

Eastern Michigan Real Estate Investment Association

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Planning with family limited liability companies

by Matthew Wallace, PC

You have probably heard about family limited liability companies ("LLC"), but you may not know the reasons for which you would use them. A family LLC is an estate planning tool to transfer and/or hold assets for succeeding generations. Before we can discuss how they are used, we will first discuss what an LLC is.

An LLC is a business entity created by statute. It is not a corporation but, like a corporation, an LLC shields its owners from business liabilities. The owners of an LLC are called members. Instead of by-laws governing the operation of the company, an LLC has an operating agreement entered into between the LLC and its members.

An LLC can be member managed or manager-managed. With a member managed LLC, any member has the authority to act on behalf of the LLC. However, with a manager-managed LLC, only the appointed manager(s) can act on behalf of and bind the LLC. Most family LLCs are manager managed.

You can elect how the LLC income is to be taxed. The LLC can be taxed as a regular corporation and file its own tax return; as a partnership or an S Corporation where the income flows to the members' individual tax returns or, so long as you are the sole member, the LLC can be disregarded for tax purposes and you report LLC income on your own tax return as if the LLC didn't exist.

The main reason, among others, that my clients have used family LLCs, is to keep family assets intact and under control by a limited number of persons. You are in control as LLC manager while you are alive and well, and the people who you choose will be the successor managers when you are unable and after your death.

The most common asset that I have seen placed in a family LLC is rental real estate. You continue to manage it during your lifetime while you can. After you are gone, instead of a percentage of the real estate going to each of the kids, a percentage of the LLC is distributed to each of them.

This way, you do not have a committee arguing or bickering over how to run the investment or how to sell it. The successor managers with knowledge and experience handle all the business affairs of the LLC and distribute the income to the kids. The kids have no say in the day-to-day LLC operations unless of course you gave them the authority. The family assets stay together serving the family.

With a family LLC, you do not have to wait until after you are bereft of life to transfer an interest to your loved ones. You can gift an interest in the LLC during your lifetime without relinquishing control. You can buy, sell or lease LLC assets without having the other members sign off. No member has any say in the running of the LLC, only you, the manager.

This is much different than gifting an interest in real estate. With an interest in real estate, all owners (and wives of married male owners) have a say and must sign off on selling it. And any one owner could force the sale of the real estate.

If you have a taxable estate, which is more than \$5.34 million in 2014, there is an added bonus to gifting an interest in a family LLC. After you make a gift of an interest in the LLC, if the underlying assets increase in value, the entire appreciation attributable to the gifted interest from the date of the gift escapes estate tax upon your death. And when you make that gift, you might be able to discount that gift for gift tax purposes.

A family LLC might be an effective succession planning tool to keep you in control while you are alive and well; protect you and your loved ones in the event of your mental incapacity; and when you are gone, give what you have to whom you want, when you want, the way you want.

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The Smart Investor's Guide to Winterization by Lindsey Younts

AN OUNCE OF PREVENTION COULD STAVE OFF MAJOR DAMAGE TO YOUR RENTAL PROPERTIES

Though the chill is already seeping into the September air, the harsh winter cold still seems so far away. But *now* is the time to get your rental properties ready for freezing temperatures. The worst thing in the world is trying to put your winterization solutions in place when it's 20 degrees outside.

Your checkbook will thank you, too. According to the Insurance Information Institute, the average insurance claim for water damage related to winter storms is \$5,900. That's \$1.25 billion a year in payouts by the insurance companies over each of the past 10 years. The sad thing about this statistic is almost 100 percent of these incidents could have been prevented with just a little forethought.

Below is a simple winterization plan for the major systems in your investment properties. These are the most critical things to review before winter hits.

HOW TO ICE YOUR FROZEN-PIPE PROBLEM

Frozen pipes and the resultant water damage cause more harm than all other types of winter-related incidents combined. It's not just pipes that take the hit—walls, ceilings, flooring and other structural pieces can be severely damaged, too. That's why preventing freezing in your pipes should be your No. 1 goal.

For vacant properties, the first step is usually very easy. Locate and turn off the property's main water shutoff valve, preferably one that is outside. If the property is supplied by a well, then also turn off the breaker and main supply valve at the pump system.

After the water is off, turn off the gas or electricity and drain the water heater. A faucet or spigot will need to be opened to allow air to flow in the piping as water is drained out of the heater tank.

Water then should be drained from the property's entire water supply system; all the faucets and fixture shutoff valves should be left open. If the house is supplied by a well, the pressure tank should also be drained.

Though gravity may be sufficient to drain the plumbing in many vacant homes, standing water will remain in some pipes. Though the water is no longer under pressure, this remaining water can still freeze and may strain some pipes and fittings.

That's why it is a very good idea to use an air compressor to blow any leftover liquid from your property's water supply lines. There are special fittings you can employ to connect the compressor to the house's plumbing. Then you can clear out the lines by systematically closing and opening faucets and valves. Open the plumbing fixtures farthest from the air compressor and work backward.

