

BONUS INSIDE: Oregon & Washington Resource Guide 2022
What Landlords & Property Owners Need, When You Need it!



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Published in association with Multifamily NW and Rental Housing Alliance Oregon



How to Keep Plumbing Up and Running in Winter

KEEPE

Being proactive to fight the winter cold in plumbing systems is the best way to avoid those unpleasant calls from tenants about frozen pipes, which is this month's maintenance tip from Keepe. Here are 5 tips:

No. 1 – SEAL CRACKS NEAR PIPES

Survey the entire exterior of the building for small air leaks. Small air leaks, sometimes leaking around insulation, are often the first culprits leading to a frozen pipe. Seal the cracks using insulation or caulk.

No. 2 – SET INDOOR AIR TEMPERATURES OF AT LEAST 65 DEGREES

Have your tenants keep an eye on indoor air temperatures. Make sure it

See '5 Ways' on Page 10

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Grace Period Nearing End; How Should Landlords Approach It?

BY BRADLEY S. KRAUS
PARTNER, WARREN ALLEN LLP

It's now February, a month many have waited for since last year. Feb. 28, 2022 is officially the last day of the grace period as it is defined in the COVID laws passed last year. Until that date, any debts from the Emergency Period—defined from April 1, 2020 until June 30, 2021—are protected, leaving landlords unable to recover this balance until that time. That frustration has escalated for many landlords, as rent-assistance organizations no longer seem concerned about those balances when tenants apply for rent assistance.

As of March 1, and assuming no additional legislative changes, the Emergency Period balance becomes due and owing once again. How landlords deal with these balances is something to discuss with their attorneys, as missteps (and current laws) can still provide some obstacles.



One approach, assuming those with a balance are still current tenants, is to serve a Notice of Termination for Cause with respect to the unpaid balance. While this notice cannot turn into any form

judgment that could be utilized to garnish or collect those monies it can prompt the tenant to pay the amount owing or vacate. Even though some of these debts are

See 'How to' on Page 7

'Trigger Words' You Should Listen For

BY DAVID PICKRON



You can hardly turn on a television or read a newsfeed where you don't encounter the term "trigger words." While there are some universally accepted trigger words, like racial or ethnic slurs, most people or groups have their own unique lexicon of words that send them immediately into orbit. Our industry is no different, and over the years the way we identify the players in our game have even fallen victim. In many circles, "landlords" are now more generically referred to as "housing providers," while tenants are now more often called "residents."

As a landlord (I can call myself that because I am one) for more than 20 years, I have encountered thousands of applicants who are looking to rent my property. In looking at them as a potential "business partner," I engage several of my senses to get a read on what kind of potential partner they might be. More important than anything, I listen closely to the questions they ask as we tour the property. The following is a list of the top trigger words or phrases that every landlord, old and new, should intently listen for to ensure they are getting the best possible read on a person for their

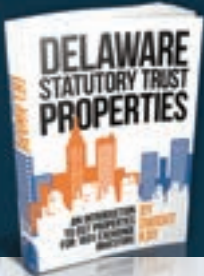
See 'Trigger' on Page 5

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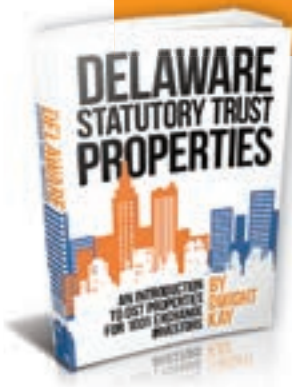
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Kay Properties is a national Delaware Statutory Trust (DST) investment firm. The www.kpi1031.com platform provides access to the marketplace of DSTs from over 25 different sponsor companies, custom DSTs only available to Kay clients, independent advice on DST sponsor companies, full due diligence and vetting on each DST (typically 20-40 DSTs) and a DST secondary market. Kay Properties team members collectively have over 150 years of real estate experience, are licensed in all 50 states, and have participated in over \$30 Billion of DST 1031 investments.

