MASSACHUSETTS SECURITY LIABILITY

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DUTY OF CARE

In Massachusetts, generally speaking, there is no duty to control the conduct of another person so as to prevent that person from causing harm to a third party. Lev v. Beverly Enterprises-Massachusetts, 457 Mass. 234, 245-246 (2010). Whether there exists a duty to protect others is a question of law, not one of fact, to be determined by the courts with reference to "social values and customs and the appropriate social policy". Yakubowizc v. Paramount Pictures Corp., 404 Mass. 624, 629(1989). However, the courts of Massachusetts have recognized the existence of a potential for a "special relationship", which may create a duty to protect others from the misconduct of third parties in certain situations based upon responsibilities imposed by statute or common law.

The existence of a special relationship when derived from common will depend on the plaintiff's reasonable expectations and reliance that Defendant will anticipate harmful acts by third persons and take appropriate measures to protect the plaintiff from that harm. Irwin v. Ware, 292 Mass. 745, 756-757 (1984) [A police officer held accountable for injuries and death caused by a drunken driver after the officer had stopped the driver.] Similarly an educational institution was held responsible for the rape of a student in a dormitory because of an alleged failure to take appropriate measures to provide security for the occupants of the building on the basis of the relationship between the student, who paid for room and board, and the college. Mullins v. Pine Manor College, 389 Mass. 47, 56 (1983).

Whether there exists a special relationship is dependent on a set of factors. "…among these is whether a defendant reasonably could foresee that he would be expected to take affirmative action to protect the plaintiff and could anticipate harm to the plaintiff from a failure to do so." Id at 756. The mere fact that the parking lot of a convenience store was a popular gathering place for teenagers to engage in illicit activity, including consumption of alcoholic beverages and narcotics, did not serve as the basis for the existence of a special relationship between the store and the plaintiff's decedent who was struck by an automobile operated by a teenager who had become impaired from consumption of illicit substances in the store parking lot. Dhimos v. Cormier, 400 Mass. 504 (1987). However, in the case of Fund v. Hotel Lenox of Boston, Inc., 418 Mass. 191 (1994) where a defendant hotel was situated in a "moderately high crime area" with a history of unauthorized access via a fire escape and/or an unsecured stairwell, not monitored by security measures, summary judgment in favor of the hotel was reversed on a finding by the SJC that the rape and stabbing of the plaintiff's decedent was reasonably foreseeable. In another case involving a convenience store liability for alleged inadequate security where the store's employee knew that some teenage boys gathered in the parking lot were intoxicated, and that one of them had a knife, was reasonably foreseeable and the matter should be remanded for retrial and decision by a jury. Flood v. Southland Corp., 416 Mass.62 (1993).

In Sharpe v. Peter Pan Bus Lines, Inc., 401 Mass. 788 (1988) the Supreme Court concluded, because of a extensive history of criminal activity in the vicinity of a bus terminal, an unprovoked attack by a stranger who stabbed a teenage girl waiting for a

bus was reasonably foreseeable, it was noted that, despite a history of criminal activity, the defendants had no security plan and did not retain security officers or police to patrol the premises.

COMMERCIAL PREMISES

In the case of Burgess v. Chicopee Savings Bank, 336 Mass. 331 (1957) a bank customer was shot while pursuing a robber who had just shot a bank employee. The court acknowledged that, like other commercial institutions, banks are required to exercise "reasonable care to protect those who are upon their premises to transact business. They are not insurers. And they cannot be held accountable for the criminal acts of third persons under any and all circumstances." Id at 333. In the Burgess case, because the "assault was swift and without warning", the court decided that it was speculative as to whether the premises owner could have undertaken additional measures to discourage the likelihood of such misconduct by a third person.

In circumstances where the plaintiff, on a Sunday, went to an office park where her employer rented space to perform additional work, and was attacked and raped, a verdict in favor of the plaintiff against the office park owner was reversed ." The SJC noted "[t]here was no evidence of previous crimes within the office portion of the building in which the plaintiff was attacked and certainly none of which the landlord was aware." Whittaker v. Saraceno, 418 Mass. 196, 200 (1994).

