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What If Tenant Refuses Entry After Notice?

By HANK ROSSI

Dear Landlord Hank: In regards to your answer to enter property even if the tenant does not respond: What do you do if the tenant is in the house when you want to enter and they tell you to get out? – Patti

Dear Patti: If you have given proper notice to the tenant that you will be entering the property (at least 12 hours’ notice, in Florida), the tenant cannot deny the landlord the legal right to enter the property.

Again, in Florida, you’d need to enter during normal hours – 7:30 a.m. to 8:00 p.m. – unless there is an emergency; then you can enter at any time.

Don’t argue with your tenant, but let them know you have the legal right to enter and if the tenant refuses entry, tell them they are in violation of the lease and put a seven-day notice to cure on their door. Then they have seven days to “fix” the problem. If they still won’t allow access, I’d move on to eviction.

It’s amazing what a legal notice will do to change an unreasonable tenant’s mind (sometimes).

Read more at <https://rentalhousing-journal.com/asklandlordhank/>



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Does Your ‘No Smoking’ Policy Stink?

By SCOT AUBREY

“What’s that smell?” might be one of the worst questions a potential tenant can ask you as a landlord.

In my experience, the showing of a property almost always goes downhill from there. Odors play a major role in our lives, with many of our most important memories tied to a specific smell, whether good or bad. Who doesn’t love the smell of bacon, fresh baked bread (my mouth just started watering) or a campfire? Those smells instantly transport us to a time or place; that’s the power they have over us. Knowing how powerful odors are should cause landlords to take a deep breath, preferably through the nose, and examine what their policy is regarding smells and obnoxious odors on their properties.

If you are like many landlords, this is probably something you have either overlooked or inadequately addressed with your current and future tenants.

While most of us are familiar with no-smoking policies for our properties, with the invention of new types of inhalants and other innovations, it is time to take a deeper look at the three major things to consider as you develop a policy around scents and odors in and on your property.

1. CREATE A RENTAL CRITERIA

If you don’t already have one, now is the perfect time to start creating a criteria regarding scents and obnoxious odors.



You likely have a rule about smoking in the property, but how about even on the property?

If you’ve ever been in a public place that allows smoking, you are already familiar with how far and powerfully the smell associated with smoking can travel. Does your criteria include a no-vaping in or on the property component? How about smoking of marijuana? Although you would expect that a no-smoking policy would cover all types of smoking, you are better off being very thorough and including specifics such as cigarettes, cigars, pipes, vaping and smoking or manufacturing of legal or illegal drugs.

Don’t stop there though, as other odor-causing items such as spices, incense, sprays and even candles can cause long-term damage to a property. The more specific you are in your criteria, the better
See ‘Landlords’ on Page 6

Tenant Kills Property Manager, Constable During Eviction Attempt in Arizona

RENTAL HOUSING JOURNAL

A tenant shot and killed the new property manager of an apartment complex, a constable and another tenant before turning the gun on himself during an eviction in Tucson, Ariz., according to reports.

The tenant had been threatening others with a gun in the apartment complex for months, according to KGUN9.com, and the apartment complex was attempting to evict him for that reason, according to court

documents filed in the eviction case.

Gavin Lee Stansell, 24, killed Angela Fox-Heath, 28, who was a new property manager at the Lind Commons Apartments; Pima County Constable Deborah Martinez-Garibay, 43, who was a 16-year Army veteran who served in Afghanistan before becoming a constable; and Elijah Miranda, 25, a tenant who lived next door. The shooting happened about 11 a.m. on August 25.

A SWAT team went into Stansell’s

apartment and found the wounded Martinez-Garibay, police said. She died at the scene. Investigators don’t yet know why the constable entered the apartment or whether Stansell had tried to reject the eviction notice.

They found Stansell, 24, dead from a self-inflicted gunshot wound. Tucson police said a search of the apartment also found Stansell had entered or broken into the apartment
See ‘Tenant’ on Page 6



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Can I 1031-Exchange Out of a Delaware Statutory Trust?

