

Tenant & Landlord Rights and Responsibilities

Brought to you by WATCH's Housing Advocacy Clinic

PLEASE NOTE: This guide is only a **BRIEF OVERVIEW**. For more detailed information on all of the sections inside, visit the **Housing Advocacy Clinic** page of WATCH's website at:

<http://www.watchcdc.org>

Or come into the **Housing Advocacy Clinic** on Monday and Thursday evenings between **7PM and 8:30PM**.



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The following resource guide draws from *Legal Tactics: Tenants' Rights in Massachusetts* and Mass Legal Help. You can access this information at <http://www.masslegalhelp.org/housing/legal-tactics1>

WELCOME!

Dear Tenant and/or Landlord:

This resource guide highlights useful tools to improve housing relations and conditions in our city of Waltham, including landlord/tenant relation tips, template letters, important phone numbers, and information on weatherization services. We have also included advice for conducting an independent housing search.


The most effective way to confront tenant and/or landlord issues is to organize a group of neighbors or individuals facing similar problems. If you are interested in organizing yourself and your neighbors, please contact Anne, the community organizer, at (781)-891-6689 x 206.

WATCH launched a new program called Healthy Homes, offering FREE weatherization services to families that qualify. A weatherized home can save you up to 20% per year on energy bills, and protect the environment. Contact Anne for more information!

We hope this guide can help answer your general housing questions. If you need more specific information, please visit the Housing Advocacy Clinic on Monday and Thursday evenings between 7:00 and 8:30pm.

Sincerely,

The WATCH Team!



Housing Advocacy Clinic
FREE help with housing!

WATCH

MONDAYS AND THURSDAYS 7:00-8:30 PM
517 MOODY STREET, WALTHAM, MA

VISIT:

Trained advocates can help you with...

- Landlord/Tenant issues
- Threats of eviction
- Rent Increases
- Housing searches
- Poor living conditions
- Completing applications
- General housing concerns

EMAIL: housingadvocacyclinic@gmail.com

CALL: **(781) 891-6689 x 203**

Please leave a message with your name and contact information.

All information is kept confidential.
The Housing Advocacy Clinic is a partnership between WATCH and Brandeis University

Community Housing Principles:

Adopted April 8, 2010

What is affordable housing?

Affordable Housing is housing that recognizes that everyone needs a place to live and that everyone in our community should have the option to live in a safe, decent home in a location that makes sense for them. Affordable housing maintains and strengthens our community by allowing people to live in decent conditions without struggling to afford a rent or mortgage, food, healthcare, and other necessities.

Who is affordable housing for?

Affordable housing is for everyone. It reflects the incomes of our neighbors who live in our community. It is for people who otherwise may fall through the gap in housing choices. The market often does not provide enough options for people in our community with low or moderate incomes to live in safe and healthy homes. Creating opportunities so that these families can stay in our community often requires special attention and effort. The Waltham community currently has a large need for affordable housing.

Housing Principles for the Waltham Community

- Everyone has a right to a decent, safe, and affordable home. Housing in Waltham should be inclusive, not exclusive.
- All of Waltham's housing should be safe, healthy and decent. Waltham's housing should reflect the existing range of incomes in the city, and should fit the community's needs. [continued on next page]

- Decision makers should seek developments and implement policies for housing that meet local needs. Developers and decision makers should cooperate to create developments that reflect those needs to the greatest extent possible.
- The effort to create affordable housing should be a community collaboration that includes voices of renters, landlords, homeowners, and people of all incomes.

Do you think other people in your building or other residents of Waltham are facing **similar issues**?

It may be a good idea to **ORGANIZE** your neighbors! This is one of the most effective ways to implement change!

If you are interested, contact Anne, WATCH's community organizer at (781) 891-6689 ext. 206 for more information!



GENERAL HOUSING INFORMATION

Protecting Yourself → Put it in Writing!

The best way to protect yourself is to keep consistent records of all agreements between you and your landlord/tenant. Create a new folder or envelope for each year.

Be sure to keep copies of the following:

- Lease and changes to lease
- Security deposit payment and where it is held
- Statement of condition, signed by both landlord and tenant
- Record of rent payments
- Receipts for any work/improvements you make to your property
- Any letters you send to your tenant/landlord and s/he sends to you, including responses regarding repairs
- Put any oral communication with a tenant/landlord in writing by sending a letter confirming the points of the conversation

Responsibilities as a Landlord

State law requires a landlord to provide a safe and habitable living environment. The State Sanitary Code protects the health, safety and well being of tenants and the general public.

