

Eastern Michigan Real Estate Investment Association

Eastern Michigan Real Estate Investment Association

Test your knowledge of Fair Housing Law

December 2010

The quiz in this month's issue can help clarify how well you understand and can apply fair housing principles. With that knowledge, you will be able to focus your training efforts. If, for example, a number of your staff members get the same answers wrong, it will identify particular topics where further training may be needed.

While taking a test may not be your idea of fun, it's perhaps the easiest way to identify where your efforts to comply with fair housing law need some tweaking. And it's a lot less painful than the way in which many communities learn that their compliance efforts aren't up to snuff: being on the receiving end of a fair housing complaint.

QUIZ

There are 25 questions. Each question has only one correct answer. On a separate piece of paper, write down the question number, followed by the answer you think is correct. The correct answers (with explanation) follow the quiz.

Answers on page ?

QUESTION #1

Fair housing laws prohibits communities from denying housing to anyone who is a member of a protected class.

- a. True
- b. False

QUESTION #2

The Fair Housing Act (FHA) makes it illegal to discriminate against a prospect or a resident for all but one of the following reasons. Which one?

- a. The prospect doesn't believe in God.
- b. The resident is disabled but doesn't need a wheelchair or cane to get around your community.
- c. The prospect is impatient and short-

tempered and has been giving your leasing staff a hard time.

- d. The resident, who is white, often has black guests at his unit.

QUESTION #3

As long as your community does not discriminate based on race, color, national origin, religion, sex, disability, and familial status, you will not be liable for a fair housing violation?

- a. True
- b. False

QUESTION #4

A leasing agent in your community refuses to rent to prospects who are openly gay. Can your community be held liable for violating fair housing law?

- a. Yes, because the FHA bans discrimination based on sex, which includes sexual orientation.
- b. No, because the FHA does not ban discrimination based on sexual orientation.
- c. Yes, if discrimination based on sexual orientation is banned under state or local law.

QUESTION #5

An owner places a notice on a community bulletin board to find a resident for a vacant unit. This notice says, "Christians preferred." Under federal law, it is currently illegal to indicate a preference based on religion in advertising an available unit.

- a. True
- b. False

QUESTION #6

If the owner places the same ad online, it is legal because the FHA does not apply to Internet advertising.

- a. True
- b. False

Inside this issue:

President's Letter 2

Fair Housing Quiz 4

Why Social Media Can Help With Landlording 8

A Primer on Short Sales 9

Ten Basic Rules for Tenants of Rental Properties 10



New 1099 Reporting Requirements For Rental Property Owners

By Matthew M. Wallace, CPA, JD

Starting January 1, 2011, record keeping for rental property owners will become a little more complicated. Then starting January 1, 2012, it will become even more complicated. There are two new reporting requirements.

The first new reporting requirement is that you as a rental property owner will join all other businesses with 1099 reporting requirements starting in January, 2011. Certain payments to individuals or partnerships for work done during the year may now have to be reported to the IRS by issuing a 1099.

In 2011, you now must keep records of all payments to painters, plumbers, accountants, handymen and anyone else who does any work for you with regard to your rental properties. If those payments exceed \$600 in 2011, then in early 2012 you have to file a 1099 with both the IRS and the service provider.

Before you can issue a 1099, you are required to have the name, address and taxpayer identification number or Social Security number for your service providers. You can obtain that information by asking your service provider to complete IRS form W-9 Request for Taxpayer Identification Number.

You can get a form W-9 from the IRS website at www.irs.gov. It is best if you discuss this reporting requirement with your service providers and have them fill out a W-9 form before they start the work. If service providers refuse to provide you with that information, then just refuse to pay them unless and until they complete the form.

These new reporting requirements are part of the recently enacted Small Business Jobs Act. A stated purpose of the Act is "Helping Americans Get Back to Work." It seems that the only Americans getting back to work with these new rules are the bookkeepers and accountants who will be preparing all of these new 1099s.

There is a hardship exception to this reporting contained in the statute. However, there are no regulations to give us any guidance on what qualifies as a hardship. So at this point in time, I would recommend that you comply with the reporting requirements.

Another exception to the new reporting requirements is if you only receive a minimal amount of rental income. Again no regulations have been issued as to what is considered a minimal amount. Until this rule is clarified, you should report if you receive any amount of rental income.

