

SEPTEMBER 2024



Martin Green v. the MCAD: Green Loses Appeal in Housing Case as Anticipated

A Monthly Fee Instead of a Security Deposit? Bond Bill Makes Rare Change to MGL 186 15B

What if Landlords Could Get Paid for Weeding? Your Ideas Wanted

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Municipal ADU Restrictions <i>for single-family land</i>	
Cities and Towns May	Cities and Towns May Not
<ul style="list-style-type: none">• Have size restrictions.• Have short-term rental restrictions.• Require site plan reviews.• Require dimensional setbacks.• Have bulk and height regulations.• Require only 1 parking space for ADUs more than 0.5 miles from a commuter station.• Have other "reasonable restrictions."	<ul style="list-style-type: none">• Impose special permit requirements for the first ADU on a property.• Require any discretionary zoning approval for an ADU.• Require a parking space for ADUs closer than 0.5 miles to a commuter station.• Prohibit rentals of ADUs (except for short-term rentals).• Impose owner-occupancy requirements.• Prohibit or "unreasonably restrict" ADUs. <p>*More than one ADU requires a special permit.</p>



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LETTER FROM THE EXECUTIVE DIRECTOR

Eviction Sealing is Law

Our Letter from the Executive Director for September 2024 talks about eviction sealing as enacted in the recent housing bond bill.



In early August eviction sealing became law. The legislature passed -- and Governor Maura Healey signed -- 193 H.4977 "An Act relative to the Affordable Homes Act."

This bill authorized the executive to borrow roughly \$5 billion to spend on mostly housing-related matters, more than half of it on the Housing Authorities, the Housing Stabilization and Investment Trust Fund and the Affordable Housing Trust Fund. Some of the bond bill is good. Most of it is above our pay-grade. A very little of it potentially ruins everything.

Eviction sealing is the main concern. Outside of my letter here, we are not covering it in this month's newsletter. It does not take effect until May 2025. For now, know that unless we get it partially or entirely overturned, it will result in all for-cause cases older than 7 years going away; all nonpayment cases older than 4 years going away; all no-cause-stated cases and all cases where the landlord loses going away upon conclusion. True, a renter must petition to have a case sealed. But someone will be sure to help them. Worse, a renter can perjure themselves to have prior judgments undone. There is no due process to protect the landlord holding the debt. Personally, this is a problem for me: I only want to rent to people who can follow the rules and communicate well enough to avoid court. If you want the same, this is a problem for you, as well.

Consider professional tenants like the Callahans (if that even is their real name). NBC10 Boston has tracked down renters who have scammed landlords for more than 20 years. They might be charged with fraud and theft. Why haven't they been? Contact the Worcester County District Attorney and the Attorney General and ask them to investigate. Under eviction sealing, all of the Callahans' eviction cases will disappear over time. How is it fair to put the Callahans into the same bucket as the next renter who scrupulously avoided court their whole life? Who does eviction sealing help?

We have outlined internally half a dozen responses to eviction sealing. One of our plans involves giving ways for you to raise the qualifications on your rental application to compensate for unreliable court data.

With eviction becoming less and less consequential, you as a housing provider will have less and less leverage. I'll say now it is worth considering how you would report a renter negative for credit. (We developed the RentHelper service with foresight. The renter must enroll before there's a problem.) We will come back to you with additional plans and opportunities in the coming months.

This newsletter goes into additional detail on the bond bill's changes to ADU law and security deposit law.

Thank you for supporting our mission to create better rental housing. We've got your back only because you've got ours. Please join as a member, encourage others to join, become a property rights supporter or increase your level of support. We aim to hire both a full-time educator and policy advocate.

Sincerely,

Douglas Quattrochi • Executive Director, MassLandlords, Inc.

Point your camera app here to read more online.



What if Landlords Could Get Paid for Weeding? Your Ideas Wanted

By Eric Weld, MassLandlords, Inc.

Invasive, non-native plants on your properties are costing millions of dollars every year, and may indirectly prevent your renters from paying the rent. How can landlords help?

Here in New England, we are lucky to live in a place of natural abundance and biodiversity that adds so much enjoyment from early spring through late fall. Blueberries, strawberries, mulberries, grapes, hickory nuts, beach plums and some pumpkins are just a few of the beloved edible plants native to New England. One of our most cherished products, maple syrup, is made from the sap of sugar maples, also a native New England species.

Unfortunately, the affluent New England biodiversity that supplies these and other plants that enrich our lives is increasingly threatened by invasive, non-native plants.

You may not be familiar with species like Japanese knotweed, giant hogweed, garlic mustard and multiflora rose. These are a fraction of the long list of invasive plants found across Massachusetts. Maybe you've heard of kudzu, the amazingly resilient vine that blankets the southeast, now making its way into New England, threatening to smother every native plant in its path.

There's a good chance you are hosting one or more of these widespread invasive

plants on your Massachusetts property, to no fault of your own. If you have these plants on your property, they are very likely causing harm in some way to other nearby plants, disrupting biodiversity, reducing pollination and disrupting the food chain. Worse, for some: invasive plants are slowly but surely strangling our natural resources economy. By doing so, they are costing you money and indirectly hindering your renters' ability to pay rent.

We will go into more detail below about why we should all be working together to eradicate invasive plant species. We

are seeking your ideas for how landlords might go about reducing or eradicating invasive species from rental properties. If the 70,000 landlords across the state engaged in a collective effort, perhaps working with their tenants, to mitigate invasive plants, it could substantially move the needle on controlling harmful vegetation, supporting ecosystems, and saving money.

We wonder: If legislation were introduced providing tax credits for landlords who clear their properties of invasive plants (i.e., "paying" landlords



If you spot oriental bittersweet vine like this one wrapped around your trees, remove it down to the root asap before it strangles your native plants. Image: cc by-sa James H. Miller, USDA Forest Service, Bugwood.org Wikimedia commons



Japanese knotweed, shown here, is one of the most prevalent invasive plants in Massachusetts. In addition to overtaking and smothering surrounding plants, this bothersome weed can damage buildings and roads, clog waterways, block access and cause soil erosion. Image: cc by-sa Nigel Mykura Wikimedia commons

for weeding), might that be adequate incentive to motivate us to act en masse?

If you have ideas or suggestions for effective projects, legislation or individual measures for ridding our properties of invasive plants, please let us know at hello@masslandlords.net.

HOW MUCH MONEY?

