



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 James W. Creenan, Esquire

Mailing Address 3907 Old William Penn Highway, Suite 304

City Murrysville State PA Zip 15668 Email jcreenan@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  Date 11/28/2022

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-20220915-4298

Property Address: 5 D Harrison Village, McKeesport, PA 15132

Inspection Date: 10/25/2022

Inspector: Currier Wolfe

**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 October 27, 2022, pertaining to Service Request No. HCE-20220915-4298 (“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 relating to the alleged violation of Section 652 for “minor rodent infestation” set forth in the Inspection Report at Page 1 of 3 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 description of the “Violation” is impermissibly vague in violation of due process. Specifically, the term “minor rodent infestation” is vague and undefined, and thus 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., Raven Fitzgerald

(“**Fitzgerald**”) rather than the owner (i.e., MHA). The Notice does not establish that more than one (1) unit is impacted by the alleged 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. MHA respectfully submits that MHA does regularly provide extermination services at the subject premises and at all of its sites.

3. MHA objects to the Notice relating to the alleged violation of Section 650 for “Opening(s) in foundation permits rodent or animal entry” set forth in the Inspection Report at Page 1 of 3 for the following reasons:

- a. Section 650 is impermissibly vague in violation of due process, as the term “free from openings large enough to permit the entry of rodents” is vague and ambiguous.
- b. Fitzgerald never notified MHA of the damage to the porch.
- c. MHA repaired the porch and, thus, has corrected the alleged violation.

4. MHA objects to the Notice of Violation of Section 622 relating to a “Gap in wall of laundry room” set forth in the Inspection Report at Page 1 of 3 for the following reasons:

- a. Section 622 is impermissibly vague in violation of due process, as the term “sound and tight” and “in good repair and in safe condition” are undefined and it is impossible to determine the meaning of the terms from the face of the ordinance.
- b. Fitzgerald never notified MHA of the damage to the wall in the laundry room.
- c. MHA repaired the wall and, thus, has corrected the alleged violation.

5. MHA objects to the Notice of Violation of Section 622 relating to a “crack on right wall of laundry room” set forth in the Inspection Report at Page 2 of 3 for the following reasons:

- a. Section 622 is impermissibly vague in violation of due process, as the term “sound and tight” and “in good repair and in safe condition” are undefined and it is impossible to determine the meaning of the terms from the face of the ordinance.
- b. Fitzgerald never notified MHA of the damage to the wall in the laundry room.
- c. MHA repaired the wall and, thus, has corrected the alleged violation.

6. MHA objects to the Notice of Violation of Section 622 relating to a “cracked, bulging plaster on kitchen ceiling” set forth in the Inspection Report at Page 2 of 3 for the following reasons:

- a. Section 622 is impermissibly vague in violation of due process, as the term “sound and tight” and “in good repair and in safe condition” are undefined and it is impossible to determine the meaning of the terms from the face of the ordinance.
- b. Fitzgerald never notified MHA of the damage to the kitchen ceiling.
- c. MHA repaired the plaster and, thus, has corrected the alleged violation.

7. MHA objects to the Notice of Violation of Section 622 relating to a “damaged, loose baseboards” set forth in the Inspection Report at Page 2 of 3 for the following reasons:

- a. Section 622 is impermissibly vague in violation of due process, as the term “sound and tight” and “in good repair and in safe condition” are undefined and it is impossible to determine the meaning of the terms from the face of the ordinance.
- b. Fitzgerald never notified MHA of the damage to the baseboards.
- c. MHA repaired the baseboards and, thus, has corrected the alleged violation.

8. MHA objects to the Notice of Violation of Section 632 relating to a “broken flush mechanism” set forth in the Inspection Report at Page 3 of 3 for the following reasons:

- a. Section 632 is impermissibly vague in violation of due process, as the term “the Rules and Regulations of the Department” is too vague and ambiguous to adequately apprise MHA of the conduct required by the ordinance.
- b. The description of the “Violation” is impermissibly unclear and ambiguous in violation of due process. Specifically, the Comments indicate “Broken flush mechanism, toilet will not finish flushing and handle is visibly.” This incomplete, incomprehensible sentence does not adequately apprise the Housing Authority of the nature of the offense.
- c. Fitzgerald never notified MHA of the damage to the toilet.
- d. MHA repaired the toilet and, thus, has corrected the alleged violation.

9. MHA objects to the Notice of Violation of Section 622 relating to a “missing floor tile” set forth in the Inspection Report at Page 3 of 3 for the following reasons:

- a. Section 622 is impermissibly vague in violation of due process, as the term “sound and tight” and “in good repair and in safe condition” are undefined and it is impossible to determine the meaning of the terms from the face of the ordinance.
- b. Fitzgerald caused the referenced damage to the flooring in the unit in violation of the terms of her Lease.
- c. Fitzgerald never notified MHA of the damage to the floor tile.
- d. MHA repaired the floor tile and, thus, has corrected the alleged violation.

