

# Eastern Michigan Real Estate Investment Association

## Eastern Michigan Real Estate Investment Association

### Renting Residential Property (Conclusion)

March 2011

#### Rent Control

**Q. What is rent control?**

A. The words “rent control” apply to laws or governmental regulations that limit the amount of rent or rental increase that the landlords can charge.

**Q. Has there ever been nationwide rent control in the United States?**

A. Nationwide rent controls existed during World War II. President Nixon also imposed rent controls in 1971 during the initial phase of the effort to control inflation.

All public housing has rent control by definition, because the government sets the rent level for each tenant. Privately owned rental housing in which the government gives some special subsidy to the developer or landlord has rent control because the landlord must secure the approval of the government before raising rents. Most privately owned rental housing is subject to rent control only if the local or state government has passed a rent control ordinance or statute.

**Q. What areas of the country have rent control?**

A. The District of Columbia and some municipalities in Massachusetts, New York, New Jersey, and California have passed rent control ordinances. Some state legislatures have outlawed local rent control ordinances. Perhaps 10 percent of the tenants in the country are covered by some form of rent control.

**Q. What kinds of rent control laws are there?**

A. New York City was the only municipal-

ity in the country to retain rent control after the end of World War II. The law there did not permit rent increases without specific permission from an administrative board. Rents could be raised based upon a pass-through of certain expenses increases, such as the cost of fuel.

From the late 1960’s through 1978 other communities adopted rent control. Most of these laws allow automatic but limited rent increases without any requirements of showing expense increases. Landlords are allowed to petition for larger increases on the basis of major repairs or extraordinarily large expenses that the normal rent increase would not cover. These so-called second-generation rent control laws have prevented some of the large rent increases experienced by tenants in other cities.

**Q. How does rent control regulate the amount of rent?**

A. Usually the mayor of the city with rent control appoints a board to administer the law. That board determines how much the annual rent increases will be and whether individual landlords get extra rent increases. Some communities elect the rent control board members directly. Some observers think the elected boards are more independent from landlords.

**Sidebar: Ability to pay**

Rent control does not consider a tenant’s ability to pay. It is not a social welfare program providing subsidies to the tenant. Even in communities with rent control, there are tenants spending too large a percentage of their incomes on rent. Rent control does not make housing affordable for everyone.

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## Interests of Multiple Owners of Property

By Matthew M. Wallace, CPA, JD

In prior letters, I have discussed deeds and just how a small change in the words used on a deed can make a huge difference in the ownership interest conveyed by the deed.

These discussions about deeds must include a discussion about the different types of deeds, the general elements of a deed, different types of ownership interests and, if you have multiple owners of the property, a description of the rights of each of the owners. Today's letter will cover the rights of multiple owners. We will discuss tenants in common, joint tenants with and without survivorship and tenants by the entirety.

A deed to two or more individuals who are not trustees or husband and wife is considered to be as tenants in common, unless it expressly states it is to be a joint tenancy. With tenants in common, every one of the owners own a percentage interest in the property which they can transfer to anyone they choose.

Upon the death of any owner, the deceased's interest would need to be probated and would be distributed in accordance with their will. If they do not have a will, it would go in accordance with the Michigan statute governing estates for people who die without a will.

You may have done your own estate planning by doing a quit claim deed just naming yourself and your four kids. Without any qualifying language, it is considered tenants in common with you and each kid having a 1/5 or 20% interest. Upon your death, your share would not automatically go to the kids. Your 20% share would need to be probated.

In addition, if you ever wanted to sell your property during your lifetime, not only would you need to have all your kids sign off, you would need your sons' wives to also sign off. This does seem kind of sexist, but in Michigan, wives have an interest in any real estate their husbands purchase during the marriage, but not vice versa.

Another downside with tenants in common property is that any of your kids as joint owner can transfer or sell their interest in your property at any time. You may find that your kids have to sell their interest in your property to satisfy creditors or pledge it as collateral for their loans. I am sure that is not what you intended when you added the kids to the deed to your property.

If instead of just adding your kids on the deed, you had named yourself and your kids as joint tenants of your property, there would be a slightly different result. If you died before all your children did, each of your children would share in your portion of your property, without probate.

