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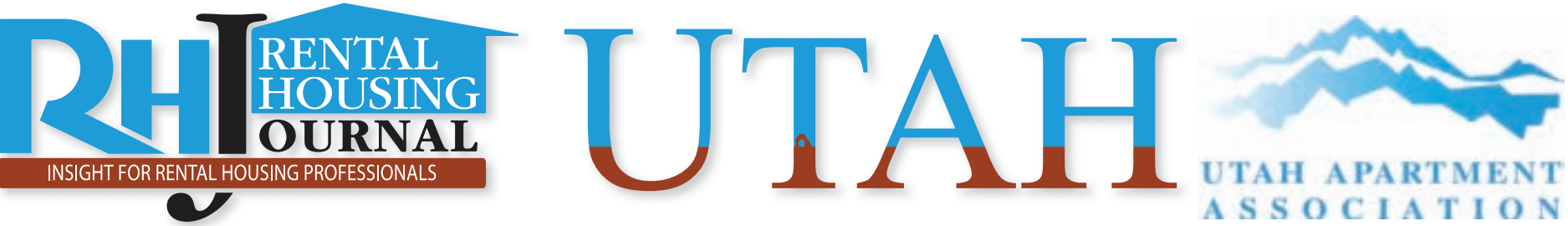
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General Membership Meetings — 7 p.m. Jan. 28, 2021 Virtual Meeting via Zoom - Legal Seminar

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Teaching Renters How to Avoid Eviction

If you need to serve a notice because a renter is violating their contract, the last thing you want is for that notice to lead to an eviction. You want the renter to “resolve” the issue and avoid further consequences. They will only face eviction if they refuse to resolve the situation.

Make sure your renter understands evictions are a consequence only of their choices. They need to resolve the issue in the notice. Only if they fail to resolve the issue will an eviction proceed.

There are 5 ways renters can avoid eviction for non-payment:

1 - TAP INTO TO PERSONAL RESOURCES.

There are countless examples of people who lost income and found ways to still pay rent. Using savings, getting a loan, selling assets, getting

See ‘Teach’ on Page 7

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Tenant Screening – What to Ignore and What to Watch For

As members of the Association and intelligent property owners and managers, you all know it is illegal to deny applicants for certain reasons. Under the Fair Housing Laws there are 10 protected classes. We cannot treat differently, or deny applications, solely based on applicants belonging to a protected class. As a reminder those classes are as follows:

- FEDERAL**
Race, Color, Religion, Sex, National Origin, Disability, Familial Status
- UTAH STATE**
Source of Income
- LOCAL (MUNICIPAL)**
Sexual Preference, Gender Identity
- Federal and State Fair Housing violations carry \$10,000 fines and



civil liability charges. Municipal and Utah cities (but not all) have their own laws that will carry a fine and/or other penalties.

We all understand that we should not deny applicants solely for any of those reasons. However, as a property

See ‘Tips’ on Page 5

What to Do if a Tenant Changes Mind About Renting From You

“I have a renter who signed a rental agreement and paid the deposit several weeks ago to move in at the beginning of next month. Now he’s saying he doesn’t want to rent the place anymore. What should I do?”

The good news is they signed the agreement and paid a security deposit. The professional way to handle it would be to communicate the following:

“We understand things have changed and you no longer wish to move in. We will immediately attempt to re-lease the rental home. If we can get it re-leased by the first of the month, we will deduct only the cost of labor and marketing for the replacement tenant. If it takes longer than that, you will be responsible for daily rent until re-rented.”

Be understanding and polite. But explain to them they signed a binding contract, and you will do your best to rent it quickly, but there will be costs associated with their default. Occasionally owners and managers have to re-lease a place someone signed a lease on; they should do their best to mitigate damages by re-leasing quickly. But the tenant is responsible for the “actual damages” of the contract default, which include labor and marketing costs and daily rent until the