Invasive plants cost us money in many ways. Just managing and mitigating their encroachment is a large annual expenditure. A study published in 2022 in the journal *Science of the Total Environment* determined the costs resulting from all invasive species (plants and animals) to be \$21 billion per year between 2010 and 2020 for the United States alone. That cost has steadily increased for decades and is expected to continue rising. Six decades ago, the cost was \$2 billion per year. Most of these costs are for resource damages and loss, the report says.

There are hundreds of government agencies, nonprofits and horticultural

groups dedicated to managing invasives species and educating people on their harms. But it will take collective action and cooperation from property owners to eradicate invasive plants and contain or eliminate their enormous costs to our economy and environment. The longer we wait to get a handle on invasives, the higher the cost will be.

Indirect costs are also expensive. The removal of and damage done by invasive species drives up the cost of many foods we enjoy. When invasive weeds like garlic mustard and buckthorn move into corn fields, they can shade and crowd out the crops. Norway maple trees are a common invasive in Massachusetts that can out-compete important native plants such as apple trees. Squash, cranberries, dairy products and many other agricultural goods are affected by invasions of harmful non-native plants, resulting in higher prices.

Damage control is another high cost of invasive plants. When invasives like

honeysuckle, buckthorn and bittersweet take hold and grow out of control, they frequently clog waterways and water treatment facilities, cause threats to local fisheries and destroy farm crops to the tune of billions of dollars in damages. When invasive aquatic species take root in ponds, lakes and other individually owned water bodies, they can greatly reduce property values by raising maintenance and utility costs and reducing recreational use.

By pulling a few weeds, we landlords could make an enormous impact on our economy and environment. The eradication of invasive species would free up billions of dollars that could be used for building more housing, assisting more families, and fighting climate change. With resultant lower food prices, our tenants could more easily and regularly pay rent.

It's not just about economy, either. Invasives can also impose a drastic human toll. The wildfires that killed more

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Kudzu, a vine native to Japan and China, is one of the most resilient invasive species in the U.S. This Mississippi field has been overrun with the vine, which is now making its way into New England. Image: cc by-sa GSmith Wikimedia commons



This yard and sidewalk are overgrown with "Queen Anne's Lace", also known as *Daucus carota* or "wild carrot." Other plants appear in the unmanaged mix. Image: cc by-sa masslandlords, inc.

than 100 people and destroyed much of the Hawaiian island of Maui in 2023 were largely fueled by invasive, non-native grasses combined with hotter weather ushered by climate change.

HUMAN SPREAD OF INVASIVE PLANT SPECIES

Invasive plants are a problem nearly everywhere, and have been for a long time. Since the time humans began moving from place to place, plants (and animals) moved with them. When these species are introduced to a new environment, some of them thrive, nudging aside and crowding out species that have always been there, potentially leading to extinction of native species and causing great harm to local ecology.

Humans are the biggest source of invasive species because we roam the planet far and wide. Invasives are moved in ship ballast water, for example, and in crates, palettes and luggage. Seeds can stick to clothing, tires, firewood and other items that are moved from place to place, then take up residence when they get there.

Sometimes, invasive species have been intentionally introduced for specific reasons, only to have unintended negative consequences. Think of the amazingly resilient vine kudzu. Kudzu is a vine native to Japan and China. It

first appeared in the U.S. in the late 19th century, introduced at the Philadelphia Centennial Exposition in 1876. Kudzu was prized for its sweet smell, and pushed throughout the American Southeast in the mid-20th century for its sturdy root structure, as a way to manage soil erosion. The vine has since grown out of control, smothering countless plants in its wake, and now is creeping into the Northeast, Midwest and even west coast states.

Animals, wind and water may also transport invasive species from place to place, but not nearly on the scale that humans do.

Also, invasive animals pose huge problems to our environment and ecology. Consider the gypsy moth (a former name for what is now called the spongy moth), a longstanding threat to trees in your back yard. Managing these voracious moths, which were first mistakenly released from an artist/astronomer's Boston apartment in the 1860s, cost the U.S. an average of \$30 million per year between 1980 and 1994. In New England, we have also struggled with zebra mussels, a highly invasive freshwater species, originally from southeastern Europe, that can smother native mussels and game fish in inland water bodies. These mussels can also cluster and clog water pipes, causing extensive and expensive damage.

We're not alone in the Northeast in dealing with invasive animals. Think about Burmese pythons attacking and eating native mammals in the Florida Everglades, or Asian carp thriving in the Mississippi River. Invasive plants and animals are a worldwide problem.

For this article, for now, we focus on removing invasive plant species because, as property and landowners, we are better situated to reduce their impact than invasive animal species.

COLLECTIVE ACTION

Invasive species have become such a recognized problem worldwide that nearly every country signed a United Nations agreement in 2022 to protect lands and seas and take measures against biodiversity loss. (The United States was not among the 190 nations that signed the agreement, which was supported by President Biden but opposed by many members of Congress.)

In Massachusetts, several groups are dedicated to managing invasive species. The Massachusetts Department of Agricultural Resources (MDAR) maintains the state's prohibited plant list and executes numerous measures to control and eradicate invasive species.

The Native Plant Trust is a plant conservation nonprofit based in Wayland, Mass., that focuses its resources on preserving native New England plants and educating gardeners on cultivating native plants.

A bill (S.508, H.890) was proposed in the state legislature's 193rd session, titled "An Act Responding to the Threat of Invasive Species." The bill proposed to establish an Invasive Plant Trust Fund that would support administration and personnel for the purpose of studying and devising strategies for eradicating invasive species in the state. Similar bills were proposed in the 191st and 192nd legislatures with no further action beyond the Environmental and Natural Resources Committee.

According to Jennifer Forman-Orth, an environmental biologist with the MDAR, these collective efforts are making some inroads in Massachusetts. One important area of concentration for her department is working with retail

nurseries to stop selling invasive plants and favor natives. All sellers of woody plants in Massachusetts are required to register with the MDAR, to comply with the Prohibited Plant List, cooperate with inspections and ensure that their plants are raised pest- and pathogen-free.

WHY ARE INVASIVE PLANTS SO BAD?

There are several reasons why invasive plant species pose such massive problems for all of us and why we need to take actions to control and eradicate them.

Very directly, some invasive plant species carry diseases or viruses that can harm or kill surrounding plants, and even harm humans. The multiflora rose, for example, widespread in Massachusetts, can be harmful if ingested by children – not to mention, its strong, sharp thorns can pierce human and animal skin.

