

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SOUTHEASTERN HOUSING COURT
DEPARTMENT

TOWN OF HANOVER,
Petitioner,

v.

HAROLD WATT, JR.,
Owners

Respondent.

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**PETITION TO ENFORCE THE STATE SANITARY CODE
AND FOR APPOINTMENT OF A RECEIVER**

This is a petition by the Town of Hanover (the “Town”), seeking the appointment of a Receiver for the property located at 840 Washington Street, Hanover, Massachusetts (the “Property”) pursuant to M.G.L. c. 111, § 127I for purposes of rectifying multiple violations of the State Sanitary Code (the “Code”) on that property.¹ The Town asserts that the Property is owned and/or occupied by Respondent and has numerous long-standing Code violations that pose a serious risk to the health, safety and well-being of occupants, abutters, trespassers, emergency responders and residents of the community, thereby justifying the Court’s exercise of its statutory authority and equitable power to appoint a receiver for the purpose of making those repairs necessary to protect the public health and safety.

¹ The property also evidences multiple violations of the State Building Code – Massachusetts Code of Regulations, Title 780 – and violations of Hanover Zoning Bylaws.

JURISDICTION AND PARTIES

This Court has equitable jurisdiction over Respondents and the Property pursuant to M.G.L. c. 111, § 127I and M.G.L. c. 218, § 19C.

The Property is located in Hanover, Massachusetts.

The Town is a municipal corporation under the Constitution and laws of the Commonwealth of Massachusetts.

Respondent, Harold Watt is the equitable owner and occupant of the premises located at 840 Washington Street, Hanover, Massachusetts. (**Exhibit 1**).

FACTUAL ALLEGATIONS

The Property is located at 840 Washington Street, Hanover, Massachusetts and contains a single-family dwelling. The appraised value of the property by the Town of Hanover is \$220,800. (**Exhibit 1**).

Anthony Marino is the Assistant Town Manager, Building Inspector and Health Agent for the Town of Hanover and visited the subject property on multiple occasions within the last year and determined property to be in violation of Massachusetts Health and Safety Codes. (**See, Affidavit of Anthony Marino, Exhibit 2**).

Mr. Marino together with other health and police officials visited the property in August, 2015 and determined the property to be in violation of multiple health and building code standards, and ordered that the property be cleaned of debris. (**Exhibit 43**

Notwithstanding this order, the Respondent, Watt has refused to clean the exterior of the property, and to remove debris and vermin from the property. (**See, Affidavit of Anthony Marino, Exhibit 2**).

Throughout the calendar year 2016, the Respondent Watt showed inconsistent cooperation with the Town's effort to gain compliance for this property. By August, 2016 the Respondent has become resistant and combative to the Town's efforts to achieve compliance with health and safety codes related to the exterior of the property. (**Id. Exhibit 2**). Upon information and belief, the interior of the building is also non-compliant for which the Town also seeks immediate relief. (**Exhibit 4**).

ARGUMENT

The Town respectfully requests that the Court appoint a receiver to investigate the physical condition of the Property and to effectuate necessary cleaning and repairs to the Property such that the Property will no longer pose a threat to public safety.

Whenever a petitioner shows that violations of the sanitary code will not be promptly remedied unless a receiver is appointed and the court determines that such appointment is in the best interest of occupants residing in the property, the court shall appoint a receiver of the property.

M.G.L. c. 111, § 127I (emphasis added). (**Exhibit 5**).

General Laws c. 111, § 127I, sets forth circumstances that permit a court to appoint a receiver (i.e., when it "may" do so) as well as those circumstances when appointment of a receiver is mandated (i.e., when it "shall" do so). Section 127I requires the appointment of a receiver to undertake remedial action when there are ongoing sanitary code violations in an occupied building and the court determines that such appointment is in the best interest of the occupants residing in the property, but makes the appointment discretionary when the building is

unoccupied or, if occupied, when the best interests of occupants do not require appointment.

