

Portland, Maine



Yes, Life's good here.

Fire/Code Inspections Task Force

Public Meeting - February 3, 2015

Task Force Purpose

Following the tragic fire on Noyes Street on November 1, 2014, Acting City Manager Sheila Hill-Christian created a task force to recommend improvements to better ensure the safety of the city's rental housing stock. Boston Fire Department Deputy Chief Jay Fleming provided pro bono technical assistance to the task force, which was led by Acting Chief of Staff Julie Sullivan. The task force conducted its work in two phases. Phase One was an internal review of prior studies as well as applicable codes and ordinances, staffing levels, roles and responsibilities across departments, and relevant initiatives in Boston, New York, Providence, RI, Austin, TX, and Princeton, NJ. These discussions occurred over the course of three work sessions in December, all of which were open to the public. City staff comprising Phase One membership were: Rich Bianculli, Esq., Neighborhood Prosecutor; Keith Gautreau, Acting Assistant Chief for Fire Prevention and Community Outreach; Tammy Munson, Inspections Division Director; Jon Rioux, Inspections Division Deputy Director; Planning Board Chair Tuck O'Brien; and Acting City Manager Sheila Hill-Christian.

Phase Two added four external representatives to the task force: Julie Gregor, Inspection Manager for the Portland Housing Authority; Katie McGovern, Esq., Pine Tree Legal Assistance; and Crandall Toothaker and Carleton Winslow (alternate: Brit Vitalius) of the Southern Maine Landlord Association. Adam Lee, Esq., a new attorney with the City's Corporation Counsel's Office, also joined the task force during this phase. The task force met four times in January during Phase Two, and all meetings were open to the public.

The task force did not seek to specifically analyze or debrief the Noyes Street fire, but instead to examine the larger issues related to the fire and explore options to address them. These issues include those with an external focus, such as the need for public education on fire safety and greater accountability for landlords and tenants, and those with an internal focus, such as improved and increased inspections, better use of technology, and centralized and expanded housing safety functions. Three guiding principles the task force referred to throughout the process were transparency, consistency and accountability, while also keeping in mind affordability.

Operating under a very tight timeline, the task force chose to focus on rental housing stock and not commercial or single-family properties. Sticking to the timeline allows the recommendations put forth by the task force to be considered through the City's budget process for the upcoming fiscal year, which was a priority for the task force. Thus, there are areas throughout the recommendations that require additional development, which may be accomplished by returning items to the Task Force, and/or referring these items to the proposed Housing Safety Official. Notes from each meeting are provided as attachment A.

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The State Fire Marshal's Office released their report in late January. Because the report was forwarded to the District Attorney, the full text could not be made public during the task force's time frame. The task force did review the key findings (please see meeting notes from January 26) and found that the issues were in line with those already under discussion. Portland Fire Chief Jerome LaMoria requested assistance from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives to study the fire, and the ATF conclusions corroborate those of the State Fire Marshal's Office.

Finally, as a framework to quantify the scope of rental properties, the City estimates there are approximately 17,000 units in 6,900 buildings. Removing roughly 3,300 residential condominiums (because they are not rental properties) from the total leaves about 3,600 to be inspected.

Recommendations

Overall, the task force identified several key strategies the City can implement to improve the safety of rental housing stock:

- Provide public education
- Hold landlords and tenants accountable
- Conduct routine inspections of housing stock with 3 or more units by fire station personnel
- Implement a risk-based prioritization for inspections while also increasing the number of inspectors with better training, including cross-training, and other City staff working in the field who can assist in identifying potentially dangerous housing safety situations.
- Designate a Housing Safety Official with authority over housing safety who will ensure communication, coordination, accountability, consistency, training, and technology utilization across relevant City departments and evaluation of the effectiveness of the programs.
- Use existing technology more efficiently

So that the many issues considered by the task force can be succinctly presented and the rationale for the recommendations chosen is clear, this document illustrates the issues, the matrix of options, relevant City code when applicable, and the related recommendation.

Issue: There are approximately 17,000 rental units in Portland in 6,900 buildings. Removing roughly 3,300 residential condominiums from the total leaves about 3,600. How can the City have a realistic approach that improves timely inspections of the riskiest properties first?

Option	Pros	Cons
Respond to complaints (current practice)	Requires no new resources	Does not allow for prioritized inspections nor does it ensure inspections of all properties over time
District-based inspections	Small geography; inspectors get to know their area better	Does not allow for most serious violations to be addressed quickly; does not allow for differing density of rental housing by district; requires additional staff

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Third-party inspections	Does not require increased staffing	Difficult to assure qualified third-party inspectors – eg, there is State training but none on City code, and no licensing to report inspectors; added cost for landlords; added administrative burden for City to track; potentially does not increase accountability or transparency and decreases consistency. City staff would still have to follow up on violations.
Inspections at time of sale	Minimal added burden to the City; assures inspections happen at some point.	Unknown frequency of turnover. Does not ensure regular inspections. Requires state-level legislation.
Develop list of variables to create risk-based prioritization of rental housing properties	City can utilize existing technologies/software and data with minimal expense; ensures that the riskiest buildings are addressed first.	Initial data will direct us towards chronic past violators. This data will need to be evaluated in order to identify the riskiest buildings that have never been inspected.
Other kinds of limited inspections – e.g., common areas, exterior only; randomized annual inspections	At least a minimal inspection would be done.	Does not ensure that serious life safety threats are identified.

The task force believes that **risk-based prioritization** is the best option to maximize limited resources and to address the most serious issues quickly, in addition to responding to complaints. The City can build on existing technologies and software to rank properties based on risk factors. There are numerous municipalities using this approach to ensure safe housing and allocate inspections and enforcement resources according to a risk score generated by many variables, including type of construction, age of structure, number of units, location, delinquent taxes, vacancy, foreclosure, complaints/violations, and calls for service. (Please see Attachment B for a complete list of variables included at this time.) Public Safety Solutions Inc. (PSS) conducted an extensive and thorough review of the entire Portland Fire Department in 2013 and also recommends this approach. Furthermore, this approach avoids any potential for selective enforcement. The City would, of course, still follow up on complaints regarding properties that may not have come up as priorities through the risk-based analysis.

