

April 16, 2013

Medical marijuana law and draft regulations are impossibly difficult for landlords

**The DPH has met with 20 different groups privately.
Why not landlords?**

Dear Senator or Representative:

Without some change in the law or draft regulations, the new medical marijuana law and draft regulations under it by the Department of Public Health (DPH) are impossibly difficult for landlords to work with. The law allows growing of marijuana in a “secure, enclosed, locked area,” and the draft regulations stipulate that that location must be the person’s “primary residence.” Since federal law, which still remains in effect, makes marijuana illegal in any amount or form, the situation is a disaster waiting to happen for landlords.

Under federal law, property owners are liable for fines, imprisonment, and “civil asset forfeiture” of their property to the federal government if they are knowingly involved in the use or growing of marijuana or their property is so involved. In other words, we are being asked – or told – to risk our property and serious penalties due to marijuana use or growing operations in our apartments.

Besides civil asset forfeiture, there are other serious problems from “grow ops” in apartments.

1. Fire risk. Faulty amateur wiring and the hot lamps needed to grow marijuana are a fire hazard. Disabling of smoke detectors to avoid bringing attention to a “grow-op” or marijuana smoking also substantially increases the risk of serious fires.

2. Property damage. From other jurisdictions with medical marijuana, we know that grow-ops can result in water damage, buckled wooden floors, toxic black mold, and other problems all costly to repair.

3. Mortgages and insurance may be invalidated by federally illegal activity.

4. No access for owners. Only the patient or the patient’s caregiver may have access to the “secure, enclosed, locked area,” yet property owners are responsible for a myriad of building safety and sanitary codes that they cannot live up to if they cannot inspect, enter for repairs, or respond in an emergency.

5. Anti-discrimination laws. Despite federal law, property owners may be accused of discrimination based on disability if they do not accept medical marijuana patients as tenants.

6. No-smoking policies. Disabled tenant-patients openly smoking marijuana may trump no-

smoking policies in the eyes of those enforcing anti-discrimination laws. People with developing children or lung ailments will be bothered by the health hazard involved.

7. Increased crime. Marijuana grown in apartments can be diverted for recreational use, attracting drug dealers or frequent visitor-users. Good tenants will move out, new tenants won't move in.

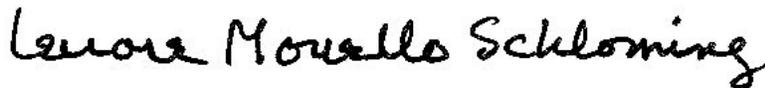
8. Water and electric bills will skyrocket and owners will have to pick up the tab.

The proper place to grow marijuana is on farms or in greenhouses, warehouses or custom-built facilities. If growing marijuana in apartments cannot be banned one way or another, landlords at least need a choice in the matter. The Oregon Supreme Court recently determined that landlords should have a choice whether to accept marijuana and grow operations on their property (*Emerald Steel Fabricators v. Bureau of Labor and Industries*).

Without some changes from the State Legislature or the Department of Public Health, these conflicts in the laws and regulations make it impossible for Massachusetts landlords to operate their buildings legally or reasonably. The DPH has met with 20 different groups privately. Why not landlords?

We respectfully request your aid in this serious problem.

Sincerely,

A handwritten signature in black ink that reads "Lenore Monello Schloming". The signature is written in a cursive, flowing style.

Lenore Monello Schloming
President

cc: Department of Public Health
Massachusetts Commission Against Discrimination