



# Residential Rental Reality

## Residential Property Management

By Natalie Danielson

This 5 clock hour real estate course focuses on the basic principles and practices of residential property management. In addition to learning about the field of property management and tenant administration, the Washington State Landlord Tenant Act, Fair Housing Laws and Agency Law are covered. This course is a strong introduction to a field in which almost all real estate agents, at one time or another, get involved.

PROFESSIONAL *Direction* INC

email: [clockhours@gmail.com](mailto:clockhours@gmail.com)

[www.CLOCKHOURS.com](http://www.CLOCKHOURS.com)



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## **Clockhours by Mail**

1. You will be provided with a booklet of with the class material. It is for use as a clockhour class under Professional Direction. Any other use by permission only.
2. The course has been divided up into one hour sessions. In Washington State a “clock hour” is 50 minutes. There are questions about each session. They can be answered while reading the material, at the end of the session, or at the end of the course.
3. ***Answer*** the questions on the quiz answer sheet.
4. If you have any questions regarding the material or the questions, don’t hesitate to email Natalie Danielson.
5. ***Email*** Answer Sheet and Evaluation to Professional Direction.
6. The certificate will be mailed or scanned within hours usually. If you are desperate, let us know.
- 7.

Disclaimer.. the course materials and questions are not to be used for legal advice. Information can change over time. Real estate transactions are handled different ways in different regions in the State of Washington. If you have any comments or concerns about the material contact Professional Direction.

Thanks!

*Natalie Danielson*

**PROFESSIONAL Direction**  
**Email: [clockhours@gmail.com](mailto:clockhours@gmail.com)**

# Residential Rental Reality

## Residential Property Management

### Curriculum

<b>Session Hours</b>	<b>Major Topics</b>	<b>Assignment</b>
1 1/5 hour	<b>Introduction</b> Identify the course objective and learn about the field of property management.	Read Booklet Take Notes
2 2 hours	<b>Landlord Tenant Act</b> Identify responsibilities of landlords and tenants. Discuss different types of agreements. Differentiate fees and deposits. Explain obligation and procedures for repairs. Identify privacy and personal property issues. Discuss termination of tenancy.	Read Booklet Take Notes
3 1/5 hour	<b>Fair Housing</b> List 7 federal protected classes. Identify actions that can be considered blockbusing or steering. Describe 3 actions that are illegal. List other protected classes besides Federal.	Read Booklet Take Notes
4 1/2 hour	<b>Agency Law Lead Paint Disclosure</b> List 5 exemptions of presumption of tenant agency. Distinguish between material fact and negative stigma. Explain agency disclosure requirements. Know 4 ways to terminate agency relationships. Know the background and requirements for lead paint disclosure	Read Booklet Take Notes
5 1 hour	<b>Administration</b> Analyze the market for comparables. Know how to determine cash flow. Identify words to avoid in advertising. Qualify a tenant.	Read Booklet Take Notes
6 1 hour	<b>Rental Contracts and Agreements</b> Identify common clauses on rental agreements. <b>Handling Eviction</b> Explain the process to evict a tenant and the reasons to do so.	Read Booklet Take Notes Take quiz

# **Residential Rental Reality**

## **Residential Property Management**

### **Introduction to Property Management**

Property Management is an area of real estate that can include managing one single apartment unit to managing hundreds of units. Property managers are bound by license and agency laws. A person managing property for another must have a real estate license in Washington State. It includes contracts, agency, trust accounts, and market analysis.

A property manager generates income for owner but also must preserve and increase the value of the property. It is often far more than just being a caretaker of residential property.

The profession has not been standardized. There are no widely used common forms, there are no similar job descriptions and there is no formal training for all aspects of the industry. It is one area that real estate agents often get themselves in trouble for not knowing the laws and doing property management without managing under their broker's license.

Most professional property managers work in one of two capacities: as an employee or an owner of extensive properties, or as an independent manager for several owners. In addition, there are opportunities to be a resident property manager.

The professional property manager must have a comprehensive understanding of the economic forces at work in the real estate market. A property manager must be able to evaluate the property in terms of operating income, forecast potential for the future and construct a management plan that reflects the owner's objectives while remaining flexible enough to adapt to future changes in the market. A property manager must become a specialist skilled in space marketing, tenant psychology, the legal aspects of the landlord tenant relationship, maintenance procedures and accounting.

### **Course Objectives**

Upon completion of this course students will be able to do the following:

- Discuss the purpose and organization of the property management function.
- Show a working knowledge of the Washington State Landlord Tenant Act.
- Explain the purpose and general guidelines of the Fair Housing Laws.
- Discuss how Washington State Law on Agency applies to property managers.
- Outline the duties of a property manager including setting rental standards, advertising, prequalifying and qualifying tenants.
- Identify the elements and clauses that are in rental contracts.

*What area of property management are you most interested in learning more about?*

*What types of property management have you been involved in?*

# Professional Associations

There are a number of professional associations that have been created for property managers in all areas of the business. They include:

**IREM.** The Institute of Real Estate Management which was started in 1933. It is a subsidiary of the National Association of REALTORS. Individuals wishing to join must satisfy education and experience requirements and must pass exam. They can be awarded the designation of Certified Property Manager (CPM) in recognition of their professional status as property managers and their affiliation with IREM. In addition, the institute grants qualified management firms the designation of Accredited Management Organization (AMO).

**BOMA.** The Building Owners and Managers Association was started in 1911. They sponsor an educational program for property owners and managers and after completing courses a member can receive the professional designation of 'Real Property Administrator' (RPA).

**NAA.** The National Apartment Association was created in 1939. It sponsors courses for Certified Apartment Managers (CAM).

**RHA** Rental Housing Association It is open to landlords and tenants and real estate brokers.

*Have you heard of these organizations? Ever been a member?*

## Property Management Organization

There are real estate firms that specialize in property management. They only handle property management and not all the other aspects of real estate sales. They may manage their own properties or be a firm that manages properties for a number of clients. The properties can be as varied as a studio apartment to a large 5-bedroom house.

Many full service real estate firms also handle property management. Many firms have their own property management division, which can be a large division, or a single agent that handles property management.

One problem area in the property management field is the individual property management function that salespersons play. Often Brokers, while working for a firm, but acting on their own, negotiate management contracts with owners or investors. Sometimes it can be as innocent as discussing with a seller about their expired listing and the terms for renting it for a period of time to actually handling funds for rent and deposits for the owner. Unless these kinds of situations are disclosed to the firm, the firm is at risk of unknown liability for damages, lawsuits, unpaid rents, misplaced or unreimbursed deposits. It is important to stress that the firm is responsible for all properties and agreements their brokers are engaged in while under their supervision. In addition there are numerous complaints directly to the Department of Licensing regarding brokers conducting property management business independent of their office.

*How does your firm handle property management requests?*

## Legal Guidelines for Property Management

In the State of Washington the Landlord-Tenant Act RCW 59.18 is the law governing residential rentals. It does not cover commercial leases. In addition, there are some other exceptions. A brochure from the Attorney General's office is available on the act.

There are Federal, State and local fair housing laws that also cover property managers.

The Washington State License Law for real estate agents also covers property managers. It is required to be licensed to practice real estate including property management.

The Agency Law that became effective in January 1997 also covers property managers from agency duties to disclosure.

There may also be county and city ordinances that may apply in your area. There are federal laws that govern Section 8 tenants.

Contract laws are applicable whenever signing a residential rental agreement or lease.

Most importantly... NO property management is to be done by an agent for another party/owner without working under the Designated Broker of a firm. You are not to be advertising, showing, filling out contracts or any aspect of renting property without your Firm's knowledge and consent even if you are not earning a commission!

# The Landlord Tenant Act

Knowledge of the Landlord-Tenant Act is imperative for any real estate agent that at any time gets involved in property management in any way in the STATE of WASHINGTON. It is known as the Residential Landlord-Tenant Act of 1973 and can be found in RCW 59.18. A full copy of the law is available from the Department of Licensing.

