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# COLORADO

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Circulated Monthly To Thousands Of Local Apartment Owners, Property Managers, On-Site & Maintenance Personnel



## Highlighting Your Rental’s Most Sellable Features

### KEEPE

Each property has its own special features that make it unique, and it is these features that attract new tenants and therefore must be showcased in the best possible light.

While this can be tricky, there are ways to do it that don’t require outsourcing expensive professionals and a large budget.

In fact, these five ways to highlight the sellable features of rental properties will help you attract the right tenants easily.

### No.1: SHOWCASE THE SELLABLE FEATURES OF YOUR RENTALS

Quit focusing on what you don’t have, and highlight the amenities and features your apartment does have. Even if your unit is a little older or not as newly built as some of the competition in your neighborhood, you can still attract quality renters.

If you have something neighboring  
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## Denver Rents Dip in September

### RENTAL HOUSING JOURNAL

Denver rents have declined 0.7 percent over the past month and are down sharply by 5.0 percent in comparison to the same time last year, according to the most recent report from Apartment List.

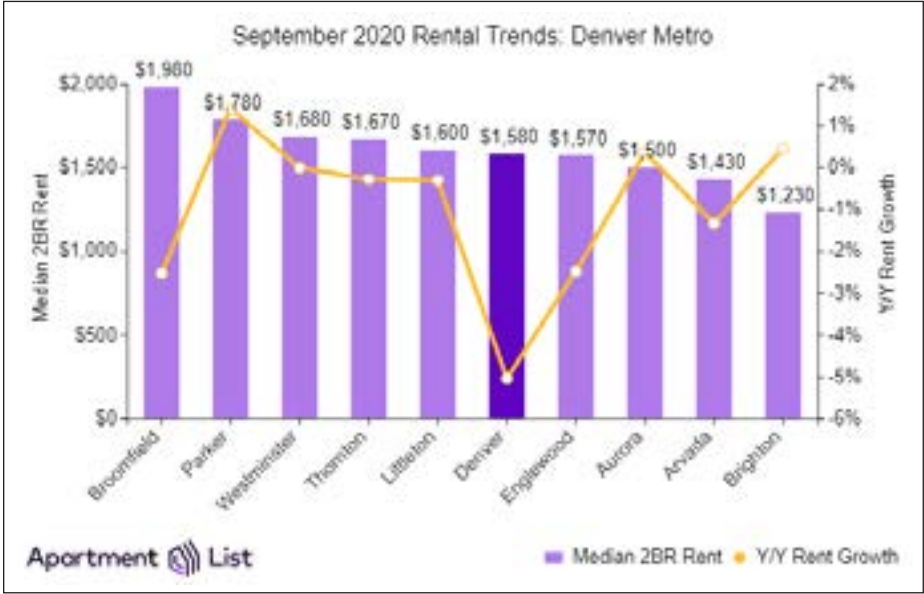
Median rents in Denver are \$1,289 for a one-bedroom apartment and \$1,580 for a two-bedroom.

This is the sixth straight month that the city has seen rent decreases after an increase in March.

Denver’s year-over-year rent growth lags the state average of -1.9 percent, as well as the national average of -1.4 percent.

### NEW METHODOLOGY TO TRACK RENTS

“These rent statistics represent our latest effort to design methods that address the most common issues that arise in rent-growth estimation,” said Chris Salvati, Housing Economist for



Apartment List.

“In particular, this update reflects a concerted effort to capture transacted rents, as opposed to list rents, and we’ve found the difference to be meaningful during the pandemic.

“Our new numbers continue to paint the picture of a protracted national slowdown and uneven recovery: the national rent index is down 1.4 percent year-over-year, but there is tremendous regional variation

*See ‘Smaller’ on Page 7*

## 7 Insights on Federal Eviction Moratorium

### RENTAL HOUSING JOURNAL

Two attorneys recently joined the National Real Estate Investors Association for an online discussion to help landlords and property managers understand how best to deal with the new federal eviction moratorium.

A new nationwide eviction moratorium has been ordered through the Centers for Disease Control (CDC) to halt residential evictions through the end of December for non-payment of rent due to COVID-19.

Both lawyers discussed the issues, the affidavits that tenants must provide to show how they have been affected by COVID-19 in order to qualify under the moratorium, and how attorneys could challenge the affidavits in court when necessary.

Attorneys Jeff Watson, in Cleveland, and Jeffrey Greenberger, in Cincinnati,

gave their thoughts – not legal advice – on how landlords could best react to the moratorium. They were introduced by Charles Tassell, chief operating officer of the National Real Estate Investors Association.

“We have gone from unprecedented to crazy,” Watson said. “What concerns me the most is that this is now creating precedent for future administrations, future agencies, to use this as a rationale, to stop all sorts of economic commerce across the United States of America, any particular form of commerce, any type of interaction, any type of business agreement, (or) consumer agreement that they don’t like.”

### No. 1- LANDLORDS CAN STILL FILE EVICTIONS

“I need you to understand it’s called

a moratorium,” Greenberger said. “It doesn’t mean you can’t file evictions against your tenants.”

Greenberger explained that legal-aid societies are going to provide copies of affidavits for tenants to sign, “and they’re going to ask everyone going in, ‘Are you a tenant?’ And they’re going to say, ‘Sign it.’ And they’re not going to tell people that there’s the possibility they could go to prison if it’s not accurate, which is true,” he said.