Easthampton Sav. Bank v. City of Springfield, 470 Mass. 284, 294, 21 N.E.3d 922, 933-34 (2014) (internal citations and quotations omitted). If the Court determines that it is in the best interests of the Property's occupants to appoint a receiver and that such appointment is necessary to correct Code violations, appointment of a receiver is mandatory by law. M.G.L. c. 111, § 127I; City of Boston v. Rochalska, 72 Mass. App. Ct. 236, 244, 890 N.E.2d 157, 164 (2008).

Here, the Property is occupied and its present condition creates a significant risk of harm to current occupants and to the public. The substantial amount of debris in the yard surrounding the building, presents risk of vermin and contamination and restricts access to the building on the Property. The exterior of the premises has unmitigated accumulation amounts of household trash and debris. Interior inspection of the premise also revealed uninhabitable and dangerous conditions in violation of state and local health and safety codes. These conditions endanger the occupants and the public, including without limitation the Property's neighbors, trespassers and any unauthorized occupants who may use this property for shelter or to engage in any illegal activities, and to emergency personnel who may be called to respond to any call to service at this Property.

Additionally, the Code and other violations "will not be promptly remedied unless a receiver is appointed" because the owner has been unresponsive, uncooperative or otherwise unwilling or unable to address the serious and continuing health violations upon the premises.

RELIEF REQUESTED

WHEREFORE, the Town respectfully requests this court to:

1. Schedule a hearing for the appointment of a receiver for the Property;
2. Appoint a receiver for the Property pursuant to the Court's general equitable powers and G.L. c. 111, § 127I for the purpose of accessing the exterior and interior of the Property, conducting an inspection to assess the feasibility of repairs that will be necessary to bring the Property into conformity with the State Sanitary Code and other applicable codes and ordinances, and complete these repairs; and
3. Grant such additional relief as the Court deems just and proper.

Respectfully Submitted,
Town of Hanover
By its attorney,

Dated: September 15, 2016



David A. DeLuca, Esq. (BBO# 543964)
Murphy, Hesse, Toomey & Lehane, LLP
300 Crown Colony Drive, Suite 410
Quincy, MA 02169
Tel: (617) 479-5000
ddeluca@mhtl.com

EXHIBIT 1

QUITCLAIM DEED

We, Harold Watt, Jr. and Sally Barker, Individually and as Co-Executors of the Estate of Harold Watt, of Hanover and Weymouth, Massachusetts, by Power of Sale granted in the Last Will and Testament of Harold Watt, Norfolk Probate Court docket no. 99P0092-EP1 and all other powers

for consideration paid, and in full consideration of One Dollar \$1.00

grant to Harold Watt, Jr. of 840 Washington Street, Hanover, Massachusetts, with quitclaim covenants

The land with the buildings thereon, situated in Hanover, Plymouth County, Massachusetts, and bounded and described as follows:

Received & Recorded
PLYMOUTH COUNTY
REGISTRY OF DEEDS
15 FEB 2000 11:26AM
RICHARD C. SEIBERT
REGISTER
Bk 18278 Pg 266-267

NORTHEASTERLY by Washington Street, seventy (70) feet;

SOUTHEASTERLY by other land of Fred P. Holt, one hundred (100) feet;

SOUTHWESTERLY by land now or formerly of Boston Sand & Gravel Co., forty (40) feet; and

NORTHWESTERLY by land now or formerly of Mary W. Wright, one hundred (100) feet.

Being the same premises conveyed to Harold Watt and Ada J. Watt by George E. Tufts by deed dated July 13, 1953, recorded with the Plymouth Registry of Deeds, Book 2287, Page 370.

Witness our hand and seals this 10th day of December, 1999.

