

# LANDLORD TRAINING PROGRAM

## KEEPING ILLEGAL ACTIVITY OUT OF RENTAL PROPERTY

A practical guide for landlords and property managers

Fifth National Edition

Developed By:



Originally funded by

**Bureau of *BJA* Justice Assistance**

Office of Justice Programs • U.S. Department of Justice

[back of cover page intentionally left blank]

# LANDLORD TRAINING PROGRAM

## KEEPING ILLEGAL ACTIVITY OUT OF RENTAL PROPERTY

### A practical guide for landlords and property managers

A community-oriented property management approach

Fifth national edition

First Printing

Originally funded by the Bureau of Justice Assistance  
Office of Justice Programs, U.S. Department of Justice

Developed by:

John H. Campbell, Campbell DeLong Resources, Inc.

Based on the Landlord Training Program manual  
originally developed for the City of Portland, Oregon  
by Campbell DeLong Resources, Inc.

Various parts of this document provide broad descriptions of legal procedure. However, **no part of this manual should be regarded as legal advice or considered a replacement of a landlord's responsibility to be familiar with federal, state, and local law governing a particular jurisdiction.** If you need legal advice, seek the services of a competent attorney. Also, laws change. Information that is accurate at the time of printing may be rendered obsolete by the passage of new laws or revised judicial interpretations of existing law.

Copyright © 1993-2014 Campbell DeLong Resources, Inc. Portions copyright © 1989-1992 City of Portland, reprinted with permission. All rights reserved. For information about use of this document, contact Campbell DeLong Resources, Inc. (CDRI) or visit [www.cdri.com](http://www.cdri.com). Distribution of this document in "PDF" format on the World Wide Web by CDRI is for the sole purpose of allowing a complete verbatim copy to view. Separate permission is required to adapt, modify, excerpt, make electronic copies, or use in any other manner.

Questions and requests regarding usage of copyrighted materials should be sent to:

Campbell DeLong Resources, Inc.  
2627 Northeast 33<sup>rd</sup> Avenue  
Portland, Oregon 97212  
Phone: (503) 221-2005  
Fax: (503) 221-4541  
[www.cdri.com](http://www.cdri.com)

We request that any errors or significant omissions be noted and forwarded to the above so that corrections in future versions may be made.

Earlier editions of this manual were made possible, in part, through cooperative agreements Nos. 87-SD-CX-K003, 89-DD-CX-0007, 91-DD-CX-0001, and 94-DD-CX-K014 from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

Points of view or opinions contained within are those of Campbell DeLong Resources, Inc., and do not necessarily represent the official position or policies of the U.S. Department of Justice.

The first edition of the *National Program Manual* was developed by Campbell DeLong Resources, Inc. under contract with the City of Portland, and funded by the Bureau of Justice Assistance. The second edition was developed by Campbell DeLong Resources, Inc. for the Bureau of Justice Assistance under BJA Cooperative Agreement No. 94-DD-CX-K014.

All modifications for the third, fourth, and fifth editions were developed and funded by Campbell DeLong Resources, Inc.

# CONTENTS

ACKNOWLEDGMENTS.....	iii
FOREWORD.....	iv
POINTS TO CONSIDER.....	v
Know Your Local Landlord-Tenant Law.....	v
Costs and Benefits.....	vi
PREPARING THE PROPERTY.....	1
Keep the Property up to Habitability Standards.....	1
“CPTED” Defined.....	1
Keep the Property Visible, Control Access.....	2
Keep it Looking Cared For.....	4
APPLICANT SCREENING.....	5
Overview.....	5
Applicant Screening, Civil Rights, and Fair Housing.....	6
Common Questions about Fair Housing.....	7
Written Tenant Criteria: What to Post.....	8
Regarding “Borderline” Applicants.....	13
Application Information: What to Include.....	13
About Fees and “Application Deposits”.....	14
How to Verify Information.....	15
Screening Prospective Employees.....	18
How to Turn Down an Applicant.....	18
Other Screening Tips and Warning Signs.....	20
RENTAL AGREEMENTS.....	23
Use a Current Rental Agreement.....	23
Month-to-Month or Long-Term Lease?.....	23
Elements to Emphasize.....	24
Lease Addendum Forbidding Illegal Activity.....	26
Pre-Move-In Inspection.....	26
Resident’s Handbook.....	26
ONGOING MANAGEMENT.....	27
“Management 101”.....	27
Don’t Bend Your Rules.....	27
Responsibilities Defined.....	29
Property Inspections.....	30
Utilities.....	31
Keep a Paper Trail.....	31
Trade Phone Numbers with Neighbors.....	32
APARTMENT WATCH/PROMOTING COMMUNITY.....	33
Benefits.....	33
Key Elements.....	33
WARNING SIGNS OF DRUG ACTIVITY.....	38
The Signs.....	38
The Drugs.....	42
If You Discover a Clandestine Lab.....	43
CRISIS RESOLUTION.....	46

