

SJC finds state housing office can't require outside verification for families seeking emergency shelter

By **Danny McDonald** Globe Staff, Updated November 21, 2024, 3:25 p.m.



Some migrants exited the Lexington Armory shelter in Lexington earlier this year. DAVID L. RYAN/GLOBE STAFF

Amid a housing crunch and a migrant crisis in Massachusetts, the state's highest court on Thursday removed an administrative hurdle for local homeless families seeking emergency shelter, finding a state housing agency could not require families to provide

documents to verify their identities and relationships to one another at the start of the application process.

In a 16-page decision, [Massachusetts Supreme Judicial Court Justice Gabrielle Wolohojian](#) said the case hinged on a single question of how to interpret a state statute that requires the Executive Office of Housing and Livable Communities to immediately provide up to 30 days worth of shelter to eligible families.

Central to the legal case, which was filed in 2016 by a group of homeless mothers, is whether the Beacon Hill mandate allows for the state agency to require information, such as each family member's identity and relationship to each other, to be verified by sources such as passports, driver's licenses, birth and marriage certificates, and letters from school officials as a precondition for emergency shelter.

"We conclude that it does not," Wolohojian wrote. "The plain language of the immediate placement proviso provides that a family must receive immediate temporary placement where it appears that the family meets the eligibility requirements for shelter, and that the appearance of eligibility may be established at the time of initial application by statements from family members and by information already in the agency's possession."

According to court filings, for years, state authorities have required third-party verification that at least one adult member of the family applying for emergency shelter is a Massachusetts resident. There were times when families have not been able to produce such verification, and officials have not been able to confirm the information through other avenues, resulting in families being denied emergency shelter, according to Thursday's decision.

In a statement, Kevin Connor, a spokesperson for the Executive Office of Housing and Livable Communities, said the agency is "reviewing the SJC's decision and the operational impact it may have on the Emergency Assistance program."

One attorney representing the plaintiffs, Ilana Gelfman, said Greater Boston Legal Services, where she is advocacy director, was relieved by the decision.

“Most families applying for shelter do have third-party verifications of eligibility, but in our experience this policy has created barriers for the most traumatized and vulnerable homeless families,” she said in a statement. “We have primarily seen the policy affect families and children fleeing domestic abuse, as well as families who have been unexpectedly or illegally evicted.”

Greater Boston Legal Services, she said, has “seen whole families turned away from shelter because they were missing a birth certificate for one of their children.”

“This policy left families to sleep in unsafe places — families who had nowhere else to go,” she said.

Another attorney representing the plaintiffs, Kathryn Caldwell of Ropes & Gray LLP, said the decision ensures homeless people won't be denied a place to sleep because they can't immediately provide documentation.

“There are lots of good reasons why a family that is experiencing a crisis, the upheaval of losing their home, might not have all their documents lined up,” she said.

It was unclear how many families could be affected by the decision, although Caldwell said it would likely be a “small population.”

The case wound its way through the state's court system for years. It was a class-action suit, which meant it had to be class-certified by a court, a process that takes time. Additionally, there were other delays, according to Caldwell, as the plaintiffs and the state worked for years to find common ground on other disputes that were included in the original complaint.

This week's decision comes amid ongoing housing and migrant crises in Massachusetts. [Earlier this week](#), Massachusetts officials approved a report with broad suggestions to

alleviate the state's [strained emergency shelter system](#), as the annual price tag for operating the network mounts amid increased need from migrants and Massachusetts residents facing homelessness.

The report came as the state's system has grappled with more people seeking support, projected to [cost taxpayers more than \\$1 billion](#) this fiscal year. While Governor Maura Healey added new limits [on emergency shelter stays](#) this year, the report found that if current trends continue, the emergency housing system will continue to face funding gaps.

The shelter system, previously designed to accommodate 3,500 families, saw that number more than double in recent years to roughly 7,500 — the limit that Healey imposed on the system last year. The state estimated about 3,600 families in the emergency system last month were migrants, refugees, or asylum seekers.

The report underscored how sharply the system's costs have grown: In fiscal year 2017, the state spent \$155 million on the program, whereas lawmakers this fiscal year have already set aside more than \$500 million, according to the report. But that still isn't enough: The state will need the Legislature to approve \$400 million more this fiscal year, officials expect.

In the court case, state authorities had pointed to the safety concerns “of bringing adults and children into close proximity in congregate shelters, and argues that requiring third-party verification of identity and family relationship before providing shelter helps to alleviate those concerns,” according to court filings.

Attorneys for the plaintiffs, meanwhile, had argued that requiring a form of verification “that people in crisis may well not possess when they initially seek short-term, temporary shelter deprives them of the protection the Legislature intended them to receive when they were at their most vulnerable.”

In Thursday's SJC decision, Wolohojian wrote, "Both sets of policy concerns have sound reasons to recommend them."

"However, it is not our task to choose between them because the plain language of the immediate placement proviso is unambiguous and is accordingly determinative of the Legislature's intent," she said in the decision.

Anjali Huynh of Globe staff contributed to this report.

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