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Must Landlord Provide Housing During Rental Renovation?

By HANK ROSSI

Dear Landlord Hank: When a landlord is installing a shower where a bathtub has been for 50 years, and says it will take two weeks to replace, does the landlord have to provide housing/motel/etc. during the renovation time? Is the tenant still responsible for rent for that full month? — Roger

Dear Landlord Roger: I don't have all the information here but if the rental unit only has one bathroom and that bathroom is not usable during repairs or renovation, then you as the landlord would be responsible for your tenants' housing since your project is making the property uninhabitable.

If the tub removal can wait until the tenants' lease is over, then that would be

See 'Can' on Page 7



National Rent Growth Slows; Portland Numbers Up Sharply

RENTAL HOUSING JOURNAL

National rents grew at 1.1 percent in July, showing the continued slower growth in rent that has been expected, Apartment List says in its August report.

“Over the first seven months of 2022, rents have increased by a total of 6.7 percent, compared to an increase of 12.0 percent over the same months of 2021. Year-over-year rent growth currently stands at 12.3 percent, but has been trending down since the start of the year from a peak of 18 percent,” the report says.

However, the report points out that rents are still growing faster than they did in pre-pandemic years. Rents increased in July in 87 of the 100 largest metros.

PORTLAND RENTS INCREASE SHARPLY OVER THE PAST MONTH

Portland rents have increased 1.6 percent over the past month, and have increased sharply by 7.2 percent in comparison to the same time last year. Currently, median rents in Portland stand at \$1,295 for a one-bedroom apartment and \$1,512 for a two-bedroom. This is the sixth straight month that the city has seen rent increases after a decline in January. Portland's year-over-year



rent growth lags the state average of 10.7 percent, as well as the national average of 12.3 percent.

NATIONAL MONTH-OVER-MONTH GROWTH COOLS, SLIGHTLY

The rapid growth in rent prices over the past year has contributed to the overall

inflation the country is facing.

“With inflation top-of-mind for policymakers and everyday Americans alike, our rent index is particularly relevant, since movements in market rents lead movements in average rents paid. As a result, our index can signal what is likely ahead for the

See 'U.S. Rent' on Page 11

Blame Game is a No-Win for Landlords

By DENNY DOBBINS



If you have spent more than 30 seconds in the last year watching cable news, you are more than familiar with something called “the blame game.” Regardless of political party affiliation, age, race, gender, sexual orientation or any of a host of other categories, it appears that our society has become a place of great divide.

As a landlord you are not immune to this growing epidemic of blame and, in fact, you're likely to take more than your fair share of blame when it comes to tenants and

their problems. After all, those same media outlets have spent years painting the picture of the big, bad landlord, creating an evil, money-focused image that even the happiest of tenants sometimes buy into believing.

Let's create a blame framework for this by using a scenario where a tenant or guest of a tenant is injured by a weapon that the landlord allowed on the property. To create some protection for you as a landlord we must first turn to the general principle of negligence law and liability.

See 'Understanding' on Page 13

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Seven DST 1031 Exchange Terms Every Real Estate Investor Should Know

By **Betty Friant, Senior Vice President, Kay Properties & Investments**

Becoming a serious 1031 Exchange real estate investor can involve a significant learning curve. For example, there are many investment terms that every investor should know and understand in order to better understand the nuances surrounding 1031 Exchange real estate investments and help find success as an investor.

Therefore, Kay Properties thought it would be a good idea to present some of the most important investment terms that all Delaware Statutory Trust 1031 Exchange investors should know.

1. DST

This term stands for “Delaware Statutory Trust” which is an entity that is used to hold title to investment real estate. A DST is also a powerful real estate planning tool because it allows “beneficial interest” ownership where multiple investors can share ownership of a single property or an entire portfolio of properties. A DST is often paired with the 1031 Exchange. Pairing these two entities together allows for individual investors to diversify* their investment dollars into multiple properties and potentially mitigate concentration risk of over-concentration in their investment properties. This can potentially be accomplished by investing in DSTs with properties in different geographies, in many of the asset classes, and with various property managers, asset managers, and sponsoring companies.

2. TIC

This term means “Tenancy in Common”, and refers to an investment arrangement where two or more individuals share the ownership rights of a property that qualifies under the rules to be used as like-kind in a 1031 Exchange. TIC investments must comply with IRS Rev Proc 2002-22 which has a limit on the number of investors. This gives the TIC entity unique challenges where each investor is named on the mortgage and each investor has the right to vote on decisions concerning the property which can be cumbersome in a co-ownership arrangement. This property

KEY TAKEAWAYS:

- **Knowing key terms for a 1031 Exchange is important for investors**
- **What is the definition of “beneficial interest” and how does it relate to DST’s?**
- **What is a Tenant In Common Investment?**
- **Do you know what a Qualified Intermediary is?**

can be commercial or residential. TIC allows investors to own different percentages of a property. Tenants in common can leave their share of the property to anyone of their choice upon their death.