Keep in mind that water also runs through many appliances such as washing machines, dishwashers, ice-makers in refrigerators, water softeners, filters and water treatment systems. Each of these will need to be drained, disconnected or both.

It is recommended that nontoxic antifreeze (the kind you use in RV's, it's usually pink in color) be poured into the bottom of the dishwashers and washing machines to prevent leftover water in the pumps from freezing.

Once all the water supply lines and appliances are completely empty, flush the toilets until they are empty. Then winterized toilets and other sink and lavatory drain traps by putting nontoxic anti-freeze solution in them to prevent the residual water from freezing.

If at all possible, leave the property's heating system on and set at 45 to 50 degrees during extreme cold. This simple solution can eliminate many problems even though it may cost \$100 to \$200 per month. This is a small price to pay in view of the potential damage repair cost from frozen pipes.

DON'T FORGET YOUR HEATING SYSTEMS

You might not think a furnace would contain water, but some do. High-efficiency furnaces (also called condensing furnaces) generate a significant amount of condensation from the water vapor in the flue gases.

These systems, as well as air conditioners, have a condensate drain line. Sometimes the condensate feeds into a floor drain, but if there's no drain available, the condensate drains into a small pump, which pushes the condensate fluid "uphill" into a plumbing drain or to an outside location. Though there is less chance of damage, these items should also be reviewed.

Some properties have more elaborate heating systems such as hot water boilers, water source heat pumps, solar panels or radiant floor heaters. In such cases, it is *very strongly* recommended to hire a professional familiar with these systems. These heating systems sometimes circulate water instead of a freeze-resistant fluid, or may interconnect with the plumbing system or hot water heater. Don't assume these systems could simply be turned off without any danger of freezing.

DOORS, WINDOWS AND ROOFS

Next, make sure the door and window openings are tight to help eliminate heat loss. A little caulk, weather stripping or threshold rubber can go a long way. Storm windows and doors are another solution that can help prevent heat loss and draftiness. This may be cost-prohibitive, but is a long-term solution.

Roofs and gutters need close inspection, too. Look for loose or broken shingles, especially if the property is located in an area with occasional hailstorms.

Check the flashing around chimneys and anything else that penetrates the roof; make sure the flashing is capable of preventing melting snow from leaking into the property. Adding additional insulation in the attic may also prevent ice dams. Make sure all gutters and downspouts are clean of debris to allow melting snow to drain off the roof.

Additionally, heavy accumulation of snow should be removed from roofs. Roof structures are designed to handle additional wind and roof load, but the accumulation of excessive snow can present a static load that easily exceeds design limits.

There are many other things that may need attention in the winterization process—things like foundation openings, chimneys, wood stoves, duct repair and attic or pipe insulation, to name a few. Each property is unique and will need a specific winterization plan.

Remember, a small amount of winterization preventative action could save thousands of dollars and lots of aggravation.

Burning Issues About Cold Weather

by James Hart

HOW TO PREVENT FIRE, FREEZING AND OTHER LOSSES AT YOUR PROPERTIES

Winter usually isn't a busy season for insurance companies that work with rental properties, but the last one was a nasty exception.

Extremely cold air covered North America, including states like Georgia, Mississippi, Alabama, South Carolina and Florida, which normally never see temperatures go so low. Property owners there experienced a spike in burst pipes and water damage.

"Not only are the homes in those states not built for cold weather extremes, the cold temperatures came on fast and didn't provide time for homeowners and property managers who had not planned ahead to make last-minute preparations," said Rick Abell, executive vice president at Affinity Enterprise Group.

There were two frustrating things about these cases, he noted. One, in most cases, the damage was preventable. And two, many of these losses were not covered by an insurance policy. Instead, the owners had to pay for the loss out of their own pocket.

As winter draws near, Abell and BreAnn Stephenson, loss prevention specialist at Affinity Group Management, shared some advice on preventing the most common winter-related insurance claims.

A BASEMENT-SIZED ICE CUBE

Frozen pipes have led to some of the worst "worst case scenarios."

Abell remembers the story of a Mid-western family that left for a long out-of-state vacation.

"Before their trip, the temperatures were moderate," he said, "but a cold snap came through, and a pipe that fed an upstairs bathroom froze and burst. When the temperatures warmed up enough, an estimated 44,000 gallons of water emptied into the house."

Stephenson was floored by a similar case from Detroit, where a property manager took some soon-to-be tenants to a property-only to find the basement was full of ice.

There also was significant damage on the first floor, where the water had frozen in what looked like waves, Stephenson said.

Real estate investors can prevent problems like this at their properties by making sure the heating is reliable and by winterizing the property.

If a house is vacant, investors need to shut off water to the property and make sure the lines are cleared of any standing water. If you happen to be an out-of-state investor, ask your property managers what they're doing to winterize your property and prevent burst pipes. Make sure your contract with them covers this kind of work.

Even if you live in the same community as your rental property, it pays to be a little paranoid about whether the water is actually shut off.