## State Legislation

There were several legislative changes to the Landlord Tenant Act in 2019.

### **Late rent Pay or Vacate notice**

The 3 day pay or vacate notices was increased to 14 days. The Landlord must wait 2 weeks to start the eviction process. There is a mandatory form required that is in multiple languages.

### **Eviction**

The eviction time frame has been extended from 3 days to 14 days. Rent is to include all reoccurring charges. All payments from the tenant must be applied to the rent first.

### **Military rental termination**

The military clause clarifies the condition where service members can terminate rental agreements early or with less notice. The notice changes to 20 days after receiving orders.

### **Raising Rent**

The timeline to raise rent has been extended to 60 days no matter how small or large the increase. This includes any increase to base rent as well as other reoccurring fees not defined as rent.

### **Termination**

There is a 120 day notice to terminate tenancy due to demolition, substantial renovation requiring a permit, or change of use (senior home, student housing, short term rental) of any rental property. There is an exception for an owner or immediate family member that wants to make it their primary residence. In that case, a 20 day notice is acceptable.

# Local legislation

It is important to know the landlord tenant laws in the jurisdiction where you have a rental.

## **Criminal background check**

In Feb 2018, Seattle landlords will no longer be able to deny an applicant based on any type of criminal records history regardless of the type or severity of conviction. The RHA does provide screening reports for Seattle. It includes adult sex offender search, credit score, eviction search, high risk fraud and alternative ID report, previous address history and Soc Sec verification. The only criminal conviction still allowed to be considered as a reason for denial in Seattle are sexual offense convictions as an adult and requiring registry.

There are similar regulations in other jurisdictions.

## **Rental Inspection**

There are several jurisdictions in the state where a housing inspection is required. In Seattle, there is the Rental Registration and Inspection Ordinance (RRIO). It is required that all rental properties be registered and inspected every 4 years to make sure it is safe. Kent, Renton, and Bellingham are either in discussions or instituting a program.

## **Source of income**

It is a protected class in some jurisdictions or in discussions.

## **Rental Agreement Regulation**

This limits move in charges and requires the provision of a payment plan.

## **Month to month agreements**

The city of Seattle prohibits penalties if the tenant stays for only one month on a month to month agreement.

## **Deposits and Fees**

The city of Seattle regulates the amount of security deposits and move-in fees a renter is required to pay at the beginning of the rental agreement

## **Increase in Rent notice**

The city of Seattle requires written notice before increasing a renter's housing costs: at least 60 days before an increase of 10 percent or more; 30 days before an increase of less than 10 percent.

## **Disclosure of laws**

The city of Seattle requires that at least annually the tenant is provided with "Information for Tenants" brochure that outlines the state and city laws.

## **Pet ordinances**

Some pets have been classified to be dangerous in some jurisdictions.



# Summary of the Landlord Tenant Act

The following is a summary of the major provisions of the act. It is important to review the law in its entirety to know all the provisions.

## **Rights and Remedies**

Every duty under this chapter and every act, which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement.

## **Definitions**

This section defines dwelling unit, landlord, person, owner, premises, rental agreement, single family residence, tenant and reasonable attorney's fees.

## **Exemptions from the Landlord Tenant Act**

The following are exempted from the Act.

1. Institutions, public and private, where residence is incidental to detention or the provision of medical or similar services.
2. Occupancies under bona fide purchase money agreement or option to buy.
3. Transient lodging including hotels, motels, etc.
4. A family residence incidental to the lease of agricultural land.
5. Housing for seasonal agricultural employees.
6. A tenant whose right to occupancy is dependent upon his employment.
7. Space in a mobile home park.
8. Tenants who lease a single family dwelling for one year or more, who have had their attorney approve the exemption.
9. Property used for commercial purposes.

*Does the law cover tenant leases of retail space in a strip mall?*

*Give an example of a rental property that is exempt from the law?*

## Responsibilities of Landlord

### Landlord's Duties include the following:

1. The landlord shall at all times keep the premises fit for human habitation.
2. Maintain the premises to substantially comply with all state and local statutes and codes.
3. Maintain all structural components.
4. Keep any shared or common areas reasonably clean and safe.
5. Provide for the control of insects, rodents, and other pests, except in a single-family residence.
6. Make repairs where not attributed to normal wear and tear.
7. Provide the tenant with locks and keys.
8. Maintain all electrical, plumbing, heating and other facilities and appliances supplied by the landlord.
9. Maintain the dwelling in a reasonably weather tight condition.
10. Provide garbage cans and arrange for the regular removal of waste, except in the case of single family residences.
11. Provide facilities adequate to supply heat and water as reasonably required by the tenant.
12. Provide working smoke detection devices at move in, and a smoke alarm notice signed by both landlord and tenant.
13. Provide the tenant written notice of the name and address of the person who is the landlord. Immediately notify the tenant by certified mail of any change of landlord.
14. Designate an agent who resides in the county where the premises are located if the landlord resides out of state. Doesn't have to be a "real estate" agent... just a representative.

### The Landlord shall not:

1. Intentionally shut off a tenant's utilities.
2. Lock out a tenant.
3. Confiscate a tenant's personal property.
4. Enter the premises without proper notice, except in an emergency.
5. Attempt to physically remove a tenant from the premises.
6. Threaten a tenant with a firearm or other deadly weapon.
7. Attempt to evict a tenant who has been a victim of on-site threats or violence.
8. Rent property, which has been condemned or could be deemed unlawful to occupy due to code violations.

*If the tenant is behind on the rent, can the landlord refuse to pay the utilities so they are turned off until the rent is paid?*

*If after the tenant moves into the unit there is an infestation of cockroaches, is the tenant or the landlord responsible? What if the infestation is due to fleas most likely from the tenant's pet?*

*Give three examples of actions a landlord can and cannot take under this law.*

## Responsibilities of the Tenant

### The Tenant shall have the following duties:

1. Pay the rental amount at such times as required by the rental agreement.
2. Conform to all reasonable obligations or restrictions that are noted at initial occupancy or mutually agreed upon after proper notice by the landlord.
3. Comply with all obligations imposed by municipal, county and state codes, statutes, ordinances, and regulation.
4. Keep the rental unit clean and sanitary.
5. Properly dispose of all waste and eliminate infestation caused by tenant.
6. Properly use all fixtures and appliances supplied by the landlord.
7. Leave the premises in as good a condition as it was at the beginning of the tenancy except normal wear and tear. Tenants are responsible for any damages they have caused.
8. Maintain the smoke detector, including battery replacement.
9. Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his or her obligation. The tenant shall not be charged for normal cleaning if the tenant has paid a nonrefundable cleaning fee.

### The tenant shall not:

1. Intentionally and maliciously damage, destroy or remove any part of the structure, equipment, furniture or appliances, nor permit any other person to do so.
2. Permit a nuisance or destroy property.
3. Unreasonably withhold consent from the landlord to enter the dwelling unit within 24 or 48 hours of a written notice.
4. Engage in drug related activity or allow anyone else to engage in drug related activity at the rental property.
5. Engage in any activity on the rental property, which is:
  1. Hazardous to the physical safety of other persons
  2. Involves physical assaults upon another person which results in an arrest
  3. Involves the use of a deadly weapon, which results in an arrest.

*In a multi-family living situation, who is responsible for the common areas?*

*When a landlord needs to check on the property, how much notice must be given to the tenant? Does this change if there is a life or property in danger?*

*Give three examples of actions that a tenant can and cannot take under this law.*

## **Rental Agreements**

If the landlord collects money as a deposit, the Rental Agreement must be in writing. Both the Rental Agreement and written checklist detailing the cleanliness and condition must be signed and dated by the landlord or his agent and the tenant. A copy must be given to the tenant before the tenant moves into the unit.

### **Month to Month Tenancy**

An oral or written agreement may establish a month to month tenancy, which continues indefinitely until either party terminates the agreement with proper written notice.