Harold Watt Jr
Harold Watt, Jr

Harold Watt Jr
Harold Watt, Jr., Co-Executor
of the Estate of Harold Watt

Sally Barker
Sally Barker

Sally Barker Co-Executrix
Sally Barker, Co-Executrix
of the Estate of Harold Watt

The Commonwealth of Massachusetts

Norfolk, ss

Dec 10, 1999

Then personally appeared the above named Sally Barker, Co-Executrix of the Estate of Harold Watt, and acknowledge the foregoing instrument to be her free act and deed before me

mailed
Whittem & Leahy
Ten Mcbrath Hwy
Quincy, MA 02169

Edward J Fleming
Notary Public Edward J Fleming
My commission expires: 1-6-06

The Commonwealth of Massachusetts

Norfolk, ss

February 8, 1999 ss

Then personally appeared the above named Harold Watt, Jr. Co-Executor of the Estate of Harold Watt, and acknowledge the foregoing instrument to be his free act and deed before me

[Handwritten Signature]
Notary Public
My commission expires:

MARK A. LEAHY, Notary Public
My Commission Expires September 1, 2000

Mark A Leahy
9-1-2000

Address of Premises: 840 Washington St., Hanover, MA

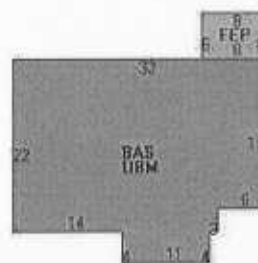
← END OF INSTRUMENT →

Grade:	Average
Stories:	1 Story
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	2 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	4 Rooms
Bath Style:	Average
Kitchen Style:	Modern



(<http://images.vgsi.com/photos/HanoverMAPhotos/\00\00\29\79.jpg>)

Building Layout



Building Sub-Areas			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	730	730	
FEP	Porch, Enclosed, Finished	48	0	
UBM	Basement, Unfinished	730	0	
		1508	730	

Extra Features

Extra Features		Legend
No Data for Extra Features		

Land

Land Use		Land Line Valuation	
Use Code	1010	Size (Acres)	0.2
Description	Single Family	Frontage	0
Zone		Depth	0
Neighborhood	20	Assessed Value	\$144,800
Alt Land Appr Category	No	Appraised Value	\$144,800

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED FRAME			100 S.F.	\$600	1

Valuation History

Appraisal			
Valuation Year	Improvements	Land	Total
2015	\$65,900	\$134,100	\$200,000
2014	\$80,200	\$136,500	\$216,700
2011	\$75,300	\$144,500	\$219,800

Assessment			
Valuation Year	Improvements	Land	Total
2015	\$65,900	\$134,100	\$200,000
2014	\$80,200	\$136,500	\$216,700
2011	\$75,300	\$144,500	\$219,800

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EXHIBIT 2

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

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DEPARTMENT

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AFFIDAVIT OF ANTHONY MARINO

1. My name is Anthony Marino and I am the Assistant Town Manager and Building Commissioner in the Town of Hanover. I have also served as the Health Agent for the Town.
2. Since _____ I have been aware of the distressed property located at 840 Washington Street, Hanover. The property has a history of violations which date from 2003. At all relevant times the property has been and presently is occupied by the respondent, Harold Watt.
3. On each occasion of a notice of violation, Mr. Watt responded with minimal effort to restore the property to compliance. More recently the respondent has become more defiant in his response to the Town's requests, and volume of debris and pestilence has become virulent and uncontrolled.
4. Washington Street (Route 53) is a major thoroughfare in the Town of Hanover. The respondent's property visible location has caused a major distraction for motorists in the area of 840 Washington Street. In the recent past, significant improvement of other area

properties has highlighted the non-compliant nature of this property, increasing the distraction and risk to public safety.

5. Upon information and belief the interior of the structure is also non-compliant with health and safety codes, and it is therefore requested that the premises be inspected. If the interior is non-compliant, it is anticipated that further order to vacate the premises may be imposed.

