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Removing Tenants Who Damage Your Rentals

BY HANK ROSSI

Dear Landlord Hank: A rental home has been occupied by the same tenants on a month-to-month rental agreement for 13 years. The tenants do not keep the home clean or taken care of. As a result, it badly needs a renovation or demolition.

The home must be vacant to do this extent of work.

I would not rent to these people again, as they are extremely destructive to the

See ‘How to’ on Page 15

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Staying Out of Landlord Rehab

3 Tips to Help You Overcome the Barriers in Your Path



By DAVID PICKRON

I recently came home from work and saw my teary-eyed daughter sitting defeatedly on the couch. This was abnormal for her, and signaled something was wrong.

She is tough, handles stress well and has been an athlete playing high-level golf since age 14. If any game can break you, it’s golf, and last night was her breaking point.

Trying to qualify for her first tournament as a college freshman, she started strong on the first three holes with a series of great shots. Things started to crumble on hole No. 4 with a shot into the lake. This rattled her so much that

See ‘3 Tips’ on Page 4

Some Bright Spots in Market Begin To Emerge, but Long Road Ahead



RENTAL HOUSING JOURNAL

Some bright spots in the housing market and the economy are beginning to emerge, writes Yardi Matrix in its January multifamily report, but cautions there is a long road ahead.

“Nationally, rents remained relatively flat in January, declining by 0.2 percent on a year-over-year basis. On the market level, some gateway markets appear to have hit bottom, while low-cost tertiary and secondary markets continue to see strong rent growth,” the report says.

- Overall rents increased by \$3 to \$1,392. In January, Yardi Matrix “expanded its methodology to

include all 130 matrix markets in our national average calculation.”

- “As our market penetration continues to grow and we collect more data, we feel it appropriate to add new markets to our national calculations,” the report says.
- Some gateway markets that have struggled for months have begun to show signs of bottoming out. San Jose (-13.0 percent) and Washington, D.C. (-4.5 percent) both saw month-over-month gains.

“The U.S. is continuing the effort to roll out COVID-19 vaccinations nationwide,

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Understanding Debt Structures Prior to Investing

By The Kay Properties Team

Individuals who are investing in real estate through a 1031 exchange – or investing after-tax dollars – will need to consider investing either in property that has a mortgage or property that has no long-term financing (debt-free).

For clients in a 1031 exchange (per the current IRS code), a property with debt may need to replace the debt obligation in order to fulfill the 1031 equal-or-greater-purchase-price requirement.

We have found through the years that investors may not actually understand the various debt structures that they are investing in and that each loan may have different terms and agreements. There are pros and cons of debt.

Cash Flow

Often times, cash flow can potentially be higher when you use a debt within your investment strategy. High cash flow can be very attractive to investors, but high cash flow is only attractive until it is not ... and this is where investors need to understand how a higher cash flow is being achieved and the risks associated with it.

We typically have seen sponsors use interest-only financing in order to get a higher potential cash flow, risking the large balloon mortgage payment that will be due. There would be no principal pay-down in the loan and investors could potentially be stuck with a large loan balance that they will need to replace in their future 1031 exchange.

Cross-Collateralized Loan Obligations

Within the DST marketplace you will find that there are DSTs that have a single asset and there are

DSTs that can contain upward of 20+ properties.

It is important to understand the loan structure when considering investing in a DST with multiple properties that has a debt component. There are two types of debt structures that can be on a portfolio:

1. Each property within the portfolio has its own loan, or
2. All the properties are connected under one loan, otherwise known as a “cross-collateralized loan.”

A cross-collateralized loan is considered more risky, as it can potentially put a lot of restrictions on cash flow for investors and substantially limit the sponsor’s ability to sell the portfolio on behalf of investors. The DSTs might have multiple properties, providing diversification for investors, but if all the properties are under one loan this does not necessarily provide the diversification that most investors think they are getting.

For instance, there could be clauses within the loan that can significantly affect an investment, such as when a certain amount of properties stop paying rent or go bankrupt, the lender can call the loan or do a cash-flow sweep (meaning that because of one portion of the portfolio having problems, the entire investment is at risk).

Credit-rating clauses allow a lender to sweep cash flow for a period of time should a certain tenant or a percentage of tenants’ credit ratings drop. For example, you could have a portfolio of net-lease corporate-backed properties that do not go out of business and do not stop paying rent, but maybe

there is a recession or something else affecting the corporate level of your tenant that temporarily drops their credit rating. This gives the ability for the lender to lock all the current cash flow in the lender’s lock box, taking away an investor’s current cash flow.

We also have seen sponsors place a few properties within the portfolio that are not officially investment grade-tenants per Moody’s Standards and Poor’s ratings, and this is misleading to investors, as a non-investment-grade tenant can have a significant default risk.

Lastly, when you have a portfolio of properties under one loan it can potentially limit the ability to sell the portfolio, as in most cases you will need to sell all the properties at the same time. What if a buyer only wants to buy a portion of the properties because they do not like three of the 20 properties included? The sponsor may be forced to reduce the price to make it more attractive to that buyer.

Some sponsors have a strategy of a 721-exchange, which has its own sets of pros and cons. (Please request or refer our 721 Exchange Whitepaper for more information.)

If a portfolio is debt-free or not cross-collateralized, it can provide more potential exit strategies for the sponsor.

In short, investors that have the ability to stay debt-free can mitigate risks that a loan can bring on a property and its exit strategies. If investors need to take on debt or are comfortable with the risks of debt it is important to understand the pros and cons of the different debt structures available.

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Website
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Mailing Address
4500 S. Lakeshore Drive, Suite 300
Tempe, AZ 85282

Email
info@rentalhousingjournal.com

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3 Tips to Keep You Out of Landlord Rehab

Continued from Page 1

over the remaining holes she struggled and ended up scoring her highest round of golf since her freshman days in high school.

As she sat there looking back at me, suspecting her score wouldn't help her qualify, she said, "it's just too hard, I want to quit."

If you've been a landlord for any amount of time, you may have felt like throwing in the towel at some point.

Last week, one of my tenants' children decided to get on the roof and pour gas down two stories to a mobile firepit. The neighbor was watching and filmed the entire incident.

(I love having a relationship with the neighbors of my tenants.)

No adult supervision and balls of flames crawling up my walls: definitely grounds for an eviction.

I sent the video to my tenant and told them our relationship had come to an end and that they would be receiving notice to leave. Can you guess the answer? "I have

COVID so you can't evict me." If there were ever a reason to give up on being a landlord, this might qualify.

As a private investigator and seasoned landlord, I ask myself, "How did I get here?" This same family has been a consistent tenant for more than 10 years, never missing a payment.

