Eastern Michigan Real Estate Investment Association

Eastern Michigan Real Estate Investment Association

February 2014

Buy-and-rent investors get squeezed by Les Christie

Auction prices of homes climbed faster than rents in 2013, report says.

It's getting harder to make a bundle buying up foreclosures and renting them out.

The auction prices of homes climbed faster than rents in 2013, so returns on investment dropped, according to a report from CoreLogic.

That's a change from the past several years. In many cities where mortgage defaults spiked after the housing crash, investors were able to buy foreclosed homes at prices so low they were able to make big rental profits.

The practice is still profitable, but in many places not as much as it was.

"It's gotten so competitive that discounts at foreclosure are not where they were," said Daren Blomquist, spokesman for RealtyTrac. "It's harder for third party purchasers at auction to make a profit."

According to CoreLogic, return on investment fell in eight of the 10 best buy-and-rent cities.

In Tampa, which was the top city in 2012, returns declined to a yield of 9.7 percent in 2013 from 10.5 percent.

The reason for the decline: An influx of institutional investors with money to spend at Tampa's foreclosure auctions.

"It's much more difficult to get a return when prices have been pushed up," said Sean Galaris of financial services firm LM Funding, which is based in Tampa.

The yield represents an investor's rental profits divided by how much he spent to buy and rehabilitate the property.

Chicago was CoreLogic's top market for investors in 2013, but the yield dropped to 9.9% from 10.4 percent in 2012.

In Orlando, yields fell to 9.4 percent from 10.3 percent. Atlanta returns went to 9.3 percent from 10.2 percent.

Only two cities of CoreLogic's top 10 recorded gains. Houston's average return rose to 8.8 percent from 8.5 percent and Charlotte's inched up to 7.9 percent from 7.8 percent.

Nationally, homes sold in foreclosure auctions now go for just 4 percent less than regular sales, down from 16 percent in 2012, according to RealtyTrac's Blomquist.

Home prices in general have soared this year, jumping nearly 14 percent annually through October, according to the latest S&P/Case-Shiller report.

And rents have lagged. Census Bureau numbers show that rents only grew an average of 2.2 percent during the first nine months of 2013, compared to the same period in 2012.

As profits on foreclosures drop, investors will cut back on purchases.

Glenn Plantone, a real estate investor in Las Vegas, said that there were only 208 properties sold there at auction to third party purchasers—not—lenders in October. That was the first time in six years that a month had fewer than 300 of such sales.

Inside this issue:

America's Rental Housing—Evolving Markets and Needs	2-6
When Can A Landlord Enter Rental Property	7
How to Collect Rent, When to Collect Rent, What Forms of Payment to Accept as Rent	8-9
Land Contract and Other Sales Controlled by SAFE Act	10
Medical Marijuana in Federal Public and Assisted Housing	10

AMERICA'S RENTAL HOUSING - EVOLVING MARKETS AND NEEDS

FROM HARVARD UNIVERSITY

Rental housing has always provided a broad choice of homes for people at all phases of life. The recent economic turmoil underscored the many advantages of renting and raised the barriers to homeownership, sparking a surge in demand that has buoyed rental markets across the country. But significant erosion in renter incomes over the past decade has pushed the number of households paying excessive shares of income for housing to record levels. Assistance efforts have failed to keep pace with this escalating need, undermining the nation's longstanding goal of ensuring decent and affordable housing to all.

THE RESURGENCE OF RENTING

Reversing the long uptrend in homeownership, American households have increasingly turned to the rental market for their housing. From 31 percent in 2004, the renter share of all US households climbed to 35 percent in 2012, bringing the total number to 43 million by early 2013.

A confluence of factors drove this increase. The enormous wave of foreclosures that swept the nation after 2008 certainly played a role, displacing millions of homeowners. The economic upheaval of the Great Recession also contributed, with high rates of sustained unemployment straining household budgets and preventing would-be buyers from purchasing homes. Meanwhile, the experience of the last few years highlighted the many risks of homeownership, including the potential loss of wealth from falling home values, the high costs of relocating, and the financial and personal havoc caused by foreclosure. All in all, recent conditions have brought renewed appreciation for the benefits of renting, including the greater ease of moving, the ability to choose housing that better fits the family budget, and the freedom from responsibility for home maintenance.

Households of all but the oldest age groups have joined in the shift toward renting. The largest increase in share is among households in their 30's, up by at least 9 percentage points over an eight-year span. But shares of households across all five-year age groups between 25 and 54 also rose by at least 6 percentage points. In fact, the jump in rental rates for most age groups was well above the 4.0 percent overall rise, reflecting how the movement of the population into older age groups (when owning is more prevalent) stemmed some of the drop in homeownership.

With these widespread increases in the shares opting to rent, the 2000s marked the strongest decade of growth in renter households over the past half-century. After a modest rise early in the decade, the number of renter households soared after 2005, boosting average annual growth to more than 500,000. Although estimates from the two key Census Bureau sources for 2010-13 differ widely, they both indicate that renter household growth continued at a torrid pace—rising at double the rate of recent decades.

The future pace of growth will depend largely on how the share of households that rent evolves. This in turn depends primarily on economic factors such as changes in household incomes, the direction of prices and rents, and the availability and terms of mortgage finance. But given the ongoing recovery in the homeowner market and the fact that rentership rates for households aged 30-64 are at their highest in the last 30 years, further increases in renter share are likely to be small and growth in the number of renters is likely to slow.