- a. Fix It Portland – complaints via web, smart phone app
- b. Urban Insight – internal software used for inspections and code enforcement functions across the City, along with other municipal functions
- c. Cost: No additional costs; will need additional staff time to process (see Staffing section)
- d. Timeline: Up and running by Feb. 28, 2015

Issue: Human behaviors have the greatest impact on fire prevention. How can the City educate tenants and landlords about fire safety practices?

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The task force concludes that **public education** is clearly the best means of primary prevention. The Fire Department will take the lead on this through school-based programs, targeting college students and 20-somethings, General Assistance housing recipients, immigrants/refugees, landlords, and other tenants. This was a major focus in PSS's recommendations around prevention.

- a. Chief Lamoria recently named Keith Gautreau as Assistant Chief for Fire Prevention and Community Outreach.
- b. Chief Gautreau is designing a multi-pronged education plan with assistance from the State Fire Marshal's office, Deputy Chief Jay Fleming from the Boston Fire Department, and the National Fire Protection Association. The Fire Department will go to where the targeted groups already are and will work with many relevant partners, including jointly developing materials for tenants with Pine Tree Legal. Some of the key points will include the importance of:
 - i. Proper location and maintenance of smoke alarms
 - ii. Unblocked exits
 - iii. Properly disposed smoking materials
 - iv. Trash disposal/housekeeping
- c. The Southern Maine Landlord Association proposes a new document outlining fire safety expectations and responsibilities to be signed by tenants and landlords at the same time a lease is signed. This document will be finalized jointly by the City, the SMLA, Pine Tree Legal and the tenants' group. The City will consider requiring this document via ordinance change and associated penalties should the document not be produced when requested during an inspection.
- d. Cost: Please see Staffing section for reinstated Education Officer in the Fire Department; also materials and translation.
- e. Timeline: Portland Fire has the National Fire Protection Association on standby for training while they purchase computers; looking at March/April for training and subsequent initiation of improved proactive inspection program of buildings with 3 or more rental units.

Issue: Currently, when Life Safety violations are noted, Fire Inspectors send a letter to the landlord who has 32 days to respond. If there is no response, a second letter is sent and another 32 days are granted.

Option	Pros	Cons	Relevant Code Citation
Ticket and fine	Quicker and clearer enforcement process; inspector can issue ticket while out in the field	Could increase staff time in court; some safety concerns among staff	Penalties and specific violations – Chapter 6, Article I, pp 6-1 and following; Chapter 10, p. 10-13 and following
Penalty for disabling smoke detectors	Elevates awareness of this critical device and enforces State law	Hard to prove whether tenants or landlords at fault; may require code change	State penalty (\$500) referenced at 25 § 2464(5), (7) and (9)(B)
Landlord and licensed lodging registration	Provides more complete information	Staff time to manage, enforce; increased cost	Chapter 6, Article VI, pp 6-51 and following;

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	including who to contact as well as insurance company and other property-specific data	to landlords	includes form and violations
Re-inspection fees	Helps enforcement and helps support inspection	Staff time to manage, enforce	Chapter 6, Article 1, p 6-4, refers to Section 1-16
Dedicated legal resources	Key part of timely enforcement	Staff time, workload management	N/A
Tenant notification of building violations and public access to online database of violations	Current and prospective tenants should be aware of the violations	Addition resources required – this typically includes a return visit to the property after the notices are generated to be delivered to tenants; additional staff time to create online database	N/A
Housing court	Focused resource for housing safety issues	Costly to create; already have venue to address these issues and will continue to evaluate	N/A
Low-interest loan program for landlords to address violations	City already has limited resources for landlords who meet the qualifications. Expanding the program would allow more landlords to bring their properties up to code.	Not sure of available funding source(s) for expansion – in the past, program was largely federally funded, and those funds are no longer available.	N/A
Legal use/zoning – eg, 3 rd floor units, rooming/lodging houses	Critical risk factors.	Requires zoning changes; hard to find violators; will increase the work-load for the city's zoning administration staff	City of Portland Code of Ordinances – Chapter 14 Land Use
Two-family buildings; owner-occupied buildings	Bulk of rental housing stock; not currently inspected unless subject of complaint. Fire Department inspects 3+ unit buildings. Would need to be handled by	Different rules apply for owner-occupied regarding some rental laws but they are still subject to Chapter 6 Article V	Sec. 10-3 (m)

	proposed Housing Safety Office.		
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There are many opportunities to clarify and strengthen the **enforcement** process, some of which require minor revisions to City Code.

- a. Enforce existing requirement for landlords to register with the City annually.
 - i. Contact information, type of property, insurance company information
 - ii. Annual fee – perhaps \$25/building, and/or scaled by number of units. Consider phasing in, perhaps with no fee to register for an initial period of time.
 - iii. High fines for failure to register, provision of inaccurate information
- b. Move to immediate ticket and summons (with fine) for violations. Legal staff has discretion to dismiss matters if immediate compliance occurs. Parties can agree to terms if long-term compliance is required.
- c. Also enforce existing re-inspection fees (\$75 and \$150).
- d. Dedicate legal resources – one District Court calendar day per month is currently dedicated to the Neighborhood Prosecutor’s enforcement of municipal ordinance violations.
 - i. This monthly calendar provides the City with an opportunity to enforce building and fire code violations on a regular basis.
 - ii. The City will evaluate the adequacy to ensure this process meets the enforcement needs.
 - iii. A new City attorney (Adam Lee, Esq.) was recently hired to focus on building code issues.
 - iv. The Police Department’s Neighborhood Prosecutor (Richard Bianculli, Esq.) is available to provide additional assistance to Attorney Lee in the event of a heavy caseload.
- e. City inspectors will do everything possible to ensure that tenants are not displaced while pursuing landlord enforcement actions. The City’s Social Services Division will be alerted when displacement is unavoidable.

Issue: City staff do not use the same software across departments nor is there a streamlined, standardized approach to inspections. In addition, some inspectors use tablets in the field and others enter data back at their desks. In order to ensure consistency and transparency across all relevant staff, additional internal training is required.