"If you had the water company shut the water off, did they in

fact do it?" Abell said. "If you are selling a house and somebody comes in to do an inspection, did they turn the water on and then forget to turn it off?"

BURNING ISSUES

While frozen pipes are a major concern, don't overlook fire hazards, Stephenson and Abell said.

Change furnace filters, and if a property has a fireplace, see that it is cleaned out and that residents know how to use it properly.

Clean out your properties' dryer vents each year, too. Dryer vent fires can cause serious losses—more than \$236 million in direct property damage in 2010, the National Fire Protection Association reports.

Warn tenants about dangerous habits, such as using their ovens to heat their houses or relying on out-of-date space heaters that lack automatic shutoffs and other modern safety features. Tell them to make sure there is a 3-foot "safe zone" around the space heater. This area should be free of any items that could catch fire by coming in contact with a hot element, and children should not play in that area.

Securing vacant properties to prevent strangers from breaking in also is important. Homeless people sometimes will use an empty house as shelter. "There was one case I remember where someone had burned a phonebook in a trash can, and that ended up burning the house down," Stephenson said.

Installing motion-detector lighting and alarms or regularly checking your properties can help.

And finally, make sure you know what your insurance policy does and doesn't cover. Most vacant properties, for example, only receive basic coverage, which doesn't pay for cases of water damage.

"It's warm outside now, but winter is coming," Abell said. "Get prepared and save yourself some headaches."

HOT TIPS FOR SUCCESS

Get it in writing!

All leases, whether month-to-month or six months or a year, *should* be in writing. (All leases of one year or longer *must* be in writing.) Trying to evict a tenant for violating a lease agreement is pretty tough to do without a document to back it up. Collecting damages for unpaid rent or for other items that the tenant owes, such as a water payment, are nearly impossible to prove without something in writing. Written leases need to be in place to lay out what is expected of the tenant and where responsibility lies for maintenance, snow shoveling, etc. Even with a "verbal lease," some things still have to be in writing under lease laws in Michigan to ensure the tenant is aware of their rights, e.g. their right to terminate the tenancy if they are facing a proven situation of physical abuse. This all seems obvious, but, believe it or not, there are still landlords that fly by the seat of their pants using verbal agreements. Don't be one of them!

~14 Ideas~ for Zero Resident Turnover by Brent Williams

It has been said that there will always be resident turnover at some point. Well, this got me thinking: What would be the steps to approach zero resident turnover? Obviously, zero resident turnover is not actually possible, but if we set our goal at the best possible outcome, we are more likely to get farther along than if we try to barely move the needle. So let's have some fun brainstorming how to move the dial towards zero resident turnover!

Stop Pushing Residents Out of the Door

1. **Customer Service and Maintenance.** This is obviously step #1. If your residents have lingering maintenance requests, or if your customer service is not up to par, then you will easily drive them from your community.
2. **Long-term Lease Contracts.** Create alternatives to the standard one-year lease by offering longer term leases. Why do we constantly make our residents re-evaluate their living situation year after year?
3. **Apply Concessions Immediately.** Obviously, concessions are not recommended, but if they must be given, have it applied immediately to first months of lease. Therefore, the lease renewal isn't coupled with a large increase in rent purely because of the concession expiring.
4. **Release the Bad Apples.** With your residents consolidated in such a small area, it is easy for one nuisance neighbor to make life miserable for several others, such as noise disturbances, trash, and other issues. Instead of placating these bad residents, we need to have good solutions to actually enforce our leases and drive these residents out the door. The key? Document, document, document!
5. **Rent Increases Coupled With Benefit Increases.** We obviously want to capitalize on market conditions that allow for higher rents. But honestly, we often get very lazy when it comes to the increase, with the mentality of "Take it or leave it, we'll find someone else to lease your apartment." But that means that although you have gotten your increase, you have to offset it with the turnover cost. And besides, residents don't buy the market adjustment "sale". Yes, if they move out they will get similar rent elsewhere, but then at least they get a freshly painted apartment with possibly new carpet, etc. So if we are giving big increases, why not include some benefits as well to soften the blow? By escaping the turnover cost, you can easily afford some tantalizing renewal benefits if they take the large rent increase.

Inspire Residents to Actually Want to Stay

6. **Establish Emotional Ownership.** The more effort you put into something, the more likely you are to stick with it. A great example of this is Google+. So many people will not want to join Google+ because they have already established their social circle on Facebook, as well as putting so much effort into their profile. When it comes to renting, however, customizing and making the apartment their "home" is a bit more difficult, although renewal upgrades could be the sell here.
7. **Create a "Sense of Community."** This is another factor that moves from pushing out residents through bad service to making them actively want to stay. Human connections are incredibly powerful, so we should be analyzing more direct strategies to foster them.
8. **Long-Term Resident Benefits.** Create a system where longer-term residents acquire special privileges, rights, etc. the longer they live at your property.
9. **Resident Referrals.** Not only do resident referrals provide new leases, but they are inherently resident connections right from the start. Plus, having friends in the community essentially means you have an "undercover sale force." If Jack's friend is thinking about moving, but Jack's lease doesn't expire for seven months, he will actively try to convince his friend to renew!