The Joint Center for Housing Studies has estimated renter household growth over the next decade applying current homeownership rates to recent household projections—in essence isolating the contribution of demographic forces from changes in rentership rates. Depending on the pace of immigration, the number of renter households is likely to increase by between 4.0 million and 4.7 million in 2013-23. While a considerable slowdown from the current rate, growth would still outstrip increases in both the 1960s and 1990s. These projections would of course understate renter household growth if renting becomes more popular over the next decade and overstate growth if homeownership rates rebound.

HOMES FOR A DIVERSE AMERICA

Offering greater flexibility and requiring less of a financial stretch than homeownership, renting is most common during the young adult phase of life when changes in work and relationships are frequent. But while four out of ten renters are under age 35, renting has appeal for households of all ages. In fact, more than a third are middle-aged between (35 and 54), similar to that age group's share among all households.

Even during the phases of life when people are most likely to own, many households rent for at least some period of time. For example, nearly one in five households that were in their 30s in 2001 switched from owning to renting at some point in 2001-11, as did nearly one in seven of those in their 40s. Even among households in their 50s and 60s in 2001 with longer histories of homeownership, 11 percent of those switched from owners to renters at some point during the ensuing decade. A return to renting is even more common later in life, with 24 percent of

households over age 70 making that transition between 2001 and 2011.

Rental living often conjures up images of single people and unrelated roommates. Singles are indeed the most common type of renter, reflecting both their growing share of all households and the fact that renting often suits their need for less space at a lower cost. But contrary to the stereotype, families with children account for nearly as many renters as single persons. In fact, the share of families with children among renters is higher than the share among owners.

Since renting is more financially feasible for households of modest means, renters' incomes are disproportionately low. Nearly a quarter of renters have annual incomes under $15,000 (roughly equivalent to earnings from full-time work at the minimum wage), while only 13 percent of all households fall into this income category. A similar share of renters takes home between $15,000 and $30,000 a year, again much higher than this group's share of all households. Still, people at all income levels rent. More than a third of renters have moderate incomes (between $30,000 and $75,000), roughly matching their share of all households. The most underrepresented income group, earnings $75,000 or more a year, still accounts for 17 percent of renters.

Over the next decade, two broad demographic trends—the aging of the population and the increasing importance of minorities for household growth—will drive significant changes in rental demand. Assuming current rentership rates, the aging of the baby-boom generation will lift the number of renters over age 65 by 2.2 million in the ten years to 2023, generating roughly half of overall renter growth. The older profile of renters means much of the increase will be among single persons and married couples without children, each group accounting for about 30 percent of growth. Many of these older households are already renters, but will be aging into the next phase of life. This trend suggests growing demand for smaller rentals, with good access to transportation and located near communities where households in their 50s and 60s are currently living.

Mirroring overall population growth, minorities will contribute virtually all of the net increase in renters over the coming decade, with Hispanics alone accounting for more than half of the total. Again assuming today's rates of renting minorities will add between 1.8 million and 2.2 million renter households in the 25-44 age group, with the wide range reflecting different assumptions about future immigration levels. Significant shares of these younger renter households will be married couples with children and single-parent families, which together will account for another 30 percent of new renters. This group of households will seek more spacious homes to accommodate their larger families and in locations with access to good schools and employment opportunities.

THE RANGE OF RENTAL HOUSING OPTIONS

Unlike owner-occupied housing, rentals come in a variety of configurations. Still, nearly four out of ten rental properties are single-family homes, and another fifth are in small buildings with two to four units. The more prototypical apartment buildings of 10 or more units account for 30 percent of rentals. Rental housing is more likely to be located in urban areas, with central cities home to 43 percent of renters. But nearly as large a share (40 percent) of renters reside in the suburbs—only slightly below the 49 percent of all households that live in these areas.

In keeping with the large share of renters of modest income, rental housing is concentrated in low-income communities. Based on American Community Survey (ACS) data from 2007 to 2011, 45 percent of occupied rental homes in the 100 largest metropolitan areas were located in low-income neighborhoods (with median incomes below 80 percent of the metro area median). In contrast, only 28 percent of all households lived in these areas. Nonetheless, rental housing is found in neighborhoods across the income spectrum, with nearly a fifth in communities where median income exceeds 120 percent of the metro area median.

Yet the location of newly built rental units within metropolitan areas nearly matches the distribution of existing owner and renter housing combined. Indeed, renter-occupied housing units built since 2000 are evenly distributed across neighborhoods by income level, as well as across core cities, suburbs, and exurban areas. In contrast, new owner-occupied units are highly concentrated in higher-income neighborhoods and in exurban areas.

The recent housing market upheaval has highlighted the dynamic nature of the housing stock. According to the Current Population Survey, the number of renter households increased by 3.4 million from the 2007 through 2011. With construction volumes depressed, most of this new demand was met by the migration of 3.0 million units—primarily single-family homes—from the owner-occupied to the rental housing stock. This influx pushed the share of single-family rentals up 4 percentage points, to 35 percent, in 2011. While still a small share of the overall market, institutional investors also began buying up single-family properties for rentals, testing new business models for owning and managing portfolios

of individual homes that may further expand rental housing options.

