

Practical Guidance for Massachusetts Vincentians: Rent, Evictions and Homelessness Under Massachusetts COVID-19 Laws and Emergency Executive Orders

Prepared by Society of St. Vincent de Paul District Council of Attleboro
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If you are not already assisting Neighbors in need with concerns about staying in their homes and paying their rent during these COVID-19 times, you may encounter this soon. This guidance is offered to help you and our Neighbors navigate this unprecedented set of circumstances. **It is based on the Massachusetts new COVID-19 Eviction Moratorium legislation enacted into law Monday, April 20, 2020, and considered to be the most protective such law in the nation currently.**

Because of the Eviction Moratorium, the instances when a person or family is homeless and in need of temporary shelter should be rare for the duration of the State of Emergency Order. **Nonetheless, it may occur, so at the very end of this Vincentian Advisory is a section offering guidance on finding temporary shelter in motels and hotels.** The implications of the Governor's and State Department of Public Health's Orders and Guidance on housing "vulnerable populations" in motels and hotels during the State of Emergency are highlighted.

Information for this Advisory was culled from various sources considered to be reliable. However, it is not legal advice and should be presented as a Vincentian Neighbor helping a Neighbor in need. An excellent resource for legal information is [MassLegalHelp's COVID-19 Web Portal](#).

Threat of Eviction – Three (3) Simple Things to Do Immediately to Assist a Neighbor in Need

1. First, if a Neighbor contacts you fearing eviction for virtually any reason, please assure them that under Massachusetts law they almost certainly cannot be evicted **until 45 days after** the Governor's State of (COVID-19) Emergency Order ends.¹ There is no indication that Order will be lifted soon. This protection is provided by "[Eviction Moratorium](#)" legislation ([House Bill 4647](#)) signed into law by the Governor on April 20, 2020.²
2. Next, make the Neighbor aware that Rental payments are not being waived; they are only being deferred.
3. Guide the Neighbor to submit a letter to the landlord stating that the reason the rent will be paid late is COVID-19 related. **This is a required step per the State Regulations. Equally important, a new letter must be given to the landlord each month a full or partial rental payment is missed.**
 - At a minimum, the letter should explain that "the nonpayment was due to a financial impact from COVID-19."
 - **The safest way to submit the letter is to follow this [form recommended by the State](#).** However, that letter is five pages long requiring relatively detailed information.
 - **Alternatively**, the [Eviction Moratorium Regulations](#) allow for other forms of notice and certification³ to be submitted. Accordingly, click here for a [Word version of a simpler letter](#). It captures essentially the same information as the State-recommended form but should be much easier for a tenant to prepare.

¹ Technically, the Moratorium ends either 45 days after the Emergency Order is lifted, or August 18, 2020, whichever comes first. However, under the law the Governor can also extend the Moratorium end date, so for practical purposes, the 45-day point after the Order ends (whenever that may be) is likely the realistic date for the Moratorium's expiration.

² Prior to the Eviction Moratorium law, evictions were essentially halted, but this was a function of the shutdown of the Housing and District Courts due to the Governor's COVID-19 social distancing restrictions Executive Order.

³Section 504.5 of the State's Eviction Moratorium Regulations reads: "The use of an alternative written form of notice by a residential tenant shall be deemed effective and timely if such alternative written notice includes a statement that the tenant has experienced a financial impact from COVID-19, and states in reasonable detail the cause of such financial impact. Such alternative form of notice shall be deemed to include the certification provided in the approved form of notice of non-payment of rent."

**Practical Guidance for Massachusetts Vincentians:
Rent, Evictions and Homelessness
Under Massachusetts COVID-19 Laws and Emergency Executive Orders**
Page 2 of 3

Important Things to Know About the Eviction Moratorium

During the Moratorium:

- ❖ Notices to Quit or Vacate of any kind with any duration cannot be issued.
- ❖ Landlords cannot file any new eviction cases in court for any reason.
- ❖ Courts cannot enter any judgments of any kind against a tenant.
- ❖ Courts cannot issue orders to evict.
- ❖ Landlords cannot give eviction notices to sheriffs to deliver.
- ❖ Sheriffs, constables, and movers must not physically move you out of your home.
- ❖ Landlords cannot charge late fees or give negative reports to credit reporting companies for a renter's late payment during this period.
- ❖ Landlords cannot take any harassing measures, for example, shutting off water or heat. If so, the Housing Court should be immediately contacted for emergency enforcement of the Eviction Moratorium.