Don't Wait — Act .....	46
The Secret to Good, Low-Cost Legal Help .....	47
If a Neighbor Calls With a Complaint .....	47
How to Serve Notice .....	50
Levels of Evidence .....	50
The Court Process .....	51
If You Have a Problem with Neighboring Property.....	51
THE ROLE OF POLICE .....	54
Defining the Roles: Landlords and Police.....	54
What to Expect.....	55
Closure and Forfeiture .....	55
SECTION 8 HOUSING CHOICE VOUCHERS.....	56
Some Benefits .....	56
Some Misconceptions .....	56
RESOURCES .....	58

## ACKNOWLEDGMENTS

The *Landlord Training Program* was developed originally by Campbell DeLong Resources, Inc. for the Portland Police Bureau, with support and assistance from the City of Portland's Fire Bureau and Neighborhood Crime Prevention Program, Office of Neighborhood Involvement. Development of both the local and national program was funded through the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice.

This national version of the manual has been improved by suggestions collected from a range of property managers and law enforcement agencies across the country. We should particularly mention that the Tucson, Arizona Police Department provided in-depth suggestions that improved the chapter on *Preparing the Property*. Also, the City of Milwaukee, Wisconsin, Department of Building Inspection has, through dedicated efforts to develop a *Landlord Training Program* in Milwaukee, provided a valuable opportunity to test and improve many of the concepts described in this manual. The City of San Bernardino, California in partnership with the author, funded development of new sections that appeared for the first time in the second edition of the national manual.

We gratefully acknowledge the contributions of the many landlords, property managers, screening companies, tenant advocates, landlord attorneys, fair housing advocates, law enforcement officials and judges who were interviewed during development of this project. And we thank the people of the Sabin Community Association, where it all began.

## FOREWORD

Chronic nuisance behavior can seriously harm the livability of residential neighborhoods. In addition, nuisance property *conditions*, such as property damage and chronically-deferred maintenance, can combine with illegal behavior to reduce a neighborhood to a mere shell of the healthy community it once was. In our frustration, we often look only to the police or “the system” for solutions and forget that neighbors and landlords have tremendous power over the basic health and safety of a community.

To be sure, local government has a critical responsibility, but we as community members, whether landlords, tenants, or homeowners, remain the foundation that make it all work.

Community members decide which problems require action. Typically, a city or county responds only after neighbors recognize and report nuisance conditions or illegal activity. When a problem arises, one of the first and most important decisions is made by the affected homeowners, tenants, and landlords: Ignore it, run from it, or do something about it. Each of us plays a different role and each bears a responsibility to keep a community safe and livable.

The most effective way to deal with illegal activity on rental property is through a coordinated effort with police, landlords, and neighbors. And the most effective way to prevent or address property maintenance and safety issues is to provide ongoing property maintenance and actively manage property to reduce the likelihood of property damage by residents.

Efforts are underway across the country that encourage neighbors to learn more about how they can help prevent crime on their blocks. In addition, many local jurisdictions are working to improve the ways that law enforcement addresses chronic criminal activity and code enforcement identifies nuisance property. What you can do is learn how to keep illegal activity off your property and to maintain your rental housing, thus making a commitment to removing or stopping illegal activity or property damage the moment it occurs.

We know that abuses of the landlord-tenant relationship can, and do, come from both sides. We also know that most landlords are fair and that most tenants are excellent neighbors. Responsible property management and ownership begins with the idea that it will benefit all of us. If the information given here is used responsibly, all of us — tenants, landlords, and owner-occupants alike — will enjoy safer, more stable neighborhoods.

— John H. Campbell, President  
Campbell DeLong Resources, Inc.



