

# Eastern Michigan Real Estate Investment Association

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Separating fact from fiction: Clearing up misconceptions about reasonable accommodation requests the Voice

November 2011

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This month *Fair Housing Coach* focuses on reasonable accommodation requests by individuals with disabilities. It can be a confusing topic, so we're going to go over the fair housing rules and dispel common misconceptions about how to handle these requests properly.

Disputes about reasonable accommodations often lead to formal fair housing complaints. Overall, disability discrimination accounts for the most common source of complaints to federal, state, and local fair housing agencies. According to the most recent HUD statistics, 44 percent of the 10,000-plus complaints filed nationally in 2009 were based on disability, and roughly half of those-22 percent-involved reasonable accommodation requests.

Communities are coming under increased scrutiny of the way they handle disability-related accommodation requests. As illustrated by recent enforcement activity, potential liability for failing to handle an accommodation request properly could amount to thousands-even millions-in damages if a complaint winds up in court.

*Example:* In December 2010, the U.S. Department of Justice (DOJ) announced an unprecedented \$1.25 million settlement to resolve allegations that an Alabama Community violated fair housing law by refusing to grant a resident's requests for a reasonable accommodation. The complaint alleged that the community ignored repeated requests by a resident with a mobility impairment to transfer to a ground-floor unit near the front of the building. As a result, according to the complaint, the resident fell down the stairs and suffered severe injuries, which eventually forced him to move out of the development. The company denied liability, but settled the case by paying the resident \$1.195 million and an additional \$55,000 in fees and costs to the government. Among additional requirements, the company agreed to hire a reasonable accommodation facilitator to handle requests for reasonable accommodations from more than 11,000 housing units in 85 properties managed by the company in 15 states [U.S. v. Warren Village (Mobile) L.P., December 2010].

Communities should brace themselves for an upswing in the number of disability-related accommodation requests they receive. In the short term, communities are likely to see an increase in accommodation requests from the many returning veterans who suffered physical and psychological wounds from duty in Iraq and Afghanistan. Meanwhile, rising rates of obesity and the aging population could lead to a spike in requests for reasonable ac-

commodations, since both obesity and aging are correlated with impairments that may qualify as a disability under fair housing law.

Though it has been on the books for more than 20 years, the federal law on disability-related accommodation requests is often difficult to apply in the real world. The law requires housing providers to consider each request on a case-by-case basis, making it nearly impossible to find any cut-and-dried rules to follow. And the myriad of physical and psychological impairments that may qualify as disabilities, along with the wide variety of accommodations that may be requested, could lead to confusion-even misconceptions-about how to handle accommodation requests.

This issue aims to separate fact from fiction by clearing up the 10 most common myths about the law and explaining just what is required to identify and handle requests for reasonable accommodations properly.

### WHAT DOES THE LAW SAY?

The Fair Housing Act (FHA) bans housing discrimination based on disability, so it is unlawful to exclude or otherwise discriminate against applicants and residents because of their disability-or the disability of anyone associated with them. The FHA also imposes additional responsibilities on housing providers to, among other things, make reasonable accommodations to rules, policies, practices, or services, when necessary to afford a person with a disability an equal opportunity to use and enjoy their housing.

In essence, the reasonable accommodation provisions require communities to make exceptions to their general rules for individuals with disabilities under certain circumstances. The rationale is that a community's rules, policies, practices, and services may have a different effect on people with disabilities than on others so treating persons with disabilities exactly the same as others may deny them an equal opportunity to use and enjoy their housing.

Only individuals who qualify under FHA's definition of "disability" are entitled to a reasonable accommodation. Under FHA, a disability generally means a physical or mental impairment that substantially limits one or more major life activities.

In addition, a reasonable accommodation must be necessary-one that allows an individual with a disability an equal opportunity to enjoy the housing. To determine whether a requested accommodation is necessary, there must be an identifiable connection between the requested accommodation and the indi-



## President's Letter

### What a year we had at EMRHA!

On February 17, 2011 we had our annual Tax Appeal Meeting with Evergreen Appraisal to prepare you to win when you went to the Assessor's office. It was received very well and attended by many of you.

On September 23, we held our annual "Real Estate Investment Seminar" with speakers such as Bruce Brown from the City of Port Huron, Randy Fernandez from the City of Marysville, and Robert Lewandowski from Port Huron Township on a panel informing us of what is happening in their respective communities. Our own board member, David Oppliger updated us on Issues surrounding Medical Marijuana and Tenant Bankruptcies. Tom West and Linda Payton from Talmer Bank and Robert Funk from Chase Bank informed us of bank changes. Kevin McNeill from St. Clair County Health Department spoke on Lead-Based Paint. Four people representing Section 8, both County and City, updated us on what's happening there. We had an Insurance update from Ben Knoester of Buiten Associates. Mitch Kuffa from Inspections by Mitch returned to tell us why we all should be hiring inspectors to look over our new properties. It was a very informative and exciting day made possible because of our many sponsors.

