

M.O.R.E.

Mandates Sub-Committee Meeting

MEETING MINUTES

Friday, December 6, 2013

1:00 P.M. IN LOB ROOM 1D

The meeting was called to order by Representative Sayers (Chair) at 1:10 P.M.

The following sub-committee members were present: Rep. Sayers (Chair), Rep. Frank Nicasastro, Fillmore McPherson, Kimberly Glassman, Bob Labanara, Leo Paul, Art Ward, Sheila McKay, Ben Wenograd, James Jaskot

Rep. Sayers (Chair) welcomed everyone and made opening remarks. She then briefly introduced the topic of the meeting: the requirement that municipalities store the possessions of evicted tenants for a set period of time. She invited Attorney Rafie Podolsky to present to the Sub-Committee on this topic.

Rafie Podolsky introduced himself as a staff attorney for the Legal Assistance Resource Center of Connecticut (LARCC), a group that represents the interests of low income people. He stated that the disposition of evicted tenant's property is a very important issue for low income individuals. When people are evicted, they lose their home, but not their possessions, so creating a system where tenants lost their possessions as well would seriously compound the penalties already associated with eviction.

Eviction often affects the poorest people, the people with the least capacity to understand the legal system, and the people with the least access to a vehicle. To account for this, there needs to be a reasonable amount of time for a tenant to redeem any personal property left in the unit at the time of eviction. Fifteen days is the current property redemption period in Connecticut, which is actually fairly short.

There is also a need for a neutral custodian of the tenant's property, such as a municipality, whose duty is to store that property safely. The eviction process should be humane. He continued that self-help eviction is not allowed, and has not been for hundreds of years. The entire eviction system is built around buffering, always placing a third party between the landlord and the tenant. Marshals and landlords have clearly different interests.

The eviction statute was recently changed to relieve some of the cost to municipalities by shifting the cost of moving the tenant's property to the

landlord. This policy change balances the interests of the municipality and the landlord and is as fair a compromise as is possible in this situation.

Not all evicted tenants actually redeem their property. The overall redemption rate fluctuates between 20% and 30%.

Attorney Podolsky introduced West Hartford and Bloomfield as examples of a win-win model for all parties. In this model, the town sends a social services staff person to find the tenant and attempts to help the tenant to move out of their unit in a simple and humane way so a marshal is not needed. The town offers to pay the first month's rent for a storage space if tenants decide to store their possessions on their own rather than forcing the town to do so. This ultimately saves the town money.

Rep. Sayers (Chair) thanked Attorney Podolsky for his presentation and opened the floor to questions from sub-committee members.

Mr. McPherson asked if commercial evictions were covered by this statute.

Attorney Podolsky answered that they were not. He stated that property left by commercial tenants was forfeited to the landlord fifteen days after the marshal served eviction papers. He was unsure as to the constitutionality of this, but said that it was current law.

Mr. McPherson asked how long the eviction process usually takes to go through the courts.

Attorney Podolsky answered that there were three stages to an eviction case: pre-court, court, and post-judgment. He said the pre-court period consists of filing papers for eviction. At this point, a tenant has a ten day grace period to pay rent. He said there is also a fifteen day curative period when tenants in certain kinds of cases cannot be evicted. Then the marshal serves the tenant. The eviction usually gets to court at the beginning of the fourth week of the process. The average court time for an eviction case is eighteen days, or twenty one days if contested. He stated it is so quick because of mediation. After a judgment is issued by the court, the tenant has one week until the judgment is executed. Overall, the entire eviction process can be as quick as six weeks, but an attorney may slow the process, so it takes an average of two months from the first of the month when rent is not paid to complete an eviction.

Mr. McPherson asked if the town is required to wait fifteen days, and then the town posts one week's notice, may that one week notice period be included as part of the fifteen days?

Attorney Podolsky answered no. He also stated that not every town posts notice for an auction for each individual evicted tenant's possessions. Some towns start

the auction whenever their storage space is full (after the fifteen day period), which means that an auction isn't held separately for each tenant and towns incur fewer advertising costs.

Mr. McPherson asked if, considering that the eviction process takes between six weeks and two months to complete, there was any benefit to having an extra two weeks of property storage at the town's expense per current law.

Attorney Podolsky answered that the tenant really only has one week's notice after the judgment is made before they are evicted, since they do not know that they will be forced to move until the judgment is issued. He stated that the eviction process is similar in this regard to the foreclosure process because, in that system, a person only has to move after the foreclosure process is completed. He continued that it is difficult to move all one's possessions within one week, especially if the tenant in question has children or is working long hours. The purpose of the current system is to give people a reasonable amount of time to move out after the eviction judgment is issued, especially because an evicted tenant is not an attractive tenant to a new landlord and could end up in a shelter. He repeated that the West Hartford/Bloomfield model is much kinder and recognizes these realities.

Mr. Labanara stated that the Sub-Committee is gathered to discuss regional efficiencies and that the legislature used wisdom in the changes it has previously made to this law. However, towns are uncomfortable being a third party in a landlord-tenant dispute. He continued that New Haven spent nearly a quarter of a million dollars on evicted tenant property storage last year. He then asked what the responsibility is for towns in other states on this issue, especially given that Connecticut town's storage costs are not always recouped by auction. He also stated that the condition of evicted tenants items is often poor and asked if towns should be required to store items that are unhealthy, such as items infested with beg bugs.