They are going to tell the tenant, “You don’t have to leave. You don’t have to pay your rent for the next, at least four months, probably a year,” Greenberger continued. “All you do is sign this piece of paper, no harm, and that’s all wrong, but that’s what’s going to happen. And the problem is that as soon as the tenant signs, that

*See ‘7 Insights’ on Page 8*

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# Three 1031 Exchange Alternatives

By Jason Salmon

Senior Vice President & Managing Director of Real Estate Analytics, Kay Properties and Investments, LLC

## 1031 Exchange Alternative #1 — Utilizing a 1031 exchange into DST 1031 properties:

Delaware Statutory Trust (DST) real estate has been a great way for investors to participate in passive, professionally managed real estate for their 1031 exchanges since the IRS enacted Revenue Ruling 2004-86 which effectively blessed the use of a properly structured DST 1031 investment as “like kind” for the purposes of a 1031 exchange. The DST investment structure of real estate ownership has given investors the potential to diversify across several property sectors, geographic locations and with various managers. For those that wish to focus on areas of life like family, hobbies and travel instead of dealing with tenants or just having to be constantly concerned with the value of hands-on real estate and the best time to sell, DSTs can potentially be the right thing at the right time.

## 1031 Exchange Alternative #2 — Utilizing a Qualified Opportunity Zone Fund in lieu of a 1031 Exchange:

Qualified Opportunity Zone Funds are relatively recent investment vehicles whereby investors can place capital gains (within a certain timeline of selling) into real estate investments. Through the Tax Cuts and Jobs Act, certain areas that have been mandated as Opportunity Zones according to the IRS as “an economically distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment.” It should be noted though, that Opportunity Zones are not necessarily used as a 1031 exchange, but rather another option in the case of a failed 1031 exchange or a potential tax-deferral tool for other investments with gains such as stock or the sale of a business.

## 1031 Exchange Alternative #3 — The 721 Exchange or UPREIT:

Many investors that want to do a 1031 exchange, but don’t want the hassle of day-to-day management, and/or want diversification—and with a working knowledge of Real Estate Investment Trusts (REITs) ask “why can’t I invest in these vehicles for my 1031 exchange?” Because of very specific guidelines for what is considered “like-kind” real estate, REITs are not eligible for 1031 exchange. However, through an UPREIT transaction which stands for Umbrella Partnership Real Estate Investment Trust, it can potentially be possible through a series of steps. With a 721 exchange, instead of a 1031 exchange, investors may exchange property for OP or Operating Partnership units in the REIT. This might be easier said than done since the REIT would have to want to bring the relinquished property in and all parties would have to agree on terms, but it’s possible. Investors should also consider whether the REIT is public or private and the likelihood that they would have interest in conducting another tax-deferred exchange going forward since that would not be possible once this type of transaction has been made.



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**Website**

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**Mailing Address**

4500 S. Lakeshore Drive, Suite 300  
Tempe, AZ 85282

**Email**

[info@rentalhousingjournal.com](mailto:info@rentalhousingjournal.com)

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# A Short Guide to Tenant Surveys

By JULIAN ALVARADO  
BirdEye

Customer experience management is the process of designing your customer experience so it consistently exceeds customer expectations. Positive customer experiences translate directly into customer loyalty, credibility, online reach via Google search, and even more revenue.

Building and maintaining ongoing relationships with your tenants (i.e., customers) is only possible through regular feedback. One of the most efficient ways to get that feedback is through online surveys, which can then be used to improve your property, evaluate personnel performance, and improve tenant retention—and even increase occupancy.

In this guide, we'll show you how surveys can be the cornerstone of your tenant-experience management strategy.

## How to Conduct a Tenant Survey

You can conduct a tenant survey at any time, but offer them at the beginning of the year for the best results. Entry and exit-surveys are popular amongst a lot of property managers but have their drawbacks:

- New tenants may not give you actionable insights outside of how smooth the renting process was.

- Exiting tenants have nothing to gain from the changes you make, and if they do want to respond, they may be too busy.

In any event, you want to collect as many responses as you can to identify consistent trends. An additional benefit of conducting a mass survey at one point of the year allows you to administer multiple surveys and compile all of the data at once.

### Other Best Practices Include:

- Incentivize your tenants to encourage participation. For example, you can offer movie tickets, a gift card, or even a rent discount.
- Guarantee anonymity for survey participants. This will encourage more tenants to participate and will give you more honest feedback.
- Promote the survey as much as possible and make it easy for tenants to take it.
- Offer a mixed bag of questions but no more than five or six. For example, the mix could include yes/no, short answer, and rating (e.g., 1-5) scale questions. This should leave enough room for your tenants to give their real opinions and help you improve.

When you receive your tenants' responses, read through them carefully, and be open to constructive criticism. Take note of any sim-



ilarities in your tenants' answers; if more than one tenant mentions something in particular, then you need to pay close attention to it. The tenant survey will help you evaluate your strengths and weaknesses and become a better, more successful landlord.

### Conclusion

There are 43 million renters in the United States, and each carries their perception about their rental experiences. Property managers that reach out for regular feedback can make improvements to retain their residents. They can also use it to acquire new tenants by integrating survey results into their online reputation management strategy—the process of collecting and maintaining positive reviews.