I screened them well, followed best practices and even after all of that, I find myself in a situation where I have lost control of my own property because of a regulation passed by our local, state, and federal government.

Knowing what I know now, would I do it all over again? Absolutely! Even when we do everything right, sometimes things still go wrong. You have a right to be mad, stomp around, and even feel sorry for yourself; but then you've got to get over it.

If you are a struggling landlord right now, let me suggest three things you should think about if you are dealing with a tenant who is not paying you and feels entitled to be in your property.

1. HIRE A TEAM OF PROFESSIONALS

a) Form a great relationship with a landlord/tenant attorney. Most of the good ones can be found through your local landlord associations. These professionals follow all federal and local laws and have the resources necessary to manage different requirements coming from different jurisdictions.

Time and time again I have seen people panic over a new regulation, only to find out the regulation was already in force by a federal rule or really did not have any impact at all. For example, Louisville just came out with a city ordinance adding individuals with criminal histories as a protected class, only to take away any "teeth" from the ordinance by exempting any crime that would affect the health and safety of the landlords. I don't know a landlord who would penalize an applicant for underage drinking five years ago, but robbery or drugs is another story.

b) Get with a professional mortgage broker who understands your landlord strategy and can help maximize your

returns with the right type of loan.

c) Align with a collection agency and create a program to send delinquent tenant accounts to collection and put it on their credit. There are no rules requiring a tenant to be out of the home in order to send a file to collections.

d) Establish a relationship with a professional realtor who can analyze whether selling your home would bring you a great sales price.

e) A professional accountant can let you know how refinancing or selling your property will affect your income, capital gains etc. Let the professionals do what they do best and guide you through this process.

2. ANALYZE YOUR ONBOARDING PRACTICE

Do you have a specific criteria? If not, get one today. We have samples at Rent Perfect that will help you design an efficient onboarding process.

If you do not have a criteria, then everyone qualifies, and you know that just can't be true. The whole onboarding process starts with putting your criteria on paper.

More than ever, a call to a potential tenant's last two landlords is critical. Though painful and time-consuming, do not skip this step. How tenants left their prior homes is probably how they will leave your home.

If you can't reach a landlord and have doubts about what the prospective tenant is telling you, require canceled checks or bank statements that show they paid rent for the last 12 months. If they paid rent through this COVID-19 crisis, there is a good chance it will continue. We can't afford to make a mistake during onboarding.

3. REMEMBER WHY YOU BECAME A LANDLORD

No other business allows you to buy something, have someone else pay for it, and at the end you still own it (with maybe even a little cash flow on the side). A declining mortgage and appreciating asset are your ticket to long-term wealth.

A recent TV show called "Undercover Billionaire" dumps each contestant into a random city where they receive \$100, a phone and a car, with the challenge to create a business worth a million dollars in less than 90 days. All three contestants chose real estate! That's why you became a landlord. Don't ever forget this!

Sitting on the couch sulking because the last year wasn't fair won't get you anywhere. So, get up, align yourself with professionals, review and modify your onboarding practices, and get in the game to grow your wealth. My daughter knew deep down that quitting was not an option. She was too invested to walk away (by the way, she shot one of her best rounds ever a few days later), and you will be, too.

David Pickron is president of Rent Perfect, a private investigator, and a fellow landlord who manages several short- and long-term rentals. Subscribe to his weekly Rent Perfect Podcast (available on YouTube, Spotify, and Apple Podcasts) to stay up to date on the latest industry news and for expert tips on how to manage your properties.

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Forecasts for 2021 for 4 Categories of Apartment Rent

‘Good Timing Could Lead to Great Opportunities’

RENTAL HOUSING JOURNAL

Here are four categories of apartment rent forecasts for 2021 put together by John Burns Real Estate Consulting for 127 metro-area apartment markets in its latest newsletter.

“We maintain a bullish outlook for demand, with some key differences by market. With such a wide variation across the markets, good timing could lead to great opportunities,” write Jeff Kottmeier, Lesley Deutch, and Ken Perlman, partially in a weather forecast-style presentation.

“To help you ‘weather’ (pun intended) market shifts and assess market ‘forecasts,’ we segmented the trends into four categories

“We see a positive long-term future for apartments, just on varying timelines depending on their unique locations and attributes. But in a year where the for-sale market dominated the headlines, let’s not forget that one-third of the population resides in rental housing, and the long-term future for that is bright,” they write.

Here are what they write about the four categories:

1. BOOMBURBS (SUBURBAN GROWTH)

Suburban-growth markets benefited tremendously from migration out of the cities during the pandemic. Their low cost of living, good quality of life, and relative affordability drew residents from across the country seeking space.

We expect some (not all) of these renters to return to apartments closer to their jobs after a COVID-19 “all clear.” We are forecasting a small decline in rents (in the one percent to two percent range) in 2021 for these markets due to some outmigration (assuming COVID-19 is all but over by the fall), but a return to rental growth in 2022.

Suburban markets have captured most of the positive headlines in 2020, attracting investment and development capital.

We are still very bullish on locations close to jobs, retail, and entertainment, and properties that provide an “affordable alternative” to urban apartments.

- 2021/2022 outlook: Mostly sunny in 2021
- 40 percent of markets fall into this category.
- Examples: Austin, Tampa, Charleston, Indianapolis, Myrtle Beach, Nashville, Phoenix

2. BRAINTOWNS (COLLEGE TOWNS)

These markets depend on students and were heavily affected in 2020 (five percent to 10 percent rent declines).

We see demand and rents continuing to soften in the first half of 2021 with an improvement this fall, as more students return to campus.

Properties located close to campus will benefit. More students will likely desire to live off-campus, supporting demand for apartments.

- 2021/2022 outlook: Partly sunny in 2021
- Five percent of markets fall into this category.
- Examples: Ann Arbor, Boulder, Charlottesville, VA, Madison

3. DOWNTOWNS (URBAN)

The pandemic and the resulting ability to work from home softened demand in the urban markets. Most markets have already experienced sizable rent declines (five percent to 15 percent) in 2020.

We expect more declines in 2021, but to a lesser degree, as tenants slowly move back to the cities and some people return to work in their offices.

Rent growth will be slower to recover in metros and submarkets that have elevated levels of new apartment construction and/or are under prolonged COVID-19 restrictions. Urban markets are not dead.

With investors and capital moving away from urban centers, some properties may be undervalued. This could be a great time to consider investing in properties and developing closer to the urban core.