This is a list of the very generous people that sponsored the 2011 Seminar.

Innovative Housing

Blue River Developmental Housing

Matthew Wallace

David Oppliger

Dianna Maxwell

Haley, Ward & Associates

Masters Plumbing

Lakeport Enterprises

Buiten Associates

Stewart, Beauvais & Whipple

Tuttle Contracting

JoAnn Wine & Associates

Huron Title Company

RJ Lawn Sprinklers

Advanced Digital Solutions

Title Agency of Michigan

Gresley MacKay

**Please use them and thank them also for helping us educate you, our members!**

## President's Letter

On Friday, October 14, we co-sponsored a luncheon meeting with ETAR-Eastern Thumb Association of Realtors. Bruce Brown, manager of the City of Port Huron filled us in on the many happenings in our area. The lunches were provided free for our members by First Preferred and The Title Agency. Over 65 area Realtors and landlords were there. It was a very nice meeting. An award was presented to Helen Ruffing as "Realtor of the Year." I was the Association's "Realtor of the Year" last year and it was a real pleasure to present Helen with her plaque. She is a very ethical and hardworking agent and deserves this honor!

We also surveyed you, our members, this past Spring as to what you expect from us, your board; how we can help you in your business. The results were from 16 of our members who took the survey:

Members were asked, What are the items provided that are important to you?

- #1 Credit Reports
- #2 Evictions
- #3 Website
- #4 Forms
- #5 Newsletter
- #6 Full Time Office Staff
- #7 Notices and Articles
- #8 Links to other websites
- #9 Fall Seminar
- #10 Meeting & Training Seminars

Other comments were that most members would like to meet quarterly in the evenings. 9 of the 16 people that responded said they would attend the Fall Seminar.

Also requested was a State wide eviction database and a full-time lawyer at a good rate.

We also had a new website designed this year. I hope you all have had a chance to go check it out. It is very colorful, user friendly and loaded with information and links to other useful sites. And, right on the front page is a link to the City's Rental Registration Ordinance.

The website address is: [emrha.org](http://emrha.org).

Let us know what you think, and anything else you would like to see added to the website to educate people or help you with your business.

Any ideas for you may have for meeting topics that may appeal to our membership are always welcome. We are here to serve you! Don't be nervous about telling us what you would like to see happen in our association. Feel free to call or email any of us.

Have a great Holiday Season and we will continue into next year!

Dianna Maxwell, PREZ.

vidual's disability. Sometimes, it's easy to see the connection—for example, when a resident with a severe mobility impairment asks for an assigned accessible parking space as an exception to a community's general parking policy. But disputes often arise over the connection between a resident's disability and the need for the requested accommodation.

*Example:* The federal court in New Jersey recently ruled against a resident who sued his condo association for rejecting his request to leave his car in a guest parking spot as a reasonable accommodation for his disability. According to the community, the car had not been moved in two years, has an expired inspection sticker, and was inoperable. Allegedly, the condo association informed him that he was violating its rules and threatened to have the car towed. Although the resident asked to keep the car where it was, the condo association rejected the request. The car was towed and later crushed by the towing company. The court ruled that the resident failed to prove his requested accommodation was necessary because there was no direct linkage between the requested accommodation and his disability. Although he was disabled, the resident couldn't prove that granting him the right to store an inoperable car for a long period afforded him an equal opportunity to use and enjoy his housing [Coe v. Society Hill at Piscataway Condo Assn., April 2010].

The FHA recognizes some exceptions to the reasonable accommodation rules. For example, housing providers aren't required to grant a request for a disability-related accommodation if it's unreasonable—that is, it would impose an undue financial and administrative burden on the community or result in a fundamental alteration of its operations. Moreover, the FHA doesn't protect an individual with a disability whose tenancy poses a direct threat to the health or safety of others or substantial physical damage to the property of others, unless the threat may be eliminated or significantly reduced by a reasonable accommodation.

**10 myths about reasonable accommodations that could lead to fair housing complaints.**

**Myth #1: You Can't Get in Trouble by Treating Everyone the Same**

Since fair housing law bans housing discrimination based on certain protected characteristics, it's natural to think that you can't be accused of a fair housing violation if you treat everyone the same. As a general rule, that approach may ward off discrimination claims based on many protected characteristics, but it will inevitably lead to a fair housing complaint if you apply it to individuals with disabilities.