### **Lease**

This is a written contract for the tenant to occupy the rental unit for a specified period of time, during which rent will be paid. Both the landlord and the tenant are bound to the terms of the lease during the period of the lease. The tenancy will terminate automatically at the end of the specified period of time.

### **Waiver of Rights**

The rental agreement between the landlord and the tenant cannot

1. Force the tenant to waive any legal rights or remedies.
2. Allow the landlord to sue the tenant without notice.
3. Force the tenant to pay attorney's fees, except those fees authorized by law.
4. Allow the landlord to confiscate the tenant's property without a written agreement signed by the tenant.
5. Designate a particular arbitrator.

### **Rules of Tenancy**

A landlord may change the rules of tenancy in a month to month tenancy by giving the tenant a written notice of the change at least 30 days before the end of the rental period.

### **Rent Increases**

The landlord is required to give the tenant written notice at least 30 days prior to the end of the rental period of any increase in rent in a month to month tenancy.

*What are the advantages and disadvantages to a month to month and a lease agreement?*

*Explain why a landlord and tenant cannot waive certain rights.*

## Handling fees and deposits

### Application Fee/Holding Deposit

1. Collection of a fee for a waiting list is illegal.
2. The landlord must provide an applicant with a receipt for any funds received to hold the unit and must provide a written statement of condition, if any, under which there will be a refund.
3. If the tenant does occupy the unit, the landlord must apply the holding deposit to the first month's rent or security deposit.
4. If the tenant does not occupy the unit, the landlord must process the deposit in accordance with the written statement provided to applicant at the time the deposit was made.
5. This holding deposit must not include any fee charged by the landlord to run an application check.
6. The landlord may charge the applicant for the actual cost of tenant screening process.
7. The landlord must provide the applicant with a written explanation of the screening process and the applicant's right to dispute the accuracy of the screening.

### The Landlord Must:

1. The landlord must have a written rental agreement and a written checklist specifically describing the condition and cleanliness of or existing damages to the premises signed by the tenant in order to collect a deposit.
2. Describe all terms and conditions under which a deposit may be withheld.
3. Deposit all money received from the tenant in a trust account with a bank or Washington State licensed escrow company.
4. Give the tenant a receipt for any money deposited with landlord. The receipt must indicate the location of the trust account. The tenant must be informed in writing of any change in the account's location.
5. Mail any money due the tenant from the deposit to the tenant within 14 days of the tenant vacating the rental unit. Any money withheld must be specifically accounted for to the tenant.
6. Not withhold a deposit for normal wear and tear resulting from ordinary use of the rental unit.
7. Refund the total deposit to the tenant, including reasonable attorney's fees, if landlord does not comply with these deposit requirements.

### Deposit and Fees

1. Any non-refundable money paid to the landlord must be called a fee, and it must be clearly stated in the Rental Agreement that it is non-refundable.
2. A landlord may not take money in the form of a deposit and/or fee from a tenant without a written rental agreement.
3. If any part of a deposit can be withheld as damages, it must be clearly stated as such in the Rental Agreement.

*Does the rental agreement change upon expiration of the lease if there is no agreement to continue with a month-to-month tenancy?*

*Can a landlord charge a screening fee if he does the screening himself?*

*How do you determine "normal wear and tear?"*

## Repairs

1. The tenant must give the landlord written notice of any requested repairs to the rental unit.
2. The tenant must allow the landlord a reasonable amount of time to perform the requested repairs. A reasonable amount of time will vary depending on the type of repair requested, but the general time periods to commence repairs is as follows:
  - a) 24 hours if the repair involves heat, water or a hazardous condition.
  - b) 24 hours to restore hot water or electricity.
  - c) Not more than 72 hours if the defective condition deprives the tenant of the use of the refrigerator, range /oven, or a major plumbing fixture supplied by the landlord.
  - d) 10 days to begin to make repairs in other cases.
3. Either the landlord or the tenant may notify local health or building department of possible health or building code violations.
4. If a tenant's rent is current and all utilities are paid, a tenant may consider one of the following courses of action if the landlord fails to repair a defective condition within a reasonable period of time following written notice from the tenant outlining the needed repairs.
  - (a) The tenant can give written notice and move out immediately without forfeiting any deposit.
  - (b) The tenant may make the repairs and deduct the expense from the rent. If the required repair work needs to be completed by a licensed repairman, or will not exceed two months rent the tenant may:
    - 1) Obtain a bid from licensed repairman and give to landlord.
    - 2) The bid can be given to landlord when written notice of defect given.
    - 3) If the repairs still are not started within a reasonable period of time following written notice, the tenant may contract with the low bidder to have work done.
    - 4) The tenant must make arrangements to pay for the completed work.
    - 5) The tenant must give the landlord an opportunity to inspect the work.
    - 6) The tenant can deduct the cost of repairs from the next month's rent, but the deductions cannot exceed two months rent in any year.
    - 7) If the cost of repair does not exceed one month's rent and the landlord fails to start the repairs in reasonable period of time, the tenant may complete the repairs in a workman like manner. The tenant can repair broken locks after notice has been given to the landlord. If a lock is replaced, the tenant must give the landlord the new keys. The tenant may deduct the cost of these types of repairs from the next month's rent after allowing the landlord an opportunity to inspect the work. The tenant may not deduct more than the cost of repair or one month's rent, whichever is less in any year.
5. In the case of a serious defect, a court or arbitrator may determine that rent should be reduced until the defect is repaired.

*As a landlord how do you handle a drippy faucet in the bathroom differently than a faulty hot water tank? A broken dishwasher vs. a broken furnace?*

*If the tenant breaks the water heater, how should the landlord respond and how does the cost of repair get handled?*

## **Tenant's Right to Privacy**

1. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.
2. In cases of emergency, abandonment or with 48 hours notice to inspect, a landlord does have a legal right to enter the rental unit of a tenant without the consent of the tenant.
3. In order to show a rental unit to a prospective tenant or purchaser, a landlord must give the present tenant written notice 24 hours in advance
4. A landlord cannot use the right to enter the unit to harass the tenant.
5. A landlord has the right to enter the rental unit only at a time of day that is reasonable to the tenant. Tenant may not unreasonably withhold consent to enter.

## **Tenant's Personal Property**

Any provision in a rental agreement creating a lien upon the personal property of the tenant is not legal. Any landlord who takes or detains the personal property of the tenant without the specific written consent of the tenant may be liable for damages of up to one hundred dollars per day.

### **Property left when tenant abandons property**

In cases of abandonment, the landlord may enter and take possession of any property.

1. If the property has an accumulative value of \$250.00 or less, excluding personal effects, the landlord may sell the property 7 days after a notice of sale is mailed to the tenant.
2. Property valued over \$250.00 must be stored for 45 days, after which it may be sold.
3. The property need only be stored in a reasonably secure place and the tenant notified promptly that it is stored.
4. The tenant must pay the actual moving and storage costs before the stored property may be claimed.
5. Notice of any intended sale of the property must be mailed to the tenant.
6. Income from the sale of any property may be used to cover money due the landlord, including moving and storage costs.
7. Any excess funds derived from the sale of a tenant's property shall be held for one year and after one year those funds belong to the landlord.

## **Retaliation**

1. A landlord cannot retaliate against a tenant for reporting code violations or exercising any other rights under the Landlord Tenant Act.
2. Retaliatory actions include unlawful eviction, rent increases, reduction of services, or expanding a tenant's rental obligation.
3. Such acts by a landlord within 90 days from a tenant's exercise of rights under the Landlord Tenant Act is considered to be retaliatory.
4. A complaint made by a tenant to a governmental agency within 90 days of a proposed rent increase or other action by the landlord, taken in good faith, is considered to be retaliatory.

## **Termination of Tenancy**

### **By Tenant**

Giving the landlord or his agent written notice 20 days before the end of the rental period may terminate a month to month tenancy.