Attorney Podolsky answered that towns would usually rather give the tenant their property back rather than collect fees. He continued that some towns actually waive fees for evicted tenants to retrieve their property, although not all do this. He stated that Mr. Labanara was correct that towns do not always get very much money back from the system, which is why towns prefer to get rid of tenant's property quickly (by allowing them to easily reclaim it). He further stated that New Britain actually holds a tag sale every Saturday morning to try to move unclaimed property from evicted tenants and about thirty to forty people usually attend, although this method is probably more expensive than a basic auction. He then said that the condition of the property left by tenants varies greatly and the marshal must make a judgment as to whether property is abandoned or should be stored. Towns have made rules on what to do with property infested with bed bugs. The marshals have also said that they will not take certain types

of property that may infect other property in a storage area. He is not sure that this policy is legal, but said that it is done.

Mr. Labanara asked if Connecticut was unique in having towns step into this role during the eviction process.

Attorney Podolsky answered that Connecticut is fairly unique in its approach. He stated that typical approaches by other states include allowing the landlord to do whatever they would like with the evicted tenant's property or having the marshal take control of the evicted tenant's property and store it at the landlord's expense. That second approach would be much more expensive because, in Connecticut, towns use their own trucks and personnel to move property, so no third party needs to be hired. If moving the evicted tenant's property were the landlord's responsibility, the landlord would have to hire a truck. He stated his opinion that Connecticut does this the right way in the current system.

Rep. Sayers (Chair) stated that the overall cost to cities may be more than the cost to towns because there are more tenants. She then asked if it would be helpful to cities if they were notified of evictions earlier in process, so they can dispatch social services to intervene earlier.

Attorney Podolsky answered that the best way to find out is to ask city officials. He postulated that the answer may be yes because social services could intervene earlier with more notice, but he also pointed out that if notice was given to cities earlier, the case load of social services workers may increase and be filled with cases that would have been resolved on their own with more time. This might increase city social service staff costs. The current system funnels only the most necessary cases where eviction will certainly occur to cities.

Rep. Nicastro thanked Attorney Podolsky for his report and stated that he found it to be very thorough.

Mr. Wenograd asked if there is any way to quantify the use of police during the eviction process in other states that Connecticut avoids because of our current eviction system.

Attorney Podolsky answered that there is not a way to currently quantify this because he is not sure if anyone has ever aggregated this data. Some towns keep records on this, but not all do, so the data may not be available.

Rep. Sayers (Chair) thanked Attorney Podolsky for his presentation and invited Robert DeCosmo to present on the landlord perspective.

Robert DeCosmo introduced himself as the President of the CT Property Owners Alliance, Inc. He stated that he would rather the law focus on tenants who legitimately need assistance and extra time to move, rather than tenants who are

leaving property that they have no intention to reclaim. He also stated that many tenants do not actually go through the formal eviction process, the landlord pays them to leave instead and there is no public record. Mr. DeCosmo's recommendation is to find a way to prevent landlords from having to move tenant property that will be thrown away anyway. He wants tenants who need assistance moving their items during the eviction process to get it, possibly by having tenants notify towns that they will return for their property, but he wants to stop moving property that tenants do not want to reclaim. He stated that it may cost \$300 or \$400 to move a tenant, which is fairly expensive for landlords who may have a thin profit margin.

Rep. Sayers (Chair) asked what type of help the CT Property Owners Alliance, Inc. was requesting.

Mr. DeCosmo answered that one possible way to relieve the burden on landlords would be to create a state administered revolving loan fund because tenants who actually redeem their property usually pay a fee.

Mr. McPherson made a motion to remove the evicted tenant property storage mandate from towns.

Attorney Podolsky stated that he hoped the current eviction system would be left alone and that this motion was the opposite of the views he advanced in his presentation.

Mr. Wenograd stated that he was troubled by the idea that the Sub-Committee could have a quick discussion of a complicated topic and then remove a mandate without any plan as to how the overall policy scheme will work. He stated that a mandate is defined in the eye of the beholder and that public education may be construed as a mandate, even though it is a good one. He further stated that the Sub-Committee should discuss its voting process and suggested that it might be best to vote on all of the Sub-Committee recommendations at once in a single meeting at the end of their meeting period.

Rep. Sayers (Chair) asked Mr. McPherson to withdraw his motion because this meeting is more of a hearing and no prior notice of a vote had been given.

Mr. McPherson asked how the Sub-Committee will proceed in the future when it comes to voting. Will the Sub-Committee wait until the last day and vote on fifteen different items? Is there a more efficient way to proceed?

Rep. Sayers (Chair) answered that this is how the legislative process usually works.

Mr. McPherson withdrew his motion, but stated that it is within the Sub-Committee's purview to solve municipal mandate problems.

Rep. Sayers (Chair) stated that it is the Sub-Committee's job to find burdensome mandates on municipalities and to look for solutions. She stated that the Sub-Committee cannot vote directly on legislation and that this is an elongated process because the recommendations made by this Sub-Committee will go to a committee of the legislature for debate.

Rep. Nicastro suggested that this issue be brought to a vote at a future Sub-Committee meeting

Mr. Paul stated that he came to today's meeting unprepared. He said that he would like to do more research on this issue so that he will be able to better participate in the debate. To that end, he proposed that the meeting agenda be distributed farther in advance. He stated that he was also disappointed that more Sub-Committee members did not attend today.

Ms. Glassman stated that she did receive a copy of the meeting agenda.

Mr. Paul responded that he only received an agenda on Monday and that this was not enough notice.

Rep. Sayers (Chair) thanked Mr. DeCosmo for his presentation and stated that the Sub-Committee will revisit this topic, but will not likely do so next month. She then moved to adjourn the meeting at 2:15 P.M. on a motion seconded by Rep. Nicastro.