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

Many investors that have participated in or are considering a DST 1031 exchange with Kay Properties will oftentimes ask us, Is it possible to 1031 exchange out of a Delaware Statutory Trust? If you're looking for a clear and concise answer to this question, here it is: Yes, you can 1031 exchange out of a DST.

But let's dig a little deeper into this subject.

FIRST THINGS FIRST: WHAT IS A DST?

Let's first look at exactly what is a Delaware Statutory Trust (DST)? DSTs are vehicles for passive real estate ownership that allow investors to remove themselves from day-to-day headaches of property management as well as the opportunity to diversify* their equity in an effort to potentially reduce risk. Each individual investor possesses his or her own share - sometimes referred to as a "beneficial interest", including potential income, tax benefits, and appreciation of the DST property. A longer and more detailed article of exactly what a Delaware Statutory Trust is and why so many real estate investors are attracted to them can be found here.

EXCHANGING OUT OF A DST FOLLOWING FULL-CYCLE INVESTMENT

Now the question of "Can I 1031 exchange out of a DST?" can be addressed from two different perspectives. The first perspective involves when a DST property itself goes "full cycle". The term "Full-Cycle" is used to describe a Delaware Statutory Trust asset that has been purchased and then sold on behalf of a group of accredited investors after a period of time. Once the DST sponsor has sold the asset per the DST's business plan each individual investor then has the same options as they had when they first exchanged into the DST: They must use a Qualified Intermediary, identify the up leg within 45 days of the closing of the relinquished property and close on the up leg within 180 days of the closing of the relinquished property. If they choose to "cash out" following the full-cycle investment, they are required to pay their taxes.

A good example of a Kay Properties DST investment that went full-cycle is the Alexander Pointe Multifamily DST in Orange Park, FL.