### **Due to Threatening Behavior by a Tenant**

1. Any law enforcement agency which arrests a tenant for threatening another tenant with a deadly weapon or assaulting another person on the premises will make a reasonable attempt to notify the landlord of the arrest.
2. A tenant may breach a rental agreement and will not be responsible for the payment of any rent after the unit is vacated if the tenant notifies the landlord in writing, that he has been threatened by another tenant, and;
  - (a) The threat was made with a deadly weapon, and
  - (b) The tenant who made the threat was arrested, and
  - (c) The landlord does not file an unlawful detainer action against the other tenant within seven days after receiving notice of the arrest.
3. A tenant who vacates under the above condition is entitled to a pro rata refund of any prepaid rent.
4. In the case of assault and arrest by a tenant, the landlord may proceed directly to an unlawful detainer action.

### **By Landlord**

1. A landlord may terminate a month to month tenancy, with or without cause, by giving the tenant written notice 20 days before the end of the rental period.
2. A tenancy may be terminated before the end of the rental period if both parties agree.
3. A landlord may terminate a tenancy on shorter notice in the following situations:
  - (a) Failure to pay rent (3 days notice)
  - (b) Breach of rental agreement or lease (10 days notice)
  - (c) Destruction of property, causing a nuisance, conducting an illegal business on the premises (3 days notice)
  - (d) Trespassing (3 days notice) Note: it is a crime for a person to remain unlawfully in a rental unit.

### Eviction and Unlawful Detainer

A landlord cannot physically remove a tenant from a rental unit for any reason until the following process is complete;

- (a) The landlord prevails in an unlawful detainer action to evict the tenant.
- (b) The court issues a Writ of Restitution directing the Sheriff to remove the tenant.

Unless a tenant objects, property removed from the unit under the supervision of the Sheriff will be stored and the tenant will be liable for moving and storage costs.

### Order for Protection

If a tenant notifies the landlord in writing that he or she has a valid order for protection and the person to be restrained has violated the order the tenant, after notifying the police, may terminate the rental agreement and is entitled to a prorata refund of any prepaid rent only if restraining order otherwise owes rent to end of month.

### Abandonment

If the tenant defaults in the payment of rent and reasonably indicates by words or actions the intention not to resume tenancy, the tenant shall be liable for such abandonment. If a tenant abandons the rental unit, the landlord must immediately attempt to re-rent the unit. A tenant who abandons a rental unit may be liable for one month's rent, if the tenancy was a month to month, or the remainder of the rent due if rented for a fixed term. Rent due from a tenant who has abandoned a unit will be reduced by the amount of rent received from a new tenant.

### Drug Related Activity or use of deadly weapon

If a tenant or resident or anyone else engages in drug-related activity at the rental premises or is arrested for use of a deadly weapon or physically assaults a person on the rental premises the rental agreement or lease can be terminated. The process commences with an unlawful detainer suit.



Any law enforcement agency, which seizes illegal drugs from a tenant or arrests a tenant, must make a reasonable attempt to notify the landlord of the seizure. A landlord can claim compensation from any law enforcement agency for property damaged during a drug raid from the seized assets of the tenant if an unlawful detainer suit is filed within 7 days after the police gave notice of tenant's illegal activity. One exception to this policy is if the landlord had knowledge of the illegal activity.

*Discuss the different ways that a rental agreement can be terminated.*

*How does the landlord know if the tenant has abandoned the property?*

*Does the landlord have grounds for eviction if there has been a drug raid and no illegal drugs were found at the property and there were no arrests of the tenants?*

## **Foreclosure and Tenancy**

New legislation in Washington State passed to protect and notify tenants in properties that are going into foreclosure.

Tenants in non-owner-occupied one- to four-unit residences must be notified at least 90 days in advance of the impending foreclosure sale, of the potential consequences to them, and their option to contact a lawyer, legal aid, or a housing counselor about their rights. Tenants living in foreclosed property must be given 60 days' written notice by the new owner before tenants are removed from the property per Washington State Laws.

This new change to 60 days is only good for tenants occupying a home that was sold during foreclosure. If a homeowner is occupying the foreclosed property, they will have to vacate in 20 days under federal law.

It would be wise for any tenant to do a check on the landlord while the landlord does a check on them!

## **Enforcement**

The district or superior courts may exercise jurisdiction with respect to a claim against a landlord or a tenant. The defendant must be served with notice. There are alternate means if service cannot be done in person. The summons and complaint shall be posted on the premises not less than 9 days from the return date in the summons. Copies of the summons and complaint shall be sent by both regular and certified mail to defendant's last known address.

## **Settling of disputes**

Sources of help for settling disputes between landlords and tenants include:

1. Legal services. Low-income people may contact the nearest community action committee.
2. Small Claims Court. Disputes are heard without attorneys regarding retrieval of deposits, back rent and damages less than \$5000.
3. Arbitration. A neutral third party is chosen by landlord and tenant and can arbitrate any disputes except those requiring immediate relief or disputes already subject to litigation.

# Fair Housing Laws

The birth of Fair Housing in this country was in 1968 when shortly after Martin Luther King was assassinated, the Fair Housing Act of 1968 was signed banning discrimination on the basis of race, color, religion and national origin in most types of housing transactions. In 1974, it was expanded to include prohibition of gender discrimination. In 1988, the Fair Housing Amendments were added to the Act to expand the coverage to families with children and handicapped persons and to enhance enforcement of the Act.

## Federal Fair Housing Laws

Today, the Fair Housing Act prohibits discrimination against a person who is considered to be in one of the protected classes or meets these criteria. They may or may not be a minority.

1. Race
2. Color
3. Religion
4. Sex
5. National Origin
6. Handicap
7. Familial Status

### Prohibitions against Discrimination because of Familial Status

Familial Status as a protected class prohibits discrimination against a person because they have children. Parents, legal guardians, and those in the process of obtaining custody of children under the age of 18. This group also includes pregnant women. "Adults only" complexes are forbidden unless they qualify as housing for older persons. According to regulations, property owners may *not* establish dual-purpose facilities where certain sections of a housing complex are reserved for adults only and other sections for families with children.

The Federal law specifically authorizes the exclusion of children from housing for older persons. This exemption includes:

1. Housing provided pursuant to a state or federal program designed to accommodate the needs of senior citizens.
2. Housing occupied solely by persons sixty-two years or older or...
3. Housing where 80% of the units are (at all times) occupied by at least one person fifty-five years or older per unit, and the development is intended for, and marketed as, housing for older persons and it provides significant facilities and services specifically designed to meet physical or social needs of older persons.

*SITUATION: John will rent his apartments on the first floor to families, but the apartments on the second floor he'll only rent to adults because he fears the children might fall off the balcony.*

### Prohibitions against Discrimination because of Handicap

The Fair Housing Amendments Act of 1988 extends Title VIII to the physically and mentally disabled. The Fair Housing Act provides that it is unlawful to

discriminate in the sale or rental of a dwelling, or to otherwise make unavailable or deny a dwelling, to any buyer or renter because of a handicap of:

- (1) That buyer or renter.
- (2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available.
- (3) Any person associated with that buyer or renter.

Handicap covers persons that have a physical disability or mental impairment that substantially limits one or more major life activities. The Act also prohibits discrimination against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of such handicap. The disabilities covered include hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS and AIDS related illness, and mental retardation. It does not cover those that are a danger to others or those using illegal drugs.

*SITUATION: Mary has a listing whereby the husband has died because of complications due to AIDS. The buyers ask Mary why the husband died.*

### **Handicap/ Disability**

A tenant can make reasonable accommodations to a property, for example a ramp to the front door, if they remove it at the time of vacancy.

### **Occupancy Limitations**

HUD has not resolved the whole issue of occupancy limits. There are no firm occupancy limits from HUD or local jurisdictions. Any occupancy restriction that could be interpreted as limiting families could be construed as discriminatory.

In Bellingham, a landlord was found liable by the courts to the tune of over \$30,00 for refusing to rent a 3 bedroom home, because of its size, to a family of 2 adults and 3 children.

HUD will consider an “occupancy limit” of LESS than two persons per bedroom as too restrictive and limiting families.