Eviction Exceptions

Exceptions exist but are very limited. Landlords may still go to court to remove tenants in an emergency. Emergencies include tenant criminal activity or lease violations that endanger the health and safety of others.

Planning for the Moratorium End – Rent Payments Will Come Due!

As a Vincentian helping a Neighbor in need, you may wish to encourage planning to start now for accumulated rental payments which will come due 45 days after the State of Emergency Order ends. **For example:**

- If not immediately needed, all or a portion of the Economic Impact Payments received under the Federal CARES Act might be set aside for rent.
- Similarly, if the Neighbor qualifies for special Pandemic Unemployment Insurance payments (specifically the extra \$600 a week in benefits, or \$2,400 a month), some or all of that might be set aside for rent.
- If the rental burden when the Moratorium ends is viewed as insurmountable even factoring in set-asides and other sources of non-governmental aid, the Neighbor should acquaint themselves with the [Massachusetts Residential Assistance for Families in Transition \(RAFT\) Program](#), which, in theory, can provide up to \$4,000 to families who are at risk of becoming homeless. It does not make sense to apply now to this Program because the risk of homelessness is not imminent. But this possibility should not be ignored and familiarity with the RAFT program should be gained now rather than at the critical moment when time is short and demand great. **Neighbors should be cautioned that as promising as RAFT may sound as a potential solution, the need at Moratorium end (without a special infusion of governmental money) may well overwhelm the supply.**
- The Conference should consider how it might meet this pent-up need which will be released when the Moratorium ends.

NOTE: Advocates for housing for low income individuals and families are aware that a deep reservoir of need for rental assistance at the Moratorium ends is being rapidly created and are seeking legislative solutions.

**Practical Guidance for Massachusetts Vincentians:
Rent, Evictions and Homelessness
Under Massachusetts COVID-19 Laws and Emergency Executive Orders**
Page 3 of 3

Homelessness during the COVID-19 Pandemic

Because of the Eviction Moratorium, the instances when a person or family is homeless and in need of temporary shelter should be rare for the duration of the State of Emergency Order.

Should that occur, however, it may be exceedingly difficult to find a shelter because many are not accepting new persons into their facility for fear of spreading the COVID-19 virus and infecting residents and staff. Lodging the Neighbor in a hotel or motel may be the only resort. Fortunately, rooms are plentiful and likely inexpensive.

If you find you must pursue that option for shelter, be aware that State guidance that restricts guests who can be accommodated at hotels and motels **SPECIFICALLY ALLOWS** lodging establishments to accept “vulnerable populations.”

The [State’s Guidance on Motels/Hotels/Places of Lodging issued by the Department of Public Health](#) states in pertinent part:

- “1. Limited Purposes and Uses for which Lodging is an Essential Service
The provision of lodging shall be defined as a COVID-19 Essential Service for purposes of COVID-19 Order No. 13 only when offered and employed for the following uses:
...
c. Housing and accommodation for members of vulnerable populations, for instance when serving as emergency shelter for homeless individuals and families”

Further guidance is contained in a “Frequently Asked Questions” document posted by the State Department of Public Health that advises:

- “How should lodging operators confirm that a guest falls within one of the allowable exceptions for occupying lodgings?”**
- ...
- Lodging operators are required to accept a general self-certification by individuals or families that they fall within one of the allowable exceptions **without** asking prospective guests to identify the specific exception that applies to their situation.”

What one does if the motel/hotel refuses is left unaddressed in the Guidance. The best option would be to make sure the hotel/motel operator is aware of these directives and guidance and, if that doesn’t sway them, report the facility to the State Department of Public Health.

Other Valuable Resources

- ❖ [Resources for Tenants During COVID-19 Pandemic](#) – a useful list developed by the Massachusetts Housing Partnership. Resource lists are available in English, Spanish, and Portuguese.
- ❖ [Regional Housing Development and Assistance Agencies and Centers](#) – a valuable resource list developed by the Housing Consumer Education Centers of Massachusetts.