Signed Under the Pains and Penalties of Perjury by,

Anthony Marino

Date: September____, 2016

EXHIBIT 3

DEPARTMENT OF MUNICIPAL INSPECTIONS
TOWN OF HANOVER

file
copy

TOWN HALL, 550 HANOVER STREET, HANOVER, MA 02339 • (T) 781-826-6400 • (EMAIL) INSPECTIONS@HANOVER-MA.GOV

PHONE

FAX

CONSERVATION: (781) 826-6505
PLANNING: (781) 826-7641
BUILDING: (781) 826-6400
HEALTH: (781) 826-4611



CONSERVATION: (781) 826-5950
PLANNING: (781) 826-5950
BUILDING: (781) 826-5950
HEALTH: (781) 826-5289

August 25, 2015

Harold Watt
c/o Susan Cluff
P.O. Box 113
Hanover, MA 02339

Received By:	<u>Harold Watt</u>
Date:	<u>9/4/15</u>
Signature:	<u>Refused to sign</u>

Delivered out 10:45 AM.

Re: 840 Washington Street

Dear Mr. Watt,

The ongoing problem with an excessive amount of debris and junk in your front yard cannot go on, you continue to collect debris and trash and store it in your front yard. You have been ordered, not only by this office but by the Clerk Magistrate at the Brockton Housing Court to clean up your yard, yet you continue to violate to the Town of Hanover Bylaws. **Considering everything listed above you are hereby ordered to remove the junk and debris from your front yard by September 14, 2015.**

This ongoing issue needs to be addressed as it is a violation of the following By-Laws and State codes:

1. Town of Hanover General By-Laws, Section 6-8 Junk and Car Disposal Law
2. Town of Hanover Zoning By-Laws, Section 5.60 Outdoor Storage
3. Massachusetts Fire Code (527 CMR, Section 1.06(1)) regarding access to your home
4. Massachusetts General Laws, Chapter 148, Section 5, which references removal of combustible materials in close proximity to a building.
5. Minimum Standards for Human Habitation (105 CMR – 410), Section 410.602(A), which refers to keeping land clean and free from garbage and debris.

Keep in mind the fines for violating the Zoning By-Laws will be \$300 for each offense and each day that the violation continues shall constitute a separate offense. The fines for violating the Town of Hanover General By-Laws are \$25 for the first offense, \$50 for the second offense, \$100 for the third offense, and \$200 for the fourth and each subsequent offense and again each day that the violation continues shall constitute a separate offense. **Also, if you do not comply by September 14, 2015 I will be forced to file with the Housing Court to address the violation of the Minimum Standards for Human Habitation (105 CMR-410) and the Town of Hanover Bylaw violations.**

Sincerely,

Anthony L. Marino
Assistant Town Manager
Building Commissioner/Health Agent

DEPARTMENT OF MUNICIPAL INSPECTIONS
TOWN OF HANOVER

TOWN HALL, 550 HANOVER STREET, HANOVER, MA 02339 • (T) 781-826-6400 • (EMAIL) INSPECTIONS@HANOVER-MA.GOV

PHONE

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HEALTH: (781) 826-4611



FAX

CONSERVATION: (781) 826-5950
PLANNING: (781) 826-5950
BUILDING: (781) 826-5950
HEALTH: (781) 826-5289

November 25, 2013

Harold Watt
c/o Susan Cluff
P.O. Box 113
Hanover, MA 02339

FILE COPY

Re: 840 Washington Street

Dear Mr. Watt,

The ongoing problem with an excessive amount of debris and junk in your front yard cannot go on, you continue to collect debris and trash and store it in your front yard. You have been ordered, not only by this office but by the Clerk Magistrate at the Brockton Housing Court to clean up your yard, yet you continue to violate to the Town of Hanover Bylaws. **Considering everything listed above you are hereby ordered to remove the junk and debris from your front yard by December 6, 2013.**

This ongoing issue needs to be addressed as it is a violation of the following By-Laws and State codes:

1. Town of Hanover General By-Laws, Section 6-8 Junk and Car Disposal Law
2. Town of Hanover Zoning By-Laws, Section 5.60 Outdoor Storage
3. Massachusetts Fire Code (527 CMR, Section 1.06(1)) regarding access to your home
4. Massachusetts General Laws, Chapter 148, Section 5, which references removal of combustible materials in close proximity to a building.
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Sincerely,

Anthony L. Marino
Director of Community Services
Building Commissioner/Health Agent

Certified Mail #7011-0110-0001-1066-1567