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Judge orders state to enforce housing rules

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The Associated Press*

MONTPELIER -- A division of the Vermont Department of Public Safety for years failed to enforce the state's building codes by relying on voluntary compliance from landlords, a practice that in some cases forced tenants from their homes, a judge has ruled.

In the latest chapter of a long-running legal case, Franklin Superior Court Judge Ben Joseph issued a summary judgment in favor of Vermont renters or tenants, represented by Vermont Legal Aid. The ruling ordered the department to come up with a plan to enforce the building codes as intended by the Legislature.

He said that between 2002 and earlier this year, state inspectors found more than 4,000 violations and collected fines in three cases.

"It is obvious that landlords in Vermont know that no direct punishment will be imposed for housing code violations in rental properties," Joseph wrote in the ruling released last week.

"The harshest consequence of this practice falls on the tenants, not the landlord," Joseph wrote. "Tenants are thrown out of their homes when the department finds that serious housing code violations are not corrected. ... These enforcement powers were meant to protect the tenants' safety, not to punish tenants when their landlords fail to correct code violations."

Building codes governing such things as plumbing and electrical systems are enforced in Vermont by the Division of Fire Safety, a part of the Department of Public Safety.

Legal Aid attorney Geoffrey Walsh said the decision would put teeth into code enforcement.

"When ... (tenants) call up code enforcement officials, they don't have to worry about the inspector evicting them," Walsh said. "They know the landlord isn't going to laugh about it."

Assistant Attorney General Michael Donofrio, who represents the department, said officials were still evaluating Joseph's ruling and hadn't made a decision on how to proceed. The next step will be to hold a hearing in Superior Court to outline how Joseph's order will be implemented.

Donofrio said the department wanted to focus on the future rather than the past.

He said the enforcement landscape changed a few years ago when code enforcement moved to the new Division of Fire Safety within the Department of Public Safety.

The case grew from St. Albans in which a building at 13 High St. was inspected seven times between 2000 and 2002. Inspectors found "numerous and serious hazards," including defective smoke detectors, lack of self closing doors, unsafe stairs, improper railings and undersized windows.

The owner didn't make repairs until after the department had gone to court and ordered the tenants evicted. Legal Aid kept the tenants in the apartments, and the repairs were finally made.

The lawsuit was filed in 2002, but it was dismissed by the Franklin Superior Court in 2004. In 2006 the Vermont Supreme Court reinstated the case. In 2007 it became a class action lawsuit on behalf of all Vermont tenants.

In court papers filed last month, Donofrio said that since the lawsuit was originally filed, the Department of Fire Safety has implemented a new system of following up on violations by working closely with landlords.

"The inspector enters into a dialogue with the landowner and attempts to move the landowner closer and closer to compliance with the codes," Donofrio said Thursday.

Legal Aid attorney Maryellen Griffin said most landlords will correct problems without the need to resort to fines.

"There are a few bad apples out there who won't do the right thing," she said. "You need to have a consequence."

Corinne Bluto, 55, has lived at 13 High St. in St. Albans, the building that started the lawsuit, for 22 years. In years past, the water froze and her stove broke. At one point she was the only tenant in the five-apartment building.

"It was just a mess, all and all," Bluto said.

Now 13 High St. has a new owner.

"Things have gotten better. It's all been renovated and carpeted," Bluto said. "Everything's pretty well up to date."
