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Landlord News

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DON'T IGNORE CRIMINAL ACTIVITY — INFORM RESIDENTS

Crime is an unfortunate reality. Many managers are torn about reporting crimes at their communities. Most managers want to inform their residents about crimes, but they are concerned for good reasons. Managers are concerned about the negative impact of publicizing onsite crimes. Residents might move out. Applications may decrease. Managers are also concerned about not reporting crimes. What happens if the same criminal commits another crime at the community? Are you liable for not informing your residents? Potentially, yes. If you fail to inform residents about serious crimes at your community, the resident may be able to successfully argue in court that you had a duty to warn them. Because the potential legal liability for not reporting criminal activities at the community outweighs perceived or real consequences, you should always inform your residents of serious crimes that occur on your property.

Failure to inform (warn) residents about crimes at your community creates potential significant legal liability. Residents have successfully sued, and won large verdicts when landlords failed to inform them about crimes. While no Colorado court has held a landlord liable for failing to warn residents about criminal activity, residents have won large verdicts in other state courts. Especially when residents are the victims of violent criminal assaults committed by the same perpetrator who has committed similar crimes at the same apartment community, and the community failed to advise its residents about the criminal activity.

Your duty to warn residents of criminal activities is separate and apart from your duty to protect residents from the criminal activities of third parties. As general rule, you have no duty to protect residents against the criminal acts of third parties. The duty to protect focuses on your ability to prevent the criminal activity. The duty to warn focuses on making the resident more aware of the heightened risk of potential criminal activity so that the resident can take appropriate safeguards. For example, three muggings have taken place in the community parking lot late at night. A fourth resident is mugged. You

could not have stopped the mugging. But if the resident would have known about the three previous muggings, the resident might not have decided to retrieve her ipod from her car in the parking lot at midnight.

If this sounds far fetched, it's not. A court found the landlord liable based on very similar facts. The same



perpetrator had committed a series of violent sexual assaults at a property. A resident who was assaulted sued and won because the community did not inform or warn the residents of the assaults. The court found that regardless of whether

the resident's unit was secure, knowledge of the suspect's mode of operation and a view of the composite drawings of the suspect could have been useful to the resident. If she had known of the danger, she might not have rented an apartment in the complex in the first place, or she could have taken precautions based on knowledge of the suspect's appearance and mode of operation.

Liability for failure to warn is based on negligence. In order to be negligent, you must have a duty to the resident. In any given case, judges are free to determine whether or not you had a legal duty to warn the resident. No one factor is controlling. The question of whether a duty should be imposed in a particular case is essentially one of fairness under contemporary standards. Would reasonable people believe you had a duty to warn residents about a particular crime? The answer to this question in most cases can't be predicted. You will know the answer when the judge provides it.

Disclosing crimes won't guarantee that you won't get sued. However, by disclosing crimes, the community will be in a much stronger position to defend any lawsuit. If a judge holds that you had a duty, you will be able to forcibly argue that you carried out that duty by informing residents about crimes. You don't have to inform residents of all crimes. You should inform residents about any violent crimes, or crimes that could potentially turn violent. For example, burglaries aren't necessarily

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violent, but could easily turn violent if a resident unexpectedly walked in on the perpetrator. You should also report non violent crime when there have been a large number of instances. For example, five car break ins in the parking lot in the last couple of weeks.

When crime occurs, you should notify residents promptly that a crime was reported to the police or took place on the property. Never identify the victim or apartment unit involved in the crime. The notification should also make key points about safety. No one can guarantee the residents safety. Regardless of recent crime, residents should always be careful and conscious of issues affecting their personal safety. Security is all residents responsibility. The courtesy patrol will assist if possible, but cannot ensure resident safety nor prevent crime. Law enforcement is responsible for responding to criminal activity. Report all suspicious activity or criminal activity to the police immediately, and then notify management.