Less directly but more ominous, when invasive plants are introduced into a non-native environment, they often have no natural predators. No insects, birds or mammals eat or use them. As a result, invasive species are often able to out-compete surrounding plants that do provide food or materials for animals. The invasives then grow and spread faster, consuming more space

and absorbing more sun, water and soil nutrients, muscling out native species.

Also, some invasive, non-native plants may distract pollinators, depriving native plants of essential pollination, and robbing the native plants' ability to reproduce and compete. (Read more on plant pollination below.)

Some invasive species may also bring with them diseases or pests that are harmful to surrounding vegetation, which may have no immunity or natural defense, further threatening their survival.

Many of the downstream problems with invasive plant species stem from this circumstance of their relative success against native plant species, which are ill-prepared to combat their intrusion.

DISRUPTING THE FOOD CHAIN

Sitting atop the world's food chain, as we humans do, makes us extremely vulnerable to – and responsible for – its healthy flow. Our dominant role in spreading and allowing invasive species to take hold and thrive has vastly disrupted the healthy balance of food and ecosystems for us and all other species on the planet. Among all threatened or endangered species on earth, 42% are the result of invasive species, according to the National Wildlife Federation.

When an invasive species enters a non-native area and thrives, due either to its lack of predators or natural ability to consume resources, it reduces the natural biodiversity of that area. Part of that biodiversity includes food sources for animals, including insects, in the area. As a result, surrounding animal and insect populations that rely on those plants begin to wane. Further up the chain, slightly larger herbivores and omnivores are deprived of their food sources, depleting their populations. And so on. Eventually, the lack of food sources disrupts animal and plant food supplies consumed by humans.

Further, large-scale intrusions of invasive plants can affect the habitats of pollinators like bees, birds and butterflies. The overall impact of invasive plants on pollinators is still being researched and determined. But scientists at the University of Reading, U.K., analyzed years of data comparing yields of food crops assisted by insect pollination with crops not pollinated by insects. They found 32% less variability and an increase in crop yields pollinated by bees and other insects, leading to more crop stability, especially among fruits and vegetables. More stable and dependable crop yields translate to steadier food prices and reduce the likelihood of price spikes.



This native white pine will not survive the bittersweet climbing up it. White pine were once so numerous and prized, the King of England sent couriers throughout all New England laying claim to pines suitable for ship masts and other first-rate lumber. Image: cc by-sa MassLandlords, Inc.



Disturbed habitat, like this construction site, is a primary germination ground for invasive seeds. The tall plants growing on this removed fill are invasive "lady's thumb," or *Persicaria maculosa*. They are taller and thicker here than on any sidewalk. Image: cc by-sa MassLandlords, Inc.



Two pollinators sit atop a wild carrot flower. These bugs should be on a native flower instead. Image: cc by-sa MassLandlords, Inc.



Invasive animals are also a problem worldwide. This extensively defoliated hillside in Clinton County, Pa., is an example of the destruction that gypsy moths (also known as spongy moths), very common in Massachusetts, can do. Image: cc by-sa famartin Wikimedia commons



Within a month of the Beaver Brook bittersweet purge, new vines shoot up from their roots and resume the attack. Image: cc by-sa MassLandlords, Inc.

Steadier food prices means more affordability, especially for low-income consumers. Better food affordability would also ease your renters' ability to pay rent each month.

WARMER TEMPS = MORE INVASIVES

The encroachment of invasive species is exacerbated by climate change. Our warmer New England winters in recent years have failed to kill off the seeds of some invasives as would have happened in past colder winters. The invading species then germinate throughout the year and creep further north. (Warmer winters also assist the northern migration of countless invasive animals and insects, such as mosquitoes, Japanese beetles and zebra mussels.)

Warmer global temperatures also accommodate previously inaccessible shipping lanes. Global shipping has always assisted migration of invasive species when they are inadvertently transported in ballast water, containers and ship hulls.

HOW CAN LANDLORDS HELP?

As property and landowners, landlords across the state are positioned to make a meaningful impact on invasive plant species mitigation by ridding our

respective properties of the harmful vegetation. How to do so is the question.

It may not be possible to eradicate 100% of invasive plants from your properties. Forman-Orth of the MDAR acknowledges that. But she emphasizes that if rental property owners across the state were to engage in a mass effort to begin removing the most prevalent invasive plants, it would make a substantial impact, help the environment, facilitate the food chain and save lots of money. That's why this article lists some of the most common and problematic invasive species found on Massachusetts properties. Removing those plants from your properties would be a strong start.

To be clear, we are not advocating for the sacrifice of green space in our call to eradicate invasive species. Yards, parks and swaths of natural greenery are an important component for human and animal health. But healthy, diverse yards and beautiful, colorful gardens can be achieved with native plants that complement ecosystem balance without inviting invasive species and their numerous harms.

What might a collective landlord campaign to remove invasive plants look like? Could we partner with our tenants, or deputize them to remove invasives from the yards of their rentals?

Would legislation offering tax credits for property owners that achieve invasive plant-free yards successfully encourage enough of us to take action?

We want to hear your ideas. Please write to us at hello@masslandlords.net to let us know your thoughts on how we can bolster the state's efforts to greatly reduce invasive plants and their harmful impacts. 

Point your camera app here to read more online.



Martin Green v. the MCAD: Green Loses Appeal in Housing Case as Anticipated

By Kimberly Rau, MassLandlords, Inc.

Massachusetts Commission Against Discrimination upholds prior ruling on assistance animal; Green takes case to Superior Court.

A May 2024 Massachusetts Commission Against Discrimination (MCAD) appeal upheld a prior MCAD ruling that stated Martin Green, a Massachusetts property manager, discriminated against a former tenant and her boyfriend by denying them access to a support animal.

BACKGROUND: MARTIN GREEN V. THE MCAD

The case dates back to 2017, when Green, a property manager for a group of Northbridge rentals owned by Hang Ngo, reached out to tenant Nicole Evangelista. Green stated that he had received complaints about her boyfriend's dog, Sam. The boyfriend, Joshua Fortin, was not on the lease, but was staying in the rental with Sam. This was in violation of a no-pets policy.

Evangelista replied that Sam was a service dog. She explained that Sam was able to detect drops in Fortin's blood

sugar, which allowed Fortin, a diabetic, to treat his condition. Green declined to discuss the matter in a series of emails, and Evangelista filed a complaint with the MCAD, which decided in her favor in 2022.