- 2021/2022 outlook: Partly sunny by 2022
- Five percent of markets fall into this category.
- Examples: Boston, DC, NYC, Miami, San Francisco

4. DEPENDABLES (SIZEABLE UNEMPLOYMENT)

These are the markets to watch as eviction moratoriums expire. We expect declining rents in 2021 to early 2022 and potentially rising vacancy rates. Construction levels, however, are relatively low in many of these markets, mitigating some of our concerns.

These are markets to consider for longer-term investment or development.

- 2021/2022 outlook: Cloudy (with a chance of clearing)
- 50 percent of markets fall into this category.
- Examples: Minneapolis, Detroit, Kansas City, Philadelphia, Reno

John Burns Real Estate Consulting, LLC is an independent research and consulting services company founded by John Burns in 2001 because he saw a need for better analysis on the housing market. The company has grown to a highly passionate team of research analysts and consultants in offices across the country, who work together to provide the most trusted source of U.S. housing analysis. To learn more, visit www.realestateconsulting.com or call 949-870-1200.



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Balancing the Needs of Pets and Residents in Multifamily Communities

By Kris Servidio and Jacie Good
Mark-Taylor Properties

Pets have become more and more of a priority as so many people continue to spend significant time in their homes. Pets offer many wonderful benefits – companionship to residents who feel isolated, help in reducing stress during challenging times, and the enticement of physical activity through play and exercise.

A recent national study conducted by the American Apartment Owners Association revealed that nearly 90 percent of renters are pet owners and want pet-friendly apartments with access to pet amenities. These trends are important for multifamily leadership teams to understand as they seek to create communities that are welcoming to pet owners. Additionally, a percentage of their residents will likely be non-pet owners, with preferences that are also important.

Mark-Taylor currently has more than 4,000 pets living in our 60+ portfolio of communities. While sometimes challenging, the four approaches below have allowed us to provide the best customer service to all of our residents.

1. COMMUNICATE PET POLICIES CLEARLY

In an Apartments.com article from 2018, 33 percent said they were influenced by pet policy when deciding whether or not to tour a community. Communities should clearly communicate pet policies through websites, social media, review responses and tours. Leasing teams should make

sure pet policies, cleaning and deposit fees are thoroughly discussed prior to move-in, while limitations to the number of pets per unit and enforcing weight and breed restrictions gives non-pet owners peace of mind, knowing their living experience is valued. Communicating available onsite pet amenities and services also lets pet owners know how much you value their furry friends.

2. CREATE PET-FRIENDLY SPACES

Pet amenities have moved from a perk to a necessity, as pet ownership has increased dramatically the past five years. To accommodate this increase, think about creating special spaces at each community geared exclusively towards pets. This helps to pamper pets while providing separation from non-pet owners who may want to distance themselves from high-traffic pet areas. Amenities, such as doggy doors and back yards in single-family home rentals, or onsite pet spas complete with dog-washing stations and spacious dog parks, have become nearly standard in our communities, keeping both groups happy.

3. KEEP YOUR COMMUNITY CLEAN AND QUIET

Swift and safe pet-waste disposal is something community-management teams should prioritize. Sanctioned spaces for pets – such as dog parks – help keep waste confined, while resources such as pet waste stations help pet owners maintain responsibility. Maintenance and community-management teams should be



encouraged to walk the properties daily to remove anything owners may have missed. Additionally, in order to keep all residents happy, management should work with pet owners if their dogs are barking loudly or disturbing others.

4. REMAIN RESPONSIVE TO ALL RESIDENTS

Listening to the growing and changing needs of pet and non-pet owners must remain a priority if community-management teams want to thrive. Dogs

barking during the day might not have been an issue in 2019, but as more people work from home, or participate in online school, this can be a challenge. Take time to create ongoing conversations with residents to understand their needs and how management can help. As situations evolve, management may help residents find solutions through add-on “concierge” services such as Valet Living’s pet-sitting and pet-walking services, Ally Waste’s dog-walking options and other pet care solutions.

Pets will continue to be an important part of many residents’ lives, and communities that cater to pets will be top of mind to meet this trend. Similarly, children and adults will still need their homes to be quiet places where they can work and participate in online school. Creating inviting spaces for pet-owners and non-pet residents to harmoniously coexist will require management teams to stay on top of industry trends and resident preferences as they thoughtfully balance all resident’s needs.

Jacie Good is the associate director of facilities and service and Kris Servidio is the associate director of facilities and support for Mark-Taylor Residential.

Established in 1985, Mark-Taylor Companies is a privately held, Scottsdale, Ariz.-based developer, owner and investment manager of multifamily communities. The company ranks as the largest apartment developer in Arizona’s history and the second largest owner of rental communities in the state, and is the investment manager to more than \$3 billion in multifamily real estate on behalf of numerous third-party owners. For more information, visit www.mark-taylor.com



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Suburbs With the Most New Apartments in Last 5 Years

RENTAL HOUSING JOURNAL

Some suburbs are better-equipped than others to meet the potential trend to suburban living that has been caused due to the pandemic shift toward work-from-home solutions, according to a study from Rent Café.