This Housing Code Checklist outlines the amount of time allotted for a landlord to make specific repairs:
http://www.masslegalhelp.org/housing/legalactics1/housingcode_checklist.pdf.

Warranty of Habitability: In return for a tenant’s rent payment, the landlord promises to keep the apartment in good condition. This must hold true for any tenant, with or without a lease.

The Law of Quiet Enjoyment: All tenants have the right to be free of unreasonable interference with use of a home.

WE CAN ASSIST A TENANT OR LANDLORD IF AN APARTMENT IS NOT MEETING THE STATE SANITARY CODE.

If a tenant is without heat, electricity or gas, or has no working toilet, a landlord must be notified right away in writing and orally. If no action is taken, a tenant should call the Waltham Health Inspector immediately.

The State Sanitary Code includes rules on: Heat, Cockroaches & Rodents, Kitchens, Hot Water, Structural Elements, Snow Removal, and Notice of Entry. The code outlines conditions that must be fixed within 5 days and 30 days.

A tenant can visit the Clinic to receive assistance on writing a repair letter to a landlord to request fixture. A sample letter is included on page 15 of this booklet.

Problem	State Sanitary Code Says...
No Heat	May endanger or materially impair your health or safety
No electricity or gas	May endanger or materially impair your health or safety
Continued on next page...	

Problem	State Sanitary Code Says...
Lead Paint accessible to a child	May endanger or materially impair your health or safety
Cockroach, insect, or rodent infestation	Must be fixed within 5 days
If any other problems, call or visit WATCH to see what the sanitary code says. You can also access the code online (see page 4).	

Utilities

Type of Utility	Who Pays
Water	Landlord usually required to pay.
Fuel for Hot Water	Landlord must pay unless written lease says tenant must pay.
Fuel for Heat	Landlord must pay unless written lease says tenant must pay.
Electricity and Gas	Landlord must pay unless there is a meter that separately calculates tenant's electricity or gas use and written lease says tenant must pay.

A tenant can be billed for water: As of Dec. 16, 2004 a new law was passed allowing landlords to charge tenants for water if the unit has its own submeter. If the tenant is responsible for paying a separate water bill, the conditions must be included in the lease.

The Lease vs. Tenancy at Will

LEASE

A lease is a contract stating the conditions under which the landlord and tenant agree on the use and occupancy of an apartment. Both the landlord and the tenant must sign it and each should keep a copy for personal records. The lease should include the following information:

- Amount of rent
- The date on which the tenancy ends
- The amount of the security deposit
- The tenant's rights concerning the security deposit
- Landlord's name, address, and phone number; or phone number of any other person responsible for the maintenance of the property
- List of the names of the people occupying the apartment

With a lease, the landlord cannot raise the rent until the end of the lease term.

Tenancy cannot end before the end of the lease's terms, unless the tenant violates the lease, in which case a landlord may evict a tenant.

TENANCY AT WILL

Contracts are established monthly between a tenant and landlord. The landlord gives permission for the tenant to live in the apartment on a month-to-month basis. The tenant can move at any time by giving the landlord 30 days notice. The landlord can raise the rent or evict by giving thirty days notice, which coincides with one full rental period.

A notice to quit is the document that a landlord is legally required to send to the tenant if the landlord wants to end their tenancy. The landlord may send tenants a notice to quit and a rent increase notice at the same time so that if the tenant refuses to pay the increase, the landlord can begin an eviction case. When a tenant gets a notice of rent increase, they have three options:

- Pay the rent increase and stay
- Refuse the increase and look for another place to live → the landlord can begin the eviction proceedings.
- Stay and challenge the increase → the tenant can withhold the rent if there are poor conditions in the building, which violates the state sanitary code.

LEASE

If the tenant and landlord have a signed lease, the landlord cannot raise the rent until the lease expires, except to invoke a valid escalator clause. In order to invoke an escalator clause, the landlord must give notice to the tenant in the time and manner required by the lease clause.

It is a good idea to give a tenant at least a month's advance notice if the landlord intends to raise the rent or if the landlord doesn't want to renew the lease with that tenant.

Entering the Unit

Once a unit is rented it belongs to the tenant. The landlord does not have the right to enter the tenant's home without permission. Unless the rental agreement specifies otherwise, the landlord does not have the right to a key.

The tenant must allow a landlord "reasonable access" in order to make repairs. The landlord should negotiate access by appointment whenever possible. If the tenant does not allow the landlord to make needed repairs, the landlord should document the situation carefully with witnesses, written communications and logs.