There are a few twists to joint ownership that could have unintended results. With joint tenants, as with tenants in common, one of your kids could sell or transfer their interest in your property, even during your lifetime. When they do, their interest instantly becomes tenants in common property. All the remaining joint owners would remain as joint tenants. Upon your death, only the remaining joint owners would share in your 20% interest in your property. The child that transferred their interest would not get any part of your share. In that instance, the kids would not be treated the same.

If you named you and your kids as joint tenants with rights of survivorship instead of as joint tenants, there could even be a

## President's Letter

different result. As with joint tenants, upon your death, all of the kids would divide your 20% share of your property. If one of the kids transfers their interest in the property, it does not sever the joint tenancy ownership as to their interest, as in the case of straight joint tenants. When one of the kids does transfer their interest to someone else, all they are transferring is their life estate in the property and the chance that the someone else would get the whole thing if your child survived their other joint tenants. Their transferred interest continues to be governed by their lifetime.

With joint tenants or joint tenants with right of survivorship each of the owners have a right to use the property during their joint lifetime. Generally, one joint owner cannot legally keep another joint owner off the real estate. What each owner has is a joint life estate with a contingent remainder. However, with joint tenancy property, your sons' wives generally do not need to sign off on the deed. If you wanted to sell your property during your lifetime, as with tenants in common, all the kids would have to sign off on the property before you could sell it.

I call joint tenants and joint tenants with rights of survivorship the crap shoot deed. It is kind of like a game of craps in which it is all or nothing. In the example above, if one of your children predeceases you, their heirs get nothing. And if one of your children survives all of your other children, the survivor gets the whole thing. The heirs of your other joint owner children get nothing. That's a tough penalty. Is that something that you want to risk?

The last type of multiple ownership interest that we will discuss is tenants by the entireties. If you are married and own your property with your spouse, the likelihood is that you own your property as tenants by the entireties. Any deed transfer to a husband and wife, unless indicated otherwise, is tenants by the entireties. When the two of you own property as tenants by the entireties, it is kind of like joint ownership with rights of survivorship between spouses. Each spouse has the right to use the property during their lifetime and upon the death of one of the spouses, the other spouse owns the entire property as a matter of law without the need for probate.

I regularly see deeds that individuals or their kids have drafted that are tenants in common when they intend to be joint tenancy or are joint tenancy when they intend to be tenants in common. A deed may look simple because it is a single page document. Your real estate is your investment. Would it not be prudent that you protect that investment? The best way to protect your investment is to hire a competent legal professional to draft your deed so that you do not have unintended results.

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### Q. Are there state laws against rent control?

A. Yes. Legislatures in about half of the states have forbidden municipalities to enact rent control ordinances. For example, in 1987, after the voters of Detroit enacted rent control by referendum, the Michigan Legislature passed a law revoking the rights of cities to adopt rent control laws.

### Q. What is vacancy decontrol?

A. Vacancy decontrol is a provision of rent control law that allows landlords to charge whatever rent they can collect from a new tenant who moves in to fill a vacancy. This is really an anti-rent-control provision. Within a few years, new tenants in the same building can be paying twice as much as old tenants. Not only does the landlord collect more rent with vacancy decontrol, but public support for rent control is undermined by the unfairness of treatment.

### FAIR HOUSING

### Q. Is a landlord allowed to discriminate in the selection of tenants?

A. Yes. The landlord can use legal criteria to select tenants, such as their past history of tenancy, the amount of income they have with which to pay the rent, their credit history, and their past criminal record. The landlord may also use personal criteria in selecting tenants, such as purple hair or nose rings. In some places, a landlord may even refuse to rent to certain people because of their occupation.

### Q. What is fair housing?

A. "Fair housing" is a legal term applied to federal, state, and municipal laws that prohibit landlords from refusing to rent property because the prospective tenant falls into one or more certain protected classes.

The Fair Housing Act (Chapter 42 of the United States Code, beginning at Section 3601) forbids landlords to discriminate in choosing tenants because of their race, religion, ethnic origin, color, sex, physical or mental handicap, or family status. Landlords cannot refuse to rent to a family with children. It is also illegal under the Fair Housing Act for landlords to harass, intimidate, threaten, interfere with, or evict a tenant because of the same factors. Furthermore, the same law prohibits the landlord from attempting to evict a tenant for filing a complaint or lawsuit charging the landlord with discrimination.