See ‘What’ on Page 6

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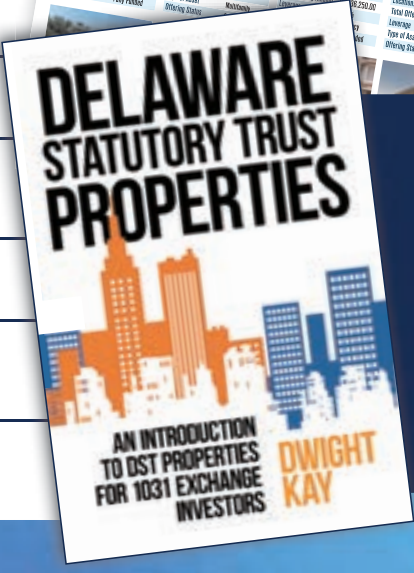
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How to Build a Diversified Real Estate Investment Portfolio

Having a diversified commercial and multifamily real estate portfolio is important to potentially reduce risk and create multiple opportunities for potential income and appreciation. Diversification is even more important in tumultuous times like these. Here’s a look at how to build a diverse real estate investment portfolio.

By DWIGHT KAY, FOUNDER AND CEO, KAY PROPERTIES & INVESTMENTS, LLC

Recent survey research by National Real Estate Investor magazine indicates that nearly 60% of high-net-worth investors are expected to increase their allocation to investment real estate in the next 12 months. Millions of Americans invest in alternative assets, including real estate. It’s an important step towards diversifying a portfolio with investments that don’t necessarily correlate with the stock or bond markets.

Once you decide to invest in real estate, the challenge is how to build a diverse portfolio.

Buying a property outright and actively managing it yourself is one way to participate in the market, but that typically requires a substantial initial investment — often hundreds of thousands of dollars to be paid at once. A downside of this approach is that you put all your eggs in one basket.

Owning and managing real estate yourself also means dealing with the three T’s: toilets, tenants and trash. If you have the time, and dealing with all that appeals to you, it may be the way to go. Alternatively, you can invest alongside others in a diverse basket of properties. Diversification is even more important now with the pandemic and the additional risk it creates as the looming fear of further economic distress continues to cause concern.

Here are five tips to build a diverse real estate investment portfolio that has the potential to generate income and appreciation, as well as potentially withstand the shock of events, including recessionary downturns and, potentially, extraordinary occurrences like the pandemic and future recessions or even depressions. Please remember: Diversification does not guarantee profits or protection against losses.

5 TIPS TO BUILD A DIVERSE REAL ESTATE INVESTMENT PORTFOLIO

1. DIVERSIFY BY ASSET TYPE

Investors should diversify their real estate portfolios by asset type to avoid the risk of over-concentration in one particular category of property — same as you would avoid over-concentration in any one stock. Rather, invest capital across asset types, such as industrial, multifamily housing, triple-net-leased retail, medical office and self-storage.

2. DIVERSIFY BY GEOGRAPHY

Similarly, investors should diversify their real estate portfolios across geography to avoid the risk of over-concentration in a particular local or regional market.

3. AVOID HIGH-RISK ASSET TYPES

There is risk in all real estate investments, but some asset types have demonstrated that they are particularly risky, and are thus best avoided by those looking to reduce downside potential. These include hotels and lodging properties, senior housing in all its forms, and real estate used in the production of oil and gas.

Hospitality, for example, has been hit hard by all three recessions since 2000, including the 2001 recession,

the Great Recession of 2008-2009 and the current recession related to COVID-19. In all three cases, the standard industry measure of hotel performance (RevPAR, or revenue per available hotel room), declined precipitously. Most recently, Marriott recorded its largest loss ever for the June 2020 quarter, reported The Wall Street Journal in August.

Senior care is another sore spot, which the pandemic has demonstrated once again. First, the population themselves often is at risk, literally. Second, operators of senior care facilities, whether residential housing, long-term care facilities or nursing homes, are subject to all manner of regulations that increase the risk associated with property operational performance.

Finally, oil and gas industry properties have proved to be as subject to volatility over the years as the industry they support. Just think about it: An oil well may or may not produce as expected; thus, the underlying real estate asset is particularly vulnerable to speculative risk. Stay clear if you can!

4. CONSIDER THE RANGE OF INVESTING OPTIONS

Unless you want to actively manage your investment properties and embrace the three T’s, passive real estate invests can be the way to go. There are a range of options to choose from, including Delaware Statutory Trusts (DSTs), Tenants-in-Common (TIC) properties and private equity funds, such as Qualified Opportunity Zone Funds.