## POINTS TO CONSIDER

### Know Your Local Landlord-Tenant Law

In this manual, we cannot address the specifics of the landlord-tenant law in every state. It would take 50 different manuals to do so, because every state's law is different. While federal fair housing law applies nationwide, most laws that regulate rental relationships are local. Even among the many states that have adopted a version of the Uniform Residential Landlord and Tenant Act, differences remain. A few examples:

- Some states allow local communities to establish rent control laws. Others do not.
- In some states, a landlord may evict a tenant without cause while in others only for-cause or "just cause" evictions are allowed.
- In each state the options, causes, notices, and procedures for enforcing landlord-tenant law and lease requirements vary.
- The length of time involved in regaining legal possession of a rental unit varies from state to state.
- "Case law" also varies. Even when two states' laws appear similar, they may have a history of being interpreted differently by the courts in the two jurisdictions.
- Some local communities have civil rights laws that go beyond the classes defined in federal fair housing law (race, color, religion, sex, national origin, disability, and familial status). For example, some localities prohibit discrimination on the basis of marital status, sexual orientation, or source of income. Some jurisdictions limit the degree to which one may discriminate against those who have been convicted of a crime.

However, despite the differences, the philosophy behind the law in each state is generally similar. Landlord-tenant laws define a balance between the rights of rental owners to control, protect, and benefit from their investments and the rights of tenants to control, protect, and enjoy their private homes. Unfortunately, the balancing act results in some dissatisfaction on both sides. Scratch the surface in most states and you will quickly find those who believe the local laws are "stacked against the landlord" and others who believe with equal fervor that the exact same laws favor landlords and are unfair to tenants.

What we have also found, on both sides, is a surprising level of misinformation. We have repeatedly heard landlords tell us that the law "ties their hands" in ways that it does not and heard tenants express fear about powers that landlords do not actually have. It may surprise the lay person to know that we have also spoken with attorneys who are mistaken about the content of the law. Given this experience, our suggestion is this: *Do not necessarily believe the "folk law" you hear, and do not assume that every legal expert is one. If you need legal assistance, find an attorney who specializes in landlord-tenant issues and get a copy of your local landlord-tenant statutes and read them.*

Remember that your best chance for a fair application of landlord-tenant law comes with a complete knowledge of it.

## Costs and Benefits

*Community-oriented property management is also good business.*

Landlords and property managers who apply the active management principles presented in this manual (and in the accompanying training) have consistently seen improvements in the quality of their rental business. Applying the information presented can result in significant benefits to each of the three interest groups in a residential neighborhood: Whole communities can become safer, residents can enjoy better housing, and landlords can enjoy greater business success. Here's how it works:

### ***COSTS OF CRIMINAL AND NUISANCE ACTIVITY IN RENTALS***

When drug, gang, and other criminal activity operate from rental property, neighborhoods suffer and landlords pay a high price. That price may include:

1. Declines in property values — particularly when the activity begins affecting the reputation of the neighborhood.
2. Property damage arising from abuse, retaliation, or neglect.
3. Toxic contamination and/or fire resulting from drug labs or growing operations.
4. Civil penalties, including fines, loss of property use, or even forfeiture in some instances.
5. Loss of rent during the eviction and repair periods.
6. The fear and frustration of dealing with dangerous tenants.
7. Increased resentment and anger between neighbors and property managers.

### ***BENEFITS OF ACTIVE MANAGEMENT***

Active management can prevent most rental-based criminal nuisance activity. Developing an active management style requires a commitment to establishing a new approach. Landlords and managers interviewed for this program who have made the switch to more active management consistently report these rewards:

1. A stable, more satisfied tenant base.
2. Increased demand for rental units, particularly for multifamily units that have a reputation for active management.
3. Lower maintenance and repair costs.
4. Improved property values.
5. Improved personal safety for tenants, landlords, and managers.
6. Peace of mind from spending more time on routine management and less on crisis control.
7. Appreciative neighbors.

# PREPARING THE PROPERTY

*Make the environment part of the solution.*

ADVICE WE WERE GIVEN:

“People engage in drugs and other criminal behavior can set up anywhere, but the farther they are from the manager’s office, or the more hidden from view, the better they like it.” — Police officer

## The Basics

Make sure the aesthetic and physical nature of the property encourages responsible use of the property while discouraging illegal activity.

## Keep the Property up to Habitability Standards

Maintaining housing standards is important to the public welfare and protects against neighborhood decay. In addition, a substandard rental unit is more likely to attract criminal behavior. It announces that the landlord’s standards are low and that inappropriate tenant behavior is likely to be overlooked.