Target Prospects Who Will Become Long-Term Residents

10. **Target Niches.** A resident will more likely stay at a community that ties in with their lifestyle in a focused way. For example, going beyond just "pet friendly" to a dog paradise would create multiple connection points beyond just having a "sparkling pool" and granite countertops. For example, an unbelievable dog park will actually inspire someone to say, "Duke LOVES the dog park-I would hate to take him away from that."
11. **Targeted Resident Traits.** Some residents are predisposed to living at one place for long periods of time. Effectively targeting these types of residents can naturally lengthen the stay for the average resident. (Targeted traits could be professions, such as teachers potentially, and personality traits, such as those who don't like change in their life.)
12. **Target Current Long-Term Residents From Other Communities.** If someone is currently a long-term resident somewhere else, that means they have the personality type to stay at your community for a long time as well. In a non-targeted way, you could market special benefits to those that have rented/owned their current residence for over five years.

~14 Ideas~ for Zero Resident Turnover

Exclude Prospects Who Will Not Likely Be Long-Term Residents

13. **Tighten Up Resident Approval Process.** Not only do you want to proactively reach out to those who could be long-term renters, but you also want to weed out those who surely won't. Obviously, do not do anything that violates Fair Housing, but restrict residents who are obviously more transient by requiring that they have stayed at their previous residence for longer than X years. Also, you might increase income requirements to lower the chance of default.

Problem-Solve To Help Residents Stay

14. **Helping Residents Who Are on Hard Times.** In a time of high unemployment, we will have situations where residents want to stay but simply can't because of finances. We can help in a variety of different ways:

- **Roommate Finder** - Create a program that helps residents find roommates to help spread the cost of rent among multiple people.
- **Job Finder** - We already have Preferred Employer Programs to get referrals from companies, but why not reverse the situation? Work with companies to establish a job board and special lead-ins for residents who have lost their jobs? Also, provide events that will help with finding a job, such as a resume development workshop.
- **Miscellaneous** - Your community should have a list of every reason someone decided to move. For each reason, there should be a way that you are actively countering that.

Bonus 15th and 16th Steps

15. **Reward the Right Actions.** Currently, we congratulate ourselves on new leases and give bonuses just for that purpose, but should we be celebrating what is really a fix to an earlier problem (the loss of the resident in the first place)? If you reward new leases rather than renewals, you are setting the culture of your company to say that leasing is more important than resident retention.
16. **Train for Resident Retention Success.** Raise your hand if you have had sales training as a leasing consultant. Now raise your hand if your training on community building and resident retention concepts were as in-depth as the sales training! Not too many of you, Huh? If we want to be successful on the steps listed above, we need to make them a priority by giving them enough resources, such as training, funding, and time!

How to Handle Residents that Hoard

by Lynn Dover

Resident hoarding can cause significant health and safety problems, both in the hoarder's unit and in neighboring units.

Hoarding can create pest infestations, mold problems, increase fire risk interfere with entrance or exit of the unit or exceed maximum load bearing floor capacity.

These things, of course, make it difficult to keep the surrounding residents happy.

Hoarding is rarely self-reported by the hoarder. Instead, it is often discovered by maintenance staff making a repair in the hoarder's unit or in a neighboring unit. Hoarding can create a problem for the surrounding units such as water intrusion, mold or a pest invasion in the neighboring unit. Not just a matter of poor housekeeping, hoarding is believed to be a form of anxiety disorder and/or obsessive-compulsive disorder (OCD). Depression can also be a component.

HOARDING IS LOOSLEY DEFINED AS:

- The acquisition of a large number of possessions that appear to be useless or of limited value
- Living spaces cluttered so they can no longer be used for their intended purpose and
- Causing significant distress or functional impairment

Hoarding items may be valuable collectibles or trash or anything in between. Units can be literally packed floor to ceiling and wall-to-wall, with just a small path for movement in the unit.

Because hoarding is caused by one or more psychological disorders, compulsive hoarders are generally considered disabled. Federal and state fair housing laws protect people with disabilities, including mental disabilities. Fair housing advocates contend that before eviction of a mentally disabled resident whose disability is causing the person to violate the terms of the lease or rules, good faith efforts must be made to accommodate the resident's disability. This generally requires that the resident be given an opportunity to come into compliance so that he or she can remain a tenant.

EXAMPLES OF POTENTIAL ACCOMMODATIONS

- Setting scheduled unit re-inspections and establishing goals that the resident must meet
- Providing the resident with a list of community resources that can assist the hoarder
- Working with a fair housing and/or mental health advocacy group assisting (conclusion page 9)

Avoiding Digital Doomsday by Bill Szczytko

Bill Szczytko is the kind of multifamily industry veteran whose job description can't be pigeonholed into one department. With an interest in marketing, job title based in IT, a strong grasp of social media and a passion for real-life residents, Szczytko has earned a following as someone who can be counted on to deliver prescient insight about apartment management. His network of contacts in the industry is nationwide, and he effectively uses Twitter to gain a grasp of what fellow multifamily professionals are talking about this very minute. He appeared at the 2014 Apartment Internet Marketing conference in Huntington Beach, Calif., where he talked about avoiding landmines while doing business online. He shared additional insights into what those landmines look like in a recent interview with *MHN* Contributing Editor Leah Etling.