RENTAL MARKET REVIVAL

The collapse of the housing market was a key factor in the genesis of the Great Recession, and its painfully slow rebound is one of the major impediments to the broader economic recovery. Even so, the rental sector bounced back relatively quickly both because demand has been so strong and because it was less caught up in the lending excesses that fueled the housing bubble. By a variety of measures, the rental sector has been strengthening for several years, starting with the downturn in vacancy rates in 2010. Rents picked up in 2011 as markets tightened. With these gains, the financial performance of rental properties also improved, with net operating income and property values making up much of the ground lost during the downturn.

Most important for the economy, construction activity also accelerated in 2011 as multifamily starts—the vast majority intended for the rental market—jumped 54 percent. Midway through 2013, starts were on pace to total 294,000 for the year, still below the 340,000 annual rate averaged in the early 2000s before the housing bust. Because of the lengthy construction process for large properties, however, completions are still far below levels a decade ago.

The rental housing recovery is widespread, with lower vacancies, higher rents, and higher construction levels evident in the large majority of markets. Indeed, multifamily permitting has accelerated in two-thirds of the 100 largest metropolitan areas, exceeding averages during the 2000s in a third of those markets, and even surpassed previous peaks in a few metros. The rapid expansion of production has raised alarms about potential overbuilding, particularly since long development periods may mask the total volume of new multifamily housing coming on the market. So far, though, there are no signs of large increases in vacancies or decreases in rents that would indicate an over-supply of units. Still, vacancy rates do appear to be bottoming out and rent increases are slowing in many markets, suggesting that supply and demand are moving into balance.

One aspect of the rental market that does bear watching, however, is multifamily finance. During the downturn, most credit sources dried up as property performance deteriorated and the risk of delinquencies mounted. Much as in the owner-occupied market, though, lending activity continued through government-backed channels, with Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) playing an important countercyclical role.

But as the health of the multifamily market improved, private lending revived. According to the Mortgage Bankers Association, banks and thrifts greatly expanded their multifamily lending in 2012, nearly matching the volume for Fannie and Freddie. Given fundamentally sound market conditions, multifamily lending activity should continue to increase. The experience of the last several years, however, clearly testifies to the importance of a government presence in a market that provides homes for millions of Americans, particularly during periods of economic stress.

THE SPREAD OF COST BURDENS

Against the backdrop of the rental market recovery, declining renter incomes continue to add to longstanding affordability pressures. Already up sharply before the recession began, the share of cost-burdened renters took a turn for the worse after 2007. As a result, the share of renters paying more than 30 percent of income for housing, the traditional measure of affordability, rose 12 percentage points over the decade, reaching 50 percent in 2010. Much of the increase was among renters facing severe burdens (paying more than half of income for rent), boosting their share nearly 8 percentage points to 27 percent. These levels were unimaginable just a decade ago, when the fact that the severely cost-burdened share was nearly 20 percent was already cause for serious concern.

In 2011, the last year for which detailed information is available, both the overall share of renters with cost burdens and the share with severe burdens moved up by about half a percentage point. These increase expanded the ranks of cost-burdened renters to 20.6 million, including 11.3 million that pay more than half their incomes for housing. Initial estimates for 2012 indicate the number of cost-burdened households again increased to a record 21.1 million. Although the share of cost-burdened renters receded slightly, this modest improvement occurred only because the number of higher-income renters rose sharply.

Housing cost burdens are nearly ubiquitous among lowest-income renters. An astounding 83 percent of renters with incomes of less than $15,000 were housing cost burdened in 2011, including a dismal 71 percent with severe burdens. But the largest increases in shares in 2001-11 were for moderate-income renters, up 11 percentage points among those with incomes of $30,000-44,999 and 9 percentage points among those with incomes of $45,000-74,999.

Rising unemployment clearly contributed to deteriorating affordability. In 2011, three-quarters of renters with house-

hold heads that were unable to find work in the previous year had housing cost burdens. The number of such households nearly quadrupled between 2007 and 2011, adding 830,000 to the ranks of cost-burdened renters. But high unemployment rates are not the main culprit because the spread of burdens has been even greater among households with full-time workers. The cost-burdened share of renters who worked throughout the preceding year rose by nearly 10 percentage points between 2001 and 2011, boosting their numbers by more than 2.5 million over the decade.

For families and individuals unable to find affordable housing, the consequences are dire. Among households with less than $15,000 a year in expenditures (a proxy for low income), severe cost burdens mean paying about $500 more for housing than their counterparts living in units they can afford. With little else in their already tight budgets to cut, these renters spend about $130 less on food—a reduction of nearly 40 percent relative to those without burdens. Severely burdened households with expenditures between $15,000—30,000 (one to two times full-time federal minimum wage work) cut back on food by a similar amount. Housing affordability is thus clearly linked to the problem of hunger in America. Both lower-income groups with severe housing cost burdens also spend significantly less on health care and retirement savings, with direct implications for their current and future well-being. But even those lower-income households that manage to secure affordable housing face difficult tradeoffs, often living in inadequate conditions or spending more on transportation.

THE CHALLENGE OF SUPPLYING LOW-COST HOUSING

While the steady erosion of household incomes has helped lift the ranks of cost-burdened renters, the affordability problem fundamentally reflects the simple fact that the cost of providing decent housing exceeds what low-income renters can afford to pay. Consider the case of renters with $15,000 in annual income. To meet the 30-percent-of-income affordability standard, they would have to find housing that costs no more than $375 a month. By comparison, the 2011 median monthly cost for housing built within the previous four years was more than $1,000. Less than 34 percent of these new units rented for less than $800, and only 5 percent for less than $400.