Further:…….

> A landlord, commercial or residential, is not a guarantor of the safety of persons in the building's common area. A landlord is not free, however, to ignore reasonably foreseeable risks of harm to tenants and others lawfully on the premises, that could result from unlawful intrusions into the common areas of leased premises. Id at 192.

The court concluded that, "the common law imposes on a commercial landowner a duty to take reasonable precautions to protect persons lawfully in common areas of rental property against reasonably foreseeable risks." Id 198.

It is clear that the owner of commercial premises owes a duty to visitors to take reasonable precaution to protect those visitors from criminal acts by third parties. See: Parslow v. Pilgrim Parking, Inc., 5 Mass. App. Ct. 822 (1977) [parking garage]; Fund v. Hotel Lenox of Boston, Inc., Supra; Addis v. Steele, 38 Mass. App. Ct. 433 (1995) [hotels]; Mullins v. Pine Manor College, Supra [college dormitory]; and Sharp v. Peter Pan Bus Lines, Inc., Supra [bus station].

Yet in the case of Feinstein v. Beers, 60 Mass. App. Ct. 908 (2004) a condominium association and property management company was absolved of liability for the stabbing a unit owner where an assailant gained access through the sliding door on a fourth floor balcony. The owner left the door partially open, but secured it by placing a wooden dowel in the track. Recovery was sought on a theory that the defendants violated a duty to warn the unit owner of the fallibility of such a security measure. Recovery was denied because the Appeals Court found that there was no

duty to warn of an obvious hazard. Further the court declined to find a special relationship between the plaintiff and the condominium association and property manager imposing duty to warn. It specifically concluded that the facts of the Feinstein case were not analogous to the relationship between a dormitory resident and the college. See: Mullins v. Price Manor College, Supra.

As was alluded to in Sharpe v. Peter Pan Bus Lines, Inc., a common carrier which transports passengers for compensation, owes a high duty of care to its passenger in contrast to the ordinary duty of care owed by premises owners to lawful visitors. Supra at 791-792. The Appeals Court found that the Massachusetts Bay Transportation Authority owed its patrons utmost care and diligence in Magaw v. MBTA, 21 Mass. App. Ct. 29 (1985). The plaintiff, a patron of the subway, was beaten and robbed in a tunnel leading to the toll booths. Evidence disclosed that there were records of substantial, serious crime of all varieties at that station. A number of the lights in the tunnel had been broken for a length of time. The Appeals Court quoted the decision of the Federal Circuit Court of Appeals, Kenney v. Southeastern Penn. Transp. Authority, 581 F.2d. 351, 355 (3rd Cir. 1978):

> The presence of adequate lighting is recognized as a discouragement to violent criminal activity, particularly in an area where members of the public may be expected. Traditionally, adequate street lighting has been advocated as an effective means of reducing crimes against the person, such as robbery, assault and rape. Magaw v. MBTA, supra at 133.

In the case of Gidwani v. Wasserman, 373 Mass. 162 (1977) the commercial landlord and tenant were in the midst of a dispute regarding the payment of rent. The landlord improperly entered the premises, disarmed the burglar alarm and failed to reset it. The landlord was found accountable for the loss of the tenant's merchandise which was stolen by a third party.

TAVERNS

It was observed in the 1961 decision of Kane v. Fields Corner Grille, Inc., that the business of a tavern keeper involves "the serving of intoxicants known to make persons unreasonably aggressive", 341 Mass. 640, 643 (1961). The court reasoned that it was foreseeable that a tavern keeper faced with escalating hostilities between patrons could anticipate physical combat, and had an obligation to attempt to prevent the same. In the landmark decision of Carey v. New Yorker of Worcester, Inc., 355 Mass. 450 (1969) an underage drinker who was displaying signs of obvious intoxication together with loud and obnoxious behavior. On two prior occasions he had been refused service of alcoholic beverages because of his misconduct. He pulled a gun and shot another patron. The court found that because of his combative language and demeanor had persisted for sufficiently long period of time, liability could be affixed to the tavern owner even though the method of assault was not precisely foreseeable. The SJC found that, because of the previous experience with the disruptive patron and his antisocial behavior prior to the shooting, it was for the jury to decide whether the tavern keeper had an obligation to repress the disruptive patron. The SJC said:

> The defendant, as an operator of a restaurant and bar, was in possession of real estate open to the public for business purposes. It owed a duty to the paying patron to use reasonable care to prevent injury to him by third persons whether their acts were accidental, negligent, or intentional. Id 452.

