

COMMONWEALTH OF MASSACHUSETTS TRIAL COURT

HOUSING COURT DEPARTMENT

WESTERN DIVISION

SEARCH WARRANT FOR PRIVATE DWELLING

To the Sheriffs or Deputies, any Constable or Police Office of any City or Town of the Commonwealth, and to CODE ENFORCEMENT COMMISSIONER AND FIRE PREVENTION INSPECTOR authorized agent(s) of SPRINGFIELD CODE ENFORCEMENT DEPARTMENT AND SPRINGFIELD FIRE DEPARTMENT Health/Housing Department.

Proof by affidavit having been made this day before a Housing Court Judge, by STEVE DESILETS, agent for CODE ENFORCEMENT DEPARTMENT OF CITY OF SPRINGFIELD that there is probable cause for believing that an area inspection to enforce minimum physical standards for private property as set out in Regulation 3 of the State Sanitary Code (GL. Ch. 111) should take place in SPRINGFIELD City / Town and / or

Proof by affidavit having been made this day under Regulation 5 of the State Sanitary Code (Chapter 111, Section 30) in which the CODE ENFORCEMENT COMMISSIONER Housing / Health Department believes it necessary, in order to protect the interests of the public health or safety, that entry be made to certain land(s) and building(s), and Proof by affidavit having been made that ATTORNEY CHRISTINE TETREAULT AS AGENT FOR SOUTH CONGREGATIONAL CHURCH has refused entry at 45 MAPLE STREET, SPRINGFIELD, MASSACHUSETTS to authorized agent(s) for the purpose stated above.

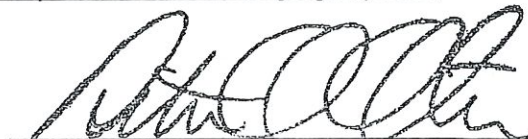
We therefore command you to make an immediate inspection in daytime of the building(s) (and land) at 45 MAPLE STREET, SPRINGFIELD, MASSACHUSETTS, occupied by JANE DOE AND TWO MINOR CHILDREN solely for the purpose of enforcing said laws, the inspection to be made on the 5th of April, 2018 between the hours of 9:00am and 12:00pm.

List here if more than one area is to be inspected, and more than one section to be enforced:

Inspection to be conducted by Steve Desilets, Code Enforcement Commissioner and Lieutenant Richard Martin of the Springfield Fire Department within any and all areas of the property that are being used as residential housing areas.

Issued (Date)

4/4/18



Peter Q. Montori, CLERK-MAGISTRATE

COMMONWEALTH OF MASSACHUSETTS
Division Of The Trial Court

Housing Court
Western Division
Civil Action Number

City of Springfield, Mass.)
Petitioner)
v.)
South Congregational Church)
Respondent)

WESTERN DIVISION
HOUSING COURT
2018 APR -1, PM 1:33

Affidavit of Steve Desilets, Code Enforcement Commissioner, In
Support of Application for an Administrative Search Warrant

I, Steve Desilets, on oath, hereby depose and state:

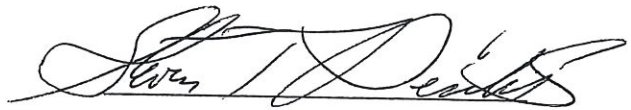
1. I am the Code Enforcement Commissioner for the City of Springfield, MA. I have held this position since 2004. In that capacity, I am charged with enforcing that the building, electric, plumbing, state sanitary and fire codes throughout the City, and additionally I enforce city ordinances, including zoning ordinances.
2. In my capacity as Code Enforcement Commissioner I am responsible for enforcing code standards that are neutral and generally applicable, placing any landowner on an equal footing with any other landowner, whether religious or non-religious entities to promote the health, safety, and general welfare of the citizens of Springfield.
3. In my capacity as Code Enforcement Commissioner I became aware that South Congregational Church publically indicated they intended to operate some sort of a "shelter" for undocumented immigrants at property it owns located at 45 Maple Street, Springfield, MA.
4. Last June I met with the pastor of the church, at his office on the property. I did not conduct an inspection at that time, or at any time. Following the meeting, I generated a letter to the Pastor, a true copy of which is attached to this affidavit as Exhibit A.
5. Historically, the use of the property has been as a "place of assembly", or as accessory to the place of assembly. Accessory uses at the property included a kitchen area, office areas, public bathrooms, etc. There is no record of any area being used for residential purposes, including any sleeping area.