## Summary of Prohibited Acts under the Federal Fair Housing Act

1. Any refusal to sell or rent, or otherwise make unavailable, a dwelling after receiving a bona fide offer, or refuse to negotiate for the sale or rental of a dwelling, because of race, color, religion, sex, familial status, or national origin, or to discriminate in the sale or rental of a dwelling because of handicap.
2. Discriminating in the “terms, conditions, privileges, or services of the sale or rental of a dwelling because of race, color, religion, sex, handicap, familial status, or national origin.
3. Engaging in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status, or national origin.
4. Make, print, or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination. This advertising prohibition applies to private owners who may otherwise be exempt from the Act.
5. Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that a dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
6. Engaging in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, or national origin.
7. Denying access to, or participation in a multiple listing service, brokers association or other organization to the business of selling or renting a dwelling because of race, color, religion, sex, handicap, familial status, or national origin. This also includes creating terms or conditions on membership based on prohibited criteria.
8. For persons whose business includes engaging in the business of residential real estate related transaction, to discriminate in making available, or in the terms or conditions of, any residential real estate related transaction because of race, color, religion, sex, handicap, familial status or national origin
9. “Coerce, intimidate, threaten, or interfere with” any person exercising a fair housing right or on account of a person having assisted others in exercising such rights.

## **Discriminatory Representations on the Availability of Dwellings**

Under the Fair Housing Act, it is unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to provide inaccurate or untrue information about the availability of dwellings for sale or rental. HUD's regulations specifically list the five following prohibited actions, if such actions are done because of race, color, religion, sex, handicap, familial status, or national origin. These five items are only examples and the Act also prohibits other activities not necessarily listed below:

- (1) Indicating through words or conduct that a dwelling, which is available for inspection, sale, or rental, has been sold or rented.
- (2) Representing that instruments such as deeds, trusts, CC&R's, or leases, which purport to restrict the sale or rental of dwellings because of a protected class, preclude the sale or rental of a dwelling to any person of a protected class.
- (3) Enforcing covenants or other deed, trust, or lease provisions, which preclude the sale or rental of a dwelling to any person because of a protected class.
- (4) Limiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental.
- (5) Providing false or inaccurate information on the availability of a dwelling for sale or rental to any person, including testers, regardless of whether they are actually seeking housing.

*SITUATION: An Asian woman wants to rent an apartment near her office. The Agent knowing that the racial makeup of the neighborhood near her office is different, says that there isn't anything available in her price range in that area. Is this a violation?*

## **Blockbusting**

The Fair Housing Act provides that it is unlawful for a person to engage in "blockbusting." This occurs when a person, such as a real estate broker, for profit, induces or attempts to induce a person to sell or rent a dwelling by making representations regarding the entry (or prospective entry) into the neighborhood of persons of a particular race, color, religion, sex, handicap, familial status, or national origin. Most blockbusting cases involve a real estate broker's uninvited solicitation of homeowners to sell or rent their homes. It is sometimes referred to as "panic selling." According to HUD's regulations, blockbusting occurs in the following two examples (but, of course, is not limited to these two examples):

- (1) Engaging, for profit or the availability of a profit, in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing a change, or is about to undergo a change, in the race, color, religion, sex, handicap, familial status, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.
- (2) Encouraging, for profit, any person to sell or rent a dwelling through assertions that the entry (or prospective entry) of persons of a particular race, color, religion, sex, familial status, or national origin, or with handicaps, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.

## **Steering**

Steering is a practice whereby a real estate agent influences a person's housing choice based on prohibited criteria. The classic example is that of directing minority clients to a minority neighborhoods.

*SITUATION: Steve assumes his clients would "feel more comfortable" in certain areas because others of their background live there. Maybe his clients are Jewish and he directs them to neighborhoods near the synagogue where other Jewish people are living. Is this steering?*

*SITUATION: Aleta has three small children. The landlord of an apartment building directs them ONLY to units that are near the playground at the north end of the complex and will not let them consider a unit near the bus stop at the east end. Can the landlord steer them that direction?*

## Local Discrimination laws

The Federal Fair Housing Act is a federal law. Each jurisdiction has separate laws and in many cases other protected classes.

### Washington State Law Against Discrimination

The Washington State Law Against Discrimination can be found in R.C.W. 49.60. The Washington State Human Rights Commission administers it. Unlike the Federal law, there are no exemptions. The Washington Law establishes the following protected classes:

1. Sex
2. Marital status
3. Race
4. Creed
5. Color
6. National origin,
7. Families with children status
8. Disability whether sensory, mental or physical including HIV and perceived HIV
9. Disabled person using a trained guide or service dog
10. Sexual Orientation Note: This class was recently added to the Washington Law.

The State of Washington now recognizes same sex marriage.

### City of Seattle and King County

The City of Seattle has other protected classes. Fair housing is administered by the Seattle offices for Civil Rights. The protected classes in Seattle include participating with Section 8, Sexual Orientation, Political Ideology, and Marital Status. King County is administered by the King County Office of Civil Rights.

### Other Discrimination Laws

Local jurisdictions may have created laws against discrimination. For example, the city of Seattle includes sexual orientation, political ideology and Section 8 housing subsidy tenants as additional protected classes. Other protected classes in other cities and states can include:

Source of income	Sexual Orientation
Matriculation	Marital Status
Dishonorable military discharge	Military Discharge
Personal Appearance	Political Ideology

# Washington State Law on Agency

In 1997 the Washington State Law on Agency became effective. This law means that our role as agents is now defined by statute. This agency law also extends to all agents working in the area of property management.

The definitions in Section 1 of the law states:

“Buyer” means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

“Seller” means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

It is important to remember that the text of the law also applies to all property management transactions.

A licensee who performs real estate brokerage services for a tenant shall be deemed a tenant’s agent. There are the 5 exceptions and they include:

1. Except if the licensee has a written agreement with the landlord/owner.
2. Except if the licensee has a sub-agency agreement with the landlord/owner.
3. Except if the licensee is a dual agent.
4. Except if the licensee is the landlord/owner.
5. Except if the parties agree otherwise.

The law creates dual agency with respect to in-house transactions.

The law is transaction specific, in that a licensee can work with one party in one transaction and not represent that same party in a different transaction involving that party.

The Law spells out the duties of licensees in general, as well as specific duties of a tenant and landlord’s agent.

The Law defines material fact as information that

1. Substantially adversely affects the value of the property
2. Adversely affects the party’s ability to perform its obligations, or
3. Operates to materially impair or defeat the purpose of the transaction.

It goes further to say that the material fact does not include negative stigmas that can be attached to a property. The fact or the suspicion that the property or any neighboring property is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gang-related activity, political or religious activity, or other act occurrence or use not adversely affecting the physical condition of, or title to the property is not a material fact.

The Agency relationship commences at the time the agent performs brokerage services. A copy of the Pamphlet on the Law of Agency must be given to the party before:

1. They sign an agency agreement,
2. They sign an offer on a transaction,
3. Consent to dual agency, or
4. Waive their right.

The agency relationship must be disclosed in writing before a party signs an offer. It shall be in a separate paragraph entitled “Agency Disclosure” in any agreement.

The agency relationship terminates when:

1. There is completion of the performance by the licensee
2. Expiration of the term agreed upon
3. Termination of the agreement by mutual agreement of the parties, or
4. By giving notice to the other party.

#### DISCLOSURE

Make sure you are very clear about who you represent and have that in writing. If you are working to find a tenant a property, you may want to consider an agency agreement.