Green appealed the decision on the grounds that Sam was not a service animal. He had a service dog trainer testify that dogs who detect blood sugar changes must be specially trained. Therefore, Sam, who had no specialized training, was likely not a service animal, the trainer testified. The hearing officer for the MCAD determined that Sam was



An American Staffordshire Terrier (not this one) named Sam was at the center of attention in Green's recent fight against the MCAD, who ruled that regardless of whether Sam was a service animal, she did prompt her owner to take care of his health. (Image: Katie Bernotsky for Unsplash)

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still a support animal (as distinct from a service animal), because the dog's behaviors toward Fortin compelled him to check his blood sugar and take care of his health.

The hearing officer determined that Green had acted in a discriminatory fashion. The MCAD ruled Green had not engaged in dialogue with the tenants and had retaliated against them by sending them notices to quit after they had complained to the MCAD. Green defended himself against the charges. He stated the notices to quit were for nonpayment of rent, and were given to multiple residents, not just Evangelista. Still, he was ordered to pay thousands in damages.

In comments to MassLandlords for our [original story](#) in 2023, and elsewhere online, Green has stated he feels the MCAD overstepped its bounds in determining Sam was an assistance animal. He said that he felt the MCAD was inconsistent in stating whether Fortin was actually a tenant (Fortin did not appear on any lease, nor Evangelista's application for rental assistance). If Fortin was not a tenant, Green argues, then he did

not need a reasonable accommodation to have a pet living with him at that address.

Green has also been vocal about the fact that he is not insensitive to people with disabilities, stating that he has a background in social work and has had a lifelong role in helping his older brother, who is disabled.

2024: AN APPEAL LOST, AS GREEN EXPECTED

Upon appeal, the MCAD stuck by its original decision, with one change: It upgraded Sam to an "assistance animal" instead of a "support" or "emotional support" animal.

"Failing to prove that Sam was a service animal does not automatically relegate her status to a mere pet, and the record supports the conclusion that Sam was an assistance animal," the decision reads.

"...Sam's presence and behavior, with or without training, alleviated the effects of Fortin's disability, both in terms of relieving anxiety and in the prompting to actually check his blood sugar. Complainants therefore proved that Sam was an 'assistance animal' in the broad

sense, not just at the level of 'emotional support animal,'" it continues.

The MCAD also upheld the prior determination that Green did not engage in a proper dialogue with Evangelista when she requested an accommodation.

"Rather than engage in the interactive dialogue, Green made assumptions about Complainants and about Sam and denied the request for accommodation," the decision states.

The appeal document stated that, going forward, all animals that provide any kind of support to someone with a disability would be called "assistance animals," regardless of whether they are trained. This appears to be the middle ground between "service animal" and "pet."

"[G]iven the rampant use of varying labels for such animals, and to dispel further arguments like those from Respondents urging a strict dichotomy between federally defined "service animals" and house pets in the context of M.G.L. c. 151B housing cases, we herein adopt the umbrella term 'assistance animal' as applicable to reasonable accommodations in housing," the finding reads.

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS.

SUPERIOR COURT
CIVIL ACTION №

MARTIN GREEN, MARTY GREEN)
PROPERTIES, LLC and HANG NGO a/k/a)
NGO HANG)

Plaintiffs)

v.)

MASSACHUSETTS COMMISSION)
AGAINST DISCRIMINATION)
Defendant)

COMPLAINT FOR JUDICIAL REVIEW
OF FINAL AGENCY DECISION

Martin Green expected to lose his appeal with the MCAD, and has filed for a judicial review with the Worcester County Superior Court. (Image: Public Domain)

“To be clear, the record contains sufficient evidence in support of the Hearing Officer’s conclusion that Sam’s presence was reasonably necessary to afford complainant an equal opportunity to use or enjoy the premises, and that conclusion is free from legal error,” it continues.

The fines imposed at the earlier hearing have been upheld. Green and landlord Hang Ngo were ordered to pay Fortin \$10,000 for emotional damages, plus interest, and to pay Evangelista \$20,000 for emotional distress, plus interest. Green was ordered to pay a \$7,500 penalty to the commonwealth; his company, Marty Green Properties LLC, was ordered to pay an additional \$5,000; and Ngo was ordered to pay a penalty of \$5,000. This totals \$47,500, and doesn’t include any attorney fees or accrued interest. The respondents were also ordered to attend a disability training session.

CONCLUSION

This ruling likely did not come as a surprise to Green, who told MassLandlords in 2023 that he was already counting on losing the appeal. Once that happened, he told us, he was planning to bring his case to Superior

Court. Green has further stated that he has requested an external investigation of the MCAD.

We can understand Green’s frustration. He went into his case and appeal figuring he would lose, and he was right. The MCAD appears to have moved the goalposts during this hearing process. Evangelista said that Sam was a service animal, which has a specific definition under the ADA. When it was proven Sam was not a service animal, the MCAD ruled she was still not a pet, and designated her as a support, and, later, assistance animal. They said regardless of her designation, she helped Fortin, and therefore was necessary. This amounted to the MCAD putting its finger on the scale and creating a sharp, chilling effect for any landlord tempted to think “B.S.” about an alleged support animal. Green argued this was not within the MCAD’s scope.

However, Green was incorrect when he did not engage in a dialogue with his tenant about Sam. This is in violation of the law: A tenant does not have to use the phrase “reasonable accommodation” to get such a consideration, and Evangelista telling Green that Sam was a service animal should have been enough to get the conversation started.

That refusal alone was enough to make Green lose his case, regardless of what kind of animal Sam was or whether the MCAD remained impartial.

As of publication, Green has filed an appeal with the Worcester County Superior Court. He is requesting a full judicial review of the MCAD’s decision.

We will continue to update this story as the case progresses. [ML](#)

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Members in good standing must vote online at MassLandlords.net/vote in this year's annual election.

At the end of each year we elect a member to the Board of Directors. MassLandlords is a 501(c)6 nonprofit trade association. Members like you set our direction.

Our annual meeting this year will be conducted electronically only. Electronic voting will take place at MassLandlords.net/vote starting Wed Oct. 2, 2024 and running through Oct. 16, 2024.

The Record Date is Sunday, Sep. 22, which means you must be a member in good standing on that day to vote. Quorum will be 25% of members as of the record date.

Members must pay dues to MassLandlords or a directly managed chapter (service contract chapters have their own elections).