What are the most worrisome threats that multifamily firms might face from hacking?

The most worrisome threat we face is our own complacency. Hackers want one thing. Information. This information can be social security numbers, credit card numbers and bank account information. Some try to obtain this information for the fun of it, but most use this information to make money. There are many ways they try to get it. Viruses, phishing schemes, brute force attacks, and hacking weak user account information. Most threats can be avoided just by being smart about how you surf the Internet and the kinds of passwords you create.

What best practices are necessary for a company seeking to protect itself in the online realm?

It's essential that you have several things in place. First, is a password policy that walks a good line between passwords people can remember and security. Second, is a form of antivirus running on the company machines. The best antivirus is always you, but it's hard to get people up to the same level in regards to what is dangerous online and what isn't. Antivirus at least gives you a pretty good shield. Third, make sure you have a policy in place when employees leave. You have to make sure their user accounts are disabled. Also, if an employee leaves who helped you with your social media, make sure you change the passwords for that too. You don't want a possible disgruntled employee swinging away at you.

What viruses should we be concerned about?

There are two for Windows that are genuinely nasty. One is any of the fake antivirus ones. Perhaps you've visited a site that all of a sudden "scans" you're your computer and reports how many Trojans and Viruses you have installed. Websites can't scan your computer for viruses without your telling them to. These are scams, designed to get you to install it, then pay money to the virus writers to remove it. The other really bad one these days is Cryptolocker Ransomware. If you haven't heard of this you need to research it and learn more about it. It's probably the worst virus I have ever seen in my 30 years on the computer. Most viruses can be removed with professional assistance. Cryptolocker can also be removed with professional assistance but it goes one nasty step further. This virus actually encrypts, not just all of your local files, but also network ones as well. Then it uploads the key used to encrypt it to the hackers' servers. In order for you to get your files back, you will have to pay upwards of \$700. There are no cracks or antivirus removal tools to undo the encryption. You either pay or lose your files. Very dangerous stuff.

Also, don't be Apple arrogant; you can get viruses too, especially from unpatched versions of Java.

Has Heartbleed affected the apartment industry?

I asked around the industry and got very good response. Yardi and RentLinx were never affected. Other vendors patched their servers and are fine now but they recommend that you change your passwords. Heartbleed has a really difficult vulnerability because you don't know if anything was actually taken over the two years that it's been in the wild. The hack was completely untraceable. After a site that you use has patched the vulnerability, (use this site to check) make sure you change your password. Better safe than sorry.

How about more "old-fashioned" scams like phishing?

Sometimes, something old fashioned still works well. Recently we received a massive amount of emails from one vendor who had installed a virus on their computer. This email contained a few lines of text and a link to a site. This site, if you looked closely at the URL, was NOT google but if you went there it looked like a Google login page. The hackers wanted your account information. Phishing scams work because people do not pay attention to the URL structure. If you move your mouse over a link, your browser window will tell you where that link is pointing to (usually in the lower left corner). Make sure it's going to where you think it should. For instance, if the email is purported to be from Bank of America make sure the domain in the URL is Bank of America's!

Are there any concerns around domain name security?

Always. It all goes back to being smart about what passwords you use and who you give your information out to. If your site received decent traffic and a hacker has access to your DNS records, it's easy for them to point your domain somewhere else. Typically this somewhere else could be a porn site, spam link site, or a site that hosts viruses. Another little known thing is typosquatting. Typosquatting is where spammers will register misspelling of popular domain names. An example of this would be goole.com instead of Google. People misspell all the time. The thought is, when you do it, it will take you someplace you aren't expecting. Make sure you're checking your URLs! There's a great website where you can see how many spammers are typosquatting around your own domains.

Changing passwords is a pain. Is it necessary?

It is both. People shouldn't share their password but I know it happens. You probably forgot that you did. Changing passwords cleans the slate. If a hacker has figured your password out, changing it will negate it. It is a pain though. We're human beings. I can hardly remember what I did yesterday. The best passwords to use are at least eight characters long, not based on a dictionary word, are significantly different than your last, and contains characters from each of the four types: uppercase letter, lowercase letters, numbers and a symbol. If you follow these guidelines, your password will be unbreakable. The best advice is to not use the same password across all of your sites. What I like to do is memorize three different passwords and then create variations on those passwords using the same set of characters. It gives me the variety I need without overtaxing my brain too much. Doesn't mean I don't use the Forgot Password links from time to time. Strong passwords are a frustrating but a necessary thing.

