

Promoting Justice

Why Massachusetts Needs Housing Courts Statewide



MASSACHUSETTS ACCESS TO JUSTICE COMMISSION
Briefing Paper



Photo courtesy of the Boston Bar Association

Attorneys volunteer at the Boston Housing Court on Wednesday and Thursday mornings through the Boston Bar Association's Lawyer for the Day Program to provide legal assistance and representation to landlords and tenants. Since the program began 14 years ago, 12,000 volunteers have helped more than 15,000 individuals. The program is a collaboration between the Boston Bar Association, Boston Housing Court, Volunteer Lawyers Project of the Boston Bar Association, Greater Boston Legal Services, Harvard Legal Aid Bureau, and the Legal Services Center of Harvard Law School.

Cover Photos:

Before and after photos of 38 Leyfred Terrace in Springfield, Mass, a property placed into receivership by the Western Housing Court (Docket Number 11-CV-00152). On August 5, 2011, Lorilee Development LLC was appointed the receiver of 38 Leyfred Terrace. It was able to borrow funds from the Massachusetts Housing Investment Corporation's federal Neighborhood Stabilization Program and their Neighborhood Stabilization Loan Fund. After the work was completed, on August 21, 2012 the property was sold and the receivership was dissolved.

February 2014

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The Massachusetts Access to Justice Commission unanimously endorses the expansion of the Housing Court Department to cover the remaining unserved areas of the state. Created by the Supreme Judicial Court, the Commission is a diverse group of judges, attorneys, low-income people, and agencies that serve low-income people.

The Housing Court effectively and efficiently provides the public with access to justice for the following reasons:

- **Housing Is the Priority:** Housing Courts are set up to handle code enforcement, evictions, and other housing issues on a daily basis.
- **Expertise:** Housing Court judges have the expertise to analyze the labyrinth of federal, state, and local laws on housing.
- **Housing Specialists:** Only the Housing Courts have Housing Specialists who mediate cases that save the time and expense of litigation. They also perform on-site reviews of property to resolve issues concerning housing conditions.
- **Code Enforcement:** Housing Court is set-up to quickly and efficiently respond to emergencies and building, fire, and sanitary code violations.
- **Tenancy Preservation Program (TPP):** Based in Housing Courts, TPP prevents homelessness among people with disabilities.
- **Efficient Problem Solving:** Housing Court expertise across the entire spectrum of residential housing law enables quick and efficient solutions to a broad range of cases.
- **User-Friendly:** Housing Court has been at the forefront in developing lawyer-for-the-day assistance and self-help forms to serve a large number of self-represented litigants.

As Co-chairs of the Access to Justice Housing Court Expansion Initiative, we **urge the Legislature to complete the expansion of the Housing Court statewide through a comprehensive bill.**

James T. Van Buren
James T. Van Buren
Commissioner
Access to Justice Commission

Georgia Katsoulomitis
Georgia Katsoulomitis
Executive Director
Massachusetts Law Reform Institute

Our city needs a Housing Court. Our residents are facing increasing gentrification. Investors are buying up foreclosed properties at bargain-basement prices, raising the rents, making no repairs, and displacing low-income tenants. We see evictions that are completely unfair of incredible tenants who care about their neighborhoods and who are displaced from their homes. Groups spend hours in Chelsea trying to avoid an eviction and are not successful because our district court does not have the resources, the staff, and the expertise necessary to avoid the displacement of tenants in our community. We need a Housing Court.

Gladys Vega, Executive Director of the Chelsea Collaborative

Housing Courts in Massachusetts

Housing Courts were created to provide landlords and tenants with a special legal forum with expertise in housing. They provide a forum that enforces the state and local health and fire codes, protects people from becoming homeless, brings abandoned property back into use, stabilizes neighborhoods, addresses mortgage fraud, and handles numerous complex housing matters.