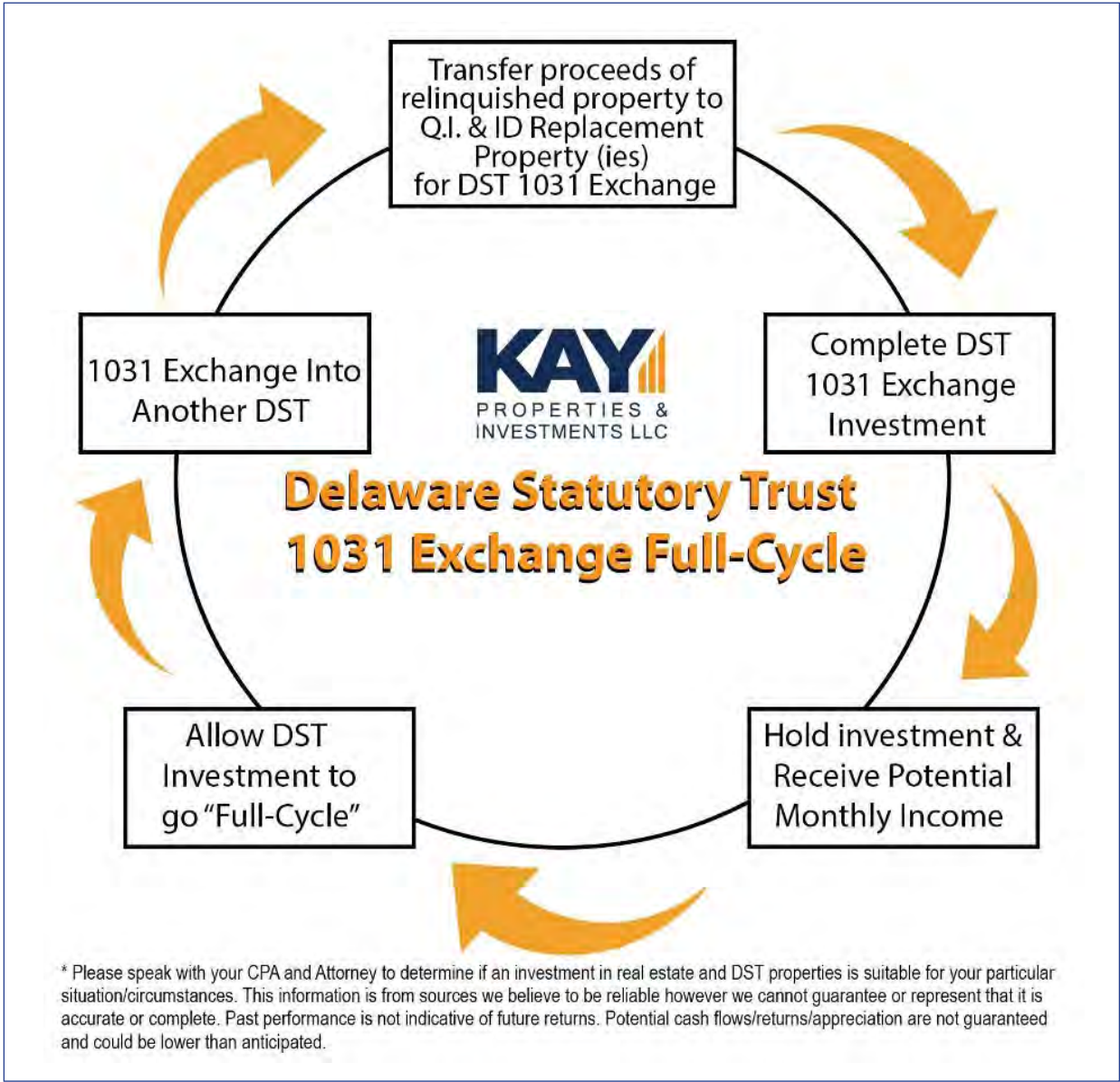
EXCHANGING OUT OF A DST PRIOR TO THE INVESTMENT GOES FULL-CYCLE

Exchanging out of a DST before the investment goes full-cycle is a bit more detailed. Because DSTs are real estate-based investments, they are considered illiquid. There is no stock market exchange that allows you to log online and sell your DST investment quickly. Therefore, investors should only purchase a DST via a 1031 exchange if they are willing to hold for the full life of the investment which could be 5-10 plus years.

However, it may be possible to sell your share of a DST and either cash out or pursue another 1031 exchange. While DST interests can be sold and transferred to an accredited

KEY TAKEAWAYS:

- Investors can 1031 exchange out of their DST Investments
- What does it mean to have a DST 1031 exchange go Full-Cycle?
- Investors must conform to all of the 1031 rules when a DST goes Full-Cycle
- What is the Kay Properties DST Secondary Market?



investor, the most obvious purchasers of DST interests are other investors either in the same DST or outside investors who wish to acquire interest in the particular DST.

Please note that exchanging out of a DST prior to the investment going full cycle means that the investor must follow all the same rules as any traditional 1031 exchange. That is, investors must use a Qualified Intermediary, they must identify their up leg within 45 days of the closing of their relinquished property and they must close on their up leg within 180 days of the closing of your relinquished property.

KAY PROPERTIES SECONDARY MARKET

Because Kay Properties understands investors might need to exit a DST prematurely, they created a DST Secondary Market where investors who want to sell early have a potential

market available to buy their interest in the DST investment. The Kay DST Secondary Market is made possible due to the fact that Kay Properties works with many DST buyers on a daily basis. Kay Properties helped clients purchase approximately \$30 billion of DST investments since its founding. This volume allows us to be a resource for those wanting to sell a DST investment early as we are working with many, many DST buyers nationwide. Again, there is no guarantee that you will be able to sell your DST investment on the Kay DST Secondary Market however it may be a potential option.

For a list of 1031 DST properties please visit www.kpi1031.com, where you also will find more helpful articles and resources as you are considering 1031 exchange DST properties.