It went on to state:

> Serving hard liquor, particularly to one already drunk, has a consequence which is not open to successful dispute. Such action may well make the individual unreasonably aggressive, and enhance a condition in which it is foreseeable that almost any irrational act is foreseeable. Moreover, the service of alcoholic beverages to one already intoxicated, or to a person less than 21 years of age, are statutory violations and evidence of the negligence of the tavern keeper. Id at 453.

Similarly, in the case of Christopher v. Father's Huddle, 57 Mass. App. Ct. 217 (2003) a tavern keeper served alcoholic beverages to two groups of men; one group was underage, but regular patrons. The groups exchanged visual and verbal hostilities, putting the doorman on notice that "a fight was brewing". When the two groups of men exited the tavern, the doorman went outside to see what would transpire. Predictably a fight ensued and ultimately the plaintiff's decedent, in an effort to escape harm, dashed into a road and was struck and killed by a passing vehicle. The Appeals Court determined that, whether the doorman's failure to call the police when the hostilities first began was negligence, was a question for the jury. An award for the decedent's estate was affirmed. In fact, the jury's decision to award punitive damages on a finding of gross negligence was also affirmed. Thus, a tavern keeper has an obligation to take appropriate measures to prevent physical violence upon reasonable notice of escalating

hostilities either by the intercession of its own employees, and/or summonsing police assistance. If the tavern has a history of previous assaults on, or near, the premises, such evidence is admissible and likely to support a finding against the tavern.

WORKPLACE VIOLENCE/NEGLIGENT HIRING/EMPLOYER LIABILITY

An employer, like any owner of premises, has an obligation to prevent harm to its employees, inflicted either by third parties or fellow employees. If there is a "showing that the risk of criminal assault is foreseeable, the exact nature and source of the assault need not be shown in order for liability to attach". Foley v. The Boston Housing Authority, 407 Mass. 640, 645 (1990) In the Foley decision the wife and children of the property manager employed by the BHA was frequently the subject of threats and occasional assaults by the tenants of the housing projects which he managed, to such an extent that he would often have a security guard accompany him on site. However, the assault for which the lawsuit was brought was by a disgruntled employee with respect to an error on a paycheck. Summary judgment for the BHA was sustained on appeal because the assault by the fellow employee was not reasonably foreseeable.

The employer of a paroled felon with a history of violent crime and assaultive behavior towards women, and who had been at one point adjudicated a sexually dangerous person, was sued when the employee murdered a teenage girl whom he had enticed into a warehouse where he had working unsupervised. Coughlin v. Titus & Bean Graphics, 54 Mass. App. Ct. 633 (2002). The Appeals Court said that the hiring of a paroled felon with a history of violent behavior did not establish as a matter of law

negligence on the part of the employer. The court reasoned that professional evaluators had decided that parole was appropriate, and the employer was entitled to rely on the judgment of those professionals with the greatest knowledge of the employee's proclivities. It declared that the employer could not have reasonably foreseen that the employee posed a threat to members of the public, and observed that his assignment was such that he was working alone, and not expected to have contact with the public in the normal course of business.

Yet an employer of an individual with a history of violent or anti-social behavior with anticipated exposure to others may be liable for negligent hiring.

> The doctrine states that an employer whose employees are brought in contact with members of the public in the course of the employer's business has a duty to exercise reasonable care in the selection and retention of his employees.
> Foster v. The Loft, Inc., 26 Mass. App. Ct. 289, 290 (1988).