A Delaware Statutory Trust is an entity used to hold title to investments, such as income-producing real estate. Most types of real estate can be owned in a DST, including industrial, multifamily, office and retail properties. Often, the properties are institutional quality similar to those owned by an insurance company or pension fund, such as a 500-unit Class A multifamily apartment community or a 50,000-square-foot industrial distribution facility subject to a 10- to 20-year lease with a Fortune 500 logistics and shipping company. The asset manager takes care of the property day to day and handles all investor reporting and monthly distributions.

A TIC structure is another way to co-invest in real estate. With a TIC, you own a fractional interest in the property and receive a pro rata portion of the potential income and appreciation of the real estate. As a TIC investor you will typically be given the opportunity to vote on major issues at the property, such as whether to sign a new lease, refinance the mortgage and sell the property.

Although TIC investments and DSTs have their nuances and differences, they often will hold title to the same types of property. While the DST is generally considered the more passive investment vehicle, there are some circumstances in which a TIC is desirable, including if the investors wish to utilize a cash-out refinance after owning the TIC investment for a few years in order to get some of their equity back, which can be invested in other assets.

Qualified Opportunity Zone Funds, another option, offer benefits including tax deferral and elimination that many investors nationwide have utilized. A fund of this type can invest in real property or operating businesses within an Opportunity Zone, typically a geographic area

in the U.S. that has been so designated because it may be underserved or neglected. As such, there may be a higher level of investment risk. Also, the time horizon of the fund may be as long as 10 years, which means tying up your capital for that length of time in an illiquid fund.

5. REMEMBER THE TAX BENEFITS OF REAL ESTATE INVESTING

Real estate is arguably one of the most tax-advantaged investment classes for U.S. investors. Depreciation deductions are available to all investors, and any real estate investment losses may be deductible against other income, which could potentially reduce your tax bill. Additionally, direct real estate investments — including Delaware Statutory Trusts and Tenants-in-Common properties — qualify for like-kind exchange treatment, otherwise known as a 1031 exchange, which can save investors approximately 40% on their tax bills when there are net gains on property sales.

A SAMPLE BASKET OF DIVERSE REAL ESTATE INVESTMENTS

What might a diverse basket of real estate investments look like? Here’s one example:

Mary Smith decides to invest \$500,000 into commercial and multifamily real estate with the potential for income and appreciation. She makes five investments, allocating her funds equally among these assets:

- \$100,000 into an industrial distribution facility with a long-term net lease to a company like Amazon, FedEx or Frito Lay
- \$100,000 into a medical dialysis center with a long-term net lease to a company, such as Fresenius or DaVita
- \$100,000 into a multifamily apartment community with 300 units in the Southeast
- \$100,000 into a self-storage facility in the Midwest
- \$100,000 into a debt-free multifamily property with 50 units in Texas

Net-net, Ms. Smith has diversified her portfolio by both asset type and geography. She has avoided more cyclical and highly volatile asset classes, including senior housing and long-term care, hotels and oil and gas. She has made passive investments, leaving day-to-day management of the properties to industry professionals. And she has consulted with her accountant and attorney about the tax advantages of real estate investing, including 1031 exchanges.

She is well positioned for the uncertainty of the future and is aware that all real estate investments have risks, and that income and appreciation are never guaranteed. Even diversification, while desirable, does not guarantee profit or protect against losses, but it can potentially reduce risk and create diverse potential income streams and opportunities for appreciation.

Dwight Kay is founder and CEO of Kay Properties and Investments, LLC, which operates a 1031 exchange property marketplace at www.kpi1031.com.



About Kay Properties and www.kpi1031.com

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Chair's Message

Celebrating Your Sneaky Pets!



JEAN SMITH
Chair, Utah
Apartment
Association

Residents who acquire pets after move-in are so excited about their new family members, they often forget that their lease has certain requirements when it comes to having pets. Their lease probably requires them to register their pets, sign the addendum, and pay for the privilege of being a pet owner. Of course, there are also those that do remember and choose to sneak their pets in.

The holiday season is upon us and pets are always a popular gift, especially

for kids or older relatives living alone. This year with all of us being at home for a large portion of the year, it may seem that now is the best time for a new pet. As property owners, and managers, none of us want or like the role of being the “Pet Police.”

