

STATE OF NEW HAMPSHIRE  
SUPREME COURT

No. 2021-0258

Melissa Natal

v.

GMPM Company & 479 Maple Street LLC

---

**APPEAL PURSUANT TO RULE 7 FROM A JUDGMENT OF THE  
9<sup>TH</sup> CIRCUIT – DISTRICT DIVISION – MANCHESTER**

---

BRIEF OF APPELLEE

---

Marta A. Hurgin  
NH Bar No. 265835  
603 Legal Aid  
93 N. State Street, Suite 200  
Concord, NH 03301  
603-224-3333  
[mhurgin@603legalaid.org](mailto:mhurgin@603legalaid.org)

## TABLE OF CONTENTS

TABLE OF CONTENTS .....	2
TABLE OF AUTHORITIES.....	3
TEXT OF RELEVANT AUTHORITY .....	5
QUESTION PRESENTED .....	10
STATEMENT OF FACTS AND SUMMARY OF THE CASE .....	11
SUMMARY OF ARGUMENT.....	12
ARGUMENT .....	13
THE DEFINITION OF “SHARED FACILITY” IN RSA 540-B:1 REQUIRES THE OWNER OF THE PROPERTY TO LIVE AT THE PROPERTY AND SHARE ITS COMMON AREAS WITH THE OCCUPANTS.....	13
A. Overview of the Statutory Scheme .....	13
B. The Language of RSA 540-B, I Is Plain and Unambiguous. ....	15
1. The word “shares” has a commonly used definition. ....	15
2. RSA 540-B Must Be Read In Light of The Statutory Scheme. ....	18
C. The Legislative History Supports The Interpretation That A Shared Facility Must Be Owner Occupied. ....	19
D. The Alleged Waiver of Plaintiff’s Rights as a Tenant is Void. ....	22
E. The Defendant’s Remaining Arguments Are Meritless. ....	23
CONCLUSION .....	24
CERTIFICATE OF COMPLIANCE .....	25
CERTIFICATE OF SERVICE.....	25

## **TABLE OF AUTHORITIES**

### **Cases**

<u>Anderson v. Robitaille</u> , 172 N.H. 20 (2019) .....	18
<u>Anderson v. Robitaille</u> , 172 NH 20 (2019) .....	15, 19
<u>Atwood v. Owens</u> , 142 N.H. 396 (1997).....	16
<u>Conduent State &amp; Local Solutions v. N.H. Department of Transp.</u> , 171 N.H. 414 (2018).....	16, 18
<u>Darbouze v. Champney</u> , 160 N.H. 695 (2010).....	16
<u>EnergyNorth Natural Gas v. City of Concord</u> , 164 N.H. 14 (2012) .....	23
<u>Forster v. Town of Henniker</u> , 167 N.H. 745 (2015).....	19
<u>Mt. View Park, LLC v. Robson</u> , 168 N.H. 117 (2015) .....	22
<u>St. Onge v. Oberten, LLC</u> , __ N.H. __, (decided September 2, 2021) .....	19
<u>State v. McAdams</u> , 134 N.H. 445 (1991).....	23
<u>Virgin v. Fireworks of Tilton</u> , 172 N.H. 484 (2019).....	15, 16

### **Statutes**

540:1-a, IV .....	13
RSA 540:1, II.....	13
RSA 540:13 .....	13
RSA 540:14 .....	13
RSA 540:1-a, I.....	12
RSA 540:1-a, II .....	12
RSA 540:2, I.....	13
RSA 540:3 .....	13
RSA 540:3, II.....	13
RSA 540:4 .....	13
RSA 540:7 .....	13
RSA 540-A:2 .....	13
RSA 540-A:3 .....	16
RSA 540-A:4 .....	11

RSA 540-B:1, I..... 15  
RSA 540-B:8 ..... 14

**Other Authorities**

WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY  
(unabridged ed. 2002)..... 18



**TEXT OF RELEVANT AUTHORITY**

**Chapter 540—Actions Against Tenants**

**540:1-a Definitions. –**

In this chapter:

I. “Nonrestricted property” means all real property rented for nonresidential purposes and the following real property rented for residential purposes:

- (a) Single-family houses, if the owner of such a house does not own more than 3 single-family houses at any one time.
- (b) Rental units in an owner-occupied building containing a total of 4 dwelling units or fewer.
- (c) [Repealed.]
- (d) Single-family houses acquired by banks or other mortgagees through foreclosure.

II. "Restricted property" means all real property rented for residential purposes, except those properties listed in paragraph I.

III. "Rental unit" means a suite of one or more rooms located within a single building rented by the owner to one or more individuals living in common for nontransient residential purposes.

IV. The term "tenant" or "tenancy" shall not include occupants or occupancy in the following places and the provisions of this chapter shall not apply to:

- (a) Rooms in rooming or boarding houses which are rented to transient guests for fewer than 90 consecutive days. For purposes of this subparagraph, if the owner of the facility directs the occupant to move from one room to another in the same rooming or boarding house, or directs the occupant to move from one of the owner's rooming or boarding houses to another, the 90-day period for computing consecutive days of occupancy shall not be broken. Consecutive days of occupancy shall not include a voluntary move from one room to another if the move was made at the request of the occupant after the occupant has been notified of the exemption from tenancy under this subparagraph. Such request shall be in writing and shall include the following statement:

"I request a move from \_\_\_\_\_ to

\_\_\_\_\_. I have received a copy of RSA 540:1-a, IV(a) and understand that any time I spent in the first room shall not apply toward the 90 consecutive days of occupancy required for tenancy under RSA 540."

- (b) Rooms in hotels, motels, inns, tourist homes and other dwellings rented for recreational or vacation use.
- (c) Rooms in student dormitories, nursing homes, hospitals and any other facilities licensed under RSA 151 or certified under RSA 126-A, convents, monasteries, asylums, or group homes.
- (d) A single-family home in which the occupant has no lease, which is the primary and usual residence of the owner.
- (e) Residential real estate under RSA 540-B.

**540:2 Termination of Tenancy. –**

I. The lessor or owner of nonrestricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and 5.

II. The lessor or owner of restricted property may terminate any tenancy by giving to the tenant or occupant a notice in writing to quit the premises in accordance with RSA 540:3 and 5, but only for one of the following reasons:

- (a) Neglect or refusal to pay rent due and in arrears, upon demand.
- (b) Substantial damage to the premises by the tenant, members of his household, or guests.
- (c) Failure of the tenant to comply with a material term of the lease.
- (d) Behavior of the tenant or members of his family which adversely affects the health or safety of the other tenants or the landlord or his representatives, or failure of the tenant to accept suitable temporary relocation due to lead-based paint hazard abatement, as set forth in RSA 130-A:8-a, I.
- (e) Other good cause.
- (f) The dwelling unit contains a lead exposure-hazard which the owner will abate by:
  - (1) Methods other than interim controls or encapsulation;
  - (2) Any other method which can reasonably be expected to take more than 30 days to perform; or
  - (3) Removing the dwelling unit from the residential rental market.
- (g) Willful failure by the tenant to prepare the unit for remediation of

an infestation of insects or rodents, including bed bugs, after receipt of reasonable written notice of the required preparations and reasonable time to complete them.

III. If the grounds for eviction is other good cause as set forth in paragraph II(e) of this section, and such cause is based on the actions or inactions of the tenant, members of his family, or guests, the landlord shall, prior to the issuance of the eviction notice, provide the tenant with written notice stating that in the future such actions or inactions would constitute grounds for eviction. Such notice shall be served in accordance with RSA 540:5 or by certified mail.

IV. A tenant's refusal to agree to a change in the existing rental agreement calling for an increase in the amount of rent shall constitute good cause for eviction under paragraph II(e) of this section, provided that the landlord provided the tenant with written notice of the amount and effective date of the rent increase at least 30 days prior to the effective date of the increase.

V. "Other good cause" as set forth in paragraph II(e) of this section includes, but is not limited to, any legitimate business or economic reason and need not be based on the action or inaction of the tenant, members of his family, or guests.

VI. No tenancy shall be terminated for nonpayment of rent if:

- (a) The tenant was forced to take over the landlord's utility payments in order to prevent utility services, which the landlord agreed to provide, from being terminated;
- (b) The amount of rent which the tenant is in arrears does not exceed the amount paid by the tenant to maintain utility service to the tenant's premises; and
- (c) The tenant has receipts from the utility company or other proof of payment of the amount paid to maintain utility service.

VII.

- (a) No lessor or owner of restricted property shall terminate a tenancy solely based on a tenant or a household member of a tenant having been a victim of domestic violence as defined in RSA 173-B, sexual assault as defined in RSA 632-A, or stalking as defined in RSA 633:3-a, provided that the tenant or household member of a tenant who is the victim provides the lessor or owner with written verification that the tenant or household member of a tenant who is

the victim has obtained a valid protective order against the perpetrator of the domestic violence, sexual assault, or stalking.

(b) A tenant who has obtained a protective order from a court of competent jurisdiction granting him or her possession of a dwelling to the exclusion of one or more other tenants or household members may request that a lock be replaced or configured for a new key at the tenant's expense. The lessor or owner shall, if provided a copy of the protective order, comply with the request and shall not give copies of the new keys to the tenant or household member restrained or excluded by the protective order.

(c) A lessor or owner who replaces a lock or configures a lock for a new key in accordance with subparagraph (b) shall not be liable for any damages that result directly from the lock replacement or reconfiguration.

(d) If, after a hearing in the possessory action, the court finds that there are grounds under this section to evict the tenant or household member accused of the domestic violence, sexual assault, or stalking, it may issue a judgment in favor of the lessor or owner of the property against the person accused, and allow the tenancy of the remainder of the residents to continue undisturbed. The lessor or owner of the rental unit at issue in the possessory action shall have the right to bar the person accused of the domestic violence, sexual assault, or stalking from the unit and from the lessor's or owner's property once judgment in the possessory action becomes final against such person. Thereafter, and notwithstanding RSA 635:2, the person's entry upon the lessor's or owner's property after being notified in writing that he or she has been barred from the property shall constitute a trespass.

(e) Nothing in this section shall preclude eviction for nonpayment of rent. A landlord may evict on any grounds set forth in RSA 540:2, II which are unrelated to domestic violence, sexual assault, or stalking.

(f) The defense set forth in subparagraph VII(a) shall be an affirmative defense to possessory actions brought pursuant to subparagraph II(b), (c), (d), or (e) of this section.

## **Chapter 540-B—Rental of Shared Facilities**

### **540-B:1 Definition; Shared Facility. –**

I. A "shared facility" means real property rented for residential purposes which has separate sleeping areas for each occupant and in which each occupant has access to and shares with the owner of the facility one or more significant portions of the facility in common, such as kitchen, dining area,

bathroom, or bathing area, for which the occupant has no rented right of sole personal use.

II. A shared facility shall not include:

- (a) Facilities rented to transient guests intended for use of less than 90 days.
- (b) Rooms in hotels, motels, inns, tourist homes, and other dwellings rented for recreational or vacationing use.
- (c) Rooms provided ancillary to other primary purposes such as jails, student dormitories, nursing homes, hospitals, group homes, and emergency shelters.

**540-B:3 Termination of Tenancy; Notice of Termination. –**

I. The owner or agent of the owner of a shared facility may terminate any tenancy without stating any reason. A written 30-day notice of termination shall be required.

II. The owner or agent of the owner of a shared facility may terminate any tenancy for nonpayment of rent. A written 7-day notice of termination shall be required.

III. The owner or agent of the owner of a shared facility may terminate any tenancy for damage to the premises, or behavior of the occupant or guest of any family member of the occupant which adversely affects the health or safety of the other occupants or the owner or the agent of the owner, or material breach of any rental agreement. A written 72-hour notice of termination shall be required.

## **QUESTION PRESENTED**

Was the trial court correct in ruling that a rooming house which the owner does not occupy is not a “shared facility” under RSA 540-B:1, I, and therefore the owner must follow the lawful eviction process set forth in RSA Chapter 540 to remove an occupant?

## **STATEMENT OF FACTS AND SUMMARY OF THE CASE**

The tenant, Melissa Natal, rented a room at 479 Maple Street (“the Property”) in Manchester, in a building owned by the defendant, 479 Maple Street LLC, DBA GMPM Company. (App. 3) Her lease contained a waiver provision that required her to acknowledge that the Property was a “shared facility.” On May 7, 2021, Ms. Natal was removed from her rented room by the property manager with the assistance of the Manchester Police Department. (App. 1) This eviction occurred without judicial process. (App. 1) Ms. Natal had lived at 479 Maple Street for more than 90 days, having moved into her room in December of 2020. (App. 5) Three days before her eviction, Ms. Natal had been given a 72-hour eviction notice by the property manager, but she had not left the premises when that eviction notice expired. (App. 1) After she was evicted, Ms. Natal filed a 540-A petition in the 9th Circuit – District Division – Manchester on the grounds that 479 Maple Street was a rooming house and that the owner of the Property had willfully denied her access to her rented premises without prior permission of the court. (App. 4-7) She was granted an emergency temporary order by the trial court (*Lyons, J.*) and allowed back into her room that day. (App. 12-13) The court scheduled a final hearing on the matter. (App. 14)

The final hearing took place by phone on May 14, 2021. At the final hearing, Keith Duperron, who is the defendant’s power of attorney, testified that the owner did not occupy or live at the Property, but he (the owner and landlord) visited the Property to clean and maintain it. (App. 1)

Following the final hearing, the trial court (*Kent, J.*) found that the defendant violated RSA 540-A by removing Ms. Natal from her room and circumventing the lawful eviction process. (App. 1) The court found that

since the owner of the Property did not live there, the Property was not subject to the shared facility eviction procedures under RSA 540-B, and that the waiver provision in the lease identifying the Property as a “shared facility” was unlawful. (App. 1). Since the Property is a “rooming house,” in which Ms. Natal had resided for more than ninety consecutive days, the trial court determined that she was a “normal tenant as defined under RSA 540.” (App. 1) Affirming Ms. Natal’s earlier readmittance to the premises, the court awarded her a \$1,000 monetary judgment. (App. 2); see RSA 540-A:4, IX, a.

### **SUMMARY OF ARGUMENT**

First, RSA 540-B is clear on its face that in a “shared facility,” the occupant must share common areas with the owner. The plain meaning of “shares” as used in RSA 540-B requires that an occupant live with the owner of the property. The collective understanding of sharing a space or common area would mean regular usage and enjoyment, not occasional cleaning and inspection by the owner.

Second, RSA 540-B must read in the context of the statutory scheme. RSA 540 covers the eviction process for rooming houses, where occupants only share common areas with other occupants, not owners. It would be an absurd result for RSA 540-B to have created a loophole for rooming house owners to avoid the lawful eviction process afforded tenants if they can claim that they occasionally inspect or clean common areas.

Third, the legislative history of RSA 540-B supports the interpretation that a shared facility is a property where the owner lives with the tenant. The intent of the legislature in enacting RSA 540-B was to give homeowners who wanted to rent out an extra bedroom greater control of their property. The legislature wanted homeowners, who are cohabiting



with an occupant, to be able to quickly evict problem tenants without the time and expense of the eviction process required by RSA 540.

The defendant, 479 Maple Street LLC DBA GMPM Company, was attempting to circumvent the lawful eviction process by forcing tenants to agree that their rooming house is a shared facility. The legislature made it unlawful for a tenant to waive any statutory rights through a prohibited lease provision. The owner of the Property, a corporate entity, did not live or share common areas with tenants. Therefore, the Property in question is not covered by RSA 540-B and the district court's decision was correct.

## **ARGUMENT**

### **THE DEFINITION OF “SHARED FACILITY” IN RSA 540-B:1 REQUIRES THE OWNER OF THE PROPERTY TO LIVE AT THE PROPERTY AND SHARE ITS COMMON AREAS WITH THE OCCUPANTS.**

#### **A. Overview of the Statutory Scheme**

The legislature has created a statutory scheme that covers all rented properties. These statutes define the various types of tenancies and the accompanying eviction processes for each type of tenancy. As relevant here, the primary landlord and tenant statutes are RSA chapter 540 (Actions Against Tenants), RSA chapter 540-A (Prohibited Practices and Security Deposits), and RSA chapter 540-B (Rental of Shared Facilities).<sup>1</sup> RSA chapter 540 covers most rented properties in New Hampshire, defined as either restricted or non-restricted property. See RSA 540:1-a, I; RSA 540:1-a, II. If a tenant inhabits a restricted or non-restricted property, they are

---

<sup>1</sup> RSA chapter 205-A pertains to manufactured housing parks and RSA chapter 540-C rental units, neither of which is relevant to this issue.

subject to, and protected by, the eviction process outlined in RSA 540:2. See RSA 540:2, I; RSA 540:2, II; RSA 540:14.

Tenants in both restricted and non-restricted property must be afforded the opportunity to contest their eviction in the Circuit Court and cannot be removed from their rented premises without a court order. See RSA 540:14; RSA 540-A:2; and RSA 540:3, II. The only difference is that a tenant in restricted property may only be evicted for the specific reasons outlined in RSA 540:2, II, whereas a tenant in nonrestricted property can be evicted for any reason. See RSA 540:2, I. Whether in restricted or nonrestricted property, a tenant who a landlord wishes to evict must first be served with an eviction notice and, if the tenant is not current on rent, a demand for rent. See RSA 540:3, RSA 540:4, RSA 540:7. The eviction notice must give the tenant between seven to 30 days to vacate. See RSA 540:3. If the eviction notice expires and the tenant has remained in the property, then the landlord requests a writ of summons from the circuit court. See RSA 540:13. If the landlord proves the basis for the eviction to the circuit court, then a writ of possession issues, giving the landlord the ability to recover possession of the property. See RSA 540:14.