Given this mismatch, it is no surprise that the gap between the number of lower-income renters and the supply of affordable units continues to grow. In 2011, 11.8 million renters with extremely low incomes (less than 30 percent of area median income, or about $19,000 nationally) competed for just 6.9 million rentals affordable at that income cutoff-a shortfall of 4.9 million units. The supply gap worsened substantially in 2001-11 as the number of extremely low-income renters climbed by 3.0 million while the number of affordable rentals was unchanged. Making matters worse, 2.6 million of these affordable rentals were occupied by higher-income households.

Housing affordable to lowest-income renters tends to be older. Nearly half of unassisted rentals available for $400 a month or less in 2011 were built more than 50 years ago. These low-rent units are also more likely to be in poor condition, with 13.7 percent failing to meet the criteria for adequacy defined by the American Housing Survey, compared with 9.8 percent of all rentals. As a result, these homes are most at risk of being demolished or otherwise permanently lost from the housing stock. Over the 10 years ending in 2011, 5.6 percent of all units available for rent were removed from the inventory. The rate for those renting for less than $400, however, was more than twice as high at 12.8% percent. While filtering of higher-cost units into the lower-cost segment offsets some losses, the net result is that the number of affordable units has stagnated for the past decade.

To make progress on the nation's legislative goal of affordable homes for all requires a multi-pronged approach. Part of the solution is to persist in efforts to reduce regulatory barriers to construction of rental housing in general, because expanding the supply helps to reduce rent inflation for all households. But efforts to develop low-cost rentals deserve particular attention. A growing number of jurisdictions have in fact put some form of requirements or incentives in place to include more affordable housing in larger developments. State and local governments are also under growing pressure to provide greater allowances for the construction of smaller units, higher-density developments, and rentals with fewer amenities. For example, building accessory dwelling units (ADUs) within established neighborhoods in a promising means of adding modest rentals in convenient locations. Development of very small apartments, or micro units, may also help increase the affordable supply in high-density, high-cost areas.

At the same time, there must be greater incentives to invest in existing affordable housing. These might entail more generous tax breaks for maintenance and improvements or exemption from certain local building code requirements, allowing the rehabilitation of properties in cost-effective ways that fully protect residents' safety but not necessarily to the standards of new construction. And for households

with incomes too low to cover the costs of operating even lower-quality units in less desirable markets, public subsidies are essential.

POLICY DIRECTIONS

Rental subsidies are generally targeted at households with very low incomes, defined as not exceeding 50 percent of area median income. Between the onset of the Great Recession in 2007 and the latest count in 2011, the number of such renters soared by 3.3 million while the number able to obtain housing assistance expanded by just 225,000. As a result, the share of income-eligible households receiving assistance shrank from an already modest 27.4 percent to 23.8 percent. Meanwhile, the number of unassisted very low-income renters with worst case needs (paying more than half of income for housing or living in severely inadequate homes) jumped by 2.6 million to 8.5 million. Continued economic recovery will ultimately boost renter incomes and thereby alleviate these conditions, but even in the best of times, the scale of need for assistance far outstrips available resources. And over the coming decade, rapid growth in the senior population will bring another surge in demand for assisted housing, straining the already limited capacity of programs specifically aimed at older Americans.

The limited growth in rental housing assistance reflects a range of challenges facing the programs delivering support. While funding for Housing Choice Vouchers—the main vehicle for expanded assistance—increased over the past decade, rising rents and falling incomes combined to raise the per-tenant costs of aid, limiting the program's ability to reach more households. Public housing, the nation's oldest assisted units, requires an estimated $26 billion in capital investments that remain unfunded. Many privately owned subsidized developments were also built more than 30 years ago and are now at risk of loss from the assisted stock due to aging and/or expiration of contracts. Mandatory funding cuts under federal budget sequestration have added to these pressures and could lead to a reduction of 125,000 vouchers this year.

So far, the Low Income Housing Tax Credit (LIHTC) program has been spared from sequestration because it operates through the tax code and therefore does not require annual appropriations. Since its inception in 1986, the LIHTC program has provided a critical piece of the financing used to support construction or preservation of some 2.2 million affordable housing units, filling a void left by the termination of most other assisted housing production programs several decades ago. The program has been highly successful in part because it put private investors at risk of loss if developments fail.

By itself, however, the LIHTC does not provide deep enough subsidies to make units affordable for extremely low-income tenants, so it is often combined with other forms of assistance. The LIHTC program will come under scrutiny when debate about tax reform begins in earnest. In considering which tax expenditures to rein in, it will be important to recognize the LIHTC program's exceptional track record and its unique role in adding to the affordable housing supply. It is also essential to look holistically at reforms of the LIHTC program and other assisted housing efforts to ensure that these resources work together effectively to meet the needs of the nations lowest-income renters.

With Fannie Mae, Freddie Mac, and FHA providing the lion's share of longer-term, fixed-rate multifamily rental loans, impending reform of the housing finance system will also have profound implications for the cost and availability of multifamily credit. Although some have called for winding down Fannie's and Freddie's multifamily activities and putting an end to federal backstops beyond FHA, most propose replacing the implicit guarantees of Fannie Mae and Freddie Mac for which the federal government would charge a fee. Proposals for a federal backstop differ, however, in whether they require a cap on the average per unit loan size or include an affordability requirement to ensure that credit is available to multifamily properties with lower rents or subsidies. While the details are clearly significant, what is most important is that reform efforts do not lose sight of the critical federal role in ensuring the availability of multifamily financing to help maintain rental affordability, as well as in supporting the market more broadly during economic downturns.