Procedure for Collecting Fees on Returned or Bounced Checks

Michigan law provides a special procedure for collecting bounced checks plus some penalties and costs.

If you received a rubber check, the law permits you to send the below notice to the drafter by first class mail.

If the drafter makes good on the check within seven (7) days from date of mailing, then they have to add a \$25.00 fee, payable to you. If it is made good within thirty (30) days, the fee is \$35.00. If the drafter or maker of the check does neither, then they are responsible for civil damages of up to twice the amount of the check, or \$100, whichever is greater, plus costs of \$250.

Collection action can be started in the small claims court to get to judgment, including the above fees and costs.

Sample Letter:

DEMAND FOR PAYMENT

TO: *(Tenant's Name and Address)*

PLEASE BE ADVISED that a check, draft or order for payment of money drawn by you for \$_____ was returned to [NAME OF LANDLORD/COMPANY] dishonored for:

Insufficient funds

No account

Pursuant to MCL 600.2952, this notice is a formal demand for payment of the full amount of the dishonored check, draft or order plus a processing fee of \$25.00 for a total amount of \$_____. If you pay this total amount within seven (7) days, excluding weekends and holidays, after the date this notice was mailed, no further civil action will be taken against you.

If you do not pay the \$_____ as requested above, but within thirty (30) days after the date this notice was mailed you pay the amount of the dishonored check, draft, or order plus a \$35.00 processing fee, for a total amount of \$_____, no further civil action will be taken against you.

If you fail to pay either amount indicated above, we will be authorized by state law to bring civil action against you to determine your legal responsibility for payment of the check, draft or order and civil damages and costs allowed by law. A maker who fails to make payment and who is found responsible for payment in a civil action is liable to the payee for payment of all of the following:

- (a) The full amount of the check, draft or order;
- (b) Civil damages of 2 times the amount of the dishonored check, draft or order or \$100.00, whichever is greater; and
- (c) Costs of \$250.00

If you dispute the dishonoring of this check, draft or order, you should also contact your bank or financial institution immediately

Dated: _____, _____

[NAME OF LANDLORD/COMPANY]

House Bill 5230 would tag any house that is damaged by *fire, wind, or flood, or that is dilapidated and becomes an attractive nuisance to children or a harbor for vagrants or criminals, or enables persons to commit a nuisance or an unlawful or immoral act on the premises*” as a nuisance property. The bill would also add “human trafficking” to the list of nuisances that can trigger a local government seizure of a property.

Under Michigan current nuisance abatement laws, local governments can compel property owners to clear debris, repair buildings, and stop illegal activities involving gambling, drugs, and prostitution. If the property owner fails to comply, a court can issue an order allowing the property where the nuisance activity occurred to be seized and forfeited. The nuisance activity must be proven with a police report. Once a property owner is informed of the illegal activity, the simple resolution is eviction of the residence occupying the unit where the illegal activity occurred.

HB 5230 would significantly expand the nuisance law by opening the door wide open to any local government declaring a “dilapidated” property a nuisance by simply saying that the property has become an attractive nuisance. The RPOA envisions a significant abuse by local governments if this bill is passed.

While the RPOA believes that landlords should cooperate with authorities in the efforts to eliminate human trafficking—including eviction of the tenants involved in the crime—the RPOA can’t support a bill that opens a wide door to abuse by local governments. Imagine dealing with a fire that has destroyed your profitable rental unit only to find a local official claiming the property is now an attractive nuisance to a crime and they are going to seize it.

The RPOA supports adding human trafficking to the list of nuisances under the current law, but it can’t accept a law that will declare any property in disrepair a nuisance property subject to seizure and forfeiture. The RPOA will be working over the summer and fall to change the language in the bill.

SQUATTER BILL PASS SENATE

The Michigan Senate passed a package of bills dealing with squatters in residential property. The bills (HB 5069, HB 5070 and HB 5071) aim to help the owners of homes where people have set up camp for free. “Squatting is becoming far more sophisticated,” said Rep. Kurt Heise (R-Plymouth), the sponsor of the bills. He said that squatters are referencing lists of foreclosed or vacant home to pick a place. In addition, He said there were advocates out there telling the squatters how to use the legal system to their advantage in the situation. “Squatters, modern squatters, and the well-educated squatter is using those rules to their advantage,” Heise said.

The bills provide that a property owner’s actions would not unlawfully interfere with an occupant’s possessory interest if the occupant were trespassing and allow a property owner to enter premises by force if the occupant took possession of the premises by force or trespass.

The RPOA of Michigan (RPOA-M), a supporter of the bill, worked closely with Rep. Heise on the language of the bill to

ensure its effectiveness. Clay Powell, Director of the RPOA-M, says that the organization is pleased with the final language in the bill. The bill will give property owners the authority and right to remove squatters from their properties without having to evict them as if they were a tenant.

Powell cautioned property owners not to confuse this new law and squatters with additional persons moving into a rental unit. The law does not give a landlord the authority to throw out persons that have unknowingly moved into a rental unit with another tenant. “If a tenant is in violation of their lease by allowing additional persons to move in them without the knowledge and/or consent of the landlord, landlords must pursue action against the legal tenant to either resolve the situation or through eviction for violation of the lease.”

