

Chapter 10

Getting Organized

Legal Tactics: Tenants' Rights in Massachusetts
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Organizing a Tenant Group

Tenants' Rights in Massachusetts

A **tenant association** is a group of tenants who work to fix their housing problems. Tenant associations (also called tenant unions) have had success because they organize together.

Tenants have the right to organize! It is **illegal for your landlord to retaliate** against you for being part of a tenant group. The landlord cannot evict you, raise your rent, or change your lease because you joined a tenant association.

What are some steps I can take to organize with other tenants?

1. Know Your Rights

The best way to protect yourself is to know your legal rights as a tenant. Learn more at: MassLegalHelp.org/tenants-rights

Get help. Your community has lots of resources. Don't be shy – ask for help! You may want to contact:

- A lawyer for legal help,
- A trained organizer to help you plan,
- Local community organizations, or
- Local universities and law schools with students to help you do research.

2. Identify Problems

Stay United

Watch out! Landlords sometimes try to divide tenant groups by intimidating tenants or pretending to be a victim. Stay united.

Talk with other tenants. Tenants may be afraid to speak up. Ask your neighbors about housing problems. Listen carefully! Let them know they have a right to organize.

Bring tenants together. After you talk to other tenants and identify common problems, schedule a meeting so that all tenants can come together to make a plan.

3. Make a Plan

Once you bring tenants together, make a plan. Clearly define the problems. Write them down. Identify the group's goals and the things you want to change. Think about these questions as you make a plan:

- What is the problem?
- What will solve the problem?
- Did your landlord break a law?
- Who has power to fix the problem?
- Where can you get help?

4. Choose Your Tactics

Next, decide which tactics or methods your group will use to fix your problems. Tactics must fit your situation and may have to change over time.

Here are a few tactics to consider:

- Write a letter to your landlord to document your group's concerns and send a copy to your local elected officials.
- Have tenants sign a petition to show your landlord that a lot of people are affected.

- Get Board of Health/Inspectional Services to order a landlord to make repairs.
- Have a rally, picket, or demonstration.
- Make window signs and banners.
- Get media attention.
- Take your landlord to court. Ask a lawyer to review your case first.

5. Start a Tenant Group

Choose leaders. You can have one leader or a group of leaders who rotate responsibilities to keep a group going. A good leader listens, is patient, and is inclusive.

Keep tenants informed and included. Have regular meetings and use social media, fliers, and events to keep all tenants updated.

Translate. Translate information and have interpreters for meetings for people who do not speak English.

Set ground rules. Good meeting ground rules can prevent conflict. Examples: one person talks at a time, no interrupting, no put-downs, a time limit when talking.

Make committees. A committee is a team of people working on a task. Common committees are: Negotiation and Outreach.

Keep records. Have someone take notes during meetings. Document your phone and in person communications with your landlord. Have all tenants save emails and text messages with your landlord.

Work with a lawyer and organizer. A lawyer can tell you about your rights. An organizer has knowledge about organizing tactics. Remember, decisions are up to the group, not your advisors.

Evaluate your work. Be willing to change your plan and tactics as you go.

Get more tenants involved. It takes time and patience to get more people involved. Most people need to be asked directly.

6. Get Support

From the media: Online and print newspapers, TV, radio, and social media are powerful tools for tenants. Media attention can help pressure your landlord to negotiate.

From politicians: Local, state and national politicians can help by writing a letter to your landlord or by facilitating a conversation between you and the landlord. Make sure people in your building are registered voters if eligible to vote.

From community leaders and groups: Local leaders and groups, such as clubs, churches, and labor unions, can help by writing support letters, attending rallies, or giving you resources or meeting space.

7. Negotiate

Try to meet and negotiate with your landlord. Negotiating means working to agree with your landlord about solutions. Before you negotiate, get ready!

- Have a list of your demands.
- Have proof of the problems.
- Know your rights.
- Put your agreement in writing.



For more, scan the QR code for **Legal Tactics, Chapter 10: Getting Organized.**
MassLegalHelp.org/LT-organizing

Getting Organized

by **Eloise Lawrence**

Italicized words are in the Glossary

When We Fight, We Win!

“When we fight, we win!” has been the rallying cry for tenants in Massachusetts for decades.¹ What does it mean? It means tenants coming together to organize and realize their collective power. Tenants in Massachusetts have the right to organize, form a tenants’ union, withhold rent and demand better conditions, defend against harassment, eviction and foreclosures. But, for these rights to become a reality, you need to join forces with fellow tenants. You need to learn about what other tenant unions have done. You need to know where, when and how to exercise your rights and your power.

Challenging a landlord, however, can feel frightening. As a tenant, you may be afraid that your landlord will label you a troublemaker. Or you may be afraid of *retaliation* or losing your home. The best way to protect yourself is to find out your rights, figure out your options, and fight the battle with others, not alone. There is more power in numbers and organizing changes the power dynamic.

As a group, tenants have the power to define what is happening as a moral issue about a group of people's homes, not just a legal issue about an owner's investment. For example, while the law does not prevent a landlord in the private unsubsidized housing market from doubling rents, organized tenants have taken a stand against excessive rent increases and won fair rent increase schedules.

The key is not to let a landlord discourage you from trying to organize to improve your housing. If you let landlord pressure keep you from moving forward, you are only helping her instead of yourself.

The purpose of this chapter is to pass on the lessons that organizers and tenants have learned about why, when, where and how to organize. Who should read this chapter? Tenants, organizers, and legal advocates. By working collectively, and not alone and in isolation, tenants can shift the balance of power from the entities or people that own, manage or profit from housing back to the people who live in the housing.

Some examples of what tenant groups have accomplished include:

An investor-landlord purchased dozens of buildings in a predominantly working-class Latino Boston neighborhood. The investor then brought eviction actions against the existing tenants. A group of tenants from multiple buildings owned by this one investor began attending weekly community meetings where they learned about their rights, obtained legal counsel, and formed a tenants' association/tenant union. The tenants collectively demanded that the investor dismiss all pending eviction actions against them and reinstate their tenancies. The tenants also made their demand public, bringing their story to the media and to public officials. Shortly after the tenants made their demand, the investor agreed to dismiss the pending eviction actions and to allow the tenants to remain in their homes as tenants.

An investor bought a building that was being operated as an illegal rooming house. The building was a 6 unit building with over 20 people living in it. The building was in terrible condition. When the investor bought it, they did not fix the bad conditions but instead tried to give people a small amount of cash to leave. Some tenants not understanding their rights took the money and left. Some tenants understanding their right to fight the evictions decided to form a tenant union. The tenant union demanded that the new investor fix the bad conditions in the building. The investor refused and tried to persist with the evictions. The investor lost those evictions due to the bad conditions in the building and was forced to sit down at the bargaining table with the tenant union. As a result of these negotiations, the investor walked away from the building and sold it to a community land trust that was set up to protect affordable housing and take it out of the speculative market. The land trust agreed to fix all the bad conditions and allow the tenants to stay paying affordable rents.² One of the leaders of this tenant union was interviewed after the trial and said:

“We are powerful. We needed to know our rights, and we needed to exercise our rights. With support from [organizers] and the ... lawyers ... we realized we are a lion.”³

The Right to Organize

Tenants in Massachusetts have a right to organize. It is illegal for a landlord to *retaliate* against you by trying to evict you, sending you a rent increase notice, or sending you a notice of any substantial changes in the terms of your lease or tenancy because you have attended a tenant meeting, joined a tenant group, or because you are organizing a tenant group. It does not matter whether you call this a group, a union, an association or a tenant organization.⁴ For examples of types of tenant groups see **What is a tenant association?** in this chapter.