In 1972, the Legislature passed Massachusetts General Law, Chapter 185C, Section 1 and established a Housing Court for the City of Boston. Since then local constituencies have successfully advocated for the expansion of the Housing Court Department into five divisions.

These five divisions currently cover about 80% of the state geographically. Over the years, individual municipalities have been added.

The Access to Justice Commission now recommends enacting comprehensive legislation to provide a Housing Court to the remaining 20% of the state geographically. This would provide housing court services to the 31% of the Commonwealth's citizens presently without access to any Housing Court.

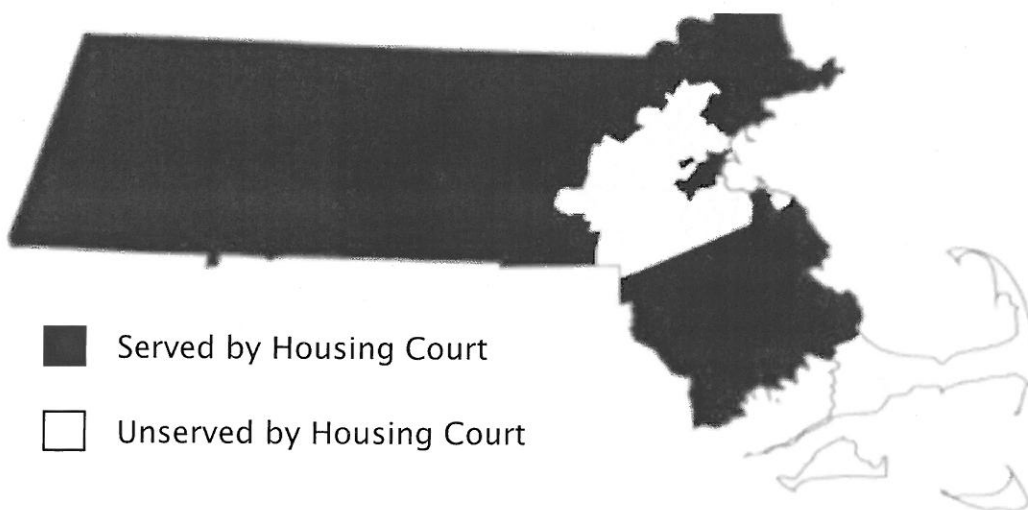
Who Does Not Have Access to a Housing Court?

Nearly one-third of the people in Massachusetts do not have access to a Housing Court.¹ There is no Housing Court for all of Barnstable, Dukes, and Nantucket Counties, most of Norfolk County, and much of Middlesex County. A complete list of municipalities with no Housing Court is on the back cover of this briefing paper.

Major areas of the state still do not have a Housing Court. Cities with some of the highest number of rental units, such as Chelsea, Framingham, Malden, Cambridge, Medford, Somerville, Watertown, Woburn, and Waltham, do not have a Housing Court. Barnstable County, which also does not have a Housing Court, has a significant number of rental units.

In areas unserved by a Housing Court, housing cases are heard in a District Court where they compete with a broad range of legal matters. Within their high volume caseload, the District Courts' obligation to give prompt and proper attention to abuse prevention hearings and criminal matters inevitably impacts priority of other matters – including housing cases. More importantly, District Courts lack the specialized staff and programs established in the Housing Court.

While 80% of the State Geographically Is Served 31% of the Population Has No Access to a Housing Court