By definition, the FHA's reasonable accommodation provisions require housing providers to make exceptions to rules, policies, practices, or services when necessary to allow an individual with a disability to fully use and enjoy the community. Two of the most common sources of disputes under the FHA's reasonable accommodation provisions involve assistance animals and parking, but communities face a wide range of requests for exceptions to rules and policies as a reasonable accommodation for an individual with a disability. Examples include requests for live-in aides, transfers to different units, early lease termination, and allowing a cosigner on the lease.

The best way to stay out of fair housing trouble is to develop policies that address particular circumstances rather than on the type of people involved, says fair housing expert Doug Chasick. That is, instead of trying to treat all people the same, communities should adopt policies that treat people in similar circumstances the same way to ensure compliance with fair housing laws, he explains.

**Myth #2: Only Formal Requests for Reasonable Accommodation Must Be Considered**

No "MAGIC" words are required to make a request for a reasonable accommodation. An applicant doesn't have to mention the FHA

or use the words "reasonable accommodation," according to joint HUD and DOJ guidelines on reasonable accommodations.

Although an applicant or resident isn't entitled to receive a reasonable accommodation unless he requests one, the law doesn't require that a request be made in a particular manner or at a particular time. The guidelines state that an applicant or resident makes clear to the housing provider that he's requesting an exception, change, or adjustment to a rule, policy, practice, or service because of his disability.

*Example:* The D.C. appeals court recently ruled that a cooperative apartment association was liable for failure to grant a reasonable accommodation request related to its plans exterminate the building for a bedbug infestation. The resident, who had mental health disorders, objected to the plan and denied access to his unit, which was described as "extremely cluttered." When negotiations with the resident and his caseworker faltered, the co-op gave him a deadline to have the unit cleaned or readied for extermination. The resident said he needed more time and professional assistance to do it, but the committee eventually revoked his shares and sued to recover possession of the unit. With intervention by the court, the unit was cleaned and exterminated, so the court refused to order him out of the unit.

The court also sided with the resident on his fair housing claim, ruling that he made a reasonable accommodation request when he asked for more time to clean and exterminate the unit, and the co-op engaged in a discriminatory act by not making a more concerted effort to provide the reasonable accommodation before revoking his shares and suing him for possession [Rutland Court Owners, Inc. v. Taylor, July 2010].

Disputes often arise because most requests for reasonable accommodations aren't labeled as such, Chasick says. In fact, he warns that a prospect's use of the term "reasonable accommodations" could signal that the prospect is a tester, because most people aren't familiar with the formal rules under fair housing law. Since most requests for reasonable accommodation come in other forms, it's important to be an "active listener," Chasick says. Often, people say they need or want something because of some difficulty or limitation. Or it could be a question about whether your community allows something or whether the prospect will be able to do something—which could be a prelude to an informal request for a reasonable accommodation. For example, a prospect may ask whether your community allows pets; if your answer is no, Chasick says that you should follow up with "why?" If the prospect answers that he needs a dog for emotional support, it should be considered as a reasonable accommodation request.

The law doesn't require the request to be in writing or for the person making the request to use your forms or follow your procedures. If a resident refuses to put his request in writing or use your preferred forms, fair housing experts say that your staff should fill out the forms themselves to document the request and how it was handled.

**Myth #3: There's No Such Thing as Being Too "Helpful"**

Even when your intentions are good, you can get in trouble by being too "helpful"—that is, offering accommodations to people whom you believe to be disabled. Appearances can be deceiving, so the person may not have a disability.

Requests for a reasonable accommodation must be made by or on behalf of the individual with a disability. A housing provider isn't obligated to provide a reasonable accommodation to a resident or applicant if an accommodation hasn't been requested, according to HUD/DOJ guidelines.

Since it's the responsibility of the resident or prospect to make the request, you could be crossing the line by offering accommodations to someone you assume to be disabled based on her appearance, says Chasick.

**Myth #4: Request Can Be Denied If the Reason for It Isn't Obvious**

Don't make decisions about whether an applicant or resident is entitled to a reasonable accommodation simply because he doesn't have an apparent disability or because the disability-related need for the requested accommodation isn't obvious.

The FHA's disability provisions may apply even if an individual's impairment isn't obvious or apparent. Examples listed in the HUD/DOJ guidelines include autism, epilepsy, cancer, heart disease, diabetes, HIV infection, emotional illness, drug addiction, and alcoholism.

Nevertheless, not everyone who has an impairment will qualify for the FHA's disability protections. The definition of "disability" requires that the impairment substantially limit one or more major life activities, which means that it has a significant impact on activities that are central to daily life, such as seeing, hearing, walking, or caring for oneself.

