



BOSTON HOUSING AUTHORITY

PROCEDURES FOR ISSUING A NO TRESPASS NOTICE
AGAINST NONRESIDENTS



PROCEDURES FOR SERVING A NO TRESPASS NOTICE.

I. INTRODUCTION

The BHA is committed to providing a safe environment for our residents and employees, and this often requires dealing with nonresidents.. Sections 9 and 10 demonstrate two tools that may effectively assist Managers in successfully keeping nonresidents who are dangerous or interfere with the quiet enjoyment of BHA, residents out of BHA developments.. One tool is to serve a No Trespass Notice (Form TP/1), and the second is a 121B Restraining Order.. Each method has its own unique requirements and consequences.. This section discusses the necessary steps to successfully secure a No Trespass Notice..

II. NO TRESPASS NOTICE

By law, a No Trespass Notice can be a verbal **or** written notification to a nonresident that informs the individual that he/she must stay off BRA property.. Pursuant to these procedures, notice should be in writing,. The notice (Form IP/1) is given to the nonresident by the BHA or its designee pursuant to M.G.L. Ch.. 266, § 120. This notice can subject the individual to arrest and prosecution if he/she refuses to leave or stay off of BHA property.

A. Deciding to serve a No Trespass Notice

It is BHA policy that only BHA employees, BHA contractors, and their employees, and BHA residents, are allowed on BHA common areas. Also permitted on BHA common areas are the invited guests of these stated individuals, as well as those required to be allowed on BHA property to exercise their First Amendment free speech rights.. However, in certain cases it is appropriate to reinforce that policy by giving explicit notice to a nonresident that he/she is not welcome on BHA common areas..

Managers need a valid reason to serve an individual with a No Trespass Notice. Reasons for a Manager to serve a No Trespass Notice include any acts that would constitute a lease violation if the individual were a resident.. Such an example of a reason to serve a No Trespass Notice is the individual is disturbing the quiet enjoyment of BHA residents.. Service of a No Trespass Notice is also warranted if the manager is aware that the individual has engaged in criminal activity on or off BHA property, or if the manager has received an enforceable permanent or long-term restraining order (other than under 121B, §32C) prohibiting contact with a BHA resident or employee A Manager can also issue a No Trespass Notice to a squatter (See Squatter Eviction Section 11).. A BHA police officer may serve a No Trespass Notice on a nonresident in the same circumstances that a Manager can.. If a BHA police Officer does so, he/she must give

copies of the notice to the Manager and to the other officers assigned to the area.

A space has been provided in the Form TP/1 for indicating the Manager's reason for serving the notice, and must be filled out before anyone serves the individual.. Once the Form IP/1 is complete, it must be served on the individual, and service is crucial It is important to emphasize that the certificate of service must be filled out by the Manager..

It is important to stress that only nonresidents are subject to a No Trespass Notices. If individual is a Resident or an authorized member of a Resident's family composition he/she may not be served with a No Trespass Notice.. If such person's conduct amounts to a lease violation the issue must be dealt with by the BHA procedures for' cause evictions.. (See, Chapter II for the relevant cause section)

B. Grievance Possibilities

Individuals served with a No Trespass Notice **do not** have a right to grieve the notice, not are managers required to meet with the individual, If the individual requests to meet with the Manager it would be prudent to do so.. The meeting can serve to strengthen any future case against the individual or the Manager may come to a mutually acceptable compromise with the individual.. The Manager should keep in mind that any meeting is strictly discretionary.. If the Manager determines to have a meeting with the individual, the Manager should take notes of the meeting including the time, date, place, individuals present, and decision as to how to proceed, All notices and notes regarding No Trespass Notices should be kept by the Manager in a separate, easily accessible, file.,

C. Violation of the No Trespass Notice

Once an individual has been *served* with a No Trespass Notice and he/she refuses to leave the premises or he/she returns to the property, he/she is in violation of the No Trespass Notice, and has committed a crime. If the Manager is uncertain whether the individual has received the written notice, the Manager' should give the individual a verbal notice and a new written No Trespass Notice.. The individual must be told to leave the premises or risk being treated as a trespasser.. Managers must then contact BHA Public Safety Department or the police department to enforce the No Trespass Notice

There are several potential outcomes once the police are called.. If the police come to the scene and the individual is still on the property, the police may arrest him/her immediately . The police may also ask the individual to leave the area and issue a summons to him/her to appear in District Court at a future date., If the police do not arrest the individual, the Manager may complete a formal criminal complaint to have the matter prosecuted.. The criminal complaint form can be obtained at the local District Court.. If the individual is not on the premises when the police arrive, the police cannot arrest the individual unless there has been a felony committed along with the trespass. The Manager must then file a criminal complaint to insure prosecution for the trespass..

Prosecuting a No Trespass Notice is a criminal matter, and would be handled by the local District Attorney's *office*. The Manager must be prepared to provide the District Attorney's office with all the reasons a No Trespass Notice was issued, and names of witnesses to the trespass and the service of the No Trespass Notice.. The Manager and/or the witness(es) must be prepared to testify if the individual is to be kept off of BHA property. This may take several court appearances, with very limited results the first few times,, However, if the Manager is persistent the District Court will eventually incarcerate the individual.

D. Limitations to the No Trespass Notice

A defense an individual may use to avoid prosecution is to claim he/she has a lawful reason to be on the property., The most common reason given is he/she is visiting a resident.

The nonresident **does not** have the right to see anyone, but a resident **does** have the right to invite any individual not barred by a restraining order as a guest.. Therefore, when an individual who has been served with a No Trespass Notice has been invited to visit by a resident, he/she has a lawful reason to cross the common areas of BHA property solely for the purpose of access to and egress from the resident's apartment.

It is best for the Manager to discuss with the resident the concerns about why he/she want the nonresident to stay off of BHA property.. The resident may agree with the Manager and not allow the person to visit, However, if he/she does not agree and insists on allowing the individual to visit, the Manager's meeting with the resident will be strong evidence to evict the resident if his/her nonresident guest continues his/her disruptive behavior.. The Manager should keep notes of any meeting with a resident in regard to an individual served with a No Trespass Notice,, The notes should indicate the time, date, place, individuals present, and any decisions as to how to proceed.. One copy of the notes should be kept in the resident's file and the other copy kept with the nonresident's No Trespass Notice..

◀ **Boston Housing Authority** 52
Chauncy Street
◀ Boston, MA 02111-2375

NO TRESPASS NOTICE

TO: _____

Date: _____

By _____

This **No Trespass Notice** is to advise you that you are no longer welcome on the property of the **BOSTON HOUSING AUTHORITY** for the following reason(s): _____

If you enter in or upon the land of the BHA you will be in violation of Massachusetts General Laws Chapter 266, Section 120, Trespassing after being forbidden to do so, and will be subject to arrest and prosecution., If you have been informed verbally not to come onto BHA property, this notice serves to confirm that verbal notification.,

Yours truly,
Boston Housing Authority

By _____

Name: _____

Te _____

cc: Boston PoliceArea
Municipal Police / Boston Housing Public Safety
Boston Police ICommunity Disorders Unit

CERTIFICATE OF SERVICE

I, _____, on the _____ day of _____, 199 __, did serve upon _____ this No Irespas Notice:

by ~~delivering~~ by mailing certified, and first class to the above address known

by me to be the last and usual address of

the above named individual Certified Mail Number: _____

by leaving it at the above address known by me to be the last and usual address of the above named

individual and by mailing first class to same address.

By _____

Signature: _____