Also, eviction of a knowledgeable problem tenant from a poorly maintained unit can be both time consuming and expensive. Landlord-tenant laws generally protect tenants from retaliation if the tenant complains that the landlord has not complied with minimum housing standards. If a landlord attempts to evict a problem tenant from a substandard unit, a court may be confronted with having to weigh the behavior of a problem tenant against that of a problem landlord. In effect, landlords who fail to meet their responsibilities under the law may find they have compromised their rights under the law as well.

Before renting your property, make sure it meets applicable local maintenance code, the habitability requirements of your local landlord-tenant law, and if you rent to Section 8 tenants, the U.S. Department of Housing and Urban Development (HUD) standards for “decent, safe, and sanitary” housing. While many of the basic elements of these requirements will overlap, they won’t entirely, so you will need to check all three sources to make sure you are in compliance. For a general discussion of basic requirements, see the chapter on *Ongoing Management*. For the specific code that impacts your area, review applicable state and local law.

## “CPTED” Defined

Crime Prevention Through Environmental Design, known as CPTED (pronounced “*Sep Ted*”), is a field of knowledge based on research demonstrating that the design and maintenance of some properties will deter crime while that of others will encourage it. These concepts were originally developed to help reduce crime *to* a property (e.g., a burglar breaking in). They are now known also to help prevent crime *from* a property (e.g., drug dealing, illegal gang activity, or other chronic nuisance activity).

Essentially, it is important that lighting, landscaping, and building design combine to create an environment where people with criminal intent don’t feel comfortable. Basic steps include making it difficult to break in, closing off likely escape routes, and making sure public areas can be easily observed by nearby people as they go about their normal activity. The four basic elements of CPTED include:<sup>1</sup>

---

<sup>1</sup> Although research on CPTED goes back decades, the description given here is based on information provided by the Tucson, Arizona Police Department’s “Safe By Design” program. For more on CPTED, see *Crime Prevention Through Environmental Design*, C. Ray Jeffery, (Beverly Hills: Sage Publications, 1971); and see *Defensible Space: Crime Prevention Through Urban Design*, Oscar Newman, (New York: Macmillan, 1972)

- ▶ **Natural Surveillance.** The ability to look into and out of your property. Crime is less likely to happen if criminals feel they will be observed. Examples: Keep shrubs trimmed, so they don't block the view of windows or porches. Install door viewers so that residents can see who is at the door *before* opening it. Trim tree branches that hang below about six feet where necessary to remove hiding places. Install low-energy-usage outdoor lighting along paths. Install motion-activated lights in private areas such as driveways or backyards. Keep drapes or blinds open during the day. Leave porch lights on at night.
- ▶ **Access Control.** Controlling entry and exit. Crime is less likely to happen if the criminal feels it will be hard to get in or that escape routes are blocked. Examples range from something as simple as a locked door to a 24-hour guard station or remote-activated gate. This applies to individual apartments too: deadbolt locks, security pins in windows and pins or security rails that prevent sliding-glass doors from being opened easily from the outside.
- ▶ **Territoriality.** Making a psychological impression that someone cares about the property and will engage in its defense. Conveying territoriality is accomplished by posting signs, general cleanliness, high maintenance standards, and residents who politely question strangers. Signs that tell visitors to "report to the manager," define rules of conduct, warn against trespassing, or merely announce neighborhood boundaries are all part of asserting territoriality. In other examples, cleaning off graffiti the very day it appears or painting a mural on a blank wall both send a message that the area is being cared for and that minor crime won't be overlooked.
- ▶ **Activity Support.** Increasing the presence of law-abiding residents can decrease the opportunities for criminals. Neighborhood features that are not used for legitimate activity are magnets for illegal activity. Organizing events or improving public services in parks and school yards, holding outdoor gatherings on hot summer nights, and features that attract regular use by cyclists, runners, and pedestrians are all examples.

How these concepts are best applied in a given property depends on many factors, including the existing landscaping, building architecture, availability of resident managers, management practices, presence of onsite security, desires of law-abiding residents, and more.

