Re Eviction Crisis Plans & Protocols

March 8, 2017

Minutes

Public Safety Committee Representative: Councilor Sara Giannoni (SG)

Additional City Staff: Richard Haesler (RH), City Attorney's Office

Also Present: Laura Wilson (Cathedral Square); Sarah Russell (BHA); Donna Walters (Wharf Lane); Sandy Baird (Caroline Legal Clinic); Jessica Radbord (Vermont Legal Aid); Corrine Yonce (VT Affordable Housing); Trine Bech (Family Outcomes); Nadine Scibek (Attorney); Jack McCullough (Vermont Legal Aid); Sandra Steingard (Howard Center); Susan Ainsworth-Daniels; Lynn Martin

At 5:12 p.m. Councilor Giannoni commenced the meeting. The attendees were invited to introduce themselves. As scheduled the meeting has been set for presentation by Jessica Radbord and Nadine Scibek of eviction law in Vermont – to include open discussion.

SG: Agenda amendment request to continue item # 2 – Creation of Sub-Committee Action Board to March 20th when Sub-committee Chair Hartnett will again be present. Seeing no objection. Agenda amended as requested.

3 – PUBLIC Forum

SG: People can speak now but I typically run an informal meeting where all are invited to participate in the Committee discussion and will do so today.

No individuals speak at Public Forum



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4 – Committee Discussion – Understanding the Eviction Timeline/Process & the Laws re Eviction (Led by Jessica Radbord (JR) and Nadine Scibek (NS))

(JR) To discuss administrative process leading to Eviction notice.

Btw – brought Jack McCullough – directs the Mental Health Law Project for Vermont Legal aid – though he might provide valuable assistance.

First, different standards of notice requirements depending on the type of assistance re the placement.

Check right to adequate notice for termination with right to respond – other rights by statute and by regulation – as well as those frequently found in the provisions of the lease.

RAD – Rental Assistance Demonstration (HUD) – subsidized housing with different rules – w deadline to request administrative process

See Violence Against Women Act

- Notice in the mail or per requested accommodation

Next – right to informal conference with housing officials – with right to have attorney present or any support person

- Decision from the Housing Authority with Notice of right to a formal grievance hearing (hearing to occur with other personnel at the authority as designated)

Note – Section 8 Housing – Notice without administrative hearing – direct to formal hearing

See types of notice of termination

- Failure to pay rent
- Unauthorized Occupant
- Damage
- Disturbance
- Hoarding type situations
- Refusal of Access to Landlord



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- Prolonged Absence from Unit
- Criminal Activity
- Violation of anti-harassment policies
- Other good cause

At Legal Aid, we sometimes dispute facts, interpretation of the fact; law, interpretation of the law

- Can seek opportunity to cure;
- e.g. appoint representative payee to assure rent payment;
- e.g. accommodation sought

See CHT – low income rent credit properties

- Is the tenant capable of working things out?

(NS) Let me note that the providers here typically go above and beyond the measures you have been describing

(JR) Yes. Understood. These are just the requirements. We understand that many do more.

Q: How does someone get access to a lawyer.

(JR) given the caseload – typically they will need notice of termination.

Laura Wilson (LW): Is there a process for getting legal involved pre-notice?

(JR) sometimes where we have already represented an individual, but otherwise generally not

(NS) We have found frequent situations of Legal Aid working informally in the background with great success – see Jack re Mental Health issues.





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See default judgment requires assertion that the Defendant is competent

Sandy Steingard (SS): lawyer should not/cannot assert competence – I assume the assertion is rather that they are not/ do not have reason to raise competency as an issue.

(SG) Lets come back to that - right now we move from administrative process to the formal notice of eviction

(NS) Dan Gamlin at the Chittenden County Sheriff's serves notice of eviction for the county

See Default – no response – judgment and writ issues – 10 days after served with the writ by the Sheriff, the Sheriff can return and evict

Sandy Baird (SB): When is the point of no return

(NS) when the person is out and the locks have been changes

(SG) Can we double back to how to manage the head in the sand behavior that comes with refusal to engage in the process – where possibly this intersects with mental health – possible competency in play

(LW): How long does the process take in that instance?

(NS): Minimum of two months – so there are opportunities for us to explore options and seek interventions. This is versus six month, a year, sometimes two years, where the process is engaged.

Jack McCullough (JM): Please note the tenant is entitled to all of the process – that is their right

Mental Health Law Project – see Involuntary Hospitalization hearings throughout the state – this involves application for emergency hearing – with examination by mental health worker and a doctor – taken to the emergency department – has up to three days for a hearing – must find harm to self or others



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(SS): I want to note that Mental Health Professionals are not necessarily good predictors of harmful behavior. It is difficult. We have to balance risk of being wrong in every decision, regardless of which way we decide.

Lynn Martin (LM): Make a case that residents – who are in a position of continuous exposure – may have a better view – that a mental health professional who gets only a snap shot in time.

(SS) : Transparency here. There are two possible errors. Acting to hospitalize when the person may not actually need to be hospitalized – hospitalizing is traumatizing and that is not an error to make lightly. Versus error of not hospitalizing when it becomes apparent that the person should have been hospitalized and that is a whole different type of error and its risks are obvious.

(JM) There is a probable cause review within three days.

All around the state – crisis beds – operated by the community mental health centers

(SS): Burlington has 6 bed hospital diversion unit run by Assist

Trine Bech (TB): there is a judgment factor. I will come out of meetings with my legal training – with totally different perceptions than clinicians have – just an example

(SG) That's where the need for cross-communication between different providers and interest holders becomes significant is so significant

(SS) There are lots of examples where these cross-communication opportunities might occur – connecting with street outreach – peers program.

(SB) Do hospitalized on emergency have to accept treatment

(JM) no –see this issue in the legislature every year regarding involuntary medication issues. But returning to the emergency placement – usually occurs re mental health provider request – so it comes with a file documenting the journey to the placement.





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Nature of the protections for having our liberty taken away – Emergency Exam placement can refuse treatment – at least until the hospitalization hearing – approximately 30 days

See incentives to engage – Order of non-hospitalization – what happens when the person doesn't comply with the ONH – that begins the equation all over again – you will see persons in housing coming and going from hospitalizations –

(SG) This reverts to the communication between providers discussion again. Perhaps our next meeting

#5 – Other business

SG – next meeting 3/22 at the Community Room at the Fletcher Free Library from 5 to 6:30

6 – Adjournment

(SG): Motion to Adjourn

Seconded by RH –

Unanimous. Meeting adjourned at 6:37 p.m.