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Kay Properties Marks Another Record Year in 2021 After Placing \$610 Million of Equity From Accredited Investors

This Continued Record Growth Represents a 49.5% Increase Over Previous Year’s \$408 Million in Equity Placements

Torrance, CA-based Kay Properties, which operates one of the nation’s largest 1031 exchange property and real estate investment marketplaces, posted another record year in 2021 after successfully placing \$610 million in equity for accredited investors participating in 1031 exchanges and direct cash investments.

Founded by CEO Dwight Kay, Kay Properties & Investments is considered one of the most experienced and knowledgeable investment firms in the country specializing in Delaware Statutory Trust (DST) and private equity real estate investments. The firm was established in 2010 with the emphasis on providing real estate investment options to high-net-worth clients looking for passive real estate ownership. In addition, Kay Properties believes it has created one of the largest 1031 exchange and real estate investment online marketplaces in the country that generates some of the largest DST 1031 investment volume in the United States. In 2021, for example, Kay Properties clients participated in thousands of transactions, and the \$610 million of equity invested through the Kay Properties platform was invested in more than \$8 billion of real estate offerings totaling approximately 50 million square feet of multifamily, manufactured housing, single tenant net lease, industrial, self-storage and medical properties nationwide.

UNPARALLELED ONLINE 1031 EXCHANGE REAL ESTATE MARKETPLACE PLATFORM

“The kpi1031.com online marketplace has truly become a best-in-class robust platform connecting high-net-worth investors with quality real estate offerings as well as a place for real estate sponsors and operators to connect with tens of thousands of high-net-worth investors seeking to deploy capital into real estate offerings. We think the platform creates a perfect match for all sides of the 1031 exchange and real estate investment equation. This success over the years comes from hard work and dedication to our clients and team members as well as ultimately, beyond anything else, from the Lord,” said Dwight Kay, Founder

YEAR-END HIGHLIGHTS:

- Kay Places \$610 Million of Equity Investments in 2021
- Kay Grows Its Fully Integrated Real Estate Team and Robust Online Real Estate Investment Platform

& CEO of Kay Properties & Investments.

Kay explained that most investments made on the Kay Properties platform are for DST 1031 exchange replacement properties followed by a growing number of cash investments into real estate funds and other vehicles. DST investments are an allowable option for replacement properties for investors who have recently sold other real estate assets and are seeking to defer taxation on their gains, enter a passive management structure, and potentially broaden their geographic and real estate asset diversification* by reinvesting the proceeds in qualifying properties. So-called “like-kind exchanges” are allowable under U.S. Internal Revenue Code Section 1031 and DST investments have grown in popularity among accredited investors over the past decade.

“While it is true that a large amount of people investing through the kpi1031.com marketplace are seeking like-kind exchange properties, it is also true that the platform attracts many high-net-worth investors who are interested in participating in the offerings on the company’s marketplace with direct cash investments, a trend that we are seeing growing tremendously,” stated Kay.

REMARKABLE YEAR FOR DELAWARE STATUTORY TRUST 1031 EXCHANGE INVESTOR

According to Kay, 2021 was a remarkable year for both Kay Properties and the entire 1031 exchange property market, including DSTs.

“Investment properties have gone through significant changes over recent years, and in many cases, owners have been faced with challenges they have never seen before, including the COVID-19 pandemic. For property owners who were motivated to sell during 2021 and were facing capital gains, reinvesting the proceeds via a 1031 exchange into qualifying properties including DSTs allowed them to not only defer capital gains taxes but also become part of a diversification* strategy with the potential for appreciation and monthly income*,” explained Kay.

CLIENT-CENTRIC AND EMPHASIS ON EDUCATING INVESTORS

2021 also extended and reinforced the established success of the Kay Properties business model that emphasizes both client relations and DST education.

