



HOUSING BOARD OF REVIEW

City of Burlington

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**BURLINGTON HOUSING BOARD OF REVIEW**

**ANNUAL REPORT FOR 2012**

**Prepared by Lisa Jones, Board Clerk  
May 16, 2013**

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***Mission Statement:***

The Board shall hear cases concerning appeals of minimum housing orders, appeals under the Minimum Energy Efficiency Standards Ordinance and disputes regarding security deposits. The Board may grant minimum housing variances. (See Burlington Code of Ordinances, Sections 18-120 and 18-35 through 18-69.) It shall issue Findings of Fact, Conclusions of Law, and Orders where appropriate.

***General Information:***

The Board is comprised of five members. The term of office for each member is five years. Each member may serve two full terms. The Chair of the Board conducts meetings and hearings of the Board, administers oaths and may compel the attendance of witnesses. Kirstin Daigle currently serves as Chair of the Board and Jason L'Ecuyer is Vice-Chair. Other Board members are Loyal Ploof, Terry Jeroloman and Patrick Kearney. A clerk keeps minutes of the Board's proceedings, schedules hearings and records the Board's Findings of Fact, Conclusions of Law and Order. The Board meets twice a month (ie, 24 meetings in a year). The Board hears, on average, between four and five cases each time it meets. The bulk of cases the Board hears are disputes over security deposits.

***The Process***

If a tenant wants to dispute the withholding of a deposit, the tenant has 30 days from the date of the landlord's notice of withholding to file a request for hearing before the Housing Board of Review. In the absence of a notice, the tenant has 44 days from the date of vacating the rental unit to file a request for hearing. The request is filed in the City Clerk's Office and forwarded to the Board so that a hearing can be scheduled. When a hearing is set written notices are mailed to the tenant and landlord. Depending on the Board's backlog, anywhere from 3 to 6 cases are scheduled per meeting. (The Board meets approximately twice a month.) The Board hears each case and after all the hearings are concluded for a night, the Board deliberates and usually reaches a decision. Sometimes a case may require some legal research or further advice before the Board can make a decision. In such instance, the Board would deliberate at its next meeting. A written decision is prepared and signed by the Board after which it is sent to the tenant and landlord.<sup>1</sup> Written decisions are issued in 20-30 days.

During the summer months (end of June, July and August), the Board gets a lot of requests for hearing because of the number of apartment turnovers at the end of May. As a result of the backlog of cases, people may wait a little longer for a hearing to be scheduled. In addition, the Board may grant each

<sup>1</sup> Any Board member who disagrees with the majority may include their dissent in the written decision.

party one continuance (for good cause) upon request; a continuance will obviously slow down the time between when a request is filed and when the hearing occurs.

### **Highlights of the Past Year**

From January 1, 2012 through December 17, 2012, the Board scheduled 66 cases for hearing: 57 cases were disputes over security deposits and 9 cases were appeals/requests for variances of Minimum Housing Orders. Seven cases were settled prior to a hearing, and 10 cases were dismissed for failure of the moving party to appear.

Two decisions of the Board were appealed to Vermont Superior Court. In both cases, the Board's decisions were overturned on the basis that the Board did not strictly interpret the city's ordinance regarding notice to the tenant. City ordinance and state law require a landlord to return the security deposit to a tenant within 14 days from the date on which the tenant vacates or abandons the rental unit, with a written statement itemizing any deductions. In one case, the landlord (on at least 2 occasions) notified the tenant in writing prior to him moving out that his deposit would not be returned because of damage to the wood floors; the Board ruled that notice had been provided to the tenant. However, the Court overturned the Board's decision because notice was not provided within 14 days **after** the tenant moved out of the apartment. In the other case, the landlord provided notice to the tenant itemizing 2 deductions and stating in narrative form that there were other damages for which he did not have estimates to repair. The Board ruled that notice was provided related to the 2 itemized items, but other alleged damages would not be considered because notice had not been provided. Again, the Court overturned the Board's decision because a complete list of itemized deductions was not provided. The judge in these cases is taking a very strict reading of the ordinance and ruling that each and every requirement of the ordinance must be met, regardless of whether or not the spirit of the law has been met, or the landlord forfeits the deposit. These cases have highlighted the Board's concern that the ordinance may need to be updated.

### **Goals for the Coming Years:**

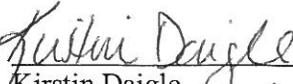
- Review the ordinance and propose changes to it (including the authority to make rules)
- Revise the Board's hearing request form
- Implement recommendations in the report from the City Attorney's Office to the City Council
- Produce guidelines for hearings and job descriptions for the Board
- Issue written decisions within 15-20 days from the hearing, whenever possible
- Get feedback twice a year from the City Attorney's Office on the Board's performance

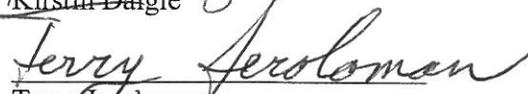
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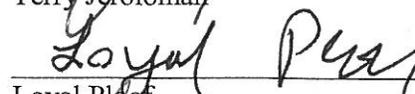
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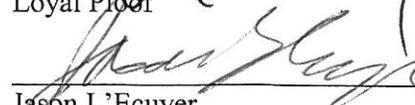
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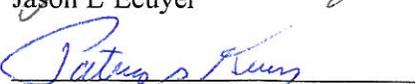
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