## Keep the Property Visible, Control Access

The following are some recommended "first steps" for making "CPTED" changes to rental property. Taken alone, few of the following elements will have a significant impact. Taken together, they will stop some operators from wanting to move into the property, and will make it easier for neighbors (or police) to observe and document illegal activity should it start up. Initial steps include:

- ☑ **Use lighting to its best advantage.** Install photosensitive lighting over all entrances. This gives legitimate users of the property safer access points while increasing the perceived likelihood of being observed by any who consider illegal activity. At minimum, the light near the front door (the one that typically lights up the address number) should go on at sunset and stay on till dawn. A light-sensitive timer is ideal for this situation. In addition, the back door and other outside entrance points should be equipped with energy-efficient lighting that is either motion or light sensitive. Remember also that good lighting should accomplish the goal of providing illumination without shining harshly into the windows of adjacent homes or unnecessarily contributing to night sky light pollution. Be sure applicants understand that the installed outdoor lighting is part of the cost of renting — that it must be left on.

In apartment complexes make sure that all walkways, activity areas, and parking lots are well lighted, especially along the property perimeter. Covered parking areas should have lighting installed under

the canopy. All fixtures should be of vandal-resistant design. Landscape planning should take into account how future plant growth will impact lighting patterns. Finally, remember that brighter lighting isn't necessarily better lighting. Placing a few extremely bright lights can cause glare blindness and offer dark spots for concealment. Such issues can sometimes be solved simply by installing lower-wattage lighting so that visibility is substantially maintained while glare blindness issues are reduced.

- ☑ **Make sure fences can be seen through.** If you install fencing, chain link or wrought iron is best, because they each limit access without offering a place to hide or a canvas for graffiti. Wood can also be used effectively, provided wide gaps are left between the boards. In some cases you might also consider a lower fence height — for example, four feet high instead of six. Consider replacing, or modifying, wood fences that have minimal gaps between boards. Keep hedges trimmed low.
- ☑ **Keep bushes around windows and doorways well trimmed.** Bushes should not impair the view of, or from, entrances and windows. Tree branches should also be trimmed up from the ground sufficiently to discourage the possibility of a person hiding.
- ☑ **Post the address clearly.** Only the drug operator will benefit if the address is difficult to read from the street. When address numbers are faded, hidden by shrubs, not illuminated at night, or simply falling off, neighbors will have one more hurdle to cross before reporting activity and police will have more difficulty finding the unit when called.

Large apartment complexes should have a permanent map of the complex, including a “you are here” point of reference, at each driveway entrance. These maps should be clearly visible in all weather and well lit. If the complex consists of multiple buildings, make sure building numbers can be read easily from any adjacent parking area, both day and night. Also, make sure that rental units are numbered in a logical and consistent manner to make it possible for emergency responders to locate specific units quickly and easily.

- ☑ **Control traffic flow and access.** In larger complexes, control access points to deter pedestrian passersby from entering the property unobserved. Then do the same for vehicle traffic. People involved in drug activity prefer “drive through” parking lots, those with multiple exits. Consider, for example, adding fencing and rerouting traffic so all vehicle *and* foot traffic, coming and going, must pass the same point, within view of the manager's office.

If more control is needed, issue parking permits to tenants. Post signs forbidding cars without permits to use the lot. Towing companies that specialize in this type of business can provide you with signs, usually for a nominal setup fee. Depending on the availability of street parking for guests, either deny guest parking altogether or limit it to specific spaces. Be consistent in having violators towed away. Remember, it is your parking lot, not a public one.

- ☑ **Before building, design for a strong sense of community.** Each of the other steps described in this section should be integrated into building plans to help design a safer rental unit from the start. In addition, for apartment complexes in particular, building plans should include design elements that will help foster a sense of community. Recreational areas and other community facilities can help encourage neighbors to become acquainted. Building layouts should nurture more personalized, neighborhood environments over those that may reinforce feelings of isolation and separation from the community.

## Keep it Looking Cared For

Housing that looks cared for will not only attract good tenants, it will also *discourage* many who are involved in illegal activity. Changes that help communicate “safe, quiet, and clean” may further protect the premises from those who want a place where chronic problem activity might be tolerated. While these approaches are useful in any type of rental, because of the day-to-day control that apartment owners have over the common areas of their property, the following approaches can make a particularly strong difference in multifamily communities:

- **Remove graffiti fast.** Graffiti may be the random work of an individual “tagger” or the work of a gang member marking territory. Regardless, it serves as an invitation for more problems and can demoralize and intimidate a neighborhood. If you believe graffiti may be gang-related, call police. Then, after taking a picture of it for potential use by law enforcement, remove it or paint it over. Remove it again if it reappears; do not let it become an eyesore. Fast removal is particularly important. Ideally, no matter how inconvenient for you to do so, remove it within an hour after it is found. Doing so stops the graffiti from continuing to advertise that the space is an available canvas, where graffiti is allowed by the property owner. Also, it is usually easier to remove cleanly if done before the paint, or marker ink, has had time to dry and cure. Thinners, solvents, and specially-made graffiti-removal products can remove hours-old, and even day-old, paint much more easily than paint that has had a week or more to cure.
- **Repair vandalism.** As with graffiti, an important part of discouraging vandalism is to repair the problem fast. Also, if you suspect that the vandalism was not a random act, but was directed against you or your tenants personally, additional approaches should be discussed with police and crime prevention experts to address the situation.
- **Keep the exterior looking clean and fresh.** Fresh paint, well-tended garden areas, and litter-free grounds help communicate that the property is maintained by someone who cares about what happens there.

# APPLICANT SCREENING

*“An ounce of prevention...”*

## COMPLAINTS WE HAVE HEARD:<sup>1</sup>

“People say you should screen your tenants. You can’t. The applicants lie about their previous landlord — they give you a fake address and the phone number of their brother. You call up the brother, he plays along and you never discover they were evicted at the last two houses they rented.”

“I thought I was calling the previous landlord and it was the applicant’s parents, and the parents played along. It ended up in eviction, some months later.”

“We can’t screen tenants worth anything. If you don’t do it right, you could be sued for discrimination. So you check to see if they have income and that’s it.”

## ADVICE WE WERE GIVEN:

“I went to a meeting for landlords about these issues. I was surprised — most people in the room couldn’t understand why they were getting bad tenants. They just couldn’t see that there are ways to keep that from happening.”

“Most landlords, even some ‘pros,’ are still practicing the old way of doing things — they take a Social Security number, make one phone call, and rent to the person. Then they wonder where the problems are coming from. Well the old methods don’t work anymore.”

“I have a set application process, written down. Applicants must meet all the criteria. If they do, I rent to them. If they don’t, I don’t. It is simple, legal, and fair. At this point, every one of my properties has good people in it.”

“Many landlords are frightened of the fair housing laws. Some believe they can’t screen at all. If landlords establish a fair screening procedure and follow it equally for each applicant, they will have a very strong case against discrimination lawsuits.”

“When I call previous landlords to verify an applicant’s record, most are surprised to get a screening call from another landlord. Apparently, it happens too rarely.”

## The Basics

Use a method that welcomes all responsible applicants while discouraging the few who intend to break the rules from applying. Have a backup system to help discover if a dishonest person has applied. Use a process that is legal, simple, and fair.

## Overview

There are two ways to screen out potentially troublesome tenants:

- 1. Encourage self-screening.** Set up situations that discourage those who are dishonest from applying. Every drug dealer who chooses not to apply is one more you don’t have to investigate.
- 2. Uncover past behavior.** More often than not, if an applicant has a history of misbehavior at rental property, even a very basic background check will reveal poor references, substantial credit issues, or falsehoods recorded on the application.

---

<sup>1</sup> Unless noted, quotes are from landlords or professional property managers. Note that some “complaints” contain inaccurate or incomplete assumptions about legal rights or procedure.

The goal is to screen out applicants planning illegal behavior as early as possible. It will save you time, money, and all the entanglements of getting into a legal contract with people who may damage your property and harm the neighborhood.

For the following steps to be most effective, it is just as important that applicants actually read and understand the rules and the process as it is that you implement the process in the first place. Implementing elements of the following suggestions may help protect yourself legally. Making sure that an applicant knows your commitment to the process may help prevent problems before they have a chance to grow.

Also, if you are looking for a one-step solution, you won't find it here. There are no "magic" phone numbers you can call to get perfect information about applicants and their backgrounds. Effective property management requires adopting an approach and attitude that will discourage problem behavior, while encouraging the stabilization, and then growth, of your good tenant base. What makes the following process so effective is not any one step, but the cumulative value of the approach.

## **Applicant Screening, Civil Rights, and Fair Housing**

Landlords are sometimes confused over how much right they have to turn down applicants. A few even believe that civil rights laws require them to accept virtually *any* applicant. This is not the case.

