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To: Massachusetts Advisory Committee to the US Commission on Civil Rights
From: Neenah Estrella-Luna, MPH, PhD (Committee Member)
Subject: Analysis of municipal water access and affordability policies in Massachusetts

Background

The Advisory Committee's project on water affordability focuses on the civil rights issues that may be raised by the increasing costs of household water across the Massachusetts. We are specifically interested in local water authorities' uses of liens and/or water shutoffs to enforce payment for services. The increase cost of water and the risk of water shutoff affects property owners directly. Renters are also affected insofar as the cost of water is incorporated into rents and shutoffs may result in displacement. The COVID pandemic has strengthened our concerns as handwashing is a critical preventive practice.

Previous research focusing on the City of Boston found significant racial disparities in water shutoffs.¹ A more recent study by Northeastern University School of Law found that municipal water affordability programs exclude renters.² Given the very low rates of homeownership among people of color in Massachusetts, the exclusion of renters from water affordability programs may have a disparate impact on people of color.

Unfortunately, neither municipalities nor water authorities collect data on the demographic characteristics of ratepayers or on the households that have been subject to shutoffs or liens. In order to better understand the potential for disparate treatment or discriminatory effects, we conducted an exploratory descriptive study of the municipal policies related to water access and affordability.

Method

This investigation was guided by four questions:

- Does the municipality have a policy of shutting off water for non-payment?
- Does the municipality have a policy of placing liens on property for non-payment of water bills?
- Does the municipality have any water discount programs, and if so, how do those programs operate?
- Did the municipality put in place a water shutoff moratorium in response to the COVID pandemic and if so, did they reinstate water to properties whose water had been shut off?

There are two facts that underscore the design of this investigation. First, Massachusetts is a racially hyper-segregated state. According to a 2015 Federal Reserve Bank of Boston report, Black and

¹ Massachusetts Global Action. "The Color of Water: A Report on the Human Right to Water in the City of Boston." (2014). Retrieved from http://massglobalaction.org/projects/colorofwater/primary_report_shutoffs_pre-pub.pdf

² Martha F. Davis. "A Drop in the Bucket: Water Affordability Policies in Twelve Massachusetts Communities," (Northeastern University School of Law: Program on Human Rights and the Global Economy, Boston 2019). Retrieved from <https://www.northeastern.edu/law/pdfs/academics/phrge/water-report-2019.pdf>

MEMO TO FILE

Latinx segregation in the Boston metropolitan area is higher than the national average, especially for the Latinx community.³ There are 11 municipalities where people of color comprise more than 50% of the population. The people of color in these 11 municipalities account for more than half of the people of color who live in Massachusetts. In contrast, non-Hispanic Whites account for more than half of the population in 96% of municipalities in Massachusetts. Indeed, in 44% of municipalities, non-Hispanic Whites comprise 90% or more of the population.⁴ Second, there are large racial disparities in homeownership rates on Massachusetts. According to the 2018 5-Year American Community Survey, 87% of owner occupied housing in Massachusetts are owned by non-Hispanic Whites.⁵

Given this context, for this analysis I assume that comparing the policies of municipalities with high rates of non-Hispanic White renters (hereafter, high renter of color communities) with low rates of non-Hispanic White renters (hereafter, low renter of color communities) would provide us with information on the possibility of disparities in access to affordable and safe water in Massachusetts.

Using the 2010 Decennial Census,⁶ I identified those municipalities where more than 50% of the renter population was non-Hispanic White and selected the top 10 municipalities in order of population size. I then identified municipalities where less than 25% of the population were non-Hispanic White and chose the top 10 in order of population size. In order to ensure an adequate sample size, I chose seven additional municipalities where more than 25% of renters were renters of color and matched those with 14 municipalities where renters were less than 25% renters of color. Matching was based on median household income.⁷ Municipalities were considered matched if their median household incomes were within 25% of each other. The reason for adding additional low renter of color communities was to address anticipated non-response to our inquiries.⁸ In matching municipalities, care was taken to ensure geographic distribution of the sample across Massachusetts. In addition, two very high median income communities were added explore the role of income in this phenomenon.

