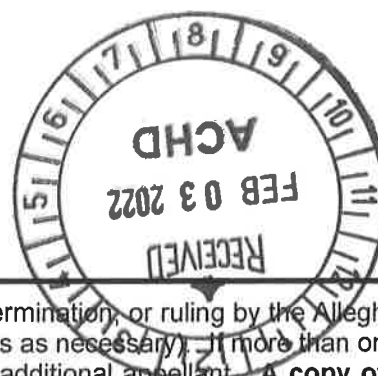




Notice of Appeal



This form is used to file an appeal of an order, notice, decision, determination, or ruling by the Allegheny County Health Department. Please complete this form (use additional pages as necessary). If more than one person or entity is filing this appeal, please attach a separate form for each additional appellant. **A copy of the order, notice, decision, determination, or ruling must be attached to the Notice of Appeal.**

Name McKeesport Housing Authority

Mailing Address 2901 Brownlee Avenue

City McKeesport State PA Zip 15132 Email _____

Phone (412)673-6942 Fax (optional) _____

If you are represented by an attorney, please provide contact information for your attorney:

Name Joanne L. Parise, Esquire

Mailing Address 3907 Old William Penn Highway, Suite 304

City Murrysville State PA Zip 15668 Email jparise@cbattorneys.com

Phone (724) 733-8832 Fax (optional) (724) 733-8834

Describe your objections to the Department's actions and a statement describing the relief you want the Hearing Officer to grant. (*The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Use additional pages if necessary.*)

McKeesport Housing Authority appeals from the two (2) separate Notices dated January 5, 2023
both arising from an inspection performed on December 12, 2022 and both having been assigned
SR # HCE-20221101-5182.

By filing this Notice of Appeal with the Allegheny County Health Department, I hereby certify that the information submitted is true and correct to the best of my information and belief.

Signature Joanne Parise Date 2/3/23

Appeals should be submitted in person or by mail to:
**Allegheny County Health Department
Attention: Hearing Officer
542 4th Avenue
Pittsburgh, PA 15219**

Allegheny County Health Dept. v. McKeesport Housing Authority
SR#: HCE-20221101-5182
Property Address: 23-H Crawford Village, McKeesport, PA 15132
Inspection Date: 12/12/2022
Inspector: Elliot Schlaich

**OBJECTIONS TO DEPARTMENT'S ACTIONS AND STATEMENT DESCRIBING
REQUESTED RELIEF**

The McKeesport Housing Authority (“MHA”) hereby states the following objections to the attached notice issued by the Allegheny County Health Department (“ACHD”) on January 5, 2023, pertaining to Service Request No. HCE-20221101-5182 (“Notice”).

1. MHA objects to the Notice because the inspection purportedly giving rise to the alleged violations in the Notice did not comport with the requirements of due process. Specifically, ACHD did not provide MHA with notice of the inspection and, therefore, deprived MHA of the right to be present for and observe the inspection.

2. MHA objects to the Notice because Section 652 is impermissibly vague in violation of due process, as it is impossible to distinguish on the face of the Ordinance what constitutes an “infestation” of cockroaches. Further, Section 604 of Article VI which purports to define the term “infestation” is impermissibly vague in violation of due process.

3. MHA objects to the Notice because Section 652 is impermissibly vague in violation of due process, as it is impossible to distinguish on the face of the Ordinance what constitutes a “Class 3 Violation”. Further, Section 615 of Article VI which purports to define the terms “Class 3 Violation” and “Major Pest Vector Problem” is vague and ambiguous, and thus does not adequately apprise MHA of the nature of the offense.

4. MHA objects to the Notice relating to the alleged violation of Section 652 for “evidence of cockroach infestation” as set forth in the Inspection Report at Page 1 for the following reasons:

- a. Section 652 is impermissibly vague in violation of due process, as the term “infestation” is vague and ambiguous;
- b. The Notice does not establish the existence of a “major rodent or other pest vector infestation” such that the “violation” would present a “class 3” violation under Article VI;
- c. The Notice does not establish that the alleged infestation was caused by MHA’s “failure . . . to maintain the dwelling in a rodent-proof or reasonably insect-proof condition”;
- d. The occupant Dominique Lane (“**Lane**”) caused the alleged infestation by failing to properly maintain the unit as required by the terms of her lease with MHA (“**Lease**”), including by creating conditions that foster insect infestation such as leaving unpackaged food throughout the unit;
- e. The Notice does not establish that MHA failed to comply with its obligation, if any, to exterminate;
- f. MHA respectfully submits that MHA does regularly provide extermination services at the subject premises and at all of its sites;
- g. Lane has refused to permit MHA to access the unit to perform extermination services;
- h. MHA performed pest control treatment at the premises on December 14, 2022;
- i. Lane refused to permit MHA to access the unit to perform pest control services on January 11, 2023;
- j. MHA’s inspection of the unit on January 12, 2023 revealed no pest activity and, thus, MHA has corrected the alleged violation.