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.

This material does not constitute an offer to sell nor a solicitation of an offer to buy any security. Such offers can be made only by the confidential Private Placement Memorandum (the "Memorandum"). Please read the entire Memorandum paying special attention to the risk section prior investing.

IRC Section 1031, IRC Section 1033 and IRC Section 721 are complex tax codes therefore you should consult your tax or legal professional for details regarding your situation. There are material risks associated with investing in real estate securities including illiquidity, vacancies, general market conditions and competition, lack of operating history, interest rate risks, general risks of owning/operating commercial and multifamily properties, financing risks, potential adverse tax consequences, general economic risks, development risks and long hold periods. There is a risk of loss of the entire investment principal. Past performance is not a guarantee of future results. Potential cash flow, potential returns and potential appreciation are not guaranteed.

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Take Steps to Ensure Your Rental Property is Truly Accessible to All Potential Tenants

By The Fair Housing Institute

You look out of your office window and see a car slowly driving by.

They stop for a quick second and seem to be taking pictures.

Who is this? A potential resident, or perhaps a drive-by accessibility tester?

Drive-By Accessibility Testing

Drive-by accessibility testing is becoming more commonplace. This is an easy way for testers to find properties that are violating accessibility laws without ever having to set foot out of their vehicle.

Accessibility testers can come from multiple different sources. For example, they could be hired by an advocacy group or a state agency. Or they could be operating individually with the help of a lawyer. Regardless of whom they work for, they are out there ready to act if they stumble across any accessibility violations.

Once a violation is found, a claim can be filed, and so begins a very expensive and troublesome situation for any property management company to deal with. Keep in mind that once a lawsuit is filed, it is not limited to the specific violation already found; your entire property is put under the microscope, with each additional violation added on.

Is Your Property Truly Accessible?

Most landlords and property management companies are aware of common accessibility touchpoints, such as having accessible parking spots, adequate signage, and a clear path to the main entrance. In addition, there are many other laws and different requirements when it comes to accessibility, either federal, state, or sometimes municipal, and some of them may overlap.

For example, the Americans with Disabilities Act (ADA) law states that for every 25 parking spaces, you must have one accessible space, regardless of the age of the building. However, the Fair Housing Act also comes into play with its rules as far as accessibility for buildings that were built after March 1991. Knowing which laws are applicable to you



IS YOUR
PROPERTY
Accessible?



can get tricky, and it can become difficult to ensure that your property is truly accessible.

Get the Help You Need

One way to combat this is by hiring an accessibility consultant or attorney to do a walk-through of your property to identify any potential violations. If you are hesitant due to the cost, keep in mind what the cost will be if a lawsuit happens. Lawyer fees, court costs, and potential fines or damage compensation are all on top of what will have to be paid out for any needed repairs or renovations. So, in the long run, it's more than cost-effective; it can also potentially save you thousands of dollars.

If accessibility problems have been identified, it's best to avoid the flawed thinking that you can just slap some paint on a few spots or put up a few more signs and call it a day. Create a list with the most visible issues being at the top and

immediately create a plan to tackle them in an appropriate and lawful manner. By repairing or modifying the most visible or outside problems first, you are not giving the drive-by testers any reason to stop and investigate further. Once those repairs are completed, you can move on to any indoor maintenance that needs to be addressed to fully ensure that your property is compliant, inside and out.

By taking a proactive approach, you can avoid many costly and time-consuming problems. Keeping up to date on fair housing laws and training will aid in this. If your property meets its accessibility criteria, then you can have peace of mind that the person who was snapping pictures just might want to live there.

In 2005, The Fair Housing Institute was founded as a company with one goal: to provide educational and entertaining fair-housing compliance training at an affordable price at the click of a button.