There is also an exception to the reporting requirements for members of the military or intelligence community if their rental income is solely from their principal residence on a temporary basis.

President's Letter

The second new reporting requirement will apply to not only rental property owners, but also to all businesses, beginning January 1, 2012. At that time, if you pay more than \$600 during the calendar year to ANYONE, including corporations, for anything, you will have to issue a 1099.

The Patient Protection and Affordable Care Act, affectionately known as Obamacare, provided you with this little gift. These expanded reporting requirements were enacted to pay for the health care benefits of Obamacare. Under these new rules, practically all business transactions will require 1099 reporting.

For example, 1099s would be required for the following business transactions:

You fill up your business vehicle at the same gas station and pay more than \$600 per year for gas.

You buy some office furniture from a local retailer for a total of more than \$600.

You buy office supplies from an office supply store in a series of smaller purchases which total more than \$600 in a given year.

You buy building materials from a single supplier totaling more than \$600 in a year.

There may be some rental property owners who will ignore the new requirements. Do not be one of them. That would not be wise. If you fail to report as required, the penalties start at \$30 and can go up to as high as \$500,000 per year. Is it really worth the risk to not properly report these payments?

There are a number of individuals and organizations including the American Institute of Certified Public Accountants who have called on Congress to repeal these burdensome information reporting requirements that are being placed on rental property owners and other businesses.

The reasoning is that these businesses should not be given another added cost of regulatory requirements at a time when efforts are needed to focus on profitability and sustainability. The AICPA has stated that "Increased profitability is likely to yield more tax revenues than the expansion to the reporting requirement." With a Republican House and a Democratic Senate and Presidency, change any time soon seems unlikely.

It would be best to start the record keeping now. When the time comes, you will be prepared.

Matthew M. Wallace is an attorney and CPA with the law firm of Matthew M. Wallace, PC in Port Huron and can be reached at 810-985-4320 or at

The ideas presented herein are for discussion and educational purposes only and not intended to be relied upon. For specific information regarding your needs, concerns and plan, you must consult with your tax advisor, financial planner and estate planning attorney to discuss your situation and obtain advice. To comply with U.S. Treasury regulations, we advise you that any discussion of Federal tax issues in this article was not intended or written to be used, and cannot be used, by any person (i) for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service, or (ii) to promote, market or recommend to another party any matter addressed herein. © 2010 Matthew M. Wallace, CPA, JD.

L:\DATA\ARTICLES\EMREIA 11-2010 Pres Ltr New 1099 Reporting Requirements.doc

Test your knowledge of Fair Housing Law

QUESTION #7

A one bedroom unit just became available in your community, which rents to people of all ages. The unit is small and doesn't have much closet space, so you may advertise the unit as:

- "No children."
- "Perfect for singles!"
- "Cozy one-bedroom within walking distance of town square."

QUESTION #8

If no special circumstances are present, occupancy standards permit you to limit the number of people in two-bedroom units to two adults and two children.

- True
- False

QUESTION #9

While you were taking a family with several children to see a vacant unit, the children ran through the hallways, running and pushing each other, but the parents just ignored them. Do you have to rent to this family?

- Yes, because the FHA requires communities to rent to all families with children.
- No, if all your other residents are adults.
- No, if you have reason to believe they will damage your property or will not abide by your community's rules.

QUESTION #10

A community owner who rents to people of all age groups decides that families with children can rent in only one particular building, and not in others, because younger children tend to make lots of noise and may bother the other residents. Is this a violation of fair housing law?

- Yes
- No

QUESTION #11

If a prospect with children only wants to see vacant units that are close to your community's pool, you must still tell her about all vacancies to avoid a fair housing violation.

- True
- False

QUESTION #12

During a tour, a Hispanic prospect asks about whether there are many Hispanic residents at your community. Should you answer the question?

- Yes, because the prospect is a member of the same protected class.
- Yes, because you didn't bring up the subject-he did.
- No, because you could invite fair housing trouble if you an-

swer the question.

QUESTION #13

In checking references on an application for a vacant unit, an owner learns that an applicant does not have the best housekeeping habits; he does not always keep his current unit neat or clean. The owner does not have to rent to such a person under fair housing law.