RSA 540:1-a, IV provides that “[t]he term ‘tenant’ or ‘tenancy’ shall not include occupants or occupancy” in certain premises, and states that the provisions of RSA 540 do not apply to those places. Short term occupancies in rooming housing are exempt from the eviction provisions of RSA 540. However, if a person, such as Ms. Natal, has been at the rooming house for more than 90 consecutive days then they are considered tenants in restricted property entitled to judicial process prior to eviction. See RSA 540:1-a, IV(a).

RSA 540-A:2 prohibits a landlord from “willfully violat[ing] a tenant’s right to quiet enjoyment of his tenancy” and from willfully “attempting to circumvent lawful procedures for eviction under RSA 540.”

More specifically, RSA 540-A:3, II prohibits a landlord denying a tenant access to their rented premises without judicial authorization. RSA 540-A:4 affords a tenant the right to injunctive relief or damages for any violation of the statute. The Circuit Court has created 540-A petition forms for both landlords and tenants that allow parties to quickly access the court process for remedy.

In 2001, the legislature enacted RSA 540-B, which governs the rental of shared facilities. The term “shared facility” is defined in RSA 540-B:1 and identifies a type of occupancy that differs from the tenancies defined in RSA 540. It creates an exception to the judicial eviction process required by RSA 540 for property *where the occupant shares common areas with the owner*. Instead of going through the court processes for eviction identified at RSA 540:3 to 540:25, the owner of a shared facility need only give a written notice to vacate to the tenant that complies with the requirements of RSA 540-B:3. At the end of the notice period, if the occupant has remained, then the owner may retake possession of that space without judicial process and with the assistance of law enforcement if necessary. See RSA 540-B:8.

## **B. The Language of RSA 540-B, I Is Plain and Unambiguous.**

### **1. The word “shares” has a commonly used definition.**

This appeal requires this Court to interpret RSA 540-B:1, I, the “shared facility” statute. This is a question of statutory interpretation, which the Court reviews *de novo*. Virgin v. Fireworks of Tilton, 172 N.H. 484, 486 (2019); Anderson v. Robitaille, 172 N.H. 20, 22 (2019). “In matters of statutory interpretation [this Court] is the final arbiter of the intent of the legislature as expressed in the words of the statute considered as a whole.”

Conduent State & Local Solutions v. N.H. Department of Transp., 171 N.H. 414, 419 (2018).

When engaging in statutory interpretation this Court first looks to the language of the statute, and “if possible, construes that language according to its plain and ordinary meaning.” Virgin v. Fireworks of Tilton, 172 N.H. 484, 486 (2019). “When the language of the statute is clear on its face, its meaning is not subject to modification.” Darbouze v. Champney, 160 N.H. 695, 697 (2010). This Court does not consider words in isolation but within the context of the statute. Virgin v. Fireworks of Tilton at 486-87.

In its order the trial court found that “[t]he owner’s testimony was clear that he does not occupy the premises but that he does visit the property to clean and for maintenance.” (App. Final Order).<sup>2</sup> On this basis the court concluded that “the fact that the owner does not occupy the premises takes the premises out of RSA 540-B.” This ruling is correct. The plain language of the shared facilities statute makes clear that the legislature intended to describe residential property in which the owner has more than mere access to common areas. RSA 540-B:1, I.

RSA 540-B:1, I, provides:

A “shared facility” means real property rented for residential purposes which has separate sleeping areas for each occupant and in which *each occupant has access to and shares with the owner of the facility one or more significant portions of the facility in common, such as kitchen, dining area, bathroom, or bathing area*, for which the occupant has no rented right of sole personal use.

(Emphasis added.).

---

<sup>2</sup> The landlord has not requested or provided the transcript of the proceedings in the trial court, and therefore this Court will assume that the evidence in the trial court was sufficient to support the trial court’s findings and will only review for errors of law. See Atwood v. Owens, 142 N.H. 396, 396-97 (1997)

The verb “shares” is defined as follows: “to partake of, use, experience, or enjoy with others : have a portion of (~ a room).” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 2087 (unabridged ed. 2002). The meaning of the word “shares” is plain: it entails more than mere access, and more than an occasional visit to inspect or clean the common areas. In RSA 540-B, “shares” applies to significant portions of the home that occupants would ordinarily use together. For a tenant to share a space such as a kitchen, bathroom, or common area with an owner, they would need to both use and enjoy those rooms with each other. A landlord who occasionally enters the premises with the purpose of repairing a leaky kitchen sink cannot be said to “use, experience, and enjoy” the kitchen’s common functions—such as storing food and cooking implements, cooking and eating meals, and cleaning the incidents of cooking. A landlord who makes sure a bathroom is clean does not use the bathroom as the tenant does, to shower, shave, or brush their teeth. A landlord showing a dining room to a prospective tenant does not mean that they sit and enjoy food with the tenant. A landlord engaging in their typical responsibilities, such as repair and inspection, does not use, experience, or enjoy commons areas with their tenants within the meaning of “shares.”

Occasional maintenance is an activity that any landlord may engage in with proper notice to the tenant. See RSA 540-A:3, v. The law recognizes that landlords have a responsibility to maintain their units and make necessary repairs. Id. Therefore, the defendant’s claim that his inspection and showing of common areas is outside of the norm for restricted property, nonrestricted property, or a rooming house, and so the Property is a shared facility, is incorrect. If mere inspection and repair turned a premises into a shared facility, then every facility would be “shared.” The defendant points to their lease which gives them the ability inspect or repair the unit *without notice*. The defendant’s lease does not

mean that the Property is a shared facility. Instead, their lease likely violates RSA 540-A:3, V and is void under RSA 540:28 which prohibits unlawful lease provisions that waive statutory rights.

Additionally, the owner of 479 Maple Street is an LLC managed by GMPM Company, neither of which are natural persons. It would be unreasoned for the legislature to expect that an occupant would share common areas with a corporate or commercial entity. An LLC cannot physically inhabit a space so therefore could never “share” common areas with a tenant.

“Shares” is a commonly used and understood word with common dictionary definitions. Therefore, RSA 540-B is clear on its face that the owner of the property must live with, and frequently use and share common areas with tenants. The word “shares” connotes more than equity in access, it connotes equity in use.

## **2. RSA 540-B Must Be Read In Light of The Statutory Scheme.**

If the Court accepts the defendant’s argument that the Property is a shared facility because of their maintenance and inspection then it would obviate the legislature’s intended statutory scheme outlined in RSA chapter 540, RSA chapter 540-A, and RSA chapter 540-B. This Court “construe[s] all parts of a statute together to effectuate its overall purpose and avoids an absurd or unjust result.” Anderson v. Robitaille, 172 N.H. 20, 22 (2019). Interpreting the statute in light of the statutory scheme enables the Court to understand the legislature’s intent and to interpret the statute in light of the policy or purpose sought to be advanced. Conduent State & Local Solutions, 171 N.H. at 420.

This Court has recently held that RSA 540 and RSA 540-A should be construed to avoid conflict with one another. See Anderson, 172 N.H. at 23 (Because they “deal with a similar subject matter,” [this Court] must construe RSA chapter 540-A and RSA chapter 540 “so that they do not contradict each other, and so that they will lead to reasonable results and effectuate the legislative purpose of the statutes.”); See also St. Onge v. Oberten, LLC, \_\_ N.H. \_\_, slip. op. at 3 (decided September 2, 2021) (holding that RSA 540-A and RSA 540 are part of the same overall statutory scheme). Similarly, RSA 540-B and RSA 540 should be construed to avoid conflict with each other. A tenant of a rooming house for more than 90 days cannot be subject to both (or either) the eviction process outlined in RSA 540-B or RSA 540 depending on the whim of the owner. Under RSA 540:1-a, IV(a) a person who occupies a rooming house for at least 90 consecutive days is a “tenant” and a tenant can only be evicted by use of the lawful eviction process set forth in RSA Chapter 540. RSA 540-A:2, and 3, II.

If landlords can claim their property as a shared facility for mere occasional access to common areas, then they can sweep almost *any* tenancy into RSA 540-B:1 and tenants throughout the state would be subject to eviction without judicial process—an absurd result that would amount to a sweeping repeal of RSA Chapter 540 and 540-A:1-4.

### **C. The Legislative History Supports The Interpretation That A Shared Facility Must Be Owner Occupied.**

It is well settled that this Court will not examine a statute’s legislative history unless the Court finds the statutory language to be ambiguous. Forster v. Town of Henniker, 167 N.H. 745, 750 (2015). As explained above RSA 540-B is clear on its face, an inquiry into the statute’s

legislative history is not appropriate. But even if the Court were to somehow determine that the language of the statute is ambiguous, then the legislative history clearly supports the interpretation that RSA 540-B is solely intended for owner-occupied properties.

In January 2001, the legislature took up Senate Bill 48 relative to the rental of shared facilities. Senator Carl Johnson was the prime sponsor, and he introduced the bill in the Committee on Executive Departments Administration. (App. 26) In his testimony Senator Johnson referenced a study committee that convened in the summer of 2000 to deal with the increased costs of homeownership and renting. (App. 37) This study committee's report was the HB1199 Study Report. (App. 38) One of the conclusions of this study committee, included in their report, "was the realization that there is a need for a legislative definition for people who want to rent only a small portion of a house, for example, renting only a bedroom and sharing the other facilities such as kitchen and bathroom." (App. 37) Senator Johnson introduced Senate Bill 48 in an attempt to define this specific type of tenancy. (App. 37)

The HB 1199 study report focused on funding for affordable housing. (App. 38) The study committee found that the lack of affordable housing was due to limited supply and growing demand. (App. 38) Through the course of the study committee's working sessions and public testimony, a number of recommendations for possible legislation were produced. (App. 47) One of the recommendations was to make "exempt from ordinary eviction procedures space rented in owner-occupied single-family properties." (App. 47) During testimony in the Senate Committee there was discussion around enabling owners who had someone living their house to evict problem occupants more easily. (App. 35, 50).

Senate Bill 48 passed out of the Committee on Executive Departments Administration on May 9, 2001, to the House Committee on



Judiciary. The bill included two types of shared facilities, owner-occupied and non-owner occupied and would have effectively made all rooming houses “non-owner occupied shared facilities” and made all “owner occupied shared facilities” nonrestricted property, in essence massively reconfiguring the landlord tenant code. (App. 57-60) The bill was then amended to its current form by the House, with the non-owner occupied section removed and the requirement added in RSA 540-B that an owner reside in a shared facility. (App. 62-63) The analysis that accompanied the bill to the House Committee on Judiciary defined shared facility as a “residential property in which occupants have separate sleeping areas but share with the owner one or more significant portions of the living space.” (App. 64) At the testimony before the House Committee on Judiciary, Senator Johnson testified that there should be a different process for people who rent out rooms in their homes and that the genesis of the bill was to protect owner-occupied facilities. (App. 68) On May 29, 2001, the bill was voted out of the House Committee on Judiciary. (App. 72) The Statement of Intent of the Judiciary Committee said,

This bill provides special remedies to owners of property who rent a bedroom with other shared facilities in their home while they are still living in the home. The committee felt that people in this unique position are more vulnerable and require protection from the possibility of abusive “houseguests” and they should be able to evict them from their home with more dispatch.

(App. 74) The bill then passed the House and the Senate and was signed into law by the Governor on July 16, 2001. (App. 55)

It is evident from the legislative history of RSA 540-B that the legislature was trying to make a dent in New Hampshire’s affordable housing crisis by incentivizing homeowners to rent out rooms in their

homes. The legislature believed that an affordable option for some renters would be an extra bedroom in someone's home, what the legislature labeled a shared facility. A concern was that homeowners may be hesitant to welcome renters into their home if it would be an arduous process to have them evicted. The legislature hoped that the shared facility statute would alleviate this concern by allowing evictions without judicial process in owner-occupied properties.

#### **D. The Alleged Waiver of Plaintiff's Rights as a Tenant is Void.**

As explained above, the express provisions of RSA 540:1-a, IV (a), taken together with RSA 540:1-a, II and RSA 540-A:1, II, leave no room for doubt that Ms. Natal is a tenant. Nevertheless, Defendant argues that Ms. Natal waived her rights as a tenant because she signed a lease that said the Property is a shared facility. The trial court ruled, "[t]he waiver is ineffective as that provision in the rental agreement violates RSA 540-A:8, III, depriving the tenant of her rights under RSA 540." That result was correct, but the applicable statute is RSA 540:28 as she was a tenant as defined in RSA 540:1-a, II. The statute the trial court cited, RSA 540-A:8, III, applies to security deposits. The language of the two sections is very similar and reflects the intent of the legislature to protect tenants from waiving their rights unknowingly or through coercion. The confusion of the statutory citations is harmless error.

"RSA 540:28 applies to all forms of lease or rental agreements." Mt. View Park, LLC v. Robson, 168 N.H. 117, 120 (2015). "It provides that "[n]o *lease or rental agreement*, oral or written, shall contain any provision by which a tenant waives any of his rights under this chapter, and any such waiver shall be null and void." Id. (emphasis added) By drafting a lease which purported to convert Ms. Natal's tenancy into an occupancy in

a shared facility the defendant attempted to deprive her of her rights as a tenant, most importantly her right not to be evicted without judicial process. The trial court correctly held that this lease provision is unlawful and void. The defendant's argument that since the tenant signed a lease saying the Property was a shared facility that it therefore must be a shared facility is incorrect as a matter of law and inaccurate as a matter of fact.

#### **E. The Defendant's Remaining Arguments Are Meritless.**

The defendant argues that his Property is not a rooming house according to a Manchester city ordinance. The argument was not raised in the trial court therefore this argument is not preserved and should not be considered by this Court. See State v. McAdams, 134 N.H. 445, 446 (1991) ("This argument ignores the general procedural requirement that all issues be presented to the trial court to adequately preserve them for appellate review.") Additionally, the city ordinance is irrelevant because statutes are dispositive if the ordinance and statute conflict, or if the ordinance frustrates the purpose of the statute. See EnergyNorth Natural Gas v. City of Concord, 164 N.H. 14, 16 (2012).

Defendant also argues that RSA 540-B allows for an agent to give notices and terminate a tenancy and that the legislature would not have included the option of using an agent if a shared facility was owner-occupied. This ignores the obvious fact that in many cases an owner who is sharing a home with an occupant may not want to directly confront the occupant and would feel safer or more comfortable having an agent serve the eviction notice. Authorizing service by a third party was a reasonable choice by the legislature that in no way suggests that RSA 540-B applies to anything other than an owner-occupied building.

Lastly, the defendant argues that the Ms. Natal never questioned the nature of her tenancy. First, a tenant would have no reason to engage in such an exercise unless they were being evicted. Second, tenants do not have an obligation to research the law and notify the property owner of the status of their rental premises. Defendant's lease is merely an attempt by the defendant to subvert the lawful eviction process — exactly what RSA 540:28 was intended to prevent.

### **CONCLUSION**

The Property at 479 Maple Street is not a “shared facility” under RSA-B:1. The owner does not live at the Property – nor does any agent or property manager. The owner does not share common areas with the occupants. The trial court did not err in its decision and properly applied all relevant statutes.

Wherefore, Melissa Natal respectfully requests that this Court affirm the decision of the district court awarding her \$1000 for her defendant's violation of RSA 540-A.

The appellee believes oral argument is not necessary, but if argument is scheduled, the appellee requests a 15-minute oral argument.

Respectfully submitted,

MELISSA NATAL

By her attorneys,



---

Marta A. Hurgin, NH Bar No. 265835

603 Legal Aid

93 N. State Street, Suite 200

Concord, NH 03301

603-224-3333 Ext 412

[mhurgin@603legalaid.org](mailto:mhurgin@603legalaid.org)

November 20, 2021

**CERTIFICATE OF COMPLIANCE**

I, Marta A Hurgin, hereby certify that pursuant to New Hampshire Supreme Court Rule 16(11), that this brief contains approximately 4,262 words, which is less than the total permitted by the rules of court. Counsel has relied on the word count of the computer program used to prepare this brief.

Dated: November 20, 2021

/s/ Marta A Hurgin  
Marta A Hurgin

**CERTIFICATE OF SERVICE**

I, Marta A Hurgin, hereby certify that a copy of the appellee's brief shall be served on power of attorney for the appellant, Keith Duperron, through the New Hampshire Supreme Court's electronic filing system.

Dated: November 20, 2021

/s/ Marta A Hurgin  
Marta A Hurgin

**APPENDIX TABLE OF CONTENTS**

District Court documents.....1  
Senate Committee minutes.....26  
HB1199 Study Committee report.....38  
Text of Final Bill.....62  
Judiciary Committee minutes.....68  
Statement of Intent.....74

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH**

http://www.courts.state.nh.us

Court Name: 9th Circuit - District Division - Manchester

Case Name: Melissa Natal v. GMPM Company & 479 Maple Street, LLC

Case Number: 456-2021-LT-00279 - E

**FINAL ORDER ON TENANT'S PETITION UNDER RSA 540-A:4**

On , a hearing was held on the above entitled matter.

The tenant  was  was not present. The landlord  was  was not present.