**Myth #5: Never Ask About an Applicant's Disability**

It's true that the FHA usually bars housing providers from asking whether an applicant or anyone in his household has a disability and the nature or extent of any disability. However, there's an exception that permits disability-related inquiries when necessary to respond to a reasonable accommodation request.

The exception allows housing providers to obtain information that's necessary to evaluate whether a requested accommodation is necessary because of a disability, according to the HUD/DOJ guidelines. But the exception is limited-you can't ask for documentation when both the individual's disability and need for the requested accommodation are obvious.

If the individual's disability is readily apparent-but the need for the requested accommodation is not- then you may ask for further information about the disability-related need for the accommodation. But if the individual's disability isn't obvious, then you may request reliable disability-related information to verify that individual meets the FHA's definition of a person with a disability-and, if necessary, that the requested accommodation is needed because of a disability.

*Example:* In a January 2011 blog post, a top HUD official discussed how to handle an accommodation request when the resident's disability isn't obvious and the need for the accommodation isn't evident. Consider, he suggested, a resident who has a neurological condition that causes intermittent, but substantial, problems walking more than a short distance. If she asked for a transfer to a first-floor unit and a parking space closer to her building, the housing provider may have doubts about her need for the requested accommodations because she appears capable of walking without assistive devices. The official explained that the housing provider may request disability-related information that verifies that the resident meets the FHA's definition of having a disability, describes the needed accommodation, and shows the relationship between the needed accommodation, and shows the relationship between the person's disability and the need for the requested accommodation.

**Myth #6: You Can Require a Doctor's Note to Verify Disability**

You may not insist on a doctor's note from an individual whose disability isn't obvious to verify that he has a qualifying disability in connection with an accommodation request.

Depending on the circumstances, the information verifying that the person meets the law's definition of an individual with a disability can usually be provided by the individual himself, including proof that he receives Social Security disability benefits or "a credible statement by the individual," according to the HUD/DOJ guidelines. Alternatively, verification can come from a doctor or other medical professional, a peer support group, a nonmedical service agency, or "a reliable third party who is in a position to know about the individual's disability."

In most cases, the guidelines state that an individual's medical records or detailed information about the nature of his disability is not

necessary for this inquiry. Any medical information obtained must be kept confidential.

**Myth #7: You Can Charge Extra Fees to Cover Costs of Accommodations**

It's unlawful to require individuals with disabilities to pay extra fees or deposits as a condition of receiving a requested accommodation, according to HUD/DOJ guidelines.

For example, the guidelines state that a community may not require a resident who has a disability-related need for a motorized scooter to pay an extra deposit or to obtain liability insurance as a condition for allowing him to use the scooter outside his unit. Nevertheless, the community may charge the resident for the cost of repairing any damage to his unit or the common areas caused by the scooter if the community has a practice of assessing residents for any damage they cause to the premises.

**Myth #8: You Have to Grant the Request Whatever the Cost**

The law permits housing providers to deny a request for a disability-related accommodation when providing the accommodation would be unreasonable-that is, it would impose an undue financial and administrative burden on the community or fundamentally change its operations, according to the HUD/DOJ guidelines.

You can't reject a requested accommodation based on its financial and administrative burden simply because it involves some costs or extra paperwork. To determine whether a requested accommodation imposes an undue financial and administrative burden, it's necessary to consider factors such as the cost of the accommodation, the financial resources of the community, the benefits that the accommodation would provide, and the availability of alternatives that would effectively meet the resident's disability-related needs, according to the guidelines.

In some cases, a requested accommodation may be unreasonable because it fundamentally alters the community's essential operations. For example, the HUD/DOJ guidelines state that a community would not be required to grant a request from a resident with a mobility impairment to take him to the store and help him shop for groceries. If the community doesn't provide transportation or shopping services for its residents, then granting the request would require a fundamental change in the nature of the community's operations.

**COACH'S TIP:** Don't be too hasty in denying a request for an accommodation because it costs too much or involves a fundamental change in your operations. When a request is unreasonable, housing providers should engage in an "interactive process"-discussions about the disability-related need for the requested accommodation and possible alternative accommodations-because doing so often leads to an effective accommodation that doesn't unduly burden the community, according to the HUD/DOJ guidelines.

**Myth #9: All Animals Are Pets**

Not all animals are considered pets under fair housing law, so communities with a no-pets policy must grant a reasonable accommodation request by an individual who has a disability-related reason to keep an assistance animal.

Many disputes about assistance animals involve applicants or residents who don't have an obvious disability. Communities may question whether it's a bona fide request for a reasonable accommodation-or a ploy to get around your policies and keep a family pet.