Despite the fact that it is illegal for a landlord to retaliate against you for organizing, it happens. For this reason, as you take on the work of bringing tenants together, the best way to protect yourself and fellow tenants is by knowing your rights, **putting all significant communication to the landlord in writing**, and keeping a record (for example saving letters, emails, text messages, WhatsApp exchanges). For more information about retaliation, see **Chapter 12: Evictions**.

Where to Start

1. Know Your Rights

As a tenant, when you organize you need to know what your rights and responsibilities are and what the landlord's rights and responsibilities are. Knowing your rights will always help you determine what options you may have. This book is a starting place.

You can also go online to www.MassLegalHelp.org for answers to frequently asked questions that you can use as handouts.

Because no two situations are the same, it is also important to consult with legal and community advocates who can provide you with more information about the law and help you think through your particular situation.

2. Get Help

If you start to organize tenants, the more help you have, the better off you will be. As you confront specific legal issues, contact a lawyer to educate the group about the law and potential legal strategies. A lawyer familiar with housing law can tell you what your rights are, help you evaluate different legal strategies, advise you about how to protect yourself, help you negotiate agreements with your landlord, and represent you in court. A list of legal services offices and legal referral programs are in the **Directory**.

To help you bring together a group that can exert the necessary pressure, it is also good to try to get the help of a trained organizer. Organizers can help groups develop strategies, think through different tactics, do door-knocking, call meetings, plan "actions," and develop leadership skills.

The tenant movement in Massachusetts is growing. To find out if there is a tenant organizing group in your area and connect with a broader tenant movement contact:

Homes For All Massachusetts, www.homesforallmass.org/help/#orgs

Local community action programs or community development corporations sometimes have staff who help tenants organize. Towns and cities have money called Community Development Block Grant funds, which can be given to tenant groups to hire an organizer.⁵ Local religious organizations and labor organizations may be able to offer organizing assistance to tenants. For a list of community development organizations and tenant groups, see the **Directory**.

At some point, you may also need to do some research to find out what's going on with your building, who your landlord really is, who holds the mortgage on the property, and what the property's ownership history is. Landlords sometimes hide their identities by hiring management companies or by forming trusts, corporations, limited liability companies (sometimes called “LLCs” or limited partnerships, or by putting the property in a relative's or spouse's name. Local universities and law schools may be able to provide students to help you do research on the ownership of your building. For more information see **Chapter 13: When to Take Your Landlord to Court - Who Owns Your Building**.

If your building has been foreclosed, finding out who the owner is can be even more complicated. For information about how to do landlord research in this context, see the section called **Chapter 18: Tenants and Foreclosure – Find Out Who the Owner Is**.

3. Find the Common Ground

One of the first steps in organizing is to talk with other tenants to find out what problems they have had with the landlord. Talk to people in the hallway, at the mailboxes, wherever you see them. Tell them that you've been having problems and ask them whether they have been having problems, too. Then listen carefully to what people are saying.

You may find that you are not alone. If other tenants have been having similar problems with the landlord, you may want to go door-to-door and talk to more people. An organizer can help you by providing you with support, materials, and tips about how to do door-knocking.

If you live in a small building where there are not many other tenants, consider expanding your outreach efforts to other buildings in your neighborhood owned by the same landlord. Tenants in those buildings may be experiencing problems similar to yours. In some circumstances, you may even consider reaching out to tenants in your neighborhood who live in buildings owned by other landlords. For example, in some towns and cities, tenants and former owners who live together in the same foreclosed

properties have formed groups that jointly advocate to solve common problems. In addition, tenants and former owners living in different properties but struggling with the same lenders/new owners, have created “Bank Tenants Associations.” As an example, check www.springfieldnooneleaves.org/snol-work/springfield-no-one-leaves-campaign-bank-tenant-association/

When you go door-to-door, introduce yourself as a tenant in the building. Let people know why you're out knocking on doors. For example, if you haven't been able to get the landlord to make repairs or you just got a rent increase, ask other tenants whether they have had the same problem.

In your door-to-door campaign, you can use a survey to collect information about what problems people have been having in order to figure out what the common problems are. See the sample survey, which you can adapt to fit your situation **Tenant Survey (Form 21)**.

Talk to as many tenants as possible. Be careful not to avoid talking to tenants who may keep to themselves. If you exclude people from the start, those people may feel left out and resentful and could undermine later organizing efforts. Including people from the get-go is a very important part of organizing.

As you speak with tenants, you may find that people are scared to talk for fear of *retaliation*. Expect that some people may not open up to you right away. Understanding their fear, educating them about their legal rights, talking about your own personal situation, and giving people hope that together tenants may be able to solve a problem (as described by the examples at the beginning of the chapter or other successful struggles you may hear about) is an important part of helping people feel they can step out and that organizing can work.

As you talk with tenants, give them a handout to read so that when you have gone they will have something in hand that will help them better understand the situation. Also check www.MassLegalHelp.org for free information about tenants' rights.

If people in the building speak different languages try to have your flier translated. People in the building, tenant organizing and advocacy groups may be able to help.

After you have had an initial round of conversations with tenants, review the surveys you collected.

- What have you learned?
- What were the common issues?

- Did people feel strongly enough about problems to want to organize?
- Is there a core group of tenants who are willing to meet to work on the problems?

After you compare the results, hold a meeting or start knocking on doors again. This time, give people the results of what you learned.

4. Bring Tenants Together

If, after talking with and surveying tenants, you find that people have identified common problems and there is a core group that wants to do something about them, the next step is to bring together as many tenants as possible by calling a meeting. When you call this first meeting, here are some things to keep in mind:

- A first meeting should be as informal as possible. Part of the goal of this meeting should be that people get to meet each other.
- Being informal does not mean that a meeting should go on aimlessly with no focus. One or two people should run the meeting. If the meeting is too unfocused or goes on too long, people may get tired and leave.
- In some instances, it may be a good idea to develop a leadership committee before calling the first meeting and choosing members of the leadership committee to run the first meeting.
- To start the meeting, go around the room and ask people to introduce themselves. Don't assume everyone knows everyone.
- Whoever is running the meeting should encourage people to speak about the problems they have with the building or the landlord.
- Expect that people may be afraid at first to speak out or get involved. People may be worried that by taking any action they might be evicted or harassed by the landlord.
- Give people information about how the law protects tenants against retaliation and that under the law tenants are allowed to organize. You do not have to convince everyone in the building to join your group. You can still be effective even when it is smaller group.
- As tenants speak and listen to one another, the chair can help people realize that they face similar problems, and that by working together the group may be able to solve these problems.

Developing a Plan

When you bring tenants together, whether you are a group of 2 or 20, if you want to do something about a problem, you need to clearly define the problem and then identify what you want to change.