**FINDINGS OF FACT**

After hearing the evidence presented, the Court finds that:

- The tenant has not proven the landlord engaged in prohibited practices. CASE DISMISSED.
- The landlord has violated:
  - RSA 540-A:2 (willfully violating tenant's right to quiet enjoyment)
  - RSA 540-A:2 (willfully attempting to circumvent lawful eviction procedures)
  - RSA 540-A:3, I (willfully interrupting utility service, except for temporary interruptions necessary while actual repairs are in process or during temporary emergencies)
  - RSA 540-A:3, II (willfully denying tenant access to or possession of rented/leased premises without prior court order)
  - RSA 540-A:3, III (willfully seizing or denying access to, or possession of, tenant's property without prior court order)
  - RSA 540-A:3, IV (willfully entering the premises of the tenant without consent, except to make emergency repairs)
  - RSA 540-A:3, V-a (willfully failing to investigate tenant's report of infestation of pests within 7 days of receiving notice or failing to take reasonable measures to remediate infestation)
  - RSA 540-A:3, VII (failing to exercise reasonable care for tenant's personal property for a period of 7 days after the date upon which tenant has vacated the rented/leased premises)

Specifically, the Court finds that (note factual findings supporting each ruling above):

The Plaintiff rents restricted residential property as defined by RSA 540:1-a. She had resided in the property more than 90 days. She was given a 72 hour notice by the landlord's agent to vacate that did not state the reason for the demand that she leave. She was removed by the police/sheriff at the request of the landlord. Testimony indicated that the basis of the self-help eviction was that she had a second person living with her and that violated the lease.

The Plaintiff argues that the property is not a shared facility as defined by RSA 540:3, nor is the property a rooming house. The basis of the argument is that a shared facility requires that the occupant has access to and shares with the owner one or more significant portions of the facility. The owner's testimony was clear that he does not occupy the premises but that he does visit the property to clean and for maintenance. Furthermore, the landlord provides a lease that describes the property and a waiver is contained in the lease that requires the tenant to acknowledge that the property is a shared facility.

The court rules that the fact that the owner does not occupy the premises takes the premises out of RSA 540:3, and the property is not a rooming house in that it is rented for more than 90 days. The tenant is a normal tenant as defined under RSA 540. The waiver is ineffective as that provision in the rental agreement violates RSA 540-A:8,III, depriving the tenant of her rights under RSA 540. The notice given to the tenant that did not state a reason violates RSA 540:2,II

The tenant was readmitted that same day after filing this petition.



Case Name: Melissa Natal v. GMPM Company & 479 Maple Street, LLC

Case Number: 456-2021-LT-00279 - €

**FINAL ORDER ON TENANT'S 540-A PETITION**

**FINAL ORDER ON TENANT'S 540-A PETITION**

**DAMAGES**

**Actual Damages:** Tenants are entitled to recover any actual damages resulting from the landlord's prohibited practices, as well as damages for any breach of warranty of habitability, breach of the covenant of quiet enjoyment or any other claim arising out of the facts alleged in the tenant's petition.

**Statutory Damages:** Statutory damages of \$1000 per violation, and \$1,000 per day the violation continues after issuance of a temporary order, are available only for violations of RSA 540-A:2 and RSA 540-A:3, I, II, III, or IV. If the landlord re-lets or has a new tenant in a premises from which the tenant was unlawfully locked out or dispossessed, the Court must award a minimum of \$3000 in damages. The tenant need not plead or prove damages to be entitled to statutory damages.

The Court must award the greater of the tenant's actual damages or statutory damages.

Based on the landlord's violation of  RSA 540-A:2 OR  RSA 540-A:3, I, II, III or IV, the Court orders the landlord to pay damages to the tenant in the amount of:

\$ 1000.00 for each initial violation; and

\$ 0 for each day that a violation continued after the Court issued a temporary order.

In total, the court orders the landlord to pay the tenant \$ \_\_\_\_\_ in damages.

**A WILLFUL VIOLATION OF THIS ORDER CONSTITUTES CONTEMPT OF COURT AND MAY RESULT IN THE IMPOSITION OF CIVIL PENALTIES, FINES AND/OR IMPRISONMENT.**

**Recommended:**

*David L. Kent*

May 14, 2021

Date

\_\_\_\_\_  
Signature of Referee/Hearing Officer

David L. Kent, Judicial Referee

\_\_\_\_\_  
Printed Name of Referee/Hearing Officer

**So Ordered:**

I hereby certify that I have read the recommendation(s) and agree that, to the extent the referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the referee/hearing officer.

5/17/21  
Date

*William H. Lyons*  
\_\_\_\_\_  
Signature of Judge  
William H. Lyons

\_\_\_\_\_  
Printed Name of Judge

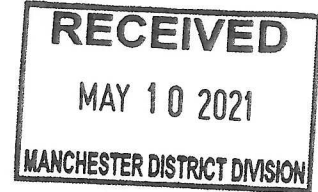


265 Central Street, LLC  
471 Maple Street  
Manchester, NH 03104

Phone (603)661-0898

May 10, 2021

Mary A. Barton  
9<sup>th</sup> Circuit-District Division-Manchester  
35 Amherst Street  
Manchester, NH 03101



POWER OF ATTORNEY

Re: 479 Maple Street, LLC DBA: GMPM

Dear Ms. Barton

This letter is to notify the Court that 479 Maple Street, LLC, doing business as GMPM, authorizes Keith Duperron to represent it in any landlord tenant matter from May 10, 2021 through May 9, 2022. 479 Maple Street, LLC acknowledges that it shall be bound by any agreement entered into by Keith Duperron or by any order of the court in any landlord tenant matter where he represents it.

Keith Duperron - Member

\* \* \* \* \*

**STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH**

Then personally appeared Keith Duperron, on this 10<sup>th</sup> day of May 2021 and made oath the above affidavit by him is true.

**GWEN M. DUPERRON**  
Notary Public - New Hampshire  
My Commission Expires August 3, 2021

Justice of the Peace/Notary Public

RECEIVED

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

http://www.courts.state.nh.us

MAY 07 2021

MANCHESTER DISTRICT DIVISION

Court Name: 9th Circuit - District Division - Manchester

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_  
(if known)

TENANT'S PETITION UNDER RSA 540-A:4

Melissa Natal  
Tenant(s) / Plaintiff(s)

v. GMPM company - Lynee & John  
Landlord(s) / Defendant(s)

Mailing address:  
Street: 479 maple st

Mailing address:  
Street: 326 Amherst st

#3B

City: Manchester

City: Manchester

State: NH Zip code: 03301

State: NH Zip code: 03301

Telephone: 603-216-9899

Telephone: 603-668

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

Property and Party Information:

1. Physical Address of Property: 479 maple st 3B

2. The property about which I am filing a petition  is  is not a residential premises. (RSA 540-A only applies to residential premises, including manufactured housing or space in a manufactured housing park)

3. The landlord(s) named above is the  owner  lessor  agent for the owner/lessor of the property.

4.  am  am not the person to whom the landlord(s) named above rents or leases the property.

5.  have  have not received an eviction notice for this property.

6. If there is an eviction case pending, please provide the following information:

Court Name: \_\_\_\_\_

Case Name: \_\_\_\_\_

Case Number (if known): \_\_\_\_\_

Date of Any Hearing: \_\_\_\_\_

I complain that I am in immediate threat of irreparable harm because (check all that apply):

My landlord willfully caused my utility service, specifically:  water  heat  light  telephone  gas  electricity  sewerage  elevator  refrigeration  internet  television  other utility service \_\_\_\_\_ (describe service) to be shut off without prior permission from the court. (does not include temporary interruptions as may be necessary when actual repairs are in process or during temporary emergencies).

My landlord has willfully denied me access to all or part of my rented/leased premises without prior permission from the Court by:

my landlord with the help of the police had me removed from my rented room.



Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**TENANT'S PETITION UNDER RSA 540-A:4**

My landlord has willfully seized, is holding or is denying me access to my personal property without prior permission from the Court by:

\_\_\_\_\_  
\_\_\_\_\_

My landlord has entered my rented/leased premises without my permission and is not doing so to make emergency repairs or to respond within 72 hours of a report of a pest infestation, as follows:

\_\_\_\_\_  
\_\_\_\_\_

My landlord willfully refuses to investigate my report of an infestation of insects, including bed bugs, or rodents, in my rented/leased premises and it has been more than seven days since my landlord has received notification of the infestation, as follows:

\_\_\_\_\_  
\_\_\_\_\_

My landlord willfully refuses to take reasonable measures to remediate an infestation of insects, including bed bugs, or rodents, in my rented/leased premises, as follows:

\_\_\_\_\_  
\_\_\_\_\_

My landlord has willfully and substantially interfered with my beneficial use or enjoyment of my rented/leased premises, thereby violating my right to quiet enjoyment of the premises by:

\_\_\_\_\_  
\_\_\_\_\_

My landlord has willfully ~~attempted to~~ <sup>did</sup> force me to leave my rented/leased premises without following lawful procedures for eviction by:

I rent a room in a rooming house and have been there more than 90 days consecutive. The ~~OWNER~~ <sup>OWNER</sup> does not live on premises. Police removed ~~ME~~ <sup>ME</sup> today on magament orders. I moved in the room in December 2020 I lived in the same room since I moved in

**RECEIVED**

MAY 07 2021

MANCHESTER DISTRICT DIVISION

SEE ATTACHED ADDITIONAL PAGE(S)

This occurred on: 5-7-21 and

ended on \_\_\_\_\_ OR  continues through this day.

**I RESPECTFULLY REQUEST THAT THE COURT ISSUE THE FOLLOWING TEMPORARY ORDERS:**

Find that I am in immediate threat of irreparable harm due to the actions of my landlord set forth above.

Order the landlord to immediately restore all of my utility services.

Order the landlord to immediately allow me full access to the premises that I rent/lease.

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**TENANT'S PETITION UNDER RSA 540-A:4**

- Order the landlord to immediately investigate my report of an infestation of insects, including bed bugs, or rodents.
- Order the landlord to immediately take reasonable measures to remediate an infestation of insects, including bed bugs, or rodents.
- Order the landlord to immediately return all of my personal property.
- Restrain the landlord from entering the property that I am renting from the landlord without my permission except to make emergency repairs, to include the formulation of a plan for remediation, or to engage in emergency remediation, of an infestation of insects, including bed bugs, or rodents.
- Restrain the landlord from violating my right to quiet enjoyment and order the landlord to (specify requested remedy):

\_\_\_\_\_  
 Restrain the landlord from circumventing lawful eviction procedures and order the landlord to (specify requested remedy):

\_\_\_\_\_  
 OTHER: \_\_\_\_\_

**I RESPECTFULLY REQUEST THESE ADDITIONAL FINAL ORDERS:**

- Find that my landlord has violated RSA 540-A, as alleged in this petition.
- Grant such relief as the Court deems necessary to protect my rights, including an order prohibiting the landlord from continuing the activity or activities alleged in this petition.
- Award actual damages to me in the amount of \$ \_\_\_\_\_ for the following loss or injury:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SEE ATTACHED ADDITIONAL PAGE(S)

OTHER: \_\_\_\_\_

If no actual damages are alleged, or if actual damages do not exceed the minimum damage award required by law, the Court may award damages for each proven violation for which a party is entitled to statutory minimum damages. **WARNING: Each day that a violation continues after the Court issues a temporary order shall constitute a separate violation of the law and damages of at least \$1,000 per day may be awarded to the prevailing party.** The Court may also award costs and reasonable attorney's fees for proven violations when required by law.

**RECEIVED**

MAY 07 2021

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

TENANT'S PETITION UNDER RSA 540-A:4

**VERIFICATION**

I verify the truth and accuracy of all facts alleged within this document to the best of my belief and further verify that all facts contained in this document are alleged in good faith. By signing this document I acknowledge that any false statements made in this document may subject me to criminal penalties, including a fine or imprisonment or both.

Melissa Natal  
Name of Filer

\_\_\_\_\_  
Signature of Filer Date

\_\_\_\_\_  
Law Firm, if applicable Bar ID # of attorney

\_\_\_\_\_  
Telephone

479 maple st  
Address  
Manchester NH. 03301  
City State Zip code

\_\_\_\_\_  
E-mail

**RECEIVED**

MAY 07 2021



THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: 9th Circuit - District Division - Manchester  
Case Name: Melissa Natal v. GMPM Company and 479 MAPLE STREET LLC  
Case Number: 456-2021-LT-00279  
(if known)

TENANT'S PETITION UNDER RSA 540-A:4

Melissa Natal  
Tenant(s) / Plaintiff(s)

V. 479 MAPLE STREET LLC  
Landlord(s) / Defendant(s)

Mailing address:  
Street: 479 Maple Street  
#3B

Mailing address:  
Street: 471 Maple Street

City: Manchester

City: Manchester

State: NH Zip code: 03301

State: NH Zip code: 03104

Telephone: (603) 266-9899

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

Property and Party Information:

1. Physical Address of Property: 479 Maple Street, Manchester, NH

2. The property about which I am filing a petition  is  is not a residential premises. (RSA 540-A only applies to residential premises, including manufactured housing or space in a manufactured housing park)

3. The landlord(s) named above is the  owner  lessor  agent for the owner/lessor of the property.

4. I  am  am not the person to whom the landlord(s) named above rents or leases the property.

5. I  have  have not received an eviction notice for this property.

6. If there is an eviction case pending, please provide the following information:

Court Name: \_\_\_\_\_

Case Name: \_\_\_\_\_

Case Number (if known): \_\_\_\_\_

Date of Any Hearing: \_\_\_\_\_

I complain that I am in immediate threat of irreparable harm because (check all that apply):

My landlord willfully caused my utility service, specifically:  water  heat  light  telephone  gas  electricity  sewerage  elevator  refrigeration  internet  television  other utility service \_\_\_\_\_ (describe service) to be shut off without prior permission from the court. (does not include temporary interruptions as may be necessary when actual repairs are in process or during temporary emergencies).

My landlord has willfully denied me access to all or part of my rented/leased premises without prior permission from the Court by:

**Tenant was removed by police without judicial process. Client has rented a room in the property for more than 90 consecutive days. Not a shared facility as owner does not live at the property.**

Case Name: Melissa Natal v. GMPM Company and 479 MAPLE STREET LLC

Case Number: 456-2021-LT-00279

**TENANT'S PETITION UNDER RSA 540-A:4**

My landlord has willfully seized, is holding or is denying me access to my personal property without prior permission from the Court by:

\_\_\_\_\_  
\_\_\_\_\_

My landlord has entered my rented/leased premises without my permission and is not doing so to make emergency repairs or to respond within 72 hours of a report of a pest infestation, as follows:

\_\_\_\_\_  
\_\_\_\_\_

My landlord willfully refuses to investigate my report of an infestation of insects, including bed bugs, or rodents, in my rented/leased premises and it has been more than seven days since my landlord has received notification of the infestation, as follows:

\_\_\_\_\_  
\_\_\_\_\_

My landlord willfully refuses to take reasonable measures to remediate an infestation of insects, including bed bugs, or rodents, in my rented/leased premises, as follows:

\_\_\_\_\_  
\_\_\_\_\_

My landlord has willfully and substantially interfered with my beneficial use or enjoyment of my rented/leased premises, thereby violating my right to quiet enjoyment of the premises by:

\_\_\_\_\_  
\_\_\_\_\_

My landlord has willfully attempted to force me to leave my rented/leased premises without following lawful procedures for eviction by:

\_\_\_\_\_  
\_\_\_\_\_

OTHER:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

SEE ATTACHED ADDITIONAL PAGE(S)

This occurred on: 05/07/2021 and

ended on 05/07/2021 OR  continues through this day.

**I RESPECTFULLY REQUEST THAT THE COURT ISSUE THE FOLLOWING TEMPORARY ORDERS:**

Find that I am in immediate threat of irreparable harm due to the actions of my landlord set forth above.

Order the landlord to immediately restore all of my utility services.

Order the landlord to immediately allow me full access to the premises that I rent/lease.



Case Name: Melissa Natal v. GMPM Company and 479 MAPLE STREET LLC

Case Number: 456-2021-LT-00279

**TENANT'S PETITION UNDER RSA 540-A:4**

- Order the landlord to immediately investigate my report of an infestation of insects, including bed bugs, or rodents.
- Order the landlord to immediately take reasonable measures to remediate an infestation of insects, including bed bugs, or rodents.
- Order the landlord to immediately return all of my personal property.
- Restrain the landlord from entering the property that I am renting from the landlord without my permission except to make emergency repairs, to include the formulation of a plan for remediation, or to engage in emergency remediation, of an infestation of insects, including bed bugs, or rodents.
- Restrain the landlord from violating my right to quiet enjoyment and order the landlord to (specify requested remedy):  
\_\_\_\_\_
- Restrain the landlord from circumventing lawful eviction procedures and order the landlord to (specify requested remedy):  
\_\_\_\_\_

OTHER: \_\_\_\_\_

**I RESPECTFULLY REQUEST THESE ADDITIONAL FINAL ORDERS:**

- Find that my landlord has violated RSA 540-A, as alleged in this petition.
- Grant such relief as the Court deems necessary to protect my rights, including an order prohibiting the landlord from continuing the activity or activities alleged in this petition.
- Award actual damages to me in the amount of \$ \_\_\_\_\_ for the following loss or injury:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SEE ATTACHED ADDITIONAL PAGE(S)

OTHER: \_\_\_\_\_

If no actual damages are alleged, or if actual damages do not exceed the minimum damage award required by law, the Court may award damages for each proven violation for which a party is entitled to statutory minimum damages. **WARNING: Each day that a violation continues after the Court issues a temporary order shall constitute a separate violation of the law and damages of at least \$1,000 per day may be awarded to the prevailing party.** The Court may also award costs and reasonable attorney's fees for proven violations when required by law.



Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**TENANT'S PETITION UNDER RSA 540-A:4**

**VERIFICATION**

I verify the truth and accuracy of all facts alleged within this document to the best of my belief and further verify that all facts contained in this document are alleged in good faith. By signing this document I acknowledge that any false statements made in this document may subject me to criminal penalties, including a fine or imprisonment or both.