Under Massachusetts General Law, a rental agreement can specify right to entry in only the following circumstances:

- To inspect premises
- To make repairs
- To show the premises to a prospective tenant, purchaser, mortgagee, or its agent

Retaliation

The landlord cannot try to evict a tenant, raise the rent, or change the terms of the tenancy based on a tenant's protected activities, such as reporting bad conditions in writing or to any government agency, or because the tenant has joined a tenants' union.

Discrimination

Housing discrimination is illegal under both federal and state law. It is illegal to discriminate against potential tenants based on race, color, national origin, sex, sexual orientation, marital status, religion, disability, source of income, rent subsidy, or status as a veteran.

Screening Tenants

Tenant relations start with a landlord's choice of tenants. It's hard to evict tenants, even for non-payment of rent. It's much easier not to rent to a problem tenant in the first place.

There are now tenant screening services that will provide credit, prior landlord, and reference checks on tenants. Some check court indexes to see if a tenant has been involved in legal proceedings with a prior landlord.

Lead Paint

Lead poisoning is very dangerous, especially to young children and pregnant women. Massachusetts law requires that every house or apartment where a child under the age of six lives be made safe from lead. It is illegal for a landlord to refuse to rent to a family because there is lead on the premises if the family has a child under the age of six.

To find out if an apartment has lead, the landlord can contact the Waltham Health Department to arrange for an inspection. If they find lead, they will order the landlord to remove the lead.

EVICTIONS – Come to CLINIC to discuss this!

A landlord cannot “throw a tenant out!” Only a judge can make that decision. A landlord must go to court and obtain permission from a judge to evict a tenant. In order to legally evict a tenant, a landlord must follow specific procedures. A landlord must:

- Properly terminate a tenancy (Notice to Quit), and
- Get permission from a court to legally take possession of a tenant’s apartment.

Reasons why a tenant may be evicted:

- If the tenant does not pay the rent a landlord only needs to give a 14 day Notice to Quit
 - If the tenant violates the lease
 - If the tenant uses the apartment for certain illegal purposes
-

It is ILLEGAL for you to:

- Move the tenant’s belongings out of your apartment
- Change the lock
- Shut off the utilities
- Enter the apartment without proper notice
- Evict a tenant for reporting the landlord to the Health Department
- Evict a tenant because of your race, religion, marital status, family make up etc.

Required steps for eviction: (VERY BASIC)

1. Notice to Quit (either 14 or 30 day) – time to pay rent
2. Summons and Complaint – Court Action (after Notice to Quit expires)
3. Tenant must respond to Summons with ANSWER form: stating why a tenant should not be evicted. Available at local district court or at WATCH Clinic. Must be delivered to court and landlord by ANSWER date listed on Summons and complaint.
4. Tenant can submit a DISCOVERY to gain more information about the case. If successfully submitted, filing discovery will postpone case for two weeks.
5. Court Date – must appear to defend yourself!

Most Important: If a tenant receives a notice to quit, they will not be forced to leave the apartment right away. Only once a summons & complaint is received is an eviction court date put in place. A tenant will have time to begin looking for a new apartment.

If a tenant requires assistance through this process, the clinic can provide them with an eviction timeline and assistance in filling out an ANSWER or a DISCOVERY form.

You should also access more information on the eviction process by visiting:

<http://www.masslegalhelp.org/housing/legal->

Ten Most Important Things About Being a Landlord

1. Being a landlord is like running a business – take it seriously!
2. You need to provide for your tenant a safe and habitable living environment.
3. Keep good documentation.
4. You must give tenants at will 30 days or a full rental period notice before you can evict or raise the rent.
5. If you intend to evict someone you must know the law and the proper procedure to follow.
6. You cannot threaten the tenant, shut off the utilities nor move his/her things out of the apartment. Only a judge can order a tenant to move.
7. You must request permission to enter the tenant's apartment with at least 24-hour notice except in clear emergencies.
8. Security deposits must be handled correctly.
9. Regular maintenance is cheaper in the long run than dealing with code violations later.
10. Housing discrimination is illegal under Federal and State Law.

Ten Most Important Things About Being a Tenant

1. Get everything in writing!
2. The landlord must keep your security deposit in a separate account.
3. The landlord cannot threaten you or move your things out.
4. If you are a tenant at will, the landlord must give you thirty days notice to raise your rent.
5. Landlords can legally charge as much rent as they want but you can always try to negotiate (on your own or with other tenants in your building for something more affordable).
6. You have the right to a decent place to live.
7. Landlords cannot discriminate against you.
8. If you break something, you should fix it. If it breaks due to age or wear, you should ask your landlord to fix it. Don't wait! Notify your landlord right away of problems.
9. If your landlord wants to start an eviction process, s/he must provide you with a written letter called a 'Notice to Quit.' In the end, only a judge can legally make you move out.
10. If your landlord won't fix anything, call the health department whose job it is to enforce housing safety laws.

