



Owner News

Metropolitan Boston Housing Partnership · 125 Lincoln Street, 5th Floor · Boston, MA 02111-2503 · (617) 859-0400 · www.mbhp.org

Spring 2009

MBHP inspectors watch for illegal units to ensure safety for all

When a late-March fire in Quincy took the lives of a man and his two sons, the issue of illegal apartments took media center stage and brought awareness to a widespread occurrence: occupied rooms and apartments that not only lack approval for occupancy but also can be dangerous.

Illegal rooms and apartments often fall short of basic safety standards and can have such health hazards as asbestos, missing or malfunctioning fire and carbon monoxide detectors, rodent or other pest infestation, compromised or missing emergency exits, and improper wiring.

While most property owners do not have illegal units, those who do put all at risk. MBHP inspectors are trained to look for the signs of illegal apartments and rooms and to take appropriate actions.

"It doesn't make a difference whether or not an illegal unit is occupied by an MBHP tenant," said MBHP Director of Inspectional and Property Owner Services Kevin Donaher. "An illegal unit in a building puts everyone in jeopardy. It's about safety."

MBHP Inspectors are trained to look for telltale signs of illegal rooms and apartments: padlocks and other nontraditional interior door locks, "cubicle" spaces, multiple mailboxes for an apartment or more mailboxes than units in a building, evidence of eating and drinking in an unapproved space, and out-of-place bedding. The most common places for illegal rooms and apartments include attics and basements, as well as a single apartment that's been divided into multiple living spaces.

"It's clear that these units are not constructed under the appropriate supervision of a town inspector and are likely to have inappropriate wiring, may not have smoke detectors, and often have unauthorized use of utilities," said MBHP



Illegal units, such as this one found in an apartment building basement, put all building tenants at risk.

Inspections Manager Howard Wensley.

"When our inspectors come across something suspicious, they will request that the property owner provide a Certificate of Occupancy for the building from the local municipality that attests to the fact that the unit of concern is legal," Wensley explained. "This certificate will indicate the number of legal units in the building."

While MBHP has the authority to disapprove a property owner for having an illegal unit, there is some leeway.

For example, if MBHP finds a property owner who knowingly is renting unauthorized units, it may prohibit the owner from participation in the Section 8 program.

However, if an owner recently purchased the property in question, he or she may be unaware that an apartment is

not "legal." The owner may be given the opportunity to bring an apartment into compliance to keep his or her MBHP tenants in place.

"MBHP has the authority to disapprove a property owner from program participation now and in the future if the owner doesn't comply with the regulations," Donaher said.

In either case, MBHP will notify the local municipal building officials, reporting the illegal unit for ongoing monitoring.

MBHP currently is investigating four instances of suspicious rooms or apartments, and inspectors will continue to be diligent in their watching for illegal units.

"It comes down to ensuring the safety of both MBHP tenants as well as others who live in a building – legally or illegally," said Donaher.

Just a reminder...

As of July 1, 2009, MBHP will issue rental assistance payments only electronically; all rental assistance payments to property owners will be made by direct deposit only.

If you have not yet signed up for direct deposit, it's not too late! Contact Audra Toop at (617) 425-6611 or e-mail audra.toop@mbhp.org for details.

Rebuilding Together Boston: Preserving homeownership, revitalizing neighborhoods

Founded in 1991, Rebuilding Together Boston performs no-cost major repair and renovation services for the houses of Boston's low-income homeowners and nonprofits that own their own facilities.

Its three programs provide services including: repairing/replacing roofs and gutters; exterior and interior painting; energy-efficient installations including new appliances, windows and doors; kitchen and bath renovations; safety installations such as smoke and carbon monoxide detectors; landscaping; installation of hand-capped access ramps; and more. Work is tailored to the needs of each site and recipient, who include economically disadvantaged elderly, veterans and their families, single-parent households, the physically challenged, and others in need.

The spirit of volunteerism, combined with resources from corporations, foundations and individuals, is what fuels Rebuilding Together Boston's accomplishments. For every dollar donated, the organization leverages more than \$4 in donated supplies, equipment and skilled labor.

RTB's goal is to keep its recipients safe, secure and independent, and help the nonprofits served to continue to provide their much-needed community services. RTB preserves homeownership, reduces the risk of homelessness, and revitalizes communities, often working on more than one home or facility in a neighborhood.

If you would like to recommend a recipient, obtain an application for services, make a donation, volunteer, or collaborate with Rebuilding Together Boston, contact President/Executive Director Simone Auster at (617) 971-0058. For more information, visit: www.rtboston.org.



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Ask MBHP

QUESTION: If I rent a basement or attic unit to a tenant and there is no certificate of occupancy for the unit i.e. it is an illegal unit and there is a fire or someone is injured as a result of a problem generated from that unit, what are the risks?

RESPONSE: It is becoming more and more common for multi-family and single family home owners to rent out any portion of their property that has a roof in order to eke out income to assist with mortgage payments and costs, but there is a potential price to this activity. It is important to read your homeowner's hazard insurance and see if your policy has an exclusion for illegal or non-conforming units. Certainly by failing to disclose the manner in which you are using the building to your insurer, you are providing potential grounds for denial of coverage. Denial of coverage would be highly likely if the actual incident arose from the illegal or non-conforming unit. The insurance company could argue that you misrepresented the use of the property under the policy and knowingly permitted a hazard to exist that caused the loss. The risk of loss of coverage on your insurance alone should deter a property owner from renting an illegal unit.

QUESTION: Am I obligated to report

the rental income that I receive from an illegal unit to the IRS, and what are the risks if I do not?

RESPONSE: Any income generated from rental activities is required to be reported to the IRS. Failure to report income may result in an order for restitution, including interest, fines and penalties, and also imprisonment.

In summary, renting an illegal or non-conforming unit can cause serious risk to your property and the inhabitants of the building. There are some judges who have ruled that renting an illegal unit is basically an unlawful contract and the landlord had no grounds to collect rent from the tenant and have ordered repayment of the same. If a local board of health determines that a unit is being improperly occupied, it can order the landlord to house the tenant in alternative accommodations until proper housing is located. If you think you want to generate additional income from your property, you should investigate legalizing the subject unit and get the proper certificate of occupancy from your local building department.

Leslie C. Sammon

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Kids Can't Fly: Protect Children from Window Falls

Open windows are a sign of summer. With small children in the home, an open window can also indicate a major safety hazard.

Falls from windows result in serious head and neck injury and often are fatal. In Boston, where thousands of families reside in apartments, the risk of a window fall is even greater.

As a property owner, you can help. The most effective step a property owner can take is to install window guards. Window guards are available in Greater Boston hardware stores.

For more details contact the Boston Public Health Commission at (617) 534-5197 or visit www.bphc.org/kidscantfly.

KIDS CAN'T FLY

Protect your child from window falls

- Install window safety guards
- Open windows from the top down
- Keep furniture away from windows

For more information call: 617-534-5197

Boston Public Health Commission • Childhood Injury Prevention Program
Mayor Thomas M. Menino