Thus, in The Loft case the proprietor of a busy nightclub was found liable for an assault and battery by one of his bartenders upon a patron when the employer was aware of the employee's prior criminal record. While the Appeals Court took pains to observe that the mere existence of an employee's criminal record did not require a finding of liability, the jury could reasonably conclude that the atmosphere of the nightclub was volatile and "that there was a high potential for violence". Id at 294.

In the case of Heng Or v. Edwards, 62 Mass. App. Ct. 475 (2004) the defendant, an owner of a twelve unit apartment building, would occasionally, on a casual basis pay

an apparently homeless individual who loitered about the building to perform odd jobs and custodial work. There was no formal or documentary employment process. No inquiry was made by the defendant regarding the individual's ability, character, behavior or criminal record. While the defendant was vaguely aware that the individual had an ill-defined criminal history, and perhaps problems with alcohol and drugs, further inquiry would have revealed a pending charge of kidnapping and rape of a girl. [He was acquitted of those charges]. The defendant entrusted the casual laborer with keys to some of the vacant apartments in the building. The laborer raped and murdered the young daughter of tenants in the building. In its decision the Appeals Court remarked that a residential landlord was "under a duty – higher than that of a commercial landlord [citation omitted] to protect tenants from reasonably foreseeable risks of harm, including foreseeable risks of criminal acts". Id at 484. The court affirmed the judgment in the plaintiff's favor, indicating the landlord was negligent and the result of that negligence was foreseeable.

PLACES OF PUBLIC AMUSEMENT

Like a tavern, parking lot, or office building, the operator of a place of public amusement has an obligation to prevent foreseeable harm to its patrons due to criminal, or simply irresponsible, conduct. Thus, the operator of a public roller skating rink had an obligation to prevent patrons from engaging in reckless behavior resulting in harm to fellow skaters. Farinelli v. Laventure, 424 Mass. 157 (1961). In the case of Goggin v. New State Ballroom, 355 Mass. 718 (1969) the operator of a place for public dancing had a duty to prevent injury to a patron by "accidental, negligent, or intentional" conduct

of other patrons. Still, the operator was not the insurer of the safety of patrons, and was not required to warn of the dangers of the presence of "disorderly or rowdy actions by third persons which might lead to injury" to other patrons as the same was obvious where a large crowd was gathered.

OBLIGATION OF A RESIDENTIAL LANDLORD TO PROTECT INHABITANTS FROM INJURY DUE TO CRIMINAL CONDUCT BY THIRD PARTY

The modern trend has been to hold residential landlords accountable for failure to take adequate precautions to protect tenants from criminal assault by intruders. The rationale for imposing such a duty lies with the superior ability of a landlord to provide reasonable safeguards against criminal activity. There are a number of statutes and regulations in Massachusetts designed, in whole or in part, to deter crime upon residential property. These precautions include adequate locks, lighting, video monitoring, security patrols, and, if necessary, police presence to deter crime. Yet, in the case of Choy v. First Columbia Management, Inc., 676 F. Supp. 28 (D.Mass. 1987) the occupant of an apartment who was beaten and raped by an assailant posing as a repair person had the burden of proving that a failure on the part of the landlord to provide security guards was unreasonable under the circumstances. Such proof would typically provide historical evidence of criminal activity in the building or the neighborhood. With regard to an allegation of defective locks, the plaintiff's claim was turned away because it was speculative as to how the assailant had actually gained access to the plaintiff's door.

A 1970 decision emanating from the United States Court of Appeals for the District of Columbia Circuit probably best describes the current obligation of a Massachusetts landlord for the provision of security to residential tenants. The court acknowledged the conventional rule that a "private person does not have a duty to protect another from a criminal attack by a third person". Kline v. 1500 Massachusetts Avenue Apartment Corp., 439 F. 2d 477, 481 (1970) This was based on the notion that the act of a criminal is an intentional one and a superceding cause of the resultant harm. The court remarked:

> But the rationale of this very broad general rule falters when it is applied to the conditions of modern day urban apartment living, particularly in the circumstances of this case. The rationale of the general rule exonerating a [premises owner] from any duty to protect another from a criminal attack has no applicability to the landlord-tenant relationship in multiple dwelling houses. The landlord is no insurer of his tenants' safety, but he is certainly no bystander… Where a landlord has notice of repeated criminal assaults and robberies [it] has every reason to expect like crimes to happen again, and has the exclusive power to take preventative action, it does not seem unfair to place upon the landlord a duty to take those steps which are within his power to minimize the predictable risk to his tenants. Id at 481.