With minimal to no new resources, the City can better utilize **technology and internal training** to standardize and streamline inspection processes. The PSS study noted the need for improved use of technology in the inspections functions. Expanded use of technology also allows for greatly increased transparency.

- a. Fire Department will move to Urban Insight.
- b. Develop and implement standardized checklists for inspectors to use in the field (drop-down boxes in Urban Insight). The Portland Housing Authority will share the checklists they use. The City checklists should be shared with landlords and tenants through public education.
- c. Purchase tablets (already budgeted) for Fire inspectors to use in the field, greatly diminishing the amount of time required to cite an owner for violations and follow up with enforcement. Ensure consistent use among all inspectors.
- d. Provide online capability for landlord registration.
- e. Work toward having a complete and accurate census of all rental properties.
- f. Inspectors across relevant departments require additional training and cross-training to improve

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inspections. The National Fire Protection Association is scheduled to provide free cross-training for Fire and Housing Safety in the spring.

- g. All relevant staff require additional training to use Urban Insight and to ensure thorough documentation of all inspections.
- h. All relevant staff and other City staff who work in the field will be trained on the housing safety inspections checklist so that they can easily report any concerns for follow up.

Issue: Given the number of rental units and the predominance of old, stick-built construction, the City must have a minimum number of housing inspectors to ensure efficiency and timely response to complaints and inspections of all rental units over a reasonable period of time. In addition to the approaches discussed under the first issue, the following staffing options were examined.

Option	Pros	Cons	Relevant Code Citation
District-based inspections	Small geography; inspectors get to know their area better	Does not allow for most serious violations to be addressed quickly; does not allow for differing density of rental housing by district	N/A
Third-party inspections	Does not require a significant amount of city staff	Difficult to assure qualified third-party inspectors – eg, there is State training but none on City code, and no licensing to report inspectors; added cost for landlords; added administrative burden for City to track; potentially does not increase accountability or transparency and decreases consistency. City staff would still have to follow up on violations.	N/A
Fire Department inspections of buildings with three or more rental units	FD needs to be familiar with buildings for fire prevention and planning; firefighters have the time to conduct these inspections; such	Firefighters need training and checklists to ensure consistency. Also need tablets to input data while in the field.	N/A

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	properties are required to have advanced life safety systems.		
Code enforcement responds to complaints	Does not require new staff	Only one code enforcement officer who responds to complaints, and he has many other duties; Does not allow for proactive inspections	N/A
Housing Safety Office	Having one official with authority over all housing safety-related issues allows for coordination across all relevant departments and quick action to be taken. Adding a minimum of 3 cross-trained inspectors for 2,400 properties and complaints allows implementation of risk-based prioritization. Revenue generated by landlord registration fees, penalties/fines, and reinspection fees is likely to cover part of the additional costs. There will also be a steep increase in the number of complaints as the FixItPortland and searchable database are fully implemented.	There are concerns that there will be an increased workload when increased numbers of violations are identified, many of which are likely to require permits and perhaps zoning changes. There may be increased work for the electrical inspector as well.	N/A

Staffing – PSS’ study used a metric to recommend 10 new FTEs in the Fire Department alone to ensure widespread inspections. The task force believes we can achieve the intended goal of improving our ability to ensure the safety of Portland’s rental housing stock using a different approach. In order to ensure implementation of these recommendations and to evaluate whether there are indeed ensuing improvements to the city’s rental housing stock, the following new positions are requested.

- a. Housing Safety Official (title TBD) who reports to the City Manager, convenes and coordinates all relevant departments to address issues with a property and decide actions to be taken.
 - i. This person would be responsible for ensuring that the highest-risk properties are

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inspected first, inspection documentation is consistent and complete, and timely follow-up is conducted until violations are fully addressed.

- ii. This person will also ensure data is collected to provide a robust evaluation of the implementation of task force recommendations.
- iii. This person will also be "where the buck stops" for all issues related to housing safety.
- b. Three additional inspectors, all cross-trained in building code and life safety code, who will report to the Housing Safety Official.
- c. One project management position, who coordinates the risk-based assessment of all rental properties, the online database, landlord registration, who also reports to the Housing Safety Official.
- d. Transfer General Assistance housing inspections from the Social Services Division to this new unit.
- e. Reinstate Education Officer at the Fire Department to implement the additional training needed.
- f. Consider outsourcing the Fire Department's plans review work currently done by the Fire Prevention Officer.
- g. Timeline: Depends upon Committee approval and budget process. If successful, would post and hire immediately following approvals.
- h. Cost: Approximately \$375,000, with estimated offsetting revenues of \$120,000 (\$90,000 from landlord registration and \$30,000 from fees, fines, and penalties).

Concluding Statement

Tragedies such as the Noyes street fire impact everyone in the Portland community. It is our hope that as time passes we will not forget why this work was important and will keep fire safety education front and center. We believe that these recommendations will improve consistency, transparency and accountability among all relevant parties – tenants, landlords, and the City. Thanks to everyone who dedicated their time and energy to this effort. We look forward to public input and the presentation to City Council's Public Safety, Health & Human Services Committee.

Appendix A – Meeting Notes

**Notes from second Fire/Code Task Force Meeting
December 10, 2014**

Phase I Task Force Members:

Rich Bianculli, City of Portland, Corporation Counsel/Police Dept
Jay Fleming, Boston Fire Dept (not present)
Keith Gautreau, City of Portland, Fire Dept
Sheila Hill-Christian, City of Portland, City Manager
Tammy Munson, City of Portland, Building Inspections
Tuck O'Brien, Portland Planning Board
Jon Rioux, City of Portland, Building Inspections
Julie Sullivan, City of Portland, City Manager's Office

Note-taker – Jon Rioux (thanks, Jon!)