When you notify residents about crime, you should also provide security tips. The National Apartment Association lease, and many other leases contain safety tips and advice. Remind residents about these security tips. If your lease does not contain security tips, you can quickly find practical resident safety tips and precautions on the internet. Finally, make sure to keep a file of all letters, memos, or other communications distributed to residents informing them about criminal activity. Make sure that this file clearly documents when and how such written advisements were distributed to the residents.

The negative consequences of reporting crimes may be less than you think. Most residents understand that crime is a reality of life. While publicizing crimes on your property is not desirable, liability for failure to report and warn residents of crime is less desirable. Reporting crimes may benefit the community. Residents might appreciate your efforts to help themselves guard against crime. If Residents are warned, they probably are more likely to be cautious and vigilant which may prevent an additional crime, and thus a lawsuit. If a resident is the victim of a crime and sues, you will be in a much stronger position to defend if you warned the residents about similar crimes committed.



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WHO WOULD HAVE THOUGHT ...??

On Friday February 22nd the Firm passed a new milestone. Our monthly client lunch held at our South location had a client attendance of seventy people. A far cry from the first Firm luncheon held in 2000 at this very same location. Little did partners Mark and Phil realize



Tracy, Phil Hopkins, Mark Celebrate First Firm Lunch

on that day that they had launched a Firm tradition that would continue and grow in popularity through the years. Their intent in creating the concept of a Free monthly client lunch was to be able to have a face to face with clients in an informal venue with attorneys and staff and to provide the clients with a value added service of updating the attendees on current legal issues of interest in the multi family housing industry. From that humble beginning with fewer than a dozen clients in attendance, we now consistently host in excess of 50 persons at our monthly luncheons in the metro area and hold them in alternating locations every other month. One at the South location and one at a North location as well as quarterly luncheons in Colorado Springs.

The success of the client luncheons at our North location is evidenced by the fact that we have outgrown the restaurant that we have been using for the past year and have moved to our new location of Dave & Buster's in Westminster. Our new restaurant will permit us to host up to 125 clients at a luncheon and will provide us the space to present better client briefings on current topics.

Don't miss out on attending our inaugural lunch at the new location on Friday March 21st. Dave and Buster's is located at 10667 Westminster Blvd. right around the corner from our former location at the Rock Bottom Brewery. You can reserve your place on line at www.htspc.com, Events or call Matt at 303 699 3484. You can also reach Matt by e mail at matt@htspc.com. When you make a reservation for more than yourself be sure and give us the names of the other attendees so that we can have a name tag ready for them. We look forward to seeing you on the 21st.

EPA LEAD AUDITS CREATES NEED TO REVIEW DISCLOSURES

Many houses and apartments built before 1978 have paint that contains lead (called lead based paint). Prior to 1978, when the federal government banned lead based



paint from housing, it was commonly used both on the interiors and exteriors of houses. HUD estimates that approximately 25% of all housing in the U.S. still have some lead paint issues. Lead from paint, chips and dust can pose serious health

hazards if not taken care of properly.

Before renting pre 1978 housing, Lessors/Landlords must disclose the presence of known lead based paint and/or lead based paint hazards in the dwelling. Lessees must also receive a federally approved EPA pamphlet on lead poisoning prevention.

Recent EPA Audits in Boulder have discovered that some properties were having difficulty in compliance because of the way they were executing the State Lead Paint Disclosure Form. Apparently items in section c and d requiring initials had only check marks and were not initialed by the tenant. The form has been revised and approved by the EPA auditor and the revision does not require intialing. Secondly, owners/managers were failing to sign the bottom of the form where the signature is Required.

The Revised Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Lead Warning Statement is available on the Firm website www.htspc.com under Documents – General.

There are special requirements that a property must take to eliminate lead based paint problems. In order to permanently remove lead from a property that has a lead based paint problem you must hire a certified lead "abatement" contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead based paint with special materials. Just painting over the hazard with regular paint is not enough.