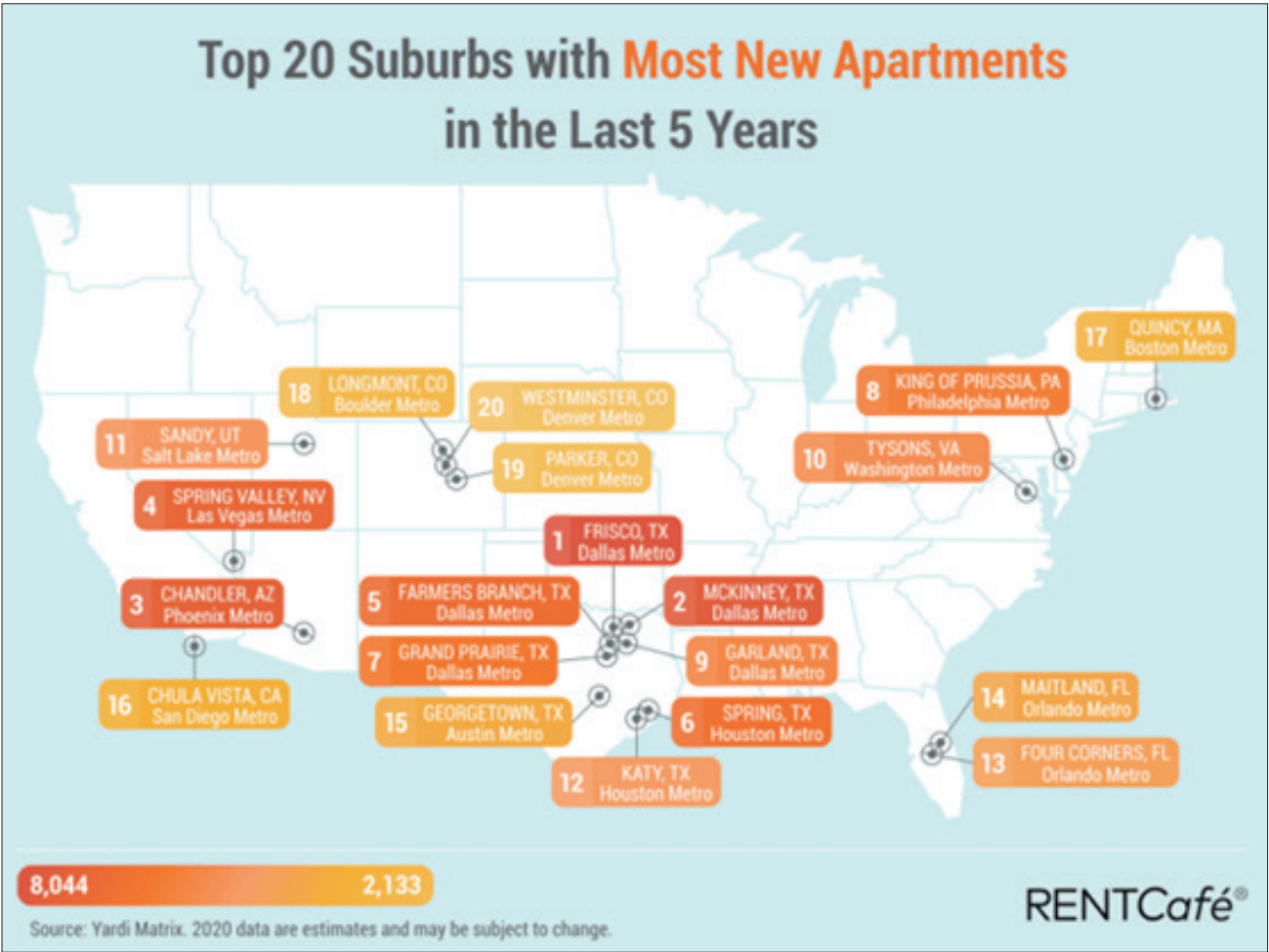
If work-from-home is going to become the new normal, we might expect to see a “significant reversal of recent homebuilding patterns,” according to a housing study by Harvard University.

Regions that have grown significantly in population in recent years are seeing a boom in apartment development, and the southern states clearly dominate the map.

Suburban Texas is a great example, claiming more than a third of the national list. Out of the top 20 suburbs with the most new apartments delivered since 2016, eight are in the Lone Star state. Second is Colorado with three suburbs in the top for the highest number of newly-built apartments in the country. And Florida, Arizona, and Nevada suburbs are also among the national leaders, the Rent Café study says.

SOME HIGHLIGHTS:

- Nationwide, there were more than 501,600 apartments delivered in the suburbs in the last five years.
- Out of the top 20 suburbs with the most new apartments delivered, eight are in Texas, with the Dallas metro accounting for the majority of suburban deliveries here.
- With more than 8,000 new units, Frisco, Texas is the suburb with the highest number of apartments built in the last five years. McKinney, Texas came in second with 4,800 new apartments, followed closely by Chandler, Ariz., and Spring Valley, Nev.
- Looking at the 1,300 suburbs analyzed, new apartments account for a 30 percent average of the suburban rental stock. Garden apartments were the most popular type of development.



“To find the suburbs that offer the most options for renters, we analyzed Yardi Matrix data for large-scale apartment buildings of 50 units or more, in search of suburban areas that have developed the most,” the report says.

“These locations are also great options for those considering a move to the suburbs because of their proximity to the core cities; 12 out of the 20 suburbs on our list are located no more than 20 miles away from an urban center.”

The suburb with the highest number of apartments built in the last five years is Frisco, Texas.

With 8,044 new apartments spread across 25 apartment buildings, this fast-growing city in the Dallas metro area has recently built a significant share of new rentals, most of which are in garden-style apartment complexes. Frisco is located just 28 miles from Dallas.

With the suburbs now finding new appeal for renters, some are better-equipped than others to meet the potential change to suburban living

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FORM OF THE MONTH

Oregon Mold & Mildew Addendum

This trusted form is utilized during the move-in process to communicate to the new resident the common ways elevated levels of moisture can occur and simple ways to clean any surface mold or mildew that may accumulate. It advises to keep indoor humidity low, prevent cold surfaces that promote mold growth and keep the indoor temperature at least moderately warm during non-summer months. By signing the resident agrees that failure to follow the Mold & Mildew Addendum shall constitute a material non-compliance with the Rental Agreement

The Multifamily NW Forms Collection is available immediately and electronically at www.RentalFormsCenter.com, via electronic subscription software through www.tenanttech.com & by mail or pick-up of printed triplicate forms at www.multifamilynw.org.

MULTIFAMILY NW
The Association Promoting Quality Rental Housing
MOLD & MILDEW ADDENDUM

DATE _____
RESIDENT NAME(S) _____ PROPERTY NAME / NUMBER _____
UNIT NUMBER _____ CITY _____ STATE _____ ZIP _____

Mold growth indoors is an issue common in the Pacific Northwest. Mold spores naturally exist indoors and cannot be eliminated. Normally, they do not grow or reproduce on indoor surfaces and become visible and pose a problem unless a condition of excess moisture exists at surfaces. The main causes of mold growth are too much moisture generation, too little moisture removal, or cold surfaces. For example, mold often grows around windows because blinds or shades are always kept closed, thus cooling the window area and causing mold growth. Those causes of mold growth can be reduced or eliminated by simple procedures under your control. To reduce mold and mildew, Resident agrees to the following:

Keep the indoor humidity low:

- Use bathroom fans during and after showering and bathing.
- If no fan is available, open windows slightly for ventilation for the same amount of time.
- Use the exhaust fan above the stove whenever cooking or boiling liquids, if it has one (or if a recirculating fan exists that does not exhaust to the outdoors), open a window slightly for ventilation during cooking or boiling.
- Use the fan in the laundry room during and after washing clothes for 20 minutes after using the washer (not the dryer if it exhausts outdoors).
- Cover fish tanks.
- Do not use unvented space heaters, such as kerosene heaters, indoors.
- Do not use your oven for space heating.
- Do not keep excess number of house plants.

Prevent cold surfaces that promote mold growth:

- Raise blinds or shades as often as possible each day (extremely important!).
- Allow at least one inch between furniture and walls to warm wall surfaces.
- Do not put mattresses directly on the floor.