- I. Julie- Thanked the group for the very beneficial one-on-one meetings. There was uniform consensus that the Task Force does not need to focus on codes; we have the right codes in place; there are conflicts, but are low-level and can be worked through by staff.
 - a. Today's Agenda/ Primary area of focus
 - i. roles and staffing,
 - ii. overlapping,
 - iii. cross-training
 - iv. increased staffing,
 - v. how do we share the burden
 - vi. other-ways,
 - vii. intercity agencies- seque for (information share)
 - b. Review of Census Data
 - i. Existing housing,
 - ii. rentals
 - iii. 17,000 rental etc.,
 - iv. 1306 owner occupied
 - c. Inspection process
 - i. Inspections approach going forward
 - ii. Tenants
 - iii. Landlords
 - iv. Schools
 - v. education
 - vi. prevention
 - d. Defining Proactive Enforcement- will come later
- II. Tammy and Jon- Inspections Division

- a. Complaint Based- 1 Staff Person
 - i. We inspect existing rental units,
 - ii. document what the complaint were about
 - iii. follow-up with the landlord, tenants, and all other agencies
- b. Jurisdictional Responsibility
 - i. A priority-based complaint system includes
 - 1. Land use,
 - 2. trash on private property,
 - 3. housing complaints,
 - 4. infestation,
 - 5. outdoor dining,
 - 6. applications,
 - 7. stop work,
 - 8. street artist,
 - 9. cruise ships,
 - 10. hoarding,
 - 11. Referrals from State agencies, PD, social services, fire, public services, business licensing
 - ii. Rich - Ordinance enforcement Officer-
 - 1. Position was put on hold after initial interviews, department was in the process of hiring, this would person would have taken-over-street artist outdoor dining issues, nuisance matter
 - iii. Jon- Public Services handles- side walk/ ice matters, public property (right away) trash, and heavy item pickup
- III. Keith- Fire Department Inspections
 - a. Companies (Staffed Fire Engines/ Ladders) were doing proactive housing inspections of apartments (3 or more units) and businesses.
 - b. Unannounced (stop and knock)
 - c. 240 calls per 3 units or larger,
 - d. walking down the streets vs pre-scheduled
 - e. "Legally" they could only inspect common spaces (areas),
 - f. knock and stop for basic items only,
 - g. all matters (from each company) are then referred to the Fire Inspector in the bureau
 - i. this is because they are at a high level of training
 - h. Fire Prevention Bureaus primary focus
 - i. Permit reviews
 - ii. C of O's
 - iii. Complaints that come in through our office
- IV. Julie- Let's discuss any overlaps (Fire and Inspections)
 - a. Tuck- What is a Life Safety Inspection

- b. Jon- Clarification that when Keith speaks of "Life Safety" he is referring to NFPA 101 and NFPA 1® Codes. Certainly, there are other matters that could relate to life safety in building codes, etc.
 - c. Examples of Life Safety (Fire Codes) and overlap of both Fire and Inspections and which almost always result in joint inspections
 - i. Egress,
 - ii. Real severe life safety issues,
 - iii. Weather related disasters,
 - iv. Building fires
 - v. major code violations,
 - vi. GA social service issues
 - vii. Fire Doors,
 - viii. holes in hallways- violation notify the landlord
 - d. Rich - Ladder companies doing the roaming inspections who is writing the violation letters, legal needs access to these letter for prosecution
 - i. Keith - Fire Prevention Bureau
 - e. Keith - vacant properties list
 - i. Maintained by Inspections Division, shared with Fire Prevention
 - ii. Fire Prevention places physical plaques on the building for their own safety
 - 1. Red, Yellow, Green system
 - iii. NFPA Life Safety Code overlap taken further
 - iv. Julie - Smoke Detectors, means of egress?
 - v. Complaint- Code Entire
 - vi. Major issues
 - vii. Social Services, Public Services, Legal Issues
 - viii. Jon- Goal to only use Legal when our resources are exhausted
 - 1. Noticing
 - a. Letters, 1,2, and 3
 - 2. Posting
- V. Julie- Let's discuss what works well
 - a. Unified Command at Emergency Incidents
 - i. Phone Conferences, i.e. Fore Street Fire
 - b. Agency assist, i.e. 193 Congress Street Building
 - c. Staff works well together
 - d. Tuck- information sharing?
 - i. Yes through Urban Insight (if used)
- VI. Julie- Let's discuss what doesn't work well
 - a. Jon- when demands exceeds our resources
 - i. We work well at fixing complexity during an emergency

- ii. During normal business hour (inspections), a inspector has the authority to post a 20 unit building, but cannot priority the (12+ departments) involvement of other city staff with the matter
 - 1. Inspectors may need aid/ immediate resources from fire, public services, legal, social services
 - 2. Staff does not have the authority to make it "that" departments priority
 - 3. Often we need to involve the executive department for prioritizing
- iii. Julie- Anything Else?
 - 1. Tammy- See- Click Fix (Vickie), Engine Companies already have Urban Insight
 - a. Vickie could build an inspections program- tracking and follow-up on building hazards, i.e. FDNY tracking system
 - 2. Keith- The system has tracking for 17 agencies + so many different groups could respond (IT department already has the technology)
 - 3. Danielle- Follow-up, noticing with all dates, and it's hard to get the "you did nothing to notify Landlord complaints" to court (one data base would be useful for legal to access).
 - 4. Rich- Access to the violation notice is imperative for court
 - a. 1st 2nd 3rd – Date Certified,
 - b. Tammy- the G-drive is another shared network
 - 5. Types of enforcement actions
 - a. 80-K
 - b. 80-H
 - c. Insurance companies
 - d. Banks
 - 6. Jon- Foreclosures, we do not have a handle on who to serve
 - a. Often the "Owners" think they are not responsible
 - b. We have to involve legal and notice multiple out of state parties
 - c. Takes a lot of staff hours and yields low results
 - 7. Danielle- Training- Chapter 10 I wrote parts of this that even the fire department is unaware of tools for enforcement
 - 8. Jon- State Requires CEH's minimum training, and Certifies Code Enforcement Officers for each area(s) they enforce
 - a. The state language is vague and does not require state certification for Fire Inspectors
 - i. There is internationally recognized program from NFPA, CFI certification