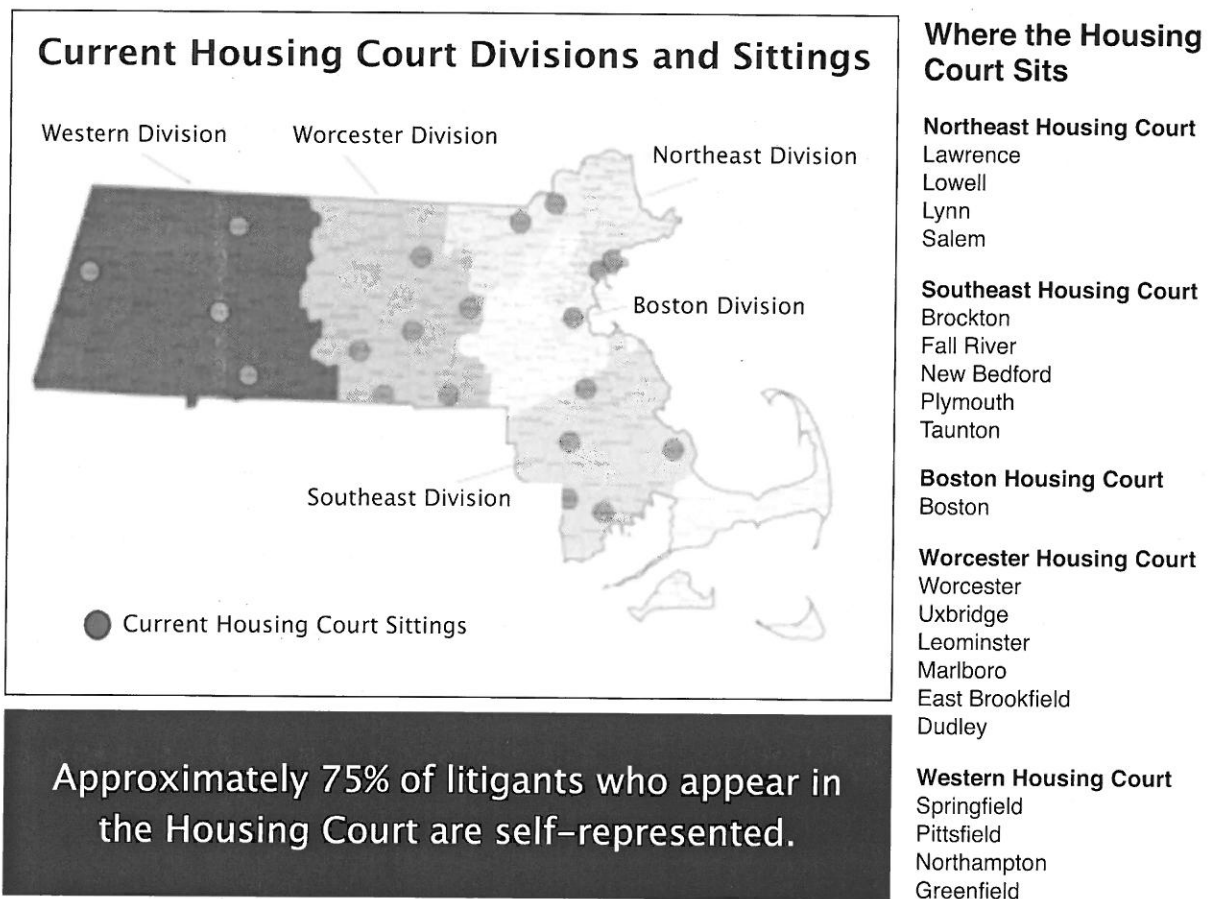


¹ The total population in the cities and towns not covered by a Housing Court is 2,047,000, which represents 31% of the state's total population of 6,547,629. Source: 2010 Census, Office of the Secretary of Commonwealth at <http://www.sec.state.ma.us/census/index.htm>.

Where Does the Housing Court Currently Sit?

The Housing Court Department has five divisions: Boston, Southeast, Northeast, Western, and Worcester. Each division, except for Boston, sits in different locations in its geographic area, and judges and other court personnel travel to hear cases. Ten judges ride circuit to cover these five divisions. The map below shows where the Housing Court hears cases.

Housing Courts have jurisdiction over all civil and criminal matters involving residential property. Housing Courts hear summary process actions (evictions), code enforcement, small claims, civil actions involving personal injury, property damage, breach of contract, discrimination, and other housing cases.



Approximately 75% of litigants who appear in the Housing Court are self-represented.