A variety of proposals for rental housing assistance reform are on the table that are intended to make more efficient use of existing resources, tailor interventions to serve as a springboard for individual opportunity, revitalize distressed neighborhoods, and expand the scope of assistance. In particular, the US Department of Housing and Urban Development (HUD) has proposed a number of improvement to existing programs, including major changes to public housing. The Bipartisan Policy Center Housing Commission has attempted to jumpstart an even broader policy debate by laying out a framework of guiding principles and identifying a series of specific proposals that support those principles. The Housing Partnership Network has also created a detailed blueprint for reforms, while the Center on Budget and Policy Priorities has designed a new mechanism for delivering rental subsidies through the tax system, similar to the support provided by housing vouchers. Meanwhile, many organizations are calling for finally funding the National Housing Trust Fund, which was created in 2008 to support production of housing affordable to households with extremely low incomes. The question now is whether Congress will recognize the vital importance of this assistance to millions of Americans and take action on these promising new directions.

To be continued in March's newsletter…

WHEN CAN A LANDLORD ENTER RENTAL PROPERTY? nolo

Tenants want to be comfortable in their right to privacy in their home or commercial business, and landlords want access to the property that they own in order to ensure its proper maintenance or to show the property for sale or rental. These sometimes conflicting objectives are usually resolved either by a governing state law or a lease agreement, dictating under what circumstances and with what notice landlord entry into rental premises is permitted.

RESIDENTAL RENTAL PROPERTY

STATE LAW.

When and how a landlord can enter a residential rental unit may be governed by state or local law. Approximately half of the states have statutes governing a tenant's right to privacy and a landlord's ability to enter the rental premises. In other states, a tenant's right to privacy may be judicially dictated—handed down in court opinions.

Under what circumstances?

Generally, a landlord is usually permitted to enter the residential rental unit for the following reasons:

* *For matters related to the maintenance of the property.* Usually, the governing law allows the landlord to enter the rental unit to perform maintenance duties, including entry with contractors and repair technicians. Such entry includes entry to make repairs or to make aesthetic changes, alterations or improvements to the unit. Note, however, that this entry is not unlimited and will require advanced notice and entry at reasonable hours (see further discussion below).
* *In relation to the sale or rental of the property.* Usually, the law will permit a landlord to enter a rental unit in order to inspect the unit to determine its condition prior to tenant move out. As was shown in the case highlighted in this bulletin, landlords typically have the right to show the rental unit to prospective tenants or purchasers. Again, this right is not unfettered and will require proper notice and entry at reasonable hours.
* *For matters related to safety or health concerns.* In situations where the tenant is violating health or safety codes, a landlord may have the right to enter the unit to remedy the situation.
* *When the tenant abandons the premises.* If the tenant abandons the unit, as may be evident by an absence of the tenant and a shut-off of utilities, the landlord may enter.
* *When granted permission by a court of law.* If provided with a court order, a landlord can enter the rental premises, in accordance with the order. In that vein, when accompanied by a law enforcement officer, a landlord may be able to enter the unit to issue a service of process order regarding the eviction.
* *When given tenant permission.* Of course, the landlord can also enter the rental unit when given permission by the tenant. *Under terms of the lease agreement.* The lease agreement will also govern landlord entry into the rental premises. The lease agreement may grant the landlord certain rights to entry (but not in contradiction to state law), or it may limit certain rights to entry.

NOTICE.

Most states with statutes governing landlord access to residential rental units require landlords to provide advance notice to tenants before entering the premises. Required notice ranges from 24 hour to two days. Some states simply require "reasonable" notice.

An exception to the notice requirement is that landlord entry may be permitted in relation to an emergency-such as a fire, gas leak, flooding of the property, or other natural disaster.

HOURS.

Again, in states where statutes or case law govern landlord entry, a landlord may be limited to entry, after notice, during "reasonable hours." As was the situation in the case highlighted in this bulletin, "reasonable hours" may be undefined. Typically, they encompass normal business hours of approximately 9:00a.m. to 6:00p.m. In the related case in this bulletin, the court recognized that the normal business hours of real estate professionals attempting to show rental property includes weekend days. In that case, the court even indicated that Sundays, despite being deemed state holidays in that locale, were within the scope of "reasonable" normal business hours—and subject to entry by landlords for showing the rental property.

COMMERCIAL RENTAL PROPERTY.

Unlike with residential rental properties, state laws do not limit landlord entry to commercial rental property. Landlords may still be able to enter commercial rental property in the case of emergencies, or pursuant to court order (such as with an entry of judgment for possession). Otherwise, the terms of the lease agreement will govern the landlord's right to enter the rental premises. Often such lease terms allow landlord entry:

* Upon a tenant's default of a lease term"
* Upon lease termination:
* Upon tenant abandonment of the property;
* To show the property to potential tenants or buyers;
* To conduct maintenance-related inspections; and/or
* To make repairs or renovations.

The terms of the lease will also govern the notice prior to entry that must be given by the landlord to the commercial tenant in advance of entry, as well as the permissible hours of entry.