3. NNN

Anytime you see three N’s in a row when referring to real estate, it will invariably be referring to the concept of triple net lease investing. This is a lease agreement where the tenant promises to pay all expenses of the property. This includes real estate taxes, building insurance, and maintenance. Typically, these are expenses of the landlord. However, in a NNN lease agreement, the tenant pays these expenses along with rent and utility fees. Tenants generally pay a lower rent charge by taking on these additional expenses. Triple net leases have become popular as they have the potential to provide low-risk steady income to investors.

4. 1031s

Section 1031 is probably one of the most familiar passages in the Internal Revenue Code (IRC). These numbers refer to an IRS provision that allows individuals to defer tax on qualifying exchanges of like-kind real estate. To utilize this tax strategy investors must take certain steps when selling and buying real estate. The replacement real estate must be like-kind, tax must be paid on any boot in the year of the exchange, and replacement real estate must be identified within 45 days and acquired within 180 days to utilize the 1031 exchange.

5. QI

The letters “QI” typically refer to a Qualified

Intermediary. The Qualified Intermediary is an accommodator or facilitator that works as an entity that facilitates 1031 tax-deferred exchanges. They act like the glue that puts the buyer and seller of property together into the form of a 1031 Exchange. A QI is an individual who enters into a written agreement with the taxpayer of a property. The QI acquires the relinquished property from the taxpayer, transfers the relinquished property to the buyer, acquires the replacement property from the seller, or transfers the replacement property to the taxpayer.

6. PPM

Anytime an investor is involved with a private or public investment vehicle, a Private Placement Memorandum (PPM) will be involved. A PPM is a document that divulges everything an investor needs to know before investing in a Regulation D Offering. The PPM is very beneficial to an investor as it details the investment opportunity, disclaims legal liabilities, and explains the risk of losses. All real estate investors are strongly advised to carefully read the PPM and consult their tax attorney or CPA prior to investing.

7. IOI

When real estate investors become interested in a particular real estate asset or portfolio, they will usually request more information on the property in question. In many cases, the seller will provide a document called an Indication of Interest (IOI). An IOI is an informal proposal that is non-binding and designed to provide the investor more information on the investment. For example, IOI’s typically include property details like

leasing data, square footage, and market overview. An IOI might also include due diligence plans, aerial photos, and site maps. Finally, the IOI will typically include information about the sponsoring seller of the real estate asset.

Knowing and understanding these acronyms will help in placing you on a path of success in the investment world. You might want to keep this list of the alphabet soup of acronyms handy as you research the world of investment real estate.

ABOUT THE AUTHOR:

Betty Friant holds her FINRA Series 6, Series 22, and Series 63 licenses, in addition to the coveted CCIM designation, that recognizes expertise in commercial and investment real estate.



She currently is Senior Vice President with Kay Properties & Investment’s Washington D.C. office where she serves as an expert Delaware Statutory Trust (DST) 1031 exchange advisor to high-net-worth investors and 1031 exchange clients. In her executive capacity with Kay Properties, Friant was instrumental in assisting the firm achieve a record \$408 million of equity placements for real estate investments in 2020 and is at the forefront of helping Kay break that record in 2021.

Prior to joining Kay Properties, Betty spent 35 years in the commercial real estate industry focused on the acquisition and disposition of single-tenant NNN properties, including acting as Senior Managing Director for the Calkain Companies and co-founder of a Sperry Van Ness office in Winchester, VA.

Betty has spent her career building a reputation for providing superior client service that emphasizes transparency, integrity, and attention to details. This lifelong effort was recently recognized by GlobeSt. as one of the “2021 Women of Influence” in the commercial real estate industry.

In addition to her focus on the commercial real estate industry, Betty is dedicated to her family and is involved in the volunteer efforts of several community and civic organizations.

About Kay Properties and www.kpi1031.com

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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Earthquakes and Water Heaters: Are Your Rental Properties Ready?

CONTRIBUTED BY
EARTHQUAKE TECH

Are the water heaters in your rental housing earthquake-ready and legally secured in the event of an earthquake?

Everyone has heard of the “big one,” the big earthquake that could strike, but few think of the water heater in their rental property when this subject comes up. The recent small earthquake southeast of Hillsboro, Oregon, got some rental property owners thinking about the issue.

While the extreme versions of the earthquake-driven “big one” disaster as depicted in Hollywood movies might be pure fiction, it is important for rental-housing professionals and landlords to address this risk, no matter how remote.

Even though the construction industry has made tremendous progress in making homes earthquake-resistant, one major weakness remains, especially for homes constructed before 1995 – water heaters are either not strapped properly or at all.

WHY ARE WATER HEATERS NOT PROPERLY SECURED?

Before the 1994 Northridge earthquake in California, water heaters were generally secured with one strap of plumbers’ tape.

This turned out to be insufficient to hold the tanks upright during the earthquake.

So, experts modified the recommendation to secure both the top and bottom rather than just the middle, and to use heavy-gauge metal strapping.

Steve Gemmell of Earthquake Tech says, “Installing seismically activated gas shut-off valves has become standard practice, along with strapping water heaters down to keep them in place during earthquakes here in the Pacific Northwest. These are both great ways to keep your rentals intact, preventing fire and water damage, which can end up totaling your property if not costing thousands in damage.”