Residents can often put us in the annoying position of having to play pet detective and confront them on the rules regarding pets in our communities. We can’t simply ignore the pet, since we have to treat all residents the same, and we want the protection of pet addendums, the revenue from pet fees and rent, and to make sure pet owners know the policies. We also don’t want to put ourselves in the position of alienating tenants who would otherwise be rule followers and respectful to the property.

Here are a few ideas on how to “Celebrate” your sneaky pets and hopefully not by the “Pet Police”:

1. HOLIDAY TIPS AND NEWS

You probably already send out some kind of Holiday reminder about safety with candles, fire, Christmas trees, decorations and other holiday related items. Include a reminder for those new four-legged gifts from Santa about your pet rules and maybe some helpful tips from a pet website on caring for and training your new family member.

2. GET RESIDENTS TO “CELEBRATE” ON THEIR OWN!

Develop a section in your monthly newsletter, or on your property’s Facebook page and other social media accounts to welcome new pets to the neighborhood, featuring a photo of the

new pet and their family. You could also hold regular competitions for “Cutest Dog” or “Best Trick” to encourage neighbors to share with each other and to get their own pets featured!

3. WELCOME THE NEW PET!

If you have “discovered” an unauthorized pet, send the resident a Pet Welcome Letter and some treats. Invite them to the office to have a pet ID photo taken so if their pet ever gets lost you can help locate it. Plus, you can get their “other” paperwork (pet addendum, etc.) done at the same time.

As with all things, having good policies and procedures in place is only as good as your follow through, so make sure all of your staff and managers know your expectations and have the tools meet them.

Director's Messsage

Installing and Maintaining Carbon Monoxide Detectors in Residential Rentals



L. PAUL SMITH, CAE
Executive Director,
Utah Apartment
Association

CO detectors are required in new construction. But older units need them too!

In 2009 the Utah State Legislature passed a law which enables cities to require the occupant of a building to install and maintain a Carbon Monoxide detector in a residential unit built before the codes required them. Putting this responsibility on the person who is actually occupying the property makes sense since it is their life at stake and they have the day to day ability to monitor and maintain the detector. In addition, many of the issues that create CO in the home are caused by the occupant. For instance, bringing propane stoves indoors, altering furnaces or water heaters etc. These are all bad ideas and tenants should be educated and encourage to not do them and to maintain an operable CO detector to protect them from all sources of CO poisoning. I remember a case about 10 years ago where a roofer covered a furnace vent with a box of nails and 3 occupants died. While cases like that are rare, CO poisoning from any cause can be deadly.

Carbon monoxide (CO) is a colorless, odorless, tasteless, non-irritating gas found in both indoor and outdoor air. It is formed when carbon-based fuel (e.g., gasoline, oil, wood, coal, etc.) is not burned completely in engines, natural gas furnaces and water heaters, indoor wood stoves, kerosene space heaters, open fires, and smoldering coals.

Carbon monoxide attaches to the hemoglobin in red blood cells and prevents those cells from carrying oxygen. The more CO that enters the bloodstream, the less able the blood is to carry oxygen to the body. In high amounts, CO can limit the human body’s ability to carry oxygen in the blood stream to vital organs, which can be fatal. Carbon Monoxide should not be confused with Carbon Dioxide (or CO2), which is a normal part of respiration.

While there are few Carbon Monoxide deaths in Utah, and the state health department reports the number is falling, this is a preventable tragedy. Knowing how to install, maintain, and encourage your tenants to take seriously their responsibility to keep detectors functional, can go a long way to reducing tragedies.

INSTALLATION

CO does not rise, like heated air does, and so can be found at all elevations in rental homes. One option for CO detectors is plug in devices, but the UAA does not recommend these, as they are easily removed or disabled. We recommend dual smoke/CO detectors mounted on the ceiling, because they are more permanent and harder to remove. Modern codes require hard wired CO detectors, and these are a good idea if installation is feasible.

MAINTENANCE


CO detectors mounted on the ceiling can be disabled and often are, especially dual ones, when smoke alarms go off. Landlords should regularly remind tenants of the usefulness of these devices, and check that they are operating and still installed, on a regular basis.