Source: Nolo, "State Rules on When and How Landlords May Enter Rental Property"; www.nolo.com

Source: "When Does a Landlord Have the Right to Enter a Rental Unit?"; http://landlords.about.com

Source: Lord of the Lease, "When can a commercial landlord enter a property?"; http://lordofthelease.blogspot.com

HOW TO COLLECT RENT, WHEN TO COLLECT RENT, WHAT FORMS OF PAYMENT TO ACCEPT AS RENT BY ERIN EBERLIN

How to Collect Rent From Tenants

As part of their lease agreement, tenants agree to pay rent each month in exchange for living in the property. Therefore, landlords expect to collect rent from their tenants each month. The landlord, however, must inform the tenant about his or her procedures for collecting this rent. The tenant will not know what is expected of them unless you clearly spell these rules out in the lease agreement. This includes explaining the methods as to how the rent will be collected.

What Method Will You Use?

As the owner of the rental property, you decide, within the law of course, how your property will be run. Deciding how rental payments will be collected is a part of this personal choice. You have to choose the option that best suits your needs. You may decide payments will only be collected using one method or you may allow multiple methods of payment.

The method you choose may also correlate to how many rental units you own. If you have accumulated 20 units, you probably don't want to personally knock on 20 doors to collect rent on the first of every month.

Options for Collecting Rent

Various options are available for collecting rental payments. These methods include personal collection methods as well as outsourcing rent collection to a third party. Here are some options you may way to consider.

Online- One way to accept rental payments is online. There are many online sites which offer this service to landlords. These sites include ERentPayment, RentMatic and RentMerchant. You can do a search of online rental collection services to find the site that best suits your needs. Prices will vary depending on the plan selected. Some sites or plans are very basic, with simple rent collection being the only service offered. Other sites may have more bells and whistles with services that could include an online rent roll, the ability to upload important forms and documents for your tenants and the ability to send messages to your tenants. These online sites are great in that they do not require you to give any personal banking information to your tenant. Pay Pal is another option for collecting rental payments. While it is free, it is not as user friendly for the tenant. The tenant must follow exact instructions so that the payment is not delayed or so that you are not charged a fee. For example, if the tenant does not mark the payment as a personal payment, you could get charged a business transaction fee. It can also take several days for a payment to go through, so it can be hard to determine when the tenant actually made the payment. If the primary method you use to collect rental payments is online, you usually have to allow another form of payment for those that do not have access to online resources, such as paying rent by mail.

- **Mail**- You can choose to allow tenants to send their rental payments by mail. This saves you the time of having to collect the payments yourself. This method does present certain problems. For example, the envelope could be postmarked by the required date, but you may not receive the payment until several days later. The rent would not technically be considered late, but you would still not receive it on time. In addition, if the tenant only partially pays their rent, sending it in the mail will buy them a few extra days until you find out. Allowing the mail method of payment also allows for the age old excuse of, the check got lost in the mail. To prevent this, your tenant can obtain a certificate of mailing from the post office, which costs a little over a dollar. This certificate serves as proof that the mail was sent when the tenant says it was. However, it does not verify the actual amount that is in the envelope.
- **Drop-Off Location**- If you have an office for your property investing business, you may choose to allow tenants to drop the rent off at this location. I would not recommend allowing your tenants to drop payments off at your home address or to ever give your tenants your home address, unless of course you live at the same address as your tenant.
- **In Person**- You can decide to personally collect rental payments from all tenants. The good part about this is that you will have the payment in your hands immediately. The bad part is that it is time consuming and frustrating to try and coordinate pick-up times with all of your tenants.
- **Property Management Company**- Finally, you could choose to completely outsource rent collection to a third party by hiring a property management company. Not only can this company collect rent payments for you, but they can also deal with all tenant complaints, handle maintenance issues and fill vacancies. You will have to sign a contract with the company and pay an agreed upon amount based on the services you desire.

As a rental property owner, you must collect monthly rent from your tenants. To make operations run smoothly, the rent should be collected on the same date each month. In order to avoid confusion, your tenants must know when this rental payment is due. The date when the rent will be collected should be an included part of your lease agreement. Here are some tips for setting a date to collect the rent and for determining grace periods.

When Will the Rent Be Collected?

You must decide when the rent is due. While it is completely up to you, there is one day that is more popular than others to collect rent. Many landlords decide to collect the rent on the first day of each month.

Why Is the First of the Month So Popular?:

- *Leases Usually Begin on the First*- Many leases begin on the first of the month. Therefore, it makes sense that all subsequent rent payments would also be due on the first of each month.

People Get Paid- Many people get paid at the end of the week or at the end of the month. Therefore, people will usually receive their paycheck right before the rent is due, which increases the odds that they will have the funds available to make their monthly rent payment.

- *Get Rent Before Other Bills Are Due*- Due dates for bills such as utilities, credit cards and mortgages are scattered throughout the month. By collecting rent on the first of the month, before these other bills are due, you are increasing your odds that the tenant will have the money available to pay your rent instead of allocating this money to pay a bill that was due earlier.

***Easy to Remember*- Another reason collecting rent on the first of the month is a good idea is because it is easy to remember for both you and your tenant. When a new month begins, the rent is due.**

Will You Allow a Grace Period?

You have decided on the date that your tenants must pay rent. We will assume that you chose the first of the month. Even though the rent may be due on the first of the month, some landlords will allow a certain

HOW TO COLLECT RENT, WHEN TO COLLECT RENT, WHAT FORMS OF PAYMENT TO ACCEPT AS RENT BY ERIN EBERLIN

grace period. This grace period will allow tenants to pay their rent a couple of days after the first of the month without incurring any penalty. For example, a landlord may allow tenants to pay rent up until the fifth of the month without any penalty.
Giving some leeway makes things easier when the first of the month falls on a weekend or on a holiday. This way you won't have to spend Labor Day tracking down rent payments.
Even with the extra grace period, you will still hear the sob stories of, *the check was in the mail.* However, since you are already giving tenants extra days to pay, you should not be as lenient since they have had ample time to get the payment to you.