Again, liability appears to hinge on the issue of foreseeability, which is typically a question of fact decided by a jury. The more prevalent the history of criminal activity, the more foreseeable its reoccurrence and therefore the greater obligation on the part of the landlord to take appropriate measures to secure the premises and its inhabitants from the criminal misconduct by third parties.

The judicially created "warranty of habitability" has now for decades served as a cudgel to be wielded by tenants' attorneys to exact the provision of habitable living quarters from landlords. It compels residential landlords to provide a dwelling which meets minimum standards for human occupancy as defined by the Massachusetts State Sanitary Code. The violation of the warranty makes the landlord strictly liable for all damages sustained as a result of the same. Some states have held that the warranty of habitability obligates a landlord to provide safeguards to protect tenants from foreseeable criminal activity on the premises. See: Trentacost v. Brussel, 412 A.2d 436, 443 (N.J. 1980). Yet in the decision of Doe v. New Bedford Housing Authority, 417 Mass. 273 (1994) the Massachusetts SJC specifically differentiated its reasoning from that employed in the Trentacost decision by the Supreme Court of New Jersey. The SJC said "[t]hat the implied warranty of habitability is concerned with the provision, maintenance, and repair of the physical facilities vital to the use of the leased premises, and is not breached solely by the presence on the premises of uninvited persons engaged in unlawful activities, or by a failure to provide security services". Id at 282.

A residential landlord is not obligated to protect against all possible misfeasance or, more specifically, criminal misconduct. However, it does appear that the Massachusetts courts will hold a landlord who fails to provide adequate security services accountable for injuries sustained by residential tenants and their guests which are reasonably foreseeable. Foreseeability would depend upon the adequacy of physical barriers, lighting, video monitoring, physical patrol and, most importantly,

whether there existed a history of criminal activity of which the landlord knew or should have been aware.

DOMESTIC SECURITY

In the decision of Apple v. Tracey, the Appeals Court declared that a "social host does not have a duty to protect third persons from criminal acts of a social guest in the absence of events which would lead a reasonable host to anticipate danger". 34 Mass. App. Ct. 56, 562 (1993). In the Apple case the defendants had taken a parolee into their home on weekends to help him reacclimate to society. They were aware that he had been convicted of sexually assaulting a child. The guest then assaulted a minor child who was riding his bicycle through the woods near the defendant's home. The plaintiffs theorized that the defendants should be held accountable for bringing a parolee, with an acknowledged history of sexual abuse of children, into a neighborhood where the defendants knew children lived. The court indicated that a lay person acting reasonably was not required to anticipate danger of recidivism by a parolee and could rely to some degree on the fact that professional judgment of penal personnel that the parolee was safe for purposes of re-entering society.

Nor can a social host be held accountable for injuries sustained by one guest as a result of an assault by another guest. The Appeals Court specifically found in Husband v. Dubose that the combat between two social guests who had stopped by the defendant's home for unexpected visits did not establish a "special relationship" in the sense as described in other situations such as the relationship between a police officer

and the motoring public when he stops an intoxicated driver, or the relationship between a college and a student residing in a dormitory, 26 Mass. App. Ct 667 (1988). There did not exist such a relationship compelling the host to protect one guest from an assault by another. The court found that "social hosts" ordinarily would not be expected to anticipate that a guest in their home or apartment would be violently attacked with a deadly weapon by another guest." Id at 670. It found that there was insufficient evidence by which the homeowner could have anticipated that one guest would attack another.