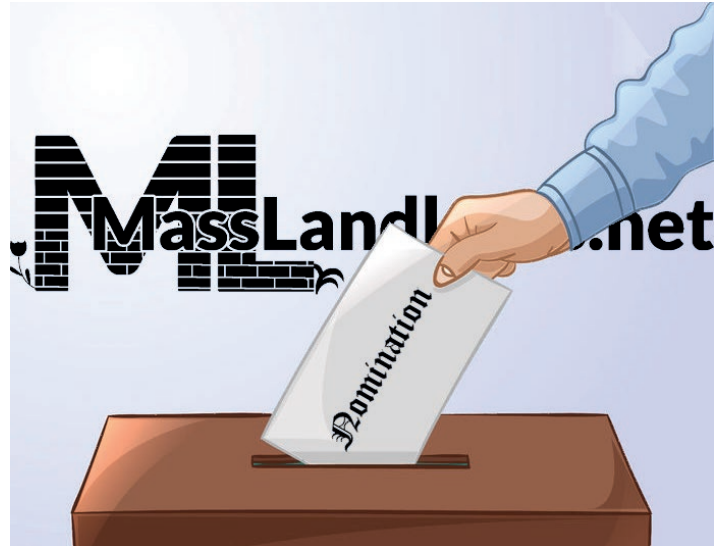
THE BOARD OF DIRECTORS

The Board of Directors are volunteers who oversee the operations of the association. Our legal mission is to create better rental housing in Massachusetts by helping current, new, and prospective owners run profitable, compliant, and quality businesses. To this end, MassLandlords organizes opportunities for landlord education and networking and advocates appropriate changes to the laws.


At time of writing, nominees included Jo Landers and Alec Bewsee.

Directors serve a five-year term. The Board of Directors has no operational responsibility, rather, their job is to oversee. In particular, they must hire or fire the person currently in the Executive Director's role, if necessary. They must also review financial reports and verify that association business aligns with our mission.

Members can submit nominees through the Record Date. Write-ins on the voting day will be allowed.



Nominations are open for our 2024 annual election. Derivative of licensed 123rf.

Log in at MassLandlords.net/vote between Oct. 2 and Oct. 16 to view final ballots and biographies and to vote electronically. The voting page will not be published before that date, so mark your calendar. 

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A Monthly Fee Instead of a Security Deposit? Bond Bill Makes Rare Change to MGL 186 15B

Bond bill provision allows EOHLC to make regulations that would give renters the option of paying a fee instead of an up-front security deposit.

**BY KIMBERLY RAU,
MASSLANDLORDS, INC.**

The \$5.1 billion housing bond bill, signed by Gov. Maura Healey in August 2024, includes a provision that could allow landlords and tenants to agree to a monthly fee in lieu of paying a security deposit up front. If the Executive Office of Housing and Livable Communities (EOHLC) creates such regulations, it would effectively change MGL 186, Ch. 15B, the law governing security deposits and move-in monies.

The provision states that landlords who would normally collect a security deposit may now offer a second option to their potential tenants: a monthly fee that is more flexible than the security

deposit. For example, unlike a security deposit, which remains the property of the tenant, the fee would belong to the landlord, and could be used or saved as necessary.

There are some caveats. The total amount of money collected over the course of the tenancy cannot exceed one month's rent, just as a security deposit amount cannot. However, unlike a traditional security deposit, the monthly fee may be entirely or partially non-refundable, as long as that is made known to the tenant in writing.

One vague portion of the provision is that landlords are not allowed to continue to collect a fee in excess of a total of one month's rent, even if the lease is "extended." It does not say what happens if you terminate the lease entirely with your tenant and then have them sign a new one. If you cannot continue to collect a fee, then you'd better have saved that money if you intend to use it to fix damages later on. If you can continue to collect a fee, your tenants



Take a big security deposit up front, or get a smaller monthly fee over the course of the lease? The new bond bill gives EOHLC the right to create regulations for landlords to give tenants the choice. (Image: 123rf)

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could end up paying far more than a traditional security deposit.


Further, at any point, your renters can decide they do not want to continue to pay the fee. If that happens, you may require them to pay a traditional security deposit starting that day. However, the total they pay between fee and security deposit cannot exceed one month's rent.

If you choose to offer the fee option, you must offer it to all of your approved applicants, "regardless of income, race, gender, gender identity, disability, sexual orientation, immigration status, size of household or credit score." You also cannot charge a higher fee based on any of these criteria. (You may still deny tenancy based on household size or credit score. But if you approve an applicant with a certain credit score or household size, you cannot withhold the

fee option, or charge a higher fee than you otherwise would.)

What's particularly interesting about this provision is that there is no mention of the dreaded triple damages plus attorneys' fees that can be applied in traditional security deposit litigation. This has the potential to seriously disrupt the legal services profession in Massachusetts, which profits off of damage awards from security deposit cases. If the fee catches on, there will be far fewer small-time landlords going to court and losing money over security deposit mishandling.

This protection against eye-watering court-ordered damages may make the fee a much more attractive option for some landlords. However, remember you cannot force your tenants to pay the fee if they would rather pay a security deposit.

The provision does not automatically make this option law. Rather, it allows the EHOLC to create regulations that would permit the changes. We will continue to update you as things progress. 

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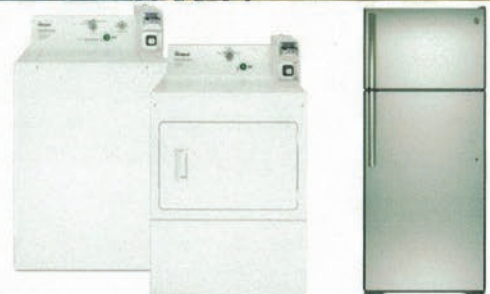
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Compiled by Eric Weld, MassLandlords, Inc.

MassLandlords media mentions and appearances by association representatives.

This edition of MassLandlords In the News features comments in the Boston Globe, MassLive, NBC10-Boston and other media on eviction sealing, TOPA, real estate brokers' fees and other topics.

MONDAY, AUGUST 5

MassLandlords Executive Director Doug Quattrochi contributed comments to an NBC10-Boston article by Ryan Kath and Shira Stoll about a married couple that has allegedly scammed numerous landlords over a 20-year period. Russell and Linda Callahan, one of the names used by the couple, have reportedly lived rent-free for years in various

rental houses in Worcester County. The couple moves into a house, typically using falsified documents, then proceeds to bounce checks for security deposit and rent, never paying a dime, forcing landlords to eventually sue for eviction. Months and thousands of dollars in court costs later, the couple is evicted from their rental and moves onto the next victim landlord, changing their address and maybe adopting a different name to cover their tracks.