Tenant experience management begins with developing a systematic plan that provides regular feedback at various touchpoints throughout a tenant's customer journey. Surveying your tenants is a great way to identify any consistent concerns or trending changes

before they lead to more significant issues.

*Julian Alvarado is a well-rounded marketing professional with over five years of experience developing, managing, and optimizing multichannel digital content for demand generation. He is passionate about crafting full-funnel content experiences through compelling storytelling and transfers this passion to marketing. With a background in biological sciences, Julian leverages his analytical mode of thinking and attention-to-detail to examine trends in customer behavior, creating on-brand, data-driven content that captures the attention of any given audience.*

*BirdEye is an all-in-one customer experience platform that provides businesses with the tools to deliver great experiences at every step of the customer journey. More than 60,000 businesses of all sizes use BirdEye every day to be found and chosen by new customers, be connected with their existing customers, and deliver the best end-to-end customer experience.*

# 5 Ways to Highlight a Property's Most Sellable Features

Continued from Page 1

residents don't — think a parking garage in San Francisco or an elevator in NYC — make sure those are prominent features on your listing. Hone in on what your property offers and speak to its strengths. Make sure tenants know what makes your property unique, even if it's something simple like hardwood flooring.

## No. 2: Quality Photos Make the Difference

There's no need to be, or hire, a professional photographer; smartphones these days typically come with expert-quality cameras.

Using your smartphone or even an inexpensive digital camera will allow you to capture depth and field with high resolution.

Check out the latest devices if yours isn't quite up to date. It's a worthwhile investment that will have you capturing the top features like a pro.

## No. 3: Include Tenant Testimonials

No one knows more about the features that are most appealing than the people who live or have lived in your rental property.

If you have a good relationship with



tenants, ask them to write a small paragraph discussing the features they like most about the property. You can even go further to request a free video testimonial in exchange for a little percent off the rent for that month.

Everyone will like different things, so this allows you to provide a wide, all-encompassing perspective for every potential renter. Feature these on social media, your website, or better yet—right on the listing page.

## No. 4: Use Rental-Location Data to Your Advantage

Renters are not only looking to rent an apartment, but to rent one in an excellent location.

They want to rent in an area that matches their living and economic expectations. If your rental is located close to the mall, business district, or other unique public/social amenities, you should use these to your advantage when marketing your rental to potential tenants.

You can also include important data such as low crime rates, school quality, cost of living, ease of transportation, and other relevant data that adds value to your home in your listing.

## No. 5: Invest in Quality Video Tours

Real-estate professionals are beginning to adopt virtual tours and walkthrough due to the continued presence of the coronavirus pandemic.

These days, renters want to see on video what makes your rental property special. You can capture your entire rental property, especially the sellable features, with the high-resolution video capabilities of your mobile device. Map out the best route through the property, highlighting the best features, and record it and upload it on YouTube, Facebook, and Instagram.

*Keepe is an on-demand maintenance solution for property managers and independent landlords that makes a network of hundreds of independent contractors and handymen available for maintenance projects at rental properties. Keepe is available in the Greater Seattle area, Greater Phoenix area, San Francisco Bay area, Portland, San Diego and is coming soon to an area near you. Learn more about Keepe at <https://www.keepe.com>.*

# Turn Yourself into Your Tenants’ Top Priority

By DAVID PICKRON

Like most of you, when I was in college, funds were tight. Even as an underexperienced money manager, I knew had to prioritize which bills were going to get paid and when.

A memory that clearly sticks with me is walking to my car only to discover I had an unplanned expense, a flat tire. After arriving at the tire shop, I added up the cost of four new tires and realized that they were going to cost my entire monthly budget. Decision time: I chose to replace only the tire that went flat.

Every day after that I would inspect the three-remaining well-worn, quickly balding tires and skip over the new one. This created a habit for the next four years, replacing only the tires that got my full attention...the flat ones.

Many of our renters are facing a similar choice in today’s tumultuous and unpredictable economic climate.

With layoffs, furloughs, and job uncertainty, there often is not enough money and too many bills or financial responsibilities. Tenants are faced with the choice of paying the car payment or paying the rent.

With a new eviction moratorium in place, the choice got easier for many tenants; it allows them to see it as a protection for their housing, and choose to pay other bills first. It begs the question, “How do I make myself and receiving my rent a priority?” just like the flat tire that stopped my car cold back in the day.

There is a reason that sayings like “the squeaky wheel gets the grease” and “out



of sight, out of mind” are as relevant today as the day they were coined.

The fact is that human beings prioritize, so you need to be a little squeaky and stay in front of your tenant at least once a month, regardless of whether they are paying you rent.

One successful strategy I have incorporated are monthly inspections. After serving the proper notice, I inspect the property on the 25th of the month, or

five days before rent is due.

Here’s my reasoning:

1. The 25th is about the date that most tenants start thinking about the rent that is due on the first. They have either just been paid or have a paycheck coming. I want them to see me and remember that they need to pay me, their landlord. I explain to all my tenants, whether they are current or not, that I might have to sell the house if I don’t get rent. I am inspecting so I know

what needs to be fixed or updated in case I must sell.