SEISMIC STRAPS FOR WATER HEATERS RECOMMENDED
IN SOME STATES

Seismic straps are a requirement for water heaters in areas that may be subject to earthquakes.

In a number of states, it is recommended that water heaters be strapped so that they do not shift about during a quake.

Naturally, legal requirements vary from jurisdiction to jurisdiction and from state to state. It is important to remember that you should always read the manufacturer’s installation recommendation if you’re setting up your own water heater.

So, do you need seismic straps on your water heater? It depends.

For example, they are required by law in California and Washington, which makes sense since the states are earthquake-prone. Oregon Plumbing Specialty Code (OPSC) requires water heaters to be anchored or strapped in seismic categories C, D, E, and F.

The Uniform Plumbing Code requires that water heaters

be strapped on both the lower one-third and the top one-third of the tank. However, numerous building jurisdictions, as well as the state’s architect’s office, also require a third or even fourth strap for heaters up to 100 gallons in volume. A quick call to your local building department should provide you with enough information on the number of water-heater straps required in your area of residence.

SUMMARY

Bottom line, since a water-heater system is crucial, you should always make sure any and all installations and repairs are done by experienced and licensed professionals.

Depending on the area of residence, type and number of straps, strapping and bracing a water heater will typically cost between \$100 to \$150 or more.

As we’ve seen, even though money is the first thing everyone thinks about when discussing the true cost of a failed water heater, there’s more to it than that. The time spent deciding

what to do, as well as the stress of the problem itself, are also important factors. Why? Because, ultimately, you won’t just be fixing a burning problem; you’ll be buying peace of mind and a sound sleep, as well.



About Earthquake Tech:

Owner Steve Gemmell says the company is a dedicated seismic retrofit contractor in Portland with core values of progressive thinking, quality craftsmanship, referrals from our clients, and attention to detail.



Publisher/GM
John Triplett

Editor-in-Chief
Linda Wienandt

Associate Editor
Diane Porter

Vice President/Sales
Terry Hokenson

Accounting Manager
Patricia Schluter

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Mailing Address
4500 S. Lakeshore Drive, Suite 300
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Website
www.RentalHousingJournal.com

Email
info@rentalhousingjournal.com

Phone
(480) 454-2728 - main
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Case Law Update: Hickey and Shephard Cases Reshape Oregon Landlord/Tenant Litigation

BY BRADLEY S. KRAUS
PARTNER, WARREN ALLEN LLP

Most of the world understands that the law affects much of our everyday lives. Each person is required to drive a certain speed, pay for items they want, and otherwise conform their conduct to a designed set of rules. Each of these rule sets can be found within statutes crafted by legislatures. Landlords are no different, with most of their Oregon rules found within the Oregon Revised Statutes, specifically Chapter 90.

However, some rules and recommended practices are not found explicitly within the above-mentioned statutes. As much as the legislature tries its best to create understandable statutes, they often fall short, which is where the courts step in for interpretation and clarification of the same. Recently, two cases were released by the Oregon appellate courts interpreting various practices and arguments related to landlord/tenant law.

In late June, the Oregon Court of Appeals released their opinion in Shephard Investment Group LLC v. Ormandy, 320 Or App 521 (2022). This case was one I, and many other practitioners, had long been waiting for, as it interpreted the utility-billing-damages provision. For years, tenants’ attorneys had asserted that they were entitled to “stack and multiply” their damages. In other words, if a landlord failed to comply with the disclosure requirements set forth in ORS 90.315 for multiple utilities (e.g., water, sewer, and gas), a tenant would be entitled to three separate claims for one month of rent for each month through the applicable statute of limitations. Landlords obviously disagreed, arguing that the statute’s damages provision only entitles a tenant to one month’s worth of rent or twice the amount of actual damages, whichever is greater, as the statute proscribes.

The Court of Appeals agreed with the landlords interpretation. An entire review of the opinion would consume many more pages than this article allows. However, I will say that the tenants’ interpretation of the statute led to absurd results and damages claims in the millions of dollars at times, even for the slightest of missteps. No law should ever be interpreted as punitive as tenants’ attorneys were



interpreting this one, and I am happy to see that the court agreed.

Another case, however, released by the Oregon Supreme Court overturned a favorable decision from the Court of Appeals in Hickey v. Scott, 370 Or 97 (2022). This case involves the amounts stated in a non-payment notice under ORS 90.394. In that case, the landlord overstated the amount that was due and owing in their non-payment notice. While the Court of Appeals held for the landlord, the Supreme Court stated as follows:

For the reasons that follow, we conclude that ORS 90.394(3) requires that a notice of termination for nonpayment of rent must specify the correct amount due to cure the default. We further conclude that, when the notice states an incorrect amount that is greater than the amount actually due, the notice is invalid, and any subsequent FED action relying on that notice is likewise invalid and requires dismissal.