The Civil Rights Act of 1866 (Chapter 42 of the U.S. Code, Section 1982) prohibits discrimination because of the race, ethnic origin, or color of the tenants. This federal law applies to all landlords without any exceptions.

All the states and many cities have enacted fair housing

laws as well. Some of these laws are not as strict as the federal law, but some are stricter because they protect additional classes of persons.

Some states and municipalities forbid rental discrimination based on marital status, age (over 40 especially), less than honorable discharge from the military, sexual orientation, or source of income (welfare, social security, alimony, or child support).

### Q. What can a prospective tenant do against a landlord who discriminates illegally?

A. The fair housing laws provide for two remedies. A prospective tenant can file an administrative complaint with the agency enforcing the law or can sue the landlord in court.

The U.S. Department of Housing and Urban Development (HUD) is responsible for enforcing the federal fair housing laws. The complaint must be filed within one year of the date of the discriminatory conduct. States and many cities have human rights agencies that accept complaints. HUD has the authority to award monetary damages to the person discriminated against; the agency of the state or municipality may have similar authority.

The prospective tenant may also file a lawsuit in federal court to enforce the Fair Housing Act or the Civil Rights Act. The person may file an administrative complaint with HUD and sue in court at the same time. The prospective tenant may file a lawsuit in the state court to enforce the state or local law.

### Q. How can the prospective tenant prove that the landlord has illegally discriminated?

A. The prospective tenant has the burden of proving that the landlord's conduct was discriminatory. The person can establish a case against the landlord by proving four things: That the plaintiff is a member of a protected group; that the plaintiff applied for and was qualified to rent a certain property; that the plaintiff was rejected by the landlord; and that the property remained unrented thereafter.

### Q. What are the possible outcomes for a prospective tenant who files a complaint or a lawsuit for discrimination?

A. If the prospective tenant wins, the landlord can be ordered to rent the premises and perhaps to pay actual and punitive monetary damages as well. The landlord can also be assessed the attorney's fees incurred by the prospective tenant. The landlord may also have to submit to periodic review of documents and practices for a certain number of years.

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### WHERE TO GET MORE INFORMATION

A good source of information, with many links, is provided on the site of Cornell Law School's Legal Information Institute, [http://wwwsecure.law.cornell.edu/topics/landlord tenant.html](http://wwwsecure.law.cornell.edu/topics/landlord%20tenant.html) Another good site, from the tenant's perspective, is Know Your Rental Rights, <http://little.nhlink.net/nhlink/housing/cto/know/kyrr.htm>

Many states and cities have departments of housing, departments of fair housing, or departments of human affairs. Employees there can usually answer questions and accept complaints of discrimination. Municipal housing departments can also receive complaints of inadequate maintenance. Check government listings in the local telephone directory.

The U.S. Department of Housing and Urban Development (HUD) has offices in many large cities and has involvement in many landlord-tenant issues. HUD has regulations governing public housing, publicly subsidized housing, and fair housing. HUD can answer questions and accept complaints of housing discrimination. Website: <http://www.hud.gov/>

Landlords may seek the assistance of local real estate or building management organizations. A good website, [www.landlord.com](http://www.landlord.com) provides legal information and much more.

Bar associations may provide referral to local attorneys who are familiar with landlord-tenant law or fair housing law in the community.

## Medical Marijuana and Rental Properties

A lot of questions have arisen around the use and sale of medical marijuana in rental properties since the State of Michigan voters made using and selling medical marijuana legal. Do I have to allow my tenants to sell pot? Can a tenant grow dozens of plants in my unit without my permission? What if I have a non-smoking policy? And, many more.

Before trying to answer any questions regarding this topic, there should be an understanding that there aren't any hard and fast rules or court cases that one can look to for help. There is more gray around this topic than a cloudy day.

First, let's address the question: "Do I have to let my tenants sell pot out of their units?" First, just to clarify, under the law, anyone that wishes to grow and provide marijuana to patients is called a "registered medical marijuana caregiver." Some cities have passed specific ordinances controlling who can be a caregiver and where and how they can provide the service. The City of Grand Rapids has passed specific ordinances controlling how this business can be operated. Other cities either do not have laws regarding the topic or they are pondering an ordinance to completely outlaw the activity-contrary to State law. You will need to check with your local government to discover the local laws and regulations.