3 Key Takeaways for Success in your Construction Projects



By Rob Wilkinson

Owners and managers regularly work with and hire architects, contractors, and others to do renovations and repairs. Sometimes these construction projects take a terrible turn, resulting in higher costs, incomplete or improper work, ongoing maintenance headaches, and even litigation. It does not have to be this way. Instead, the key to a better construction experience can be distilled down to three critical lessons for owners and managers.

Lesson One – Understand the Problem.

Putting off or minimizing needed repairs and maintenance can be disastrous for owners and managers and can lead to severe injury and liability. In one 2018 lawsuit, a jury awarded an injured tenant \$20 million in punitive damages against an owner and manager who ignored needed repairs. Before doing repairs, an owner or manager should do everything possible to understand the whole nature of the problem and all the work required to fix it.

Excellent consultants are available to help owners and managers through this process – and their work is well worth the cost.

Lesson Two – The Contracts Matter.

Any contract for design or construction services should, first of all, always be in writing. Next, what that contract says is essential. If a contractor provides the contract form, I would expect it to favor the contractor. It might have a short warranty period, shortened statute of limitations, and it might easily allow changes in pricing and scope. In contrast, an owner will want the contract to have more certainty on pricing, completion date and scope changes, a longer warranty, and a dispute resolution section that helps the owner if there is a problem.

Lesson Three – Performance and Quality Control for the Job.

The owner expects to get a certain level of quality in the work. Depending on the project, it might be enough to have maintenance or management review the process and the work to ensure it hits the mark. But, for complex or larger projects, an owner should consider hiring a well-versed representative in construction. For instance, by the end of the project, someone with an understanding of construction should be going through punch list items for the owner, getting manuals, warranty information and forms, and ensuring maintenance training.



Robert Wilkinson is a trial attorney with a broad practice in General Commercial Litigation, Construction Law, and extensive experience handling construction disputes, including Construction Defect and property damage claims. He has successfully represented the owners of condominiums, townhomes, apartments, affordable housing communities, hotels, retirement centers, and commercial buildings in Oregon, Washington, Idaho, and Utah.

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From the Desk of the Executive Director

Dazed and Confused by it All

By RON GARCIA

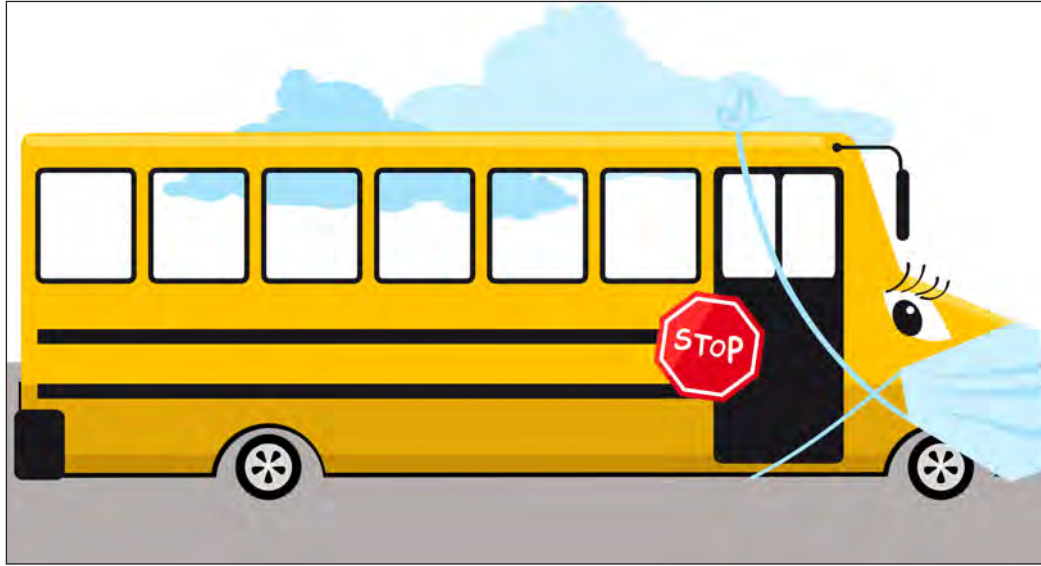
Coming to work today, I found myself in a bunch of traffic while driving past a school, where it was a beehive of activity. September has arrived, I mused — a new season, complete with yellow buses! Then I drove by an office complex with a full parking lot and a construction crew working on the lot next door that was going at full bore. At the red light, three pedestrians and a bicyclist darted across the intersection while a police car with lights flashing pulled over a driver in the oncoming lanes for a traffic violation.