**Marta Hurgin** \_\_\_\_\_  
Name of Filer

*Marta A. Hurgin* \_\_\_\_\_ **05/12/2021**  
Signature of Filer Date

**Legal Advice and Referral** \_\_\_\_\_ **265835** \_\_\_\_\_  
Law Firm, if applicable Bar ID # of attorney

**(207) 650-4026** \_\_\_\_\_  
Telephone

**15 Green Street** \_\_\_\_\_  
Address

**mhurgin@larcnh.org** \_\_\_\_\_  
E-mail

**Concord** \_\_\_\_\_ **NH** \_\_\_\_\_ **03301**  
City State Zip code

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH

http://www.courts.state.nh.us

Court Name: 9th Circuit - District Division - Manchester

Case Name: Melissa Natal v. GMPM Company

Case Number: 456-2021-LT-00279-E

COPY FOR  
RETURN TO COURT

TEMPORARY ORDER ON TENANT'S 540-A PETITION  
AND NOTICE OF HEARING

(RSA 540-A:4, VII: Upon the showing of an immediate threat of irreparable harm, the court may issue such temporary orders as it deems necessary to protect the parties with or without actual notice to the defendant.)

The Court having considered the tenant's petition pursuant to RSA 540-A:4 hereby finds and orders as follows:

The tenant **IS NOT** in immediate threat of irreparable harm due to the action of the landlord(s) set forth in tenant's petition. Therefore, the Court orders:

No temporary orders. Case is scheduled for a final hearing.

Petition is DENIED for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

The tenant **IS** in immediate threat of irreparable harm due to the action of the landlord(s) set forth in tenant's petition. Therefore, the Court orders the landlord(s) to:

Immediately restore and maintain all utility services as provided by the tenant's rental agreement with the landlord and not interfere with any other utility services provided to the tenant.

Permit the tenant to have full and immediate access to tenant's rented/leased premises forthwith.

Immediately return any and all of tenant's personal property to the tenant.

Immediately investigate the tenant's report of an infestation of pests and/or take reasonable measures to remediate any infestation.

The Court further orders that the landlord is restrained from:

Taking, converting, or damaging property in which tenant has legal or equitable interest.

Entering the tenant's rented/leases premises without permission of the tenant or prior court order, except to make emergency repairs.

Violating the tenant's right to quiet enjoyment or circumventing lawful eviction procedures, including by:

\_\_\_\_\_  
\_\_\_\_\_

(specify prohibited behavior(s))

OTHER:

\_\_\_\_\_  
\_\_\_\_\_

MAY 12 2021

COPY FOR  
RETURN TO COURT  
12

Case Name: Melissa Natal v. GMPI Company

Case Number: 456-2021-LT-00279-E

**TEMPORARY ORDER ON TENANT'S 540-A PETITION**

These orders are effective immediately and remain in effect until further orders of the Court.

**A WILLFUL VIOLATION OF THIS ORDER CONSTITUTES CONTEMPT OF COURT AND MAY RESULT IN THE IMPOSITION OF CIVIL PENALTIES, FINES AND/OR IMPRISONMENT.**

So Ordered:

5/7/21  
Date

[Signature]  
Signature of Judge  
William H. Lyons  
Printed Name of Judge

**NOTICE OF TELEPHONIC HEARING**

A hearing will be held at the above court on June 1, 2021 at 1:30 pm. The landlord is hereby summoned to appear to show why the above orders should not remain in full force and effect, and why further final orders should not issue.

5-7-2021  
Date

[Signature]  
Mary A. Barton, Clerk of Court

**NOTICE TO LANDLORD**

If the Court has issued temporary orders above, you have a right to a hearing on the orders within five (5) days after you file a written request with the Court. Unless you request this hearing in writing, the case will be heard on the date shown above.

**RETURN OF SERVICE**

(To be completed by officer making service)

\_\_\_\_\_ County \_\_\_\_\_ Date

Service was completed to the within named \_\_\_\_\_

by  giving in hand  leaving at the abode at \_\_\_\_\_

on \_\_\_\_\_ an attested copy of this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency

FILED

MAY 12 2021



**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT**

9th Circuit - District Division - Manchester  
35 Amherst Street  
Manchester NH 03101

Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**NOTICE OF HEARING**

**FILE COPY**

Case Name: **Melissa Natal v. GMPM Company**  
Case Number: **456-2021-LT-00279**

The above referenced case(s) has/have been scheduled for:  
**Final Hearing**

TELEPHONIC HEARING. PLEASE SEE ATTACHED TELEPHONIC INFORMATION SHEET.  
PHONE# 866-951-1151 CONFERENCE ROOM# 602-769-265

**Date: May 14, 2021**                      **35 Amherst Street**  
**Time: 3:30 PM**                              **Manchester, NH 03101**  
**Time Allotted: 30 Minutes**      **Courtroom 301-9th Circuit-District Division-Manchester**

If you are unable to appear at this scheduled hearing, you must request a continuance from the Court in writing at least 10 days in advance of the hearing date. You must also send a copy of the request to the opposing party, unless restricted from doing so. Motions to continue filed fewer than 10 days in advance of hearing will only be granted if the Court finds that an emergency or exceptional circumstance exists. You must appear on the scheduled date unless you receive notification from the Court that a request to continue the hearing has been granted.

If the defendant(s) do(es) not appear and the court makes a finding for the plaintiff, the court may proceed immediately to the assessment of damages. If the plaintiff(s) do(es) not appear, it may result in a dismissal.

**NOTICE OF APPELLATE RIGHTS**

If you receive an adverse decision in the Circuit Court, you have the right to appeal the decision by filing an appeal in the New Hampshire Supreme Court. This is an appeal only on questions of law. In other words, the Supreme Court will not re-determine questions of fact already decided by the Circuit Court. You must file your appeal with the Supreme Court within thirty (30) days of the date on the Circuit Court's written notice of the decision. In landlord/tenant cases, you must notify the Circuit Court within seven (7) days of the Notice of Judgment date of your intent to file an appeal in the Supreme Court. In certain limited circumstances you may have to file an appeal first in the Superior Court. It is important that you look up the specific appeal rights for your specific case type to determine where to file your appeal and how quickly you must act. You may wish to contact an attorney to help you with this.

Case Name: Melissa Natal v. GMPM Company

Case Number: 456-2021-LT-00279

LANDLORD TENANT NOTICE OF HEARING

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

May 10, 2021

Mary A. Barton  
Clerk of Court

(1035)

C: Melissa Natal; GMPM Company

# **\*\*TELEPHONIC HEARING NOTICE\*\***

## **PLEASE READ**

*(Manchester Circuit/Landlord/Tenant cases)*

The hearing which you have scheduled will now be **telephonic** rather than in person at the courthouse. **The time of your hearing may have changed.** Please check your notice carefully.

**\*\*PLEASE DO NOT GO TO THE COURTHOUSE FOR YOUR HEARING.\*\***

Please call the following number and when prompted enter the conference room number followed by the # symbol:

**Call: 866-951-1151                      room number: 602-769-265**

When you call into your hearing, it is possible that the Court is conducting other telephonic hearings and there may be a delay before your hearing begins. Please be patient and remain on the line.

### ***Things to remember during a telephonic hearing:***

1. Please do not attempt to speak when another person is speaking. You will be given your opportunity to speak by the Judge presiding over the telephonic hearing.
2. Please be in a location with as little background noise as possible. You may be required to mute your telephone if the background noise at your location becomes a distraction.
3. If using a cellular phone, please do not participate in the hearing while driving and be sure to be in a location with adequate cellular service.
4. If there are others with you, please be sure to identify those individuals at the beginning of the hearing. There are occasions on which the Judge may ask that others with you leave the room you are in.
5. **Filings should be mailed or delivered to the drop box at each courthouse.** In exceptional circumstances, documents may be submitted via email to the COVID-19 email address provided below. If documents must be submitted by email, include case name and case number in the subject line. Documents must be submitted at least 24 hours prior to the scheduled hearing start. Any filing/exhibit submitted by e-mail must also be sent to the court via U.S. mail, to be docketed as part of the official court record.
6. Emailed filings should only occur in cases that are scheduled for hearings pursuant to the current orders of the NH Supreme Court, for which documents could not have been submitted earlier.
7. Any submission unrelated to such hearings will not be accepted and will not be considered filed.

E-mail address: [ManchesterCOVID19@courts.state.nh.us](mailto:ManchesterCOVID19@courts.state.nh.us)

It will not be possible for you to submit documents or other exhibits during the telephonic hearing. If there are documents or exhibits that you were unable to submit before the hearing, bring this to the attention of the Judge who is presiding over the hearing. **NOTE:** Copies of any submissions to the court must be forwarded to all other parties, and contain an affirmation indicating such, for example: "I certify that on this date I provided a copy of this document to..."

If there are witnesses you wish to have testify, they should either be with you (subject to #4 above) or available to call in to the hearing. The Court will not make calls to others on your behalf.

8/14/2020 – Landlord/Tenant



**479 MAPLE ST**

**Location** 479 MAPLE ST

**Mblu** 04071 / 00071 /

**Owner** 479 MAPLE STREET LLC

**Assessment** \$336,100

**Building Count** 1

**Current Value**

Assessment	
Valuation Year	Total
2019	\$336,100

**Owner of Record**

**Owner** 479 MAPLE STREET LLC

**Sale Price** \$385,000

**Co-Owner**

**Certificate**

**Book & Page** 9187/1580

**Sale Date** 07/11/2019

**Instrument** 04

**Ownership History**

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
479 MAPLE STREET LLC	\$385,000		9187/1580	04	07/11/2019
BAYTON LLC	\$0		8566/2701	40	05/30/2013
MENNING, JAMES R	\$258,000		8560/0902	40	05/15/2013
REGIONS FIRST LLC	\$45,000		8174/0214	22	01/26/2010

**Building Information**

**Building 1 : Section 1**

**Year Built:** 1900

**Living Area:** 5,888

**Replacement Cost**

**Less Depreciation:** \$264,500

Building Attributes	
Field	Description
Style:	Res Style 4-8 Units
Model	Multi-Family

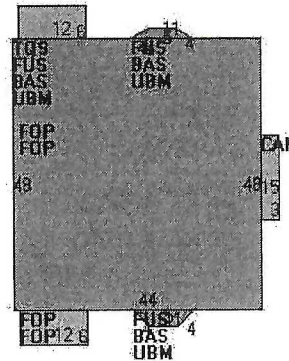
Grade:	Average +05
Stories:	2 3/4 Stories
Occupancy	4
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure:	Mansard
Roof Cover	Slate
Interior Wall 1	Plastered
Interior Wall 2	Drywall
Interior Flr 1	Carpet
Interior Flr 2	Inlaid/Linoleu
Heat Fuel	Gas
Heat Type:	Steam
AC Type:	None
Total Bedrooms:	9+ Bedrooms
Total Bthrms:	4
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	22
Bath Style:	Average
Kitchen Style:	Average
Num Kitchens	06
Cndtn	
Num Park	
Fireplaces	
MHP	
Fndtn Cndtn	
Basement	

### Building Photo



(<http://images.vgsi.com/photos/ManchesterNHPhotos/00074151.JPG>)

### Building Layout



([http://images.vgsi.com/photos/ManchesterNHPhotos/Sketches/11984\\_50](http://images.vgsi.com/photos/ManchesterNHPhotos/Sketches/11984_50))

Building Sub-Areas (sq ft)			
Code	Description	Gross Area	Living Area
BAS	First Floor	2,152	2,152
FUS	Upper Story, Finished	2,152	2,152
TQS	Three Quarter Story	2,112	1,584
CAN	Canopy	45	0
FOP	Porch, Open	288	0
UBM	Basement, Unfinished	2,152	0
		8,901	5,888

### Extra Features

Extra Features
No Data for Extra Features

### Land



**Land Use**

Use Code 1112  
Description RES 4-8UNIT MDL-03

**Land Line Valuation**

Size (Sqr Feet) 5161

**Outbuildings**

Outbuildings
No Data for Outbuildings

**Valuation History**

Assessment	
Valuation Year	Total
2020	\$336,100
2019	\$336,100
2018	\$336,100

(c) 2021 Vision Government Solutions, Inc. All rights reserved.

# GMPM

OFFICE: 326 Amherst St.  
Manchester, NH 03104  
603.668.2418

## Shared Facility Waiver

As an occupant at this facility please read and understand the laws laid out below.

### CHAPTER 540-B RENTAL OF SHARED FACILITIES

#### Section 540-B:1

##### **540-B:1 Definition; Shared Facility. –**

I. A "shared facility" means real property rented for residential purposes which has separate sleeping areas for each occupant and in which each occupant has access to and shares with the owner of the facility one or more significant portions of the facility in common, such as kitchen, dining area, bathroom, or bathing area, for which the occupant has no rented right of sole personal use.

II. A shared facility shall not include:

(a) Facilities rented to transient guests intended for use of less than 90 days.

(b) Rooms in hotels, motels, inns, tourist homes, and other dwellings rented for recreational or vacationing use.

(c) Rooms provided ancillary to other primary purposes such as jails, student dormitories, nursing homes, hospitals, group homes, and emergency shelters.

Source. 2001, 277:3, eff. Jan. 1, 2002.

#### Section 540-B:2

**540-B:2 Nature of Tenancy. –** Every tenancy shall be deemed to be at will, and the rent payable as agreed, unless a written contract defines the terms of the tenancy differently. Except as otherwise provided, a verbal rental agreement shall be permitted.

Source. 2001, 277:3, eff. Jan. 1, 2002.

#### Section 540-B:3

##### **540-B:3 Termination of Tenancy; Notice of Termination. –**

I. The owner or agent of the owner of a shared facility may terminate any tenancy without stating any reason. A written 30-day notice of termination shall be required.

II. The owner or agent of the owner of a shared facility may terminate any tenancy for nonpayment of rent. A written 7-day notice of termination shall be required.

III. The owner or agent of the owner of a shared facility may terminate any tenancy for damage to the premises, or behavior of the occupant or guest of any family member of the occupant which adversely affects the health or safety of the other occupants or the owner or the agent of the owner, or material breach of any rental agreement. A written 72-hour notice of termination shall be required.

Source. 2001, 277:3, eff. Jan. 1, 2002.

#### **Section 540-B:4**

**540-B:4 Termination by Occupant.** – An occupant may terminate any at will tenancy by a written 30-day notice or in accordance with any notice requirement of a written rental agreement.

**Source.** 2001, 277:3, eff. Jan. 1, 2002.

#### **Section 540-B:5**

##### **540-B:5 Service of Notice.** –

I. The owner or agent of the owner of a shared facility shall give the notice of termination personally to the occupant or attach the notice to the primary entrance to the occupant's separated area.

II. The occupant shall give the notice of termination by the same method used to pay rent or in accordance with any written rental agreement.

**Source.** 2001, 277:3, eff. Jan. 1, 2002.

#### **Section 540-B:6**

**540-B:6 Possessory Rights.** – The occupant shall have no possessory rights to any portion of a shared facility. The owner or agent of the owner may request law enforcement intervention for any behavior if such action is deemed necessary. The law enforcement officer shall not be precluded from any normal response based on the fact of the rental agreement.

**Source.** 2001, 277:3, eff. Jan. 1, 2002.

#### **Section 540-B:7**

**540-B:7 Remedies.** – Violations of this chapter shall be subject to the remedies set forth in RSA 540-A:4.

**Source.** 2001, 277:3, eff. Jan. 1, 2002.

#### **Section 540-B:8**

**540-B:8 Possession.** – The owner or agent of the owner of a shared facility may take possession of the separated areas used by the occupant at the end of the notice period. The owner or agent of the owner may request law enforcement intervention as necessary.

**Source.** 2001, 277:3, eff. Jan. 1, 2002.

#### **Section 540-B:9**

**540-B:9 Personal Property.** – The owner or agent of the owner of a shared facility shall retain and exercise reasonable care in the storage of the personal property of the occupant who has vacated the premises for a period of 3 days after the date on which such occupant has vacated. After the 3-day period, the owner or agent of the owner of a shared facility may dispose of such property without notice to the occupant.

**Source.** 2001, 277:3, eff. Jan. 1, 2002.

**Section 540-B:10**

**540-B:10 Security Deposit.** – The owner or agent of the owner of a shared facility may require a security deposit in an amount to be determined by the owner or agent of the owner. If the deposit amount is more than the equivalent of 30 days rent, there shall be a written instrument acknowledging receipt and explaining where the deposit shall be maintained and when it shall be returned. If there is no written agreement, the deposit shall be returned within 20 days after the occupant has vacated.

Source. 2001, 277:3, eff. Jan. 1, 2002.

By signing below you acknowledge that this is a shared facility and you must abide by all laws pertaining to RSA 540-B as an occupant at this dwelling/dwelling unit.

x   Date 12-7-2020

---



# GMPM

OFFICE: 326 Amherst St.  
Manchester, NH 03104  
603.668.2418

## INDIVIDUAL LEASE

Welcome to our property, where we will do our best to provide you with a safe, clean and comfortable home. Your portion of the rent for the dwelling unit of which you are an occupant will include heat, hot water, electric, cable, your own bedroom and shared access to the bathroom, kitchen and living areas in said dwelling unit. As an occupant at this dwelling you will be living in common with other occupants in a single dwelling unit as a shared facility per NH RSA 540-B and as a single housekeeping unit. **GMPM IS NOT A ROOMING HOUSE.** Access to the shared areas in the dwelling unit of which you are an occupant will be shared with and limited to the other occupants of that dwelling unit as well as the owner. The owner's access will include the cleaning, maintenance, and showing of the bathroom and kitchen as well as the cleaning, maintenance, showing, and monitoring of all other living or common areas in the dwelling unit and dwelling.

We do not accept personal checks, company checks or credit cards. We do accept cash, money orders or traveler's checks. Please read the property rules and regulations listed below. Lying on your application may get you removed from the property.