Social hosts of a Fourth of July party were absolved of liability to a guest who suffered an eye injury because of a firecracker explosion. Luoni v. Berube, 431 Mass. 729 (2000). The hosts did not provide fireworks or authorize their use on the property. The court reasoned that the premises owners "did not create the situation which caused the danger". Id at 733. It declared it "reject[s] claims of liability against social hosts in negligence, in the absence of a recognized legal basis requiring them to protect guests". Id at 735. The result may have been different if the activity had taken place over a greater length of time affording them the opportunity to intervene.

The case of Anthony H. v. John G., 415 Mass. 196 (1993) was an action brought by the plaintiff who, as a child, had been sexually abused on numerous occasions while spending the night at a home owned and kept by the assailant's mother and aunt. The assailant was adjudicated responsible both criminally and civilly. The court reversed a verdict against the assailant's mother and aunt. It acknowledged that ownership and

control of premises may serve as a basis for the imposition of liability for injuries sustained as a result of a physical defect on the premises, but did not extend to criminal conduct of third persons, specifically the rapist. There was no evidence that the premises owners were aware of the sexual misconduct.

The owners of a residence occupied by their adult son with a predilection toward alcohol abuse, and access to firearms resulting in the shooting of the plaintiff were not held accountable for the plaintiff's damages. McDonald v. Lavery, 27 Mass.App.Ct. 1108 (1989) The court reasoned that the mere happenstance of the assailant's residence in his parent's home did not create a duty on the part of the parents to supervise and control the conduct of their adult son. In the decision of Andre v. Baptiste, 411 Mass. 560 (1992) a homeowner was absolved of liability when her husband, the owner of an assault rifle with a penchant for alcohol abuse, shot the plaintiff who was working as a clerk in a liquor store near the defendant's home. There was evidence that the husband had a history of violent behavior and that he had physically abused the defendant spouse on occasion. The plaintiff premised liability on the fact that defendant permitted her husband to keep the assault rifle in her home without any locked weapon storage facility or other measures to control her husband's use of the deadly weapon. The court found that the defendant homeowner had not entrusted the weapon to her husband, who was its actual owner, and had no legal obligation to control the erratic behavior of her husband.

More recently the SJC held a homeowner responsible for the attack by the son of her live-in companion upon police officers, using a firearm owned by her live-in

companion and poorly secured in her home. The assailant, a young adult with a history of violence and mental illness, was given access to the defendant's home where her live-in partner kept a sizeable collection of firearms. Notwithstanding the precedent in the Baptiste decision described above, the SJC concluded that the violent misconduct of her companion's son was foreseeable. It said:

> The imposition of a duty in the instant case is predicated on the affirmative permission the [homeowner] gave [the live-in companion] to store firearms on her property for an extended period of time, knowing that an unstable and violent person had regular and unsupervised access to the property. Jupin v. Kask, 447 Mass. 141, 152 (2006).

The court implied that public policy dictated a higher responsibility on the part of a premises owner when firearms are kept onsite.

PERTINENT STATUTES AND REGULATIONS

While a violation of a statute, regulation or safety rule is not dispositive of liability, it is evidence of the negligence of the violator as to all consequences with it was designed to prevent. Scott v. Thompson, 5 Mass. App. Ct. 372 (1977).

Massachusetts General Laws Chapter 143: Section 3R.
Apartment houses; exterior doors and locks

"Section 3R. At least one of the doors of the main common entryway into every apartment house having more than three apartments shall be so designed or equipped as to close and lock automatically with a lock, including a lock with an electrically-operated striker mechanism, a self-closing door and associated equipment, and such lock, door or equipment shall be of a type approved by the state board of building regulations and standards. Every door of the main common entryway and every exterior door into every such apartment house, other than the door of such main common entryway which is equipped as provided in the preceding sentence, shall be equipped with a lock of a type approved by said state board of building regulations and standards; provided, however, that the said board may, in writing, waive any of the requirements of this section in appropriate cases in which, in its opinion, other security measures are in force which adequately protect the residents of such apartment house. Whoever, being in control of such premises, willfully and knowingly violates the provisions of this section shall be punished by a fine of not more than five hundred dollars.