It's a mistake to deny a claim simply because you doubt that the resident qualifies under FHA's definition of an individual with a disability. If the resident doesn't have an obvious disability, then you may ask

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for verification that he meets the FHA's definition of an individual with a disability. And if the disability-related need for the animal isn't apparent, you may request information to verify that the animal isn't apparent, verify that the animal provides support that alleviates at least one of the identified symptoms or effects of the disability, according to the HUD official's January 2011 blog post.

COACH'S TIP: Although HUD says that communities may not deny an accommodation request because an assistance animal doesn't have specialized training, some courts have ruled otherwise. That's the issue in a case currently pending in the federal court in North Dakota, where a community is accused of violating the FHA by imposing fees and other requirements on "companion animals"-animals that haven't been specially trained but not on "service animals"-animals that have been specially trained. The DOJ filed a brief to weigh in on the dispute, arguing that the FHA doesn't contain a training requirement and that emotional support animals, which don't require specialized training, may be necessary accommodations under FHA [Fair Housing of the Dakotas, Inc. v. Goldmark Property Mgmt., Inc.].

**Myth #10: You Don't Need a Formal Process for Reasonable Accommodation Requests**

This one's a ringer-it's not really a myth, but it's not a good idea, according to fair housing officials. Although the FHA doesn't require communities to have formal rules or procedures for handling accommodation requests, the HUD/DOJ guidelines strongly recommend it. Having formal procedures could help prevent misunderstandings as to the nature of the request, and in the event of a later dispute, provide records that the requests received proper consideration, according to the HUD/DOJ guidelines.

Fair housing experts agree. Chasick says it's essential to document all requests for reasonable accommodations at how they were handled. He recommends adopting a written policy that specifically addresses how accommodation requests are handled under certain circumstances and keeping records to show your staff followed the policy for requests involving the same circumstances. If challenged, you'll be able to point to your policy and document that all people under the same circumstances were treated in the same way.

Written policies and procedures also help to keep requests from falling between the cracks. The HUD/DOJ guidelines state that communities have an obligation to provide a prompt response to an accommodation request, so an unreasonable delay in responding to an accommodation request may be deemed to be a failure to provide a reasonable accommodation.

**We have a new look online.  
View our updated website at  
[www.emrha.org](http://www.emrha.org)**

## Fall Chore List

### Windows and Doors

- 1) Check window frames for cracks and spackle to fill them.
- 2) Paint window frames if necessary.
- 3) Hang storm windows.
- 4) Check to see that all doors close tightly.

### In the Yard

- 1) Clear away dead leaves and plants. If there are dead branches threatening power lines, call the utility company to alert them.
- 2) Trim back shrubs. Mulch delicate plants.
- 3) Drain outdoor faucets & cut off water.
- 4) Check the perimeter of the foundation and make sure that the ground doesn't slope toward the house. Water and ice may collect and cause damage.
- 5) Mow the lawn, fertilize, plant fall bulbs, use lawnmower to mulch leaves before bagging.

### Up on the Roof

- 1) Remove all leaves, twigs, balls, etc. from gutters and down spouts.
- 2) Replace the torn or loose shingles; patch asphalt, if needed. Secure any loose flashing.
- 3) On a rainy day, check the attic for leaks.
- 4) Secure the mountings for antennas. Check melting cables.

### Plumbing and Heating

- 1) Have the heating system checked and serviced
- 2) Clean and lubricate ventilating and exhaust fans.
- 3) If you have forced air heating system, clean or replace the air filters.
- 4) Leave attic vents open so moisture doesn't collect inside.
- 5) Winterize all air-conditioning equipment.

### Exteriors

- 1) Nail loose boards or trim.
- 2) Touch up paint, using a wire brush to remove flakes.
- 3) Patch any hairline cracks in the masonry.
- 4) Check untreated wood with an ice pick. If it's very soft or shows evidence of rot, remove the damage and fill the area with a plastic wood sealer.

### Drives and Lots

- 1) Seal cracks and fill pot holes.
- 2) Mark hydrants & curbs with flags.
- 3) Get snow removal contracts.
- 4) Inspect snow blowers, plows and shovels.
- 5) Order snow melt.

The taxes on Michigan property can be significant. They fund public schools, local government, libraries, local public transportation, community colleges and more. The (following) explains how you may be able to reduce your tax bill. When we talk about “your home,” the principles also apply to a vacant lot, rental home or business property.

#### How are Michigan Property Taxes Determined?

The local assessor normally visits each parcel every five years, when it comes on the tax roll, and when it undergoes a significant change—such as a new building. He or she completes a worksheet where all the necessary information is recorded. Back in the office, that data is transferred to an Assessment Card, which in most cases is a file on the computer. The computer’s software then assists the assessor in determining the property’s value. The assessor’s office sends a Property Tax Assessment Notice to each property owner. This is a record of how much your assessor believes your property is worth. This value is recalculated every year and can change due to inflation, the local housing market, and any improvements to your property. This value will be used to determine your property tax bill, unless you can successfully appeal the amount.