Your cooperation in adhering to these rules for the health, safety and happiness of all occupants is appreciated. One person per bedroom. No more than two guests per occupant. All Guests must leave by 10pm.

1. Rents must be paid one week in advance. A \$15.00 late fee will be enforced if rent is not paid by the due day. You will not be permitted to pay rent late more than 3 times.
2. If you lose your key there is a \$25 core change charge. The entire lock will be changed and a new key will be provided to you. Since bedrooms within the apartment are single occupant, no spare keys will be provided. No unauthorized locks/locking knobs or any type of door latches are allowed. Building locks ONLY.
3. Residents must give ONE WEEK WRITTEN NOTICE of intent to move. Your security deposit cannot be used for rent. Failure to provide a full week's notice will result in a \$30.00 deduction from your security deposit, NO EXCEPTIONS! If our property is damaged or destroyed or not left in the same condition as when moved in (including cleanliness) you will be charged accordingly. Deposits will be returned within thirty (30) days of your departure. Security deposits are held at St. Mary's Bank, ACCT. #800579005.
4. Residents must vacate their dwelling unit by 11:00am on day of departure.
5. This is a DRUG FREE FACILITY. Residents engaging in any criminal activity, including drug activity on, near or within sight of the property will be subject to ejection from the property. Resident is fully responsible for visitor's actions on the property.
6. Anyone caught stealing, vandalizing or behaving in a manner that affects the health, safety or wellbeing of other occupants, will be ejected from the property.
7. Firearms and weapons are NOT allowed in the building
8. Fans are welcome in hot weather. Air conditioners are \$40 per air conditioner per calendar month even if you only have it installed for one day of the month. This must be paid BEFORE you install your air conditioner. If you fail to pay your AC fee by your first rent payment date of each month you will be assessed a \$5.00 late fee. The fee must be paid if the AC is in the window, running or not.
9. Smoke detectors are for your own safety. It is a misdemeanor to disconnect or tamper with them.
10. Hotplates, toaster ovens, deep fryers or electric fry pans or similar items are not allowed. Electric heaters are not allowed.
11. Burning of candles, incense or similar is not permitted. No open flames.
12. NO ANIMALS ARE ALLOWED.

13. Please keep your door shut so you do not disturb other residents.
14. Residents must keep noise down (no loud music or partying) and have guests out by 10:00 pm each evening. **ONLY TWO VISITORS PER OCCUPANT AT A TIME.** You are fully responsible for your guests and their actions/behavior. **DO NOT LEAVE VISITORS ALONE IN YOUR BEDROOM OR IN THE DWELLING UNIT.**
15. This is a secured building. Do not allow strangers into the building with you. Visitors must be allowed into the building by the occupant they are visiting. **Visitors should NEVER have possession of an occupants' key!** Visitors may not knock on or enter through windows or porch doors.
16. All occupants are responsible for disposing of their own trash and cleaning up after themselves in shared and common areas. **DO NOT LEAVE DISCARDED BELONGINGS IN ANY SHARED OR COMMON AREAS. Do not wash dishes in bathroom. DO NOT DISPOSE OF FOOD IN TOILETS. Anyone causing damage from dumping food will be charged a \$50 maintenance fee.**
17. Occupants **ARE NOT** permitted to leave items within any of the common/shared areas, including the outdoor grounds, unless they have obtained permission from all other dwelling unit occupants as well as the owner or his agent. The exception to this is the use of the common area refrigerator/freezer. Items stored in this appliance are done so at your own risk. The owner, or his agent, may throw away items, at their discretion and without notice, to ensure the appliance remains clean and accessible for all.
18. **SHOWERS ARE FOR OCCUPANTS ONLY!!!** Visitors are **NOT** allowed to use showers.
19. No loitering or drinking alcohol in common areas, inside or out – including outdoor porches – at any time.
20. No smoking in common areas. If smoking outside, please clean up after yourself and your guests.
21. Do not open or close common area windows or leave doors open or ajar.
22. Do not feed any animals including cats, birds or squirrels. Do not throw food on roofs or in yard.
23. Do not abandon carriages, mattresses, televisions, electronics or any items on the property that will not fit in trash receptacles. You will be charged a disposal fee of \$25 per item.
24. **NO TUBE/CONSOLE TVs are allowed. Disposal of these items is a \$50.00 fee.**

I have read the rules and understand them. I acknowledge that failure to comply with the rules above is a violation of this rental agreement and could result in termination of my Guest Agreement. I understand that lying on my application can result in ejection from the property. By signing below, I agree to abide by property rules.

RESIDENT SIGNATURE  DATE 12-7-2020

# Committee Minutes





**Elliott Berry – New Hampshire Legal Assistance:** Thank you, Mr. Chairman, members of the committee. My name is Elliott Berry; I'm Senior Staff Attorney at New Hampshire Legal Assistance where I've been representing tenants for a very, very long time.

**Senator Russell E. Prescott, D. 19:** And you are speaking in opposition?

**Elliott Berry – New Hampshire Legal Assistance:** In opposition, but actually not at all in opposition to what Senator Johnson said and that when he said, "*We need help in defining people who want to rent only a small portion of their house.*" In that respect, I have no problem and have said to the various committees many times that that is something that makes perfect sense to me. And, by way of background, if I could. . .The eviction law **RSA 540** mentions a number of kinds of housing where the occupancy is something less than a landlord/tenant relationship. . .a room in a hotel, for example, boarding houses where less than...rooming or boarding houses where transient guests ordinarily occupied less than 90 consecutive days. . .those kinds of things. And, it always did occur to me that it was kind of an oversight that, if your mom has this big single-family home, in Kingston, and she just rented out a room for a little extra income but shares the rest of the house. . .if you're really careful about how you read the eviction statute, she probably has to go through the eviction process. And, I have always agreed with people that that's kind of nuts. . .And, what I've agreed on several times (including that one) is – Let's change that; let's take it out of the landlord/tenant arena and just let them give notice. . .you know, equal to the rent paying period. . .and get them out of there without having to do all of that.

And, indeed, the report (which I would just like to highlight one piece of) is also as Senator Johnson described it. You can see that. . .This is a listing in the **HB1199 Study Report. APPENDIX B (See attached, Document #2a and #2b)**. is a listing of possible legislation, and the third bullet from the bottom is "*Exempt from ordinary eviction procedures space rented in owner-occupied single-family properties.*" The problem is. . .As the bill. . .and Gene Gayda I'm sure will explain why he wants to make that happen. . .The bill as drafted opens it up much (this exemption-this no eviction process). . .much broader; and the key is. . .If you would look at the definition of "*shared facility*" on **Page 2, starting on Line 17**, and when it talks about (reads from section 540-B:1 of SB48). . . .A "**shared facility**" means real property rented for residential purposes which has separate sleeping areas for each occupant and in which each occupant has access to and shares with other occupants or the owner. . ."

*(Elliott Barry continues)*

The problem is with the phrase “*other occupants or the owner*” which means instead of now dealing with a classic situation that I just described before (a room or two in a single-family home with shared facilities), now, this definition suddenly engulfs all rooming houses. – Anyplace where you have. . .the people have. . .they may share nothing except the bathroom. But, that shared bathroom brings it into this definition, and all of a sudden, you’re way beyond the spirit of our agreement and the spirit of the legislation that’s described by Senator Johnson and you’re into. . .You know, we can have a debate about whether this is a good or bad thing but it is way beyond what was originally envisioned in the agreement and the report where you’re exempting only properties in an “*owner occupied*” unit where you’re renting out just a room and sharing the rest of the facility. So, I think you can see what a substantial expansion it is. The many tenant and advocates and tenant interests that I represent and confer with on a regular basis never bought into this the way it’s currently written, but certainly have no problem with the original intent of the bill as described in that list that I gave you.

**Senator Russell E. Prescott, D. 19:** May I ask a question, please? What added exemptions would you add to Part II there, starting on Line 23? What would you add to that? You’re concerned that Part I is too broad?

**Elliott Berry - New Hampshire Legal Assistance:** What I would do actually, if you don’t mind. . .just for a. . .I have several copies of what I would propose to do by way of amendment. But, if it’s much more. . .You could make it much more simple by simply focusing on the first paragraph.

I think the first paragraph does exactly what the legislation recommends and what I’ve always agreed to and that the rest of it we can talk about. I could explain why I would recommend all the rest, but I think the answer to your question is the very first paragraph of what I’m suggesting. . .But, the down side is that there are so. . .I mean, we don’t know how many, but obviously there are hundreds if not thousands of people who live in this broader definition of shared facility who would be extremely adversely affected by all of a sudden not being regarded as being literally subject to being put out of their apartment with no process at all, and that’s a big, big change. . .a lot bigger than when envisioned. I know that Gene feels there are strong reasons why you might want to consider that, but I would urge you not to do it on this bill which was really intended to be far more narrow than that and let us in a more deliberate way think about the broader implications of that expanded proposal. But, subject to that, again, the general idea as Senator Johnson

**(Elliott Berry continues)**

described I'm fully in agreement with and have no problem, and I would be happy to work with the committee on keeping it as narrow as the original proposal was. . .and thank you.

**Senator Russell E. Prescott, D. 19:** Any questions? Yes, Senator Francoeur.

**Senator Gary R. Francoeur, D. 14:** Just a question for you. . .I haven't had a chance to talk with Senator Johnson. I'm assuming that everybody (when they drafted the bill) looked at the rental laws as far as apartments, but the rental law under the innkeeper section says if you don't pay your rent, I call the police department and they come and take you out right then.

**Elliott Berry - New Hampshire Legal Assistance:** No question that in what we commonly think of as a "*motel or a hotel*" that's true.

**Senator Gary R. Francoeur, D. 14:** Where this is an individual's house and they are subject to a lot. . .I mean you could really in 7 days create a heck of a havoc for somebody not paying a rent and having to live with them. Wouldn't it be better to restructure this bill and tie it to the innkeeper section where it would give the person a lot more protection that is trying to help somebody out?

**Elliott Berry - New Hampshire Legal Assistance:** Let me. . .I'll try to explain how that can even be. The answer to your question is you're right and you could simply do it with even something more simple than my Paragraph I narrows. . .It's pretty close.

**Senator Gary R. Francoeur, D. 14:** I could take it and just change the innkeeper law to put a "*shared tenant*" piece into it, and that'd be all done.

**Elliott Berry - New Hampshire Legal Assistance:** You probably could, but I would recommend that we do it in the context defined. . .I mean, I'd be happy to offer technical assistance. . .But part of the difference is that the innkeeper law is not. . .It doesn't help you very much figure out what is really

**(Elliott Berry continues)**

in a hotel or motel and what might be something more like a boarding house, and it's just. . .It's cleaner if we just throw it into the exemptions from 540.

Again, if you just look at Paragraph I. . .Ignore everything else I did there. I think that that would achieve the result for you, but I just want to make clear that even; for example, right now in the exempt-Hotels and motels are exempted from the eviction law. You could simply add that definition that I put in Paragraph I there, and that would do under no process at all. I would hope that because there are some arrangements. . .and one of them I'm thinking of is college students. It seems to me that you might have a situation where a college student is renting a room in a house. . .say in Plymouth, and if you allow them to simply be locked out with no notice at all. . . .I'm sure an owner of a house would have a reason for wanting to do it, but people probably ought to have some notice. – I'm not asking in the "shared facility" thing for a court process but at least some formal notice that they better find somewhere else to shelter themselves before they actually get locked out. . .Because, remember sometimes it won't be an issue of nonpayment of rent. I mean, I don't know what the issues would be, but there will be others where it's not so obvious that this is coming. . .And, I think the 7 days that's drafted in the current version of SB 48 that you're looking at now, the 7 days I think is what Gene Gayda agreed with me was a reasonable period of time. There's nothing holy about it. I just think you ought to know before the only home that you have is no longer going to be available to you so you can make some other plan.

**Senator Gary R. Francoeur, D. 14:** Currently under the. . .Excuse me.

**Elliott Berry - New Hampshire Legal Assistance:** Senator Francoeur, could I just add one other thing about that? Remember that, ordinarily, people who are staying in hotels and motels have a home to go back to. They're there for business or recreation reasons but they have a place to go back to. Here, presumably, you're talking about people who this is their only residence as different a residence as it is. It may just be a room in somebody's home, but it's probably all they've got which, again, underscores a reason (I think) to have some notice period.

**Senator Gary R. Francoeur, D. 14:** I'd say I agree with you if I were looking at like the Hilton or something like that; but I think if you look at the other motels, I would disagree with you because I think there's a lot less transient in those there today. It just seems, especially, where this person

would be in somebody's own house that you are. . .I understand that now; I will take the chance after to talk to Senator Johnson because I think in a person's own house they should have as much protection as possible, and under the innkeeper law, they would have a lot more protection than under the landlord/tenant law.

**Elliott Berry - New Hampshire Legal Assistance:** Well, again, I certainly. . .The spirit of what you're saying I agree, which is why I agreed to pull this out of the eviction process entirely. We may have some disagreement about what level of residual protection you want to have that occupant need (I mean the occupant of the room) but I don't philosophically disagree with you. I think that this is. . .in this narrow case the law needs a major change.

**Senator Russell E. Prescott, D. 19:** Senator Flanders?

**Senator Robert B. Flanders, D. 7:** If I'm listening to this correctly, wouldn't it be difficult if you had someone living in your house that you share a facility (your kitchen, your bathroom, your main house) and you have a big enough difficulty with them that you're going to ask them to get out. Wouldn't 7 days be a long time to live in that house together?

**Elliott Berry - New Hampshire Legal Assistance:** Well, that's. . .Yes. I guess the only time potentially you can. . .with technically the way you read this statute now, you're stuck with an eviction process that probably takes 45 days. So, in that respect, I think what we're proposing is a big improvement over that. If you want to go farther, I really do hear you; and I'm not saying that would be a terrible thing to do. I do think, again. . .maybe you want to make it 72 hours. . .but just give them some idea that this is coming. Because, again, they probably have nowhere else to go. I am sympathetic with the problem and would like to see it fixed without bringing into this "rooming house" category that I think. . .(unclear on tape). . .unintentionally brought in by Senator Johnson.

**Senator Russell E. Prescott, D. 19:** Any other question? Speaking in favor is Gene Gayda.

**Gene Gayda – New Hampshire Property Owners Association:**

Thank you, Senators. I have prepared some remarks that pre-printed. For your records, you'll be able to have the information and I'll be talking about, in a moment, a handout which is a news story that comes from the Keene Sentinel.

*(See attached written testimony, Documents #3 and #4).*

Resumes with additional testimony.

It seems the biggest contention (and I will acknowledge Elliott's testimony) was the original agreement done ad hoc belittling this type of a venue was to talk about the "Mom and Pop" type of "shared facility" only. As I've ended research. . . If you were to go to our website, you will find that we have posted the landlord/tenant law for about 42 different states. So, if you're really into this type of thing (I am, perhaps you're not.), you could spend a wonderful number of hours just taking a look at the comparing contrasts with other states.

Most other states that have something of this nature addressed, simply exempt the "shared rental facility" back to the innkeeper statute as you were talking about, Senator Francoeur. They simply and currently exempt the "shared facility rental" from any landlord/tenant type of oversight. The next most common requirement is something similar to what we have done here in the bill.

You raised an issue about damages. We need in New Hampshire something called a "criminal damages law" for renters. . . where it's done in Connecticut and a few other states. What happens if a guy decides to take a hammer to the walls? Literally, right now, if I call the police and say, "My tenant is beating in the walls.", the police will tell me that there is nothing they can do. Now, I'm not trying to raise that issue here per se, but that issue was addressed in part of the proposed legislation in SB 48. Specifically, it is allowing law enforcement the ability to do what they're meant.

So, the question is. . . Do you want to try to have a "feel-good bill" and only do a "Mom and Pop" in which case you will find maybe about 14 more units that were available (in other words a very modest quantity)? Or Are you willing to put back a segment of the industry (the "shared facility industry") which use to be very vibrant with in how we did housing in years ago. That's what the Senate bill's all about. The disagreement does arise over whether it should be strictly "Mom and Pop" or whether it should be an industry

**(Gene Gayda continues)**

segment. I strongly suggest returning that industry segment is what we as a society now need to wrestle with and start to do. Thank you, and if there are any questions, I'll be happy to try to respond.

**Senator Russell E. Prescott, D. 19:** Any questions from the Senators?

**Senator Gary R. Francoeur, D. 14:** Yes.

**Senator Russell E. Prescott, D. 19:** Senator Francoeur.

**Senator Gary R. Francoeur, D. 14:** Thank you. If we looked at this in two parts. . .My concern, I think, was. . .Mr. Berry brought up that it's in a person's house. Currently, if you're under the innkeeper statutes and they're smashing up the place, they come, they arrest them, they take them right to jail. . .That's the end of it. It's not like the landlord/tenant like you said, you've got no recourse. It would seem. . .Did you take a look at the innkeeper section for "*Mom and Pops*"? Move those into that? Wouldn't that seem to make more sense as far as it would give them a lot more protection and maybe encourage more units to be opened up in that area?

**Gene Gayda- New Hampshire Property Owners Association:** You bring up a very valid question. I have not done my research on the innkeeper segment. However, I do point out one thing. . .The way RSA 540 is written, if somebody were to reside more than 90 days in a place, there is then a presumption (per the way I read 540) that no longer would an innkeeper statute be tolerated as the controlling law.

**Senator Gary R. Francoeur, D. 14:** Right.

**Gene Gayda - New Hampshire Legal Assistance:** New Hampshire Legal Assistance a few years ago actually had a supreme court case where the 90-day issue was the germane issue of contention. . .And, technically, they won. Morally, they lost because they now have eliminated housing for parolees by having won that case. That was the particular details. . .those housing for parolees.