While this decision puts more of an onus on the landlord, it should not affect how landlords draft their notices. Non-payment-of-rent notices under ORS 90.394 should only contain full units of rent, with partial payments being a problem. If monies were paid, and those payments apply to a particular month at issue, overstating the amount due and owing could present a fatal defect in the notice. If a landlord is concerned about how those payments apply under the law, it is imperative to consult with an attorney who can assist with application of those payments. This will ensure (a) that a solid notice is served, and (b) that notice is actionable and defensible in any eviction action.

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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From the Desk of the Executive Director

Remember the 4th ‘C:’ Community

When issues and events become newsworthy, they are often presented in a context of the “Three C’s:” crisis, conflict and controversy. For example, during the hot summer month of August, the media focuses on stories of how extreme heat results in many people living at higher risk, and how the heightened dangers of wildfires reveal further evidence of climate change.

Obviously, there is great value in knowing about important and serious issues. Individually and socially, we carry a responsibility to cope with and manage daily realities and participate in efforts to address them, as we may each be so called to in our daily lives.

Yet, there is always more to the story. August is a month of summer recreation — county fairs and family vacations, along with annual pilgrimages to the “great outdoors” (whether golfing, hiking and camping, or attending farmers’ markets, having picnics, or just enjoying porch or patio

dining). Our social responsibilities are equally dependent on the relationships that we foster together. We should not overlook that important “Fourth C” to a story that ought to be presented in the news: Community.

As rental-housing providers, we commonly find ourselves in front of the media when we are called out to answer questions that are framed as conflicts between tenants and property owners. Will the landlord allow tenants to install air conditioning? Are rents being raised too high? Are we witnessing more evictions? Are landlords responsible for the rise in homelessness?

Unfortunately, many times when the media calls looking for a local landlord response, we are being pitted against tenants, and we end up on the defensive to share “our side of the story.”

But there is so much more to the story!

Most rental-home providers have great relationships with their tenants. After all, there is no such thing as a rental market without rental units occupied by renters! Owners of single-family rental homes, or small-plexes, work hard to keep up their properties. They know the names of the tenants, are often the first responders in times of trouble or crises, and give the chance to “work things out” during periods of hardships.

Community is what the rental housing industry is built on, literally. When the opportunity arises to share what’s good in a story, we would all be better served to make sure it’s told.

Happy summer. Stay cool and have fun!

—Ron Garcia
Executive Director of Public Policy
Rental Housing Alliance Oregon

Can I Insist Long-Term Tenant Fill Out New Application?

Continued from Page 1

the best option.

If there is more than one bathroom, you may want to give the tenants a rent concession since a part of the property is not available.

Also, if you are using your tenants’ electricity for your renovation, you may want to work out something with them in advance for this, too.

CAN I INSIST A LONG-TERM TENANT FILL OUT A NEW APPLICATION?

Dear Landlord Hank: Can I insist that a long-term tenant fill out a new application? Not for the purposes of “applying” (they’ve lived there for 11 years) but for the purpose of updating employment and other information. Thank you. — Janeese

Dear Landlady Janeese: Great to hear you have long-term tenants of 11 years. You

are apparently doing everything right to keep them happy for so long.

I would think that your tenants wouldn’t mind you updating your contact info in case you need to reach them in an emergency situation.

If they are reluctant to fill out a standard information form, maybe you could just ask them verbally for the information.

If the tenants still won’t comply with this

simple request, I’d ask them what objection they have.

If the objection doesn’t make any sense, it may be time to seek out new tenants.

Each week Hank Rossi answers questions from landlords and property managers across the country in his “Dear Landlord Hank” blog in the digital edition of Rental Housing Journal at <https://rentalhousingjournal.com/asklandlordhank/>

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Know Your Local Fair Housing Laws

By The Fair Housing Institute

Fair Housing is complicated and ever-changing. Combined with state and municipal laws that can vary greatly, proper training becomes even more critical.

But what does that training look like? Should it encompass more than federal laws, and how often should training occur?

Fair Housing - Know Your Local Laws

More is needed than a basic knowledge of the protected classes. This is because state and municipal laws can change how fair housing compliance is interpreted. Not knowing the laws specific to your area can leave you open to a fair housing complaint.

For example, in Austin, Texas, students are considered a protected category. Meanwhile, in New York City, reasonable modifications are covered at the expense of the property regardless if they are private-market or not. Another example would be when it comes to source of income. Some states view this as a protected category, while others do not.

As a result, fair housing training needs to include an understanding of all laws specific to where your property is located. These are just a few examples. The list goes on.

How Often Should Fair Housing Training Happen?

As highlighted above, fair housing can be challenging and can cover a considerable range of topics and sub-topics. It stands to reason that a one-and-done approach to training will never be adequate. In addition, laws are continually changing, as is their application.

Currently, the industry average for training is every two years. That being said, more and more companies are gravitating to annual training as better practice. Annual training provides staff the opportunity to brush up on skills as well as become familiar with any changes that they need to be aware of.

By having access to regular training, companies are giving their staff the best possible chance to remain fair housing compliant and therefore reduce the risk of a complaint or violation.