- True
- False

QUESTION #14

All of the following could lead to liability for violating the FHA's prohibitions on sex-based discrimination, except:

- A male leasing staff member waives the credit check fee for female prospects he finds attractive.
- A female leasing staff member waives the credit check for male prospects she finds attractive.
- Although you rent to prospects of both sexes, you prefer to rent to female prospects because you believe they make better tenants.
- You show a female prospect vacancies near your community's laundry room because she asks to see units there.

QUESTION #15

You may run a criminal background checks only on prospects who you feel look threatening.

- True
- False

QUESTION #16

An owner learns that an applicant for a vacant unit has a different religion than all the other residents in the building. Believing the other residents would object, the owner may reject her application without violating federal fair housing law.

- True
- False

QUESTION #17

Which of the following holiday communications with residents will not get you into fair housing trouble?

- Running an ad for a vacant apartment, noting that your community is near one of the oldest synagogues in the state, which holds lovely Hanukkah services.
- Placing a picture of a family gathered around a Christmas tree, while "O Holy Night" plays, on the home page of your community's Web site.
- Announcing that Santa Claus will be coming to the community, and asking residents' children what they want Santa to bring them for Christmas.

cont. page 5

Test your knowledge of Fair Housing Law

- d. Sending cards that say "Happy Holidays" with images of generic winter scenes, such as children ice skating, to all residents.

QUESTION #18

A resident complains that a maintenance worker told her a dirty joke when he went to perform repairs in her unit. You should:

- Forget it, because telling a dirty joke does not violate fair housing law.
- Ask him to repeat the joke, so you can decide whether the resident is being overly sensitive.
- Conduct an investigation under your community's sexual harassment policy.

QUESTION #19

An applicant for a unit in your community is currently living in a drug treatment facility. You have had problems in the past involving residents with drug problems, so you may:

- Reject his application without further inquiry.
- Accept his application because drug users are protected under the FHA.
- Check his references, just as you do for all other applicants.

QUESTION #20

In checking references on an application for a vacant unit, a leasing agent learns that the applicant has a history of mental illness. Although the applicant is not a danger to anyone, the owner does not have to rent to such a person under federal fair housing law.

- True
- False

QUESTION #21

Your community has a policy of providing unassigned parking spaces to residents on a first-come, first-served basis. One of your residents, who uses a cane to walk, asks you to assign her an accessible parking space close to the entrance to her unit. Since there are available parking spaces near the entrance to her unit that are accessible, you don't have to grant her request.

- True
- False

QUESTION #22

Your community allows residents to keep pets in their units as long as they pay pet security deposits. A resident who is blind wants to keep a guide dog in his unit as a service animal. Would you violate fair housing law by charging the resident a pet deposit for his dog?

- No, because if you offer one resident special treatment then you'll have to offer it to everyone.

- No, if you reduce the fee for the resident because the dog is a service animal.
- Yes, because the dog isn't a pet. The resident needs the dog as a service animal for his disability.

QUESTION #23

A resident has a mobility impairment that substantially limits his ability to walk. He asks you to drive him to the grocery store and help him with his shopping as a reasonable accommodation to his disability. You don't provide any transportation or shopping services to your residents, so you may deny the request.

- True
- False

QUESTION #24

An owner is renting to a resident who uses a wheelchair. The building is old and does not have a wheelchair ramp, and the resident wants a small wooden ramp constructed at the building door to more easily access the building. He asks the owner if it is okay to build the ramp. The resident says he will pay all the costs, and agrees to have the ramp removed at his own expense when he leaves. The owner believes such a ramp will not look good on his building, so he may refuse to allow it to be constructed on his property under federal fair housing law.

- True
- False

QUESTION #25

You don't have to keep records of every prospect who visits your community, only those who file an application.

- True
- False

QUIZ ANSWERS

QUESTION #1. Correct answer: b

Reason: The FHA prohibits communities from denying housing based on the applicant's race, color, national origin, religion, sex, disability, and familial status. However, the law does not require communities to accept applicants who don't meet reasonable screening standards, regardless of whether they are members of a protected class.

QUESTION #2. Correct answer: c

Reason: The FHA bans discrimination based on any of the seven characteristics, but it does not protect prospects because they are impatient and short-tempered.