1. Goals

- Get repairs made?
- Prevent a steep rent increase and keep rents affordable?
- Improve security in the building?
- Improve maintenance and management?
- Protect tenants from being evicted?
- Change the ownership of the property?⁶

It is important to be as specific as possible about what you want. If tenants are not clear about the goals, organizing will be difficult and frustrating. If a group identifies several goals, you may need to pick one that you are going to work on first. You can also identify goals by whether they are long-term, short-term, or immediate, and this can help a group prioritize what work needs to be done first.

2. Strategy

Effective tenant organizing requires thinking strategically about how to solve a problem. It takes time and information to develop an initial plan of action or strategy. Strategies or campaigns (we use these words to mean the same thing) also evolve, change, and are refined over time.

For example, your goal may be to keep rents affordable and get repairs made. Your strategy may be to try to negotiate new lease agreements and a repair schedule with the landlord. If the landlord refuses to negotiate, you may have to develop a campaign using other tactics in order to achieve your goal. Or the group may decide that the strategy should be to try and interest a local nonprofit housing organization in taking over the property in order to keep it affordable.

There is no one strategy that fits all situations. A strategy will depend on many different factors, including the existing relationships between the landlord and the tenants—which are as varied as the people themselves. If the

relationships are bad, how does the strategy address this? If the relationships are worth saving, how does a strategy accomplish this?

When a group maps out a strategy, it is helpful to ask a series of questions to sort through what leverage or power a group has, and what points of pressure may be applied to bring about the group's desired goals.

What follows are some questions to help your group look at different options in order to shape a strategy—along with some sample answers. Bring these questions to your meeting and figure out which ones make sense for the group to answer. Write the group's answers on sheets of paper posted up on the wall so people can see that their ideas are being recorded. When you write these ideas up on the wall, people will begin to see connections and you will begin to sort through the information in order to develop a strategy.

Questions to Ask

- **What is the problem?**
Repairs not getting made.
- **What is causing the problem?**
Landlord refuses to make repairs.
Landlord cannot manage property.
Landlord is financially in trouble.
Landlord cannot afford to pay high mortgage and make repairs.
- **Who has a direct interest in solving the problem?**
All tenants.
Some tenants.
- **What is the solution?**
Landlord makes the following repairs:
(*List repairs*)
- **Are there any "legal handles" (violations of law) that will give a group leverage?**
Serious violations of the state Sanitary Code.
Illegal retaliation by the landlord.
Landlord has interfered with utilities.
- **Who has the power to help bring about the solution?**
Landlord—can agree to a repair schedule.
Housing inspector—can issue a repair order.
Court—can order a landlord to make repairs.
- **Who are potential supporters that can help you?**

Neighbors
Community advocates
Local elected officials
Local city or town health and safety officials
Lenders
Nonprofit housing developers
Faith-based organizations
Unions

After a group decides on a strategy, the group should map out the specific tactics to carry out a plan. The tactics a group uses will also depend on many factors.

Some specific ideas for developing strategies and tactics related to bad conditions, rent increases, and landlord harassment are in the next section of this chapter.

In addition to materials that tenant organizing groups have developed based on their local experiences, some good resources on developing strategy that are available online are:

- Roots to Power: A Manual for Grassroots Organizing, by Lee Staples (3rd Edition 2016)
- Organizing for Social Change: Midwest Academy for Activists, by Kim Bobo, Jackie Kendall, and Steve Max (4th Edition 2010).
- Organizing Guide: People, Power, Change, by Leading Change Network, Marshall Ganz, New Organizing Institute, Peter Gibbs, Shea Sinnott, available at www.commonslibrary.org/organizing-people-power-change/#Download_Resource

3. Tactics

Tactics are the steps you can take to accomplish your goals. They are the moves made to gain more leverage, more bargaining power, more public support.

As a general rule, the goal that every group should have is to try to negotiate a solution directly with the landlord. By negotiating your own solution, you may have more control over what the terms of an agreement are—as opposed to having a judge control the decision. For example, tenants in Massachusetts are achieving substantial victories by negotiating *collective bargaining agreements* (agreements for all the named tenants) directly with landlords that establish fair rent increases for a set period of years, see **Sample Collective Bargaining Agreement (Form 22)**.

Half the battle, however, is getting a landlord to the table to negotiate. A landlord may refuse to negotiate with your group, insisting that they will deal only with each tenant individually.⁷ To succeed in your struggle, you will have to stay unified and resist such efforts to divide and conquer. If your landlord refuses to negotiate directly with your group, you may have to use other tactics that put pressure on the landlord to negotiate. These other tactics will, if successful, bring your landlord to the negotiating table willing to work through a fair agreement.

Many factors will influence what tactics a group chooses to use and when to use them. Different tactics will have different effects in terms of escalating pressure. Some tactics change the struggle—from being tenant vs. landlord to community vs. landlord.

New information may surface that offers tenants unexpected opportunities and new ideas for tactics. Likewise, unexpected opposition may also rear up in response to organizing. It is important for a group to constantly evaluate its tactics and retool according to the situation.

When deciding what tactics to use, brainstorm about all the possibilities. Then evaluate the pros and cons of each. For example:

- Do tenants feel comfortable with the tactic?
- What are the possible gains?
- What are the possible risks of a tactic?
- Do you have the people, time, and resources to carry out the tactic?
- Will the tactic build the group's power?
- How will the tactic be perceived by the community and the media? Positively? Negatively?

There are many different types of tactics tenant groups have used to achieve their goals. Different tactics can also be woven together to achieve the desired goal. Below is a list of possible tactics to consider at different stages of a struggle.

a. Letter Writing

One of the most important first steps in negotiating with a landlord is letting your landlord know—in writing—what the group's concerns and demands are. Letter writing is fundamental to any negotiation between a tenant group and a landlord. Letters or emails provide a "paper trail" or documentation of the dialogue between both parties as it unfolds and can by themselves lead to a negotiated solution.

Figuring out what to include in a letter is what takes time. Putting a group's demands in writing, however, forces tenants to be clear about what they are trying to convince a landlord to do.

A group can also use "Public Letters" to a landlord to establish more accountability between the tenants and the landlord by sending them to other people. This is done by putting "cc:" followed by the names of the other people at the bottom of your letter. The "cc" (which stands for the now old-fashioned "carbon copy") tells the landlord that a copy of the letter has been sent to the people who are listed after the "cc."

For example, you may want to "cc" elected officials for your area, the Board of Health (or Inspectional Services Department), religious institutions, or other community and political leaders. When you do this, the landlord will know that the people who have been "cc'ed" know what is happening and are watching. To whom the letter is "cc'ed" is a strategic decision that needs to be thought through by the group. See **Sample Letter from Tenant Group to a Landlord (Form 25)**.

Another advantage of using the tactic of letter writing (including Public Letters) is that it is evidence of your organizing activity and helps your retaliation claim or defense if you go to court.⁸

b. Petitions

A petition is a statement that people sign because they support that statement. Petitions are a great way for tenants to build support on an issue. They are a way to communicate with the landlord that a lot of people are concerned about an issue. You can take a petition door-to-door and get it signed. You can use a petition as a way to let elected officials and the media know that a lot of tenants are concerned about an issue and are making a demand for change.

