**Lawyers Weekly Online -**Expansion of Housing Court touted at State House hearing

By: [Kris Olson](http://masslawyersweekly.com/author/kris/)May 28, 2015

A long parade of speakers testified generally favorably Wednesday (May 27) before the Joint Committee on the Judiciary on companion bills (H.1656 and S.901) that would expand the jurisdiction of the Housing Court statewide.

The total cost of the proposal, which would involve hiring five judges, 10 to 15 housing specialists and other staff, has been estimated at $2.4 million. Advocates of the plan believe the expertise in the Housing Court allows for faster and better outcomes to landlord-tenant disputes than in the District Court, ultimately reducing homelessness. Fire official also backed the idea, saying that the Housing Court allows for code violations and potentially deadly safety hazards to be addressed more promptly.

However, a few landlords spoke against the plan. One described the Housing Court as “broken” and a place where the deck is stacked against those who own and manage properties.

Housing Court Chief Justice Steven D. Pierce explained that, while the Housing Court currently covers 80 percent of the state’s geographic area, it is only accessible to about 70 percent of the state’s population.

Fitchburg attorney James T. Van Buren, a member of the Massachusetts Access to Justice Commission, said that as he and Massachusetts Law Reform Institute staff attorney Annette R. Duke traveled the state to survey opinions, they were “astonished by the support” for the bills. Not only did cities and towns express a need for the code-enforcement “relief” the Housing Court would provide, but attorneys had “voted with their feet,” bringing cases in the Housing Court whenever possible, he said.

Jayne Tyrrell supplied the endorsement of the Boston Bar Association and its real-estate section, noting that some 300,000 rental units currently lie outside the Housing Court’s jurisdiction. Among the communities not currently served by a Housing Court are densely populated cities like Chelsea, Framingham, Malden, Cambridge, Medford, Somerville, Watertown, Woburn and Waltham, along with Barnstable County.

Tyrell was one of several speakers to touch on the value of the Housing Court’s Tenancy Preservation Program, or TPP, which helps to prevent homelessness among people with disabilities.

Duke, who noted she has extensive experience writing about ever-changing landlord-tenant and public housing laws, touted the value of Housing Court personnel who are able to “wade through the labyrinth” of those laws. She noted that about half of the cases handled by the TPP involve children and that, in nine out of 10 cases, a tenancy is able to be salvaged through its efforts. "The program is a gem," she said.

Duke added that the Housing Court fuels a receivership program that has led to the revitalization of abandoned housing. She noted the bills have an “incredible broad base of support,” which includes housing inspectors, boards of health, police and firefighters, lawyers and community groups.

In response to a question from Rep. Sheila C. Harrington, R-Groton, Duke acknowledged that the $2.4 million price tag of the expansion was “not yet” in the Trial Court’s budget. "It didn't survive this year," she said.

Attorney Christopher T. Saccardi, who specializes in landlord-tenant issues, said that when he is representing landlords, on the other side is “almost always” a tenant representing him- or herself. In District Court, without the services of a housing specialist, the cases will almost always go to trial, he said, “simply because there is no one to explain to the tenant what he or she is facing.” He provided an example of a landlord whose long-running dispute with a tenant was resolved with the help of the Housing Court's mandatory mediation step, which helped the landlord recover back-rent he thought was gone for good.

Also touting the benefits of the mediation process was Betsy Soule, executive director of Metrowest Legal Services in Framingham. She also noted that Housing Court judges, if they find it helpful, will go to view an apartment involved in a case. "District Court judges are not getting off the bench and looking at apartments," she said.

Diane Sullivan, policy director of Homes for Families, explained that housing issues are far better served by a specialty court than when they are “sandwiched in” among criminal matters. She shared the story of a domestic-violence survivor who had been evicted due to the actions of her abuser and who also was denied other housing when incidents involving the abuser surfaced in a reference check. Efforts to help her in the District Court failed. "This one case stuck with me for years because i never saw the result unfold," Sullivan said. "My client simply disappeared." She said she feared that her client may have reunited with her abuser for lack of other options. The case "certain would have gone differently before a Housing Court judge," she said.

Chelsea Collaborative Executive Director Gladys Vega stated that access to a Housing Court would have minimized the damage from a scandal that rocked the city’s housing authority caused by a corrupt executive director. Her colleague, Chelsea Citywide Tenants Association organizer Norieliz DeJesus, was moved to tears describing a mother and three children made homeless when the District Court was too slow to react to their plight.

After about two hours of testimony came the first dissenting view, from Westfield landlord Matthew Emmersley. He said there is a lack of equity in the Housing Court, with those offering legal help to tenants lined up in the halls, but no similar assistance available to landlords. As a result of that legal assistance, “professional tenants” are able to draw out the eviction process, hitting landlords in the wallet by withholding rent and forcing them to accrue legal fees. "I'm not looking for beneficial treatment," he said. "Unfortunately, when you go to Housing Court, tenants 100 percent receive beneficial treatment." Other landlords would later echo that sentiment.

The advocates who had spoken before him have “skin in the game,” and stand to make money off an expanded Housing Court, Emmersley noted. "What we have going on in the Western Division (of the Housing Court) s hold not be repeated in the rest of the state," he said.

Emmersley made a pitch for “rent escrow” while Housing Court matters are pending, which Sen. William Brownsberger, D-Belmont, indicated had been the subject of a previous hearing and was under consideration. Emmersley said that such a provision would not solve all of the problems with the Housing Court but would “lessen the sting” of its expansion.