

ALLEGHENY COUNTY HEALTH DEPARTMENT
ADMINISTRATIVE HEARINGS

McKEESPORT HOUSING AUTHORITY,

Appellant,

v.

ALLEGHENY COUNTY HEALTH
DEPARTMENT,

Appellee.

In re: 57-F Crawford Village

Docket No. ACHD-23-011

JOINT MOTION TO DISMISS

FILED ON BEHALF OF:

**McKEESPORT HOUSING
AUTHORITY, APPELLANT**

COUNSEL OF RECORD:

Counsel for Appellant:

James W. Creenan, Esquire

Pa. ID. No. 79213

Joanne L. Parise, Esquire

Pa. ID. No. 328877

Creenan & Baczkowski, PC
Town Square Professional Building
3907 Old William Penn Highway
Suite 304
Murrysville, PA 15668
(724) 733-8832
(724) 733-8834 (facsimile)
jccreenan@cbattorneys.com
jparise@cbattorneys.com

Counsel for Appellee:

Elizabeth Rubenstein, Esquire

Pa. ID. No. 323254

Allegheny County Health Department
301 39th Street
Clack Health Center, Building # 7
Pittsburgh, PA 15201-1811
(412) 578-8361
elizabeth.rubenstein@alleghenycounty.us

4. MHA and ACHD consent to the dismissal of the Enforcement Action.
5. MHA and ACHD consent to the dismissal of MHA's appeal without prejudice to MHA's right to raise the objections raised in the Notices of Appeal in any future enforcement action arising out of or relating to the January 5 Notice, the Enforcement Action, and/or the Property.

WHEREFORE, Appellant McKeesport Housing Authority and Appellee Allegheny County Health Department respectfully request that the Hearing Officer enter the attached proposed order dismissing the Enforcement Action and MHA's appeal, without prejudice.

Respectfully Submitted,

CREENAN & BACZKOWSKI, PC

ALLEGHENY COUNTY HEALTH DEPARTMENT

BY: /s/ Joanne L. Parise
James W. Creenan, Esquire
Pa. ID. No. 79213
Joanne L. Parise, Esquire
Pa. ID. No. 328877
*Counsel for Appellant McKeesport
Housing Authority*

BY: /s/Elizabeth Rubenstein
Elizabeth Rubenstein, Esquire
Pa. ID. No. 323254
*Assistant Solicitor for Appellee
Allegheny County Health Department*

ALLEGHENY COUNTY HEALTH DEPARTMENT
ADMINISTRATIVE HEARINGS

McKEESPORT HOUSING AUTHORITY, In re: 57-F Crawford Village

Appellant, Docket No. ACHD-23-011
v.

ALLEGHENY COUNTY HEALTH
DEPARTMENT,

Appellee.

ORDER

AND NOW, this _____ day of _____, 2023, upon consideration of Appellant McKeesport Housing Authority's and Appellee Allegheny County Health Department's *Joint Motion to Dismiss* and upon consent of the parties, IT IS HEREBY ORDERED that the Motion is GRANTED, as follows:

- (1) The Enforcement Action of SR# HCE-20221122-5389 is hereby DISMISSED.
- (2) McKeesport Housing Authority's Appeal is hereby DISMISSED, without prejudice.

CONSENTED TO:

/s/ Joanne L. Parise
James W. Creenan, Esquire
Pa. ID. No. 79213
Joanne L. Parise, Esquire
Pa. ID. No. 328877
*Counsel for Appellant McKeesport Housing
Authority*

/s/Elizabeth Rubenstein
Elizabeth Rubenstein, Esquire
Pa. ID. No. 323254
*Assistant Solicitor for Appellee Allegheny
County Health Department*

John F. McGowan
Hearing Officer
Allegheny County Health Department

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

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

January 5, 2023

RE : SR# HCE-20221122-5389

Property : 57 CRAWFORD VILLAGE APT F
Address : Mckeesport, PA 15132
Census Tract : 55512

Dear Sir/Madam:

An inspection of the property listed above was conducted on 12/15/2022 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 2 violation(s) exist(s). A Class 2 violation is defined as a major health hazard. These violations are to be corrected by 02/09/2023 .

