

IF YOU ARE A TENANT IN A BUILDING THAT IS BEING FORECLOSED, YOU HAVE RIGHTS!

❖ Do I have to move out as soon as my building is foreclosed?

NO! Don't panic. You may not have to move out at all. ONLY A COURT CAN TELL YOU TO MOVE OUT. If your landlord loses the building to foreclosure and now there is a new owner (usually a bank), you are still a tenant and still have rights with which you can defend against eviction. If the bank wants to evict you, it must first terminate your tenancy properly and then, after the expiration of at least a full month's notice period, take you to court. **If you have a Section 8 voucher, you have additional rights, and should call the agency that administers your Section 8 right away.**

❖ Should I take a "cash-for-keys" offer to move out quickly?

"Cash for keys" offers are almost never a good deal. You do NOT have to agree to an offer to move for money. Usually, the banks do not offer enough money to move, and if you take it, you may be giving up your legal rights. These offers usually only improve as time goes by, and almost always increase if you have a lawyer helping you. Remember, until your landlord has a court order, you do not have to move out. You may be able to get more time to move, and/or money, in court, and you may not even have to move. It will do you no good to accept an offer if you don't have a new place to move to.

❖ What should I do if I receive an eviction ("summary process") complaint?

You can fight an eviction in court. If you get papers telling you to go to court, **read them carefully – do not ignore them!** You have the right to file an **"answer & counterclaims"** and requests for **"discovery"** (filing discovery postpones the case for 2 weeks automatically and helps you get information to defend yourself). You have the **right to a jury** if you file your request on or before your Monday answer date. If your case is in the district court, you may have the **right to transfer** the case to Housing Court where there are lawyers available to give you advice. Read carefully to see when your papers are due. You can defend yourself, ask the judge to let you stay, and maybe win some money. Even if you lose, in some cases courts give tenants up to six months or a year to leave. Remember, you have rights!

❖ Do I need a lawyer if the new owner tries to evict me in court?

You can represent yourself, but having a lawyer can help a lot. It is a good idea to contact a lawyer as soon as you find out about the foreclosure. You can call the numbers listed at the bottom of this handout to get legal representation or at least advice. In the Boston area, there are **free eviction defense clinics** where you can get help filling out the necessary paperwork in response to an eviction action.

- The Legal Services Center, with the help of the Harvard Legal Aid Bureau, runs a special post-foreclosure eviction defense clinic on most **Fridays at 12 noon at 122 Boylston Street in Jamaica Plain** (next to the Stony Brook T station on the Orange line). Call HLAB in advance at 617-495-4408 if you wish to attend.

- Greater Boston Legal Services offers a free eviction defense clinic on **Mondays** at **9:30 a.m.** at **197 Friend Street** in **Boston**, (close to both the North Station & Haymarket T stops on the Orange or Green line). Call 617-603-1807 if you wish to attend.

Even if you do not have a lawyer, you should still go to court on the day that your hearing is scheduled or a default judgment will be entered against you. If your case is in Boston Housing Court, you can ask to see the Lawyer for the Day. Bring all documents related to your apartment to the clinic and to court (for example, **Notice to Quit, Summons and Complaint, your lease, rent receipts, security deposit receipt, inspection reports and any photographs**).

❖ *After foreclosure, is the new owner responsible for repairs and utilities?*

YES. After a foreclosure the new owner is responsible for repairs, maintenance and payment of water along with any other utilities that your previous landlord supplied. The law requires that landlords pay for heat and hot water unless a written agreement makes the tenant responsible for these utilities. If you don't know whom to contact for repairs or questions about the property, contact anyone who gave you papers about the foreclosure; it may be a broker, a real estate agent, or a lawyer for the bank. Demand that repairs be made and utilities kept on. You should also send the new owner or their agent a letter listing all of the problems in the unit. Keep a copy of the letter for your records. Take photographs. It is also a good idea to call your local Board of Health/Inspectional Services Department to request a free inspection. If the new owner does not address any **serious** problems in your apartment or building, or if the utilities are being shut-off, you can go to court and schedule an emergency hearing to ask the court to order the new owner to make repairs and supply utilities.

❖ *Should I pay rent after foreclosure?*

Be careful! If there has been a foreclosure, **DO NOT** pay rent to the old landlord. Instead, try to find out who the new owner is. If the new owner doesn't accept your rent, set it aside every month in a separate account. Save the rent money and do not spend it. You can offer to pay your rent in a letter to the new owner/bank, or their agent. Be sure to keep **a copy for your records.**

Helpful Resources:

Greater Boston Legal Services: 197 Friend Street, Boston, between North Station and Haymarket on the green and orange lines; tel. 617-371-1234 or 1-800-323-3205

Legal Services Center: 122 Boylston St, Jamaica Plain, tel. 617-522-3003

Harvard Legal Aid Bureau: 23 Everett Street, Cambridge, tel. 617-495-4408

Inspectional Services Department (City of Boston only): Call to get a free inspection of your apartment if there are any problems or bad conditions, tel. 617-635-5322. Outside Boston, contact your Board of Health at your city/town hall.

City Life/Vida Urbana: 284 Amory Street, Jamaica Plain. On Tuesday evenings, City Life hosts special meetings for tenants and others at risk from foreclosure. Call 617-524-3541 ext. 310 to learn more.

Mass. Legal Help website: The following link is to a webpage that outlines tenants' rights in foreclosure actions: <http://www.masslegalhelp.org/housing/tenants-facing-foreclosure>