Choosing the Right Fair Housing Training for Your Company

Training can and should take many different shapes and sizes. People learn differently, so employing various learning methods will ensure that everyone has access to the information they need.

Thanks to COVID-19, we have seen an increase in online training offerings. A few things to keep in mind if you choose the online route are: when the course was last updated, what it covers, and whether it provides a way to gauge how your staff is doing. Try to find industry-accredited training programs that include both tests and certifications. Online learning is an excellent way for staff to learn at their own pace and when it's convenient for them, and it can be easily added to your training suite.

Another great way to help your staff is training via role play. Have you had a recent situation come up that staff was

unsure of how to handle? Why not turn it into a teaching/learning experience? Recreate the problem with the team and discuss possible solutions and outcomes. This type of diverse training will reach every style of learner.

And happily, we can also now return to in-person training! Look again for industry-accredited instructors and enjoy the one-on-one training and the opportunity to network.

Fair housing training doesn't need to be complicated, but it does need to be thorough and regular. You can avoid time-consuming and costly mistakes and create a positive work environment by ensuring that all your staff has access to up-to-date, reliable training in multiple formats.

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Rent increases are starting to slow as rent growth is getting moderated by soaring inflation, Yardi Matrix says in a summer report.

So the outlook is still hopeful for the rest of the year, but shows multifamily may have reached a point where potential change is coming in what has been robust growth, the report says.

The report says the economy “features some strong fundamental metrics that are being overshadowed by inflationary pressures that stem from soaring energy and housing prices, global supply-chain issues, and the hangover from post-COVID-19 monetary expansion.”

However, the report points out that the economic picture “is not bleak for multifamily” as job growth and consumer spending are still strong, and debt service low by historical standards.

“All these economic measures contribute to strong growth in household formation and demand for multifamily,” the report says.

Some highlights of the report:

- Growth will decelerate in the second half, but the question is by how much, as persistently high inflation threatens to roil the economy.
- The Federal Reserve's bid to reduce demand through rising rates and

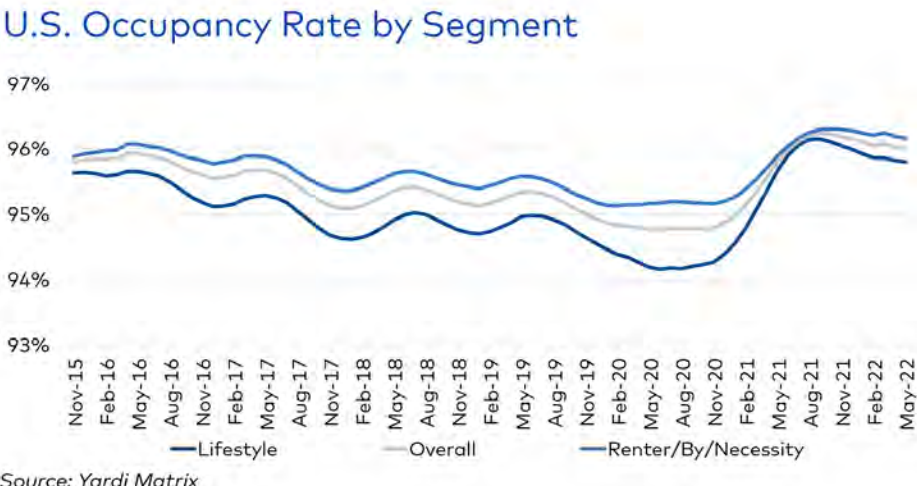
quantitative easing will cut growth, with the odds of a recession in 2023 or 2024 increasing rapidly in recent weeks.

- Multifamily rents are decelerating from 2021's record highs but remained at double-digit percentage growth levels through mid-year. "We expect average asking rents to increase by 7.9 percent by year-end."
- Lenders are becoming more conservative, focusing on cash flow rather than income growth. Many investors and lenders are taking a step back to digest where the market is headed before they resume activity.

“Coming off record-high rent growth of 14.7 percent in 2021, deceleration in multifamily rents in 2022 was inevitable, but the question was how much?”

“Rent growth has started to come down, but slowly as the conditions that produced strong gains have persisted. Average national asking rents increased 5.7 percent in the first six months of the year. Year-over-year rent growth at the year’s midpoint was 13.7 percent, down 100 basis points from the end of 2021 and 150 basis points from the February peak of 15.2 percent.

“While growth is moderating, we expect



gains will continue to remain well above trend, with average asking rents increasing by 7.9 percent nationally by the end of 2022,” the Yardi Matrix report says.

You can find a copy of the full report at <https://www.yardimatrix.com/Publications/downloads>.

Yardi Matrix researches and reports on

multifamily, office and self-storage properties across the United States, serving the needs of a variety of industry professionals. Yardi Matrix Multifamily provides accurate data on 18+ million units, covering more than 90 percent of the U.S. population. Contact the company at (480) 663-1149.

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A woman with curly hair is looking at a smartphone in her hands. She is standing in front of two white front-loading washing machines. The machines have circular glass doors showing laundry inside. The woman is wearing a light-colored button-down shirt. The background is a plain wall.