- ii. We could provide an in-house cross-training for our local ordinances
 - 1. This could carry over to all stakeholders
- 9. Shelia- Complaint See-Click Fix- Tenant could use the system
- 10. Julia- fire risk score
- 11. Jon- Invite Public In, Educational Piece
 - a. Training for all levels involved
 - i. Internal
 - ii. Tenants
 - iii. Utility companies, etc
- 12. Tuck- what about the educational pierce for fire safety
 - a. Keith- Yes we need to do more to get into the schools
- 13. Jon- Fire and Safety Education has been around for 50+ years, we are in the schools at all levels (Except College)
 - a. The message of escape plans, blocked exits and smoke detectors is taught an early age
 - b. We need to do more enforcement of spot checking to get at the target concerns or re-think how we do Fire and Safety Education with real world examples, without scaring the public
 - c. Tuck- Education the College Students would be benefit, with real college housing issues
 - i. Provide Fact sheet,
- 14. Rich- landlord tenant handbook, like VT would be great
 - a. Pine Tree Legal- offers this

VII. Statement of Purpose

- a. Shelia- The group should establish a basic statement of purpose
- b. Jon- Defining- Pro-active code enforcement should be the basis, and thinking about the number of inspections based on type and frequency that we would like to accomplish
 - i. Shelia- I would like the group to think of a more of a statement for a general purpose for these proactive inspections
 - ii. Jon- 5 year and ten years?
 - 1. Shelia- yes that could be part of it
 - 2. Study 17,000
 - 3. Look into fire marshal's office NIFIRS report for prioritizing
 - 4. Voluntary compliance options

VIII. Julie- recap of upcoming sessions. Next meeting: Weds 12/17, 10:30-12, rm 208, City Manager's conference room. We will consider a statement of purpose for inspections; draft roles, requirements, staffing.

**Notes from third Fire/Code Task Force Meeting
December 17, 2014**

Phase I Task Force Members:

Rich Bianculli, Neighborhood Prosecutor - City of Portland, Corporation Counsel/Police Dept
Jay Fleming, Deputy Chief - Boston Fire Dept (not present)
Keith Gautreau, Deputy Chief - City of Portland, Fire Dept
Sheila Hill-Christian, Acting City Manager - City of Portland
Tammy Munson, Inspections Division Director - City of Portland
Tuck O'Brien, Chair, Portland Planning Board
Jon Rioux, Inspections Division Deputy Director - City of Portland
Julie Sullivan, Acting Chief of Staff - City of Portland

1. Inspections statement of purpose: to assure the safety of the city's housing stock.
2. Draft roles/requirements/staffing
 - a. Proactive and/or complaint-based – how would things be different than they are now. Proactivity requires education as primary prevention, interagency collaboration to ensure easy to report potential risks to City, increased involvement with landlords and tenants on both education and enforcement.
 - i. Key component will be education – Fire should take this role. Needs to be on regular schedule.
 1. Elementary schools
 2. Tenants
 3. Landlords
 4. College students/20-somethings
 - b. Want a one-stop shop for housing inspections.
 - i. What about development, zoning, plan review
 - ii. Need authority to cite buildings
 - iii. Fire Prevention should be part of it – 2 officers? Civilians that are trained as Certified Fire Inspectors? At minimum, a strong connection with the Fire Dept.
 - iv. Need to unify the authority in the ordinance now – spread among Ch. 1, 6 and 10
 - v. Centralized new department – inspections and code enforcement
 - vi. Fire will continue to do proactive inspections of buildings with 3 or more units
 - vii. Ensure data collection so that it will be clear whether these changes are achieving the goal
 - c. Enforcement
 - i. Current citation process – 32 days to address violation/submit plan, then letter, then second letter

1. Switch to ticket and fine?
2. Rich has 1 day every month in court to address these kinds of issues
3. Code staff can write tickets – sworn constables
- ii. Would like to ensure every rental property inspected at least every 3 years
 1. Landlords bring proof of passing inspection by certified code inspector. Possibly also required to submit insurance company information.
 2. City staff track and follow up
 3. Easy referral route for other “eyes” – eg, other service providers like oil/gas companies who see building conditions and fire risks through the course of their work – as well as tenants, etc. to report. See Click Fix.
 4. Risk-based prioritization via new link between See Click Fix and Urban Insight. Also make data available on web site for public to search violations on a building.

3. Next Steps

- a. Staff will flesh out draft for new education plan, new inspections and code enforcement/building department, and enforcement in preparation for Phase 2.
- b. Phase 2 adds the external task force members:
 - i. Julie Gregor – Portland Housing Authority
 - ii. Katie McGovern – Pine Tree Legal Assistance
 - iii. Crandall Toothaker – Southern Maine Landlord Association
 - iv. Carleton Winslow – Southern Maine Landlord Association
- c. Meeting schedule
 - i. Mon 1/5, 2:30-4, rm 24. Review initial findings from Phase 1.
 - ii. Mon 1/12, 2:30-4, rm 24. Review and prioritize recommendations from prior studies/reports.
 - iii. Mon 1/26, 2:30-4, rm 209. Analyze Phase 1 findings vs recommendations from studies/reports.
 - iv. Th 1/29, 2:30-4, rm 209. Develop recommendations for City Council’s Public Safety, Health & Human Services Committee.
 - v. Public meeting – week of Feb. 2
 - vi. Presentation to Public Safety, Health & Human Services Committee – Tues 2/10.