The City of Grand Rapids uses the zoning code to provide parameters for caregiver operations. Under the code,

caregivers are classified as a Class B Home Occupation. There are many rules around how a Class B can operate. A complete list of the restrictions/parameters can be found in Section 5.9.13 Home Occupations section of the Grand Rapids' code. Some of the laws that a landlord may wish to be aware of are:

- \* Class B home occupations must be licensed by the City.
- \* "Walk in" trade is prohibited.
- \* No signs are allowed.
- \* No more that one-fourth (1/4) of the living area of the dwelling unit and less that one-half (1/2) of the living area of the main floor shall be devoted to the home occupation.
- \* No part of an accessory structure, either attached or detached shall be used.
- \* In no instance shall one or more home occupations in any single dwelling unit permanently occupy more than three hundred (300) square feet of the dwelling unit.
- \* Home occupations shall not require exterior alterations or involve construction features not customary in dwellings, or require the use of mechanical or electrical equipment which shall create a nuisance to the adjacent neighborhood.

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## Medical Marijuana and Rental Properties...continued

- \* Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting the home occupation which would render it unsuitable for residential use shall be prohibited
- \* The activity shall not require the creation of any additional parking spaces to service the home occupation.
- \* Visits by customers, clients, students or patients to licensed Home Occupation-Class B location shall be limited to the hours of 7am to 8 pm.
- \* Nothing in the Code, or in any companion regulatory provision of the Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use distribution, or possession of marijuana not in strict compliance with that Act and the General Rules.
- \* Also, since Federal law is not affected by that Act or the General Rules, nothing in this Chapter, or in any companion regulatory provision adopted in any other provision of the Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law.
- \* The Michigan Medical Marijuana Act does not protect users, caregivers or the owners of properties on which the medical use of marijuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.
- \* The following requirements for a registered primary caregiver shall apply:
  1. The medical use of marijuana shall comply at all times and in all circumstances with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
  2. A registered primary caregiver must be located outside of a one-thousand (1,000)-foot radius from any school, including child care or day care facility to insure community compliance with Federal "Drug-Free School Zone" requirements;
  3. Not more than one (1) primary caregiver shall be permitted to service qualifying patients on a parcel;
  4. Not more than five (5) qualifying patients shall be assisted with the medical use of marijuana within any given calendar week;
  5. All medical marijuana shall be contained within the

main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient;

6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marijuana are located;

7. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11 pm to 7 am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties; and

8. That portion of the residential structure where energy usage and heat exceeds typical residential structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Grand Rapids Fire Department to insure compliance with the Michigan Fire Protection Code.

### Just to name a few.

Landlords can control the use of their property in Grand Rapids by caregivers by enabling or not enabling the use of the property for a home-based occupation-or, more specifically, a Class B occupation. The application of the restriction on home-based occupations would need to be applied equally for all units at a property, not just enforced on caregivers. If you choose to allow a caregiver to operate out of your property, you may want to dig deeper into the restrictions above and establish criteria, rules, regulations, etc. that mirror the City's intent within the Code. This could be done simply by referencing the code and providing the caregiver with a copy of the Code. At the very least, you are going to need to verify that the caregiver has the proper credentials under State Law and the local Code.

What about fair housing issues? Businesses are not a protected class. Discriminating against someone that intends to operate a business in your unit is not in violation of fair housing laws. However...

Tenants that are patients and users of medical marijuana are a different story. A tenant or prospective tenant may have a disability wherein marijuana is prescribed as a form of treatment. In these cases, the rental property owner must provide reasonable accommodation for the disability, i.e.

## Medical Marijuana and Rental Properties...conclusion

allow the tenants to use medical marijuana within the limits established under State Law. If the need for the accommodation is not readily apparent or known, a property owner may request reliable disability-related information that shows the relationship between the person's disability and the need for the use of medical marijuana. Keep in mind, however, just like with any disability, the tenant must tell you of their disability; you cannot ask them if they have a disability.