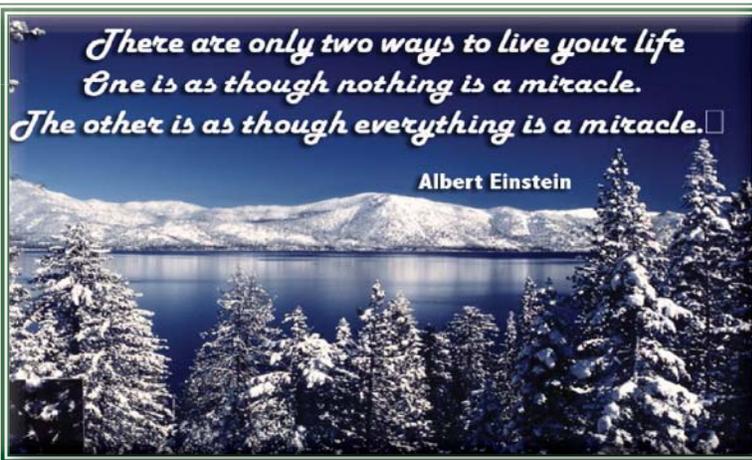


Further information relating to regulatory on an lead protection programs can be provided by the Regional EPA office (303) 312 6021.



IMPORTANT MARCH DATES

- March 7th Basic Fair Housing Workshop
- March 21st North Client Lunch @ Dave & Buster's
- March 31st Denver Courts Closed César Chávez Day



FIRM SCORES BIG AT AASC EXPO



On Friday, February 15th, the Firm participated in the 2008 AACS Expo. The theme this year was Greatest Moments in Sports History and participants were challenged to produce displays that captured these greatest

moments. Once again, HTS was the primary sponsor of the Expo and as such was designated the Super Bowl Sponsor. This year's Expo was bigger and better than ever. All of the attendees commented on how great it was and how terrific the decorations and booths were. A panel of outside impartial judges reviewed



Riverstone Regionals Darlene Molnar & Elizabeth Murtha chat with Mark



Vic Congratulates Darlene Molnar of Riverstone on Winning the HTS Canon PowerShot Digital Camera

all of the booths and scored them on originality, correct theme interpretation and overall appearance. One of the judges was former Bronco and current CBS4 Weekend Sports Anchor Reggie Rivers, who also presented the keynote address at the Expo luncheon. We were thrilled and excited to be awarded the top prize for our booth. We were told by the judges that it was by far the best in overall theme interpretation. Our Booth featured a multimedia program and display of the Broncos' greatest moments under the signal calling of John Elway.



Gerritt & Lindsay check out the Elway show in HTS Booth with Jim White of Elkco Properties

George Carlinisms

Comedian George Carlin Reflects on Important Universal Questions!

How come wrong numbers are never busy?

Do people in Australia call the rest of the world 'up over'?

Does that screwdriver belong to Phillip?

Does killing time damage eternity?

Why is it called lipstick if you can still move your lips?

Why is it that night falls but day breaks?

Why is the third hand on the watch called a second hand?

Are part-time band leaders semi-conductors?

Can you buy an entire chess set in a pawn-shop?

Daylight savings time - why are they saving it and where do they keep it?

Do pilots take crash-courses?

Do stars clean themselves with meteor showers?

Do you think that when they asked George

Washington for ID that he just whipped out a quarter?

Have you ever seen a toad on a toadstool?

How can there be self-help "groups"?

How do you get off a non-stop flight?

How do you write zero in Roman numerals?

If a candle factory burns down, does everyone just stand around and sing "Happy Birthday"?

If a jogger runs at the speed of sound, can he still hear his walkman?

If athletes get athlete's foot, do astronauts get mistletoe?

If Barbie's so popular, why do you have to buy all her friends?

If blind people wear dark glasses, why don't deaf people wear earmuffs?

Why is lemon juice made with artificial flavor, and dishwashing liquid made with real lemons?

If you can't drink and drive, why do bars have parking lots?

If you jog backwards, will you gain weight?

Why do we sing "Take me out to the ball game", when we are already there?

Why is the time of day with the slowest traffic called rush hour?