The 75% is the statewide average for both plaintiffs and defendants. When one breaks this down even further, those **defending a case are self-represented in 92.6% of the cases statewide.**

Source: Housing Court Department Statistics, Percent of Self-Represented Litigants in Cases Disposed in FY12 at: <http://www.mass.gov/courts/courtsandjudges/courts/housingcourt/2012-other-stats.html>.

Housing Courts Are Efficient Problem Solving Courts

The Housing Court Department efficiently and effectively resolves a large number of cases on a wide range of housing issues.

- In FY 2013, there were a total of 42,357 cases filed in Housing Courts statewide.²
- The number of eviction cases handled by the Housing Court has increased from 20,294 in FY 2004 to 27,380 in FY 2013.
- Where there are both Housing and District Courts, on average 80% of the eviction cases (4 out of 5) are filed in Housing Courts.
- The Housing Court Department has the lowest cost per case across all Trial Court departments.³
- The Housing Court Department has developed the expertise to address the multitude of housing issues that come to court.
- Housing Specialists are required by law to be knowledgeable about the maintenance, repair, and rehabilitation of housing, as well as funds and services available to assist landlords and tenants.
- Housing Courts have developed working relationships with municipal officials and housing advocates to address blight and resolve recurring concerns of both landlords and tenants.
- Housing Courts established the Tenancy Preservation Program (TPP) to help mentally disabled tenants retain their housing. TPP is highly successful at working with tenants and landlords to prevent some of most the vulnerable tenants from becoming homeless.
- Housing Courts provide access to services, financial assistance, and programs that help landlords and tenants stabilize tenancies and prevent tenants facing eviction from becoming homeless.
- All five divisions of the housing court work with the local bar and legal services to provide unrepresented tenants and landlords with the opportunity to work with a volunteer “lawyer for the day.”

² Housing Court, FY2013 Statistics, Total Number of Filings and Dispositions.

³ Massachusetts Trial Court Strategic Plan (June 2013) at p. 18.