*Does the Lease/Rental agreement that you use have the required disclosures of the agency relationship, dual agency and acknowledgement of a copy of the Law of Agency?*

*If you are a property manager representing a number of owners, do you represent the tenants, are you a dual agent, or do you have a single agency relationship with the owners?*

*When you are representing a tenant in search of a property, do you sign an agency agreement prior to showing that discloses agency and possible dual agency?*



# Lead Paint Disclosure

Lead poisoning is a top environmental hazard for young children. More than 80% of homes built before 1978 contain lead paint. Warning signs of lead based paint can include peeling paint, chipped paint, chalking paint, damaged paint/drywall/plaster, construction dust, and bare dirt around the foundation. The paint and the dust from the lead paint can accumulate in the carpets and in the surrounding soil. It can be hazardous to health. Even at low levels, lead poisoning in children can cause IQ deficiencies, reading and learning disabilities, impaired hearing, reduced attention spans, hyperactivity and other behavior problems. Pregnant women poisoned by lead can transfer lead to a developing fetus, resulting in adverse developmental effects.

This is NOT an MLS rule or a state law. Title X is a federal law. Because it is such a threat Title X provides protection by requiring disclosure to RENTERS and homebuyers for properties built before 1978. They must receive a copy of the EPA publication “Protect Your Family from Lead in your Home” and sign a lead paint disclosure form. In addition, the buyer has 10 days to have a lead inspection or a remedial assessment. The buyer cannot sign a contract until given this opportunity. The Lead Paint Disclosure form must be signed by buyer/seller or Landlord/Tenant for all properties built prior to 1978. The 10 day does not apply to tenants.

The intent of the disclosure rule is to help prevent exposure to lead based paint. Once a violation has been established with credible evidence to support a case, a determination must be made by the agency concerning which of the enforceable actions may be taken; a notice of non compliance, a civil administrative complaint, a criminal referral, injunctive relief, or some combination of these actions. For more information see:

<http://www.epa.gov/compliance/resources/policies/civil/tsca/lead.pdf>

# Mold Disclosure

During the 2005 legislative session, the Washington State legislature approved Engrossed Senate Bill [\(ESB\) 5049](#) (Effective 7-24-2005), that requires landlords to notify their tenants about mold. Senate bill 5049 **requires** landlords to notify tenants about mold. Specifically, landlords must supply information to tenants about:

- The health hazards associated with exposure to indoor mold
- Steps to take to control mold growth in their dwelling units

## **Landlords must notify tenants effective 2006.**

Posting of this information in a visible, public location at the dwelling unit property is allowed.

The information can be obtained from the Washington State Department of Health (DOH) either electronically or in printed form...

[http://www.doh.wa.gov/ehp/ts/IAQ/Got\\_Mold.html](http://www.doh.wa.gov/ehp/ts/IAQ/Got_Mold.html)

# Carbon Monoxide Alarms

According to Washington State Law, all rental units must have carbon monoxide alarms installed according to state building codes.

# Property Management Administration

## Rental Market Analysis

An understanding of the economic conditions in the immediate area and market surveys of comparable residential properties are essential to determine the viability of a property as a profitable investment and in establishing a reasonable rental schedule for the subject property.

- Market surveys should analyze the rental values of comparable properties in the area.
- Employment and income data are a factor in setting the rent schedule for the property.
- Vacancy rates in the area are a standard indicator of the supply and demand relationship.
- Census Bureau data can show a general idea of the population density and other statistics.

## Financial Budgeting and Forecasts

A property manager must get a clear idea from an owner or investor as to which direction they are interested in going with the property. After general goals are established, important information about the property such as annual property taxes, special assessments, cost of debt service, insurance premiums, rental income history and expenses must be collected to give an accurate picture of the state of the property.

] The operating budget should include an itemized projection of income, expenses, net operating income and cash flow. A sample operating budget would include:

### INCOME

Monthly rent times 12  
LESS Vacancy and collection losses  
Income from other sources (laundry, etc.)  
EFFECTIVE GROSS INCOME

### EXPENSES

Property taxes  
Wages  
Utilities  
Supplies  
Maintenance and repairs  
Insurance  
Administration  
Management fee  
Reserves

### TOTAL EXPENSES

TOTAL NET OPERATING INCOME (before debt service)

LESS DEBT SERVICE

TOTAL CASH FLOW

## **Setting Rental Standards**

Standards should be written that help set guidelines when evaluating the applications. These standards should apply to everyone who wants to rent the property.

These standards can include:

- a) Ratios for debt and income that is in line with the rent.
- b) Credit report that is positive.
- c) No prior evictions.
- d) No felony convictions.
- e) No pets. (unless service animal with a letter from a health care provider.)
- f) All the information on the application can be verified.

## **Advertising for Tenants**

Effective advertising can vary depending on the type of property and the market. Advertising can include signs, classified newspaper ads, flyers, listing with real estate agents or property managers and online advertising.

It is critical to be conscious of the Fair Housing Laws when advertising. There are protected classes in the Federal Fair Housing laws. They include race, color, religion, sex, national heritage, handicap, and familiar status.

But, these are not the only protected classes. In different jurisdictions there are different laws. For example, in Seattle the protected classes include age, political ideology, section 8 and sexual orientation. Open the newspaper and almost in every case you will find ads that violate the Fair Housing Laws. It is important that you make sure that one of those ads is not yours. The laws say that a violation may occur if the prospect believes there is a limitation or a preference in the advertising. So, it is not the intent of the advertiser but the perception of the reader.

This list from the Seattle Times is not all-inclusive. A list that includes words that could be construed as showing a limitation or preference is included here. But, even this list could not include all the possible combinations of words that could be used. Some people feel that when advertising a target market approach should be used. But, by eliminating words that limit or target a tenant, the advertiser could be opening the door to many other prospective tenants. This gives owners and managers an opportunity to be more creative about the features of the property.

## AVOID THESE WORDS IN ALL ADVERTISEMENTS AND APPLICATIONS

<i>active</i>	<i>empty nesters</i>	<i>mature</i>	<i>singles</i>
<i>adult</i>	<i>exclusive</i>	<i>membership approval</i>	<i>smoker</i>
<i>adult only/living</i>	<i>executive</i>	<i>newly-weds</i>	<i>stable</i>
<i>Asian</i>	<i>handicapped</i>	<i>non-smokers</i>	<i>secure</i>
<i>bachelor</i>	<i>healthy</i>	<i>non-drinkers</i>	<i>seniors</i>
<i>board approval required</i>	<i>Hispanic</i>	<i>older persons</i>	<i>students</i>
<i>children</i>	<i>impaired</i>	<i>one person</i>	<i>traditional</i>
<i>church</i>	<i>integrated</i>	<i>private</i>	<i>two people</i>
<i>Christian</i>	<i>Irish</i>	<i>physically fit</i>	<i>unemployed</i>
<i>couple</i>	<i>Jewish</i>	<i>race</i>	<i>white</i>
<i>deaf</i>	<i>kids</i>	<i>restricted</i>	<i>woman</i>
<i>employed</i>	<i>male</i>	<i>retired</i>	<i>walking distance to</i>

### **Pre-qualifying the Prospective Tenant**

The phone will ring after placing ads to rent. It is important to watch the way these prospective tenants are handled on the phone. Each caller needs to be treated equally. Watch for possible violations of the Fair Housing Laws. Give the prospect basic information over the phone but do not attempt to eliminate them. Make sure that the prospect is given information on showing and application procedures.

When asked questions like:

Do you accept applicants on Section 8?

Will you accept children?

Will you accept pets?

The answer is “yes” with the exception of the last question. (A pet is not a protected class except if it is a pet used as a service animal.) The tenant may NOT be a qualified tenant because of other reasons, but do not eliminate them over the phone. Encourage an application.

Section 8 housing subsidy is not protected in all areas. Participation is protected in Seattle, Bellevue, Kirkland and unincorporated King County.

### **Qualifying Tenants**

When qualifying prospective tenants it is important to evaluate their applications. This is an example of qualifying information from a property manager.