The Callahans have been very successful as "professional tenants," a moniker for those who are able to figure out how to leverage Massachusetts' pro-tenant laws to live in rental housing very cheaply or without paying rent at all. But they are only two among many such renters in the state.

"The reason they are called professional tenants is because they can earn

a living by scamming landlords," notes Quattrochi in the article. "You can delay evictions for a very long time if you intend to abuse the system."

Now, with an eviction sealing provision signed into law as part of a recent \$5.2 billion housing bond bill, a couple like the Callahans could have their long record of evictions sealed from public view. If that happens, future prospective landlords will have no way to discover the couple's history of scamming landlords. In essence, in this case, the new law protects criminals.

» **View the article and protect yourself from professional tenants.**

FRIDAY, JULY 12

A *Boston Globe* article by Dana Gerber about a provision that had been in the \$5.2 billion housing bond bill recently



ARTICLE YOU MAY HAVE MISSED

Fair Ruling in *Frechette v. D'Andrea*: Use and Occupancy Payments May Not be Waived Under Indigency Statute

Use and occupancy payments may not be waived under the state indigency statute during an appeals process, the supreme judicial court ruled in 2024 in the case *Frechette v. D'Andrea*. This means that renters who appeal a summary process ruling may still be required to make use and occupancy payments as a condition of keeping their appeal active.

Point your camera app here to read more online.



signed by the governor, which would have shifted responsibility for paying brokers' fees, included comments by Quattrochi. The provision was not included in the bill sent to the governor for signing. The article suggests that landlords would have collectively pushed back against the proposal to require the person who hires a broker to pay their fees.

"If you try to push down one place, it pops up elsewhere," says Quattrochi in the article. If the provision were to pass, requiring landlords to pay brokers they hire, landlords, "in order to offset that additional cost, are just going to raise up their asking rents."

» [Read the article.](#)

MONDAY, JULY 8

A Boston.com article by Sury Chakraborty included commentary by Quattrochi regarding real estate agents practice of charging prospective tenants brokers' fees for procuring rentals.

"In Boston, there are lots of brokers who are operating at the landlord's direction and are telling renters that there's a broker fee for it," notes Quattrochi, "and they basically make the renters hire them."

Charging tenants a real estate broker's fee for rental finding services is legal, as long as brokers adhere to state regulations. (Landlords are not legally allowed to charge extra move-in fees beyond first month's and last month's rent, security deposit and the cost of new lock and key.) Quattrochi notes that prospective renters have the right to refuse to pay a broker's fee, or to negotiate the fee. However, he points out, in an extremely tight rental market like Boston, paying a broker's fee may be necessary in order to get the desired rental.

» [Read the article.](#)

WEDNESDAY, JUNE 12

Doug Quattrochi and a MassLandlords member both commented for a MassLive article by Adam Bass about proposed amendments to Worcester's new rental registry. Four changes have been proposed for the rental registry, activated in March 2024, by a committee of City

Council members, including reductions to the \$300-per-day fines charged to landlords who do not register or cooperate with unit inspections.

Quattrochi commented that the daily fines for noncompliance were not sustainable. "Imagine if you are a landlord who is a senior citizen and you did not get the memo about the fine and then the city catches up to them 90 days later," said Quattrochi in the article. "That's a fine of \$27,000. That's unsustainable." Fines aside, Quattrochi, a Worcester landlord, also argues that the city's rental registry unnecessarily diverts resources and inspectors to rentals that have no issues, siphoning attention that should be given to rentals with problems.

"Unfortunately, they aren't working," he said of rental registries. "They look good politically but they do not work."

MassLandlords member Jeff St. Laurent also commented for the article.

» [Read the article.](#)

WEDNESDAY, MAY 29

Quattrochi commented in a Boston Globe article by Christopher Gavin about no-fault evictions in Massachusetts. The article profiles some renters who have received no-cause eviction summonses and recent tenant protests against the practice of using no-cause evictions as a way to vacate tenants. The practice is sometimes used by large-scale real estate investors and small property owners when they purchase a rental property with tenants paying below-market rents. The low rents may have worked for a previous longtime owner who had paid off the mortgage. But new owners of Massachusetts real estate often take on high mortgages, property taxes, interest rates and upkeep costs and raise rents in order to offset costs. The raised rents can come as a shock to their new tenants, who may have gotten accustomed to outdated low rent. When they can't or refuse to pay the raised rent, owners may turn to no-cause eviction to turn over leases.

"It's really hard to operate as a small landlord, and anybody who thinks there's profit in it is kind of misunderstanding the reasons why landlords buy

rental property in the first place," says Quattrochi in the article.

The article notes that the rate of no-cause evictions in the state has remained steady in recent years, not risen. According to the Massachusetts Housing Partnership, there were about 300 no-cause cases among approximately 3,100 evictions filed in February 2024. Some no-fault evictions are filed by small rental property owners when for-cause evictions have failed, for nonpayment in some cases, and problem tenants were allowed to remain in their rentals.

"You look at the 12 percent of filings on an annual basis that are no-cause stated, and they're very often associated with failed for-cause cases or other cases the landlord couldn't move forward," said Quattrochi. "You see patterns of repeat evictions because the first one doesn't stick."

Tenant advocacy groups call for legislative action that would help tenants remain in their homes, such as rent control measures and tenants right of first refusal (TOPA). Recent proposals have coursed through state government but have so far not become law. Tenants and tenants' rights groups also rally for eviction sealing, which enables tenants to expunge evictions from their records in many circumstances. An eviction sealing provision was recently signed into law as part of the housing bond bill signed by the governor.

» [Read the article.](#)



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Housing Bond Bill Signed by Governor Includes Single-Family ADUs by Right

By Kimberly Rau, MassLandlords, Inc.

Gov. Healey's Affordable Homes Act allows statewide construction of accessory dwelling units right on single-family plots of land.

Gov. Maura Healey signed the \$5.1 billion housing bond bill, also known as the Affordable Homes Act, into law on Aug. 6, 2024. One of the items in the bill was a provision allowing for accessory dwelling

units by right on single-family zoned plots of land throughout the state.

The law permits construction of an accessory dwelling unit (ADU) – also sometimes called an additional dwelling unit, accessory apartment, in-law apartment or granny flat – by right on lots zoned as single family (no special permit required).