The point is therefore, by putting something this into the innkeeper law while there already is the 90-day exclusion. So, unless you not only put it into innkeeper law and then went further that more than 90 days is still

**(Gene Gayda continues)**

under innkeeper law, you would have the difficulty of the **RSA 540** becoming the controlling legislative enacted. That's why I concentrated on looking at landlord/tenant law both here in New Hampshire and in other states.

Because this type of an issue, in most states (when handled), was handled in landlord/tenant law. So, I was just kind of repeating a pattern of wise thinking from our brother states.

**Senator Russell E. Prescott, D. 19:** Thank you.

**Senator Gary R. Francoeur, D. 14:** So, you're not real familiar with the protections on the innkeeper side as much as the landlord/tenant side?

**Gene Gayda- New Hampshire Property Owners Association:** That is correct. I will. . .Guess what I'm going to be doing this afternoon?

**Senator Gary R. Francoeur, D. 14:** If it becomes possible, after, maybe we could talk to Senator Johnson and the committee and maybe take a look at this.

**Gene Gayda:** Sounds good.

**Senator Gary R. Francoeur, D. 14:** Thank you.

**Senator Russell E. Prescott, D. 19:** Thank you. Any more questions? Speaking in opposition I call upon Cindy Carlson.

**Cindy Carlson – Housing Advocate at The Way Home:** My name is Cindy Carlson. I'm a Housing Advocate at The Way Home. I'm also a board member on the New Hampshire Coalition To End Homelessness. I received the Senate bill, and I looked at the definitions; and I became very concerned about how the "shared facility" is defined. Now, I've written all over my page with all the notes (everybody talking here); so, let me see if I can make sense of it for myself. . .That's what I'll do.

I believe that a person in their house needs to have some protection. My mother rents a room in her house. So, for her to have difficulties and stuff (and I've seen it happen). . .She's had to call the police and have someone removed. . .so, I understand that piece. But, there is a process already in place for some of that. You know, you can like restrain a person. There are



**(Cindy Carlson continues)**

different procedures in place, and I believe that that's the place that we're trying to protect here is those homeowners who are renting out rooms. When I read the definition, I became very confused in the landlord/tenant law, because I do go to court with people for evictions; and I represent residents at 46 Dover Street, 22 Concord Street, Massabesic Street. . .There's a lot of rooming houses.

In our tight housing market, we found that the people traditionally going into rooming houses are now somewhere else, and rooming houses are turned into like a mom and a child in a rooming house. So, to say that this process is going to put them out onto the streets because of our tight housing market, then that's a concern for me. I think that the definition needs to be changed in the way that. . .because you're sharing a bathroom or a kitchen facility at these rooming houses that it needs to be separated in a clearer way so that it doesn't include them. If they stay longer than 90 days at a rooming house, they should have the same eviction procedures of 540-A that everyone else does. So, when I heard Gene Gayda say that opening up this elderly, homeowners, whoever it was that was going to solve the homeless problem by opening up units, I think that you have to look at anything that's a temporary residence as not going to solve homelessness. The only thing that's really going to solve it is some more affordable housing. . .And, just a "quick stay" at so and so's house for a while - That's in a different category.

I really believe in protecting the small portion of the homeowner. . .That's it. Does anybody have any questions to ask?

**Senator Russell E. Prescott, D. 19:** Thank you. Any questions? Is there anybody in the audience that wanted to speak further on this – SB 48? (No response)

**Hearing closed at 1:29 p.m.**

Respectfully submitted,  
Carolyn Carey, Senate Secretary

## PROPOSED AMENDMENT TO SB 48

Amend SB 48 by striking everything after the enactment clause and replacing it with the following:

1. Amend RSA 540:1-a, IV by adding the following new subparagraph:

e. A room in a dwelling unit which is occupied by the owner or a family member of the owner, in which one or more occupants share kitchen, dining, bathroom, or other common facilities with the owner or family member, and for which the occupant has no lease. For purposes of this paragraph, the term "family member of the owner" means the owner's mother, father, son, daughter, grandmother, grandfather, grandson, granddaughter, spouse, or ex-spouse.

2. Amend RSA 540:1-a by adding the following new paragraph:

V. An owner or family member of the owner of property described in paragraph, IV(e) of this section may not deny an occupant access to his room, property, or common facilities, until the time period for which the occupant has paid has fully elapsed; provided, however, that if the occupant engages in behavior which threatens the health and safety of other occupants or commits substantial damage to the premises, the owner may terminate the occupancy immediately and direct the occupant to vacate the premises forthwith. On or before the time the occupant vacates the premises, the owner shall return the pro-rated amount of rent due to the occupant for the period for which the occupant has paid but is not permitted to occupy the premises.

VI. Except in cases of termination based on the reasons set forth in paragraph V of this section, prior to terminating an occupancy described in subparagraph (e) of RSA 540:1-a, IV, a property owner must serve the occupant with a written notice of termination no less than three days. The notice of termination shall be served wither personally on the occupant or by attaching the notice to the primary entrance to the occupant's room.

VII. Upon the request of an owner or family member of the owner described in subparagraph IV(e) of this section, any law enforcement officer of this state shall place under arrest and take into custody any occupant who refuses a lawful directive to vacate the premises issued by the owner or family member of the owner, pursuant to paragraph V of this section. Upon arrest, the occupant shall be deemed to have abandoned his right of occupancy of the premises and the owner or family member of the owner may then make such unit available to other persons. The owner or family member shall employ all reasonable means to protect any personal property left on the premises by the occupant.

Wednesday, January 31, 2001  
Senate Executive Departments and Administration

SB 48, relative to the rental of shared living facilities.

The issue of affordable housing is important in my district and throughout the state. We keep reading stories in the newspapers about the increasing costs of renting and owning a home. Last summer, there was a study committee on the issue. Because the legislature was concentrating on other issues, only modest results were achieved. Last week, you heard testimony about a bill (SB 21) establishing another study committee regarding the same issue.

One of the outcomes from last year's study committee was the realization that there is a need for a legislative definition for people who want to rent only a small portion of a house, for example, renting only a bedroom and sharing the other facilities such as the kitchen and bathroom. SB 48 attempts to define and clarify this type of landlord/tenant relationship.

The need for affordable housing is great. Please consider this bill a first step. Thank you for your consideration.

*Carl Johnson*  
*Senate Dist 3*

**REPORT  
OF THE  
INTERIM STUDY COMMITTEE FOR HB1199  
OCTOBER 19, 2000**

**PROCEDURAL HISTORY**

HB1199, "An Act establishing a study committee on funding for affordable housing," after hearing before the House Finance Committee and the Senate Public Affairs Committee, was enacted on April 21, 2000 and became effective on June 20, 2000. The Study Committee created by the bill, appointed by the House and Senate leadership, consisted of Representatives Wendelboe (R-Belknap 2), Potter (D-Concord) and Boyce (R-Belknap 5) and Senators Klemm (R-Windham), Larsen (D-Concord) and Trombly (D-Boscawen). The Committee held public hearings on September 5 and 14 and subsequently conducted working sessions on October 5 and 19 at which the public was invited to participate. A final report was adopted by the Committee and filed with the Clerks of the House and Senate on October 19, 2000.

**SUMMARY OF PUBLIC TESTIMONY**

Despite the complexity of the issues contributing to New Hampshire's affordable housing shortage, there was a remarkable degree of consensus regarding the nature and scope of the problem. In brief, the Committee heard compelling testimony that New Hampshire's housing market – particularly that portion of the market which serves households at or below median income (roughly \$53,000 for a family of four) – is in crisis. Access to housing that used to be affordable to working individuals and families is being lost. In addition, limited supply and growing demand pushes rents and home prices beyond the reach of many persons, especially lower income households who have in the past had the ability to compete in NH's housing market. Homelessness and overcrowding are increasing as vacancy rates in many communities fall below 1%. The lack of housing affordable to a wide range of working households is having a direct, immediate and serious negative impact on the ability of many communities to host new business or to expand existing businesses. At lower income levels, it is undermining the ability of families to work their way out of poverty. It is overwhelming the capacity of NH's homeless shelters and placing severe burdens on many municipalities in the form of rising costs for emergency housing assistance.

We have set-out in an appendix to this report a summary of the testimony given during the public hearing. In brief, the Committee finds:

threat of homelessness is immediate. In both cases, it is a matter of legitimate Legislative concern.

- The housing crisis threatens to undermine the State's capacity for economic growth by limiting the ability of employers to attract and retain workers.
- The crisis is rooted in a complex of causes. Many of these causes, including changes in New Hampshire's wage structure, are beyond the control of the individual families who are bearing the burden of high and rising home prices and rents.
- The inability of many working households to effectively participate in the State's housing market has special relevance to the expectation that families can and should take responsibility for becoming and remaining economically self-sufficient.
- Local land use regulation creates barriers to a logical response by the market to the demand for affordable housing.
- Misunderstanding of manufactured housing often leads to local opposition to, and consequent under-utilization of this alternative affordable housing option.
- Any effective response to this problem will require co-operation among local and State government, regional cooperation among the State's cities and towns, and the active participation of the State's business community.

The limited time available to the Committee has not permitted us to consider with the necessary degree of thoroughness what specific actions we might recommend to the Legislature to respond to this crisis. Although we have not made specific recommendations, we have included as an appendix a list of proposals offered in the course of the public testimony that we believe deserve consideration.

In any event, the Committee is of the view that any effective response should reflect the following principles:

- There is a direct and unavoidable connection between state of the State's housing market and its population growth. To the extent that growth is inevitable, we are better off planning for it than trying to prevent it.
- The legislative delegation of zoning and other land use and regulatory authority to local municipalities carries with it the expectation that this power will be used responsibly and will not be used to impede the operation of market forces by shifting the burden of new development to neighboring communities.
- The Legislature should identify ways to encourage communities to cooperate in the production of needed housing, including the adoption of policies that tie discretionary state funding (including tax credits and conservation grants) to a community's level of effort in meeting regional housing needs.

- The Legislature should seek ways to harness the power of the private market by requiring linkage between significant new development, including higher cost housing development, and the production of more affordable housing.
- The Legislature should consider providing state financial support for affordable housing initiatives designed to leverage available federal housing resources to the maximum extent possible.

## CONCLUSION

The Study Committee is acutely aware that NH is suffering from "crisis fatigue" and we are reluctant to add yet another issue to the list of problems requiring the Legislature's urgent attention. However, it will not alter the actual state of affairs to say that the State does not in fact face an acute housing shortage of crisis proportions, or that the ramifications of this housing shortage do not pose threats to our economy and social fabric appropriate to command the attention of the Legislature.

We regard it as our responsibility to identify the nature and scope of NH's housing crisis, as we have done in this report, and to recommend that the House and Senate consider taking appropriate actions to respond to this multifaceted problem. We believe that the principles we have offered for dealing with the State's housing crisis provide a useful framework for any such future legislative action.



For the Committee:

## APPENDIX A SUMMARY OF TESTIMONY

Following an organizational meeting on August 23, the Committee met on September 5 and 14 to take public testimony on the nature and scope of the State's housing problem, following which it held additional working sessions on October 5 and 19 to consider this testimony and reach agreement on a report to the full House and Senate. The Committee heard from a wide variety of witnesses, including representatives from private and public developers, landlords and tenants, municipal officials and social service providers. As we observed in the body of our report, we were struck by the high degree of consensus that exists among a wide range of parties.

Included in this Appendix are three submissions that the Committee found of particular relevance and assistance:

- A study commissioned by the NH Housing Finance Authority and prepared by Applied Economic Research entitled "Housing and Economic Growth in New Hampshire, released in November 1998; and "Updated Observations" released in April 1999.
- A "Position Paper on Rental Housing and Economic Development" prepared by the NH Housing Investment Fund, a consortium of banks active in the purchase of federal low income housing tax credits in New Hampshire.
- A study prepared by The NH Housing Forum and The American Friends Service Committee and funded by the NH Community Development Finance Authority and Provident Bank entitled "Feeling the Pinch: Wages and Housing in New Hampshire."

In brief, the public testimony elicited broad agreement that the acute lack of affordable housing presents the State with a widespread, serious and urgent problem. The problem stems from a variety of sources and any effective response will require action on a number of fronts. There are no villains in this piece: the private market is seeking to maximize profits in ways that are reasonable and expected; local municipalities have reason, given current economic realities, to consider their application of delegated zoning authority both reasonable and fair; the business community pursues new workers in its own best interest. Nevertheless, decisions that make sense for any single individual, business entity or community are not always or even necessarily in the best interest of the State as a whole.

Among the many matters treated in the public testimony, the following summary may be of particular assistance to our legislative colleagues in seeking to understand the causes and potential consequences of the State's acute housing shortage.

The *causes* of this crisis are complicated but include at least three contributing factors:

***Insufficient construction of new affordable housing relative to demand.*** Among the causes are a shortage of skilled workers and the orientation of NH's construction industry to more profitable upscale development; the reluctance of municipalities to approve new family housing, particularly multifamily housing or the addition of units to existing dwellings, the types of development most affordable to families of modest means; and, for low income households, the very limited amount of production subsidies available to support the production of new affordable units.

In-migration, principally of well-educated and skilled workers drawn by our booming economy, has fueled NH's population growth at almost four times the rate of other New England states. Population growth has not been followed, as would be expected by the normal operation of the law of supply and demand, by a similar growth in the housing stock, resulting in significant increases in the price of single family homes and rents. The shortage is substantial: It has been estimated that approximately 4,000 additional housing units would be required immediately, with the construction of approximately 1,500 units each year after that, to return the state's vacancy rate to 5%.

***Stagnant or falling incomes, both in absolute terms and relative to housing costs.*** Despite the State's booming economy, the wages of a significant proportion of NH households – especially those in NH's growing service industries- have failed to keep pace with the rising cost of housing. Only the top fifth of NH families has seen an increase in real income in the period between 1988/90 and 1996-98. At the same time, rents have increased dramatically: In the past five years, the cost of the average 2-bedroom apartment has risen by over 25% a year. The average two bedroom apartment in New Hampshire now rents for upwards of \$770/ month, with rents of over \$800/ month not unusual in the Southern Tier. New home prices have followed a similar trajectory: NH now ranks among the most expensive states in the nation in median home prices. The average price of a new home in NH is now \$180,000 while the average price of an existing home is \$120,000.

To afford a median-priced 2-bedroom apartment in NH, a family would need a household income of \$31,000 (representing an hourly wage of approximately \$14). Almost 40% of the jobs in NH pay currently pay wages at less than \$10/hour. A two-worker household in which both workers earn at or near the minimum wage must find a third job to afford the median two-bedroom apartment. *Economic projection of new job growth suggest that a substantial proportion of the jobs expected be created in the next several years (roughly half of the twenty job categories projected to add the most jobs to the State's economy) will pay wages at levels insufficient to allow the people employed in these jobs to compete successfully in the state's housing market, both rental and owner-occupied.*

An increasing number of persons seeking housing and fuel assistance or utilizing food pantries and soup kitchens are drawn from occupations – for instance, retail



workers, administrative personnel in professional offices and banks, and teachers - traditionally viewed as offering economic self-sufficiency. Indeed, a quarter of the state's elementary and secondary school teachers, and a similar proportion of its police officers, earn less than the state's "housing wage."<sup>1</sup>

A November 1998 study of the impact of housing availability on economic performance, updated in April 1999 concluded that "The pace of home price appreciation significantly exceeds the pace of income growth, eroding housing affordability... [I]t is likely that a growing proportion of the state's low and moderate income residents are priced out of the market for decent, safe, affordable housing that is conveniently located." "Housing and Economic Growth in New Hampshire," Applied Economic Research (AER), November 1998 at pages 19, 21.

***Local regulatory barriers to new development and the efficient use of existing housing inventory*** There is pervasive opposition at the local level to the construction of new housing, particularly multifamily housing, or the expansion of existing housing to serve an additional number of families. The AER report concluded that, among other factors, "municipal growth controls are a limiting factor" for housing production (page 31). This phenomenon has many roots, including concern about the impact of new families on local school costs, the desire to preserve the rural character of small towns and stereotypes of low-wage workers. Whatever the motivation, the zoning and planning decisions that result from these local attitudes significantly inhibit the ability of the State as a whole to expand its housing supply in response to market demand.

The *consequences* of our acute housing shortage are severe, widespread and urgent:

***The shortage of housing has a direct impact on the ability of new and existing businesses to attract and retain workers.*** The AER study concluded that "[T]he state is not attracting enough new residents to provide an adequate supply of labor for its employers. This sub-par pace of migration ... is highly correlated with the low pace of housing construction. Since 1992, the state has been adding jobs at nearly the same pace as during the 1980's, but the pace of new housing construction is less than half of its former level." AER at page 20.

---

<sup>1/</sup> The phrase "housing wage" identifies the calculation of what a household's income must be to afford any particular housing arrangement, whether for a mortgage or rent. It is typically understood that a family should have to pay no more than 30% of its income for housing in order to have enough household income left for other necessities like food, medicine, transportation and child care. (The 30% figure is, of course, an approximation: it may be higher for higher-income households while lower income households often find that even 30% can be far too high.) The "housing wage" is the hourly wage (or annual salary) needed to reach this 30% figure. For example, the housing wage for a median two-bedroom apartment in New Hampshire renting for \$770 a month would be \$16 an hour - the wage that generates a monthly income (\$2600) sufficient to yield \$770 for shelter costs

This finding was supported by testimony from the NH Housing Investment Fund, a consortium of regional banks active in the production of affordable housing through the federal Low Income Housing Tax Credit program: "NH's economic growth is slowing down due in large part to a labor shortage...[which]... is in turn a direct result of limited housing availability." NHHIF Position paper at page 1.