The Utah Apartment Association strongly encourages landlords to make


sure every rental unit has an operable CO detector and to educate your tenants in order to help them protect themselves and their families. As

noted above, this approach has helped to decrease the number of deaths and incidents of Carbon Monoxide poisonings in the state.

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Ask the Attorney

What Do I Do When a Tenant Stops Paying Utilities at the Property?



JEREMY SHORTS, Esq.
Utah Eviction Law

First, check your lease to see whether or not your tenant was required to put any utilities in their name. If they are

required to do that and have not, they are in breach of the lease and you may have grounds to provide them with a 3-day lease violation notice.

Typically you will want to make sure that the notice gives them the opportunity to come back into compliance or vacate the property. If the utilities are in the landlord's name, the best practice is to pay the utilities and then provide the tenant with a 3-

day notice to pay or vacate based on the amount owed for utilities. DO NOT ask the utility company to shut off the utilities. If you do, the tenant may have a claim for a wrongful eviction, which will be a much larger pain to deal with than going through the proper process of eviction.

Keep in mind that if the tenant has not paid, and not had the utilities placed in their name as required under

your lease, you can provide the tenant with two separate notices (one about payment and one about establishing utilities in their name), as they are two separate violations.

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Tips on What to Look for When Screening Tenants

Continued from Page 1

owner or manager, knowing what to watch for to rule out risky tenants is an important skill to master. Below is a list of reasons that you should consider denying applicants for as they could be a serious risk:

1. **Serious criminal history.** Not jaywalking or minor infractions such as speeding tickets. The serious law violations – sex crimes, property crimes such as theft or vandalism, drug crimes, and violent crimes such as assault. People who commit these types of crimes have a higher likelihood of committing

them again. Statistics indicate the likelihood of a repeat offense may be as high as over 60% of the time.

2. **Someone on parole or probation.** Unfortunately, as many as 65% of people who are on parole or probation end up being sent back to prison for some violation. If they are a tenant at the time, it will be difficult to collect rent or monitor who occupies the property (friends, associates), etc.

3. **People who owe other property owners or managers money.** The best indicator of

future performance is past performance. If someone has not met their obligations under a previous lease or has done property damage on the way out that they have not paid for, they are likely to continue the same cycle of behavior as irresponsible tenants.

4. **Extremely anxious or type A personality people.** People that are naturally hard to make happy are going to be hard for you to make and keep happy too. If you suspect you are dealing with someone like this, speak to their previous landlord. If you get any information that they are

just hard to make happy, you can deny them based on unacceptable previous landlord references.

5. **Someone with serious money problems.** If their credit check reveals that they are on the verge of bankruptcy, or if they have a pattern of being unable or unwilling to pay their previous financial obligations, you might be taking a serious risk if you rent to them. Especially if they have an open collection with a previous landlord or with a utility company – these are big red flags that you should deny their application.



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What to Do if Tenant Changes Mind About Renting

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property is re-rented.

You will “apply” the security deposit to any damages/costs.

For instance, if the security deposit was \$1,000, and the labor and marketing to re-lease come to \$200, you would return the remaining \$800. If the daily rent is \$40 a day and it takes 15 days to rent, or \$600, you would deduct the \$200 marketing costs and \$600 lost rent = \$800 from the \$1,000 and they would get \$200 back.

Sometimes the purpose of security deposits is misunderstood. Deposits are used to cover costs. Some people think deposits are “forfeited”, if a tenant breaks the lease, but as a matter of law they can only be “applied” to damages. The word “damages” has a broad definition including:

- Lost rent
- Marketing/labor
- Cleaning
- Physical damage
- Other costs like unpaid utilities, late fees, etc.

In this case since they never moved in there are no cleaning costs or damages, but there are lost rent and marketing/ labor costs. So, if someone asks “Do I forfeit my deposit” because they decided not to honor the agreement; the answer is no – deposits are applied to damages. The deposit was \$1,000 in this hypothetical. If damages exceed the \$1,000, they would end up owing more. If damages are less, they will get a partial refund.

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Teach Renters How to Avoid Eviction

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a second or third job are all examples of tapping personal resources.

2 - FRIENDS AND FAMILY.

Many renters are getting by currently by relying on friends and family to help cover expenses. It is often hard to ask for help. Renters may need to be encouraged to ask.