Keep the indoor temperature at least moderately warm during non-summer months:

- Keep heat above 60 degrees Fahrenheit at all times, as low temperatures cause mold growth.
- Do not turn off the heat in any rooms (especially bedrooms).
- Open closet doors.

Attend to spills or flooding:

- Immediately dry any water that spills onto carpets, rugs or floors.
- Immediately clean up and thoroughly scrub it off with soap and water (bleach is not necessary), and then rinse and dry the surface.

Clean regularly and thoroughly:

- Check, clean and dry window tracks and keep free from condensation buildup.
- Once you have attempted to clean mold, if it reappears or you are not able to remove it, immediately report the mold to Owner/Agent.

Read the EPA pamphlet: "A Brief Guide to Moisture, Mold and Mildew"

Resident understands and agrees that failure to do any of the actions in this Mold & Mildew Addendum shall constitute a material non-compliance with the Rental Agreement. Resident will be financially responsible for all damage resulting from his/her failure to comply with this Mold & Mildew Addendum.

X RESIDENT DATE
X RESIDENT DATE
X RESIDENT DATE
X RESIDENT DATE
X OWNER/AGENT DATE
ON SITE ON SITE MAIN OFFICE (IF REQUIRED)

Multifamily NW Schedule		
MARCH 1	WEBINAR: ADVANCED LANDLORD/TENANT LAW	10:00 AM - 12:00 PM
MARCH 3	WEBINAR: MARCH 2021 LANDLORD STUDY HALL	6:30 PM - 8:00 PM
MARCH 5	WEBINAR: EVICTION MORATORIUM HB4401	10:00 AM - 12:00 PM
MARCH 8	WEBINAR: FAIR CITY OF PORTLAND - APPLICATIONS AND SCREENING	10:00 AM - 11:30 AM
MARCH 10	WEBINAR: THE TOP 3 CRITICAL “MUST DO” ITEMS IN 2021	10:00 AM - 11:00 AM
MARCH 15	WEBINAR: FAIR CITY OF PORTLAND - SECURITY DEPOSITS	10:00 AM - 11:30 AM
MARCH 16	WEBINAR: HARASSMENT TRAINING - HR	3:30 PM - 4:30 PM
MARCH 17	SPRING APARTMENT REPORT VIRTUAL PANEL	7:30 AM - 9:00 AM
APRIL 6	WEBINAR: CONSULTANTS CORNER - HR	12:00 PM - 1:00 PM
APRIL 7	WEBINAR: LAW AND RULE REQUIRED COURSE (LARRC)	9:00 AM - 12:00 PM
APRIL 13	FAIR HOUSING FAIR 2021 VIRTUAL CONFERENCE	9:00 AM - 4:00 PM

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What to Review in the New Freddie Mac Insurance Requirements

By KEVIN HARMON
OWNER, KEVIN HARMON INSURANCE AGENCY

Have you reviewed the new Freddie Mac loan requirements? A good deal of apartment-building loans are underwritten by Freddie Mac. On Dec. 15, 2020, their insurance requirements were updated. It doesn't hurt to review these new requirements with your loan servicer.

It can be frustrating to receive insurance-documentation rejections submitted to Freddie Mac. Here is an overview of the issues we commonly see with apartment owners and how the new requirements are affected.

ESCROW RESERVES

The guidelines require that insurance premiums must be escrowed (reserved) by the loan servicer unless Freddie Mac specifically waives this requirement.

FINANCIAL RATINGS

Freddie Mac requires an A.M. Best rating of "A-" or better. Although most Insurers will meet their minimum financial-strength rating, also make

sure they meet the financial-size category: VII, VIII, or IX (dependent on size of loan).

BLANKET POLICIES

Blanket policies cover multiple property locations under one policy. Freddie Mac permits blanket policies if the insurance documentation clearly identifies the address of each property. You should consult with your agent to decide if it is in your best interest to write a property on an individual or blanket basis when insuring multiple property locations.

REPLACEMENT VALUES

Buildings and other structures are required to be insured to 100 percent of their estimated replacement cost without a reduction for depreciation. Actual cash value (ACV) or "depreciated" policies are not acceptable. Your insurance agent should regularly run a replacement-cost estimate on your buildings to make sure properties are insured to value, including a review of the deductible options.

DEDUCTIBLES

Freddie Mac accepts high deductibles to help keep the insurance

costs down. In general, structures with a replacement cost of less than \$10 million can be insured with a \$50,000 deductible. Properties with a replacement value of more than \$10 million can be insured with a deductible up to \$75,000.

CO-INSURANCE

Co-insurance clauses have been used to penalize policyholders who elect to under-insure their properties. Policyholders sometimes elect to under-insure their properties, knowing that most claims are not a total loss. The co-insurance clause would penalize ANY claim on properties that are under-insured. Freddie Mac does not allow policies with a co-insurance clause. If your policy contains a co-insurance clause, they will allow coverage to be written on an agreed amount that is no less than the estimated replacement-cost value of the property.

BUSINESS INCOME

Business income/rental value coverage is required. Unpaid-principal balances of \$50 million or less require 12-month loss-of-rent coverage. Balances above \$50 million require 18 months coverage. Check with your agent to see if additional coverage is available, as permitting and construction can take longer than this.

ORDINANCE AND LAW

Ordinance and law coverage pays to upgrade a damaged building to meet current building, zoning and land-use laws. Freddie Mac requires this coverage for all loans unless the property already conforms to the laws or ordinances of the governing authorities, which is difficult to document. Carefully review ordinance and law coverage with your agent. Older properties and properties that contain a single building (versus multiple buildings) may need more building ordinance and law coverage.

SEWER & DRAIN

Sewer and drain coverage is required if the property is prone to external backups. Check with your agent to see how your policy would respond to both external and internal backups of sewers and drains. Overflow of a washer, sink, or bathtub might be considered a drain

backup.

We typically recommend at least \$50,000 to \$100,000 coverage for backup of sewer and drain coverage. Higher limits may be appropriate for multi-story properties.

GENERAL LIABILITY

There have been some significant changes to Freddie Mac's general liability requirements. The prior standard was based on the total number of stories. The new requirement is based on the number of residential units. For properties with 250 units or less, Freddie Mac now requires general-liability Limits of \$2 million per occurrence and \$3 million aggregate.

Many policies are written with limits of \$1 million per occurrence and \$2 million aggregate, which now falls below the Freddie Mac requirement. One way to achieve the higher limits is to purchase an excess-liability (or umbrella) policy with a \$1 million limit – which would meet the \$2 million/\$3 million required limits.

Freddie Mac will allow higher limits on the general liability coverage rather than writing a separate excess or umbrella policy. Ask your agent/broker to see if higher limits for general liability are available and appropriate instead of writing a separate umbrella or excess policy.