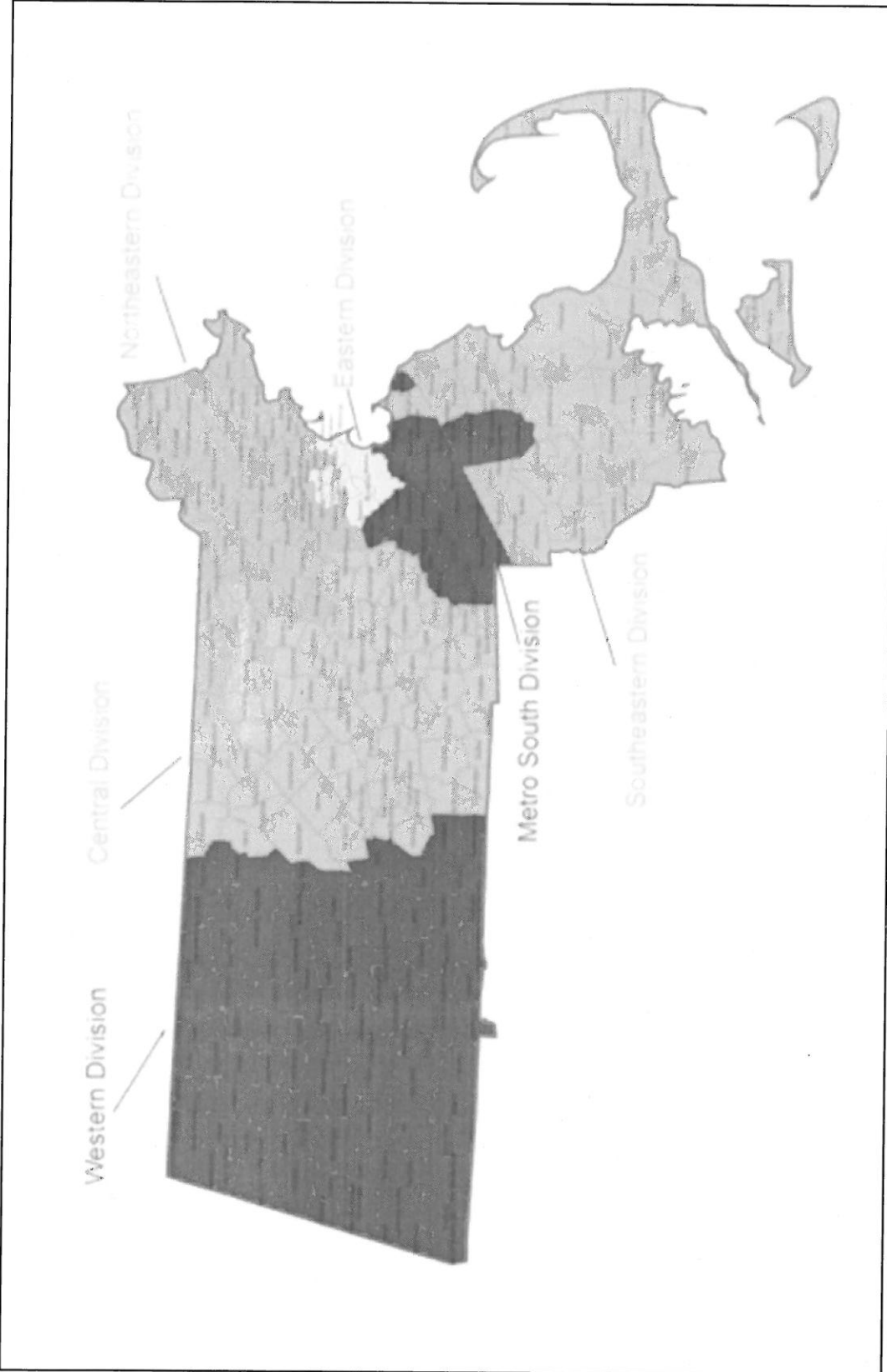
Statewide Housing Court Expansion

Given the current geography of the divisions within the Housing Court Department, the Commission proposes that a comprehensive expansion occur by expanding existing divisions and adding a sixth division.

Considering transportation and projected summary process case loads, the Commission proposes the following:

- Expand the Boston Housing Court to become the **Eastern Housing Court** and include the remaining parts of Suffolk County (Chelsea, Revere, and Winthrop) and areas in Middlesex and Norfolk county easily reachable into Boston by public transportation including Newton and Brookline.
- Expand the **Northeast Housing Court** to include Woburn, Malden, Melrose, Waltham, Watertown, and the surrounding areas.
- Expand Worcester Housing Court to become the **Central Housing Court** and include cities and towns in Middlesex County, including Framingham.
- Expand the **Southeast Housing Court** to include Barnstable, Dukes, and Nantucket counties.
- Create a new **Metro South Housing Court** that would include the existing Housing Court in Brockton and would cover Norfolk County and some areas of Plymouth County currently covered by the Southeast Housing Court.

New sittings will be established in the new areas and each division will continue to travel. Although new staff will be needed to handle the increased case load, expansion of existing divisions and the addition of only one new division is the most economical approach. The Massachusetts Trial Court is also currently engaged in implementing a strategic plan which will help to develop a staffing and budgeting plan to handle this expansion.



Comprehensive Housing Court Expansion Proposal

Benefits of a Housing Court

“Every year the City faces dozens of emergency cases where there is no or insufficient heat in rental units. The Housing Court has the capacity to schedule hearings on short notice and quickly respond to these emergencies. The Court also quickly responded to the tornado that struck Springfield, serving as a forum for the City, landlords, tenants and mortgagees, and as an effective conduit to offer displaced tenants and property owners information about FEMA, the Red Cross, and other resources. The Court has also effectively used receiverships to inspire the rehabilitation of uninhabitable properties. It is a crucial partner in preventing homelessness, combatting blight, and fighting the effects of the foreclosure crisis.”