GOVERNOR SIGNS BILL HANDING LAND BANK LEADERSHIP TO MSHDA

Gov. Rick Snyder issued an executive order placing the administration of the State Land Bank under the Michigan State Housing Development Authority (MSHDA).

The land bank, known formally as the State Land Bank Fast Track Authority, will cease to have a board of directors and executive director. The person who had been serving a interim director, Michael Wildman, was an executive on loan. She will return to MSHDA in her former capacity, according to the administration.

The Land Bank’s board chair and vice chair positions were vacant, according to its website, and three other board positions included state Treasurer Kevin Clinton, Mike Finney, president and CEO of the Michigan Economic Development Corp. (MEDC), and MSHDA Executive Director Scott Woolsey. Clinton or his designee already serves as chair of the MSHDA board.

No jobs were lost as a result of the executive order, according to Snyder spokesperson Dave Murray.

The land bank will continue to exist as its own entity within MSHDA, and its functions and duties will operate independently of MSHDA and its funds will be accounted separately from state and MSHDA funds, according to the Governor’s office.

The state land bank was created in 2003 and works to promote the revitalization of neighborhoods and communities in Michigan, according to the Governor’s office. It encourages economic growth and community safety through blight removal projects, acquisition and sale of public property and support of local land bank operations.

Recent projects the state land bank has been involved with include a jointly created entity with MSHDA that will house Michigan’s first statewide EB-5 visa center to attract foreign investment.

But the land bank also drew criticism from some for how it’s overseen and redevelopment of the state fairgrounds in Detroit.

Just a year ago, Snyder transferred the land bank to MSHDA from the Michigan Strategic Fund.

3 THINGS THAT MAKE A GREAT REAL ESTATE INVESTMENT

Source: Zillow.com

If you're looking into real estate investments, you likely want to earn wealth on real estate based on risk you are taking, while minimizing the amount of time you need to spend attending to the property. In order to accomplish this, you need to make some smart choices upfront when buying investment property. Your goal should be to strive to get as close as possible on as many of these optimal scenarios as possible:

#1 PAYS A FAIR CASH-ON-CASH RETURN

When you buy property you are taking money out of your liquid financial assets-stocks, bonds, CDs - and investing it into a very illiquid asset - real estate. You were earning a rate of return on your financial assets, such as 4 percent or 6 percent, and you should strive to earn a fair cash-on-cash rate of return on your real estate. To do this, you need to pro forma your deals and buy cash flow-positive properties that earn you decent returns - not those prize properties that are negative, negative, negative. For more guidance on this, see Smart Investing - A Tale of Two Townhomes.

#2 ISN'T TOO RISKY AN INVESTMENT

All real estate is extremely high risk. Development of real estate, land, Tenant-In-Common- (TIC) investments, private real estate funds, fixer uppers, etc., all have much higher risk profiles than just simply buying a nice established cash flow investment property. In many of those investments, you will never see a dime of your money again because there are just so many things that can go wrong! So if you want to own real estate, consider simply taking fee simple title in your own name - or an entity you wholly own - to the properties you purchase. In addition, you must do the proper due diligence, analyze, test, review reports, etc., to make a lower risk real estate decision.

#3 DOESN'T REQUIRE A LOT OF TIME OR MANAGEMENT

Some properties just require way too much time and management to make them smart investments. Examples include vacation rentals, low quality properties in bad areas, college rentals, etc. Nice boring properties rented for as long as possible to decent credit profile tenants seem to take the least time to manage. In addition, treating your tenants fairly and with respect goes a long way towards keeping good relations with them; and reducing your hassles when there is an issue you need to address. And believe me there will be issues!

It's the nice, boring, wholly owned, in good shape, cash flow-positive properties that are the best investments. They are out there for your picking, but it's not as simple as finding a property on the MLS and buying it.

You need to some hard work, research, read up, and make smart, educated decisions to acquire the best real estate investments.

How to Handle Residents that Hoard (conclusion)

the resident to develop a plan to bring the unit into compliance

When dealing with a hoarding situation, the focus should be only on solving legitimate health and safety issues rather than attempting to achieve ideal housekeeping habits. It should be recognized that even if the hoarder meets minimum health and safety standards, the unit may not be in an "optimal condition."

Hoarders may not recognize the severity of the problem or be equipped to resolve the hoarding problem on their own. Some hoarders believe their hoarding is beneficial because they are savers, not wasters. Others deny that any problem exists. As a result, it may be helpful to involve a neutral third party such as a fire department, code enforcement or health inspector who can inspect the unit and identify code or other health and safety violation.