But what if the unit is a non-smoking unit? If the unit is a multi-tenant building (duplex or more), the property owner MAY have some leeway in this area. If no smoking is allowed in all units due to the health and safety of other tenants, a property owner may be able to deny the use of marijuana by smoke inhalation. However, due to the disability laws and reasonable accommodation, enabling a tenant to use some other form of marijuana might be required. You might not be able to deny the use of inhaled marijuana in a single-family unit. "Reasonable accommodation" might include enabling a vacating tenant to pay for any necessary repairs and clean up after they move out in order to return the property into the same condition in which it was before the medical marijuana user moved in, e.g. clean or replace carpets that smell of marijuana or have burn holes in them. For more information on reasonable accommodations, visit [www.hud.gov/offices/fheo/library/huddojstatement.pdf](http://www.hud.gov/offices/fheo/library/huddojstatement.pdf)

What if my tenant does not have a disability as defined by the Fair Housing Act or Michigan Persons with Disabilities Civil Rights Act but simply has some other ailment/issue for which a medical practitioner has prescribed marijuana, e.g. restless leg syndrome? This is a bit trickier. Denying someone without a disability the use of marijuana

within their unit wouldn't be a violation of fair housing but might be a violation of their rights under the new State law. The jury is still out on this one too. There simply isn't a clear answer. The law gives them the right to use it but not necessarily the right to smoke it or use it wherever they wish.

### What's the bottom line?

- \* Decide in advance if you will allow a home occupation or home business to operate in your units. If you do, establish lease terms and conditions, property rules and regulations based upon State and local laws regarding the operation of home based occupations/businesses and medical marijuana.
- \* Decide if your units will be non-smoking.
- \* Be prepared to negotiate reasonable accommodations for tenants with disabilities or prospective tenants and put them in writing.
- \* Give careful consideration and seek legal advice when determining whether or not and how someone can use medical marijuana within your rental properties- especially those that do not have a disability.
- \* If you do allow anyone with a prescription to use medical marijuana, establish lease terms and conditions and rules and regulations based upon State law for the use of medical marijuana.
- \* Any non-medical uses of marijuana is still a crime under State law-quickly evict tenants that are involved in activities related to illegal substances.
- \* Be prepared for anything-there are no hard and fast rules and regulations regarding this area of State Law.

## Do you have what it takes to be a landlord? by Liz Pulliam Weston

It's not exactly life on easy street. Difficult tenants, costly repairs and falling rents can eat into your profit.

Owning rental property can be a nightmare—or a good way to steadily build wealth.

The difference between a profitable investment and a disaster, experienced landlords say, is often the amount of work an investor is willing to put in. Not everyone is cut out to screen tenants, track down overdue rents and field middle-of-the-night repair calls.

### Adjust your expectations

Ignore those late-night infomercials, the ones that promise huge returns with no money down. Experienced landlords

agree that the upfront costs are usually higher, and the returns lower, than those promoters would have you believe.

Lenders typically expect down payments of 20% to 25% for rental property, said Bill Moore, co-founder of [Landlord.com](http://Landlord.com), and some lenders want as much as 40% down. Your loan will be more expensive than a typical residential mortgage, as well, because lenders believe investors are more likely to walk away from a rental than they are from their own home.

"Lenders charge interest rates that are anywhere from one to two [percentage] points more on a rental property loan than they would on an owner-occupied home," said Moore, whose Web site provides education and information for property owners.

You do have some alternatives: continued on page 8

### Specialty lenders.

Some lenders are willing to accept smaller down payments in return for a higher interest rate.

### Seller financing.

Sometimes current owners are willing to be your bank. In other words, you would make your loan payments to the person from whom you buy the property. Your interest rate and down payment may be less than if you had used a traditional lender.

### Owner-occupied loans.

You can usually get a less expensive loan if you are willing to live in one of your units, a technique that often helps first-time buyers qualify for bigger homes in better neighborhoods than they might otherwise be able to afford.

### How big a loan can you get?

Lenders usually will take into account 75% of the rent you could charge for units in determining how much they are willing to lend you.

If you bought a duplex and rented each side for \$1,000, for example, the lender would consider 75% of that total—\$1,500—in determining how much you could borrow. If you rented one side and lived in the other, \$750 would be added to your monthly income to come up with the size of your loan.

### Consider, but don't overweight, the tax advantages

Remember, too, that you will be getting special tax breaks. What you spend on upkeep and repairs for a rental is typically tax-deductible. You also get a break for depreciation, which is an allowance for the wear and tear over time on your property. You may even be able to write off up to \$25,000 in losses each year if your modified adjusted gross income is under \$100,000.

But you should not count on tax breaks to help you make a profit, experienced landlords caution. They typically look for properties that will rent for more than the monthly mortgage, insurance and tax payments, to ensure they have enough cash to cover needed maintenance and repairs.