Civil rights laws are designed to protect the way applicants are screened and to make sure that all qualified applicants feel equally invited to apply. Federal fair housing guidelines prohibit discrimination based on race, color, religion, sex, disability, national origin, or familial status (presence of children). Many state and local governments add more categories — marital status, sexual orientation, source of income, or participation in a government subsidy program are common examples. The purpose of these laws is to prevent discrimination on the basis of a person's membership in a protected class. Nothing in the law forbids you from setting fair screening guidelines and applying them equally to all applicants.

Keep in mind that *every* person belongs to these various classes. Each of us can be defined in terms of our race, color, sex, national origin, familial status, disability, etc. So any time you deny an applicant, you have, in a sense, denied someone who belongs to a protected class. The question is whether or not you treat applicants or tenants adversely *because* of the class to which they belong. If the criteria you set are blind to class issues, and you apply them consistently, you may turn down applicants who do not measure up.

The key lies in making sure your process is fair, that it neither directly nor indirectly discriminates on the basis of one of the federally defined classes or other classes that may also be protected in your community. (It is also prudent in all states, and required in some, to avoid using criteria that are not reasonably related to important and necessary business purposes.) To comply, you should design a fair process *and* apply it consistently and equally to all applicants. The following examples are consistent with federal fair housing guidelines:

- You may have a rule that requires all applicants to show a photo I.D.,<sup>1</sup> and you could turn down applicants who cannot produce a photo I.D. The practice becomes illegal when you apply the rule inconsistently, requiring I.D. from people of one class but not from those of another.
- You could give a document to all applicants that outlines rules of the unit and warns against selling drugs on the property. The practice becomes illegal when you hand it to applicants of one class, but not

---

<sup>1</sup> In those locations where *age* is specifically defined as a protected class in rental housing, a landlord may need to exercise particular care in asking for a photo I.D., which will typically show date of birth, to ensure that the process is done in a manner consistent with local law.



of another. Should you develop such a document, also make sure the phrasing does not discourage members of a protected class from applying.

- You could refuse to rent to anyone who lies to you during the application process or provides false information on the application. This is both legal and highly appropriate.
- You could require all applicants who say they intend to park a vehicle on your property to show current car registration, proof of insurance, and a valid driver's license along with their completed rental application. You could deny tenancy to those who wish to have a car on the property without showing such documentation. Of course, if the person does not plan to keep a car, the requirement would be waived.

There is nothing illegal about setting fair criteria and holding all applicants to the same standards. By the consistent use of such guidelines you can retain full and appropriate control over who lives in your rental units and who does not.

Finally, as you study the letter of the law, keep its spirit in mind as well. The sooner we remove the types of discrimination that weaken our communities, the sooner we can build a stronger, more equitable society.

## Common Questions about Fair Housing

The following are a few of the more commonly-asked questions we hear in training sessions about fair housing laws. The answers provided here are intended to be general and nonspecific. For comprehensive information, as well as access to legal advice about specific situations, contact your attorney and a local fair housing enforcement agency.

***Q: With Familial Status (the presence of children, essentially) as a protected class, may a landlord limit the number of people who live in a rental unit?***

**A:** A landlord may place some limitations, but may not set restrictions that would turn away families who could otherwise reasonably live in the rental unit. For example, a rule that limits the number of people in a two-bedroom rental to just two or three people would not be allowed because two parents and two children (or one parent and three children), who could otherwise make reasonable use of the unit, would be turned away. The point of familial status as a protected class is to remove barriers that make it difficult for families with children to find housing and such a rule would not, therefore, be allowed.

However, there is also recognition of a need for an upper limit above which the number of people living in a unit would exceed what the rental unit is reasonably designed for. For standard rental units without extra habitable rooms (such as a den, office, or family room) you may be able to set a rule as limiting as the product of two times the number of bedrooms — so four people in a two-bedroom unit, for example. However there are reasonableness issues and square footage arguments that can call this limit into question, which results in many landlords using a “2+1” rule — that is, two times the number of bedrooms plus one more, so five people in a two-bedroom unit or seven in a three-bedroom unit as an upper limit. While using a “2+1” rule is generally considered a safe guideline to follow, it is not a guarantee that it will be legally sufficient in all cases.<sup>1</sup> In most jurisdictions you may set higher limits if you want to, but not limits that go below the guidelines described here.

---

<sup>1</sup> The issue is discussed in something called the “Keating Memo,” a 1991 internal HUD memorandum by General Counsel Frank Keating that was adopted as HUD policy in 1998. Essentially it endorses a two-person-per-bedroom policy as generally reasonable, but not necessarily reasonable in all cases, citing potential arguments based on design and size of rooms, state and local ordinances dealing with occupancy, and other issues.