Cities and towns cannot restrict ADU occupancy to family members or

caretakers. They also cannot require owner occupancy of either the primary dwelling unit or the ADU, and may not prohibit an owner from renting out the ADU. The only exception is when cities and towns restrict short-term rentals, such as renting through Airbnb. Such short-term rentals may be prohibited, depending on the municipality.

Homeowners may need to comply with restrictions regarding the “bulk” of

Municipal ADU Restrictions

for single-family land



Cities and Towns May

- Have size restrictions.
- Have short-term rental restrictions.
- Require site plan reviews.
- Require dimensional setbacks.
- Have bulk and height regulations.
- Require only 1 parking space for ADUs more than 0.5 miles from a commuter station.
- Have other “reasonable restrictions.”

Cities and Towns May Not

- Impose special permit requirements for the first ADU on a property.
- Require any discretionary zoning approval for an ADU.
- Require a parking space for ADUs closer than 0.5 miles to a commuter station.
- Prohibit rentals of ADUs (except for short-term rentals).
- Impose owner-occupancy requirements.
- Prohibit or “unreasonably restrict” ADUs.*

*More than one ADU requires a special permit.

Municipalities may have some restrictions, but the new bond bill makes ADUs by-right for on single-family zoned lots. (Image: CC by SA Jennifer Rau for MassLandlords Inc.)

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- ★ Lease Agreements
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- ★ Rent Collection Actions
- ★ Code Enforcement Actions

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the ADU (the building's envelope) and its height, depending on existing municipal regulations. They also must abide by setback rules for their city or town and, when applicable, follow existing laws regarding septic system limitations.

Cities and towns may require one extra parking space for ADUs if the property is located more than a half-mile from a commuter rail, subway or bus station, or ferry terminal. If the property is located within a half-mile from one of these commuter stations, the municipality must allow the ADU to be built without requiring additional parking.

Note that this policy is only for single-family zoned plots of land, and applies to only one ADU. If you have a plot of land already zoned for a multifamily home, you may need a special permit to construct an ADU. Similarly, if you want additional ADUs on your single-family plot, you will need a special permit from your city or town. The town may restrict their construction, and the renting out thereof.

The new ADU provisions are encouraging news. However, the language of the bill is vague in places. It prohibits cities and towns from placing "unreasonable restrictions" on those seeking to construct an ADU, but doesn't spell out what "unreasonable" means. It also restricts parking requirements for properties within a certain distance of a commuter station, but what about bus stops? A bus stop a mile away from the bus station may still be used as part of a car-free commute, but a bus stop isn't the same as a bus station. These are just a couple of issues that could spur litigation from municipalities that are already hostile to ADUs.

That said, we welcome anything that creates more housing, even if it's a drop in the bucket. Lt. Governor Kim Driscoll has stated that Massachusetts needs an additional 200,000 housing units. Gov. Healey projects that the new ADU law will create just 10,000 additional housing units over the next five years. But it's a start.

You can read this part of the bill, along with a plain-English breakdown of its verbiage, on our website. [M](#)

Point your camera app here to read more online.



REGIONAL

MassLandlords Upcoming events

See details under each region

2024 SEPTEMBER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9 SWCLA 7:00PM-9:00PM	10 MWPOA 5:30PM-7:45PM	11	12 NWCLA 7:00PM-9:00PM	13	14 Springfield Crash Course 8:30AM-4:00PM
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

2024 OCTOBER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1	2	3	4	5
6	7 SWCLA 7:00PM-9:00PM	8 MWPOA 5:30PM-7:45PM	9	10 NWCLA 7:00PM-9:00PM	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

STATEWIDE NORTHERN WORCESTER COUNTY

Northern Worcester County Landlord Association Fitchburg Dinner Meeting, 7 pm: 1031 Exchanges

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Public attendees can purchase your ticket in just a few clicks!

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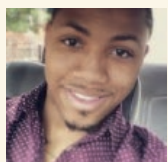
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"Mr. Quattrochi presented the course in a comprehensive and easy to follow step-by-step format. His PowerPoint

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business, beginners in this profession as well as experience professionals."

– Edwin Rivera

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"I found this course extremely useful. It was completely professional and gave me a great new perspective." -Nicholas

"I'm glad there was more in depth discussion than just reading off the slides. I appreciate the opportunity for questions and practice." -Crash Course Graduate

"If I had done this 20 years ago. Oh my goodness!" -Crash Course Graduate

"Great overview of being a landlord in MA" -Crash Course Graduate

"Covered a lot of ground concisely, but still enough time for questions and insight. Worth every penny." -Crash Course Graduate



MassLandlords Executive Director Doug Quattrochi



Attorney Peter Vickery, Esq. Attorney and Counselor at Law, is also MassLandlords Legislative Affairs Counsel

Part of this presentation will be given by Doug Quattrochi, Executive Director, MassLandlords, Inc. Doug was a founding member of MassLandlords in 2013. He became the association's first Executive Director under new bylaws in 2014. Since then, he has scaled the organization from a core of 160 members in Worcester to approximately 2,500 dues paying businesses from Pittsfield to the Cape, and from an all-volunteer team to approximately 20 full and part-time staff plus 50 volunteers. Doug has been instrumental in advancing democratic governance mechanisms, including score voting for policy priorities and a staggered and democratically elected Board of Directors. Doug also oversees the RentHelper spin-off, which is expanding access to electronic banking for those of us who are unbanked or underbanked. Prior to MassLandlords, Doug held leadership roles in various Massachusetts startups, two of which are still operating. Doug holds a Master of Science in



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LEGAL STANDING

Vote in MassLandlords elections, serve on boards, and be represented in policy discussions with local and state officials.



CERTIFICATION

Become a Certified Massachusetts Landlord™.



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Members save on most items at Home Depot stores and online, including appliances, lighting, lumber, hardware, paint and more.



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Search for service providers or be listed as one (electricians, managers, realtors, attorneys, plumbers, snow removers, and much, much more).



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Aerospace Engineering from the Massachusetts Institute of Technology.