“When I started Kay Properties, I had a vision of creating a hyper-client-centric business model that emphasized the utilization of tax efficiencies afforded to investors through the 1031 exchange and real estate investments and potentially reduced risk for investors through a fully-integrated real estate investment platform. This platform includes a growing team of DST 1031 experts and back-end support specialists that provide Kay clients deal sourcing, due diligence, transaction coordination, investor relations, in-house accounting, legal, finance and asset analysis. We also support potential investors through exclusive educational programs that are presented in an effort to keep investors fully informed of opportunities and potential risks that they must be aware of. The model has worked out well, and the year-end results of 2021 proves this out,” said Dwight Kay, Founder and CEO.

**Diversification does not guarantee profits or protect against losses. Potential cash flow, potential returns and potential appreciation are not guaranteed.*

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MULTIFAMILY NW
The Association Promoting Quality Rental Housing

Participate in Your Representative Democracy

By DEBORAH IMSE
EXECUTIVE DIRECTOR, MULTIFAMILY NW

Last month we signaled that the six-week legislative session was expected to be a frenzy and expressed our hope that lawmakers would hold fast to a commitment to refrain from making major changes to ORS Chapters 90 and 105 (Oregon rental housing laws). As I write this, bills are being “dropped.”

If you are new to following Oregon lawmaking, the place to start is OLIS – the Oregon Legislative Information System. There you can find information on the meetings of the senate, house, and committees. OLIS contains links to all the bills and all of their revisions, including overviews, analyses, records of written testimony, and links to videos and live feeds of testimony. Multifamily NW will be closely following the

two housing committees:

Senate: The Senate Committee on Housing and Development is a five-member group, chaired by Sen. Kayse Jama, with Sen. Dick Anderson as vice chair. Their regular meeting schedule is Mondays and Wednesdays at 3:15 p.m.

House: The House Committee on Housing is a 10-member group, chaired by Rep. Julie Fahey, and with two vice-chairs, Rep. Wlnsvey Campos and Rep. Lily Morgan. Their regular meeting schedule is Mondays and Wednesdays at 8:00 a.m.

As elected leaders, your senators and representatives rely on public input to help inform their decisions. E-mails, letters, and personal testimony before them at committee meetings is encouraged, and is a wonderful privilege provided by our representative democracy.

Access the Oregon Legislative Information System (OLIS) here: <https://olis.oregonlegislature.gov/>

Confirm your elected representatives here:

<https://www.oregonlegislature.gov/FindYourLegislator/leg-districts.html>

We hope more housing providers make their voices heard this year. Participating in the process may be daunting, but we can provide assistance on the rules of etiquette, refining your message, and timing your presentation to avoid being “cut off” so that you can confidently participate.

Multifamily NW will publish regular updates to our members on important legislative developments as the session progresses. This is the year to participate in the process and exercise your privilege to speak directly to our lawmakers.

FORM OF THE MONTH

Guarantee Agreement
– M026 OR-WA

This form is commonly known as a “co-signer” agreement used to bolster an applicant’s financial liabilities when being considered for a residential tenancy. Securing a signed Guarantee Agreement is a great strategy to accept an application that may lack sufficient rental criteria to qualify on their own. Language plainly explains the role of the Guarantor, their ultimate responsibilities, and limits of the agreement. The qualification of a Guarantor is determined by the Co-Signer Application and Criteria, form M088. The execution of a Guarantee Agreement is at the discretion of the housing provider.

