



THE CITIZEN'S ADVISORY COUNCIL FOR HOUSING MATTERS

October 17, 1984

MINUTES OF THE MEETING OF OCTOBER 11, 1984

Members present: Douglas Mintz, Robert Kor, Mellanie Harris, Aura Diaz, Joseph Wincze, Sheldon Hosen, Raphael Podolsky, Jennie Johnsky, Kevin Tierney, Frances Church

Others present: David Pels

(1) Call to order: The meeting was called to order at 4:50 p.m. on October 11, 1984, at the State Police Academy in Meriden. Douglas Mintz presided.

(2) Minutes: The minutes of the March 19, 1984, meeting were approved unanimously (motion by Robert Kor, seconded by Raphael Podolsky).

(3) Treasurer's report: Raphael Podolsky reported that the present balance of the Council is \$1,477.69. This consists primarily of a grant of \$350 from the CIGNA Corporation and a grant of \$1,200 from the Fairfield County Cooperative Foundation. A total of \$125.31 was spent on the August 8, 1984, reception which was held for Judge Jerrold Barnett, who became judge of the New Haven Housing Court in July.

(4) Resignation: Fran Church reported that she will be resigning on November 1 to moved to Maine. The Council unanimously approved a resolution thanking her for her work on the Council and wishing her good luck (motion by Mellanie Harris, seconded by Robert Kor).

(5) Stationery: The Council unanimously authorized the Executive Committee to have letterhead stationery printed (motion by Frances Church, seconded by Robert Kor).

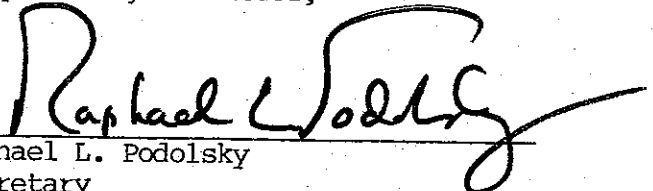
(6) Housing court prosecution: The Executive Committee reported on meetings held since July with Warren Gower of the Chief State's Attorney's Office over implementation of P.A. 84-445, which centralizes housing code prosecution and establishes statewide jurisdiction (even outside the housing court districts). Three such meetings have so far been held. A new full-time prosecutor, Chris Morano, has already been assigned to Hartford, and the former part-time prosecutor, Thomas Prior, has been reassigned. It is likely that new full-time prosecutors will be assigned soon in the two other housing court districts. The housing prosecution guidelines, which had been drafted by the Executive Committee, were discussed at some length. They were then approved unanimously (motion by Raphael Podolsky, seconded by Frances Church). Discussions over their adoption by the Chief State's Attorney are in progress. The Executive Committee was authorized to continue those discussions.

(6) Annual report: The Housing Court Act requires the Council to submit a biennial report to the General Assembly and to the Chief Court Administrator in early January. The Council unanimously authorized Douglas Mintz and Raphael Podolsky to draft the report and to submit it to the next meeting of the Council for approval (motion by Robert Kor, seconded by Joseph Wincze). The draft is to include at least the following issues: Prosecution policy guidelines and method of assigning prosecutors; expansion of the housing court system to other parts of the state; telephone listings for the court in the blue pages of the telephone book; toll-free telephone lines to the housing courts (especially from Stamford, Enfield, and Meriden); job specifications for housing specialists; adequacy of bilingual forms and instructions; and recommendations on the continuation and expansion of P.A. 83-510, the "payment into court" bill. The draft is to be circulated before the next Council meeting.

(7) Minimum job qualifications for housing specialists: Prior to creation of the statewide Citizens Advisory Council, the Hartford-New Britain and New Haven-Waterbury Councils had adopted resolutions objecting to the imposition by the Judicial Department of a minimum experience requirement for housing specialist which precluded applicants from being considered for the position unless they had either (a) seven years' experience as an inspector or (b) a B.A. and three years' inspection experience. Those councils had felt that these requirements, which were not imposed until 1982, improperly elevated the importance of inspection experience and eliminated consideration of job applicants with other forms of housing and mediation experience, if they had not been inspectors. The Council unanimously approved a resolution recommending to the Judicial Department that it revise its minimum job requirements for housing specialists so as not to treat experience in an inspection field (as distinct from other types of relevant experience) as an absolute prerequisite for consideration of an application and that, in evaluating applications, it recognize the importance of other housing experience and of mediation skills (motion by Raphael Podolsky, seconded by Kevin Tierney).