Wrong answers explained:

- The FHA bans discrimination based on religion, so it is illegal to discriminate against a prospect because he does not believe in God or doesn't have a religion.

cont. page 6

Test your knowledge of Fair Housing Law

- b. A resident doesn't need to use a wheelchair or cane to qualify as disabled.
- d. You cannot discriminate against residents based on the race of their guests.

QUESTION #3. Correct answer: b

Reason: To avoid a fair housing complaint, communities must not discriminate based on the federally protected characteristics as well as any other characteristics such as age, marital status, or source of income-protected under state or local law.

QUESTION #4. Correct answer: c

Reason: Many state and local laws have added sexual orientation to their protected classes.

Wrong answers explained:

- a. Although the FHA bans discrimination based on sex, that term refers to the gender of a prospect or resident, not his sexual orientation.
- b. The FHA does not ban housing discrimination based on sexual orientation, but HUD says that it will evaluate complaints based on sexual orientation on a case-by-case basis to determine whether any other form of discrimination is present (such as age or disability, for example).

QUESTION #5*. Correct answer: a

Reason: The FHA prohibits advertising that indicates a preference based on race, color national origin, religion, sex, familial status, or disability, so an advertisement stating a preference based on religion is illegal.

QUESTION #6. Correct answer: b

Reason: The FHA's ban on discriminatory advertising applies to all media, including newspapers, magazines, television, radio, and the Internet.

QUESTION #7. Correct answer: b

Reason: Advertisements may not state an explicit preference, limitation, or discrimination based on familial status or any federally protected class, so your advertising should describe the characteristics of the unit, not the people you think should live there.

Wrong answers explained:

- a. According to HUD, advertisements may not contain limitations on the number or ages of children, or state a preference for adults, couples, or singles.
- b. An advertisement that a unit is "perfect for singles" implies a preference against families with children.

QUESTION #8. Correct answer: b

Reason: Barring special circumstances, HUD guidelines say that reasonable occupancy standards are to allow no less than two persons per bedroom. However, occupancy standards that specify how many children, as opposed to how many people, can live in a unit violate fair housing law.

QUESTION #9. Correct answer: c

Reason: The FHA generally bans communities from excluding families with children, but you may refuse to rent to the family if you have reason to believe-from a reference check regarding the family's past and present behavior-that the family would not take care of the property or would not abide by its rules.

Wrong answers explained:

- a. Unless it qualifies as senior housing, the FHA prohibits a community from refusing to rent to applicants solely because they have children. However, the law does not require communities to accept families with children if they do not otherwise qualify for your community.
- b. Even if all of your other residents are adults, your community may not exclude families with children unless it meets strict technical requirements to be considered "housing for older persons" under the FHA.

QUESTION #10*. Correct answer: a

Reason: Unless it qualifies under the senior housing exemption, a community may not treat families with children under the age of 18 differently than it treats others, either with respect to building assignments or in any other way.

QUESTION #11. Correct answer: b

Reason: The FHA prohibits you from steering prospects by telling them only about certain vacancies in your community, but it does not require you to show all available units to the prospect, even though she has children, if she wants to see only vacancies that are close to the pool.

QUESTION #12. Correct answer: c

Reason: Answering questions related to the racial, ethnic, or religious composition of your community or whether children live there could land you in fair housing trouble-especially if the person asking the question is a tester, not a prospect. Tell him that your community's fair housing policy does not allow you to answer questions about the characteristics of other residents.

Wrong answers explained:

- a. Answering the question could get you regardless of the characteristics of the person asking the question.
- b. The law forbids you from discussing the racial or ethnic characteristics of your residents, whether you are answering a prospect's question or bringing up the subject yourself.

QUESTION #13*. Correct answer: a

Reason: People with bad housekeeping habits are not protected under federal fair housing law. The owner may reject the application based on information about housekeeping habits obtained during a reference check, as long as he applies the same standards to all applicants, regardless of -
cont on page 7
their race, color, religion, sex, nationality, familial status, or disability.

Test your knowledge of Fair Housing Law

QUESTION #14. Correct answer: d

Reason: You may not steer prospects to live in certain parts of your community for discriminatory reasons. For example, you shouldn't assume that female prospects want to live near your laundry room, but if the prospect asks to see vacancies near the laundry facilities, you wouldn't violate fair housing law by showing them to her.