MAKE NOTE: The tenant and landlord relationship is a business partnership. You agree to abide by certain considerations discussed in a lease or tenancy at will contract. Notifying your landlord or tenant of something in writing ensures the maintenance of this business relationship.

LETTER TEMPLATES!

In order to maintain a good business partnership, record all requests and communication. Two letters are provided here to act as guides. The first letter is a repair letter, notifying a landlord of a need for fixture. The second is a letter from a landlord notifying a tenant of a rent increase.

Repair Letter

Date

Your Name

Your Address

Landlord's Name

Landlord's Address

Dear *Landlord*:

Around _____(*date*), the pipe under the kitchen sink began to leak. I notified you about this last week, but have not yet heard from you about when you are going to come and fix this problem.

Please let me know as soon as possible when you plan to make this repair so I can rearrange my schedule to be there. The best way to contact me is at _____.

Sincerely,

Your Signature

Don't forget to clean the common surfaces we use most regularly: telephones, doorknobs, and keyboards!

Rent Increase*Date**Your Name**Your Address**Tenant's Name**Tenant's Address*Dear *Tenant*:

I am writing to notify you about a rent increase that will begin 30 days from now, which is one full rental period in advance. The rent will be increasing from \$ _____ to \$ _____ including utilities (not including utilities).

As a tenant-at-will, this is the amount of time I must provide to you in advance of the proposed rent increase. I am also attaching a notice to quit, which you can follow if you refuse to pay the increase.

Please respond as soon as possible to let me know of your decision in this matter.

Sincerely,

Your Signature

Did you know that kitchen sponges might contain more germs than toilet seats? "According to Kenneth Bock's *The Germ Survival Guide*, sponges can harbor more than 100,000 bacteria, including food-borne diseases that you've wiped off the counter. You should (very regularly) toss them in the dishwasher, replace them, or zap them in the microwave for two minutes." (<http://www.care2.com/greenliving/11-hidden-household-dangers.html>)

Tenant & Landlord Honor Roll

"A community is like a ship; everyone ought to be prepared to take the helm."—H. Ibsen

The Honor Roll is a society of landlords and tenants in the Waltham community who choose to focus on their shared interests rather than their differences. If you live or own property in Waltham, you have a stake in the quality of housing that exists. Quality of housing includes everything from keeping the unit up to code to energy efficiency to maintaining the surrounding community.

Through participating in this community effort, you make a direct impact in your community and take steps to create a partnership that benefits both groups.

Joining the Honor Roll is a fun and easy 5 Step Process! Keep reading to learn how!

Step 1: Attend a bi-monthly **Tenant and Landlord Alliance Breakfast** or contact **Anne** at 781.891.6689 x 206 or organizer@watchcdc.org to set up a **One on One Meeting**.

Step 2: Provide a **Reference** who can recommend you to the Honor Roll. *

Step 3: Attend a **Rights and Responsibilities Workshop** and sign the **Tenant and Landlord Honor Roll Pledge**.

Congratulations! You are on the Tenant and Landlord Honor Roll! Your name is added to the Honor Roll list and you earn an Honor Roll certificate from WATCH!

Step 4: Over the course of a year, fulfill at least three (3) **Community Actions** (see chart on page 22) from at least two (2) of the categories to maintain Honor Roll status. Five (5) actions earn you **High Honors** status!

Step 5: Enjoy Honor Roll Status! WATCH promotes you in our Housing Clinic as an Honor Roll Landlord or Tenant, giving you priority when someone is looking for a tenant or home. Attend the community events especially for Tenants and Landlords on the Honor Roll. Take advantage of weatherization and barn-raising opportunities in your own home. Use others on the Honor Roll as helpful resources. Join together to improve the Waltham Community!

A year after you join the Honor Roll, you have the opportunity to join again for the upcoming year, and we hope you do!

