

BURLINGTON HOUSING BOARD OF REVIEW

Monday, May 17, 2021 at 7pm

Via Zoom

Draft Minutes

Board Members Present: Josh O'Hara (Chair), Betsy McGavisk (Vice Chair), Patrick Murphy, Charlie Gliserman, Olivia Pena

Staff present: Lisa Jones

Others present: Eileen Blackwood (City Attorney) and William Ward (Director, Permitting and Inspections)

1. Discussion of enforcement of minimum housing code violations

Chair O'Hara began by explaining an issue raised earlier in the year by Board Member Patrick Murphy with respect to enforcement of minimum housing code violations. Failing to provide notice of withholding or a tenant's appeal rights under BCO 18-120 is a municipal violation. How is that violation enforced? If the Board finds a municipal violation, there is no notice provided in the Board's order that it's a violation – due process problem? The Board is looking for some direction from the City Attorney's Office with respect to enforcement.

Eileen Blackwood explained that different enforcement mechanisms have been thought about and tried over the years. Municipal tickets which go through the Judicial Bureau have become less and less effective – there are no consequences if a person ignores the ticket. The Judicial Bureau has no authority to press for payment. Tickets less effective tool for enforcement of ordinances. Talked with William Ward to see if his office could do additional enforcement. What would system be?

William Ward stated his office doesn't issue a lot of tickets. They can dismiss tickets if property owner works with their office to correct violations. His opinion is that egregious violations should be tackled first – Board is in a position to identify whether violation egregious or person just unaware of requirements. For our office, tickets are less effective than reinspection fees when violations are found. Reinspection fees are better tool to get property owner's attention. His philosophy is that if you have a tool you're not using, try it and see if it's effective.

Chair O'Hara asked if a violation shaves off time for certificate of compliance.

William Ward replied not really. Informs Board that Ordinance Committee working on proposed changes to ordinance with respect to complaints and violations and certificate of compliance.

Patrick Murphy commented that 1 minimum housing violation means property can't get 5 year certificate of compliance, but would get 4 year certificate. He doesn't see ticket being as effective as certificate of compliance.

Eileen Blackwood confirmed that if there's a violation, property owner would only get 4 year certificate, not 5 year.

Josh O'Hara: What would be the procedure to follow if Board finds violation?

Eileen Blackwood responded that we'd need to look at 18-120 further to determine what consequence is.

Josh O'Hara: Should we give landlord notice that if a minimum housing violation is found, they could be ticketed?

Eileen Blackwood responded yes, we need to establish a protocol.

Betsy McGavisk asked do we know if a landlord complies with an order?

Lisa Jones responded that we rely on tenants to inform us if a landlord has not complied with an order. Tenants often call with questions about process once an order has been issued. When a tenant calls about landlord not complying, past practice has been to send letter from City Attorney's Office indicating that failure to comply is a minimum housing violation and we could ticket. Also advise tenant to file action in Small Claims Court. In the past, we found that tickets are not effective tool for getting compliance.

Eileen Blackwood stated we need to figure out the process and how it will work.

Betsy McGavisk asked if a landlord violates several parts of the ordinance, would it be 1 violation or multiple?

Eileen Blackwood responded that generally each violation is a separate offense.

Josh O'Hara stated that he, Eileen Blackwood and Lisa Jones would talk about how to change the notice of hearing that goes to the parties. Will also work on a process to refer violation to Bill Ward.

Meeting adjourned at approximately 7:30 p.m.