TERMINATION OF THE TENANCY MAY BE POSSIBLE IF:

- The person is a clear, direct and immediate threat to the health and safety of other community residents
- There are serious health and safety issues that cannot be mitigated through accommodation
- The resident has caused serious monetary damage to the unit and will not reimburse the landlord for the cost to repair the unit
- The hoarder will not engage in the accommodation process or cooperate to bring the unit back into compliance

ACCOMMODATION AGREEMENT

Even if health and safety issues are initially resolved, a hoarding resident may "slip" and re-ward again in the future. Therefore, a written "Accommodation Agreement" should be considered, providing periodic unit inspections and a specified time period for correction of future health and safety issues.

No two situations are alike. Each hoarding situation requires analysis based on the facts of the particular case. It is advisable to seek legal advice before taking any action to terminate a tenancy if compulsive hoarding may be in-



“POP UP” TAX REFORM POPPED FROM PANEL

Elimination of Inheritance Tax for Homes Passes House from LEGISLATIVE NEWS

Homeowners could pass along their homes to family members or put them into a trust without having their heirs' pay what is called the “pop up” tax, under legislation that moved out of the House Tax Policy Committee this morning on a party-line vote.

House Bill 5552, sponsored by Rep. Peter Pettalia (R-Presque Isle), pushed his first version of this idea in 2011 as a way to keep family cottages and property in the family without heirs being faced with huge property tax bills they can't afford to keep.

The Department of Treasury, Democrats and local government groups argue the bill is taking away potential future revenue for cities, townships and counties, but doesn't cost anybody anything.

“It's not reducing property taxes. At worst, it's keeping things revenue neutral.”

As a sweetener to get Proposal A passed in the mid-1990s, the state agreed to let taxable property values any higher than the rate of inflation or 5 percent, whichever was less. But, when the homeowner sold his or her home the property tax bill for the new homeowner “pops up” to 50 percent of the parcel's market value.

This “popped up” value, after about 20 years, can be significant and make the difference between a mother, father, brother, sibling, child or grandchild being in a position to keep the property after the homeowners passes it along.

The Department of Treasury is estimating that without the language allowing for the passage of property to a trust, the cost to local governments will be around \$2 million lost a year.

“We're not talking about a lot of money here,” Pettalia said.

“We're talking about protecting Michigan families and the traditions and heritages in which they were raised. That's our responsibility. Our responsibility isn't to worry about potential revenue. This is protecting families.

However, the Michigan Education Association (MEA) and the American Federation of Teachers (AFT) have come out against the bill because they see this as a gradual chipping away of property tax revenue that was expected, eventually, to flow back into the schools.

Holding property values at the rate of inflation of 5 percent in the post Proposal A was not meant to be a permanent property tax cap scheme, said Rep. Vicki Barnett (D-Farmington Hills).

The “pop up” was designed to be a discount for voters who voted for Proposal A until they sold their home.

This bill, she said, is “nicking and nicking and nicking the mechanism that was supposed to keep communities whole, the School Aid Fund whole and provide for the health, safety and welfare of local communities and the education community.”

The huge drop in property values in 2008-2010 reduced the amount of money local entities received through property taxes. And now, due to this cap, they can only raise back to their former levels at the set level of 5 percent or the rate of inflation.

“It's going to take 20 years for local communities to recover the amount of money they lost in addition to the taking of \$6 billion in revenue sharing money to local communities,” Barnett said.

Rep. Jeff Farrington (R-Utica), chair of the House Tax Policy Committee, said he's heard this argument for the last three years, but the realistic impact of this bill is “minute,” as is every other change in the tax code with the exception of the “sales tax on the difference” legislation.

“They're just hitting the same hole over and over again,” he said. “Politics.”

INSPECTION BILL SB 313 PASSES SENATE WITH OVERWHELMING SUPPORT! FROM LEGISLATIVE NEWS

No More Outlandish Registration Fees

A bill that will change municipal rental inspection programs passed the Senate with an overwhelming majority on June 2 with just three no votes. Senate Bill 313, also known as the “inspection bill,” sponsored by Sen. David Robertson and supported by the RPOA of Michigan (RPOA-M) and the Apartment Association of Michigan (AAM), will make changes to the Housing Law of Michigan which controls how cities of 10,000 or more operate their rental inspection program. The bill will, in part, do the following:

- * Provide the registration of rental properties only occurs upon change of ownership or at the time of re-registration when additional units are added to a rental property.
- * Cap the amount an enforcing agency can charge for rental registration by prohibiting the agency from charging a new registration fee until there is a change in ownership or re-registration.
- * Registration fees are redefined to only include fees associated with the registration of the rental property-not inspections, re-inspections or otherwise-further limiting the amount an agency can charge for registration.

The bill was seriously watered down in the negotiation process, but, for those landlords facing frequent and/or sizable registration fees, this bill will equal a savings of thousands of dollars over a several year period. The bill now has to jump through the hurdles of the Michigan House of Representatives. The RPOA-M Director, Clay Powell, is hopeful that the bill will pass in the Fall.

Here's the text of the full bill as passed by the Senate.
<http://www.legislature.mi.gov/documents/2013-2014/billengrossed/Senate/pdf/2013-SEBS-0313.pdf>

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