2. With more and more people being home from work and out of school, many people have made choices that might be a violation of the original lease agreement. Animal rescues doubled this year due to people being home more, and I have a no-pets policy. People have been moving in with others to save money, and you might suspect you have an unauthorized resident. It is not unusual to walk in and see a bong or other drug paraphernalia on the coffee table. If I know what is going on in my house, I have a remedy for eviction for lease violations for which the CDC order does not offer protection.

I had one landlord attendee on a Zoom call this week ask if she had to do this?

That’s something for you to decide, but you must consider, would you rather spend 20 minutes of your time to ensure you are a priority each month, or worry about not being able to pay your mortgage all month?

Yes 2020 has been a year where we all have had to work a little differently, oftentimes harder, to assure our continued success. If you want your rent, let your tenant know there are still consequences to not paying rent. Jump up and down and be seen; you are the priority. If you go flat like my tire did, you might end up stranded.

*David Pickron is President of Crimshield, Rent Perfect, XSHED and AAA Landlord. You can reach him at David@rentperfect.com or 888-422-2547, ext. 8069.*

## Landlord to Pay \$177,500 to Settle Harassment Lawsuit

RENTAL HOUSING JOURNAL

A landlord and his wife have agreed to pay \$177,500 to settle a sexual harassment lawsuit charge that the landlord sexually harassed female tenants since at least 2013 at residential properties the couple owned in Cincinnati, Ohio.

The U.S. Department of Justice said in a release that landlord John Klosterman and his wife, Susan Klosterman, will pay \$177,500 to resolve the Fair Housing Act lawsuit.

Under the settlement, which still must be approved by the court, the Klostermans will pay \$167,125 in damages to former tenants who were harmed by John Klosterman’s harassment, \$7,875 to another plaintiff in the lawsuit, and a \$2,500 civil penalty to the United States. The consent order also bars the defendants from participating in the rental or management of residential properties in the future, according to the Justice Department release.

“Sexual harassment of women in their homes is indecent, destructive, and illegal,” said Assistant Attorney General Eric Dreiband, for the Civil Rights Division, in the release.

“The Fair Housing Act protects the right of women and their families to live in peace and security and without the fear that deviant people will intimidate and bully them for sexual favors. This department will continue tirelessly to pursue landlords and others who abuse their authority by preying upon vulnerable women.”

The complaint, filed in 2018, alleged

that John Klosterman sexually harassed female tenants at the rental properties since at least 2013. According to the complaint, he engaged in harassment that included, among other things, making unwelcome sexual advances and comments, sending unwanted sexual text messages and photos, engaging in unwanted sexual touching, offering to reduce rent and overlooking or excusing late or unpaid rent in exchange for sex, evicting or threatening to evict female tenants who objected to or refused sexual advances, and entering the homes of female tenants without their consent and otherwise monitoring their daily activities with cameras directed at their units.

The Justice Department’s Sexual Harassment in Housing Initiative is an effort to combat sexual harassment in housing led by the Civil Rights Division, in coordination with U.S. Attorney’s offices across the country. Since launching the initiative in October 2017, the Department of Justice has filed 18 lawsuits alleging sexual harassment in housing. Since January 2017, the Justice Department has filed or settled 23 cases alleging sexual harassment in housing and has recovered more than \$2.9 million for victims of such harassment.

Individuals can report sexual harassment or other forms of housing discrimination by calling the Justice Department’s Housing Discrimination Tip Line at 1-800-896-7743, emailing the Justice Department at fairhousing@usdoj.gov, or submitting a report online www.justice.gov/crt or by contacting HUD at 1-800-669-9777 or filing a complaint online.

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# Should You Consider a No-Smoking Policy?

## RENTAL HOUSING JOURNAL

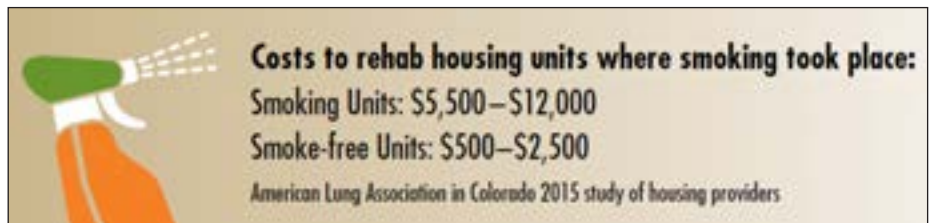
No-smoking or smoke-free policies are legal and have been implemented in thousands of multi-unit residential properties, and by a majority of the housing authorities in Colorado, according to a new booklet from Group to Alleviate Smoking Pollution (GASP of Colorado).

This growing trend of implementing a no-smoking policy saves you money in these ways:

- It reduces the cost of cleaning, painting, repairs, and replacement.
- It reduces energy consumption.
- It reduces the cost of general maintenance.
- It may reduce insurance costs.

There is market demand for these policies. Most Colorado residents, including low-income populations, do not allow smoking in their homes and prefer to live in smoke-free buildings, the booklet says.

Your residents will likely stay longer, too. Coloradans are used to smoke-free



workplaces, restaurants, bars, and public places and have come to expect clean air inside their housing.

## IS IT LEGAL TO PROHIBIT SMOKING IN MY BUILDING?

Yes! Colorado's Clean Indoor Air Act prohibits smoking and vaping in all indoor common areas and allows housing providers to prohibit tobacco or marijuana smoking or vaping in all or any part of their property, both indoors and outdoors.