**Fire/Code Inspections Task Force
Notes from first Phase 2 meeting
January 5, 2015**

Phase 2 Task Force Members:

Julie Gregor, Inspection Supervisor – Portland Housing Authority
Katie McGovern, Tenant Advocate – Pine Tree Legal Association
Crandall Toothaker – Southern Maine Landlord Association
Carleton Winslow – Southern Maine Landlord Association
Rich Bianculli, Neighborhood Prosecutor - City of Portland, Corporation Counsel/Police Dept
Jay Fleming, Deputy Chief - Boston Fire Dept (not present)
Keith Gautreau, Assistant Chief - City of Portland, Fire Dept
Sheila Hill-Christian, Acting City Manager - City of Portland
Tammy Munson, Inspections Division Director - City of Portland
Tuck O'Brien, Chair, Portland Planning Board
Jon Rioux, Inspections Division Deputy Director - City of Portland
Julie Sullivan, Acting Chief of Staff - City of Portland

1. Welcome and introductions
2. Review phase one findings
 - a. Education plan
 - i. Tenants are fearful - worry that they have to trade safety for affordability
 - ii. Glad to hear that information will be accessible for young, low-income people via online database with information on each property
 - iii. City and Pine Tree Legal Association (PTLA) can work together on landlord/tenant handbook (each has a version currently)
 - iv. Landlords' association could have session(s) with tenants' group for education
 - v. Portland Fire could provide train-the-trainer on basic life safety – list of basic safety principles on web site currently
 - vi. Should also target General Assistance (GA) recipients for education
 - vii. Question about GA list of landlords they will not rent to – is there City action then taken against those landlords?
 - viii. Tenants may not be aware that they can let an inspector in.
 - ix. Need regular calendar of trainings for landlords – how reach those who are not part of Southern Maine Landlord Association? Cannot include information with tax bills.

- b. Inspections and Code Enforcement – staff, roles, structures, processes: What problems are we trying to solve?
 - i. Concern that third-party inspectors would write up every little thing – how make sure to prioritize? How make sure these inspectors are qualified? Consider using standardized checklist.
 - ii. City should go ahead with risk-based scoring for properties in order to prioritize
 - iii. City staff need more training – especially on software, documentation
 - iv. Need better communication among City staff who have eyes on these buildings so they can report any concerns
 - v. Having firefighters conduct inspections is good because then they are familiar with building layouts
 - vi. PHA, City and others have collaborated on hot spots (defined by calls for service) – needs better organization
 - vii. Need someone whose job it is to ensure good internal communication, training, software usage
 - viii. Concern that inspectors may be biased if a tenant complains and there is an eviction underway
 - ix. Need to ensure copies of inspection reports and communications to landlords in the public database – clear what landlord is to fix, what steps City is taking
 - x. Inspectors need to ensure their reports are clear, concise and thorough – checklist?
 - xi. Need to be sure rules are being applied consistently
 - xii. Inspection required at transfer of building ownership?
 - xiii. Need to enforce current requirement for all landlords to register with the City
 - xiv. Code enforcement has one inspector who handles all complaints, plus 3 others focused on building, plumbing and electrical for new construction and rehab.
 - xv. Fire can only do proactive inspections for buildings with 3 or more units; can only go into 1- and 2-family rentals if responding to a complaint
 - xvi. Need to see high-profile enforcement actions. And what are the consequences for disabled smoke detectors?

3. Key points

- a. Need checklists for fire, building inspectors as well as for all City staff working in the field
- b. Use risk-based scoring to prioritize buildings/units most in need of inspection
- c. Enforcement requirement for landlords to register
- d. Change enforcement to a ticket and fine process, ensuring clarity and follow-up as well
- e. Consider developing a phased process with items having most impact first

4. Next steps – summarize recommendations from relevant studies and distribute in advance of next meeting; bring more specificity to recommendations discussed above
 - a. Mon 1/12, 2:30-4, rm 24. Review and prioritize recommendations from prior studies/reports and discuss potential impacts on landlords and tenants
 - b. Mon 1/26, 2:30-4, rm 209. Draft recommendations for City Council's Public Safety, Health & Human Services Committee
 - c. Th 1/29, 2:30-4, rm 209. Finalize recommendations for Committee.
 - d. Public Meeting – Tues 2/3, 5:30-7 pm, rm 24
 - e. Presentation to Public Safety, Health & Human Services Committee – Tues 2/10, 5:30 pm, Council Chambers.



**Fire/Code Inspections Task Force
Meeting Notes
January 12, 2015**

Phase 2 Task Force Members:

Julie Gregor, Inspection Supervisor – Portland Housing Authority
Katie McGovern, Tenant Advocate – Pine Tree Legal Association
Crandall Toothaker – Southern Maine Landlord Association
Carleton Winslow – Southern Maine Landlord Association
Rich Bianculli, Neighborhood Prosecutor - City of Portland, Corporation Counsel/Police Dept
Jay Fleming, Deputy Chief - Boston Fire Dept (not present)
Keith Gautreau, Assistant Chief - City of Portland, Fire Dept
Sheila Hill-Christian, Acting City Manager - City of Portland (not present)
Tammy Munson, Inspections Division Director - City of Portland
Tuck O'Brien, Chair, Portland Planning Board
Jon Rioux, Inspections Division Deputy Director - City of Portland
Julie Sullivan, Acting Chief of Staff - City of Portland

1. Welcome
2. **Urban Insight** demo – Vicki Bourret, Assistant Director of Information Technology
 - a. Microsoft Access database which brings code enforcement and development review into one system
 - b. This system will provide the bulk of the variables for the risk assessment process to prioritize building inspections and feed the publicly accessible online property/owner look-up functions.**
 - c. Can search by property address or by owner
 - i. Data attached to each record: outstanding taxes, fees; inspection reports; site plans; permits; complaints; associated businesses; Fire Department pre-plans; relevant documents; letters; property manager
 - ii. Would see all properties someone owns through an owner-based search
 - d. Developing checklist which will automatically populate the violation list
3. **Fix It! Portland** video – this is a new smartphone app (also accessible from the City web site) to report non-emergency concerns to the City. Complaints related to rental housing safety will also populate the risk-based assessment.
4. **Discussion** of risk-based prioritization, public education, enforcement
 - a. **Risk-based prioritization of inspections** – There are numerous municipalities using this approach to ensure safe housing and allocate inspections and enforcement resources according to a risk score generated by several variables, possibly including delinquent taxes, vacancy, foreclosure, complaints/violations, and calls for service. Public Safety Solutions Inc. (PSS) conducted an extensive and thorough review of the

entire Portland Fire Department in 2013 and also recommends this approach. **What are the variables that should be included to create the risk score?**