Wrong answers explained:

- By waiving the credit check fee for female prospects he finds attractive, the leasing staff member is unfairly taking into account a prospect's sex.
- A female leasing staff member also unfairly takes a prospect's sex into account if she waives the fee because of the sex of a prospect.
- The law prohibits communities from giving a preference to either sex during the application process because you think that members of that sex make better residents.

QUESTION #15. Correct answer: b

Reason: If you choose to run criminal background checks on prospects, you must do so on every prospect or risk a discrimination claim.

QUESTION #16*. Correct answer: b

Reason: It is against federal law for the owner to reject the application based on religion, even if the owner believes other residents would object, or he believes that it would be somehow better for current or prospective residents if he did so.

QUESTION #17. Correct answer: d

Reason: To avoid violating fair housing law based on religion, you should use only nonreligious language when communicating with residents during the holidays. That includes written communications (such as ads), electronic communications (such as your community's Web site), and direct communications.

Wrong answers explained:

- Mentioning the proximity of your community to the local synagogue in your ad implies a preference for Jewish prospects, which violates fair housing law.
- Including a Christmas scene with religious-themed music on your community's Web site implies a preference for Christian prospects and residents, which violates fair housing law.
- Inviting Santa Claus to your community and asking residents' children what they want Santa to bring them for Christmas could offend non-Christian residents, who may accuse you of religious discrimination.

QUESTION #18. Correct answer: c

Reason: Promptly investigate residents' complaints according to your community's fair housing policy. Depending on the results of the investigation, it may be necessary to apologize to the

resident and discipline the maintenance worker.

Wrong answers explained:

- A community may be held liable for sexual harassment if it subjects a resident to severe and pervasive sexual harassment that unreasonably interferes with her use and enjoyment of the premises. Telling one dirty joke may not be enough to create a hostile housing environment, but your investigation could uncover a pattern of behavior that would be enough to establish liability under fair housing law.
- Even if you don't find the joke to be particularly offensive, your sexual harassment policy should prohibit unprofessional conduct, such as making suggestive comments or dirty jokes.

QUESTION #19. Correct answer: c

Reason: You may not treat the applicant differently than other applicants based on your subjective perceptions of the potential problems posed by drug addiction. However, you may check his references, if you do so consistently for all applicants. If the reference check reveals objective evidence showing that he had posed a direct threat to persons or property in the recent past and the direct threat had not been eliminated, then you may reject his application.

QUESTION #20*. Correct answer: b

Reason: It is a violation of federal fair housing protections based on disability to reject an applicant based on mental illness unless he is a direct threat to the health or safety of others or he currently uses illegal drugs.

QUESTION #21. Correct answer: b

Reason: Even though there are unassigned spaces near her unit, you must make an exception to your policy of not providing assigned parking spaces to accommodate this resident. The FHA requires communities to make reasonable accommodations to rules, policies, practices, or services when the accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

QUESTION #22. Correct answer: c

Reason: As a general rule, part of accommodating a resident with a disability is to waive any pet fees or deposits you have with regard to service animals.

Wrong answers explained:

- You don't have to waive the pet deposit for everyone just because you waive the fee for this resident. Fair housing law generally requires communities to apply their policies consistently, but FHA requires communities to make exceptions to policies as a reasonable accommodation if necessary to enable a resident with a disability to use and enjoy their unit.
- The pet deposit charged to residents is in return for letting them keep pets in their units. The resident needs to keep a service animal-not a pet-in his unit, so the— cont on page 8

Test your knowledge of Fair Housing Law

community can't charge the resident even a reduced pet deposit for his guide dog.

QUESTION #23. Correct answer: a

Reason: You may deny the resident's request. Because you do not provide residents with transportation or shopping services, granting his request would require a fundamental alteration in the nature of your community's operations. If faced with such a request, however, HUD advises communities to discuss whether there are any alternative accommodations that would effectively meet the resident's disability-related needs without fundamentally altering your operations.

QUESTION #24*. Correct answer: b

Reason: It is illegal for an owner to prohibit a wheelchair ramp from being constructed on the property. According to HUD, an owner may not refuse to let a resident with a disability make reasonable modifications to the housing unit or common use areas at the resident's expense if such modifications are necessary for the resident with a disability to use the housing. Where reasonable, an owner permit changes only if the resident agrees to restore the property to its original condition when he or she moves.