The final sample includes 40 municipalities. People of color comprise an average of 55% of the population and 48% of renters in high renter of color communities. People of color comprise an average of 17% of the population and 18% of renters in low renter of color communities. The median household incomes in lower renter of color communities is 24% higher, on average, than in high renter of color

³ John Logan. "Separate and Unequal: Residential Segregation," Communities & Banking (Federal Reserve Bank of Boston, December 1, 2015). Retrieved from <https://www.bostonfed.org/publications/communities-and-banking/2016/winter/separate-and-unequal-residential-segregation.aspx>

⁴ US Census Bureau, 2014-2018 American Community Survey 5-Year Estimates, Table B03002

⁵ US Census Bureau, 2014-2018 American Community Survey 5-Year Estimates, Table S2502

⁶ US Census Bureau, 2010 Decennial Census, Table HCT1

⁷ US Census Bureau, 2014-2018 American Community Survey 5-Year Estimates, Table S1903

⁸ Three low renter of color municipalities did not respond to our requests for information.

MEMO TO FILE

communities. The list and description of sampled communities is found in Table 1.

Information was obtained primarily by two co-op students from the Northeastern University School of Law and myself. We obtained data about water shutoff policies, lien policies, water discount programs, and COVID response from the websites of the sampled municipalities as well as regional water authorities supplying water to those municipalities. We also called municipalities to confirm information or to obtain information not provided on their websites. Whenever we spoke with a person, we recorded any information about the water policies or discount programs in memos. Data was gathered between April 2020 and October 2020.

Findings

Water shutoff policies. A greater proportion of high renter of color communities have active water shutoff policies when compared to low renter of color communities. The overwhelming majority (83%) of low renter of color communities have no policy or practice of shutting off water for non-payment. Very few have active water shutoff policies. While a majority (65%) of high renter of color communities similarly have no water shutoff policy or practice, 35% of these communities do. In fact, almost three times as many high renter of color communities have active water shutoff policies as low renter of color communities. There is wide variation in the length of time of non-payment that would trigger a shutoff, although 3 billing cycles was a common threshold for municipalities that bill monthly.

Lien policies. An equal proportion of municipalities have lien policies related to non-payment of water bills. There is wide variation in when a lien would be placed on a property due to non-payment.

Discounts. The overwhelming majority of low renter of color communities have no water discount program at all. Over 60% of high renter of color communities did have a program. Across all municipalities (with one exception), these programs were targeted primarily at the elderly and secondarily at the disabled. One high renter of color community limited its program to low income elderly and a couple of others had income limits. The definition of elderly also varies considerably. Age thresholds included over 55, over 62, and over 65. One low renter of color community provides discounts only to those homeowners who also qualified for LIHEAP.⁹

There is wide variation in the discount provided to the homeowner. Some municipalities provide an actual dollar discount ranging from \$20 per month to a max of \$170 per year. Others reduce the water bill proportionally, with reductions ranging from 8.33% - 30%. Some municipalities reduce the property owner's real estate tax bill and others provide a 50% discount on the first 50 units of water used.

None of the municipalities incorporated renters into their water discount program in any way.

⁹ The Low Income Home Energy Assistance Program (LIHEAP) provides eligible households with assistance in paying a portion of their winter heating bills.

MEMO TO FILE

Where water discounts are offered, they only apply to owner occupied housing.

COVID response. All but one of the municipalities studied that have active water shut off policies put in place a shutoff moratorium at the start of COVID pandemic in March 2020. Most reported that they had not put in place water reinstatement policies. This may be because many municipalities do not shut off water during the winter either in policy or practice. Among the municipalities we spoke with, none had households that had been shutoff at the start of the COVID crisis.