Portland Renters Stop Decline and Hold Steady
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FORMS OF
THE MONTH
*Updates from the FAIR
Ordinance Settlement*

Due to the recent accepted settlement from the FAIR lawsuit against the City of Portland, there are several updated forms specific for properties located within the city limits of Portland bulleted below. These forms are now live and available on the www.RentalFormsCenter.com e-commerce website, as well as the electronic subscription service of www.TenantTech.com. A webinar training has been scheduled for Monday, August 8th from 10am to 11:30am to detail the changes to the FAIR Ordinance laws in Portland. Register at www.multifamilynw.org/events.

- M518 OR 06-22 Portland Notice of Security Deposit Rights
- M522 OR 07-22 Portland Unit Inventory
- M524 OR 07-22 Portland Condition at Move-In
- M526 OR 07-22 Portland Condition at Move-Out
- M528 OR 07-22 PDX Statement of Deposit Accounting
- M530 OR 06-22 Portland Maintenance Work Order History
- M531 OR 06-22 Unit Condition Report Addendum (Portland)
- M532 OR 07-22 PDX Wear & Tear Addendum (With Deposit)

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 Schedule		
AUGUST 3	WEBINAR: LANDLORD STUDY HALL - FED FILINGS	6:30 PM - 8:00 PM
AUGUST 8	WEBINAR: CITY OF PORTLAND FAIR - SETTLEMENT CHANGES	10:00 AM - 11:30 AM
AUGUST 9	WEBINAR: LANDLORD TENANT LAW 2-PART B	10:00 AM - 12:00 PM
AUGUST 9	MID-WILLAMETTE VALLEY SUMMER PARTY	4:00 PM - 6:30 PM
AUGUST 10	WEBINAR: PLUMBING TIPS!	10:00 AM - 11:00 AM
AUGUST 11	CAMT: APPLIANCES PART I (IN-PERSON)	9:00 AM - 4:00 PM
AUGUST 11	WEBINAR: HR ANSWERS - BUILDING ACCOUNTABILITY	3:30 PM - 4:30 PM
AUGUST 12	WEBINAR: IT’S THE LAW: LEASE PACKAGES: BEST SUIT YOUR NEEDS	12:00 PM - 1:00 PM
AUGUST 16	WEBINAR: ADVANCED LANDLORD/TENANT LAW	10:00 AM - 12:00 PM
AUGUST 16	WEBINAR: WA IT’S THE LAW: WINNING COURT STRATEGIES	12:00 PM - 1:00 PM
AUGUST 16	LEASING WITH CONFIDENCE (IN-PERSON)	1:00 PM - 4:00 PM
AUGUST 17	CAMT: APPLIANCES PART II (IN-PERSON)	9:00 AM - 4:00 PM
AUGUST 23	NEW EUGENE RENTER PROTECTIONS AND OTHER LEGISLATIVE UPDATE (IN-PERSON)	11:00 AM - 1:30 PM
AUGUST 25	WEBINAR: LEADERSHIP SERIES -AS THE LEADER GOES, SO GOES THE TEAM AND RESIDENTS	12:00 PM - 1:30 PM
AUGUST 30	WEBINAR: AFFORDABLE AFTERNOONS-TERMINATIONS & EVICTIONS OF AFFORDABLE & SUBSIDIZED	12:00 PM - 1:00 PM
SEPTEMBER 9	WEBINAR: IT’S THE LAW: WINNING COURT STRATEGIES	12:00 AM - 1:00 AM
SEPTEMBER 15	SPECTRUM 2022 - PASSPORT TO ADVENTURE	8:00 AM - 4:00 PM

Washington Landlords Sue Over Eviction-Dispute Centers

RENTAL HOUSING JOURNAL

Washington landlords have filed suit in Spokane over the issue of eviction-dispute resolution centers that are not working to get rent paid in a timely manner according to landlords.

“We’re stuck. We’re really at the mercy of these non-judicial entities ... to give us the magic ticket to be able to go to court,” said Sean Flynn, vice president of the Washington Business Properties Association, to the Seattle Times. “And they’re not doing it. When they are doing it, it’s not timely.” He said delays are a state-wide problem.

Landlords who want to evict a tenant for nonpayment of rent must first notify a dispute-resolution center in their county and wait for the center to issue them a certificate. Landlords say the dispute-resolution centers can be slow to issue the certificates, sometimes taking six months or longer.

Resolution Washington, the statewide coalition of dispute-resolution centers, denied the charge that delays are widespread. From November through June, the median case took 22 days, according to the organization.

Eviction Resolution Pilot Program

The resolution-dispute centers, operating under something called the Eviction Resolution Pilot Program (ERPP), were created by the state in an attempt to avoid mass evictions when the state lifted the eviction moratorium. The mandate that landlords get certificates from the resolution centers in nonpayment cases does not expire next July.

Meanwhile “the process has drawn criticism from both tenant and landlord groups, who say it can be opaque or slow,” the Seattle Times reported.