QUESTION #25. Correct answer: b

Reason: Anyone, not only prospects who file applications and ultimately rent units at your community, may file a fair housing complaint. You must keep records of every prospect who comes into or calls the

leasing office.

Congratulations!

Regardless of your score, you've taken a big step toward preventing fair housing trouble. If you did well, it means that your fair housing training has paid off. If you didn't, it may be time to beef up your fair housing training efforts.

Go back and double-check your answers to Questions 5, 10, 13, 16, 20, and 24 (marked with an *), which are based on questions related to rental housing from a 2001 HUD sponsored survey.

Among other things, the survey tested how much Americans knew about fair housing. It was repeated in 2005 to see how much had changed in light of HUD's public awareness efforts. The survey, which also included questions regarding home sales and mortgages, asked Americans about various scenarios, eight of which were unlawful under FHA. According to the 2006 report, there was little change in public understanding of fair housing law with roughly half of Americans recognizing six of the eight unlawful scenario depictions.

How well you answered these six basic fair housing questions is a good measure of the effectiveness of your fair housing program and how quickly you must respond with improved training to ward off being hit with a fair housing complaint.

Ways Social Media Can Help With Landlording

Employers are checking Facebook pages of prospective employees. Why shouldn't landlords do the same with prospective applicants? Many landlords have found Facebook, Myspace and Twitter to be very informative regarding both potential and current tenants. While most people set their privacy settings so that only their friends can see all of their information, posts and/or photos, but not all. When searching Facebook or Myspace pages, even abandoned and almost forgotten pages can give a landlord or employer a good bit of insight into the person's world.

One landlord shared how they recently turned a couple down because of their Facebook page, too much drug stuff on there. (Of course, they did not cite what they found on Facebook.) Another landlord told of how his wife checks those sites. Good info on their personal lives. One landlord periodically checks Facebook to keep on eye on current tenants to track behavior, figuring it's a public site and if you are going to post personal info on there, it's available for all to see.

One rental owner sold a house to a couple last year.

While he was in the process of going back and forth on the price, he checked the guys Facebook page, and he had posted that he had just put in an offer on a house, it was no nice, just where he wanted to live, etc. The seller could tell he had him hook, line and sinker, and therefore played hardball with the price and WON.

Another use of modern technology and social media is to Google the names of interested parties from Craigslist.com. You may also try googling the telephone number that they give. Lots of Facebook pages have pictures that can tell you a lot about the person. Sometimes the email address tells a lot-for example, Hotmama@XXX. In fact for many landlords, it is now standard practice to Google all applications-no end to what turns up on some of them. And prospects don't have a clue. Social media may even help you track down that elusive tenant who owes you money. Or look for an announcement by the ex-tenant that he has just gotten a new job-one that you actually be able to garnish!

A Primer On Short Sales

When the sale price of a home is not enough to cover the mortgage (s) on the home, the sale can only close if one of two things happen: either the sellers bring money to the closing or the sellers' lender agrees to take less than the amount owed. While in both situations, the sale price is "short," it is the second situation that is commonly referred to as a "short sale."

Perhaps the most important thing to keep in mind with respect to short sales is that a lender is not required to take less than the balance owed. Moreover, when the lender receives a request to consent to a short sale, the lender is not required to respond quickly or even at all. Because the approval of a short sale is wholly discretionary, a lender can ignore the request, reject the request, or approve the request subject to a whole list of conditions. If the lender approves the sale, in order for the transaction to proceed, the sellers and the buyers must agree to any conditions imposed by the lender.

Sellers and buyers frequently ask under what circumstances a lender will approve a short sale. There is no correct answer to that question. Different lenders apply different rules. Employees within the same lending institution may look at the same rule differently. Lenders themselves often change their own rules from month-to-month or even week-to-week.

In a perfectly rational world, lenders would always approve a short sale in those instances where the proceeds that the lender will receive from the short sale exceed the amount that the lender would receive if it foreclosed the home and pursued the sellers for the shortfall. But even in this rational world, in order to make such an analysis, a lender must be comfortable that it has accurate information both as to the value of the home and the sellers' financial condition. Typically, much of the short sale process is focused on convincing a lender that it has accurate information and that based on this information, the short sale should be approved.