6. I have reviewed the records for that property and have found there is no record of any residential housing at that location.
7. I have reviewed the records for the property and have found no record of any applications for building permits, electric permits or plumbing permits issued in the last five (5) years. There has been no application for a building permit indicating any change of use at the property.
8. On August 30, 2017 one of the building inspectors for the City of Springfield, Richard Olsson, conducted a routine inspection at the property under 780 CMR 110.7, which is an annual inspection required by the building code. That inspection was solely for life safety systems for a place of assembly, and was not a comprehensive inspection of any residential space. The areas inspected were the church area, the chapel area and two assembly halls, and accessory kitchen area.
9. On March 26, 2018 I became aware that South Congregational Church had called a press conference to announce that a woman and two children were going to take up residence to utilize the property as a dwelling unit for an indefinite period of time.
10. Shortly after becoming aware of this change in use, I reviewed our records to see if the property contained lawful residential housing. It does not.
11. I have also reviewed photographs that the local media has stated is of the area where the woman and her children are living. I cannot verify the accuracy of those pictures. To the extent they accurately depict the living area, they do not depict any bathroom facilities, no kitchen sink, or means of egress. Smoke detectors are not depicted. There are two photographs that appear to depict space heaters. There is a lit candle in one picture, right next to a flammable pine cone.
12. On Thursday March 29, 2018, after notifying a representative of the church of my intent to inspect the premises being used for residential purposes, I took part in a phone conference with the City Solicitor Edward Pikula, and Deputy Solicitor Lisa deSousa, and Attorney William Newman. I believed Atty. Newman was representing the church. In response to a request from Mr. Newman that the inspection be deferred due to Holy Week, I agreed to wait to inspect the building until Monday, April 2, 2018 if Mr. Newman could confirm that there was at least two (2) means of egress and smoke detectors in the area being used to house people. He did confirm that, and I understood that we were going to be allowed entry to inspect on Monday, April 2, 2018.
13. On Monday, April 2, 2018 I was advised that Mr. Newman did not represent the church. Further, an Attorney Christine Tetreault called me, advised me that she represented the church, and that they would not allow an inspection unless we had a warrant.

14. Based upon the foregoing, I am concerned about the health, safety and welfare of any occupants of the church who are utilizing the property as a residence. I am requesting an administrative search warrant as follows:

- A. Warrant to inspect any and all areas of the property located at 45 Maple Street, Springfield, MA that are being used as residential housing areas;
- B. Access to be granted between 9:00 a.m. and 12:00 p.m. on April 5, 2018;
- C. Inspection to be conducted by myself, and Lieutenant Richard Martin of the Springfield Fire Department.

SIGNED under penalty of perjury this 4th day of April, 2018.

A handwritten signature in black ink, appearing to read "Steve Desilets", with a stylized, cursive script.

Steve Desilets

Exhibit A



CITY OF SPRINGFIELD, MASSACHUSETTS
INSPECTIONAL SERVICES**BUILDING DIVISION
70 TAPLEY STREET
SPRINGFIELD, MA 01104

JUNE 23, 2017

The Reverend Tom Gerstenlauer
South Congregational Church United Church of Christ
45 Maple Street
Springfield, MA 01105
revtgerst@gmail.com

Dear Reverend Gerstenlauer:

Thank you again for meeting with me Tuesday to discuss the various code requirements which would need to be addressed if your Congregation decides to have a residential shelter at the Church, or at any other structure they might choose. For purposes of this discussion, I will assume the proposed shelter will be at the church, but the requirements are the same, regardless of location. There is a provision under the Mass building code for use of churches as temporary emergency shelters. The proposed use you are suggesting would NOT qualify because such a use can only be invoked if there is a cold weather emergency or if the governor has declared a state of emergency. In those limited cases a church can be used as a temporary emergency shelter, but not for more than 7 days in a row, and in no event to exceed 35 days in a calendar year. See 780 CMR 3111, et seq.

Should the church decide to go ahead with placing a shelter at the church, there are multiple steps involved with that process. All of the codes at issue are addressed to assure the health and safety of the occupants. The first step will be to hire an architect to have the necessary building plans drawn to convert all or parts of the church to a shelter. The plans will then be submitted to the City as part of your application for a building permit. The permit is necessitated by the proposed change in use to a shelter or dormitory use, which is governed by the State Building Code, located at Mass. G.L. c.143, §93 through 100, and 780 CMR 101, et seq. As your architect will no doubt advise you, this type of change in use will necessitate, amongst other things, having sprinklers installed, bringing all electrical and plumbing into current code compliance, and making the shelter fully handicap accessible. Additionally, the plans must include providing sufficient sanitary facilities (bathrooms and showers) and bed

spacing for the requested occupancy numbers. 105 CMR 430. ¹ If food is going to be prepared on site there are health code issues, which will require an inspection and certification from the Department of Health. See 105 CMR 590. A proposed shelter must meet the minimum requirements for the storage and management of medical waste. 105 CMR 480, et seq.

¹ This is not an exhaustive list of the requirements, it is merely an overview. There are many other requirements, including ventilation, room barriers, fire detection and suppression, etc. that your architect will be responsible for advising you on.

There are additional zoning concerns. The City of Springfield's Zoning Ordinance was amended, effective August 2013, requiring that a property owner submit an application for site plan review. The provisions governing the site plan review process is contained in Article 12 of the City of Springfield Zoning Ordinance. If the actual church is the location for the proposed shelter, it would require a special permit from the City Council as it is not currently zoned for such a use. The church is currently zoned as "Residence-C".

This is merely a thumbnail sketch of the process. I look forward to working with you if you choose to move forward with this use of the church. As I have advised you, there are serious health and safety concerns involved in the operation of any type of congregate living arrangement in a building that was not built for such use, and we all want to assure the public safety. It is my understanding based upon our conversation that you are not currently housing anyone and that you will not do so unless and until the property is in compliance with all applicable laws, statutes, code and ordinances.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve T. Desilets", with a stylized, flowing script.

Steve T. Desilets

Building Code Commissioner

cc: Commissioner Helen Caulton-Harris
cc: Commissioner Joseph Conant