COMMERCIAL AUTO LIABILITY

If autos are used in conjunction with the operation of the property, Freddie Mac requires auto liability limits of \$1 million per accident.

The principal message is that you should be reviewing your policy regularly to be sure your coverages are adequately protecting your property and are keeping up with the lender requirements.

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The go-to periodical for multifamily professionals in Portland and Oregon

Rent Vouchers, Not Moratoriums, Best for Tenants and Landlords

By JEREMIE DUFALT

Government shouldn't be able to give away something it doesn't own. But that's what happened when Washington Gov. Jay Inslee stopped property owners from evicting nonpaying tenants. He took something of value from the landlords and gave it to the tenants.

Who should pay for this new social policy?

Right now, the governor is forcing property owners to foot the bill, but is that fair, or even legal? Shouldn't

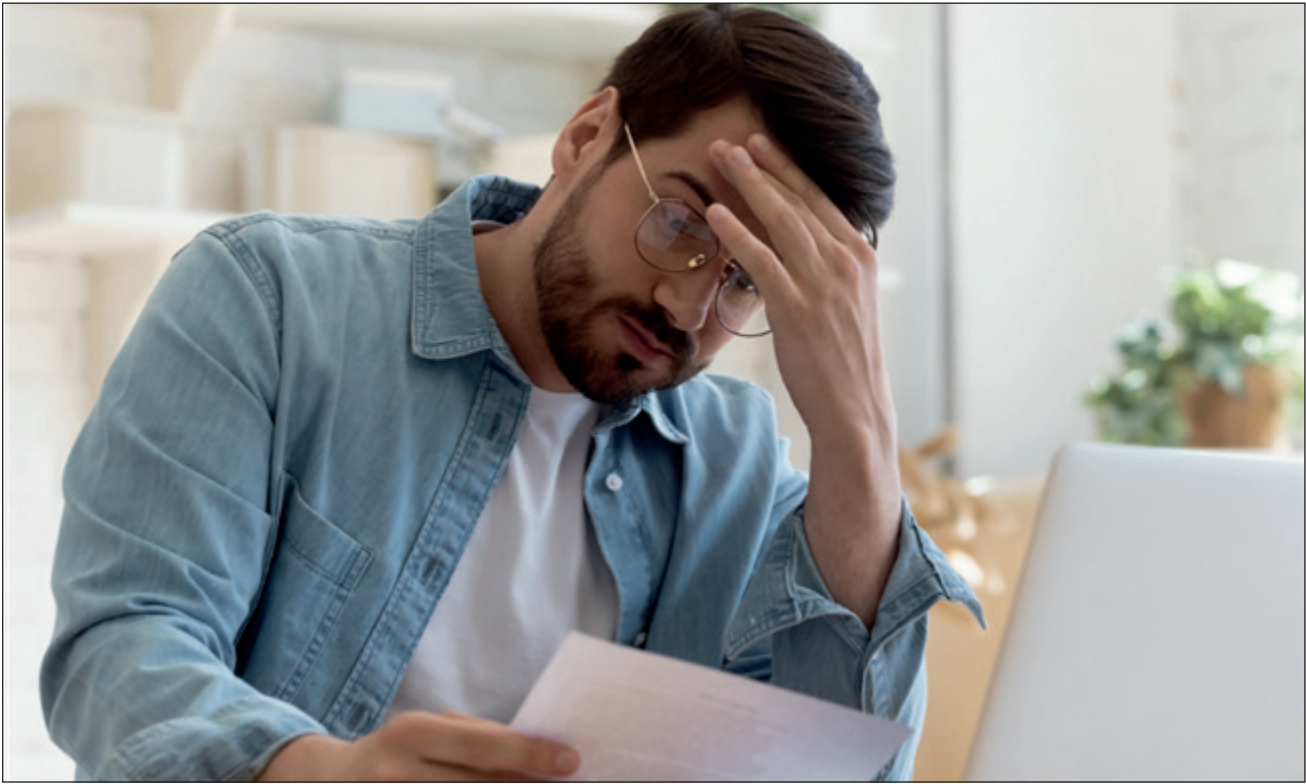
social policy be funded through taxes? Especially during short-term emergencies? After all, government doesn't force grocery stores to give away food or day-care facilities to give away child care — also necessary parts of everyday life. Instead, it provides prepaid vouchers for those services to the people who need help.

Why doesn't the state do the same thing for tenants who — through no fault of their own — have been financially affected by COVID-19? Why doesn't the government give them rent vouchers?

The governor and legislature need to either do this or otherwise craft a plan that reimburses property owners who are serving the public good by housing nonpaying tenants during the COVID-19 pandemic. It is the smart and moral thing to do.

Rent vouchers not only keep tenants from falling behind on their payments but they provide property owners the income they need to pay their mortgages and other bills. An eviction moratorium does neither.

A word about rental-property owners. Did you know that most of them own just a handful of units? Or maybe just one? And that most single-family rentals are long-term retirement investments that take years to produce a nickel of profit? That may not be true in much of urban Washington, but it is definitely true throughout the rest of the state, including in the Yakima Valley, where I live.



Another consideration: Both the federal and state constitutions prohibit government from interfering with private contracts and taking property away from citizens without compensation. The eviction moratorium ignores both of those prohibitions and leaves our state open to expensive litigation down the road.

The governor and the Democrat majorities of both houses of the legislature have shown they care more about tenants than property owners — a bias made obvious over the last two sessions as they enacted an assortment of laws that made it harder to collect rent from and evict nonpaying tenants.

But this is different. This is not a tenant-versus-landlord issue. It is about fairness. Should the governor be allowed to use the emergency powers granted during

a pandemic to require private businesses to provide a service for free?

The answer is clearly no.

State government needs to provide extraordinary services during these extraordinary times. But it needs to do so legally and fairly.

Contact your legislators and encourage them to work on a bipartisan basis to create a rental-voucher program for people affected by COVID-19. And ask them to vote to end the eviction moratorium that is bankrupting property owners and burying tenants under a mound of debt.

Jeremie Dufault is a Republican member of the Washington State House of Representatives, representing eastern Yakima County (15th District).

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House Bill 4401 & the Landlord Compensation Fund

How to Facilitate Your Rights to Funding

By **BRADLEY S. KRAUS, ATTORNEY AT LAW**

Regular readers of this series likely noted last month’s mention of the Landlord Compensation Fund, a key piece of the recent House Bill 4401. As that article was drafted, the Landlord Compensation fund had not yet materialized. Shortly after it was published, the wheels began to turn. As of this article’s drafting, the Landlord Compensation Fund is now accepting applications to assist landlords with the massive amounts of unpaid rent that currently exist.