***While the State's housing shortage encompasses all types of housing, the burden falls most heavily on renters.*** Historically, about a third of New Hampshire's housing – approximately 170,000 units - has been in the form of rental housing. Utilizing the commonly-used standard for determining "affordability" (which expects that a household that pays more than 30% of its income for housing will find itself unable to pay for other necessities like food, medicine, transportation and child care), less than 15% of New Hampshire's rental units would be affordable to families earning 50% or less of median income, yet these families represent one-third of the state's renter households.

The problem is not limited to renters: first time homebuyers of modest means likewise find themselves facing rising home prices resulting from a limited supply relative to market demand. New Hampshire's median prices for both new and existing homes places us among the most expensive housing markets in the nation- fourth highest in the cost of new homes and seventh highest for the cost of an existing property.

***Homelessness in NH has increased significantly.*** The acute shortage of affordable rental housing is straining the State's emergency facilities. Shelters are filled to capacity: approximately 6,000 persons were housed in state-funded shelters last year-- with an even larger numbers of persons turned away for lack of space, including families with children. (These figures do not include persons using private shelter facilities.) There has been a significant increase in the number of working families with children utilizing shelters, and for increasingly-longer stays due to a lack of permanent housing alternatives.

New Hampshire's traditional "safety net" of local public housing – which represents over a quarter of all publicly-assisted housing in the State - is being stretched to the breaking point. Waiting lists for (low income) elderly housing are often 3-5 years long; and in many communities they are closed altogether. Local welfare budgets are likewise under great pressure, with emergency housing costs reported at almost 20% of the over \$2,000,000 in housing assistance provided locally.

***The inability of a growing number of working families to compete in New Hampshire's housing market threatens the traditional character, especially of our smaller towns, as places hospitable to a wide variety of persons, occupations and income levels.*** Close to half of NH's current renter households can no longer afford the fair market rent for a two-bedroom apartment in their community. The inability of gainfully-employed individuals and families to live where they work or to provide a stable home for themselves and their children challenges our longstanding views regarding how New Hampshire's communities should function as well our deeply-held belief that work is a way out of poverty. It also raises troubling questions about the ability of the next generation – the children of New Hampshire's current homeowners- to live in the communities in which they were raised.

**The following persons participated in or attended one or more of the public hearings or working sessions on HB1199**

Berry, Elliot	NH Legal Assistance
Beth?	WHPOA
Carroll, Moira	NH Municipal Association
Carson, Cindy	The Way Home (Manchester)
Chloros, Crystal	NH Legal Aid
Christon, Dean	NH Housing Authority
Cooper, Kip	NH Realtors Association
Facey, Amy	NH Housing Investment Fund
Garthwait, Matthew E.	MSW Intern/UNH
Gayda, Gene	NH Property Owners Association
Granfield, Deb	NH Housing Authority
Hastings, Warren	Union Leader Reporter
Hennigar, Mark	NH Housing Investment Authority
Kenefich, Lisabritt	NH Division of Family Assistance
Kitch, Mike	NH Senate Staff
LaFontaine, Michael	NH Community Loan Fund
Landry, Jennifer	NH Senate Intern
Langley, Susan	<i>NH Dept of HHS.</i>
Law, Jane	NH Housing Finance Authority
Law, Jane	NH Housing Finance Authority
Maynard, JoAnn	NH Division of Behavioral Health
Monier, Clair	NH Housing Finance Authority
Ray, Billy	NH Housing Finance Authority
Roberts, Jr. George B.	NH Homebuilders
Rua, Rick	NH Realtors Association
Silva, Judy	NH Municipal Association
Slivey, Mary	The Way Home Manchester (Homeless Continuum Care)
Soucy, Donna	NH Manufactured Housing Association
Taggart, Mark	NH Housing Investment Fund
Tarr, Tracey	NH Division of Elderly and Adult Services
Vickers, Diane	NH Bankers Association
Welch, Ashton	NH Association of Realtors
Yager, Martha	NH Housing Forum

**HB 1199 (Chapter 74:2, Laws of 2000) – AFFORDABLE HOUSING FUNDING STUDY**

Reps. Francine Wendelboe, Robert K. Boyce and Carol Moore, appointed by the Speaker of the House.

Sens. Sylvia B. Larsen, Arthur P. Klemm, Jr. and Rick A. Trombly, appointed by the President of the Senate.

## APPENDIX B A LISTING OF POSSIBLE LEGISLATION

In the course of the public testimony and the Committee's working sessions with the public, the Committee heard a variety of potential strategies for responding to several of the problems described to the Committee with respect to the State's acute housing shortage. Although the Committee has not, for the reasons explained in our report, made recommendations for legislation or other action *and does not endorse any of the specific proposals listed below*, we identify here some of the proposals offered to us as worthy of serious consideration by the Legislature.

- Link the production of new higher-end housing to the production of more affordable units.
- Encourage greater acceptance of manufactured housing.
- Appropriate up to \$1.5M annually to insure full utilization of a possible increase in the State's allocation of federal low income housing tax credits.
- Consider creating a mechanism to expedite review of local regulatory decisions that inhibit new housing production or fuller utilization of existing properties.
- \* ● Exempt from ordinary eviction procedures space rented in owner-occupied single family properties.
- Consider arbitration of certain landlord-tenant disputes with the goal of creating a "win-win" situation for both parties by reducing the need for going to court.
- Confer responsibility for a wide range of housing matters on a specific existing house committee.

# NEW HAMPSHIRE PROPERTY OWNERS ASSOCIATION

P.O. Box 422

Nashua, NH 03061

(603) 881-3682

Concord Manchester Nashua Salem/Derry Rochester Seacoast Connecticut Valley

## TESTIMONY OF GENE GAYDA

### SB48

1/31/01

Good afternoon. I am Gene Gayda, president of the New Hampshire Property Owners Association. We are the all volunteer, state-wide trade association for landlords. I am also a member of the legislatively enacted committee called the Emergency Shelter and Homeless Coordination Commission.

Last summer, I gave testimony to the study committee for affordable housing. Answering a question about how to get more low priced housing available, I pointed out that current landlord-tenant law discourages people from renting a portion of their home, such as a bedroom only, while sharing the rest of the facility, such as the kitchen and bath. I stated then, and still believe, that this type of housing can reduce homelessness by 5% and possibly more.

Let me try to explain the problem. Starting roughly in the sixties, landlord - tenant law was rewritten adding quite a bit of consumer protections. One result of these due process additions was to lengthen the eviction time. While recently there has been legislative improvement, it currently takes about two months, and even more if an appeal is filed, to finally remove a non-cooperative renter. Now, this may be tolerable in a separated-space normal apartment, but these requirements have killed the rental of a shared portion of a facility, such as a bedroom in house or a dormitory. The primary reason is that no one wants to continue living in close proximity to someone who is choosing to ignore normal responsibilities. And to have to clean up after that someone for another two months or more.

I've attached a story from the Keene Sentinel published a few years ago about a guy who rented a bedroom from an 83-year old woman and then used the system to his advantage. While this situation was excessive, this type of purposeful behavior illustrates the problem. To quote the story "What we had here was a very frightened elderly woman. If that was my mother, I sure would be concerned about it." Now, hazard a guess. Do you think that elderly woman ever rented out the bedroom again?

While researching the law in other states to see how they handled this situation, I realized something was missing here in New Hampshire. Read any story about the era of the mills in Nashua or Manchester or Portsmouth. The younger workers back then usually lived in a dormitory type of housing. Read stories about the forties and fifties. **Again, you will see mention about "bachelor housing" and about the YWCA. Starting in the sixties, this type of housing disappeared. Currently in Concord, there is only one dormitory-type facility, housing eight people. In Manchester, there is only one partial facility with this type of housing, The Cadillac. In Nashua, only one. The point here is, there is almost a complete dearth of the lowest priced type of housing, the shared facility or dormitory type of housing. This elimination of the lowest priced housing segment, by definition, has caused the average rental costs upward.**

When a poor choice is made in selecting a new renter, it takes too long to remove the problem from the other folks who are simply trying to live their lives. Additionally, if you become informed about homelessness, you will

understand that a percentage of this population have personal problems in addition to being poor. So, anyone trying to serve the lowest income population will have a higher risk of selecting a renter still working out other personality problems. The private market has voted with their feet and left this marketplace for one simple reason. It takes too long to undo a mistake.

And this is what Senate Bill 48 tries to address. If someone is living in intensely close conditions, SB 48 give the landlord a means of stopping a bad situation in 72 hours. While this still may be too long, this is the best compromise available. If the problem is rent not paid, the renter is given 7 days protection. For all other reasons to ask someone to move, they are protected for 30 days. Key to the process, though, is there is involvement of court delay only by exception. Also key is that law enforcement is not precluded, as is currently the situation, simply due to the fact of renting. If there is illegal activity, the local police can enforce the law.

Now, I have no dog in this fight. Since this market segment no longer exists, none of my members own this type of facility. As such, I have no pride of authorship on any portion of what is being suggested. However, we would resist any scaling back of any law like this. Anything less comprehensive would give the false "good feeling" of having done something about affordable housing without actually putting a law in place that will encourage the private market to re-enter this arena.

Senators, this bill is an attempt to jump start a missing marketplace and make a larger quantity of affordable housing available. This bill, by itself, will not completely eliminate the need for yet additional affordable housing. But it is a step in the correct direction. And, also, do realize that even after this bill passes, it will take the private market at least two years to start producing this type of housing. Even with all these limitations, I ask that you vote in favor of this bill.

Thank you.

See Also Related Articles Pages One and Four

# Perils of the rental market

## Man called 'nightmare tenant' loses suit against landlord

The Keene Sentinel  
Thursday, January 30, 1997

By ELIZABETH W. CROWLEY  
Sentinel Staff

Joel Stanley, 49, says he's never gone out of his way to avoid paying rent.

"I will pay rent to a good landlord who provides essential services and takes care of repairs," Stanley said.

Problem is, Stanley has yet to meet a landlord who fits that description.

Stanley was a nightmare tenant, say people in three states who've rented to him in recent years. They say he had a series of schemes to avoid paying rent, and to steer them into paying him to move out.

Stanley used to advertise his scheme: Two years ago, while he was living in Northampton, Mass., he distributed fliers that read: "Live rent-free 1 year, Landlord will pay you \$1,000 to leave. I did it."

But Stanley may have met his match in Keene: an 83-year-old Keene woman, Lillian O'Neil. After she won a court fight, Stanley was arrested.

One of Stanley's former landlords, William G. Lyons of Holyoke, Mass., says that, in his case, Stanley surely backed up his boasts. Stanley rented a room from Lyons in September 1993, paid rent for two months, then stopped.

Stanley complained that repairs were needed in his room — a new light fixture, molding around a bathtub, a screen door latch that didn't work properly. He called in a city health inspector.

A month later, Lyons tried to evict Stanley, but Stanley countersued. By March 1994, Lyons had had enough. To persuade Stanley to leave the building, he forgave about \$800 in back rent and paid Stanley another \$800.

"It was the only way to get him out," Lyons said in a telephone interview.

Stanley clashed with other Massachusetts landlords, too. Northampton District Court records show eviction notices were filed against Stanley in 1991, 1992, 1993 and 1994.

In Vermont and New Hampshire, Stanley has followed the pattern described in his fliers, with varying success. A Hinsdale landlord won a settlement of more than \$1,000 against Stanley last summer. And a Brattleboro landlord won his case against Stanley for back rent.

But neither man has seen a dime, they say. Early this month, Stanley rented a room from Lillian O'Neil, an 83-year-old Keene woman.

Soon, he accused O'Neil of turning off his heat, of taking some of his things, and of illegally entering the room he rented from her.

With the help of Keene police and its TRIAD program for senior citizens, O'Neil won the case in Cheshire County Superior Court, and Stanley was ordered out of her West Street home.

When he returned to the house Saturday and refused to leave, police arrested him on a charge of criminal trespassing. He is due in Keene District Court Feb. 13.

O'Neil's experience with Stanley is similar to that of past landlords. When he rented a room in her house, he paid the first week's rent, \$80, and an \$80 security deposit. Then, he stopped paying.

He then contacted Keene's code enforcement officer, Gary L. Schneider, and complained that repairs were needed in the house. Schneider checked the house and, according to his report, found that "most of the problems were unsubstantiated."

Stanley complained that there were broken windows in his bedroom, "with glass all over the place," Schneider said. He complained that he had no heat or hot water and that, "basically, the place was unfit to live in," Schneider said.

"What we had here was a very frightened elderly woman," Schneider said. "If that was my mother, I would sure be concerned about it."

Schneider did note that O'Neil's house lacked hard-wired electric smoke detectors, and that a few windows had cracks in them. But the house was heated, and there was hot water.

A judge in Cheshire County Superior Court ruled that O'Neil had not violated any of her responsibilities as a landlord. Earlier this week, Stanley filed notice that he intends to appeal that decision to the N.H. Supreme Court.

Now, Stanley is living at a homeless shelter in Keene and looking for a new room to rent. He's also looking for a job, he said; he'd like to manage an apartment building.

Stanley says people who think he is a "sue-happy man" are wrong. Every lawsuit he's every filed; he said, "has been landlord-driven."

Stanley describes himself as a "spokesman for the crazies, the lost, the last, the least."

"I'm just a fellow who wants what is rightfully mine as an American citizen," he said, "to have four walls around me that I can call my own."



# Speakers

# SENATE EXECUTIVE DEPTS. & ADMIN. COMMITTEE

Date **11/3/01** Time **1:00** Public Hearing On **SB48**

Appearing in **FAVOR**: (Please print) Please check box at left to speak.

Speaking?	Name	Address	Representing
<input checked="" type="checkbox"/>	GENE GAYDA	P.O. Box 422 NASHUA	NEW HAMP. PROPERTY OWNERS ASSOC
<input checked="" type="checkbox"/>	Carl Johnson	Meredith	Senate Dist. 3
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

Appearing in **OPPOSITION**: (Please Print) Please check box at left to speak.

Speaking?	Name	Address	Representing
<input checked="" type="checkbox"/>	ELLIOTT BERRY	#1361 Elm St, Meredith	NH Legal Assistance
<input checked="" type="checkbox"/>	Cindy Carlson	20 Merrimack St. Ste B	The Way Home
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: May 4, 2001

THE COMMITTEE ON Executive Departments Administration  
to which was referred Senate Bill 48

AN ACT                   relative to the rental of shared living facilities.

Amendment #: 2001-1118s

VOTE: 3-0

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Russell E. Prescott  
For the Committee

[Home](#)[Bill Status](#) ◆[Members](#) ◆[Calendars/Journals](#) ◆[Miscellaneous](#) ◆**|SB48 Docket**[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)**Bill Title:** relative to the rental of shared living facilities.

<u>Date</u>	<u>Body</u>	<u>Description</u>
1/4/2001	S	Introduced and Ref. to Executive Departments & Administration; SJ 2, Pg.25
1/25/2001	S	Hearing; January 31, 2001, Room 104, LOB, 1:00 p.m.; SC4
5/7/2001	S	Committee Report; Ought to Pass with Amendment {1118}, [05/09/01]; SC22-A, Pg.27-29
5/9/2001	S	Ought to Pass with Amendment {1118}, [not voted on]; SJ 12, Pg.245-247
5/9/2001	S	Sen. McCarley Moved Laid on Table, RC 9Y-13N, MF; SJ 12, Pg.247
5/9/2001	S	Ought to Pass with Amendment {1118}, RC 13Y-9N, AA; OT3rdg, MA, VV; SJ 12, Pg.247
5/17/2001	S	Sen. D'Allesandro Served Notice of Reconsideration; SJ 13, Pg.270
5/17/2001	S	Sen. D'Allesandro Moves Reconsideration, MF, VV; SJ 13, Pg.276
5/17/2001	H	Introduced and ref to Judiciary; HJ49, p1476
5/22/2001	H	Copy to Chairman on 5/22/2001
5/22/2001	H	Hearing May 29 10:00 RM208,LOB
5/30/2001	H	Maj Report OTP/AM for June 7 (vote 15-0;CC)
5/30/2001	H	Prop Comm Am{1384}; HC50, p1527-1528
6/7/2001	H	Passed with Am; HJ54, p1620-1621 + 1661
6/12/2001	S	Sen. Prescott Concur with House Amendment {1384}, MA, VV; SJ 18, Pg.554
6/26/2001	S	Enrolled Bill Amendment {1855}, Adopted;
6/26/2001	H	Enrolled Am{1855}, Adopted; HJ61, p1802
6/26/2001	S	Enrolled;
6/26/2001	H	Enrolled; HJ61, p1802
7/16/2001	H	Signed by the Governor on 7/16/2001 Eff: 1/01/2002, Chap:0277

[Next](#)|[Prev](#)|[Results List](#)|[Main](#)|[Bill Status](#)[Docket Abbreviations](#)

# Bill as Introduced

SB 48 - AS AMENDED BY THE SENATE

5/9/01 1118s

2001 SESSION

01-0876  
05/09

SENATE BILL        **48**  
AN ACT            relative to the rental of shared living facilities.  
SPONSORS:        Sen. Johnson, Dist 3  
COMMITTEE:       Executive Departments and Administration

*Corrected*

---

AMENDED ANALYSIS

This bill distinguishes between non-owner occupied shared facilities, owner occupied shared facilities rented to occupants for less than 90 days, and owner occupied shared facilities rented to occupants for 90 or more days.

A new statutory chapter governs the rights and remedies available to the owner and occupants in the context of non-owner occupied shared facilities.

Owner occupied shared facilities rented to occupants for 90 or more days are treated as nonrestricted property for purposes of the rights and remedies available to the owner and occupants under RSA 540.