In some cases, a seller may accept multiple offers to purchase, making them all contingent upon approval by the seller's lender and the seller's approval of the lender's terms. While this practice is discouraged because of potential inherent risks to the seller in accepting multiple offers, it does occur. The buyer making the highest cash offer, or what that buyer may view as the best offer, may believe they are entitled by law to purchase the property. That is not the case. The lender can approve any offer based on numerous factors other than the offering price. There is no law requiring the lender to accept the highest or best offer in the eyes of the buyer.

In the real world, a lender will never simply approve a short sale; instead, the lender will approve the short sale subject to a whole list of conditions. Often the document setting forth the lender's "conditions" is longer than the purchase agreement itself. Keep in mind that this lender approval document is not "boilerplate" and should be read carefully by both the buyer and the seller. While these "conditions" are seldom negotiable, buyers and sellers are well-advised to seek the assistance of counsel in order to clearly understand their rights and obligations should they choose to accept the lender's conditions.

Remember, there are few laws that regulate the terms of a home sale transaction; rather, the transaction is governed by the terms of the sales contract. Over the years, many terms have become so standard that many people assume that they are dictated by law, when in fact they are nothing more than typical contract terms for the purchase of a home. Often times the "conditions" that a lender imposes when it approves a short sale expressly alter some of these typical contract terms. It is therefore critical that these "conditions" be reviewed very carefully. Again, it is unlikely that a party will be able to get a lender to change any of these provisions; nonetheless, a party needs to understand these "conditions" when analyzing the transaction. For example, a buyer who has negotiated what he believes to be a great short sale price on a home should take into account the seller's expenses that he is being required to assume when comparing that transaction to a standard home purchase.

It is also likely that a short sale buyer will be purchasing a home that may need numerous repairs. A lender's conditions for approving a short sale typically provide that the buyer has no recourse in the event that there were misrepresentations made as to the condition of the home and/or material defects that the sellers did not disclose. Moreover, sellers who have been facing foreclosure for many months typically have not had the funds (or the desire) to properly maintain the property. A short sale buyer is well-advised to have the home carefully inspected.

Finally, the lender's approval of a short sale typically includes a provision which states that the lender can terminate the transaction for any number of reasons right up until the time of closing. For this reason, a short sale buyer is well-advised to keep his options open until the transaction is finally closed. A buyer with a moving truck in the driveway the day before closing will be in a very difficult position if the transaction fails to close.

Ten Basic Rules for Tenants of Rental Properties

As a landlord, you can make your job much easier by setting specific rules for your tenants to follow. These rules, if set down within a rental agreement or lease, will give you legal recourse should your tenants fail to follow them. Make sure you set clear rules for your tenants and that they understand them fully before you let them move in. You cannot make money with your rental units if your tenants misuse or destroy your property.

Once you've laid down the rules, enforce them fairly and regularly, without favoritism toward any tenants. For example, if you have a no-pets clause in your rental agreement, you must enforce this rule with all of your tenants.

Your rules should cover the following areas:

1. **When the rent is due and when it is considered late.** This rule will discourage tenants from trying to get by with late payments. Many landlords set a penalty fee if the rent is not received by a certain date. This penalty can be a percentage of the rent or a set dollar amount per day until the rent is paid in full. Check state laws to see if there are guidelines regarding how much you can charge for late rental payments.
2. **Your right to entry.** In many states, the law requires you to give your tenants at least 24 hours notice before entering their rented dwelling. It's a good idea to put this provision in your rental agreement to avoid any confusion. Review your state's law to see how much notice you will need to give.
3. **What stays and what goes when the tenant vacates.** If you are offering a furnished or partially furnished dwelling, clearly state what is considered a part of the dwelling and may not be removed. This will give you legal recourse should items be removed.
4. **Garbage removal.** One of the biggest problem areas for landlords is improper removal of garbage. In addition to being unsanitary, uncollected garbage makes your residential property look run-down. Your rules should clearly state how frequently garbage must be removed and where garbage should be placed for removal.
5. **Cleanliness guidelines.** A dirty apartment or dwelling is a health hazard, not only for the tenant in question but also for surrounding tenants. If you want to avoid putting up with a slovenly tenant, establish guidelines

about cleanliness so you have the option of evicting any tenant who disregards these rules.