#### What does my Assessment Notice Tell Me?

The notice contains three values you should be familiar with.

- \* Assessed Value (AV)—This is one-half of the actual value of your home.
- \* State Equalized Value (SEV)—In almost all cases, the SEV is identical to the AV.
- \* Taxable Value (TV)—This is the amount that your property taxes will be based on

When you purchased your home, the SEV and the TV were identical. Proposal A, approved by voters in 1994, prohibited the Taxable Value from increasing by more than inflation or 5% in any year. During the years you’ve owned your home, its value likely increased faster than inflation. Over those years, the gap between these two values continued to grow. Upon sale of the property, the TV “uncaps” and becomes the new amount of the SEV.

Taxable Value is the most important number to homeowners. The amount of property taxes for any parcel is the TV multiplied by the total millage rate in that jurisdiction. Only by reducing the TV can you reduce your property taxes.

With the constantly changing landscape of taxes and fees, it may be time to reevaluate the time period that a lease entails. The standard thought is to have at least a one year lease with the option to extend at the end of the duration of the lease. It is always thought that this will commit the tenant to remain in the rental unit for at least one year and reduce any costs of refurbishing if they move out after a shorter time period.

Two important matters arise that possibly make this a poor choice for a duration time period. The first is that courts seldom will uphold the time requirement if the tenant fails to pay rent. The best one can hope is that there will be a judgment for possession and a money judgment until the time of hearing. It appears that even though the tenant has agreed to pay a full year’s rent, the only allowable judgment is the amount at the time of a hearing. If, however, the landlord wishes to remove the tenant, the landlord may be held to the duration of the lease by the courts. Remember when you walk into a courtroom the decisions are completely discretionary. It is a roll of the dice.

The second matter is the continuously changing tax and fee landscape. We are, and will be, constantly barraged by changes in the taxing and fee structure by the municipalities and other governmental bodies. It is usually the custom that the landlord absorbs these costs and may adjust their rent after the lease duration expires. Depending on the lease, the landlord may not have a sufficient time window to recover possible increases; especially if the change is made retroactive.

With these matters in mind, why not make the lease Month-To-Month? With a MTM lease the landlord is not trapped in a long duration lease if the landlord wishes to remove a troublesome tenant. If the courts do not recognize the duration property of the lease, why have it? In addition the increase in taxes and fees can be made almost immediate by an addendum change to the lease indicating the increase is basic costs by the tax change. We should remember the tenant may have been instrumental in enacting these changes by their vote. This should also be a policy that pertains to fees that are often arbitrarily imposed. Each lease should have a statement that any tax or fee change imposed by the municipalities will be passed on to the tenant. Every other business does this so why not landlords? If the tenant realized that a vote for the tax change may obligate them to pay for the change, they may reevaluate their voting decision. Food for thought.

## Heating Tips

-Adding batts of fiberglass insulation in your attic is one of the most cost-effective savings measures and one you can do yourself.

-Add extra insulation to the floors by covering them with a pad and rug.

-Check your home's insulation. Insulation is judged by its R-value. The higher the R-value, the better the material keeps heat in during cold weather. Older homes should have an insulating value of R-11 in the outside walls and floors over unheated areas, and an R-19 value in the ceiling or attic.

## Smoke Free Housing: Legal and Easier than you thought

Michigan has become a national leader in the adoption of smoke-free multi-tenant housing policies. Landlord experience, legal documents, assistance and free promotion are all available to you by visiting <http://www.mismokefreeapartment.org/> This website is very easy to use and navigate. When we promote smoke-free housing, we are saying that it is legal and advisable for apartment owners to establish smoke-free policies for the buildings that they own which includes individual apartments and common areas.

## Power of Attorney for Landlords

Are you managing properties for an elderly parent, or someone who is disabled? Or, are you a landlord who would like a relative or friend to take over the hassle of filing papers and appearing in court?

There are two ways to accomplish this; the first and the easiest is to quit claim the property to the friend or relative. Though if this person, does not wish to assume or be added to the deed as owner, there is an alternative.

The second is to have a lawyer prepare a power of attorney (POA) for this relative or friend. In this POA, you must list each address of the properties that you want this person to manage. Then, you must inform the tenants that as of such and such a date, the affairs will be handled by someone other than you.

A regular power of attorney that allows a person to make financial and medical decisions will not be accepted by the court.