You may also need to adjust your expectations about profit. A good return from rental real estate is anything more than 10% annually, and many small landlords will find they earn less, even after the property's rising value is taken into account.

Maintenance, repairs and the occasional empty unit eat into profit, landlords say. A major repair, falling rents or a costly eviction can be a disaster for your bottom line.

### Find good tenants

Not everyone is so delighted with being a landlord.

Scott and his wife bought a duplex. They were strapped for cash, they rented the upper unit to the first couple who showed up on their doorstep.

"We knew we probably should [run a credit check], Scott said, "but we needed the rent money to pay the mortgage."

The couple turned out to be the tenants from hell. When the husband wasn't punching the wife, he was punching holes in the walls with his

fist or an ax. The couple sold drugs, stole Scott's tools and had screaming arguments in the middle of the night, right over the heads of Scott's two children. They also stopped paying rent.

The tenants were eventually evicted, but so were Scott and his family. They had fallen so far behind in their mortgage payments that the lender foreclosed.

"Now, when anyone talks about being a landlord, I say, 'Don't do it,'" Scott said. "It's just not worth it."

Other landlords say such disasters can be prevented by putting in more work up front.

The key is screen, screen, screen. Verify references, ask questions.

In addition to running credit checks, call previous landlords to ask whether the tenants paid their rents on time and kept their apartments clean. Such diligence could spare you the headache of evictions.

Making sure the phone numbers applicants list for their employers match the publicly listed numbers is also a good idea. That can help ensure the applicant isn't simply directing him to a friend who has been instructed to provide a phony reference. The difference between profit and loss is screening.

You can, of course, hire a property manager to do all this for you. The manager can also handle the repairs, tenant disputes, midnight move-outs and neighbor complaints, all for a flat fee or a portion of each month's rent. Some landlords have had good experiences with property managers, while others feel that no one cares as much about their investment as they do.

Such an arrangement also can eat up 10% of your rental income, which could consume much of your profit, depending on the property.

### Get your hands dirty

Indeed, the more tasks you hire other people to do for you, the less you will earn from your investment.

### Get Educated

If you are still interested in becoming a landlord, you have one more task ahead: learn the landlord/tenant laws in your area. Potential landlords should educate themselves thoroughly on their rights and responsibilities, exercising particular caution when it comes to rental agreements. A poorly worded or outdated form, for example, can make getting rid of a problem tenant expensive, if not impossible.

"Professional bad tenants know the law...and landlords can be so stupid," Cain said. "They won't spend 50 cents for a new form but they will spend \$2,000 for an eviction."

Local landlord associations can provide up-to-date forms, education and legal help.



**Does the New Lead Paint Law (and the ruinous fines) apply to you?**

**ABSOLUTELY!!**

You may or may not have heard about the law which went into effect on April 22, 2010. Simply stated, if paint is being "disturbed" in a home or apartment built before 1978, and it tests positive for lead, the law is triggered. Violations from the EPA can be as much as \$37,500 per violation/per day. Yes, \$37,500! In some parts of the country, the laws are even stricter and are administered by the state.

Many property managers and property management companies who have heard about this law think that it only applies to contractors. Wrong! Landlords will be a prime target of the EOA and state enforcement agencies.

Because you are collecting rent, dollars are being exchanged and that triggers the law and puts the burden on you and your company. Whether you are remodeling a kitchen or bathroom, replacing windows, or doing any type of work that is disturbing 6 or more square feet of interior space, or 20 square feet on the exterior, the law applies. And this can even include changing carpeting even when the unit is empty.

from: NationalREIA News

**Extend A Judgment or File a Grievance-Forms That Are Available**

Have you had a long-standing judgment against a tenant, and the time is running out (ten years for landlord/tenant, and seven years for small claims) but you have not collected all the money owed to you. What you can do is file an "Ex-Parte Motion and Order to Renew Civil Judgment" (form number MC390) with the court. You will ask for an extension of the judgment, because you have not received all monies due to you. File this at least 90 days before the judgment runs out.

If you feel that there has been a bad ruling on a landlord/tenant case, and you wish to file an inquiry/complaint, the you will need to complete a "State Court Administrative Office Region III Inquiry/Complaint Form". Mail this form to the State Court Administrative Office at the address given on the form. This office cannot change the ruling in and of itself, but will contact you for particulars, and hopefully, get a higher court to look at your case.