No Exceptions

Whether all rent must be in by the first or you allow some extra grace period, you must stick firm to your rules. If you allow an exception once, the tenant will think they can get away with it again. In addition, if there was no penalty for breaking one rule on the contract the tenant may think they can break other rules in the lease agreement without incurring any penalty.
You want your tenant to be respectful of your rules and of your property. Therefore, you must adhere to the contract and set the example that there will be consequences if the rules in the contract are broken.
You should always include when the rent is due on your lease agreement so that there is no question. For example: *The rent is due on the first day of each month. If the monthly rent payment has not been received by the fifth day of that same month, it is considered late*

What Forms of Payment to Accept as Rent

Some landlords do not care how a tenant pays the rent, as long as they pay it. It could be in a sack filled with pennies thrown from a moving car for all they care, as long as the landlord receives the rent. Unfortunately, all forms of payment are not created equal. Certain forms are hard to document and could leave you susceptible to fraud in the future. Learn the common forms of payment a tenant could use and the types you should actually accept as rent.

Never Accept These Forms of Payment

- **Cash**- You should never accept a rental payment from a tenant in the form of cash. The tenant can claim they put a certain amount of money in the envelope and you may arrive at a different number when you actually count the money. This is especially dangerous if you allow a tenant to leave an envelope of money for you. If the full rental amount is not in the envelope, it will be a he said vs. she said dispute with no way to prove how much cash was actually in the envelope. Do not accept cash payments for rent. They are impossible to keep track of and there is no record of the amount you actually received.
- **Credit Cards**- Do not allow your tenants to pay rent using a credit card. First, you will usually have to pay some sort of a transaction fee. Secondly, the tenant always has the opportunity to report this charge to their credit card company as fraudulent, leaving you with no payment until the situation is rectified, hopefully in your favor.

Direct Deposit Into Your Banking Account- Do not allow tenants to directly deposit their monthly rent into your banking account because this involves you having to give them your account number and your routing number. If they are able to put money into the account using this information, they are also able to take money out of the account using this information. While most people are honest and would not commit this type of crime, it is not worth the risk. Especially since there are other, more secure, methods of collecting rent.

Sometimes Accept These Forms of Rental Payment

Personal Check- Although I would not recommend accepting **personal checks from your tenants, many landlords still do. With personal checks, there is no way to verify if the check is real or if the funds are available until you try to deposit the check and it does not actually clear. Once your tenant has established a payment history using a more secure method, you may decide to accept personal checks because they have built up the trust level.**

Accept These Forms of Rental Payment

Certified Check- The bank will certify a check stating that the tenant's bank account has the necessary funds available at the time the check is written. However, there is no guarantee that those funds will still be in the account when you go to actually deposit the check. Therefore, this form of payment is more secure than a personal check but not as secure as a cashier's check.

Cashier's Check- A cashier's check is very similar to a money order. However, there is a larger fee associated with a cashier's check and they are only issued by a bank where you actually have a bank account. The bank will withdraw the funds from the tenant's bank account and will then serve as guarantor of the amount that the cashier's check is for. Since the bank is guaranteeing this amount, you do not have to worry about a tenant withdrawing funds from their personal account before you try to cash the check.

Money Order- You can usually get a money order at a bank, local post office or other convenience store. It is like receiving a gift card of rent. The tenant had to transfer funds in order to get the money order. For example: the tenant wants a money order for $1000, so they give the post office $1000 in cash. The post office then gives the tenant the money order for $1000, which they give to you. There is usually a small fee associated with money orders.

Online- Online payments that do not require you to provide any of your personal banking information to a tenant are a good option. It is quick, the funds usually transfer immediately or within a day or two, and it requires little effort, you can sit on your home computer and watch your bank account grow. There are many online rental payment sites such as ERentPayment, RentMatic and RentMerchant.

Land Contracts and Other Sales Controlled by SAFE Act - Licensing May Be Required

There has been a flurry of comments, opinions and confusion surrounding how the new federal SAFE Act along with Frank-Dodd amendments that go into effect January 14, 2014 will impact the sale of real estate on a land contract.

A newly published Q&A document by the Michigan Department of Insurance and Financial Services has established that land contracts and other types of seller financing for commercial purposes are covered under the SAFE Act and are therefore also covered under the Michigan Mortgage Loan Originator Licensing Act (MLOLA) passed in 2009.

Some Michigan legal experts have differed in opinion on this since land contracts were not specifically cited within MLOLA or the SAFE Act. The basis of their opinion related to the fact that a land contract is an installment sale, not a loan secured by a mortgage. However the Department of Insurance and Financial Services analysis establishes that HUD's response to public comments on the SAFE Act Final Rule clearly states that "residential mortgage loans" include installment sales contracts (i.e., land contracts). So, land contracts are included under the rules for residential mortgage loan origination. The rub is that Michigan can make the law stricter but cannot remove any requirements. So, even if the Michigan legislature failed to include land contracts in the MLOLA, the Federal SAFE Act ruling trumps Michigan Law.