## Repeal of Expanded 1099 Requirements

On Thursday, April 14, President Obama signed legislation that repeals both the expanded Form 1099 information reporting requirements mandated by last year's health care legislation and the 1099 reporting requirements imposed on taxpayers who receive rental income enacted as part of last year's Small Business Jobs Act. The Senate approved the bill on April 5, and the House voted in favor of it on March 3.

Without repeal, the law required businesses and non profits to begin reporting on Form 1099 payments in 2012 to contractors, vendors, and other that total \$600.00 or more annually. The IRS hoped to use the new law to track down unreported income. The American Institute of Certified Public Accountants and state CPA societies had advocated strongly for repeal of both provisions. When the Senate passed the bill on April 5, and sent it to be signed, AICPA President and CEO Barry Melancon described the repeal as "a victory for taxpayers."

As a result of the repeal, the 1099 reporting rules continue unchanged.

## Handy Tips

If you use steel wool, but hate the rust, try bronze wool. It is available at marine stores, and it doesn't rust.

New drywall-use latex primers on newly finished drywall. Oil primers can't conceal the difference in texture between the joint compound and the drywall surface.

Light Bulbs-Make light bulbs easier to remove by putting a light coating of petroleum jelly on the threads before screwing them in. This will make your job easier the next time you need to take them out, and you will avoid the risk of having a bulb break in your hand.

Carpet Dents-When you move furniture, there are often dents in the carpet that are hard to remove. Put an ice cube in each dent. The slowly released water will fill up and expand the carpet fibers without making a mess.

**EMREIA is now set up to do TRAK-1 full tenant screens. \$30 per screen.**



Do you have a new Email address? If so, please email it to me at:

[jgalbraith@innovativehousing.org](mailto:jgalbraith@innovativehousing.org).

That way you will be included when a mass email goes out.

## Troubled home market creates generation of renters

A growing number of Americans can't afford a home or don't want to own one, a trend that's spawning a generation of renters and a rise in apartment construction.

Many of the new renters are former owners who lost homes to foreclosure or bankruptcy. For others who could afford one, a home now feels too costly, too risky or unlikely to appreciate enough to make it a worthwhile investment.

The proportion of U.S. households that own homes is at its lowest point since 1998. When the housing bubble burst four years ago, 31.6 percent of households were renters. Now, it's at 33.6 percent and rising. Since the housing meltdown, nearly 3 million households have become renters. At least 3 million more are expected by 2015, according to census data analyzed by Harvard's Joint Center for Housing Studies and The Associated Press.

All told, nearly 38 million households are renters.

Among the signs of a rising rental market:

- \* The pace of apartment construction has surged 115 percent from its October 2009 low. It's still well below a healthy level. But permits for single-family homes are on pace for their lowest annual level on records dating to 1960.
- \* The number of completed apartments averaged about 250,000 a year before the boom. They fell to 54,000 last year and will probably number around the same this year. But then the number will likely double to about 100,000 in 2012 and hit 250,000 by 2013 or 2014, according to the CoStar Group, a research firm. The lag is due to the time it takes for an apartment building to be completed: an average of 14 months.
- \* Demand is driving up rents. The median price of advertised rents rose 4.1 percent between the end of 2009 and the end of 2010, census data shows. Few expect the higher prices to stem the flood of renters, though. One reason: Younger adults don't value homeownership as earlier generations did and may prefer to rent, studies show.
- \* Rental housing is giving builders more work just as construction of single-family homes has dried up. Still, that economic lift won't make up for all the single-family houses not being built. Apartments account for only about one-fourth of homes. And renters are outspent roughly 2-to-1 by homeowners, who pay for items from lawn care to remodeling and help drive the economy.

Before the housing bust, mortgage rates were so low it was often cheaper to buy than rent. That was true a decade ago in more than half the 54 biggest metro areas, according to Moody's Analytics. Today, by contract, it's cheaper to rent in about 72 percent of metro areas.

Consider Mason Hamilton, 26, an energy consultant who rents an apartment with his wife for \$1,100 a month in Alexandria, VA., outside Washington. He'd like something bigger. But he says he doesn't plan to buy even though he could afford to.

"My parents always told me, 'You need to buy a place; you need to buy property,'" he says. "But the housing market is insane."

Many younger Americans see owning as risky. It hardly seems the best way to build wealth, especially when prices are falling.

"There's been this idea for years, a part of the American dream, that owning a home improves and strengthens communities," said John McIlwain, a senior fellow at the non-profit Urban Land Institute. "But what we've learned over the past few years is that many people simply are not ready to own a home."

From the 1940s until 2007, homes appreciated an average of nearly 5 percent a year, adjusted for inflation. In the past four years, the median price of a single-family home has sunk 37 percent, by \$57,500, to its lowest since 2002. Yet in some areas, owning is still too expensive for many.