Do you feel that an attorney has mishandled or been unethical in a proceeding that involved you, then you may file a "Request for Investigation of Attorney" with the State of Michigan Attorney Grievance Commission. You will need to supply them with a statement of facts regarding the incident(s), and two completed copies of all attachments.

**Good News for Land Contracts**

During the last couple of months, sellers have been concerned about the requirement that if they provide seller financing on property other than their principal residence, they will need to be licensed under the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act.

As of August 1st, loan officers are required to comply with the SAFE Act either through their state regulator or the Department of Housing and Urban Development (HUD).

With a lack of guidance by HUD on the administration of the act, state regulators are now interpreting and enforcing it as they see fit. Here in Michigan the Office of Finance and Insurance Regulation (OFIR) is approaching enforcement with a discerning eye given the backlog of applications that have yet to clear the process. In the meantime OFIR released its interpretation of the SAFE ACT which states that land contracts, under Michigan law, are EXEMPT from the regulation. (Unfortunately, OFIR's interpretation means that the SAFE Act still applies to purchase money mortgages on non-principal residence property.)

More good news regarding land contracts under the SAFE Act came out of Washington D.C. with the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (HR4173). During negotiations of the bill, the National Association of Realtors worked to secure a bright line exemption for sellers wishing to provide seller financing on up to 3 properties in a 12-month period. Under the Dodd-Frank bill this exemption would extend to both land contracts and purchase money mortgages.

These are important victories for sellers that provide relief from the SAFE Act until HUD issues their final rules.

"Twenty years from now," said a poor writer who was having trouble with his landlord, "people will come by and look at this house and say, "Phillips, the famous writer, had a room here."

The landlord was unimpressed. "Phillips, I'm telling you that if you don't pay your rent, they'll be saying that the day after tomorrow!"

**Q&A**

**Q. What items can be deducted from the security deposit? Can you charge a non-refundable cleaning fee?**

A. The only items that can be deducted from a security deposit are unpaid, but due rent (not future rent, late fees, NSF fees or the like), unpaid utility bills for which the tenant is responsible, and actual damage to the premises beyond ordinary wear and tear. It can be argued that any money due to the landlord is "rent" if the lease specifically says so, but not every judge will buy that argument.

A landlord may charge a non-refundable cleaning fee if it is in the lease. Because it is non refundable, the laws governing security deposits do not apply.

## Time for a small improvements?

Is one of your rentals starting to have that “tenant occupied” look on the outside? Have you made any improvement to the exterior of your properties lately (even a minor improvement)? It’s amazing how a fresh coat of paint on just the front door of a rental can change – not only the appearance of a home – but also the pride level of the residents in maintaining the exterior of the property. Below are just a few good examples of improvements that other landlords are doing to add to the pride factor, tenant upkeep and value of their properties.

- \* I had a front door and three sets of shutters painted...the helper worked on it for three hours and the house has been renting easy. The first impressions are very good from the street.
- \* I know a local landlord who puts big pots of flowers/ferns on the front steps/porches of the houses they have for rent. They go for the colorful flowers which set off the rental unit nicely from the street.
- \* I am the only landlord that buys shrubs (Encore Azaleas) and flowering plants for his rental units. You would be amazed at what happens when you hang a \$6.00 flower basket from the front porch. It is an attention getter and you will have more applicants than you know what to do with. I am a huge believer in curb appeal. If you look at any of my 10 houses, you will notice I have the best looking house on the block and this explains why I am the highest paid landlord on the block as well. When other landlords on the block are only getting \$400/month, I am the one that gets \$500 plus a month. And that extra \$100 adds up over time. Good curb appeal attracts better quality tenant.
- \* We put in fresh mulch, painted the front door, touched up the garage door, pressure washed the front porch slab, and put two window boxes and a pot with flowers out front (which they ARE watering-left a gallon milk jug for them to use for that purpose).
- \* At the multi-unit buildings, I always try to keep the garbage picked up, the dumpster area clean and neat with nothing lying around, some fresh bark mulch each year and pull the weeds.
- \* I spent \$6 for some new white stone lining the walk and got a very approving look from the building inspector and those prospective renters. Yea, for the small stuff...Small details make a BIG difference.

*The above tips are shared on the MrLandlord.com website.*



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