Lisa deSousa, Associate City Solicitor, Legal Department in Springfield

“Part of my legal practice involves representing small landlords in both District and Housing Courts in Boston and surrounding communities such as Cambridge, Malden, Newton, Revere, and Watertown. I typically recommend to my clients that we bring their case in the Housing Courts, when possible. In numerous instances the Housing Court has helped devise a reasonable accommodation or a payment plan resulting in my client receiving his back rent while allowing the tenant to remain in the home. I have also saved my clients considerable money by taking advantage of the Housing Court’s trained Housing Specialists to reach settlement in cases that would otherwise have necessitated an expensive jury trial.”

Christopher T. Saccardi, Private Attorney in Somerville

“Metrowest Worker Center strongly supports efforts to create a separate housing court though out the state. Tenants need recourse to a court with expertise in housing issues that comes from an exclusive focus on housing. Substandard housing conditions, self-help evictions, and return of deposits are vital issues for tenant families that deserve real protection of the courts.”

Metrowest Worker Center in Framingham

Benefits of a Housing Court

“Housing Court has an understanding of the issues faced by fire service members responsible for public fire education, fire prevention, and code compliance. The court provides timely access and rapid resolution to issues of fire and life safety.”

Fire Prevention Association of Massachusetts

“Housing Courts keep both people and housing safe, while providing access to myriad options outside of eviction to landlords and tenants. One way is through the life-saving impact that the Tenancy Preservation Program (TPP) has on the most vulnerable users. TPP is based in the Housing Courts around the state. This program provides some of the most vulnerable tenants with the tools and resources to not only save their tenancy, but transform their lives. TPP along with the Housing Specialists, also only available in the Housing Court, resolve thousands of cases each year providing tremendous savings to landlords, tenants, communities and the Commonwealth.”

Brian O’ Connor, Justice Center of Southeast Massachusetts in Brockton

“The court is a vital partner in enforcing the state and local health and sanitary codes. Unlike District Court which deals with a vast number and variety of cases, the Housing Court focuses mainly on health and housing issues. The court has also been instrumental in helping Adams combat blighted and abandoned properties by allowing us to conduct a “clean and lien” on the property when we have an unresponsive property owner. The town is allowed to bring the property into compliance and then places the cost of such work against the property’s title. We also can place properties into receivership in which the court appoints a receiver to act as the manager to collect rents and make repairs, thus ensuring the safety of occupants.”

The court is a vital partner in enforcing the state and local health and sanitary codes.

Scott Koczela, Code Enforcement Officer in Adams

Cities and Towns **Without** a Housing Court

Suffolk County

Chelsea
Revere
Winthrop

Middlesex County

Arlington
Ashland
Bedford
Belmont
Burlington
Cambridge
Everett
Framingham
Holliston
Hopkinton
Lexington
Lincoln
Malden
Medford
Melrose
Natick
Newton
North Reading
Reading
Sherborn
Somerville
Stoneham
Sudbury
Wakefield
Waltham
Watertown

Wayland
Weston
Wilmington
Winchester
Woburn

Dukes County

Aquinnah
Chilmark
Edgartown
Gosnold
Oak Bluffs
Tisbury
West Tisbury

Nantucket County

Nantucket

Norfolk County

Avon
Braintree
Brookline
Canton
Cohasset
Dedham
Dover
Foxborough
Franklin
Holbrook
Medfield
Medway
Millis

Milton
Needham
Norfolk
Norwood
Plainville
Quincy
Randolph
Sharon
Stoughton
Walpole
Wellesley
Westwood
Weymouth
Wrentham

Barnstable County

Barnstable
Bourne
Brewster
Chatham
Dennis
Eastham
Falmouth
Harwich
Mashpee
Orleans
Provincetown
Sandwich
Truro
Wellfleet
Yarmouth

Density of Massachusetts Rental Housing Areas Presently Unserved by Housing Court