3 - CHURCHES AND COMMUNITY ORGANIZATIONS.

Churches and community organizations are being very generous right now. Some church congregations are paying one month’s rent to anyone in their borders who asks - member or not. Again, the key is asking.

4 - GOVERNMENT RESOURCES.

In addition to stimulus, unemployment, and other funds, right now there are millions in rental subsidies that can be tapped into - if renters will jump through the hoops of application and bureaucracy. Right now, you should direct renters to 211 and impress upon them that they can get help but they need to quickly apply and navigate the process. The housing provider can’t access this fund, only the renter can.

5 - THE LAST RESORT.

If the above fail, the last resort is for the renter to move out. No renter who moves out to resolve their inability to pay or comply can be evicted. Evictions are only to obtain possession when a renter refuses to move. Moving avoids evictions, the attorney’s fees and court costs, and the judgements with damages and penalties every time.

EMPHASIZE THE CONSEQUENCES OF EVICTION

Renters do not always understand the consequences of eviction, or the urgency of a resolution. Emphasize to renters the following:

- An eviction is a public record that will affect their ability to rent or get credit for many years
- If the renter forces an eviction, the amount owed will increase dramatically and include attorneys’ fees, court costs and damages
- A judgment may be obtained at the same time and your attorney will seek to recover that money owed
- To recover damages the renter’s wages can be garnished, which can be devastating to them

Renters are the ones who choose eviction, but housing providers can respectfully and kindly help renters avoid evictions by teaching them these alternatives.

Housing providers should do all they can to avoid evictions including teach renters how to avoid them. But if renters will not comply with leases or enter into payment agreements to get caught up and stay current on rent, an eviction is the legal remedy for owners and we shouldn’t hesitate to use it - after all you can do!



Good Landlord Classes Now Available Online!

The Good Landlord Class is the base legal class the UAA offers on landlord laws in the state of Utah. Some cities require you to take this class in order to receive a "good landlord discount" on your business license fees. This class is good for all cities in the state and is a wealth of broad knowledge on landlord law.

In these times of social distancing, we are now offering our GLL Class Online so you can still renew your business licenses in compliance with cities Good Landlord Program requirements.

The online class will cover:

- Basic guidelines to being a landlord
- Best practices and policies in property management
- Fair Housing basics and landlord/tenant discrimination (including ESA/comfort animals)
- Tenant screening and background checks
- Evictions and dealing with tenant issues
- Abandoned property and abandoned premises
- Deposits and dealing with damage to property
- As well as a few other rules and guidelines to being a landlord in Utah

REGISTER ONLINE at www.uaahq.org/gll

Never Hear “The Check is in the Mail” Ever Again.

Introducing RentPay™

As a landlord, the question you ask yourself every month is, "Will my tenants pay their rent this month?" The question we ask is, "How do you receive rental payments every month?"

For some, you might go through the exhausting task of chasing your money down every month. Others wear out their grass, pacing back and forth to the mailbox at the beginning of the month. Many of you have tenants bring a check by your home or office. And the very bravest among you share your bank account number with your tenant and let your tenant deposit directly into your account. I speak from over 20 years of experience where I have utilized, to varying degrees of success, each of these methods. Tired of the "trial-and-error" method when it came to collecting rent, I set out to create a new solution that got me away from the flawed system I had used for years.

Rent Perfect® is excited to introduce you to our RentPay™ platform, a complete rental payment system that turns you into an expert landlord overnight. Some of the features included in RentPay™ are: Automated emails that alert your tenants when their rent is due, the ability to receive payments through ACH, and the automatic calculation and inclusion of late fees. Being "top of mind" with your tenants will increase your chances of being paid in full, on-time, every month. Your RentPay™ portal notifies you when rent is paid and gives you a snapshot of every property to see exactly the status of each tenant’s payments, all at the click of a button right from your phone.

Considering your tenant could be paying you over \$100,000 in the next five years, making the payment and collection of rent a painless process should be your priority. It’s time to evict those old-school rent-collection processes; I promise if you try Rent Perfect’s RentPay™ system, you will never go back to the way you collected rent in the past.

And unlike future rent, you can take that guarantee to the bank.




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