There is no legal or constitutional right to smoke tobacco or marijuana. No-smoking policies are not discriminatory and do not violate fair-housing regulations. People who smoke are not a protected class according to federal or state law.

## EFFECTIVE AND PROVEN STEPS TO IMPLEMENTING A NO-SMOKING POLICY

- Include all types of smoking, including tobacco, marijuana, electronic cigarettes, and other forms of vaping.
- Involve residents in the process and determine their opinions and needs through surveys before and after implementation.
- Seek advice from other housing providers who have no-smoking policies.
- Educate residents about the health dangers of secondhand smoke and how smoking increases fire risk.
- Promote stop-smoking resources like: Colorado Quitline

(1-800-QUIT-NOW) and  
tobaccofreeco.org.

- Communicate the policy terms, effective date, and consequence of violations through meetings, in person, and in writing with signatures of all parties. You may want to consult an attorney.
- Create a plan to obtain policy compliance with residents, management, staff and contractors. Inform neighboring property owners about the policy and whom to best contact about any concerns.
- Plan a phase-in period and set an effective date for the policy to be implemented. A 12- to 18-month period is recommended.

Make no exceptions to the policy, as they can create resident confusion, frustration, and distrust of management. Exceptions make enforcement more difficult and may lead to fair-housing or false-advertising complaints.

Download the full booklet here at  
<http://mysmokefreehousing.org/>

# Colorado's Growth Presents Housing-Affordability Challenges

# RENTAL HOUSING JOURNAL

As in many other parts of the country, Colorado's growth has resulted in significant housing-affordability challenges, writes Growing Homes Together, a website from the National Multifamily Housing Council.

Combating housing-affordability issues in the state will require holistic solutions that address the needs of all

Colorado residents.

- Colorado has seen a sharp population increase, with 13.2 percent growth since 2010.
- More than 752,000 Coloradans call an apartment home, with demand on the rise.
- 76 percent of extremely low-income renters spend more than

half of their income on housing.

- Between now and 2030, Colorado will need to build 7,178 new apartment homes each year to keep up with demand.

Growing Homes Together points out that the state of Colorado preempts local municipalities from implementing rent control.

According to Colorado legislation, “No county or municipality may enact any ordinance or resolution that would control rent on either private residential property or a private residential housing unit.”

Growing Homes Together says, “Lawmakers should reject price controls and, instead, pursue alternatives such as voucher-based rental assistance for those in greatest need to better address housing affordability.”

## ALTERNATIVE APPROACHES

Many states have adopted programs and initiatives to tackle the affordability crisis. In Colorado, policymakers and the housing industry have made concerted efforts to address the problem. Examples include:

**Capital Magnet Fund** — In 2018, the Colorado Housing and Finance Authority unveiled the Capital Magnet Fund, a new statewide housing fund. The fund aims to support the development and preservation of affordable rental housing in the state's most vulnerable communities.

**LIVE Denver** — The Lower Income Voucher Equity Program (LIVE Denver) is a two-year pilot program built through public-private partnership to address immediate affordable-housing needs in the Denver area by connecting vacant market-rate apartment units with workforce families and individuals. The intent of LIVE is to bridge the gap in contract rent and participant ability to pay through funds provided by the City of Denver, foundations and employers.

**Colorado Housing Development Grant Funds** — Created by the Colorado state treasury, the Housing Development Grant Fund provides funds for acquisition, rehabilitation and new development to preserve or expand the supply of affordable housing.

**Bill to Expand Supply Affordable Housing — HB 19-1322:** Establish in the Division of Housing a new state fund to provide on-going and sustainable funding for programs and projects that improve, preserve, or expand the supply of affordable workforce housing in Colorado. Possible revenue sources include General Fund, Unclaimed Property Trust Fund, Marijuana Cash Funds, and Gifts, Grants and Donations.

**Bill for Flexible Funding Opportunities and Incentives for Developers — HB 19-1319:** Two policy changes to support private and nonprofit developers in initiating and sustaining affordable housing projects. Affordable housing developers are having difficulty obtaining financing from lenders because the claw back gives lenders too much discomfort. So, even though they are ready to build affordable units, developers cannot obtain the necessary financing to begin projects.

1. Require an inventory of Public Lands Suitable for Affordable Housing Development.
2. Limit claw back of property-tax exemption fund for affordable housing projects. This will alleviate lenders' concerns, which hinder development of sorely needed affordable and attainable housing.

**Bill for Expansion of the State Low-Income Housing Tax Credit — HB 19-1228:** The tax credit raises private sector equity needed to support the development and preservation of affordable housing. Expansion of the state's Low-Income Housing Tax Credit (LIHTC) would raise the cap of total allowed state tax credits for the program from the current \$5 million to \$10 million.

**Bill for a Tax Credit Employer-Assisted Housing Pilot Program — HB 19-1075:** Creates a pilot tax credit for donations to nonprofit sponsors of employer-assisted housing projects in rural areas of the state (defined as a non-metropolitan county with 50,000 or fewer residents). Sets a maximum of \$400 for the credit. Fiscal Note assumes reduction in revenue (credits claimed) of \$218K in FY 19/20 and \$436K in FY 20/21. Setup and ongoing cost to the Department of Revenue are \$88K.