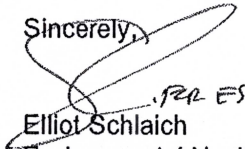
1 Class 3 violation(s) exist(s). A Class 3 violation is defined as a condition which represents an actual or potential health hazard or nuisance. These violations are to be corrected by 02/09/2023 .

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: Occupants



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-20221122-5389

Owner Violations

Property Address : **57 Crawford Village Apt F, McKeesport 15132**

Inspection # 1 Census Tract : 55512 Property Type : (Multi-Family 0 Units)

Inspector : Elliot Schlaich Inspection Date : December 15, 2022 Time : 10:50

Contacts:

Mr. JERAMYIA CROMERDIE Occupant	HOUSING AUTHORITY OF CITY OF MCKEESPORT Owner 2901 Brownlee Avenue Mc Keesport , PA 15132
(412) 447-5401	(412) 673-6942

Ms DESIREE SIMMONS Occupant
57 Crawford Village Apt F
Mc Keesport , PA 15132
(412) 636-3426

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

Not Applicable **Apartment**
Section 652 004 (O)(S) Class 2
Location : None Violation Status : **First**
Violation : **Severe cockroach infestation, cockroaches underfoot.**
Remedy : Exterminate entire dwelling using licensed pesticide treatment company.
Comments : Multiple roaches observed in apartment on floors and walls on multiple levels of the apartment.

Not Applicable **Apartment**
Section 652 010 (O)(S) Class 3
Location : None Violation Status : **First**
Violation : Stinging or biting insect infestation.
Remedy : Exterminate using licensed pesticide treatment person/company.
Comments : **Bed bugs infestation observed in unit 57F on all levels (living rooms furniture, bedroom furniture)**
Bedbugs also observed in unit 57G on living room furniture.

Comments: Inspector gained access to neighboring apartments (57G and 57H) where roaches were also observed in the living rooms.



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.*)

Please see the attached Objections to Department's Actions and Statement Describing Requested Relief.

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 L. 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-20221122-5389
Property Address: 57-F Crawford Village, McKeesport, PA 15132
Inspection Date: 12/15/2022
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-20221122-5389 (“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 insects. 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 2 Violation” and “Class 3 Violation”. Further, Section 615 of Article VI which purports to define the terms “Class 2 Violation”, “Class 3 Violation”, “Massive Pest Vector Infestation”, 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 “severe 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 undefined;
- b. The description of the “violation” is impermissibly vague in violation of due process, specifically, the terms “severe cockroach infestation” and “multiple” are vague and undefined, and thus does not adequately apprise MHA of the nature of the offense;
- c. The Notice does not establish that the “violation” presents, “major health hazards” such that the “violation” would present a “class 2” violation under Article VI;
- d. The Notice does not establish that MHA failed to comply with its obligation, if any, to exterminate;
- e. MHA respectfully submits that MHA does regularly provide extermination services at the subject premises and at all of its sites; and,
- f. MHA objects to the alleged violations to the extent that the alleged infestations are caused by the occupant’s refusal to permit MHA to access the premises to perform extermination services, and specifically refusing to permit MHA to access the premises to perform extermination services on December 14, 2022 – the day before the inspection where the alleged violations were observed.

5. MHA objects to the Notice relating to the alleged violation of Section 652 for “stinging or biting insect 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 Notice does not establish that the “violation” presents, “evidence of 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 MHA failed to comply with its obligation, if any, to exterminate;
- d. MHA respectfully submits that MHA does regularly provide extermination services at the subject premises and at all of its sites; and,
- e. MHA objects to the alleged violations to the extent that the alleged infestations are caused by the occupant’s refusal to permit MHA to access the premises to perform extermination services, and specifically refusing to permit MHA to access the premises to perform extermination services on December 14, 2022 – the day before the inspection where the alleged violations were observed.