Never give away an original petition. Although you can always show an original petition to the landlord or the press, if you want them to have a copy, make them a photocopy. See **Sample Organizing Petition (Form 24)**.

c. Board of Health Inspections

Inspections of more than one apartment by a local Board of Health (or Inspectional Services Department) may put enough pressure on a landlord to make repairs. **Chapter 8: Getting Repairs Made** tells you more about how to get an inspector. When you contact the Board of Health, be sure to let them know how many apartments need to be inspected before they come out to the property. Also, a tenant should be with the inspector from the beginning of the visit to the end. If several apartments are being inspected, it is valuable

for several tenants to be with the inspector as the inspector goes from apartment to apartment. If you are working with an organizer, ask the organizer to be present to take notes and to document what is happening. After the inspections, you must make sure you get from the inspector copies of all reports.

Tenants may have to put pressure on a local Board of Health to do inspections. For example, tenants in Lynn, with the help of legal services, requested a *hearing* before the Commissioners of the Board of Health to report that inspectors were not giving the tenants timely inspections and failed, once they did, to report obvious violations. As a result of the organizing, the Commissioners demanded that the inspectors improve their services and meet state requirements for timely and complete inspections.

d. Rallies, Pickets, and Demonstrations

Rallies, pickets, and demonstrations are very effective tactics to put public pressure on your landlord if they fail to negotiate or fail to negotiate in good faith. The success of a rally or demonstration depends on how well it is organized. What is needed are people, signs, and coverage by the media.

Care should be taken to choose an appropriate location, preferably one that is highly visible to the public and relevant to the issue, such as your apartment building or your landlord's office. If you decide to picket, you should choose several people to act as leaders to discuss with the police the manner and location of your picketing.

Generally, you have a right to picket on public land as long as you do not physically block access to the place you are picketing. Your picket line must keep moving in a circle; otherwise you may be accused of "obstructing access." Your picket line should be vocal and spirited. Be prepared with chants.

Tenant spokespeople should also be prepared to speak with the press about the group's demands. Bring leaflets to give to the media and people passing by that will tell them why you are picketing.⁹ Some tenant groups have also used civil disobedience as a form of protest. For example, to protest rent

increases, tenants and their supporters held a sit-in at an owner's office, resulting in 14 people being arrested and subsequently that landlord did agree to sit down with the tenant group and negotiate. For more tips on how to plan and conduct a demonstration, see the section of this chapter called **Organizing Actions**.

e. Window Signs and Banners

Signs and banners proclaiming tenants' goals hanging from a building and taped on the insides of people's windows can be an effective way to make a public declaration that tenants are pressing the landlord for improvements or fighting displacement. (For example: "Anti-Displacement Zone: We Will Not Be Moved!") Make sure the letters on the signs are large and readable. Banners and signs can stay up for awhile and they provide a good opportunity for the media to take pictures.¹⁰ They also send a clear message to real estate agents and potential buyers that this is an organized building who will not be cleared out without a fight. This message is especially impactful on a "flipper" who intends to buy the building, evict everyone, make some minor upgrades, and to sell for much more than they paid for it.

f. Media

Landlords who refuse to maintain their properties, who seek steep and unreasonable rent increases, or who try to displace responsible tenants for higher profits are vulnerable to bad press. So are city officials and code departments that refuse to do inspections or to cite landlords for serious violations.

The media can be a powerful tool. Through holding a rally and inviting television and print media outlets, opinion pieces, and social media such as Facebook, Instagram, YouTube, TikTok, tenants can put increased public pressure on the landlord.

g. Resolutions

Tenants have used resolutions passed by a local town or city governing board as a way to develop support for their campaign. For example, some tenants have brought resolutions that urge the landlord to negotiate fair rents. Resolutions are a way to put increased public pressure on a landlord who refuses to negotiate. They are often covered by the local press. They can also build support among local officials. See **Sample Resolution (Form 23)**.

h. Rent Strike

A rent strike occurs when the majority or all of the tenants in a building withhold their rent or refuse to pay a proposed rent increase. Solidarity in

refusing to pay a proposed rent increase (while still paying the rent) is a necessary part of a struggle against a landlord's effort to increase your rent. Withholding rent is a lawful tactic that can be used to pressure a landlord to make repairs.

Before undertaking a rent strike, tenants should clearly understand that, although a rent strike is perfectly legal, it may lead a landlord to attempt to evict tenants. It is essential to get legal advice before embarking on a rent strike.¹¹ For example, it is important to understand that withholding all your rent can lead to a “non-payment” eviction case, in contrast continuing to pay your old rent and refusing to pay the increased rent can lead to a “no fault” case which is easier to fight in court. For more about proposed rent increases and the options available to tenants, see **Chapter 5: Rent**. For more about how to withhold your rent, see **Chapter 8: Getting Repairs Made**.

i. Community Reinvestment Act Complaints

Tenants have used the Community Reinvestment Act (CRA) as a way to get the attention of local lenders who may hold mortgages on properties where landlords refuse to make repairs or who are displacing tenants with steep rent increases. CRA is both a federal and state law that requires banks and savings institutions to take affirmative steps to help meet the credit needs of the entire community they are chartered to serve, including low- and moderate- income areas.¹²

For example, a number of years ago, one tenant group in Lynn, with the help of legal services, sent a CRA complaint letter to the landlord's lender concerning the owner's plan to displace dozens of low-income and minority tenants because of rent increases of 60-70%. The tactic, in conjunction with media and other advocacy, led to pressure that resulted in a negotiated agreement between the landlord and the tenants that lowered the rent increase, set a repair schedule, and drew up a one-year lease, which facilitated accessing local rental assistance funds for the tenants.

j. Court Action

Legal action may be one tactic among many that may be available to address a particular problem. Before you decide to go to court, you should carefully evaluate the following:

- What you want,
- Whether you have a good case,
- Whether there are other ways to resolve your problem, and
- Whether you need and can get an attorney.

If your landlord violates the law, there are a number of ways that a court may be able to help you. These are called *remedies*. For more about different types of remedies that a court can provide, see **Chapter 14: Using the Court System**.

While courts can be helpful, it is always important to keep a perspective on the legal process. Any court action that leads you back to the negotiating table, where you have a better chance of controlling the outcome, can be considered a victory. If you do go to court, try to pack the courtroom with lots of tenants. Some tenant groups have everyone wear stickers or t-shirts expressing their support. Judges may act differently if they see a number of tenants who are interested in the outcome of the case. Try, when possible, to do some research about a judge's attitude towards this type of action because it could hurt your campaign.

k. Political Support

Tenant groups who are fighting to improve their buildings and save their properties have developed important support from local, state, and national politicians. Whenever you ask for a politician's support, it is always important to think through this strategy. For example, it is not always a good idea to get politicians involved right at the outset. A politician may not do what they say they will do. They might turn against the group and support the landlord. They may have their own agenda. They may try to act as a mediator between you and the landlord without your wanting them to do this.

On the other hand, a politician may actively support your cause. They may speak out at a rally because they want to be seen as a leader on the issue of affordable housing and get the exposure. Seeing that the people in your building are voters, they may write a letter to your landlord supporting your demands. They may send a letter to a government agency supporting your request for funding.