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

Multifamily NW Schedule		
FEBRUARY 1	WEBINAR: LANDLORD TENANT LAW 2-PART A	10:00 AM - 12:00 PM
FEBRUARY 2	WEBINAR: LANDLORD STUDY HALL - QUALIFIED LANDLORD REASON TERMINATIONS	6:30 PM - 8:00 PM
FEBRUARY 3	WEBINAR: CREATING BOUNDARIES	10:00 AM - 11:00 AM
FEBRUARY 8	WEBINAR: LANDLORD TENANT LAW 2-PART B	10:00 AM - 12:00 PM
FEBRUARY 10	WEBINAR: HR ANSWERS - DEALING WITH CHALLENGING CO-WORKERS	12:00 PM - 1:00 PM
FEBRUARY 11	WEBINAR: IT’S THE LAW: I WAIVED WHAT?	12:00 PM - 1:00 PM
FEBRUARY 15	WEBINAR: ADVANCED LANDLORD/TENANT LAW	10:00 AM - 12:00 PM
FEBRUARY 15	WA IT’S THE LAW: NOTICES	12:00 PM - 1:00 PM
FEBRUARY 16	BLOOD DRIVE PRESENTED BY THE SERVICE COMMITTEE	8:00 AM - 4:00 PM
FEBRUARY 17	WEBINAR: FAIR HOUSING BASICS	10:00 AM - 11:00 AM
FEBRUARY 17	WEBINAR: SB 891 - MORATORIUM EXTENSION	11:30 AM - 1:00 PM
FEBRUARY 22	AFFORDABLE AFTERNOONS WITH ADAM - AFFORDABLE HOUSING 101	12:00 PM - 1:00 PM
MARCH 1	WEBINAR: DEBUNKING MYTHS - IS IT TRULY HAZARDOUS INDOOR AIR? (0022)	10:00 AM - 11:00 AM
MARCH 1	WEBINAR: SB 291 -NEW APPLICATION AND SCREENING LAW	11:30 AM - 12:30 PM
MARCH 2	WEBINAR: CITY OF PORTLAND FAIR - APPLICATIONS AND SCREENING	10:00 AM - 11:30 AM
MARCH 2	WEBINAR: LANDLORD STUDY HALL – OR SHORT LEGISLATIVE SESSION UPDATE	6:30 PM - 8:00 PM

‘Trigger Words’ Every Landlord Should Listen For

Continued from Page 1

property and partnership.

Disclaimer: Being presented these questions doesn’t always mean the applicant is a definite no-go, but it should put you on notice. Always make decisions from your detailed criteria.

1. ARE YOU GOING TO PERFORM A BACKGROUND CHECK ON ME?

Has an innocent person with nothing to hide ever asked this question?The likely answer is no. Why would they? If I have no criminal background history, then I have nothing to fear; run all the background checks you want. As an applicant, if I have something in my past that I am trying to keep from you as my potential landlord, I’d rather know up front, so I don’t waste time or money on trying to qualify for your property. If this question ever comes up, now is the perfect time to introduce your rental criteria. Let the applicant know that you have a standard criteria and that these rules are applied evenly and fairly to all applicants. It’s easier to let the criteria work for you in showing exactly where the standard is for qualifying for your property. Make sure the criteria are clear in defining exactly what you are looking for when it comes to disqualifying criminal history. And if you don’t have a criteria, consult with your attorney or local experts to ensure that what you are doing in regard to background checks is legal. We have a great detailed sample criteria we would love to send to you. Just email info@rentperfect.com

2. DO YOU REQUIRE A DEPOSIT UP FRONT?

I can’t tell you how many times I’ve heard this question, or one similar to it.

I’ve been asked to spread out a deposit over a few months, or even the entire term of the lease. Whatever form it comes in, it puts me on alert. Why? Because it usually indicates that money is tight and that I may not

be a priority when finances are stretched thin. When a medical bill or car-repair charge hits a tenant hard, you may be the last person to get paid, if you get paid at all. Now is the time when you really have to stick to your guns and require that deposit, as it may be the only protection you have moving forward.

3. CAN I MOVE IN IMMEDIATELY?

I’ve shown properties where the individuals have arrived at the showing with the moving van packed and ready to unload. This concerns me, as I have to ask them why they are needing to move so quickly. Did they just get evicted? Did they leave their last residence in the middle of the night to avoid being seen by their landlord? Granted, there are times when an applicant just suffered a devastating loss by flood or fire and needs immediate housing. Asking follow-up questions on why they need to move so quickly will help you analyze the situation and make the best decision for you and your property.