It is important to note that landlords are not automatically eligible for the fund. Landlords must submit completed Declarations of Financial Hardship forms, procured directly from the tenants, who owe rent for any or all months since April 2020. This presents challenges related to getting the forms from some tenants who either (a) refuse to communicate, (b) do not believe they owe rent, or (c) do not believe they should have to assist the landlord in getting the rent they owe. In these instances, landlords now have options.

First, HB 4401 allows for a balance-due notice, with which the landlord must include both the declaration form and the notice of tenants’ rights form, in order to comply with the statutory requirements. While a balance-due notice is not a requirement for unpaid rent to remain due and owing, it creates a viable method for landlords to get the declaration form in front of tenants and perhaps jump-start the conversation.

While many landlords use this approach, it is important to note that landlords should be cautious in their communications with their tenants. There is no statutory definition or form for what constitutes a balance-due notice. That ambiguity provides an opportunity for tenants to argue that certain written communications to the tenant may qualify as a de facto balance-due notice. If a landlord does not include the declaration form and notice of tenants’ rights with that innocuous



communication—because they may not believe it to be required—potential issues could result.

The other option provided for in HB 4401 for tenants who simply refuse to provide the declaration form is the service of 10-day non-payment-of-rent notices. While landlords should consult legal counsel to assist in the crafting of these notices, it is imperative to note that these notices, when served, must also include the declaration form and notice of tenants’ rights. Once the tenant is served with the notice, they can return the declaration form, at which time (a) the landlord must cease their eviction process, and (b) the tenant’s grace period and emergency period are extended through June 30, 2021. In other words, if the form is returned, they will have until June 30, 2021 to repay the landlord and cannot be evicted through that date, but the landlord now has their declaration form, with which they can apply to the fund.

If the tenant still refuses to return the form, a landlord could file an eviction action with their non-payment

notice. The summons of any eviction filed must include the declaration form and notice of tenants’ rights, as per HB 4401. The failure to do so renders the landlord’s eviction action defective, extends the grace period and emergency period by law, and presents exposure. However, the required inclusion of this form provides the tenant another opportunity to return it to the landlord to access the fund and avoid eviction and payment.

It is also important to keep in mind the downsides to the Landlord Compensation Fund. The state has unveiled a scoring system to determine how funding is distributed, prioritizing smaller landlords with the largest amount of unpaid rent. Landlords also cannot evict tenants without cause or for non-payment through the pendency of the distribution application, a time frame which is currently unknown. This could interfere with a landlord’s plans to potentially sell the property or have a family member move in. Landlords must also provide the state with any documents they request related to the application. Finally, 20 percent of the tenant’s unpaid balance must be forgiven.

Landlords are not required to engage in the compensation fund. Once the moratoriums lift, landlords could technically sue their tenants for the unpaid amounts. However, if your tenant has been affected by COVID-19, the fund may be a landlord’s one opportunity to recover some of those amounts, provided the funding meets the need. Given the scope of the need, that is unlikely to be the case.

Bradley S. Kraus is an attorney at Warren Allen LLP. His primary practice area is landlord/tenant law, but he also assists clients with various litigation matters, probate matters, real estate disputes, and family law matters. A native of New Ulm, Minnesota, he continues to root for Minnesota sports teams in his free time. You can reach Mr. Kraus via email at kraus@warrenallen.com, or by phone at 503-255-8795.



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HUD to Enforce Fair Housing Policy Banning Bias over Sexual Orientation, Gender Identity

RENTAL HOUSING JOURNAL

The U.S. Department of Housing and Urban Development (HUD) has announced a new directive to begin implementation of the policy set forth in President Joe Biden’s executive order to prevent and combat sexual orientation and gender identity-based discrimination under Fair Housing rules.

HUD’s Office of Fair Housing and Equal Opportunity (FHEO) issued a memorandum stating that HUD interprets the Fair Housing Act to bar discrimination on the basis of sexual orientation and gender identity and directing HUD offices and recipients of HUD funds to enforce the act accordingly.

The memorandum begins implementation of the policy set forth in President Biden’s Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation (Executive Order), which directed executive branch agencies to examine further steps that could be taken to combat such discrimination.

“Housing discrimination on the basis of sexual orientation and gender identity demands urgent enforcement action,” said Assistant Secretary of FHEO Jeanine M. Worden in a release. “That is why HUD, under the Biden administration, will fully enforce the Fair Housing Act to prohibit discrimination on the basis of gender identity or sexual orientation. Every person should be able to secure a roof over their head free from discrimination, and the action we are taking today will move us closer to that goal.”

SIGNIFICANCE OF THE ACTION

The HUD release said the significance of this action is underscored by a number of housing-discrimination studies which indicate that same-sex couples and

transgender persons in communities across the country experience demonstrably less favorable treatment than their straight and cisgender counterparts when seeking rental housing.

Despite this reality, the HUD has been constrained in its efforts to address housing discrimination on the basis of sexual orientation and gender identity by legal uncertainty about whether most such discrimination was within HUD’s reach.

The memorandum relies on “HUD’s legal conclusion that the Fair Housing Act’s sex-discrimination provisions are comparable in text and purpose to those of Title VII of the Civil Rights Act, which bars sex discrimination in the workplace. In Bostock v Clayton County, the Supreme Court held that workplace prohibitions on sex discrimination include discrimination because of sexual orientation and gender identity. HUD has now determined that the Fair Housing Act’s prohibition on sex discrimination in housing likewise includes discrimination on the basis of sexual orientation and gender identity. Accordingly, and consistent with President Biden’s executive order, HUD will enforce the Fair Housing Act to prevent and combat such discrimination.”

“Enforcing the Fair Housing Act to combat housing discrimination based on sexual orientation and gender identity isn’t just the right thing to do—it’s the correct reading of the law after Bostock,” said Damon Y. Smith, principal deputy general counsel, in the release. “We are simply saying that the same discrimination that the Supreme Court has said is illegal in the workplace is also illegal in the housing market.”