Owner occupied shared facilities rented to occupants for less than 90 days are governed by certain provisions of RSA 353, relative to hotels and tourist cabins.

---

Explanation:       Matter added to current law appears in *bold italics*.  
                         Matter removed from current law appears [~~in brackets and struck through~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand One*

AN ACT relative to the rental of shared living facilities.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subparagraph; Actions Against Tenants; Shared Facilities Excluded from Definition of  
2 Tenancy. Amend RSA 540:1-a, IV by inserting after subparagraph (d) the following new  
3 subparagraph:

4 (e) Residential real estate under RSA 540-B.

5 2 Certain Specific Acts Prohibited Relative to Tenant's Personal Property; Shared Facilities  
6 Excluded. Amend RSA 540-A:3, VII to read as follows:

7 VII. *Other than residential real estate under RSA 540-B*, a landlord shall maintain and  
8 exercise reasonable care in the storage of the personal property of a tenant who has vacated the  
9 premises, either voluntarily or by eviction, for a period of 28 days after the date upon which such  
10 tenant has vacated. During this period, the tenant shall be allowed to recover personal property  
11 without payment of rent or storage fees. After the 28-day limit has expired, such personal property  
12 may be disposed of by the landlord without notice to the tenant.

13 3 New Chapter; Rental of Non-Owner Occupied Shared Facilities. Amend RSA by inserting  
14 after chapter 540-A the following new chapter:

15 CHAPTER 540-B

16 RENTAL OF NON-OWNER OCCUPIED SHARED FACILITIES

17 540-B:1 Definition; Non-Owner Occupied Shared Facility.

18 I. A "non-owner occupied shared facility" means real property rented for residential purposes  
19 which has separate sleeping areas for each occupant and in which each occupant has access to and  
20 shares with other occupants one or more significant portions of the facility in common, such as  
21 kitchen, dining area, bathroom, or bathing area, for which the occupant has no rented right of sole  
22 personal use.

23 II. A non-owner occupied shared facility shall not include:

24 (a) Facilities rented to transient guests intended for use of less than 90 days.

25 (b) Rooms in hotels, motels, inns, tourist homes, and other dwellings rented for  
26 recreational or vacationing use.

27 (c) Rooms provided ancillary to other primary purposes such as jails, student  
28 dormitories, nursing homes, hospitals, group homes, and emergency shelters.

29 540-B:2 Nature of Tenancy. Every tenancy shall be deemed to be at will, and the rent payable  
30 as agreed, unless a written contract defines the terms of the tenancy differently. Except as otherwise

1 provided, a verbal rental agreement shall be permitted.

2 540-B:3 Termination of Tenancy; Notice of Termination.

3 I. The owner or agent of the owner of a non-owner occupied shared facility may terminate  
4 any tenancy without stating any reason. A written 30-day notice of termination shall be required.

5 II. The owner or agent of the owner of a non-owner occupied shared facility may terminate  
6 any tenancy for non-payment of rent. A written 7-day notice of termination shall be required.

7 III. The owner or agent of the owner of a non-owner occupied shared facility may terminate  
8 any tenancy for damage to the premise, or behavior of the occupant or guest of any family member of  
9 the occupant which adversely affects the health or safety of the other occupants, or material breach  
10 of any rental agreement. A written 72-hour notice of termination shall be required.

11 540-B:4 Termination by Occupant. An occupant may terminate any at will tenancy by a written  
12 30-day notice or in accordance with any notice requirement of a written rental agreement.

13 540-B:5 Services of Notice.

14 I. The owner or agent of the owner of a non-owner occupied shared facility shall give the  
15 notice of termination personally to the occupant or attach the notice to the primary entrance to the  
16 occupant's separated area.

17 II. The occupant shall give the notice of termination by the same method used to pay rent or  
18 in accordance with any written rental agreement.

19 540-B:6 Possessory Rights. The occupant shall have no possessory rights to any portion of a  
20 non-owner occupied shared facility. The owner or agent of the owner may request law enforcement  
21 intervention for any behavior if such action is deemed necessary. The law enforcement officer shall  
22 not be precluded from any normal response based on the fact of the rental agreement.

23 540-B:7 Remedies. Violations of this chapter shall be subject to the remedies set forth in  
24 RSA 540-A:4.

25 540-B:8 Possession. The owner or agent of the owner of a non-owner occupied shared facility  
26 may take possession of the separated areas used by the occupant at the end of the notice period. The  
27 owner or agent of the owner may request law enforcement intervention as necessary.

28 540-B:9 Personal Property. The owner or agent of the owner of a non-owner occupied shared  
29 facility shall retain and exercise reasonable care in the storage of the personal property of the  
30 occupant who has vacated the premises for a period of 3 days after the date on which such occupant  
31 has vacated. After the 3-day period, the owner or agent of the owner of a non-owner occupied shared  
32 facility may dispose of such property without notice to the occupant.

33 540-B:10 Security Deposit. The owner or agent of the owner of a non-owner occupied shared  
34 facility may require a security deposit in an amount to be determined by the owner or agent of the  
35 owner. If the deposit amount is more than the equivalent of 30 days rent, there shall be a written  
36 instrument acknowledging receipt and explaining where the deposit shall be maintained and when it  
37 shall be returned. If there is no written agreement, the deposit shall be returned within 20 days  
38 after the occupant has vacated.

1       4 New Subparagraph; Actions Against Tenants; Owner Occupied Shared Facilities Within  
2 Definition of "Nonrestricted Property". Amend RSA 540:1-a, I by inserting after subparagraph (d)  
3 the following new subparagraph:

4           (e) Owner occupied shared facilities. For purposes of this subparagraph, an owner  
5 occupied shared facility means real property rented for residential purposes which has separate  
6 sleeping areas for each occupant and the owner and in which each occupant has access to and shares  
7 with other occupants or the owner of the facility one or more significant portions of the facility in  
8 common, such as kitchen, dining area, bathroom, or bathing area, for which the occupant has no  
9 rented right of sole personal use. An owner occupied shared facility does not include rooms in hotels,  
10 motels, inns, tourist homes, and other dwellings rented for recreational or vacationing use or rooms  
11 provided ancillary to other primary purposes such as jails, student dormitories, nursing homes,  
12 hospitals, group homes, and emergency shelters. Nor does this chapter apply to owner occupied  
13 facilities if they are rented to occupants for less than 90 days.

14       5 New Section; Hotels, Tourist Cabins, Etc.; Applicability to Owner Occupied Shared Living  
15 Facilities. Amend RSA 353 by inserting after section 10 the following new section:

16       353:11 Applicability to Owner Occupied Shared Facilities.

17           I. For purposes of this section, an owner occupied facility means real property rented for  
18 residential purposes which has separate sleeping areas for each occupant and the owner and in  
19 which each occupant has access to and shares with other occupants or the owner of the facility one or  
20 more significant portions of the facility in common, such as kitchen, dining area, bathroom, or  
21 bathing area, for which the occupant has not rented right of sole personal use. An owner occupied  
22 shared facility does not include rooms in hotels, motels, inns, tourist homes, and other dwellings  
23 rented for recreational or vacationing use or rooms provided ancillary to other primary purposes  
24 such as jails, student dormitories, nursing homes, hospitals, group homes, and emergency shelters.

25           II. The following sections of this chapter shall apply to owner occupied shared facilities that  
26 are rented to occupants for less than 90 days:

27           (a) RSA 353:1, except that the owner of the shared facility shall not be required to  
28 provide a suitable safe for the occupants' valuables.

29           (b) RSA 353:2, relative to fire losses.

30           (c) RSA 353:3-c, relative to ejection of guests.

31           (d) RSA 353:7 through 353:10, relative to defrauding an innkeeper.

32       6 Effective Date. This act shall take effect January 1, 2002.

# Amendments

Amendment to SB 48

1 Amend the bill by replacing all after section 2 with the following:

2

3 3 New Chapter; Rental of Shared Facilities. Amend RSA by inserting after chapter 540-A the  
4 following new chapter:

5

CHAPTER 540-B

6

RENTAL OF SHARED FACILITIES

7

540-B:1 Definition; Shared Facility.

8

I. A "shared facility" means real property rented for residential purposes which has separate  
9 sleeping areas for each occupant and in which each occupant has access to and shares with the  
10 owner of the facility one or more significant portions of the facility in common, such as kitchen,  
11 dining area, bathroom, or bathing area, for which the occupant has no rented right of sole personal  
12 use.

13

II. A shared facility shall not include:

14

(a) Facilities rented to transient guests intended for use of less than 90 days.

15

(b) Rooms in hotels, motels, inns, tourist homes, and other dwellings rented for  
16 recreational or vacationing use.

17

(c) Rooms provided ancillary to other primary purposes such as jails, student  
18 dormitories, nursing homes, hospitals, group homes, and emergency shelters.

19

540-B:2 Nature of Tenancy. Every tenancy shall be deemed to be at will, and the rent payable  
20 as agreed, unless a written contract defines the terms of the tenancy differently. Except as  
21 otherwise provided, a verbal rental agreement shall be permitted.

22

540-B:3 Termination of Tenancy; Notice of Termination.

23

I. The owner or agent of the owner of a shared facility may terminate any tenancy without  
24 stating any reason. A written 30-day notice of termination shall be required.

25

II. The owner or agent of the owner of a shared facility may terminate any tenancy for non-  
26 payment of rent. A written 7-day notice of termination shall be required.

27

III. The owner or agent of the owner of a shared facility may terminate any tenancy for  
28 damage to the premise, or behavior of the occupant or guest of any family member of the occupant  
29 which adversely affects the health or safety of the other occupants or the owner or the agent of the  
30 owner, or material breach of any rental agreement. A written 72-hour notice of termination shall be  
31 required.

32

540-B:4 Termination by Occupant. An occupant may terminate any at will tenancy by a written

**Amendment to SB 48**

**- Page 2 -**

1 30-day notice or in accordance with any notice requirement of a written rental agreement.

2 540-B:5 Service of Notice.

3 I. The owner or agent of the owner of a shared facility shall give the notice of termination  
4 personally to the occupant or attach the notice to the primary entrance to the occupant's separated  
5 area.

6 II. The occupant shall give the notice of termination by the same method used to pay rent or  
7 in accordance with any written rental agreement.

8 540-B:6 Possessory Rights. The occupant shall have no possessory rights to any portion of a  
9 shared facility. The owner or agent of the owner may request law enforcement intervention for any  
10 behavior if such action is deemed necessary. The law enforcement officer shall not be precluded from  
11 any normal response based on the fact of the rental agreement.

12 540-B:7 Remedies. Violations of this chapter shall be subject to the remedies set forth in  
13 RSA 540-A:4.

14 540-B:8 Possession. The owner or agent of the owner of a shared facility may take possession of  
15 the separated areas used by the occupant at the end of the notice period. The owner or agent of the  
16 owner may request law enforcement intervention as necessary.

17 540-B:9 Personal Property. The owner or agent of the owner of a shared facility shall retain and  
18 exercise reasonable care in the storage of the personal property of the occupant who has vacated the  
19 premises for a period of 3 days after the date on which such occupant has vacated. After the 3-day  
20 period, the owner or agent of the owner of a shared facility may dispose of such property without  
21 notice to the occupant.

22 540-B:10 Security Deposit. The owner or agent of the owner of a shared facility may require a  
23 security deposit in an amount to be determined by the owner or agent of the owner. If the deposit  
24 amount is more than the equivalent of 30 days rent, there shall be a written instrument  
25 acknowledging receipt and explaining where the deposit shall be maintained and when it shall be  
26 returned. If there is no written agreement, the deposit shall be returned within 20 days after the  
27 occupant has vacated.

28 4 Effective Date. This act shall take effect January 1, 2002.



**Amendment to SB 48**  
**- Page 3 -**

2001-1384h

AMENDED ANALYSIS

This bill excludes shared facilities from RSA 540, relative to actions against tenants. It defines a shared facility as residential property in which the occupants have separate sleeping areas, but share with the owner one or more significant portions of the living space. The bill provides the rights and remedies available to owners and occupants of shared facilities.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON SB 48

**BILL TITLE:** relative to the rental of shared living facilities.

**DATE:** May 29, 2001

**LOB ROOM:** 208      **Time Public Hearing Called to Order:** 10:00 a.m.

**Time Adjourned:** 11:50 a.m.

(please circle if present)

**Committee Members:** Reps. Mock, L. Jean Jacobson, Bergin, Rowe, Ford, Dudley, Soltani, P. Woods, Rice, Leishman, Elliott, Reid, Wall, J. Pratt, Craig, J. Wood, Potter, Espiefs and Franklin.

**Bill Sponsors:** Sen. Johnson

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Sen. Carl Johnson – supports

- Described the contents of the bill and its origin
- The bill has two roots: one which comes from a study committee on affordable housing; the second is through constituents who raised concerns surrounding the eviction process of tenants
- Strongly believes there should be a different process for those people who rent out rooms in their own homes
- This is one mechanism of providing affordable housing. Unfortunately, these individuals get caught up in a lengthy eviction process when the arrangements are no longer agreeable to both parties.
- The bill attempts to distinguish between owner-occupied and rooming houses from other apartments or rented homes for the purposes of eviction
- Questions were taken from Mock, Elliott, Franklin and Jacobson
- Genesis of bill was to protect owner-occupied facilities

Elliott Berry, NHLA – opposed

- \*Written testimony of 540:1-A. Points out IV-(a) part of law.
- Atty. Berry objects to "IV". The only tenants affected are the most vulnerable people/renters.
- No problem with owner-occupied relationship. This protects the property owner. Bill should be separated.

Martha Yager, NH Housing Forum – opposed

- Intent of original bill was to address owner-occupied shared facility. This one bill should be divided into two bills.

Rep. Mock

- Wants to know what Sen. Johnson would like the committee to do with this bill.

Sen. Johnson

- Answer: Will leave to the discretion of the committee.


Questions/Clarifications:

Ford            Wood  
Jean            Reid  
Rowe           Elliott  
Dudley        Potter  
Mock

Pink Cards:

- Sen. Carl Johnson, sponsor. Supports the bill.
- Elliott Berry, representing NHLA, 1361 Elm St., Manchester, NH. 668-2900. Opposes the bill.
- Martha Yager, representing NH Housing Forum, PO Box 1081, Concord. 224-2407. Opposes the bill.

Respectfully submitted,

  
Rep. Larry G. Elliott  
Committee Clerk

# Voting Sheets



HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on SB 48

**BILL TITLE:** relative to the rental of shared living facilities.

**DATE:** May 30, 2001

**LOB ROOM:** 208

**Amendments:**

Sponsor: Rep. Woods OLS Document #: 2001 1384h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.) **ACCEPT AMENDMENT  
#1384h ONLY**

Moved by Rep. Woods

Seconded by Rep. Jean

Vote: VOICE VOTE

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Woods

Seconded by Rep. Jean

Vote: 15-0 (Please attach record of roll call vote.)

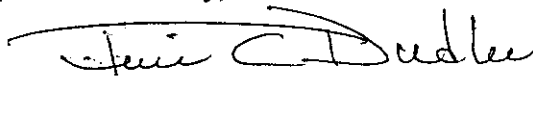
**CONSENT CALENDAR VOTE: YES**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Terri C. Dudley, Clerk



OFFICE OF THE HOUSE CLERK

2001 SESSION

JUDICIARY

Bill #: SB 48 Title: relative to the rental of shared living facilities

PH Date: 05/29/2001 Exec Session Date: 05/30/2001

Motion: OTPA Amendment #: 2001-1384h

MEMBER	YEAS	NAYS
Mock, Henry P, Chairman	✓	
Jean, Loren J, Vice Chairman	✓	
Jacobson, Alf E	✓	
Bergin, Peter F	✓	
Rowe, Robert H		
Ford, Nancy M	✓	
Dudley, Terri C	✓	
Soltani, Tony F	✓	
Woods, Phyllis L	✓	
Rice, Thomas	✓	
Leishman, Peter R		
Elliott, Larry G	✓	
Reid, Christopher P		
Wall, Janet G	✓	
Pratt, John M	✓	
Craig, James W		
Wood, Jane		
Potter, Frances D	✓	
Espieffs, Peter S	✓	
Franklin, Peter E	✓	

TOTAL VOTE:  
Printed: 12/27/2000

72 15 G

# Committee Report

# COMMITTEE REPORT

COMMITTEE: **Judiciary**

BILL NUMBER: **SB 48**

TITLE: relative to the rental of shared living facilities.

DATE: May 30, 2001 CONSENT CALENDAR YES  NO

- OUGHT TO PASS
- OUGHT TO PASS WITH AMENDMENT
- INEXPEDIENT TO LEGISLATE
- REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

## STATEMENT OF INTENT (Include Committee Vote)

This bill provides special remedies to owners of property who rent a bedroom with other shared facilities to a tenant in their home while they are still living in the home. The committee felt that people in this unique position are more vulnerable and require protection from the possibility of abusive "houseguests" and they should be able to evict them from their home with more dispatch.

Vote 15-0.

Rep. Phyllis L. Woods  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

## CONSENT CALENDAR

### Judiciary

**SB 48**, relative to the rental of shared living facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Phyllis L. Woods for Judiciary: This bill provides special remedies to owners of property who rent a bedroom with other shared facilities to a tenant in their home while they are still living in the home. The committee felt that people in this unique position are more vulnerable and require protection from the possibility of abusive "houseguests" and they should be able to evict them from their home with more dispatch. **Vote 15-0.**

SIB 48      OTPA

This bill provides special remedies to owners of property who rented a bedroom with other shared facilities to a tenant in their home while they are still living in the home. The committee felt that people in this unique position are more vulnerable and require protection from the possibility of abusive "house guests" and they should be able to evict them from their home with more dispatch.

Shyllis Woods      ole  
APL