5. **Requested Relief.** MHA respectfully requests that:
- a. ACHD withdraw the Notice;
 - b. ACHD reimburse to MHA its costs, expenses, and fees in responding to the Notice; and,
 - c. ACHD provide reasonable notice of any and all future inspections to MHA so that MHA and its counsel have the opportunity to be present for such inspections.

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

Housing Authority Of City Of Mckeesport
2901 Brownlee Avenue
Fl Mc Keesport PA 15132

January 5, 2023

RE : SR# HCE-20221101-5182

Property 23 CRAWFORD VILLAGE APT H
Address : Mckeesport, PA 15132
Census Tract : 55512

Dear Sir/Madam:

An inspection of the property listed above was conducted on 12/12/2022 by Elliot Schlaich. The following violations of Article VI, "Housing and Community Environment," were verified at that time. Attached is an inspection report listing these violations.

1 Class 3 violation(s) exist(s). A Class 3 violation is defined as a condition which represents an actual or potential health hazard or nuisance. These violations are to be corrected by 02/09/2023 .

Failure to comply will result in a complaint filed before the Magistrate and/or civil penalties. Under Section 660, should the dwelling become vacant prior to correction of these violations, the dwelling must be inspected and corrections verified by this Department prior to reoccupancy.

Pursuant to Article XI entitled "Hearings and Appeals," you are hereby notified that you have thirty (30) days after issuance of this written notice to file an appeal. The appeal shall be made in writing and must set forth with particularity all issues to be raised. The notice of appeal shall be submitted to the Allegheny County Health Department, Office of the Director, 542 4th Ave, Pittsburgh, Pennsylvania 15219. In the event that an appeal is not filed within thirty (30) days after issuance of this written notice, the within action shall become final.

If you have any questions, you may contact this office at (412)350-4046.

Sincerely,

Elliot Schlaich
Environmental Health Specialist

ES:Sb

Attachment

cc: Tenant



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
HOUSING & COMMUNITY ENVIRONMENT PROGRAM
3190 SASSAFRAS WAY (NEAR 32ND ST. AT LIBERTY AVE.)
PITTSBURGH, PA 15201-1443
PHONE: 412.350.4046 • FAX: 412.350.2792
WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



Allegheny County Health Department

Inspection Report - Complaint Housing

SR#: HCE-20221101-5182

Owner Violations

Property Address : **23 Crawford Village Apt H, McKeesport 15132**

Inspection # 1

Census Tract : 55512

Property Type : (N/A 0 Units)

Inspector : Elliot Schlaich

Inspection Date : December 12, 2022

Time : 11:00

Contacts:

Ms DOMINIQUE LINE Tenant
23 Crawford Village Apt H
Mc Keesport , PA 15132

HOUSING AUTHORITY OF CITY OF MCKEESPORT
Owner
2901 Brownlee Avenue
Fl Mc Keesport , PA 15132

(412) 457-5719

(412) 673-6942

Listed below are the Article 6 violations that require corrective action.:

Ground Level

Apartment

Section 652 006 (O)(S)

Class 3

Location : None

Violation Status : **First**

Violation : Evidence of cockroach infestation: live or dead insects, egg cases visible.

Remedy : Exterminate cockroaches using licensed pesticide treatment company and remove food sources.

Comments : Multiple live and dead roaches observed in APT H, G, and E. Roaches were observed in kitchens of all 3 apartments.

----- **END OF REPORT** -----

All Violations Verified by the Inspector :



Allegheny County Health Dept. v. McKeesport Housing Authority
SR#: HCE-20221101-5182
Property Address: 23-H Crawford Village, McKeesport, PA 15132
Inspection Date: 12/12/2022
Inspector: Elliot Schlaich

**OBJECTIONS TO DEPARTMENT'S ACTIONS AND STATEMENT DESCRIBING
REQUESTED RELIEF**

The McKeesport Housing Authority (“MHA”) hereby states the following objections to the attached notice issued by the Allegheny County Health Department (“ACHD”) on January 5, 2023, pertaining to Service Request No. HCE-20221101-5182 (“Notice”).

1. MHA objects to the Notice because the inspection purportedly giving rise to the alleged violations in the Notice did not comport with the requirements of due process. Specifically, ACHD did not provide MHA with notice of the inspection and, therefore, deprived MHA of the right to be present for and observe the inspection.

2. MHA objects to the Notice because Section 652 is impermissibly vague in violation of due process, as it is impossible to distinguish on the face of the Ordinance what constitutes an “infestation” of rodents. Further, Section 604 of Article VI which purports to define the term “infestation” is impermissibly vague in violation of due process.

3. MHA objects to the Notice because Section 652 is impermissibly vague in violation of due process, as it is impossible to distinguish on the face of the Ordinance what constitutes a “Class 3 Violation”. Further, Section 615 of Article VI which purports to define the terms “Class 3 Violation” and “Major Pest Vector Problem” is vague and ambiguous, and thus does not adequately apprise MHA of the nature of the offense.