SPECIFICS OF THE DIRECTIVE

The memorandum directs actions by HUD’s Office of Fair Housing and Equal Opportunity and HUD-funded

fair housing partners to enforce the Fair Housing Act to prohibit discrimination on the basis of gender identity or sexual orientation. Specifically, the memorandum directs the following:

- HUD will accept and investigate all jurisdictional complaints of sex discrimination, including discrimination because of gender identity or sexual orientation, and enforce the Fair Housing Act where it finds such discrimination occurred.
- HUD will conduct all activities involving the application, interpretation, and enforcement of the Fair Housing Act’s prohibition on sex discrimination consistent with its conclusion that such discrimination includes discrimination because of sexual orientation and gender identity.
- State and local jurisdictions funded by HUD’s Fair Housing Assistance Program (FHAP) that enforce the Fair Housing Act through their HUD-certified substantially equivalent laws will be required to administer those laws to prohibit discrimination because of gender identity and sexual orientation.
- Organizations and agencies that receive grants through the department’s Fair Housing Initiative Program (FHIP) must carry out their funded activities to also prevent and combat discrimination because of sexual orientation and gender identity.
- FHEO Regional Offices, FHAP agencies, and FHIP grantees are instructed to review, within 30 days, all records of allegations (inquiries, complaints, phone logs, etc.) received since January 20, 2020, and notify persons who alleged discrimination because of gender identity or sexual orientation that their claims may be timely and jurisdictional for filing under this memorandum.

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The ABCs of Fireplace Maintenance

ARTICLE SUBMITTED BY PORTLAND CHIMNEY INC.

This article is written to provide on-site managers and maintenance managers with a checklist for effective and easy maintenance of fireplaces.

According to “Your Home Fire Safety Checklist” published by the U.S. Consumer Product Safety Commission:

“More than 4,000 people die each year in home fires. Every year, there are more than 500,000 residential fires serious enough to be reported to the fire departments. More than 90 percent of residential fire deaths and injuries result from fires in one- and two-family houses and apartments. Property losses exceed \$4 billion annually, and the long-term emotional damage to victims and their loved ones is incalculable.”

SOURCES OF FIRE (IN THE HOME)

Wood stoves (this would include fireplaces and manufactured fireplaces)

You should be able to respond ‘yes’ to the following safety statements:

1. The wood stove or fireplace has been installed according to existing building codes and manufacturer’s instructions.

2. The chimney and stove pipe are checked frequently during the heating season for creosote buildup and cleaned when necessary ...

And further:

3. Combustibles such as curtains, chairs, fire wood, etc. arc at least three feet away from the stove, etc.

4. Only proper fuel is used.

Here are a few steps to take to ensure this is true at your properties:

SPRING AND SUMMER ARE A TIME OF YEAR TO HAVE THE CHIMNEY CLEANED

This way the buildup of creosote from the fall and winter burning are not left sitting to down-draft the toxic particles into the home from the wind. Also, as it is the time of year the heating devices are least needed, you have the security of knowing your tenants and their units are all safe when the burning/ heating season starts up again in the fall.

DAMPERS

Always ensure the damper is functioning properly and is in the open position when burning to allow the smoke to pass up the chimney and out of the unit. Stuck or broken dampers should be

replaced.

WHAT TO BURN

Use dry wood to create a nice hot fire in the fireplace. Wet wood creates excessive smoke. The wetter the wood, the more smoke is created. Discourage burning manufactured logs, as these increase the buildup in the chimney. Also, paper burns very hot and can ignite any buildup of creosote present in the chimney, causing a fire. So burning paper, including trash, etc., in the fireplace should be strongly discouraged.

MANUFACTURER’S INFORMATION ON MANUFACTURED FIREPLACES

Finally, with manufactured fireplaces (very common in multi-amily complexes and condominiums), keep any instructions and manufacturer’s information on file. To determine if the manufactured fireplaces need replacement or at least parts replaced, watch for any cracking and/or rusting on the firebox back wall, sides and floor or trouble using the damper.

Following the above guidelines can help ensure the safe and effective use of your fireplaces for your tenants.

Bright Spots Begin to Emerge for Multifamily

Continued from Page 1

the number of workers that filed for unemployment declined for the week ending Jan. 23, and consumer spending held up well in December,” the report says.

The report points out there may be more government stimulus on the way, though the size of the package is still to be determined.

However, “the big question for many gateway markets remains how permanent out-migration trends will be. Some industry sources are speculating that only about half of the moves out of the gateway markets that occurred during the pandemic are permanent,” the report says. The smaller markets continue to provide lower cost rents compared to their denser nearby urban cities.

Of the top 30 markets, more than half (16 out of 30) “are still experiencing declines in year-over-year rents. While there are some promising signs in San Jose and Washington, D.C., among other markets, many metros still have a long road ahead.”

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How to Get Rid of Tenants Who Damage Your Rentals

Continued from Page 1

property. They are all living on disability, and they have a child who is handicapped (which may carry different laws of protection for them?)

Do I just allow them to keep living there in the filth, or can I even evict them to make the home either habitable or tear it down?

They are paying the rent on time. But I don't want to be found as the one at fault for the home being unsafe to inhabit.

We are currently replacing a stove and found several dead mice and unspeakable unthinkable filthy conditions under the stove and counters. We have to wear hazmat protection to work in the home.

What do I do? - **Yvonne**

Dear Landlord Yvonne: Sounds like you have a mess on your hands.

If the tenants are paying the rent as required, you may have difficulty with eviction during a pandemic.

My advice is to wait until the pandemic and eviction moratorium is over and then tell the tenants you are going to renovate the property and they will need to move.

Since they have been there for many years, and have paid rent for many years, I would give them time to find a new place, but give them a definite time by which they must be out. Also, let them know, at that time, legally with notice, that the month-to-month lease is terminating.

I understand your distress at finding the property in poor condition, but if they stay for a few more months, after having been there for 13 years, I can't see it getting much worse.

If you can wait, your odds for an easy tenant removal go way up.

I know it may be very difficult for you to bide your time right now but if you push to remove these tenants now, during a pandemic – especially if there is a disability –



you may not win in court.

CAN A LANDLORD INSTALL A SECURITY CAMERA ON A RENTAL PROPERTY?

Dear Landlord Hank: I have been told that cameras are an invasion of privacy. However, I am aware that several professionally managed sites use them.

My situation involves use of cameras (NOT pointed at individual doors) placed to cut down on trash and toys that make my rentals dangerous and unattractive to tenants. Would you please clarify what the law says? We don't want to leave our tenants having to report their neighbors. -**Pam**

Dear Landlord Pam: You'd have to check with your state and local laws, but you should be able to place


cameras viewing common areas without an issue as long as the cameras are not hidden and not IN someone's residence, as that could be construed as spying.

Also, cameras with audio capability are another issue you would need to check on.

I think it is a great idea but I would let current and future residents know in advance that cameras are being put in use to cover common areas around the property.


Hank Rossi started in real estate as a child watching his father take care of the family rental maintenance business and now with his sister co-owns a real estate brokerage focusing on property management and leasing, and he also continues to manage his real estate portfolio in Florida and Atlanta. Visit Landlord Hank's website: <https://rentsrq.com>

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