None of this would normally send me into a reflective transcendental state, except that today, I suddenly felt dazed. I realized how “long ago and far, far away” the coronavirus pandemic feels to me. Did it ever happen, or was it just a sci-fi film that I foggily remember seeing?

But next, I stopped to go into the post office and then into a nearby market to grab a bite to eat. And in both instances, about half the people around me were wearing face masks. It slapped me back to reality.

While I have not (yet) been infected by COVID-19, nor have I personally ever been touched by its misery or fatalities, my heart aches for all the suffering this horrible virus inflicted over the past two-plus years. Of course, this adds to the surrealism of the moment.

I think this is a collective conundrum, isn't it? We are



all past it. We all feel the need to move on. We can't keep dwelling on the infinite possibilities of how billions of micro-organisms can spread. We can't require badges be worn by everyone who has ever been vaccinated. We are all frankly tired of talking about it, it seems. Society has survived, hasn't it? (But ... will it happen again??)

Whether a healthcare worker, a cashier, a hospitality worker or a rental housing provider, the wounds of this era are healing. This month, Senate Bill 278 – dubbed “The Safe Harbor Bill” that restricted landlords from collections or evictions for non-payment of rent – finally expires.

Remember, those restrictions were intended to protect renters who had been adversely affected by the economic fallout from the pandemic. But what they actually did was

to adversely affect the economic well-being of housing providers, who were forced to maintain their properties and cover the expenses for more than two years, while unable to legally demand proper payment of rent.

Try running any business without income and see what happens. The politicians called this “unintended consequences,” but those property owners who have experienced the effects of these policies felt like they were “collateral damage.”

It has not been that far away or long ago since several major bills passed in our state that have dramatically changed the rental housing industry, and they crescendoed during the pandemic. Claiming to support “affordable

housing policies,” their net results ironically have produced higher rents, less-safe housing, more cases of unauthorized occupants, and greater friction between tenants and owners, all of which have caused many landlords to sell their properties, thus creating even fewer units with far fewer vacancies than ever before.

In this new season of normalcy, what an insight it would be for voters to just review the records of our candidates on housing bills since 2019 before giving them our support. Let's all hop on that bus!

Ron Garcia is Executive Director of Public Policy for Rental Housing Alliance Oregon. He can be reached at ron@rhaoregon.org



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Landlords: Rental Criteria Covers Odors

Continued from Page 1

protected your property will be.

2. ADVERTISE YOUR CRITERIA

Now that you have taken the time to develop a criteria, put it to work.

In your property advertisements, point out that the property has specific rules regarding scents and obnoxious odors.

Then again at the time of showing, reemphasize to your potential tenant that you have specific rules for your property and go over them in detail.

Lastly, always have a clause in your lease that addresses your rules. Failure to do so can result in the property being damaged

by your tenant, creating excessive expenses for you when you have to turn the property. At a minimum you have to repaint, tear out the carpet and pad, clean out ductwork and perform a deep cleaning on all hard surfaces. Eliminate the “I didn’t know” excuse by being specific and thorough in explaining and adhering to your property-specific rules.

3. KNOW YOUR NEIGHBORS

As mentioned before, obnoxious odors travel well, including into your rental property’s neighbors’ homes and yards.

We always recommend knowing the neighbors of your investment properties as they can serve as extra sets of eyes, ears, and in this case noses, since they are in daily

contact with your property.