“We firmly believe that while well-intentioned, this process shuts off access to the justice system with convoluted, ill-defined

rules and an unrealistic process controlled by unaccountable third parties,” said Chester Baldwin, CEO of the Washington Business Properties Association, in a post on the association site.

He said at issue is how eviction cases are being diverted into a quasi-judicial, non-binding process that requires a certification by a private, third-party mediator before

actual legal proceedings can begin in an unlawful detainer action.

“Our state is facing a myriad of challenges when it comes to housing access and affordability. This process is making it worse, driving up rents and driving out providers,” Baldwin said. “The justice system should not have a private gatekeeper making this crisis worse.”

The association asks the eviction-prevention program be declared unconstitutional.

One housing provider sent a 14-day notice to vacate and ERPP forms in April and still has not received a certificate allowing them to appear before a court. “It’s these kinds of costly and unconstitutional delays that must stop,” Baldwin said in late July.

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Understanding Landlord’s Duty to Tenants

Continued from Page 1

It is helpful to understand the basic law and how to apply it in a real landlord-tenant situation. Every landlord must have a handle on these basic principles, so we’ll first discuss the law and then get back to the questions. Whatever the cause of the injury/damages to the tenant, occupant, guest, or invitee, the landlord does have some basic duties to the tenant in every residential lease, single-family or multi-family home of every kind and variety.

Here is the basic legal test for this scenario:

1. DUTY

Generally, the duty of the landlord is to provide a reasonably safe place to live for the tenant, occupants, guests, and invitees (and there may be more than just this duty, depending on the lease and the applicable laws). The basic legal theory about a landlord’s duty from settled case law is, “if the landlord knew or should have known about a danger or peril in, or on, the property, the landlord must ensure reasonable and timely remedies to prevent damages (injuries) to whom the landlord owes the duty of reasonable safety.”

Did the landlord have a duty to allow the tenant to have a weapon inside of the private, inside quarters of the home that the tenant controls in order to protect the tenant’s family/household? That is a big question. Arguably, if the tenant had nothing in their background that would put a landlord on notice that the tenant had a propensity for violence, and the tenant is an ordinary, law-abiding citizen, why would anyone not allow that person to have adequate home protection? So, is there such a duty?

The question does not seem to be resolved by any court, although some states prohibit a landlord from such a prohibition. Do you



want to fight this case in court?

Then:

2. CAUSATION

“But for” the landlord actions or inactions, would a particular event or damage have occurred? “But for” the landlord allowing the tenant to have a weapon for protection, would the injury/damage likely not have not occurred? Here the answer is, probably, yes.

Then:

3. FORESEEABILITY

Even if there is a duty and there is causation, there is one more test to be applied before we can determine if the landlord actually has any liability for the damages/injuries. Was

it foreseeable by a reasonable person that if the landlord allowed the tenant to have a weapon to protect his/her private home that this very injury/damage would take place? Here the answer is again, probably, yes.

I suggest running any scenario where you as a landlord feel you may be vulnerable through the three prongs of the legal test as described above. In fact, I invite you to do that right now with the above scenario, only reversed, where the landlord prohibited the tenant from having a weapon on the property and the tenant or their guest was injured because they did not have a weapon for self-defense. What is your duty, what could your actions cause, and is a specific outcome foreseeable?

What is the course for best practices to

avoid blame and liability? Examine your property, your practices, and your policies through the lens of an attorney and make the proper adjustments to boost the protection of both your tenant and your property. After all, the best way to avoid any blame at all is to anticipate potential problems, remedy them, and document what you have done.

Denny Dobbins is vice president and legal counsel for Rent Perfect, the creator of the Crime Free Addendum, a private investigator, and fellow investor. Subscribe to the 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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in conjunction with the rest of the fireplace unit to ensure best possible performance of the unit.

Over time, various parts of these units will wear out, most commonly the interior fireplace area called the firebox. The firebox consists of the back wall, left-side and right-side wall panels as well as the floor panel.

Replacement panels are available. These panels are called Refractory Panels.

The technical definition of Refractory: “A substance that is resistant to heat.” — Definition from Lexica/Powered by Oxford Online

These panels are Refractory Cement panels for solid fuel (wood



The photo above right shows a gas fireplace fiber-backed panel versus a solid-fuel (wood burning) fireplace refractory cement panel.



burning) Manufactured Fireplaces. These units have been tested under very exact conditions, so if the incorrect replacement panel is used it violates the Underwriters Laboratories

listing of replacement parts for that Manufactured Fireplace.

Panels for a gas Manufactured Fireplaces are very different from a wood burning manufactured Fireplace and should not be used for wood fireplaces.

According to a publication for the Chimney Safety Institute of America:

“REFRACTORY PANEL:

The panels for solid-fuel fireplace are typically molded or cast from a concrete aggregate mixture, or are otherwise made from cut bricks molded into the necessary forms. Panels for gas-burning fireplaces are typically molded from a mixture of ceramic fibers and lightweight concrete.“

Over time, refractory panels break down either through the repeated heating-cooling process, trauma of some sort (log impacts, etc.), or general wear and tear from normal operations. Replacing or repairing the panels helps to maintain the safety of the fireplace, as well as its aesthetic appeal.