4. MHA objects to the Notice relating to the alleged violation of Section 652 for “evidence of rodent infestation” as set forth in the Inspection Report at Page 1 for the following reasons:

- a. Section 652 is impermissibly vague in violation of due process, as the term “infestation” is vague and undefined;
- b. The description of the “Violation” is impermissibly vague in violation of due process. Specifically, the description indicates “rodent droppings, carcasses, rub marks, chewed areas, or burrows seen.” (emphasis added). A list of possible types of “evidence of rodent infestation” that does not specify which type of evidence the Inspection purports to have observed in the subject unit does not adequately apprise MHA of the nature of the offense.
- c. The Notice does not establish that MHA is responsible for extermination of the premises. Section 652 provides that where only one (1) unit is impacted, the responsibility for extermination lies with the occupant (i.e., Dominique Lane (“Lane”), incorrectly identified as Dominique Line in the Notice) rather than the owner (i.e., MHA). The Notice does not establish that more than one (1) unit is impacted by the alleged rodent infestation. Further, Section 652 only shifts responsibility for extermination to the owner where “the infestation . . . is caused by failure of the owner to maintain the dwelling in a rodent-proof or reasonably insect-proof condition.” The Notice does not establish that the alleged infestation was caused by MHA’s “failure . . . to maintain the dwelling in a rodent-proof or reasonably insect-proof condition.”;
- d. Even assuming, *arguendo*, that MHA is responsible for extermination, the Notice does not establish that MHA failed to comply with its obligation to exterminate;
- e. The Notice does not indicate that any live rodents were observed;

- f. MHA respectfully submits that MHA does regularly provide extermination services at the subject premises and at all of its sites;
 - g. MHA performed pest control treatment at the premises on December 14, 2022;
 - h. Lane refused to permit MHA to access the unit to perform pest control services on January 11, 2023;
 - i. MHA's inspection of the unit on January 12, 2023 revealed no pest activity and, thus, MHA has corrected the alleged violation.
5. **Requested Relief.** MHA respectfully requests that:
- a. ACHD withdraw the Notice;
 - b. ACHD reimburse to MHA its costs, expenses, and fees in responding to the Notice; and,
 - c. ACHD provide reasonable notice of any and all future inspections to MHA so that MHA and its counsel have the opportunity to be present for such inspections.

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

Ms Dominique Line
23 Crawford Village
Mc Keesport PA 15132

January 5, 2023

RE : SR# HCE-20221101-5182

Property 23 CRAWFORD VILLAGE APT H
Address : Mckeesport, PA 15132
Census Tract : 55512

Dear Ms Line:

An inspection of your residence was conducted on 12/12/2022 by Inspector Elliot Schlaich. The following violations of Article VI, "Houses and Community Environment," were verified at that time. Attached is an inspection report listing these violations.

1 Class 3 violation(s) exist(s). A Class 3 violation is defined as a condition which represents an actual or potential health hazard or nuisance. These violations are to be corrected by 02/09/2023 .

Failure to comply will result in a complaint filed before the Magistrate and/or civil penalties.

Pursuant to Article XI entitled "Hearings and Appeals," you are hereby notified that you have thirty (30) days after issuance of this written notice to file an appeal. The appeal shall be made in writing and must set forth with particularity all issues to be raised. The notice of appeal shall be submitted to the Allegheny County Health Department, Office of the Director, 542 4th Ave, Pittsburgh, Pennsylvania 15219. In the event that an appeal is not filed within thirty (30) days after issuance of this written notice, the within action shall become final.

If you have any questions, you may contact this office at (412)350-4046.

Sincerely,

ES:ES
Elliot Schlaich
Environmental Health Specialist

ES:Sb
Attachment
cc: Owner



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
HOUSING & COMMUNITY ENVIRONMENT PROGRAM
3190 SASSAFRAS WAY (NEAR 32ND ST. AT LIBERTY AVE.)
PITTSBURGH, PA 15201-1443
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Advancing
public health
performance

Allegheny County Health Department

Inspection Report - Complaint Housing

SR#: HCE-20221101-5182

Tenant Violations

Property Address : **23 Crawford Village Apt H, McKeesport 15132**

Inspection # 1

Census Tract : 55512

Property Type : (N/A 0 Units)

Inspector : Elliot Schlaich

Inspection Date : December 12, 2022

Time : 11:00

Contacts:

Ms DOMINIQUE LINE Tenant

23 Crawford Village Apt H

Mc Keesport , Pa 15132

(412) 457-5719

Listed below are the Article 6 violations that require corrective action :

1st Floor

Kitchen

Section 652 005 (T)(D)

Class 3

Location : None

Violation Status : **First**

Violation : Evidence of rodent infestation: rodent droppings, carcasses, rub marks, chewed areas, or burrows seen.

Remedy : Exterminate rodents using licensed pesticide treatment company. Remove food sources, harborage areas, and eliminate entries.

Comments : Rodent droppings observed behind refrigerator.

----- END OF REPORT -----

All Violations Verified by the Inspector :