*The reference should be able to verify that the tenant or landlord has fulfilled his or her contract with previous tenants and landlords

Community Actions

Hands-On Action	Leadership	Tenant/Landlord Relations
<ul style="list-style-type: none"> - Weatherize your home - Attend or host an Issue Meeting - Attend or host Barn-Raising - Survey your neighborhood - Attend a First Time Home Buyer class - Sign petitions in your neighborhood - Create your own Action! 	<ul style="list-style-type: none"> - Translate or interpret Spanish/Creole at the Tenant Clinic - Host a Neighbor Meeting - Meet with City Councilors to discuss Community conditions - Attend a WAHC meeting - Lead Barn-Raising group - Lead Community Clean-up effort - One on one meeting with a Community Organizer - Invite friends and neighbors to participate in Honor Roll - Create your own Action! 	<ul style="list-style-type: none"> - Read the Tenant and Landlord handbook with your tenant or landlord - When there is an issue, correctly respond to that issue - Attend Tenant and Landlord Alliance Breakfasts - Invite your Tenant or Landlord to meetings and community events - Create your own Action!

Visit <http://www.care2.com/greenliving/8-things-you-didnt-know-you-could-recycle.html> to find out how you can recycle shoes, bras, wine corks, foam packing peanuts and carpets!

WATCH Weatherization

Almost every Waltham resident is paying too much for fuel. In this economy, every dollar counts and it is up to us to do what we can to save our neighbors and ourselves money. It is time that we weatherize our homes and start lowering our fuel costs. But first, what is weatherization?

“**Weatherization**” is the process of making your home more energy efficient, lowering your fuel costs and your impact on the environment. Depending on your home’s needs, it could mean new insulation, new windows or caulking around the current windows, replacement light bulbs, and other energy saving alterations.

There are **two ways** WATCH can help. Regardless of which option you qualify for, there is no cost to you and you save money on fuel costs! Call Anne at 781.891.6689 x 206 to schedule an appointment to learn what options is best for you! This is an amazing opportunity to save money and improve your home for free!

Option 1: Government Funded Weatherization

Did you know that if you receive fuel assistance you are eligible for free, government funded weatherization in your home? Unfortunately, the current process of receiving the weatherization work can be very confusing. Here at WATCH, we work to simplify that process to make sure you receive the services you quality for. We can sit down with you to figure out just what you need to do to receive these services and support you along the way. If you think you might be eligible for fuel assistance, call Anne at 781.891.6689 x 206 and together we can look at the income guidelines and figure out whether you should apply.

Option 2: Community Action Weatherization

If you do not currently qualify for fuel assistance, you are still eligible for weatherization work! WATCH has partnered with HEET, a nonprofit that performs energy audits of homes. Together, we are able to figure out what weatherization your home needs and plan an event which we call a barn raising where you and your neighbors, led by experienced volunteers, are able to do the work yourselves! Your community has an opportunity to come together for a fun event that helps you and the environment. What better way to get to know your fellow community members than by sharing a hard day’s work, some good food, and great memories?

If you have any questions about this process, please do not hesitate to contact Anne at 781.891.6689 x 206. Together we can figure out which option is right for you and work to make your home a more energy efficient, environmentally friendly place to live.

Not sure if weatherization is right for your home but you would like to get involved in making Waltham a more energy efficient place to live? **Volunteer at a barn raising!** Contact Anne at 781.891.6689 x 206 to learn when they are happening.

Find out how to make your own natural home cleaning recipes by visiting: http://www.natural-healthy-home-cleaning-tips.com/natural_home_cleaning_recipes.htm

HOUSING SEARCH INFORMATION

If you are looking for a new apartment, and have access to a computer, try a craigslist search on your own by following these simple instructions!

1. Use the website <http://boston.craigslist.org>
2. Under the Housing section, choose **apts/housing (or rooms/shared)**
3. On the next screen, make sure to select **all no-fee apartments** (includes **by-owner + no-fee broker**).
4. Then type in your city, the maximum price you are willing to spend, and the number of bedrooms. Apartments should be listed.
5. Start calling the landlords and/or realtors and book an appointment!

In contacting prospective apartments, you can use the following email template as a guide:

Hello,

I am writing in response to your ad on Craigslist. My name is _____ and I am very interested in possibly renting your property. I am looking for a place that I can move into on/by _____, and that will be a good fit for my family.

Please contact me by email or by calling _____ . Thank you very much for your time and consideration and I look forward to hearing your response.

Sincerely,

Want to attend or host a community "Barn Raising" with your neighbors? Want to learn sustainable practices to protect the environment? Want to save 15-20% per year on energy bills?

Weatherize your home for FREE with WATCH CDC!



Contact Anne, Community Organizer, to see if you qualify for free weatherization.
(781) 891-6689 ext. 206
organizer@watchcdc.org

If you qualify, WATCH volunteers will help you install sustainable technologies in your own house, protecting the earth and saving your money.