"Doug's presentation was excellent. He was very clear and provided detailed explanations." -Larry

"Doug always holds very informative classes full of substance and Very organized!" -Thomas

"Your answers to member's questions were most helpful." -Liz

Part of this presentation will be given by Peter Vickery, Esq.. Attorney Vickery practices law in Western Massachusetts where he focuses on landlord-tenant law (representing landlords in Housing Court) and discrimination defense (representing business owners in the Massachusetts Commission Against Discrimination). He graduated from Oxford University (Jesus College) with a BA in Modern History; obtained his Post-Graduate Diploma in Law from the University of the West of England in Bristol; his JD from Boston University School of Law; and his Masters in Public Policy & Administration from the University of Massachusetts, Amherst. Attorney Vickery served one term on the Governor's Council (the elected 8-member body that approves or vetoes the governor's choice of judges in Massachusetts) and on the State Ballot Law Commission. As Legislative Affairs Counsel for MassLandlords he drafts bills, bill summaries, and testimony in the area of housing law, and writes amicus briefs in cases that have strategic significance for rental-property owners.

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MassLandlords offers attendees of directly managed events a "No Sales Pitch" guarantee. If a guest speaker offers services, their presentation will not discuss pricing, promotions, or reasons why you should hire them. We do not permit speakers to pay for or sponsor events. Guest speakers are chosen for their expertise and willingness to present helpful educational content. Your purchase of an event ticket sustains our nonprofit model.

SATURDAY, SEPTEMBER 14TH

CRASH COURSE AGENDA

IN-PERSON COURSE AGENDA

- 8:30 am - Introduction of MassLandlords and course participants
- 8:45 - Rental markets
 - o Urban, suburban, rural.
 - o Luxury, college, professional, working, subsidized, rooming houses.
 - o Airbnb.
- 9:00 - Property selection
 - o Lead paint.
 - o Charging for utilities.
 - o Climate change risk.
 - o Heat pumps.
 - o Vinyl plank vs. hardwood floors.
 - o Landlord trade-offs repairs vs. cleaning.
- 9:40 - Marketing and advertising
 - o Getting the right applicants.
 - o Small business branding tips and tricks.
- o Where to advertise.
- 10:05 - Break for ten minutes
- 10:15 - Finish marketing and advertising
- 10:35 - Applications and tenant screening
 - o Criminal, credit, and eviction background checks.
 - o Discrimination and fair housing.
 - o Interactive tenant screening workshop.
 - o Section 8.
- 11:30 - Tenancies
 - o Lease vs Tenancy at Will.
 - o Move-in monies.
 - o Security deposits.
 - o Pet rent.
- 11:50 - Break and Lunch, with free form Q&A
- 12:20 - Warranties and covenants
 - o Water submetering.
 - o Sanitary code.
 - o How to raise the rent fairly.
 - o Support animals.
- 12:40 - Dispute resolution
 - o Eviction notices to quit.
 - o Court process.
 - o Move-and-store
 - o Relocation assistance.
- 1:40 - Break for ten minutes
- 2:50 - Maintenance, hiring, and operations.
 - o Tax advantages.
 - o Property managers.
 - o Contractors.
 - o Building permits.
 - o Extermination
 - o LLCs and trusts.
 - o Grants and alternative funding.



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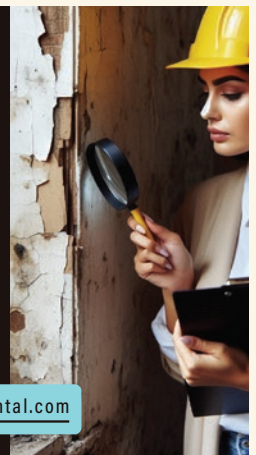
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- ✓ Landlord rights and responsibilities
- ✓ Nonpayment of rent
- ✓ Contractor disputes
- ✓ Termination of tenancies and eviction
- ✓ Rent increases
- ✓ Angry neighbors
- ✓ Municipal fines or assessments,
- ✓ Building disasters
- ✓ Sleepless nights

Schedule a consult: 774-314-1896 or hello@masslandlords.net

Details and Prepayment:

<https://masslandlords.net/membership-confirmation-helpline/>

- 3:10 - Break for five minutes
- 3:40 - Overview of books and resources for further education
- 3:45 - Review of unanswered questions
- 4:00 - End Course

Please note that end time may vary based on questions.

LOCATION

Realtor Association of Pioneer Valley
221 Industry Ave
Springfield, MA 01104

FOOD

- Breakfast:
 - o Fresh bagels, large muffins, cinnamon rolls, coffee cake slices and scones with cream cheese, butter, and jam
 - o Fresh fruit platter
 - o Assorted fruit juices and coffee
- Lunch:
 - o Assorted gourmet sandwiches
 - o Garden salad
 - o Pasta salad
 - o Assorted pastries
 - o Soda, juice, water

*Dietary restrictions: Purchase a ticket and set your preferences at My Account **one week prior to the event** or earlier. Once set, preferences remain set for future events.

Masks welcome! Eating and drinking is not required. Please note: as we are unable to monitor the buffet, we are unable to offer a reduced ticket price for attendees who will not be eating.

PRICING

Open to the public. Membership is not required!

- Public: \$275
- Members: \$250

This event will not be recorded.

Slides and handouts if any will be uploaded to Massachusetts Crash Course in Landlording and Rental Real Estate.

Purchase your ticket in just a few clicks!

Public attendees can purchase your ticket in just a few clicks!

This event is operated by MassLandlords, Inc. staff.

This Crash Course counts for continuing education credit for Certified Massachusetts Landlord Level Three. Beep in. Leave feedback/beep out.

Want to speak at a MassLandlords meeting? Submit a speaker request.

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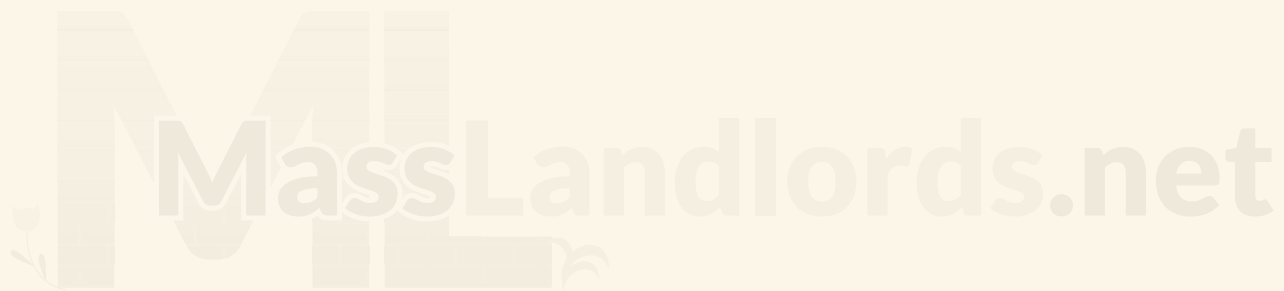
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