(8) Adjournment: The meeting was adjourned at 6:35 p.m. (motion by Mellanie Harris, seconded by Jessie Johnsky).

Respectfully submitted,


Raphael L. Podolsky
Secretary

Note: The next meeting of the Citizens Advisory Council will be at 4:30 p.m. on Thursday, December 1, 1984, at the State Police Academy in Meriden.



THE CITIZEN S ADVISORY COUNCIL FOR HOUSING MATTERS

A STATE ADVISORY BOARD CREATED PURSUANT TO §47a-71 OF THE
GENERAL STATUTES

RECOMMENDED HOUSING COURT PROSECUTION GUIDELINES

Overall Purpose

Approved by Executive Committee, 9-6-84
Advisory Council, 10-11-84

It is the goal of these housing court prosecution guidelines to promote the full and prompt compliance with all statutes which affect residential housing, including local housing codes and statutes concerning housing discrimination, lockouts, and fair rent commissions.

Categories of Cases

The prosecutors should receive and prosecute complaints including but not limited to:

1. Housing, building, electrical, plumbing, fire, and similar municipal code violations, if they affect residential housing.
2. No-heat and no-hot water complaints [C.G.S. §19a-109].
3. Lockouts [C.G.S. §53a-214].
4. Housing discrimination cases, including discrimination against families with children [C.G.S. §46a-64 and §46a-64a].
5. Violation of fair rent commission orders [C.G.S. §7-148f].

Initiation of cases

1. The use of a 14-day warning letter should be discontinued.
2. Housing code enforcement cases, except for emergencies, should be initiated by a summons to appear within 14 days of the issuance of the summons. A docket number should be assigned to the case when the summons is issued.
3. No-heat cases, no-hot water cases, lockouts, and all other emergency cases should be initiated by warrant.
4. The affidavit upon which a prosecution is based should ordinarily come from a housing code official or, in the case of violation of a fair rent commission order, from a fair

rent official. In appropriate cases, including lockouts and housing discrimination cases, the prosecutor should initiate prosecution upon the affidavit of the victim.

5. Since all housing code referrals for prosecution are based upon continuing violations of the housing code, affidavits should be drafted so as to support a prosecution for violations occurring on more than one day, thereby giving the prosecutor the option of seeking a higher fine in appropriate circumstances.
6. The pendency of a civil or administrative case (e.g., an eviction or a fair rent commission case) should not delay prosecution on a criminal charge.
7. Cases against entities other than individuals (e.g., partnerships or corporations) should be processed in the same manner as other prosecutions.

Continuances

1. Unless there are exceptional circumstances, a defendant should have to appear in court to request a continuance.
2. Continuances should be short. They should not exceed one week, except for unusual circumstances, and should almost never exceed two weeks.
3. If it will reasonably take more than one or two weeks to complete repair work, continuances should still not exceed the time period in ¶2, so that the court and prosecutor will be aware of the progress of repairs and will be alerted early to a lack of work in progress.
4. Whenever a case involving housing code prosecution appears on a court calendar, a report should be made to the court on the record as to the extent to which alleged housing code violations have been corrected. Such report should be made without regard to whether the case is to be continued or to receive final disposition.
5. Cases in which compliance is not obtained by the first court appearance should proceed quickly to trial. Sentencing should be deferred, however, until repair work is completed.

Nolles, Dismissals, and Accelerated Rehabilitation

1. Nolles and dismissals should be rare.
2. Nolles should be given only if it would be unjust to prosecute. A nolle should not be considered if the owner has a past

record of failure to comply voluntarily with code enforcement agency orders, regardless of whether or not the owner has previously been prosecuted or convicted.

3. Nolles should not be considered unless all work is completed by the arraignment date. Even then, a nolle should not be automatic but should require special circumstances.
4. If the work is done by the city because of the emergency nature of the circumstances, the case should be treated as one in which the landlord did not make the repair.
5. Sale or abandonment of a building, without having made repairs, should not be the ground for a nolle or dismissal.
6. No case should be nolleed without written confirmation from the code enforcement agency that all violations have been corrected.
7. If a case is nolleed but the defendant is cited for another violation within thirteen months (including a violation occurring in a different building), the nolleed case should be restored to the court's docket.
8. Use of accelerated rehabilitation should not be encouraged and should be opposed if the owner has a past record of failure to comply voluntarily with code enforcement agency orders, regardless of whether or not the owner has previously been prosecuted, or if the violations for which the owner has been cited are serious.