- i. Police, Fire/Medcu calls for service
 1. Disorderly house via PD – based on excessive call volume (excluding domestic violence) over a 30-day period
 - ii. Foreclosure
 - iii. Vacancy
 - iv. Number of units/number of stories
 - v. Permits for certain code-related issues
 - vi. Construction type
 - vii. Occupancy use
 - viii. Utility disconnects
 - ix. Concentration of poverty
- b. **Public Education** – Clearly, this is the best means of prevention. The Fire Department will take the lead on this, by reinstating school-based programs, targeting college students and 20-somethings, landlords, and other tenants. This was a major focus in PSS’s recommendations around prevention. ***What are venues and approaches for hard-to-reach target populations?***
- i. Carl shared a document on behalf of the Southern Maine Landlord Association proposing a Fire Safety Disclosure Form for tenants and landlords
 1. One-page form summarizing basic fire safety requirements, to be created with the Fire Department
 2. Outlines landlord obligations
 3. Explains tenant responsibilities
 4. Each party signs and dates
 5. Landlords required to keep it on file for any rental units in Portland
 6. Provides education as the document would need to be seen by all landlords and all tenants
 7. Enables landlords and tenants to hold each other accountable for fire safety
 8. City could impose a penalty for failure to provide this document when asked
 - ii. Discussion on SMLA document
 1. Add penalty that tenants could enforce against landlords
 2. City shouldn’t enforce this document; State could; City just audit to see if it’s there
 3. Great way to educate
 4. Could be featured in handbook created by City and Pine Tree Legal
 5. Also add who the property manager is (if applicable) and who the landlord is with contact info
 - iii. Discussion on venues/approaches for hard-to-reach populations

1. Colleges may keep lists of off-campus housing recommendations
 2. Maine State Housing Authority web site links those looking for housing with landlords with vacancies
 3. City General Assistance program's landlord list
 4. Shalom House's landlord list
 5. Older tenants – AARP, Southern Maine Agency on Aging, Legal Services for the Elderly
 6. Landlord/tenant group via City's Refugee Services Program
 7. Need materials translated into multiple languages; read for those who need that
- c. **Enforcement** – There are many opportunities to clarify and strengthen the enforcement process, some of which require minor revisions to City Code. *What are your thoughts about the following approaches? What would you add or remove?*
- i. Enforce existing requirement for landlords to register with the City annually.
 1. Contact information, type of property, insurance company information
 2. Annual fee – maybe \$25
 3. Fines for failure to register, provision of inaccurate information
 - ii. Move to immediate ticket and fine for violations. The current process of sending a letter and giving 32 days to address the violations, then sending a second letter and another 32 days is inefficient and ineffective.
 - iii. Also enforce existing re-inspection fees (\$75).
 - iv. Dedicate legal resources – one day per month dedicated to housing-related issues. The City should evaluate to ensure this is adequate and consider the feasibility of the housing court model used in other municipalities. A new City attorney was recently hired to focus on these issues in addition to Police Department's Neighborhood Prosecutor.
 - v. Discussion
 1. Moving to immediate ticket/fine good because otherwise people at risk for too long; how prove landlord's fault vs tenant's fault; how allow time to correct violations – maybe 24 hours for serious issue; otherwise, show plan of correction; would have at least 2 weeks before court date and could grant continuance
 2. Don't have to revise ordinance to move away from 32-day time. Current ordinance also has fee/fine schedule
 3. Could we cite tenants for blocking egress, tampering with smoke detector, unsanitary living conditions – yes, but need to prove tenant(s) at fault
 4. Annual fee ok/too much
 5. Fines are good, make them high
 6. City should have low-interest loan program to provide resources for

7. landlords' to address issues
 8. Where do the fines go? City general fund
 9. How minimize displacing tenants while enforcing
 10. Train inspectors that pending eviction should be considered irrelevant when responding to complaint
5. **What's next** – discuss technology, internal training, staffing and begin to draft final recommendations – Monday 1/26, 2:30-4:00 pm, rm 209
- a. Additional dates:
 - i. Thurs 1/29, 2:30-4:00 pm, rm 209 – finalize recommendations
 - ii. Tues 2/3, 5:30-7:00 pm, rm 24 – Public Meeting
 - iii. Tues 2/10, 5:30 pm, Council Chambers – Presentation to City Council Public Safety, Health & Human Services Committee



**Fire/Code Inspections Task Force
Meeting Notes
January 26, 2015**

Phase 2 Task Force Members:

Julie Gregor, Inspection Supervisor – Portland Housing Authority
 Katie McGovern, Tenant Advocate – Pine Tree Legal Assistance
 Crandall Toothaker – Southern Maine Landlord Association
 Brit Vitalius for Carleton Winslow – Southern Maine Landlord Association
 Rich Bianculli, Neighborhood Prosecutor, Police Dept - City of Portland
 Adam Lee, Attorney, Corporation Counsel – City of Portland
 Jay Fleming, Deputy Chief - Boston Fire Dept (not present)
 Keith Gautreau, Assistant Chief, Fire Dept - City of Portland
 Tammy Munson, Inspections Division Director - City of Portland
 Tuck O'Brien, Chair, Portland Planning Board (not present)
 Jon Rioux, Inspections Division Deputy Director - City of Portland
 Julie Sullivan, Acting Chief of Staff - City of Portland

1. Welcome
2. Overview of **State Fire Marshal's report** re Noyes Street and discussion of relevant items for task force consideration

What does this tell us – what should we add or change in what we've already been discussing?

- a. Origin and cause: Outside on porch, Improperly discarded smoking materials (cigarettes), Improper use of cigarette receptacle, Fuel load on porch, Time of day (undetected)
 - i. Smoking is the leading cause for fatal fires.
 - ii. Can charge tenants for disconnecting smoke detectors – could even become criminal mischief charge if done repeatedly.
 1. Could be grounds to evict because endangering other tenants
 2. Landlords could put this in their leases
- b. Human behavior elements: Smoke alarms removed, Blocked egress, Drinking and smoking, Housekeeping issues
 - i. Need to educate landlords about the different kinds of smoke alarms – eg, don't use an ionization smoke detector near a kitchen or bathroom, use photoelectric.
- c. Arrangement/legal use of building
 - i. Discussed the need to ensure inspection of 2-unit rental properties – some are very large, with numerous bedrooms.