Figure out who your elected officials are from town or city council level, to Massachusetts State House, to the United States Congress. Once identified try to research what particular interests or concerns those elected officials have that may be helpful to your situation. For example, you may find that your state Senator or Representative is on the Housing Committee or that a local city councilor grew up in subsidized housing. It is very important to develop a relationship with your elected officials.

To figure out who your state or national elected official is go to **Find a Legislator** at: malegislature.gov/Search/FindMyLegislator

To get the support or attention of elected officials, make sure that all tenants in the group are registered to vote, if they are eligible to do so. Getting the

support of neighbors who are registered voters also makes sense. Registering to vote is easy. Contact your city or town hall and ask for voter registration forms and procedures.

Tackling the Problem

1. Bad Conditions

Landlords who neglect maintenance and repairs may do so as a strategic business decision. If they spend less of your rent on repairs, they make more money. Other landlords may neglect maintenance because they are not capable of managing the property or they are low-income and cannot afford to pay for a major repair as well as the mortgage. In either case, if your group has notified your landlord about bad conditions and the landlord refuses to make adequate repairs, there are a number of ways to begin to organize tenants around a solution. Here are ideas about what steps to take to organize to get repairs made.

- Distribute information or a flier to all tenants about what conditions violate the state Sanitary Code and what their rights are.
- The **Housing Code Checklist (Booklet 2)** is a good place to start. Tell tenants to make a list of all of the problems in their apartment and common areas of the building, such as entrances, hallways, and basements.
- Compile this information and write a group letter to the landlord asking that repairs be made.
- There are some government programs that make grants and loans to help eligible owners make repairs at a lower cost. Money for lead paint removal is one example (see **Chapter 9: Lead Poisoning**). Such programs may also restrict the amount of rents for a period of time after the loan or grant, so they can help tenants achieve the goals of repairs and affordability.
- If the landlord does not respond to your letter about the bad conditions, you can call the local Board of Health (or Inspectional Services Department) to inspect tenants' apartments. Inspections of more than one apartment by the Board of Health may put enough pressure on your landlord to make repairs. **Chapter 8: Getting Repairs Made** tells you more about how to get an inspector.
- As an alternative to the Board of Health (or Inspectional Services Department), you can hire a private inspector to inspect tenants' apartments. Although such inspections are not free, they are often

more comprehensive and can usually be scheduled at times more convenient to tenants.

- When an inspector, public or private, comes to the property, one or more people should be with the inspector from the beginning of the visit to the end. Someone needs to be sure that all the apartments that requested inspections are in fact inspected. Immediately after the inspection, you should receive copies of the inspector's reports for all of the apartments.
- Call a meeting with tenants to develop a list of common problems based on the inspector's reports.
- Write a second letter to your landlord demanding that they make repairs and propose a specific schedule to make them. Get as many tenants as possible to attach their inspection reports and sign the letter to the landlord.
- If, after receiving **written notice**, the landlord fails to make repairs within a reasonable time, you have the right to use tactics such as rent withholding and repair and deduct—although those tactics should be used sparingly and only after getting legal advice from an attorney familiar with housing law. See **Chapter 8: Getting Repairs Made**.
- A group may also want to ask a court for an *injunction* ordering the landlord to make repairs or for an order appointing a temporary *receiver* to manage repairs. See **Chapter 8: Getting Repairs Made - Receivership**. Both tactics significantly increase the pressure on the landlord and the negotiating leverage of the tenant group.
- You should periodically hold meetings to discuss the tactics used and other tactics the group may want to consider. Evaluate the pros and cons and get legal advice about each. You may, for example, consider other tactics that make the struggle and your demands more public, such as holding an "action" (organizing event) or contacting the media.

2. Unfair Rent Increases and Displacement

Landlords, especially those who have recently bought rental buildings, sometimes try to impose large rent increases on tenants. In some cases, this is done in an effort to drive low- and moderate-income tenants out so they can rent to higher-income tenants. In other cases, landlords simply fail to renew leases or bring eviction cases so that they can convert rental units to condominiums. These tactics are part of landlords' roles in the process known as *gentrification*. In other words, real estate investors and landlords are using rent increases and evictions to displace the existing residents. In these

situations, tenants have successfully organized and negotiated agreements to remain in their homes and establish a schedule of fair rents over a period of years. See **Sample Collective Bargaining Agreement (Form 22)**.

Organizing a tenant group to negotiate with a landlord may, in fact, be the best and only way to protect tenants against unfair rent increases or gentrification-driven mass evictions. A group of tenants, as opposed to one individual, may be able to force a landlord to weigh the benefits of steep rent increases or condominium conversions against the costs of bad publicity, tenant resentment, evicting lots of tenants who are unified, or a potential lawsuit. There are a number of steps that you can take to begin to organize tenants to defeat or lower a rent increase.

- Challenge certain real estate assumptions that are widespread in our culture. Tenants who are successfully organizing against high rent increases or gentrification-driven mass evictions have found that it is important to put forward alternative principles in their letters and fliers, including that:
 - There must be a balance between the drive for profit and the human need for housing.
 - The market rent is not necessarily the fair rent.
 - Landlords' buildings are more valuable because of work tenants have done to improve the neighborhood, reduce crime, and make schools better. Or, properties are more valuable because of public investments such as public transportation stops and new parks. Because of these improvements, tenants should not be displaced.
- If you receive a *no-fault eviction* notice or a notice of a rent increase, try to figure out whether other tenants also received similar notices. If you want to conduct a quick survey, you can adapt the survey. See **Tenant Survey (Form 21)**.
- When you survey people to find out about the rent increase or eviction notices, give them information about how a landlord can legally raise the rent or convert to condominiums and what your rights are, including your right to organize. See **Chapter 5: Rent** and **Chapter 17: Condominium Control** for more information.
- Call a meeting of tenants to figure out how to respond. Invite an attorney or an organizer to the meeting. For example, in response to a notice of a proposed rent increase, one option is not to agree to the increase, as a group. If you do not pay the increase and you pay the old rent, your landlord will have to go through all of the steps of a *summary process* action in order to try to evict you. This tactic gives your group time to plan other tactics and also puts pressure on the

landlord to negotiate because of the cost of evicting all of the tenants and the risk that the landlord will lose the eviction cases because of tenant *defenses* and *counterclaims*. However, there are risks to tenants in using this strategy—that is, you could be evicted at the end of the process. Also, your case will be listed on the court’s online database that landlords use as a tenant screening tool and that private tenant companies access unless you have a right to seal your record. For more see **Chapter 2: Tenant Screening**.