Sanctions

1. Sanctions should be used as a way of assuring that repairs will be made.
2. No file should be closed until full code compliance has been obtained. In an extraordinary case in which full compliance is impossible (e.g., because the defendant no longer owns the building and no longer has any method of influencing repairs), sanctions may be imposed, after which the file may be closed although compliance has not been obtained.
3. Fines should be graduated, depending on the severity of the offense, whether the defendant is a repeat offender, and the extent of delay prior to repair.

4. No fine should be for less than \$50. Fines for defendants who do not repair until the case has been in court for a month or more should be in the \$200 to \$400 range. Fines for defendants who delay for more than two months should be in the \$400 to \$750 range. Fines should be larger if the violations are serious or if the landlord has had extra time to comply before the case was referred for prosecution but still failed to comply.
5. A fine should ordinarily not be imposed until the repair work has been completed. If, in unusual cases, this is not practical, some form of conditional sentencing should be used (e.g., a large fine, of which a portion will be remitted if repairs are completed before a particular date in accordance with a work schedule under probation).
6. Fines should be structured so that a defendant is not rewarded for delay. The mere fact that repairs have been made should not justify disposition without a fine.
7. Probation periods should contain relatively short time periods for completion of work, with intermediate partial repair requirements to assure that work is in progress. These intermediate requirements should allow intervals of no more than two weeks without reinspection. Except where winter makes completion of repairs impossible, a probation work plan should require full compliance in no more than two months, although the probation itself may be for a longer period of time. It should be a condition of each probation that the owner will not again commit a violation subject to housing court jurisdiction. If the prosecutor believes that there is a danger that the owner will retaliate against the victim during probation (e.g., by starting an eviction), a prohibition against retaliation should be made a condition of probation. If accelerated rehabilitation is allowed, its review, duration, and reporting standards should be similar to probation.
8. Jail sentences should be used only in extraordinary cases.
9. Repeat offenders should receive higher fines than first offenders. The prosecutors should automatically check the court's records on each criminal referral to identify prior offenders. In addition, the prosecutors should consult with code enforcement officials to identify offenders with a past record of resistance to voluntary compliance with agency orders.
10. The court should experiment with agreements to rebate rent to tenants as part of a plea bargain in which a voluntary rebate is coupled with a reduced fine.

11. An arrest warrant should be issued against any person not appearing in court when due. Excuses should be accepted only if compelling. Continuances against persons arrested for failure to appear in response to a summons should be brief, and such a case should ordinarily be continued only to the earliest available court date, which need not necessarily be a day regularly assigned to criminal cases. Violations of §53a-173, if willful, should be prosecuted.

Relationship to Code Enforcement Agencies

1. The prosecutor should seek full compliance with all housing code enforcement orders and should not close a file until compliance has been obtained. Partial or substantial compliance should not be treated as full compliance.
2. The code enforcement agency should be notified by the prosecutor of each time a case which it referred is on the court docket; and a representative of the agency should be encouraged to be present in court on each such hearing date so as to respond to questions about the case.
3. The prosecutor should act as an advocate for the code enforcement agency and the housing policy it seeks to implement.
4. The housing code enforcement agency should be notified promptly of the disposition of each case which it referred.

Relationship with the Community

1. The prosecutor should meet with all agencies in the prosecution district likely to refer cases for prosecution and should encourage the use of such referrals. These include, as a minimum, housing code enforcement agencies; police departments which handle no-heat, no-hot water, and lockout cases; the Commission on Human Rights and Opportunities; other agencies which handle housing discrimination complaints; and fair rent commissions.
2. Individual victims who initiate prosecutions by filing affidavits should be notified each time that their case is on the court docket.
3. The prosecutor should be available to speak at community meetings dealing with housing court prosecution issues.

4. Criminal cases should be scheduled for a fixed time to be heard in court. Negotiations concerning those cases should, to the maximum extent practicable, take place before that time, so that members of the public may know at what time to attend court to observe the criminal docket.
5. The Citizens Advisory Council to the housing court should be consulted in the establishment of prosecution guidelines.

Prosecution Guidelines

1. The prosecutor should maintain a written copy of the prosecution guidelines in the Housing Session clerks' offices.
2. The guidelines should be altered only after prior notice and an opportunity for comment is provided to the Citizens Advisory Council, housing code enforcement officials within the district, and other interested persons.
3. The guidelines should be reviewed annually.