This section shall not apply to lodging houses, as defined in section twenty-two of chapter one hundred and forty, dormitories of charitable, educational or philanthropic institutions, or projects of housing authorities, as defined in chapter one hundred and twenty-one B".

105 CMR 410.480: Locks

"The owner shall provide, install and maintain locks so that:

(A) Every dwelling unit shall be capable of being secured against unlawful entry.

(B) Every door of a dwelling unit shall be capable of being secured from unlawful entry.

(C) The main entry door of a dwelling containing more than three dwelling units shall be so designed or equipped so as to close and lock automatically with a lock, including a lock with an electrically-operated striker mechanism, a self-closing door and associated equipment. Every door of the main common entryway and every exterior door into said dwelling, other than the door of such main common entryway, which is equipped as provided in the proceeding sentence shall be equipped with an operating lock. (M.G.L.c. 143 §3R.)

(D) Every entry door of a dwelling unit or rooming unit shall be capable of being secured from unlawful entry.

(E) Every openable exterior window shall be capable of being secured.

(F) Locking devices shall comply with the requirements of 78- CMR 1-17.4.1 to avoid entrapment in the building".

105 CMR 440.254: Lights in Passageways, Hallways and Stairways

"(A) Except as allowed in 105 CMR 410.254(b), the owner shall provide light 24 hours per day so that illumination alone or in conjunction with natural lighting shall be at least one foot candle as measured at floor level, in every part of all interior passageways, hallways, foyers and stairways used or intended for use by the occupants of more than one dwelling unit or rooming unit.

(B) In a dwelling containing three or fewer dwelling units, the light fixtures used to illuminate a common hallway, passageway, foyer and/or stairway may be wired to the electric service serving an adjacent dwelling unit provided that if the occupant of such dwelling unit is responsible for paying for the electrical service to such dwelling unit:

(1) a written agreement shall state that the occupant is responsible for paying for light in the common hallway, passageway, foyer and/or stairway; and

(2) the owner shall notify the occupants of the other dwelling units".

Massachusetts General Laws Chapter 140 Section 131L

"Weapons stored or kept by owners; inoperable by any other person other than owner or lawfully authorized use; punishment

(a) It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine guns in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(e) A violation of the provisions of this section shall be evidence of wanton or reckless conduct in any criminal or civil proceeding if a person under the age of 18 who was not a trespasser or was a foreseeable trespasser acquired access to a weapon, unless such person possessed a valid firearm identification card issued under section 129B and was permitted by law to possess such weapon, and such access results in the personal injury to or the death of any person.

(f) This section shall not apply to the storage or keeping of any firearm, rifle or shotgun with matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or prior to the year 1899, or to any replica of any such firearm, rifle or shotgun if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition".

OBSERVATIONS

- Are doors and barriers of sufficient strength and integrity to withstand anticipated abuse?

- Is there is a video system? Is it properly set up? Operable and information retrievable? Is it monitored?

- Are the locks sufficiently strong? Proper for application? Maintained? Keys/key system storage custody system secure? Will locks permit unimpeded egress in case of fire or other emergency?

- Are there physical features about the premises that encourage criminal activity, (e.g. dangling fire escape, barrierless rear porch access, inadequate lighting, clutter or objects providing cover for intruders?
- Security patrols, rounds recorded? Adequate intervals?

- Are there sufficient numbers of employees to monitor anticipated number of patrons or visitors?

- Considerations of location – too remote where crime could go undetected for excessive length of time? Or high traffic to embolden those intent on criminal activity?

- Are premises used for activity that makes a location prone to violence, boisterous behavior or enhanced danger? (e.g. service of alcoholic beverages, presence of firearms, sporting event or music concert likely to excite emotional behavior?

- Have employees been treated and given a clear protocol to react to escalating behavior or emergencies?

- A police contact and medical contact information posted for quick reference and is there a functional communication device to obtain help?