- Earning Power. Often property managers look at guidelines regarding a prospective tenant’s income to their debts.
- Debt service ratio. The applicant’s total monthly gross income should be at least two and one half times their total monthly payments for all their debts.
- Rent service Ratio. The applicant’s total monthly gross income should be at least three time the rent payment.
- Credit History. It is imperative that you run a credit check on the tenants. A tenant screening process can do this. There are a number of companies that specialize in obtaining this information. The cost can be \$25.00 to \$40.00 or more. The cost is usually passed on to the tenant. If the applicant wants a copy it is not legal to provide one. The applicant can order a copy from the credit bureau listed on the application.
- Housing stability. It is important to check references. Many screening companies will check references but if not, it is important to call and check.

### **Application for tenancy**

Make sure an application is available to all prospective tenants whether or not you believe that they are qualified. Though your “gut” may tell you that the tenant will not qualify, the tenant should have the same opportunity to apply. If their application is denied they can contact the credit bureau to get a copy of their credit report.

Save copies of all application for at least three years. Make a note on the back the reason for rejecting their application.

The following are examples of legal reasons for rejecting a potential tenant’s application.

1. Poor credit history.
2. Income is not within the ratios.
3. References detail history of property destruction or disturbing the neighbors.
4. Has a prior eviction.
5. Has pets and your policy prohibits them. (Except for service animals.)
6. Falsifies information on the application.

### **Tenant Screening**

It is imperative that the tenant screening process is as professional as possible. Watch for casual comments you or the tenant might make and get into conversation that could catch you in a discriminatory situation

You must have an application and screening process and requirements. If the tenant does not match the requirements in your screening, there are times that you may have to consider alternative requirements.

Here is an example from the Rental Housing Association.

Two college students with student visas from Korea apply for your unit. Your application and screening require a valid social security number and a positive credit history. They have neither. If you deny all foreign nationals because they lack a social security number and an American credit history, you are at risk of a Fair Housing complaint based on “National Origin.” It is suggested that you use alternative identification which could include their visas and confirmation of student status at the college.

# Rental Contracts and Agreements

## **Application for Tenancy**

The rental application that property managers use is not a standardized form. This is the most important tool the property manager or landlord have to evaluate the prospect's history and qualifications as a tenant.

Review carefully the information requested on the forms that you use. There are application forms on the market, today, that do not include any questions about current employment or employment reference. There are forms that ask questions that include age or birthdate. Make sure the form has room for a co-tenant or spouse to fill in the questions.

## **Lease or Rental Agreement/Contracts**

### **Elements of a Valid Contract**

In order to be a legally enforceable, a lease must meet the general requirements for a valid contract. Both parties to the lease must have the legal capacity to enter into the agreement and must reach a mutual accord. As with any contract, the objective of the lease must be legal in nature. The document must be dated and must provide for valid consideration to be paid. There must be acknowledgement (be notarized) for leases for more than one year.

The basic elements of a lease include:

1. Complete and legal name of both parties
2. Capacity to contract
3. Description of property (if the term is for more than a year a full legal description)
4. Term of lease
5. Consideration or amount of rent
6. Use of premises
7. Legal objectives
8. Rights and obligations of each party

### **Term**

Month to month rental agreements are considered a periodic tenancy. The agreement is for one-month periods and renews each month. The agreement can be terminated by either party giving 20 days written notice.

A lease agreement is for a specific term or a fixed period of time. It can continue after the end of the term on a month to month basis. If a tenant stays and pays rent after the term expires the agreement continues automatically on a month to month basis.

### **Late Charges**

It is important that any late charges are clearly spelled out in the agreement. It is important to include a grace period. Usually it is 3 to 5 days. When the rent is not paid a charge accrues that is retroactive back to the first day the rent was due. Often that amount is from \$5.00 to \$15.00 per day.

It is wise to put in your agreement a NSF (non-sufficient funds) check clause charging the tenant a fee for checks that are returned.

### **Security Deposit/Damage Deposit/Cleaning fee**

It is important for landlords to include a deposit to cover some or all of the costs they may incur for damage that tenant may cause upon the property.

Any money deducted from the deposits by the landlord must be detailed and given to the tenant within 21 days from the end of the term.

Any non-refundable monies must be clearly stated as so and be called a “fee.”

### **Maintaining the Property**

The rental agreement should contain information on the use and maintenance of the property. If the property is rented exclusively for residential use, then it should be clear to the tenant. Include clauses that cover maintenance of the landscaping and grounds.

The property must be habitable. The landlord is obligated to maintain and rent property that meets minimum standards and these obligations cannot be waived.

### **Utilities**

The decision as to whether the tenant or the landlord is responsible for the utilities is up to the landlord. Typically, the power bills in a residential home are paid by and in the tenant’s name. The water bills are typically in the owner’s name because if they do not get paid they can become a lien on the property. In multi family properties it will depend on the history and the method of payment by the owner.

### **Rules and Regulations**

As an addition to the lease agreement, a copy of the rules and regulations should be attached.

Be aware of rules that may limit the use by the tenants that could include fair housing violations.

*Why would these rules violate the Fair housing laws?*

- a) Children cannot play in the parking lot.*
- b) No one under 18 allowed in the pool without an adult.*

### **Pet Agreement**

If the property is to be rented to a tenant with a pet(s) then it is wise to have an agreement that covers issues surrounding the pet. Include the type of pet. “No Pets” clauses cannot be used to turn down a tenant with a service or guide dog, for example. Petscreening.com found that 18% of the accommodation requests for pets had insufficient documentation, unresponsive third party verifiers, or found to be fraudulent.

### **Lead Based Paint**

If the property was built before 1978, the tenants must sign a disclosure and provide them with the required pamphlet.

### **Smoke Alarm**

The landlord is required to provide a working smoke alarm. The tenant is required to maintain working batteries.

### **Carbon Monoxide Alarm**

New legislation has passed in Washington State that requires the landlord to install Carbon Monoxide detectors in non owner occupied properties.

### **Other Agreements**

The following are additional agreements or clauses that may or may not be included in the lease or rental agreement.

1. Appliances
2. Improvements
3. First right of refusal option
4. Smoking (advertise that there is no smoking in the property rather than say “no smokers”)
5. Insurance
6. Parking and Storage
7. Pests
8. Signs
9. Common areas
10. Disposal of garbage

*Have you added any other agreements or clauses to the rental agreements you have used?*



# Handling Eviction

It is likely that every property manager will deal with a tenant's default on their contract and have to start eviction procedures. It is important that the landlord has been very careful to follow the letter of the law during the tenancy and in the process of an eviction.

It is important that the tenant never be accommodated at the expense of the owner. The manager must first serve the interests of his or her principal by setting up a viable system for collecting rent and dealing with uncooperative tenants.

In addition to non-payment of rent, there are other permissible grounds for eviction. They may include certain breaches in the terms of the lease agreement. The eviction process is the only legal way to remove a tenant from the property. A review of the Landlord Tenant Act will point to the duties of a landlord and what a landlord is not allowed to do. For example, a landlord cannot turn off the heat or the power to force a tenant to move. In addition, a landlord cannot enter the premises illegally or lock the tenants out of the premises. Landlords have even turned off utilities or caused damage to the property using the cover that it was to complete repairs.

The process of evicting a tenant is a lawsuit called an unlawful detainer action. There are no shortcuts to the notice deadlines or the court hearings. It must proceed as per the guidelines of the law. The process can take as little as 30 days but it can also take considerably longer depending on the circumstances.

A landlord or property manager can choose to hire a private company that specializes in evictions or hire an attorney.

## **Giving Notice**

The first step in the eviction process is to give the tenant a 3-day Notice to Pay Rent or Vacate if they have failed to pay the rent or if they have only paid part of the rent due. This notice should be served upon the tenant and/or posted at the premises and mailed by U.S. Mail. After the third day, the landlord can refuse to accept any payment and can continue the eviction. During the 3 days the landlord does not have to accept partial payment.

## **Eviction Summons and Complaint**

This is the next process. A legal summons and complaint must be filed in the local courthouse. It has to be legally served upon the tenant. The tenant has the opportunity to respond.

A tenant can ignore the summons and the landlord will win. The court will issue a default judgement. But, often the tenant will respond with allegations against the landlord and the court will hear testimony from both sides.