- ii. Concluded that square footage and number of bedrooms should be risk factors for prioritization. This information could be added to the annual landlord registration form to ensure that the City has complete and accurate information (currently we have this information from the Assessor's Office).
 - iii. Consider changing the code in Section 10-3(m) to say OR subject of complaint.
 - iv. Discussed lodging houses/rooming houses. Licensing should not be done through City Clerk but through registration and required annual inspection.
 - 1. Need clarification on how tenants are removed – whether the landlord is viewed as an innkeeper; different rules.
 - d. State Fire Marshal inspects all fatal fires. They are forwarded their findings to the DA, which is why the full report cannot be made public at this time. Also, the ATF has corroborated the Portland Fire Department and the State Fire Marshal's theory and findings.
 - e. The findings tell us that education is key – the importance of keeping egress unblocked, working smoke detectors, disposal of smoking materials.
 - i. Revisited the proposed new document for tenants and landlords to sign – should be done with a walk-through of the unit to test that smoke detectors are connected and working.
 - ii. Discussed the enforcement of this and concluded that it is an excellent education tool and the City can enforce when inspecting by asking to see the jointly signed document.
 - f. The findings also underscore the importance of enforcement of working smoke detectors, removal of trash.
 - i. Discussed Heavy Item Pickup (HIP) and whether that would make an impact on the factors that were causal. Task Force believes that reinstating HIP would not make enough of a difference; this demographic is more likely to keep old furniture.
 - ii. Task Force also believes that banning couches on porches is also not a worthwhile option at this time because it would be more impactful to spend resources on education and enforcement for highest-risk properties.
 - g. Portland Fire Department has already pulled a list of 67 properties recommended by USM for students and is prioritizing inspections there.
 - i. Consider putting in the area around the university as a risk factor.
 - ii. Consider changing zoning around USM to legalize rooming/lodging houses and ensure they have proper fire systems.
 - iii. Perhaps there are more illegal third floor units than illegal rooming/lodging houses – also may require a zoning change.
 - h. In the current City code, there are different definitions of rooming houses in Ch. 6 and Ch. 10. Need to tighten those up.
3. Discussion of enforcement, technology, internal training, staffing
- a. Finish **enforcement** discussion from last meeting

- i. Tenant notification – policy needs to be revisited and finalized. Was drafted after 10 Exchange St issues to establish more stringent fines, and post so tenants are aware of the violations.
 - ii. Discussed concerns that other subsidized housing are not well-monitored (most are under various HUD subsidies and inspected by other agencies)
- b. **Technology** – With minimal to no new resources, the City can standardize and streamline inspection reporting processes. The PSS study noted the need for improved use of technology in the inspections functions.

What else should the City consider for technological improvements?

- i. Fire Department will move to Urban Insight.
 - ii. Develop and implement standardized checklists for inspectors to use in the field. *These checklists should be shared with landlords and tenants through public education.*
 - iii. Consider having tablets for inspectors to use in the field, greatly diminishing the amount of time required to cite an owner for violations and follow up with enforcement.
 - iv. Provide online capability for annual landlord registration.
 - v. Everything needs to be online – starting with the landlord registration.
 - vi. Should work to have a complete inventory of all rental properties in the city
- c. **Internal Training** – The internal phase of this Task Force’s work illuminated several areas for improvement in staff training.

Are there other opportunities for internal training?

- i. Inspectors across relevant departments require additional training and cross-training to improve inspections.
 - ii. All relevant staff require additional training to use Urban Insight and to ensure thorough documentation of all inspections.
 - iii. Other City staff who work in the field will be trained on the checklist so that they can easily report any concerns for follow up.
- d. **Staffing** – PSS’ study used a metric to recommend 10 new FTEs in the Fire Department alone to ensure widespread inspections. We believe we can achieve the intended goal of improving our ability to ensure the safety of Portland’s rental housing stock using a different approach. In order to ensure implementation of these recommendations and to evaluate whether there are indeed ensuing improvements to the city’s rental housing stock, the following new positions are requested.
- i. Housing Safety Official (title TBD) who reports to the City Manager, convenes and coordinates all relevant departments to address issues with a property and decide actions to be taken.
 - ii. Three additional inspectors, all cross-trained in building code and life safety code, who will report to the Housing Safety Official.
 - iii. One administrative support position, who will coordinate the risk-based assessment of all rental properties and the online database, who also reports to the Housing Safety Official.
 - iv. An Education Officer at the Fire Department to implement the additional training

needed.

v. Discussion:

1. Inspecting GA-subsidized properties needs to move to new housing safety office
 2. This new housing safety office can be largely self-sustaining through registration fees
- e. Should these fees be levied by unit or by property?
- i. City has approx. 17-20,000 units in 6,900 buildings. Removing 3,284 residential condos leaves 3,616 properties.
 - ii. \$100/property annual fee makes the program close to self-sufficiency
 - iii. Lower annual fee plus significant penalty – how find balance
 - iv. By unit seems too punitive, but may need to consider way to scale fee by size/complexity of property
 - v. Landlords okay with \$25/property with the revenue going to fund inspections
 - vi. How “reward” landlords who are compliant
 - vii. Raise reinspection fees

4. What's next

- a. Thurs 1/29, 2:30-4:00 pm, rm 209 – discuss recommendations
- b. Tues 2/3, 5:30-7:00 pm, rm 24 – Public Meeting
- c. Weds 2/4 – Mon 2/9 – Virtual discussion of public meeting feedback
- d. Tues 2/10, 5:30 pm, Council Chambers – Presentation to City Council Public Safety, Health & Human Services Committee
- e. Weds 2/11 – Mon 2/16 – Virtual discussion of Committee meeting feedback
- f. Final recommendations issued

Appendix B – Initial Variables for Risk-Based Prioritization

Type of construction

Age of structure

Number of units

Location

Delinquent taxes

Vacancy

Foreclosure

Complaints

Violations

Calls for service (Police, Fire)

Issues reported via FixIt Portland

Property type