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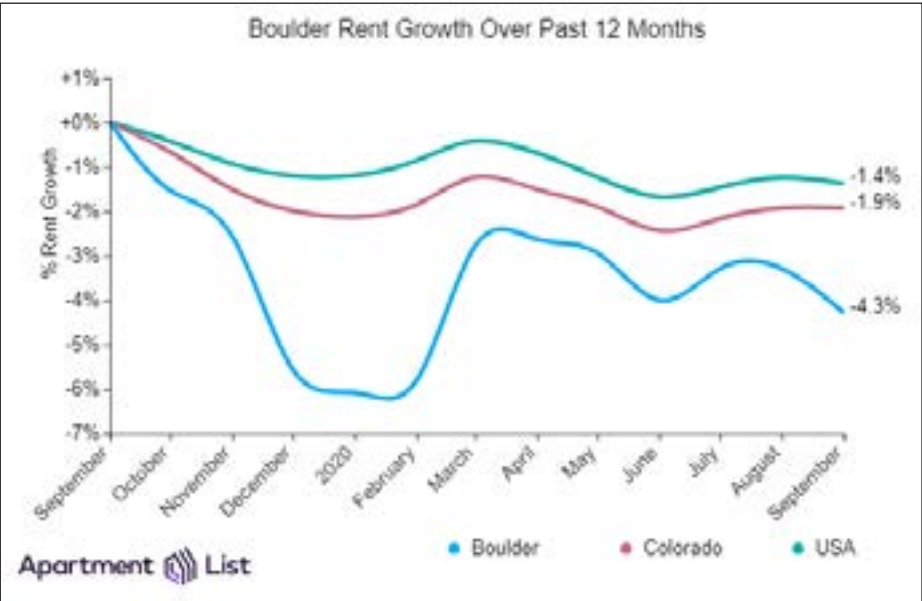
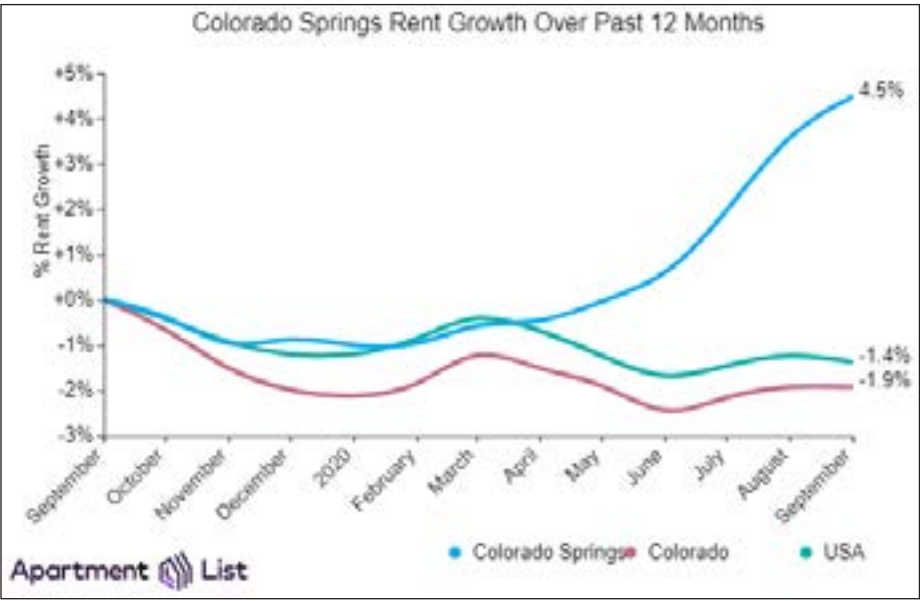
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# Smaller Markets Appear to be Heating Up

Continued from Page 1

beneath the surface. San Francisco and New York City continue to lead the nation in pandemic rent drops, while smaller markets like Boise and Colorado Springs are heating up,” Salviati said.

## COLORADO SPRINGS SEES EIGHT STRAIGHT MONTHS OF RENT INCREASES

Colorado Springs rents jumped 0.9 percent over the past month and are up significantly, by 4.5 percent year-over-year.

Median rents in Colorado Springs are \$988 for a one-bedroom apartment and \$1,254 for a two-bedroom.

This is the eighth straight month that the city has seen rent increases after a

decline in January.

## FORT COLLINS RENTS DECLINE OVER THE PAST MONTH

Fort Collins rents have declined 0.6 percent over the past month and are down slightly, by 0.5 percent in comparison to the same time last year.

Median rents in Fort Collins are \$1,159 for a one-bedroom apartment and \$1,354 for a two-bedroom.