- You may also want to investigate the landlord's business practices and try to estimate the landlord's expenses and profit margin. If the owner can cover expenses, grant tenants' requests to refrain from large rent increases, and still make a profit, that's very important to know. How much are the landlord's property taxes? Have they paid them? How much is the mortgage payment? Who is the lender that holds the landlord's mortgage? Has the landlord defaulted on the mortgage? During negotiations you can present what you estimate are the owner's expenses; if they say you are wrong, ask what the correct figures are. Knowing this type of information may also help you develop other strategies and allies.
- You can find information about landlord's mortgage, the purchase price of the building (as reflected on the deed) and other buildings owned by the landlord at www.masslandrecords.com
- You can find information about property taxes for your building online. Most cities and towns have their own Property Assessment webpages where you can search by address. For example in Boston, you can put in the property address at www.cityofboston.gov/assessing/search
- If the landlord has raised people's rents or is evicting in *retaliation* for tenants' organizing, reporting violations of the Sanitary Code, or taking other legal action, this is illegal and you may want to take the landlord to court. If a judge finds that a landlord has retaliated against you, the landlord should not be able to evict you and tenants may be entitled to money *damages*. See **Chapter 12: Evictions** and **Chapter 13: When to Take Your Landlord to Court** and get legal advice.
- If your landlord has not made repairs, you can use that fact to gain leverage in your struggle against unfair rent increases or mass evictions. You should have your building inspected by the Board of Health or Inspectional Services Department or by a private inspector. Once you have an inspection report that documents bad conditions, you can put even more pressure on the landlord by communicating your intent to pursue enforcement of the state Sanitary Code through a

public agency or a lawsuit. This is often enough to get a landlord to the negotiating table and, once there, to get her to agree to a reasonable deal.

- If you are facing rent increases and there are serious conditions of disrepair in your home, you may need to make your struggle more public. You can picket your landlord's office and publicize what is happening. Stress the unfairness of the rent increase given the conditions in which you are living and the hardship that a rent increase will have on tenants living in the building. For example, if there are tenants who have lower incomes, who are working, or who are single parents, a \$100 increase may cause them to become homeless. Invite reporters into apartments with bad conditions. Have tenants facing hardships talk about how the rent increase will hurt them and how the landlord has refused to negotiate fair rent increases. Some landlords fear bad publicity, embarrassment, and negative public exposure.
- Evictions by their nature are individual procedures; each tenant against whom a case is brought should read **Chapter 12: Evictions** to learn how to defend themselves in court. Another great resource is MADE, an online guided interview that can help tenants who are facing an eviction file their court documents. Go to: www.gbls.org/MADE. However, a well-organized tenant group can turn evictions into a political battle as well, using the tactics described in this chapter: media campaigns, letter writing, resolutions, demonstrations, actions, and beyond. One particularly dramatic and effective type of action is **eviction blockades**, where members of the tenant organization and other supporters physically prevent the landlord's constable from evicting a tenant after a judge has already ordered her out. This tactic has been successful in many instances in getting landlords to back off evictions. For example, in Massachusetts former owners and tenants used blockades hundreds of times to prevent an eviction after a foreclosure. However, because there is a chance that people participating in a blockade may be arrested, **you should consult with a lawyer** experienced in civil disobedience prior to planning one.

3. Harassment

You may find that the main problem you and other tenants are having is harassment by your landlord or people who work for your landlord. There are many kinds of harassment and intimidation, including illegal evictions, utility shut-offs, and illegal entry into apartments without permission. Here are some steps to take to deal with harassment.

- You need to document whatever is being done. Keep records of eviction threats, verbal abuse, or any other threats. Specific stories of what happens and when it happens are important.
- Tenants' fears and isolation from one another allow a landlord or employee to continue the harassment. If things are going to change, people need to come together and recognize that they are not alone. Some tenants may be willing to meet and share what has happened to them.
- You should educate yourselves about your rights. Knowing your rights is your best defense. It is illegal for a landlord to retaliate against you by trying to evict you, raise your rent or change the terms of your tenancy because you are organizing, attending a tenants meeting, joining a tenant group, or taking any legal action against the landlord (like reporting them to the Board of Health).
- You then need to discuss how you can break the cycle of harassment and what tactics to use. One specific tactic may be to get a court to order the landlord to stop the illegal behavior. This type of *order* is called a *temporary restraining order*. See **Chapter 13: When to Take Your Landlord to Court**.
- Your landlord may try to break up your group by going after one tenant or favoring another to create fights amongst the group. Tenants should work to protect and support those whom a landlord is targeting. You may warn other tenants about how the landlord is harassing people so they won't be caught unaware if the landlord comes after them. They will then know who to turn to for support. Also, prepare ahead of time for the possibility that the landlord might try to settle with one tenant at the expense of the group.

4. Foreclosure

If the building in which you live has been *foreclosed*, you may encounter simultaneously with your new landlord a number of the problems discussed above. In many cases, the bank or other entity that has taken over the property after foreclosure will fail to make repairs or maintain it properly. They may also fail to take responsibility for utilities, leading to shutoffs. Brokers or others working for the bank may also harass you in an effort to get you to leave your home. Evictions of all occupants are also routinely undertaken by banks and other lenders after foreclosures.

In these circumstances, you should take all of the appropriate steps laid out in the sections above on **Bad Conditions, Unfair Rent Increases and Displacement**, and **Harassment**. You should also read **Chapter 18: Tenants**

and Foreclosure, which gives you specific tips on additional steps to take in dealing with banks and other foreclosing lenders. The key for tenants to overcome problems in foreclosed buildings is to come together and jointly resist strong pressures from often very powerful institutions.

Another helpful strategy to fight the foreclosing bank or lender has been for tenants to join forces with their former landlord who are often living in the building and are now facing eviction as well. In numerous cases where tenants and former owners in foreclosed buildings have joined forces, they have been successful in getting lenders to make necessary repairs, restore utility service, stop harassment and evictions, and even repurchase the home from the foreclosing entity.

Negotiating with the Landlord

1. Preparing

When you negotiate a solution to a problem with your landlord, it is very important to prepare for this meeting or what may be a series of meetings. Here are some things to keep in mind:

Prepare your demands.

Call a meeting for all tenants to discuss what demands the group wants to make. Try to organize these demands. One way to do that is to divide demands into three categories: long-term demands, short-term demands, and immediate demands. Or the group can list demands in order of importance or priority.

Choose a strong team.

A group can have as many negotiators as it wants. It should be very clear, before the meeting who will take the lead and who will raise specific demands. Those who are negotiators on behalf of the group should have the confidence of the group and the time and energy for what may be a long process. It must also be clear that you are negotiating as a group. If anyone other than the negotiating team receives a call from the landlord, they should politely refer the landlord to members of the negotiating team.

Wait until all negotiators are present.

Resist any attempts by the landlord or their representative to begin negotiations without all tenant representatives present.

Don't let the other side outnumber you.

Before sitting down with the owner and their representatives, have a joint understanding of who is allowed to come to the negotiating session. The tenant team may outnumber the owner and their

assistants. That's fine, but the owner's team should not outnumber the tenants.

Know the facts thoroughly.

If you don't know the facts, your landlord may back you into a corner and force you to compromise. Tenants should be prepared to talk about different problems.

Hold negotiations at a location where you feel comfortable.

Try to hold the meetings in a place where tenants feel comfortable. At the very least, negotiate at a neutral place, such as a local church or meeting hall.

It may help to use mediators.

Sometimes it is helpful to have a neutral third-party or *mediator* who is familiar with housing issues help tenants and the landlord work through their concerns in order to shape an agreement that is satisfactory to all parties. See the **Directory** for a list of mediation services.

Make sure that the owner will be present.

If the landlord is not coming to the negotiating session, make sure their representative has the authority to negotiate on their behalf.