There are lots of other types of transactions that are also included under the Act per the Q&A. For the entire scoop, go here:
http://www.michigan.gov/documents/difs/Mortgage_Loan_Originator_and_Seller_Financing_FAQs_438151_7.pdf

We will publish more on what investors must do to comply with the new law in future articles. In the end, it is likely that more certifications and licensing will be required to do multiple land contracts per year—along with lots more paperwork. Also, keep in mind, Michigan law has always required a person to be licensed as a broker or salesperson if they do more than four (4) real transactions per year. (In the end, since neither the language of the SAFE Action or its amendments or the MOLOA specifically state that installment sales are included under either law, we expect that lawsuits will start to fly challenging the position that land contracts are included under the law.)

Medical Marijuana in Federal Public and Assisted Housing

By Fair Housing Coach

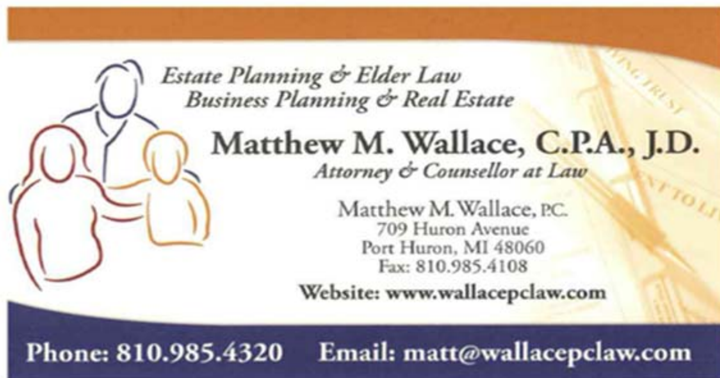
Public housing agencies and the owners of federally assisted housing are not required to grant reasonable accommodation requests for exceptions to federal drug-free laws and policies to permit the use of medical marijuana, according to HUD's 2011 memo on handling reasonable accommodation requests by medical marijuana users.

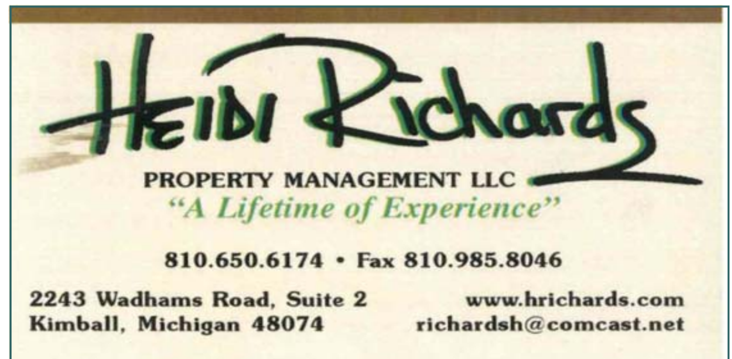
In fact, the agency stated, those providers may not permit the use of medical marijuana as a reasonable accommodation because:

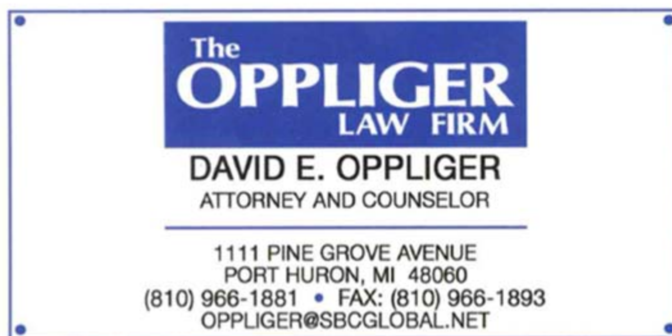
- Persons currently using illegal drugs, including medical marijuana, are categorically disqualified for protection under the disability definition provisions of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act; and
- Such accommodations are not reasonable under the Fair Housing Act because they would constitute a fundamental alteration of the nature of the provider's operations.

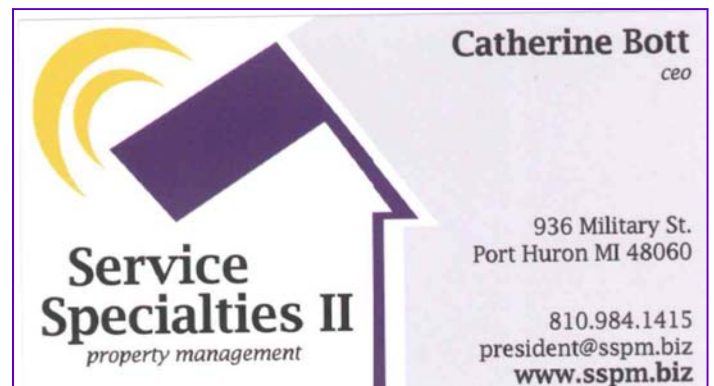
Based on federal law, HUD said that public housing agencies and owners of federally assisted housing must deny admission to individuals who, at the time of consideration for admission are using medical marijuana.

However, HUD noted, the law gives those housing providers discretion on whether to evict current residents on account of their medical marijuana use. They may allow residents currently using medical marijuana to remain as occupants, but as an exercise of their discretion—not as a reasonable accommodation.









Advertising Price Rates in our Newsletter and on our website:

1/8 page: $125/yr $14/mo	1/2 page: $200/yr $22/mo
1/4 page: $165/yr $18/mo	Full page: $400/yr $44/mo
1/3 page: $185/yr $20/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

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