10. MHA objects to the Notice of Violation of Section 628 relating to “missing coverplates on TV cable outlets” as set forth in the Inspection Report at Page 3 of 3 for the following reasons:

- a. Section 628 applies to “electric fixtures.” Cable wires are not electric fixtures and do not carry electric energy. Section 628 does not expressly or impliedly apply to cable wires. Therefore, the condition of cable wires cannot possibly constitute a violation of Section 628.
- b. To the extent that the ACHD determines that Section 628 does apply to cable wires, which MHA denies, Section 628 is impermissibly vague in violation of due process as the term “good and safe working condition” is undefined and it is impossible to determine the meaning of the term from the face of the ordinance.
- c. Fitzgerald never notified MHA of the missing coverplate for the cable wires.
- d. MHA installed coverplates on the cable wires and, thus, has corrected the alleged violation.

11. MHA objects to the Notice of Violation of Section 628 relating to “loose outlets” as set forth in the Inspection Report at Page 3 of 3 for the following reasons:

- a. Section 628 is impermissibly vague in violation of due process as the term “good and safe working condition” is undefined and it is impossible to determine the meaning of the term from the face of the ordinance.
- b. Fitzgerald never notified MHA of the damaged outlets.
- c. MHA repaired the outlets and, thus, has corrected the alleged violation.

12. **Requested Relief.** MHA respectfully requests that:

- a. ACHD withdraw the Notice;
- b. ACHD reimburse to MHA its costs, expense, 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

October 27, 2022

Housing Authority City Of McKeesport
2901 Brownlee Avenue
McKeesport PA 15132 - 1859

RE : SR# HCE-20220915-4298

Property 5 D HARRISON VILLAGE
Address : McKeesport, PA 15132
Census Tract : 55519

Dear Sir/Madam:

An inspection of the property listed above was conducted on 10/25/2022 by Currier Wolfe. 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 12/01/2022 .

9 Class 4 violation(s) exist(s). A Class 4 violation can contribute to substandard housing, but is not used to determine fitness for human habitation. These violations are to be corrected by 12/01/2022 .

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,

Currier Wolfe
Environmental Health Specialist I

CW:Sb
Attachment
cc: Occupant



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-20220915-4298

Owner Violations

Property Address : **5 D Harrison Village , Mckeesport 15132**

Inspection # 1 Census Tract : 55519 Property Type : (Multi-Family Units)

Inspector : Currier Wolfe Inspection Date : October 25, 2022 Time : 14:25

Contacts:

| | |
|-----------------------------------|-------------------------------------------------|
| Ms RAVEN FITZGERALD Occupant | HOUSING AUTHORITY CITY OF MCKEESPORT Owner |
| 5 D Harrison Village | 2901 Brownlee Avenue FI 2 |
| Mckeesport , PA 15132 | Mckeesport , PA 15132 |
| (910) 550-5060 | (412) 673-6942 |

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

No Specific Level Apartment
Section 652 012 (O)(D) Class 4
Location : None Violation Status : **First**
Violation : Minor rodent infestation.
Remedy : Exterminate using licensed pesticide treatment person/company. Remove food sources, harborage areas, and eliminate entries.
Comments : Some mouse droppings found in laundry room area, on floor. Exterminate.

Ground Level Building
Section 650 A 002 (O)(S) Class 4
Location : Exterior Violation Status : **First**
Violation : Opening(s) in foundation permits rodent or animal entry.
Remedy : Seal to exclude rodents / animals.
Comments : Hole on exterior, right of porch floor, allowing possible rodent entry. Seal.

1st Floor Laundry Room
Section 622 011 (O)(D) Class 4
Location : None Violation Status : **First**
Violation : Hole(s) in wall.
Remedy : Repair, make solid.
Comments : Gap in wall of laundry room from wooden board not properly covering hole. Repair.

Property Address : **5 D Harrison Village , Mckeesport 15132**

Inspection # 1 Census Tract : 55519 Property Type : (Multi-Family Units)
Inspector : Currier Wolfe Inspection Date : October 25, 2022 Time : 14:25

1st Floor **Laundry Room**
Section 622 013 (O)(D) Class 4 Violation Status : **First**
Location : None
Violation : Cracked or bubbled plaster.
Remedy : Repair.
Comments : Crack on right wall of laundry room. Repair.

1st Floor **Kitchen**
Section 622 031 (O)(D) Class 4 Violation Status : **First**
Location : None
Violation : Cracked or bubbled ceiling plaster.
Remedy : Repair.
Comments : Cracked, bulging plaster on kitchen ceiling by laundry room. Repair.

1st Floor **Living Room**
Section 622 007 (O)(D) Class 4 Violation Status : **First**
Location : None
Violation : Missing, deteriorated, or damaged coving/baseboard(s).
Remedy : Provide/repair/replace.
Comments : Damaged, loose baseboards in living room left of closet. Repair or replace.

2nd Floor **Bathroom**
Section 632 A 074 (O)(D) Class 4 Violation Status : **First**
Location : None
Violation : Broken toilet flush mechanism.
Remedy : Repair/replace.
Comments : Broken flush mechanism, toilet will not finish flushing and handle is visibly Repair/replace.