2. Watching out for Landlord Tactics

Once you start organizing, it is important to prepare for how the landlord may act. Here are some of the tactics that landlords often try to use against tenants.

a. The Good Guy Victim Routine

The landlord may try to play on your sympathies by arguing that they are a good guy and that the actions of the group are hurting them personally or financially. Whether or not a landlord or an investor is a “good guy” is irrelevant to your negotiation. Don't fall for the routine. Be persistent and tough. No matter how much the landlord might be harmed by your actions, it is their actions that were harming you and that brought you to the point of organizing against them. Moreover, most landlords have more resources than the tenants and thus are in a better position to withstand whatever financial effects the group's actions have on them.

All landlords, however, are not the same. An owner who lives in your building who may have lived there for a long time and contributed to the neighborhood may have legitimate reasons for increasing rent such as higher taxes on the property. Or an investor trying to make the highest profit may

want to raise the rents in order to evict all current tenants and sell the property empty. But again, whether or not a landlord is a “good guy” is irrelevant to your negotiation.

b. Divide and Conquer

Landlords will try to divide tenants not only by telling individuals present how good they are, but by accusing other tenants who are not there of being the “real problem.” If there are people of different ethnic groups, classes, or backgrounds, expect the landlord to play on these differences. A landlord will consider it a victory if they get tenants to fight among themselves. One way landlords sometimes do this is by using language differences to divide. This makes translation of materials and meetings all the more important.

c. The Expert Routine

The landlord may try to confuse matters by talking about statistics, numbers, and figures to prove that they know the real situation at the building and the tenants do not. Whatever the landlord says is just their side of the story and their “spin;” the tenants’ version is no less valid. A landlord may also claim that they are not making enough money because of the economy or taxes. Remember, your rent is paying off the landlord’s mortgage and other operating expenses. If it is not, it is probably going into the landlord’s pocket.

d. Intimidation and Retaliation

Tenants generally think that what the landlord says goes. Tenants sometimes fear that if they rock the boat, the landlord will retaliate against them and has the power to do this. Some tenants even fear their landlord may use physical violence. Landlords sometimes play on tenants’ fear, abuse tenants verbally, and try to intimidate them in the hope that tenants will submit to bad conditions or other mistreatment. A landlord may try to evict one tenant in order to make an example of that tenant. The landlord may also try to intimidate you by refusing to provide services. The most effective way to deal with landlord harassment is to treat each instance as a problem that the entire group should address.

e. Blaming the Organizer or the Lawyer

If an organizer or attorney is helping you, the landlord may label them “outside agitators” and blame them for causing trouble. Don’t fall for this routine either. The organizers and lawyers you’ve chosen are on your side. As long as tenants are in the driver’s seat and making the decisions, there is no truth in the landlord’s accusations.

3. Dealing with the Landlord or Their Attorney

Ask questions and gather information.

Take advantage of the negotiating session to find out as much about the landlord's situation and finances as possible. New information may surface that informs the negotiations. For instance, if the owner says they cannot afford tenants' requests, ask why. What is the budget for the building? For example, how much do they spend on maintenance, taxes, insurance and mortgage payments every month?

Never appear to be divided or disagree.

If at any time your negotiating becomes confused or communications break down between members of your team, don't hesitate to call for a recess and meet outside to discuss your strategy. In fact, before going into negotiations, the negotiating team should recognize that you may need to do this and that it's OK.

Keep negotiations focused on the group.

Tenants should not voice their own personal complaints to the landlord. The negotiating committee should represent the interests of the entire group

Refer to any planned demonstrations, lawsuits or media coverage.

If you know what your tenant group will do if the landlord refuses to cooperate, you can refer to these tactics specifically or generally. If you do, make sure that you are prepared to carry these actions out. This is a judgment call and you need to think through the pros and cons of anything you say. But remember—most landlords fear bad press, legal action, and demonstrations.

Claim no authority to compromise.

Remind the landlord that the group will agree only to a collective settlement that is just, fair, and agreeable to all tenants involved. Make sure everything you agree to is approved by the group. If you are unable to come to an agreement, negotiators should go back to the group and discuss what position the group wants to take or how to make trade-offs.

Put your agreement in writing.

If you reach an agreement, volunteer to put the agreement in writing so that you can make sure all of the tenants' demands are included. Having the assistance of a lawyer is very helpful at this stage. It is always better to draft the agreement yourself—or have your lawyer do it—than to let the landlord or their lawyer do the drafting. If the landlord puts the agreement in writing, read it very carefully, show it to a lawyer, and insist on any necessary changes before signing it.

Stick together and stay organized.

This is how you got to the bargaining table in the first place and it's the only way to make sure the landlord sticks to their agreement.

Set Up a Good Structure

Often, it is a small number of tenants who come together that lays the foundation for a tenant group. In some organizations, this core group may be called the "steering committee" because it is beginning to steer the group's direction. Never underestimate what a small group of people can do.

As tenants come together, you need to decide how formal or informal a group will be. This decision depends on the issue and the number of tenants involved. The structure of a tenants group is something that evolves over time.

1. What Is a Tenant Association

A tenant association is a group of tenants who have agreed to work together. A tenant association does not have to file any official papers or become incorporated. Tenants can simply decide to call themselves a tenant association or a tenant union. The name of the group does not matter as long as it is clear that you are a group organized for the purpose of asserting tenants' rights.

All kinds of tenant associations exist and are successful. See examples in the section of this chapter called "**Why Organize.**" Tenant associations do not need to consist of only tenants or people in the same building or complex. Different examples include:

- Bank Tenant Associations which consist of owners and tenants fighting banks.
- Neighborhood tenant associations which consist of tenants living in different buildings across an entire neighborhood and who have decided to work together to stay in their homes.
- Section 8 or "mobile vouchers" in different buildings, but all have vouchers and are collectively demanding that landlords not raise rents above the government set "payment standard."
- Public housing tenant association and public housing resident advisory organizations.
- Resident organizations with both public and privately owned tenants.

There is no one way to structure a tenant association. Where a structure is more formal, a tenant association can create by-laws and elect officers. By-laws set out how decisions are made, who makes them, what the purpose of the association is, how it will elect a governing board, and other issues. What is critical, no matter how informal or formal the tenant association, is to:

- Be clear about how a group makes decisions. Is there a core group or "executive committee" that makes decisions? Is it all tenants? Is it by consensus or majority vote? What happens if there is a tie vote?
- Consensus decision-making stresses collective development of a decision. It does not mean that everyone always agrees. But the decision must be acceptable enough that all will agree to support it. A good resource about how to build consensus is:
 - **Building United Judgment: A Handbook for Consensus Decision Making**, published by the Center for Conflict Resolution, 1981, Republished by The Foundation for Intentional Community and available for purchase either in digital or hard copy at www.ic.org/community-bookstore/product/building-united-judgment/?srsltid=AfmBOoqGVHjz5Hxel039Lz72fBYaODliNZKn28159MKxyIMydIsdThxZ
- Develop a system to keep all tenants informed about what is happening. See above for different methods such as group text messages.
- Keep records or minutes of what decisions are being made and what issues are being discussed.
- Make sure that one person is always responsible for keeping all the minutes and correspondence and paperwork that the group generates.