No one wants the peaceful enjoyment of their property to be destroyed by the offensive odors of a neighbor. Share your contact information with the adjoining neighbors and enlist them in your efforts to maintain the value of your property. At the least they will appreciate having someone to turn to if they see/hear/smell anything and at most they serve as a first line of defense if something that may affect the value of your property is taking place.

Rent Perfect has recently created a “Scent and Obnoxious Smells Clause” that can and should be added to your property lease. This is available at no charge to you; just request it from info@rentperfect.com and we are happy to share.

By creating a rental criteria that addresses odors, advertising and emphasizing it to applicants, and engaging with the neighbors, you are taking the first critical steps to preventing damage to your property and protecting your investment. That way the next time someone enters your property and asks, “What’s that smell?” it’s for the right reasons. Smells like success to me.

Scot Aubrey is vice-president of Rent Perfect, a private investigator, and a fellow landlord who manages short-term rentals. Subscribe to the weekly Rent Perfect podcast (available on YouTube, Spotify, and Apple) to stay up to date on the latest industry news and for expert tips on how to manage your properties.

Tenant Kills Property Manager, Constable During Eviction

Continued from Page 1

next door and fatally shot Miranda.

The Associated Press reported an eviction complaint filed on Aug. 15 by a landlord in Pima County Consolidated Justice Court indicated that Stansell had previously threatened violence. The complaint said he

or his guest had threatened and intimidated neighbors with a gun on July 27. Stansell failed to appear at a hearing in the eviction case, court records said.

According to the records, a judge ruled that Stansell had breached his lease agreement, writing: “The evidence shows that defendant threatened another resident with a firearm

and has otherwise disturbed the peace.”

Arizona Gov. Doug Ducey ordered flags at half-staff at state office buildings due to the lives lost in the Tucson shooting.

The Pima County Constables Office said staff were devastated by the killing of Martinez-Garibay. She gave her life in

service to the people of Arizona, the office said.

“We all know that the job of an Arizona constable comes with risk, but we go about our business with caution and professionalism and treat all with whom we come in contact with respect and dignity,” the office said in a statement.



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MULTIFAMILY NW
The Association Promoting Quality Rental Housing

Sample image of the Multifamily NW Unit Inventory form for Portland, Oregon. The form includes sections for LIVING ROOM/ENTRY, KITCHEN/DINING ROOM, and STORAGE/OTHER, each with a list of items and a corresponding quantity field. A large 'SAMPLE' watermark is overlaid on the form.

FORM
OF THE
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Unit Inventory
(Portland)*

This form is only applicable for rentals within the city limits of Portland, and it has recently been updated due to the FAIR ordinance settlement accepted this Summer by Portland City Council. This form no longer tracks depreciation values and has been reduced from a 7-page form to 3 pages. The FAIR ordinance still mandates this form which inventories fixtures, flooring, window coverings, etc. *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 30	WEBINAR: IF IT WEREN'T FOR US, YOU'D HAVE NO PLACE TO GO. PLUMBING TIPS!	10:00 AM - 11:00 AM
AUGUST 30	AFFORDABLE AFTERNOONS-TERMINATIONS & EVICTIONS OF AFFORDABLE & SUBSIDIZED	12:00 PM - 1:00 PM
AUGUST 30	WEBINAR: LEASING WITH CONFIDENCE	1:30 PM - 3:30 PM
SEPTEMBER 7	WEBINAR: LANDLORD STUDY HALL - FORMS UPDATE	6:30 PM - 8:00 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
SEPTEMBER 21	CAMT: INTERIOR/EXTERIOR	9:00 AM - 5:00 PM
SEPTEMBER 29	IN PERSON - MAINTENANCE TIME MANAGEMENT & FALL/WINTER PREPAREDNESS	11:00 AM - 3:30 PM
OCTOBER 7-14	VIRTUAL CAM COURSE	

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