

METROPOLITAN MAYORS COALITION

a local initiative facilitated by METROPOLITAN AREA PLANNING COUNCIL

January 13, 2020

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Mayor of Somerville, Chair

AUSTIN FAISON

Town Manager of Winthrop

Representative Claire Cronin, Chair
Joint Committee on the Judiciary
State House, Room 136
Boston, MA 02111

Senator Jamie Eldridge, Chair
Joint Committee on the Judiciary
State House, Room 320
Boston, MA 02111

RE: Right to Counsel Legislation (S.913, H.3456, H.1537)

Dear Chairwoman Cronin and Chairman Eldridge:

I am writing today on behalf of the Metropolitan Mayors Coalition to express our support of S.913/H.3456, *An Act to ensure right to counsel in eviction proceedings*, filed by Senator Sal DiDomenico and Representative Chynah Tyler; as well as H.1537, *An Act establishing a right to counsel in certain eviction cases* filed by Representatives David Rogers and Michael Day.

The Metro Mayors Coalition, an organization of 15 cities and towns in the urban core of metropolitan Boston, is a voluntary forum where members exchange information and create solutions to common problems. The municipal officials comprising this group represent over 1.4 million constituents in Arlington, Boston, Braintree, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Melrose, Newton, Quincy, Revere, Somerville, and Winthrop.

The Boston region is facing a housing crisis. Sale prices and rents in our communities are among the highest of any large metropolitan area in the country. Just over half of rental households (50.6%) are “housing cost burdened,” meaning they spend over 30% of their income on rent, and about a quarter report paying over 50%, which we define as “severely cost-burdened.”^{1,2}

Housing instability resulting from high housing cost burdens can lead to unemployment and homelessness. That is why our Coalition announced a goal of producing 185,000 housing units in our region by 2030 to meet housing demand and to reduce housing costs in our communities, or at least stabilize those costs. This commitment also includes building various types of housing, at various price points, to meet the diverse needs of our residents.

¹ U.S. Census Bureau 2011-2015 American Community Survey

² Interactive Map: Nearly Half of All Renter Households Are Cost Burdened (2017), Harvard Joint Center for Housing Studies

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The mayors and managers in the Coalition feel strongly that their commitment to building more housing must be paired with anti-displacement strategies to protect our residents and neighborhoods. While chronic homelessness has been declining across the country, the number of families receiving Massachusetts Emergency Assistance more than doubled in the past nine years, a rate much higher than the national average.^{3,4} Roughly half of homeless households cited eviction as the reason they were homeless.⁵ According to the Eviction Lab, over 15,700 households were evicted in Massachusetts in 2016.⁶

While the most common reason for an eviction is non-payment of rent, there are many reasons that a tenant might withhold rent. Tenants often face exorbitant rent increases, forcing them to choose between paying rent and meeting other necessities. Sometimes, these increases have the intent of “emptying” a building to make a sale of the property easier, thereby victimizing tenants who have paid rent consistently over time.

Finally, if a landlord fails to maintain a habitable living environment, a tenant has the right to withhold rent until code violations are fixed. Instead of repairing the property and providing respectful and decent housing conditions, the landlord or property managers may forgo such fixes and claim that the rent has not been paid. Without an attorney to defend the tenant, those baseless evictions are often upheld.

S.913, H.3456 and H.1537 would afford tenants the right to legal counsel in certain eviction and nuisance proceedings. If an individual or household facing eviction is unable to afford an attorney, then they may qualify to have a state-appointed attorney paid for by the Commonwealth. These bills establish eligibility criteria that take into account the individual’s participation in public assistance programs, income level, and hardship.

While Massachusetts tenants have certain rights, including their day in court, few seek legal remedy either because they do not have legal counsel or do not understand their rights. The limited capacity of existing legal aid services means that very few tenants seeking legal representation actually receive it. As an example, in FY18 there were nearly 30,000 eviction cases in housing courts throughout the Commonwealth; about 70% of landlords had attorneys while less than 8% of tenants had legal representation.⁷ Declining budgets and additional proposed cuts to legal aid threaten to undermine equitable legal representation even further.

A 2012 Boston Bar Association report describing the results of two pilot projects in which tenants were provided with legal counsel for eviction proceedings found that legal representation greatly improved tenants’ ability to preserve their housing. In the Quincy

³ State of the Nation’s Housing (2017), Harvard Joint Center for Housing Studies

⁴ The Growing Challenge of Family Homelessness (2017), Barr Foundation

⁵ The Importance of Representation in Eviction Cases and Homelessness Prevention (2012), Boston Bar Association Task Force on Civil Right to Counsel

⁶ “Eviction Map & Data.” *Eviction Lab*, Princeton University, evictionlab.org/map/#/2016?geography=states&bounds=-157.939,10.513,44.648,60.47&locations=25,-70.822,41.25.

⁷ Massachusetts Trial Court Department, FY 2018

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District Court pilot, over two-thirds of tenants with legal representation were able to stay in their homes, compared to one-third of tenants without representation. Even represented tenants who were required to move out were better able to negotiate the timeline and conditions of their eviction.⁸ Tenants without legal representation enter eviction proceedings at a clear disadvantage. These bills would help to level the playing field for tenants in eviction proceedings, potentially reducing incidents of homelessness and the demand for costly state expenditures.

We respectfully ask that your committee offer a favorable report for S.913, H.3456 and H.1537.

Thank you for your consideration. If you have any questions, please contact Lizzi Weyant, MAPC's Director of Government Affairs, at 617-933-0703 or eweyant@mapc.org.

Sincerely,



Joseph A. Curtatone
Mayor, City of Somerville
Chair, Metropolitan Mayors Coalition

⁸ The Importance of Representation in Eviction Cases and Homelessness Prevention (2012), Boston Bar Association Task Force on Civil Right to Counsel