2. Setting Up Committees

Committees are teams of people who share responsibility for tasks. Most tenant groups, no matter how big, usually have a core group of people who are the "worker bees," the people who do things together and accept the major responsibility of keeping the group functioning.

Groups form committees to focus special attention on a particular task or problem. It is a way to divide up work without spreading people too thin. It is also a way to get people involved. Common committees include:

Negotiating Committee:

Tenants who are responsible for negotiating with the landlord.

Outreach Committee:

Reaches out to new tenants.

Education Committee:

Can teach tenants about what their rights are.

Fundraising Committee:

Raises money to pay the costs of photocopying, mailing, and other expenses.

3. Working with a Lawyer

Having a lawyer who works for your group can be a major asset. The legal system can be very confusing and technical. A good lawyer will take the time to clarify what the legal language means in plain and simple terms, answer and research your questions, and offer advice and recommendations for your group to consider.

It's very common, however, for people to accept a lawyer as their leader. A lawyer is not a tenant leader, but a professional who serves a group. Your tenant group is the client. Final decisions belong to you. A good lawyer will respect your decision-making role.

If you have tenants in the group that do not speak or read English, make sure that all the communications from the lawyer are translated so that everyone is kept informed and is able to fully participate in the decision-making processes of the group.

Effective tenant organizations use the legal system strategically as one way to make change. But many times there is more than one way to accomplish the goal, and it is when legal strategies are woven into other strategies that pressure can be brought to bear to create a solution. For example, in some cases, meeting with a public official may lead to a quicker and more long-term solution than a court case, which may take more time to work its way to completion.

If you rely on legal action and lawsuits alone, you may also find that your group will begin to weaken. Legal action, when used alone, can lead to a very passive attitude among residents. People can't really participate in a lawsuit other than simply following the news, signing papers, and perhaps testifying. The strength of organizing is the strength of your people and their participation in organizing actions. People can participate in letter-writing

campaigns, in public meetings with government officials and landlords, and in press conferences and protest actions.

Tenant organizations that have formed successful partnerships with attorneys sometimes refer to their respective roles as that of the "sword" and the "shield." The tenant organization makes all the key moves to effect change, and the attorney takes the legal steps necessary to protect the organization and its members and thus permit them to do their work.

Endnotes

1. See *When We Fight We Win: Twenty-First Century Social Movements and the Activists that are Transforming the World* by Greg Jobin Leeds & Agitarte at 115–17, 124–25 (2016).
2. For more in depth description of this fight, see *When We Fight, We Win: Eviction Defense as Subversive Lawyering* by Eloise Lawrence, 90 *Fordham L. Rev.* 2125, 2145-2149 (2022)
3. Jury Says That Tenants in Uphams Corner Case Can Stay in Their Homes, by Katie Trojano, *Dorchester Rep.*, Nov. 14, 2019, at 1, 15.
4. Both G. L. c. 186, § 18, a affirmative claim or counterclaim, and G. L. 239, § 2A, a defense in an eviction, protect tenants from “reprisal” or retaliation for “organizing or joining a tenants’ union or similar organization.”
5. For more about the Community Development Block Grant process, go to www.hudexchange.info/onecpd/assets/File/The-Community-Development-Block-Grant-FAQ.pdf
6. Some tenant groups have found ways to transfer the ownership of their property to more responsible owners, local nonprofit housing developers, or even themselves. For example, tenants have worked with local community development corporations to purchase properties at a good price and convert them to affordable housing. An owner-occupant who is having trouble managing their property may welcome having a local group manage the property or turn it into affordable condominiums that the condo group manages.
7. An effort by tenant advocacy groups to get the Boston City Council to enact an ordinance that would have required certain landlords to engage in collective bargaining with duly formed tenant associations was defeated in the summer of 2007 by a vote of 8 to 5. No such law exists anywhere in Massachusetts—although a landlord’s refusal to collectively bargain might be seen as an unfair business practice and thus a violation of the state’s consumer protection statute. See G. L. c. 93A. San Francisco recently passed an ordinance requiring landlords to confer in good faith with tenants which places an obligation on landlords that does not exist in Massachusetts. However, the San Francisco law also establishes the right to form a tenant association in buildings with 5 or more units. Massachusetts does not have a minimum unit size for a lawful tenant association to exist. The San Francisco law is called the “Tenant Right-To-Organize legislation” or “Tenant-At-Home Ordinance.” For more information about the law go to, www.sf.gov/news/new-legislation-tenant-organizing-and-tenantassociations#:~:text=The%20Right%2DTo%2DOrganize%20legislation,on%2Dresident%20advocates%20or%20guests
8. The anti-reprisal claim and defense in both G. L. c. 186, § 18 and G. L. 239, § 2A contain a “rebuttable presumption” that an adverse action, such as notice to quit or a rent increase, within six months of organizing or joining a tenants’ union is presumed retaliation. This presumption is extremely important because it means that the landlord can only rebut with “clear and convincing” evidence that it was not retaliation. If you do not fall within the presumption, it is difficult to prove intent to retaliate by the landlord. Therefore, anchoring the timing of

the organizing with a dated letter can help the tenants prove that they are entitled to the rebuttable presumption.

9. You can distribute leaflets on public property, such as sidewalks and in the landlord's neighborhood. The First Amendment protection extends to the peaceful distribution of literature on public streets and peaceful picketing. For example, you can picket any office as long as you stay on the public sidewalk, aren't obstructing access or acting violently, and aren't pursuing an illegal objective. In *Organization for a Better Austin v. Keefe*, 402 U.S. 415 (1971), the Supreme Court removed an injunction against a citizens' group that was distributing leaflets against a realtor who made his living from blockbusting (the illegal practice of inducing homeowners to sell their properties by making representations regarding the entry or prospective entry of persons of a particular race or national origin into the neighborhood). (*Keefe*, at 420.) They left the leaflets at the doors of his neighbors and gave them to people coming out of his church and at shopping centers. (*Keefe*, at 417.) The court said that this activity was legal. (*Keefe*, at 419-20.) However, you may not distribute leaflets on private property if the owner or tenant has forbidden you to come onto the property. See G. L. c. 266, § 120.
10. There is no legal basis for a landlord to demand that you take down a sign hanging on the inside of your window— although they may try.

Lawyers advising tenants on a rent strike for conditions of disrepair should be aware of G.L. c. 239, § 8A and its requirement that the tenant will have to prove the landlord knew of the conditions before the tenants withheld rent. While it is possible to prove knowledge through constructive notice, it is safer to ensure actual knowledge either through written communication from the tenants to the landlord or an inspection report by a local board of health or inspectional services department.
12. The Federal Community Reinvestment Act (“CRA”) is 12 U.S.C. § 2901 and regulations 12 C.F.R. parts 25, 228, 345, and 563e. For more about federal CRA history, regulations, and how to access CRA lending information, see the Federal Financial Institutions Examination Council website at www.ffiec.gov/cra/default.htm. The state Community Reinvestment Act is G. L. c. 167, § 14. Regulations for the Massachusetts CRA can be found at 209 C.M.R. § 46.00. See the Commonwealth’s website at www.mass.gov/ocabr/banking-and-finance/banks-and-credit-unions/community-reinvestment-act/.