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# Legal Issues For Property Managers

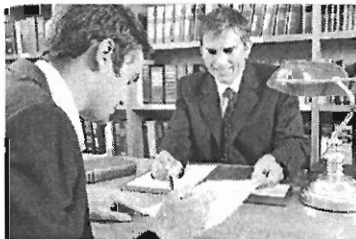
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By:

Jenn Danko

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When it comes to being a professional and proactive property manager, Mark Kreditor, national ethics chairperson for the National Association of Residential Property Managers (NARPM), advises PMs to raise what he calls his “three favorite questions.”

“Is it ethical, is it likely and is it legal?” he asks.

Through his experiences as a past president of NARPM and broker/president of Get There First Realty in Dallas, Texas, he says that too often, PMs are not as familiar with their tenants’ leases as they should be.

“A PM must know a lease backwards and forwards and be able to—in easy, descriptive terms—explain it to a consumer and to an owner,” advises Kreditor.

Albert Rizzo, principal with the Law Offices of Albert Rizzo, P.C. in New York City, shares Kreditor’s view. As an attorney who specializes in real estate law, Rizzo counsels both commercial and residential property owners on legal concerns as they arise during their daily business. Most problems fall under one of the four core aspects of property management: landlord-tenant issues, property issues, staffing issues and risk management.

## Landlord-tenant issues

To minimize their liability at the most basic level, residential and commercial property owners and managers must not only familiarize themselves with existing lease provisions, but also enforce them, Rizzo says.

“One aspect of that is deadlines,” he says. For example, does a tenant who defaults on rent payments have a legal window of time to make up the payments before the landlord serves him/her with an eviction notice?

“A good property manager makes sure the landlord complies with the proper eviction procedure,” Rizzo says. Additionally, PMs should notify the building owner if they discover a property or unit is occupied by more people than indicated on the lease.

Kreditor advises that PMs give tenants notice to vacate as soon as possible; and it is then their responsibility to file the eviction quickly. In Texas, the law states the PM has 24 hours.

“Let the judge be your collection agency,” he says, when it comes to extracting past rent payments from delinquent tenants. “In this economy, hedge your bet in court ASAP.”

How can PMs protect themselves from future landlord-tenant issues? “Put all contracts only in the owner’s names and allow owners to select the tenants so they are 100 percent responsible for picking bad tenants,” Kreditor suggests.

### **Property issues**

When it comes to tackling management issues, building maintenance takes top billing, Rizzo says. PMs should be aware of the life of the equipment in the building—including heat and air conditioning systems, roofs and water pipes.

“One role of the property manager is to help the owner budget for the repair and replacements,” Rizzo says. Failure to repair and replace the systems could result in lawsuits, especially if an old building’s heating and cooling system fails. “It would certainly cost the owner a lot more money if [the PM] is not as the top of [his or her] game,” he says.

Kreditor says that PMs can further protect themselves legally by having the owner select tenants for a property and—in the case that there are credit defects—he or she can request extra deposit money when negotiating the lease. Additionally, make sure the lease is only in the owner’s name and warn him or her up front of the risks involved with real estate, he says.

And in situations where a landlord is dealing with a tenant that has caused property damage, “the best thing to do financially is to renew the lease as long as possible and defer the inevitable repairs that will have to be made,” Kreditor says. “The damage is done, so just keep taking their rent.”

### **Staffing issues**

Rizzo says a major role that PM’s play in larger properties is managing staff. Often issues of cleanliness and staff availability to do the jobs that are needed can create problems—legal and otherwise—if not properly managed.

“The PM must stay on top of the cleaning staff, superintendent, doormen and others working on the property to make sure they are performing in a way that satisfies the concerns of the residents and the owner,” he says.

### **Risk management**

PMs are not only in the position to prevent legal problems—they can also help a building stay affordably insured.

“If property managers are doing their jobs, they can advise owners on how many insurance claims they are getting per year, what claims they can avoid to lower their premiums and which insurance companies offer lower deductibles,” Rizzo says.

When it comes to risk management, Kreditor says that the number one complaint filed by owners against PMs relates to an assumption that the PM is making inspections of the rental property. He says PM’s should never take responsibility or make a warranty about what the tenant is going to do to the property.