6. **Pets and related policies.** If you plan to allow your tenants to keep pets, state what kind of pets you will allow. For example, if you do allow cats but not dogs, state this in your agreement. Or if you limit the size of dog your tenants may own, this should also be stated. In addition, state how pets must be cared for on the property. For example, dogs must be on leashes when in hallways or on the property's common grounds.
7. **Length of notice.** How much notice do you want your tenants to provide when they plan to leave your rented dwelling? Most landlords prefer around 30 days but this is not set in stone. Whatever you decide, state it clearly in your rental agreement.
8. **Proper use of fixtures.** Instead of repeatedly repairing fixtures because a tenant is not using them properly, you can state what constitutes proper and improper use. This will give you the option to not pay for repairs of a fixture that has been improperly used.
9. **End-of-term restoration.** Your tenants should restore the dwelling to the condition it was in when they began renting from you. State this clearly to avoid misunderstanding at the end of the rental or lease term.
10. **Deposit information.** If you require a security deposit, state what will happen if your tenants damage the dwelling unit. For example, if someone puts a hole in a wall and it costs you \$100 to fix, state that the amount will be deducted from their deposit.

Setting down these rules can help ensure that the renting experience will be pleasant for both you and your tenants.



HURON

TITLE COMPANY

**330 Michigan Street
Port Huron, MI 48060**
810 / 987 - 2141
1 / 800 - 878 - 4853
Fax 810 / 987 - 1317

PLUMBING & HEATING AIR CONDITIONING

188 14th Street
Marysville, Michigan
48040

(810) 364-5211
Fax (810) 364-3020

Lou Gordon



MATTHEW M. WALLACE, P.C.

ESTATE PLANNING, BUSINESS PLANNING & REAL ESTATE

MATTHEW M. WALLACE, C.P.A., J.D.

ATTORNEY & COUNSELLOR AT LAW
701 HURON AVENUE, SUITE 102
PORT HURON, MICHIGAN 48060

www.wallaceplaw.com
matt@wallaceplaw.com

(810) 985-4320
FAX (810) 985-4108

The OPPLIGER LAW FIRM

DAVID E. OPPLIGER
ATTORNEY AND COUNSELOR

1111 PINE GROVE AVENUE
PORT HURON MI 48060
(810) 966-1881 • FAX: (810) 966-1893
OPPLIGER@SBCGLOBAL.NET

Stewart,
Beauvais
& Whipple P.C.



CERTIFIED PUBLIC ACCOUNTANTS

Providing Valued Services Since 1945

- Tax Preparation & Consulting • Business Consulting
- Estate Planning • Audits & Financial Statement Preparation
- Business Valuation • General Ledger/Payroll Services
- Personal Financial Planning

Larry J. Allen, CPA Paul L. Bailey, CPA
Michael T. Turnbull, CPA Stephen R. Zimmer, CPA

1979 Holland Ave., Port Huron, MI 48060
(810) 984-3829 • SBWCPA.COM

Advertising Price Rates

1/8 page: \$125/yr \$14/mo

1/4 page: \$165/yr \$18/mo

1/3 page: \$185/yr \$20/mo

1/2 page: \$200/yr \$22/mo

Full page: \$400/yr \$44/mo


*based on 9 issues per year

Eastern Michigan Real Estate Investment Association

3051 Commerce Dr, Ste 5
Fort Gratiot, MI 48059

Phone: (810)385-2332
Fax: (810)385-8875

Email: jgalbraith@innovativehousing.org



We are on the web!
www.emrha.org

«First» «Last»
««Company»
«Address»
«City» «State» «Zip»

E.M.R.I.E.A. ADVISOR

Our office is located at:

3051 Commerce Dr, Ste 5
Fort Gratiot, MI 48059

Phone: (810)385-2332
Fax: (810)385-8875

www.emrha.org

Office Hours:

Monday - Thursday
8:30 a.m. - 5:00 p.m.
Friday
8:30 a.m. - 4:00 p.m.

Board of Directors

President	Matt Wallace	810-985-4320
Vice President	Judy Harris	810-385-3284
Secretary	Ken Montgomery	810-385-3150
Treasurer	Edward Schultz	810-385-2332
	David Oppliger	810-966-1881
	Rena Kiehler	810-385-2332
	Kathy Swantek	810-388-1200
	Dianna Maxwell	586-801-6068
	Virginia Irland	810-982-6239