

## STATE COURT CHALLENGE TO THE MASSACHUSETTS COVID-19 EVICTION MORATORIUM AUGUST 26, 2020

On August 26, 2020, Judge Wilson of the Massachusetts Superior Court issued a decision on the State Court challenge to the Eviction Moratorium. As expected, but nevertheless unfortunately, Judge Wilson refused to grant the injunction barring the enforcement of the Moratorium, finding that the Plaintiffs were unlikely to prove the law unconstitutional. While the decision is lengthy and somewhat involved, the Court afforded the Commonwealth significant deference in determining the manner in which to address this “health crisis”. It further suggested that the prohibition on a landlord’s right to recover their property was temporary (despite the fact that the law itself has no end date), and that landlords have other remedies to collect rent (such as civil actions to obtain money judgments). While the court did not issue a final decision in the case, by denying the injunction, the Court, in effect, elected to permit this law to remain until such time as the Governor allows it to expire. As of now, the moratorium is set to expire on October 17, 2020. However, again, the Governor has the legal authority to extend the law indefinitely. Turk & Quijano is proud to have filed a “friend of the court” brief opposing this law on behalf of the Institute of Real Estate Managers (IREM). A copy of the brief is available at [tqlawfirm.com](http://tqlawfirm.com).

While the State Court case appears to have been unsuccessful, the Federal Court challenge remains and is presently being argued before Judge Wolf. Judge Wolf has already expedited the hearing on this case and, while it is clearly a difficult path to challenge a law which purports to prevent evictions, there is a small amount of optimism that the Federal Court may deem this law unconstitutional pursuant to the United States Constitution.

Finally, we would once again encourage property owners and managers to contact their state representatives and the Governor to express their concerns regarding this law. While we remain committed to ensuring that residents are able to maintain their housing during this pandemic, it is both unfair (and arguably unconstitutional) to impose the financial burden on property owners who neither caused nor created this pandemic.

The foregoing is for informational purposes only and should not be considered legal advice. If you have any questions or need legal assistance, please feel free to contact our office. We are available to assist you with your legal needs as the housing industry navigates these novel and complex issues. We hope you are remaining safe and vigilant as we work through these challenges together.

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