

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO.
12-2901D

ARISE FOR SOCIAL JUSTICE, et al.,

Plaintiffs,

v.

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT and
AARON GORNSTEIN, as he is the
Undersecretary for Housing and Community
Development,

Third Affidavit of Kelly Turley

1. This supplements the affidavits I have previously submitted in this case. I make this affidavit based on my personal knowledge.

2. Since the provision by defendants on July 17, 2012 of 15 days' notice to the Clerks of the Legislature and certain Legislators of their intent to implement regulations governing the standard for determining whether families are at significant enough risk to be eligible for emergency shelter and 60 days' notice to the same of their intention to implement additional eligibility restrictions, counsel for plaintiffs, other advocates for families with children experiencing homelessness and I have been engaged in discussions with Legislators and defendants about deep concerns about the restrictiveness of the proposed regulations.

3. These discussions have led to defendants agreeing to make some changes to the regulations and agreeing to continue discussions during the remainder of the 60 days' notice period. Indeed, in an email dated Friday, July 27, 2012, sent to legislators and advocates involved in the discussions, DHCD's Director of Legislative Affairs Stephen Burm stated "We look forward to continued discussions and constructive dialogue in the weeks ahead." And in an email dated August 3, 2012 to legislators involved in the on-going discussions DHCD's Chief of Staff Steven Carvalho stated, "We look forward to continued discussions in the weeks ahead."

4. These discussions and the revisions to the regulations prior to implementation were made possible solely by the requirement of advance notice to the Legislature, given that defendants did not otherwise provide advance notice of the contents of the proposed regulations available to the public or advocates for families experiencing homelessness.

5. Exhibit 1 is a letter to defendants dated July 31, 2012 from Representative Kay Khan, House Chair of the Joint Committee on Children, Families and Persons with Disabilities. As

reflected in items 3, 5, 6, 7, and 8 of Exhibit 1, the ongoing discussions about the regulations relate not only to the regulations of which defendants gave 60 days' notice but also to the regulations that defendants have now implemented without 60 days' notice. Because some of the regulations were implemented without 60 days' notice, the Legislature and by extension the members of the public whom they represent, including my organization, the Massachusetts Coalition for the Homeless, and the other organizations that are plaintiffs in this case, are being deprived of an opportunity to press for more changes to the regulations prior to implementation. As a result, although discussions are still ongoing among legislators, advocates and DHCD, families with no safe place to go are currently being denied access to shelter.

6. And many families are being left in truly dire situations. Families who are otherwise eligible and can show that they are being kicked out of the places they have been staying and have no idea where to go are being denied shelter, presumably unless and until they actually stay with their children in a place not meant for human habitation. In the past week, one young mother who was denied shelter was forced to sleep with her baby at South Station, was then offered a place to sleep by a man at South Station posing as a "good Samaritan," and was then raped by him. In another recent case, a pregnant woman who was sleeping in a car that was then towed – leaving her without even that place to sleep – was denied shelter. And in several other cases, families are going to stay with total strangers who find them crying outside the DHCD offices. As shown by the example of the woman who was raped, these families are extremely vulnerable to exploitation by these "hosts."

7. Attached as Exhibit 2 is a report from the defendants showing admissions to emergency shelter in April 2012. Based on my review of similar reports, the data from April 2012 is representative of a typical month. As shown in Exhibit 2, 442 families were admitted to emergency shelter in April, including 95 families who were recognized as needing shelter because of "Overcrowded" conditions, 15 families who needed shelter because of "Code Violations," and 86 families who needed shelter due to "Health and Safety" issues. Under the new regulations put into effect on August 6, 2012, families who are homeless due to overcrowding and Code Violations are no longer eligible, and many families with health and safety issues will not be eligible. So it is likely that more than 100 families will be rendered ineligible by the August 6 regulations in the period between August 6 and September 17. This estimate is confirmed by DHCD's estimate that giving 60 days' notice instead of just 15 for these regulations would cost the Commonwealth \$3 million. At an average cost of \$100 per family per night and an average length of stay of 8 months or 240 nights, the \$3 million estimate assumes that the new regulations will prevent approximately 125 families from entering shelter prior to September 17.

8. Attached as Exhibit 3 is a copy of the defendants' request for proposals to add up to 1,400 new emergency shelter units.

9. Attached as Exhibit 4 is a prior decision of this Court enjoining EA regulations from taking effect due to lack of the required advance notice and the invalidity of the Governor's veto of the advance notice provision, a copy of which was earlier provided to the Court under cover of letter dated August 3, 2012.

Signed under the pains and penalties of perjury this ___ day of August, 2012.

Kelly Turley