Conclusion

This analysis suggests that there may be disparities in access to affordable and safe water in Massachusetts. High renter of color communities were much more likely to have active water shut off policies than low renter of color communities. In short, the risk of water shut offs is higher for homeowners, and by extension renters, in high renter of color communities. These communities are more likely to have water discount programs. And given the lower average median household incomes, high renter of color communities are more likely to need access to financial supports. However, given the racial disparities in homeownership, even in communities with large populations of people of color, these programs are not structured to reach people of color.

Consistent with previous research by Northeastern School of Law, none of the 40 municipalities studied offered any financial supports that would benefit renters. Given the racial disparities in homeownership, these policies have the effect of disproportionately benefitting White homeowners. For most communities, water discounts are funded primarily by ratepayers, property taxes, or other local taxes. These are sources of revenue that renters contribute to as part of their rent as well as through local shopping and dining. Despite contributing to the local tax base, renters are not able to benefit from these supports even if they meet general program eligibility criteria.

Finally, there is no consistency in the structure or operation in any of the policies or programs studied. The thresholds that trigger a water shutoff vary considerably. Water discount eligibility policies vary even more so. Conversations with municipal staff suggest that there may also be some level of discretion around if and when a household's water is shut off. Several staff members indicated that they try to work with or negotiate with the property owner before shutting off the water. Discretion can be a good practice to avoid causing unnecessary or irreparable harm. But it also raises the possibility of bias.¹⁰

Since no municipality or water authority collects data on the individual characteristics of the homeowners who receive water discounts or whose water is shutoff, it is difficult to determine with any certainty whether there are disparities in access to affordable and safe water for protected categories. This

¹⁰ Lipsky, Michael. *Street-level bureaucracy: Dilemmas of the individual in public service*. Russell Sage Foundation, 2010.

MEMO TO FILE

analysis supports existing research that suggests the distinct possibility of racial disparities in the experience of water shutoffs or in access to water affordability programs in Massachusetts.

Table 1: List of sampled municipalities

High Rates of Renters of Color				Low Rates of Renters of Color			
	% Total POC	% Renters of Color	Median HH Income		% Total POC	% Renters of Color	Median HH Income
Boston	55%	52%	\$65,883	Amherst	28%	23%	\$43,319
Brockton	66%	61%	\$55,140	Andover	18%	18%	\$95,640
Cambridge	39%	37%	\$95,404	Arlington	23%	19%	\$107,085
Chelsea	79%	70%	\$53,280	Attleboro	17%	18%	\$74,255
Everett	55%	42%	\$60,482	Barnstable	14%	20%	\$68,919
Fitchburg	36%	35%	\$55,277	Belmont	26%	20%	\$120,208
Framingham	35%	47%	\$79,136	Beverly	10%	12%	\$79,483
Holyoke	58%	64%	\$40,656	Braintree	20%	20%	\$94,945
Lawrence	86%	80%	\$41,583	Bridgewater	22%	13%	\$64,929
Lowell	51%	48%	\$51,987	Buzzards Bay	8%	5%	\$72,500
Lynn	64%	53%	\$54,598	Clinton	25%	22%	\$54,076
Malden	53%	44%	\$64,178	Dedham	22%	22%	\$96,992
New Bedford	38%	35%	\$43,989	Fall River	23%	17%	\$41,585
Quincy	42%	30%	\$74,180	Holbrook	23%	21%	\$70,364
Randolph	66%	60%	\$73,697	Huntington	6%	4%	\$51,667
Springfield	68%	75%	\$36,730	Lenox	10%	6%	\$53,871
Worcester	44%	45%	\$46,407	Newton	26%	20%	\$139,696
				North Adams	11%	8%	\$39,411
				Peabody	16%	19%	\$68,387
				Pittsfield	16%	17%	\$48,555
				Taunton	22%	21%	\$62,185
				Westfield	15%	17%	\$60,162
				Weymouth	16%	18%	\$79,034