4. HOW MANY PEOPLE CAN STAY HERE?

While it might seem harmless, this question could lead to more people living in your property than it can accommodate.When an applicant sees your listing as a 3-bedroom, 2-bath, it’s pretty safe to expect it can accommodate up to 6 people. Establishing the maximum occupancy in an applicant’s mind lets them know what you expect and consider as “too many” people in the home. This question is often accompanied by “how long can someone stay and still be considered a guest?” Both of these together or individually are cause for you to ask a lot of follow-up questions to determine exactly how your property will be used. Again, clear criteria can protect you in this area.

5. HOW MANY PETS CAN I HAVE?

Pets are just part of the business and having a firm policy regarding number or type is a great way of protecting your investment. While you don’t want a zoo

moving in, having a no-pet or one-pet policy is pretty standard. Make sure to require an additional deposit (see point No. 2) and collect all of it before move-in. It’s beneficial to define what is considered a pet and to clearly communicate what animals are and are not allowed in or on the property. I’ve seen tenants who tried raising chickens in the back yard use the excuse that, a) they aren’t pets and b) they never go inside the residence. Along with violating our lease, they also violated the CCR’S of the Homeowners Association and made me subject to a pretty hefty fine with the city. Clarity, especially when it comes to pets, will save you a lot of headaches.

6. MY CURRENT LANDLORD IS A ‘JERK.’

This trigger lets me know that I just might be the next “jerk.” Most landlords I meet just want to maintain their property value and make money, and keeping tenants happy is an integral part of that game. No one wants to discourage a good, paying tenant who is taking care of the property; ask your applicant why they feel that way. Often, I hear the current landlord will not return their calls. I see a frustrated landlord when this action starts and, in my mind, it always takes two to tango.

There are countless other things to listen for as you meet with a rental applicant; you likely have stories to tell that top my experiences. Listen intently, ask as many follow-up questions as you need, and communicate your criteria and policies clearly. After all, when you are getting ready to turn your keys over to a sizable asset, knowing who you are renting to is critical to your success in this business.

David Pickron is President of Rent Perfect, a private investigator, and 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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From the Desk of the Executive Director

Get Involved: Our Future as Landlords Depends on You

By Ron Garcia

Last week I gave a presentation to a group of property managers and vendors at the local NARPM chapter meeting (National Association of Residential Property Managers). My topic was extolling the value of belonging to Rental Housing Alliance Oregon. As one of three primary landlord organizations statewide, RHA Oregon has been around the longest (it was established in 1927). We currently represent 2,000 members with 60 percent owning four or fewer units.

Multifamily NW (MFNW) and Oregon Rental Housing Association (ORHA) are the other two main groups. They both have excellent leadership and offer tremendous support, training, and advocacy for housing providers throughout the state.

In my talk I pointed out that there are legitimate reasons why we have three separate groups in the state. All three represent smaller landlords. However, MFNW primarily speaks on behalf of institutional investors and their management companies, while RHA Oregon and ORHA both primarily focus on the “mom-and-pop” and DIY landlords. Additionally, ORHA is headquartered in Eugene and has a large footprint on smaller and rural communities throughout Oregon. RHA Oregon also has



members from Astoria to Enterprise to Medford, but we are headquartered in Portland, which is where our primary influence is centered.

For years, RHA Oregon has promoted itself as a member-based concept of “landlords helping landlords” through networking and mentorship. For decades, this was a model that offered value and thrived. Yet as we enter 2022, this simple structure is not enough. Legislation has created complex regulations that add unprecedented risk to our common business practices; the demographics of rental property investors have morphed; the economy has pivoted; and new technologies are now available to owners, offering an array of services online.

The goal for my discussion (as is the goal of my affiliation) is to accelerate the pace of our evolution, and for Rental Housing Alliance Oregon to remain a primary hub for professional development in today’s housing industry. To accomplish this, we need more professional members who are committed to their business. We need members who are passionate about their desire to create and propagate successful standards of practice. We want to become known as the organization that emphasizes the true “win-win” when housing providers work to provide and maintain fair, safe, and affordable housing for their renters.