6. **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
Mc Keesport PA 15132

January 5, 2023

RE : SR# HCE-20221122-5389

Property 57 CRAWFORD VILLAGE APT F
Address : McKeesport, PA 15132
Census Tract : 55512

Dear Sir/Madam:

An inspection of the property listed above was conducted on 12/15/2022 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 2 violation(s) exist(s). A Class 2 violation is defined as a major health hazard. These violations are to be corrected by 02/09/2023 .

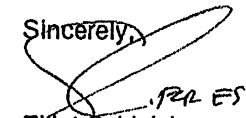
1 Class 3 violation(s) exist(s). A Class 3 violation is defined as a condition which represents an actual or potential health hazard or nuisance. These violations are to be corrected by 02/09/2023 .

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: Occupants



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-20221122-5389

Owner Violations

Property Address : **57 Crawford Village Apt F, McKeesport 15132**

Inspection # 1

Census Tract : 55512

Property Type : (Multi-Family 0 Units)

Inspector : Elliot Schlaich

Inspection Date : December 15, 2022

Time : 10:50

Contacts:

Mr. JERAMYIA CROMERDIE Occupant

57 Crawford Village Apt F
Mc Keesport , PA 15132

(412) 447-5401

HOUSING AUTHORITY OF CITY OF MCKEESPORT

Owner
2901 Brownlee Avenue
Mc Keesport , PA 15132

(412) 673-6942

Ms DESIREE SIMMONS Occupant

57 Crawford Village Apt F
Mc Keesport , PA 15132

(412) 636-3426

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

Not Applicable

Apartment

Section 652 004 (O)(S)

Class 2

Location : None

Violation Status : **First**

Violation : Severe cockroach infestation, cockroaches underfoot.

Remedy : Exterminate entire dwelling using licensed pesticide treatment company.

Comments : Multiple roaches observed in apartment on floors and walls on multiple levels of the apartment.

Not Applicable

Apartment

Section 652 010 (O)(S)

Class 3

Location : None

Violation Status : **First**

Violation : Stinging or biting insect infestation.

Remedy : Exterminate using licensed pesticide treatment person/company.

Comments : Bed bugs infestation observed in unit 57F on all levels (living rooms furniture, bedroom furniture)

Bedbugs also observed in unit 57G on living room furniture.

Comments: Inspector gained access to neighboring apartments (57G and 57H) where roaches were also observed in the living rooms.

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

June 15, 2023

VIA ELECTRONIC MAIL

McKeesport Housing Authority
2901 Brownlee St
McKeesport, PA 15132
Attn: Joanne Parise
jparise@cbattorneys.com

Re: 57 Crawford Village Apt F

Attorney Parise,

This letter is to inform you and your client, McKeesport Housing Authority, that the Allegheny County Health Department (“ACHD”) has closed its current case due at 57 Crawford Village Apt F McKeesport, PA 15132. On June 5, 2023, ACHD performed an inspection at the property and found the Class 3 violations have been abated. At this time the Department has no plans for further action, and considers the current class closed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Rubenstein'.

Elizabeth Rubenstein, Esq.
Assistant Solicitor



ALLEGHENY COUNTY HEALTH DEPARTMENT
BUREAU OF ADMINISTRATION
542 FOURTH AVENUE • PITTSBURGH, PA 15219
PHONE (412) 687-ACHD (2243) • FAX (412) 578-8325
WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing JOINT MOTION TO DISMISS has been served on the following via U.S. First Class Mail, postage prepaid, facsimile, electronic mail, or by hand delivery, on June 15, 2023:

Elizabeth Rubenstein, Esquire
ACHD Assistant Solicitor
Allegheny County Health Department
301 39th Street
Clack Health Center, Building #7
Pittsburgh, PA 15201-1811

Respectfully Submitted,

CREENAN & BACZKOWSKI, PC

BY: /s/ Joanne L. Parise
James W. Creenan, Esquire
Pa. ID. No. 79213
Joanne L. Parise, Esquire
Pa. ID. No. 328877