"It's becoming so difficult for most Americans to afford a home, with larger down payments and tighter credit, that it is creating a renter's nation," says Robert Shiller, a Yale economist and co-creator of the Case-Shiller home price index. "The home is no longer an investment; it's a burden."

Homeownership bestows its own financial advantages, of course. Each loan payment builds equity. Loan interest and property taxes provide tax deductions. And in normal housing markets, home values rise over time.

But for now, renting is more attractive. Hamilton, the energy consultant, says his father, a 58 year old teacher in Richmond, VA., still owes nearly as much on his mortgage as his house is worth. "He's stuck in that house," Hamilton says. "After telling me to buy for all of those years, he'd love to rent like me."

## 6 Mistakes Landlords Make by Karen Blumenthal of WSJ

Investing in real estate right now can be surprisingly profitable. But if you're going to become a landlord, watch out for these common pitfalls.

Traditional investments are delivering low returns, and home prices are at bargain levels. Is it time to consider buying some rental housing?

Investing in real estate right now can be surprisingly profitable, if everything goes well. Rents are climbing in many areas, and more properties may be coming on the market. Last month, the Obama administration asked for proposals on how to convert at least some of the bulging inventories of foreclosed homes from Fannie Mae and Freddie Mac into affordable rentals.

Investors used to aim for rents that were 1% of the purchase price, or \$1,000 a month for a \$100,000 home-an annual gross return of 12%-says Michael McCreary. His firm, McCreary Realty, manages about 300 properties in the Atlanta area. Today, he says, some of his investors are getting as much as 2% of the purchase price each month.

In general, though, average returns after expenses are far less, more like %5 to 6% of the property value per year, says Ingo Winzer, president of Local Market Monitor, a real-estate forecasting firm. But that still is well above what many other investments yield.

Before you start scouring for deals, keep in mind that owning rental properties is time-consuming, expensive and fraught with challenges. Many investors lose money. You will want to avoid falling into one of these common traps.

### **Mistake 1: Confusing a cheap deal for a good deal.**

It is true that you can buy some homes for ridiculously low prices - but that doesn't mean you can rent them out. Homes in deserted subdivisions aren't any more appealing to renters than they are to buyers. The same is true for less attractive properties or those in less desirable school districts.

Other experts suggest canvassing apartments nearby to see not just their rates, but whether they are offering special deals, such as a couple of months of free rent.

### **Mistake 2: Overlooking key costs.**

Knowing the potential rent isn't enough. Before you buy a property, you should also factor in closing costs of 3% to 6%, the costs to fix up the place and maintain it, and your holding costs. Then add the profit you expect to make-and more closing costs, if you intend to turn around and sell it. Only then can you figure out what you can afford to pay.

### **Mistake 3: Forgetting that time is money.**

In real estate, "time is your biggest enemy," says David Hicks, co-

president of HomeVestors of America, a franchiser whose motto is "We Buy Ugly Houses." You lose money when your property is empty, whether you are painting it or are between tenants. You also lose if you buy in the fall and can't replace the roof until spring. You may be better off accepting a lower rent than waiting for a higher-paying tenant.

### **Mistake 4: Assuming you will sit back and watch the rent roll in.**

"When you become a landlord, you become a rent collector," says Mark Kreditor of Get There First Realty, which manages 1,600 rentals in the Dallas-Fort Worth area.

Just like homeowners who can't pay the mortgage, tenants lose their jobs and stop paying the rent. Evicting them can take several weeks, and some steal appliances or other property. Kreditor says that once or twice a month, a tenant removes a home's copper tubing on the way out the door to sell the copper for its meltdown value.

You will need to screen prospective tenants carefully, or pay someone to do it for you.

### **Mistake 5: Underestimating repair costs.**

As with all homes, you will be making lots of repairs. You may find wood rot or mold when you remove that cracked bathtub. Carpet in rental homes typically must be replaced every five years, and you may have to repaint after every tenant. Tony A. Drost, president of the National Association of Residential Property Managers (NARPM), suggests setting aside six months of expenses so that you will have money if a major repair is needed.

### **Mistake 6: Assuming that owning a rental is the same as owning a home.**

You might put up with flaws that a renter wouldn't tolerate. In addition, many states and communities have strict and complex laws for landlords, even if you own only one property. A property manager can handle most of the headaches, but you should expect to pay one up to a month of rent for finding and screening tenants- and up to 10% of the monthly rent for management fees.

You can find property managers through the websites of trade groups NARPM and the Institute of Real Estate Management. In addition, many communities have local real-estate associations, which can provide support.

If anyone has a topic they would like to see in the newsletter or an article that you think other members would be interested in, please contact Jodi at

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