In short, we want members who are willing and able to contribute to the success of a community-based, non-profit organization that stands for building the best professional platform the rental-housing industry has to offer. Does this sound like I’m calling on you?

Someone once told me that learning is not passed on through DNA; it must be taught. This is equally true for professionalism. As we climb the ladder of success in our careers, it’s important to leave it standing and encourage those following us to climb those tested rungs. My challenge to my peers is: Get involved. Be involved. Stay involved. Why? Because if it’s not going to be you, then who will do it?

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Auditor to Review Rental-Assistance Funds Payments

RENTAL HOUSING JOURNAL

The audit division of the Oregon secretary of state’s office says in a statement that the Oregon Emergency Rental Assistance Program funds will be audited by the director of the office’s audit division, Kip Memmott, according to reports.

The *Portland Business Journal* first reported the audit after a records request.

In an email to the state housing agency, Memmott said his office would release an audit plan to the public after briefing legislators. Memmott heads the audit division under Secretary of State Shemia Fagan.

“The state is facing criticism for stopping the application process for these funds even though it has been reported that Oregon was one of the timeliest states



issuing rental assistance,” a description of the audit provided by Memmott said. “Issues cited by legislators and other stakeholders include technical challenges with rental-assistance software and public

communication challenges.” Oregonlive.com reported that while the program has sent funds to 38,000 households, distributing more than \$268.1 million since June, the state has yet to pay out funds to another 32,000 applicants.

Both landlords and tenants have been waiting for weeks with pending requests for rental assistance and no communication or updates on the status of their applications.

Sen. Kayse Jama, D-Portland, and Rep. Julie Fahey, D-Eugene, chairs of the legislative housing committee, called for an audit of the program during the December special session to address evictions. The lawmakers wrote to Fagan at the time that they were “deeply troubled” by the lack of communication from the agency to landlords and renters

and the inconsistent distribution of funds across counties.

Deborah Imse, executive director of Multifamily NW, wrote in December that failed state software for emergency rental assistance was hurting families in Oregon.

“As with the landlord fund, the emergency rental-assistance program has been plagued by system crashes, ineffective notification processes and a serious lack of clear communication from administrators. Applications have piled up, leaving renters’ requests for help in limbo for months. And landlords have spent hours — if not days — online, with no assurance that their renters’ applications had even made it into the program,” Imse wrote.

How to Approach the Upcoming End of Grace Period

Continued from Page 1

very old at this point, waiver under ORS 90.412 is not a concern, as there is an express carve-out in the current renter-protection laws on that issue.

The important thing to keep in mind with respect to the above approach is that tenants are still allowed to apply for rent assistance pursuant to SB 891, unless they have already done so under that law. Assuming a tenant follows the proper procedure, SB 891 would cause a stay to remain in place while the tenants’ application for rent assistance is “pending.” It is unclear how rent-assistance organizations will handle these issues. Further, given the factual differences of every notice and balance ledger, it is difficult to predict how those issues will play out. Ultimately, readers of this column will remember that

anything received from a tenant should be scrutinized with your attorney to evaluate whether or not it qualifies as “documentation” that could affect your rights.

Alternatively, another option for landlords is to simply exercise their civil remedies with respect to a small claims case or lawsuit. Once the law’s protections expire, the Emergency Period balance becomes a debt that can be pursued civilly. This goes for both current tenants and former tenants who have moved out. While landlords are allowed to withhold security deposits for unpaid debts and damages under the current COVID laws, those deposits rarely (if ever) cover the entirety of the rent arrears left behind.

Many landlords continue to carry large balances from tenants. Those same landlords were not afforded the

protections, grace periods, or other benefits afforded to other individuals affected by COVID. That was unfortunate, and further eroded the relationships between landlords and their tenants that current laws seem to continually exacerbate. Landlords will have additional rights and options at their disposal in the coming months, and unless rent-assistance agencies begin writing checks for these unpaid balances, landlords should prepare to assert them.

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. You can reach him at kraus@warrenallen.com or at 503-255-8795.



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