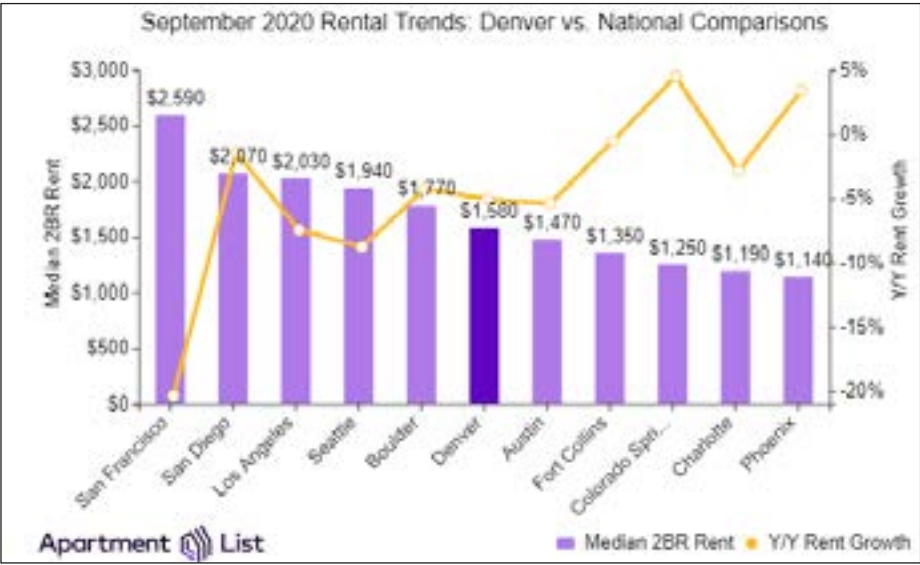
This is the second straight month that the city has seen rent decreases after an increase in July.

Apartment List is committed to making its rent estimates the best and most accurate available. To do this, they start with reliable median rent statistics from the Census Bureau, then extrapolate them forward to the current month using

a growth rate calculated from their listing data. In doing so, they use a same-unit analysis similar to Case-Shiller’s approach, comparing only units that are available across both time periods to provide an accurate picture of rent growth in cities across the country. Apartment List’s approach corrects for

the sample bias inherent in other private sources, producing results that are much closer to statistics published by the Census Bureau and HUD. Their methodology also allows them to construct a picture of rent growth over an extended period of time, with estimates that are updated each month.

City	Median 1BR Rent	Median 2BR Rent	M/M Rent Growth	Y/Y Rent Growth
Denver	\$1,290	\$1,580	-0.7%	-5%
Aurora	\$1,190	\$1,500	0.2%	0.4%
Thornton	\$1,470	\$1,670	1.3%	-0.3%
Arvada	\$1,140	\$1,430	0.1%	-1.3%
Westminster	\$1,370	\$1,680	0.8%	0
Broomfield	\$1,640	\$1,980	-0.1%	-2.5%
Parker	\$1,570	\$1,780	0.7%	1.4%
Littleton	\$1,200	\$1,600	0.5%	-0.3%
Brighton	\$1,040	\$1,230	0	0.4%
Englewood	\$1,010	\$1,570	0	-2.5%
Lone Tree	\$1,650	\$2,050	0	-0.9%



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# CDC Offers Clarification on Eviction Moratorium

RENTAL HOUSING JOURNAL

Some guidance on frequently asked questions about the CDC eviction moratorium has been provided by the CDC, and the National Apartment Association (NAA) has provided a look at these questions and answers, according to a release.

The NAA had asked for the additional guidance from the CDC, which was provided in early October.

“There is no doubt that National Apartment Association’s (NAA) aggressive advocacy and legal efforts, including first-hand conversations with the Trump administration and the U.S. Department of Justice (DOJ), played a major role in this guidance.

“NAA voiced concern over the outstanding issues related to the federal eviction restrictions and requested specific supplemental guidance to help housing providers operationalize these confusing and sometimes conflicting mandates, which ultimately culminated in the CDC’s response. Though we continue to advocate against any extension or expansion of federal eviction restrictions,

this significant development creates a path forward for the apartment industry,” the NAA said in the release.

CDC explanations and guidance:

- The CDC order is not intended to terminate or suspend the operations of any state or local court. Nor is it intended to prevent housing providers from starting eviction proceedings, provided that the actual eviction of a covered person for non-payment of rent does NOT take place during the period of the order.
- The order does not preclude a housing provider from challenging the truthfulness of the resident’s declaration in any state or municipal court. The protections of the order apply to the resident until the court decides the issue as long as the order remains in effect.
- Housing providers are not required to make their tenants aware of the order and declaration.
- To seek the protections of the order, each adult listed on the lease, rental agreement, or housing contract should complete and sign



a declaration and provide it to the housing provider where they live.

- Covered people still owe rent to their housing provider. The order halts residential evictions only temporarily. Covered persons still must fulfill their obligation to pay rent and follow all the other terms of their lease and rules of the place where they live. Covered persons must use best efforts to make timely partial payments that are as close to the full payment as their individual circumstances permit, considering other nondiscretionary expenses.
- Anyone who falsely claims to be a covered person would be subject to prosecution by the DOJ.
- To make the administration’s stance on these issues abundantly clear, the FAQs represent the views of the U.S. Department of

Health and Human Services, U.S. Department of Housing and Urban Development, and DOJ.

“This development is a significant nod to the power of NAA as we continue to lead the fight for our members and the viability of the industry. An additional COVID-19 relief package is likely, and NAA is meeting with lawmakers and staff daily to tell them that apartment owners, operators and residents need direct rental assistance.

“Eviction moratoria are not the answer and will do nothing to solve renters’ housing insecurity. Further, our lawsuit against the CDC is ongoing. While the new guidance provides some important clarification for the industry, we are seeking a final ruling that will decide whether the CDC exceeded its authority; that decision may not come until the new year,” the NAA said in the release.

## 7 Insights for Landlords on the New Eviction Moratorium

*Continued from Page 1*

piece of paper – and I’m oversimplifying it a little bit – the court has to stop the eviction.”