## **Writ of Restitution**

If the tenant ignores the summons, does not show at the hearing or loses in court the landlord will be issued a Writ of Restitution. The landlord is awarded the property and often a judgement against the tenant for costs. The Writ is an order directing the county sheriff to appear at the property. The landlord appears at the property and is legally allowed to remove the belongings of the tenant and put them in the right of way or move them to storage under the protection of the county sheriff.

# Residential Rental Reality

## Quiz Use Answer Sheet

### Professional Associations

1. T / F \_\_\_ IREM is a subsidiary of the National Association of REALTORS.
2. T / F \_\_\_ All property managers Must belong to IREM.

### Landlord Tenant Act

3. T / F \_\_\_ The Landlord Tenant Act is a Washington State law.
4. T / F \_\_\_ Property used for commercial purposes is exempt from the law.
5. T / F \_\_\_ A Landlord must provide working smoke detection devices at move in.
6. T / F \_\_\_ The tenant is not responsible to eliminate infestation caused by the tenant.
7. T / F \_\_\_ An oral or written agreement may establish a month to month tenancy.
8. T / F \_\_\_ A month to month tenancy can continue indefinitely until one party terminates.
9. T / F \_\_\_ Collection for a fee for a waiting list is illegal.
10. T / F \_\_\_ The landlord must have a written checklist signed by tenant of the condition in order to collect a damage deposit.
11. T / F \_\_\_ Any non refundable money paid to landlord must be called a fee..
12. T / F \_\_\_ The landlord must commence repairs to heat or water or hazardous conditions within 24 hours.
13. T / F \_\_\_ The tenant can withhold consent to the landlord to enter the dwelling if the tenant desires regardless of any notice given by landlord orally or in writing.
14. T / F \_\_\_ Property left by tenant after vacating automatically becomes the landlord.
15. T / F \_\_\_ A landlord must give written notice 20 days prior to end of rental period to terminate a month to month tenancy.

### Fair Housing

16. T / F \_\_\_ Rental agreements for month to month tenancy are NOT subject to the federal, state and local fair housing laws.
17. T / F \_\_\_ A landlord cannot discriminate against families.
18. T / F \_\_\_ Senior housing must meet HUD guidelines to be “housing for older persons.”

19. T / F \_\_\_ A tenant can make changes to the unit to accommodate a disability, for example, a ramp to the front door. But, the tenant must put the property back in its original condition upon termination of tenancy.
20. T / F \_\_\_ An occupancy limit of less than 2 persons per bedroom may be considered too restrictive and appear to discriminate against families with children.
21. T / F \_\_\_ A landlord has the right to discriminate when renting out units in a building in which he lives himself.
22. T / F \_\_\_ In Seattle it is a violation to discriminate against someone because of their political ideology or Section 8 Housing.

### **Agency Law**

23. T / F \_\_\_ Washington State Agency Law does not apply to property management.
24. T / F \_\_\_ A Landlord has to disclose all material defects to the property.
25. T / F \_\_\_ A property manager must provide prospective tenants a copy of the agency law.
26. T / F \_\_\_ An agency relationship with the tenant commences at the time the agent performs brokerage services.
27. T / F \_\_\_ The lease/rental agreement must disclose agency.

### **Lead Paint**

28. T / F \_\_\_ The tenant must receive a lead paint disclosure form signed by the owner for properties built before 1978.
29. T / F \_\_\_ Lead paint disclosure does NOT apply to month to month tenancies.
30. T / F \_\_\_ The owner of a property must have paint tested for lead.
31. T / F \_\_\_ The lead paint disclosure is a multiple listing rule.
32. T / F \_\_\_ Lead paint can lead to lead poisoning.

### **Administration**

33. T / F \_\_\_ Property management for a client could include a rental market analysis to establish a reasonable rental schedule for a subject property.
34. T / F \_\_\_ Rental standards can include a NO pets policy even for a seeing eye dog.
35. T / F \_\_\_ A rental policy can include no felony convictions.
36. T / F \_\_\_ Avoid words that may discriminate in ads as a property manager.

37. T / F \_\_\_ Avoid prequalifying a prospective tenant on the phone in such a way that you might discriminate against them.
38. T / F \_\_\_ A landlord must accept a tenant with poor credit if the tenant has a disability.
39. T / F \_\_\_ A tenant's housing stability can be considered in qualifying prospective tenants.
40. T / F \_\_\_ A landlord is required to check for references.
41. T / F \_\_\_ A property manager can only consider prospective tenants without children.
42. T / F \_\_\_ The property manager with permission can obtain a prospective tenants credit. The property manager must refer the tenant to the credit bureau if there is a reason for rejection.

### **Rental Contracts and agreements**

43. T / F \_\_\_ A valid contract must have the complete and legal name of all parties.
44. T / F \_\_\_ The term of the lease does not have to be on the contract.
45. T / F \_\_\_ A minor can sign a rental agreement.
46. T / F \_\_\_ If the term of the contract is for more than a year then a full legal description must be on the contract.
47. T / F \_\_\_ A "rental agreement" is for a periodic tenancy.
48. T / F \_\_\_ A "lease agreement" is for a specific term or fixed period of time.
49. T / F \_\_\_ Late charges do NOT have to be spelled out on the agreement.
50. T / F \_\_\_ Any non refundable money must be called a "fee."
51. T / F \_\_\_ A copy of the rules and regulations should be attached.
52. T / F \_\_\_ The landlord is NOT required to provide a working smoke alarm.

### **Handling Eviction**

53. T / F \_\_\_ Non payment of rent is the only grounds for eviction.
54. T / F \_\_\_ The first step in the eviction process is to give a 3 day notice.

55. T / F \_\_\_\_ The process of evicting a tenant is an unlawful detainer action.

56. T / F \_\_\_\_ The landlord or property manager can choose to hire a private company specializing in eviction.

### **Summary**

57. T / F \_\_\_\_ A person must have a real estate license to perform property management functions for the owner of rental property.

58. T / F \_\_\_\_ Property managers must not violate fair housing, agency and lead paint laws.

59. T / F \_\_\_\_ Property managers can keep deposits and rent in personal checking accounts.

61. T / F \_\_\_\_ A non refundable deposit does not have to be disclosed until the tenant vacates.

62. T / F \_\_\_\_ A tenant must be given 90 days notice of an impending foreclosure according to a new law passed in Washington State effective July 2009.

## Answer Sheet... Residential Rental Reality

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I attest that I have read the materials and have answered the questions.

**Date Course Started** \_\_\_\_\_ **Date Course Completed** \_\_\_\_\_

**Print Name** \_\_\_\_\_ **Company** \_\_\_\_\_ **Signature** \_\_\_\_\_

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## Mandatory Evaluation for Residential Rental Reality

- |   |          |
|---|----------|
| Did you read the material in the booklet on this date?                          | YES / NO |
| Did you complete the quiz and attach answer sheet?                              | YES / NO |
| Did you enclose Tuition (\$30 for 3 hrs, \$40 for 5 hrs, \$50 for 7.5 hrs)      | YES / NO |
| Did you fill out and sign this form?  | YES / NO |
| Did you pay tuition at the front of the website. Paypal processes credit cards! | YES / NO |
| Why did you choose to take this course? Topic? Time? Cost? Ease? Other?         |          |
| A "clock hour" is 50 minutes. This 5 hour class should take about 4 hrs 10 min. |          |
| How long did it take you to complete the course? _____                          |          |

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Were the course materials easy to follow?	
Were the course materials relevant to your profession?	
Were your objectives met by attending the class?	
Was the course material interesting?	

What are 3 things that you learned from the course?

- 1.
- 2.
- 3.

Would you take another correspondence course from Professional Direction? Yes/ No

<b>Residential Rental Reality</b>	
Print Name CLEARLY	Signature
Company	Address
City                      Zip Code	Email
License Renewal Date	Date(s) Class taken

*Thanks for taking this class! I really appreciate the brokers that take clockhours from my school! Natalie*

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