CRITICAL ISSUES:

Maintain Thermal Performance of Fireplace: When replacing panels, the important factor is to maintain the same thermal performance as the original fireplace.

Keep same Panel Thickness as Original: By using replacement panels with the same thickness as the original panels helps to keep the thermal performance the same and helps to ensure a good fit and finish of panels.”

A trained Chimney Technician will inspect and recommend the correct panels for your Manufactured Fireplaces.

“The Use of Aftermarket Components and Their Effects on the Safety and Performance of Factory-Built Fireplaces,” Prepared for The Chimney Safety Institute of America by Eric Adair, P.E., Adair Concepts & Solutions, LLC



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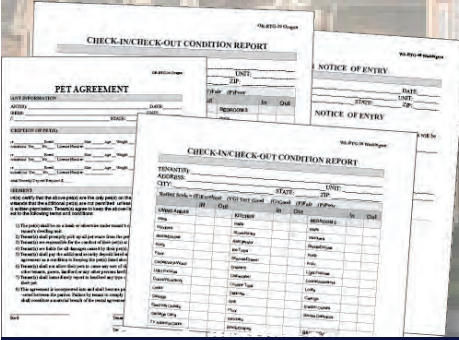
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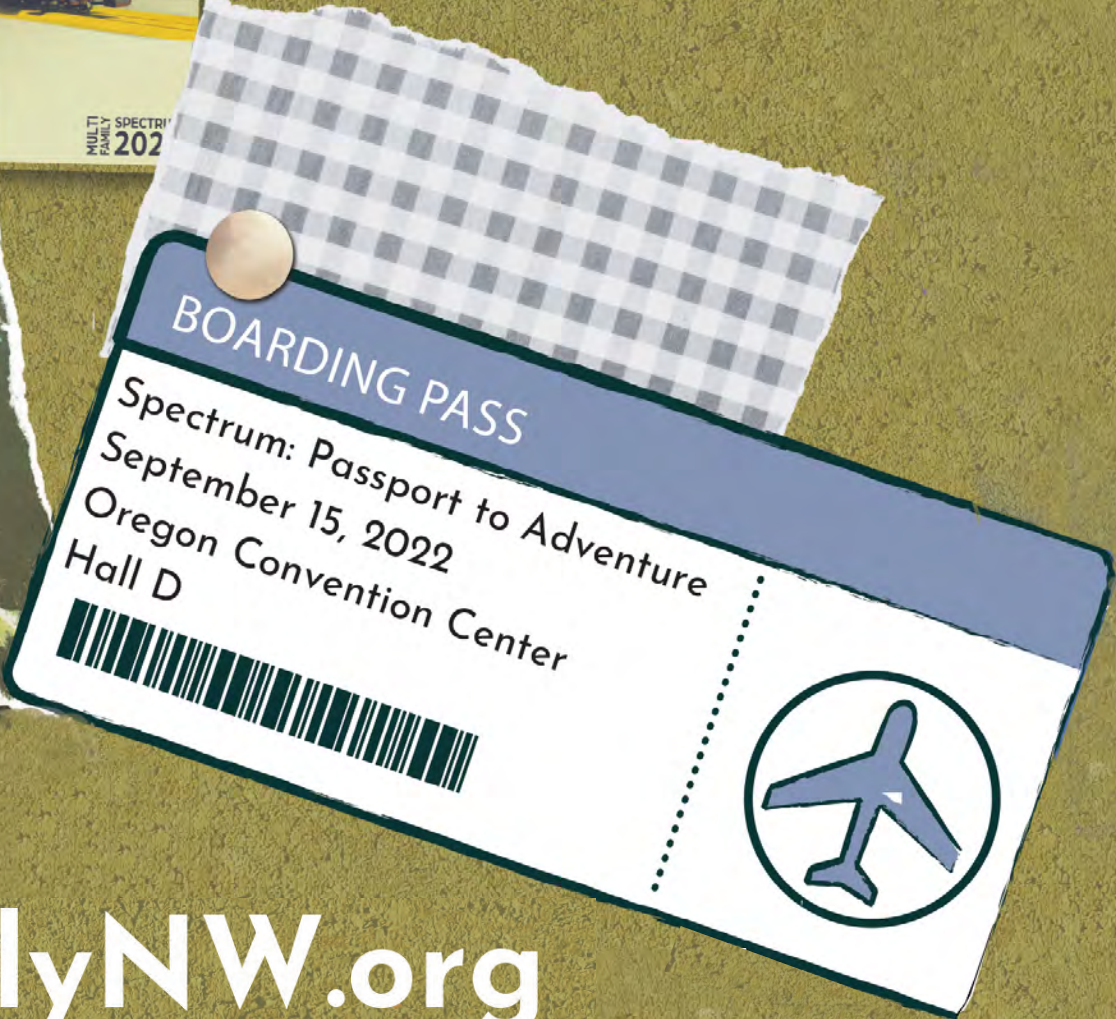


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