He pointed out that attorneys could challenge the affidavits in court and that landlords and property managers need to help out their eviction attorneys by documenting all the proper evidence needed by the courts.

Landlords should be asking local attorneys in their city or state lots of questions.

### No. 2 - Is it better now to use month-to-month leases?

One of the possibilities discussed is whether landlords would be better in this environment to go to shorter leases.

- Is it better to continue doing your long leases?
- Or should you move to a month-to-month leasing process? And does that help get around the moratorium issue? Because with a month-to-month lease, a landlord or property manager can say, “I am not renewing your lease. I am just not renting to you any longer.”

Both attorneys pointed out that there are many laws on this lease issue in different states, counties and cities, so landlords need to consult their local attorneys. But “that’s been one of the suggestions brought forward in Ohio.”

They pointed out the CARES Act is still in place, with its eviction rules.

### No. 3 - Sue tenants for rent, not eviction

“There is no moratorium on suing people for rent,” Greenberger said. “I think the new moratorium might allow a little crack of light, but it’s a state-by-state, city-by-city possibility. And I think it’s a very slim crack of light. What I’m recommending to people (is) you just sue people for rent – not for eviction – in small-claims court,” he said.

“Some of my clients are hiring me out hourly” to sue tenants, Greenberger said. “We’re not evicting them. We’re just saying ‘you now owe four months in rent and it continues to accrue. And on the day of judgment, we’ll take a judgment against you.’ “ He said once a judgment is entered and the tenant is working, a landlord can take wage garnishment or go after bank accounts.

### No. 4 - Establish communication with tenants and document it

Watson said that he’s been advising landlords and property managers to be proactive with tenants.

“I have maintained a lot of communication, much more than the normal, with all my tenants during this particular season. And if there’s something wrong, I want to know about it.

“And so, I’m telling folks (to) establish a pattern of communication, because under that CDC moratorium, there’s got to be communication. And if there’s not bilateral communication, then that’s a very big piece of evidence,” which can be presented to the court in the landlord’s favor.

Watson suggested it might be appropriate to start putting back into rental agreements that a tenant’s failure to communicate with the landlord is evidence of a non-monetary default on the lease.

Watson said he has learned how to communicate with his millennial tenants in the way they want to be communicated with, which is text messages. He can take screen shots of these messages, and keep records to show a court if needed.

Watson said he’s eager to work with tenants who communicate.

He said he tells tenants, “ ‘Talk to me. How can I help you?’ Just last week we had a tenant come in and go, ‘Hey, I changed jobs. This is what’s going on.’ We work with them. We’ve got a track record.

“This is going to be a test of how well do you do your business of being a landlord. Yes, it’s getting infinitely harder. You’ve got a vested interest. You’ve got communication skills. You understand why every word in that lease is there,” he said.

### No. 5 - Don’t bring your phone to court to show evidence

“As a practicing attorney, lots of my clients come into court with me and say, ‘I’ve got text messages,’ and they try to show me their phone,” Greenberger said.

“If you don’t want your phone held as evidence in the court files for the next two years, you need to bring those printed-out multiple copies if you want those entered into evidence, otherwise I have to have your phone seized and entered into evidence. So please don’t do that to me or your own attorney,” Greenberger said.

### No. 6 - Moratorium only applies to tenants not paying rent

Watson pointed out that the CDC moratorium applies only to tenants who are not paying rent, who are being evicted for nonpayment of rent. If they’re a bad actor – or in other terms, if they have breached the rental agreement in other ways – you can go through the regular process under the CDC moratorium and move for their eviction, though it will take longer. You’ll have to do the proper notice procedures as your state dictates.

Charles Tassell of National REIA pointed out the Ohio Supreme court came out with a ruling that evictions still may be filed for reasons other than nonpayment of rent. “You’re going to see this as pretty much standard across the board, but that’s the kind of thing to keep in mind. There are still venues, but it depends on ... are they violating their lease or not?”

In terms of working out payment agreements with tenants, Tassell pointed out that the CDC says tenants are supposed to make payments “to the best of their ability, up to the full amount of

the rent.”

Watson said this “goes back to best efforts. The tenant has to show you that they’re making their best efforts. So if they’re down at Best Buy buying another big-screen TV ... I’m sorry, that’s not going to work. They are going to have to show you their spending habits when they are not paying rent.”

Tenants have to show how much they have available to pay rent.

In the affidavit the tenant is supposed to provide, they have to say, “I have used best efforts to obtain all available government assistance for rent or housing,” Greenberger said. He said the law says everyone in the household must sign an affidavit.

The attorneys said it might make sense – but consult your local attorney – to file your eviction case before you get the tenant’s affidavit. Then your attorney can argue to strike the affidavit, unless you are under some other kind of eviction order from your state.

### No. 7 - The problem is the “one-size-fits-all” with the CDC eviction moratorium

“This is not the time to be doing your own evictions,” Watson said. There is a \$200,000 penalty or fine for violating the order.”

Watson said landlords should:

- Know your business
- Communicate with your tenants
- Use Voter Voice
- Share your wins with tenants

### SUMMARY

Tassell said to focus on what landlords can do and to contact local elected officials using Voter Voice. He said he expects constitutional lawyers will address this issue at the national level. This is a developing situation, he said, and he expects lawsuits to be coming across the country.