A common follow-up question on this topic has to do with whether a landlord may set a different limit when parents have opposite sex children, essentially to prevent children of the opposite sex from sharing a bedroom. The confusion often arises because some HUD programs consider the sex of the children when determining benefits (for example, in the Housing Choice Voucher Program a mother of a boy and girl may receive more housing assistance than would a mother of two girls or two boys), yet it is nevertheless a fair housing violation for a landlord to discriminate based on sex, period. So don't do it. Just count people and implement your rule consistently based on that number. Let parents make all decisions about who will use which habitable sleeping areas in the home.

***Q: Regarding Disability as a protected class, are landlords required to install wheelchair ramps, grab bars or make other changes to a rental home if the tenant needs them to accommodate his or her disability?***

**A:** In most cases the landlord would not be required to do the work directly, but *would* be required to allow the tenant to make such physical modifications as necessary to accommodate the tenant's disability. This does not mean, however, that the tenant is free to do anything he or she might wish. The standard is *reasonable* modifications not *any* modification. Generally, the tenant specifies the changes needed (e.g., build a ramp, widen specific doors, and install grab bars in a bathroom to assist with one or more life activities otherwise limited by the tenant's disability) and the landlord allows the tenant to have such changes made provided the tenant pays for the work, secures permits where required by law, and ensures that the work is accomplished in a "workman-like" manner. Except for the case of modifications that do not meaningfully diminish the value of the house (widened doors or extra support added inside a wall are common examples), the landlord may require that the tenant return the home to original condition, less normal wear and tear, prior to leaving.

There are exceptions to the general description above. If the housing is federally-subsidized, then the owner would be responsible for the cost as would owners of a building that was out of compliance with applicable code at the time it was built (as would also be the case for any other violation of applicable building code). Of course, if a landlord prefers to make the necessary modifications to accommodate the tenant's disability, instead of having the tenant do it, that is allowed as well.

***Q: I have a "no pets" rule. Do I have to accept a tenant's service, assistance, or companion animal when asked for a reasonable accommodation to do so?***

**A:** Essentially, yes you do. However, before doing so, you have a right to verify (assuming it isn't obvious) that the animal is necessary to help with at least some portion of the person's disability. Generally, this is done by having the applicant or tenant who is requesting the exception to your rule (known as a request for a "reasonable accommodation") provide signed verification from a qualified individual who is in a position to know of the need for accommodation (for example, a doctor, physician's assistant, psychologist, social worker, case manager, social service professional, or other qualified individual who is in a position to know about the individual's disability). The qualified individual would be asked to verify that the tenant has a disability and that the animal in question provides assistance that reduces the effect of a physical or mental impairment that otherwise would substantially limit one or more major life activities. Examples of such forms are available from suppliers of landlord-tenant legal forms. Note that the same basic process may be followed for other reasonable accommodation requests (that is, any request that a rule be modified in order to accommodate a disability).

## **Written Tenant Criteria: What to Post**

Many of the attorneys and legislative authorities interviewed for this program recommend developing written rental criteria and posting a copy of those criteria in your rental office. (In some states, having

written screening criteria that is handed to every applicant is required.) If you do not have a rental office that all applicants visit, they suggest attaching a copy of the criteria to every application you give out.

If you are going to use written criteria, remember to have applicants read the document. Posting information alone is of limited prevention value unless applicants know it is there.

The following is intended as a “generic” example of information a manager might post and direct each applicant to read. The intent is to encourage every good applicant to apply, while providing those who plan to break rules or otherwise use the property illegally with a clear incentive to pursue housing elsewhere.

By itself this information will scare off only a few people involved in illegal activity. Most have heard tough talk before. Many expect landlords to be too interested in collecting rent to care about applicant screening. It is important to follow through in word and action, continually reinforce the point that you enjoy helping responsible tenants find good housing by carefully screening all applicants, and *then actually screen them*.

While we have attempted to make sure the following section adheres to the goals of national fair housing guidelines, there may be criteria listed that do not meet the requirements of some state or local civil rights laws. Further, complying with federal and local civil rights laws involves much more than the language used in the applicant screening process. If you are not familiar with your fair housing responsibilities, seek information from a local rental housing association or from an attorney who specializes in the subject.

Also, the following is only an example intended to show various types of rules that might be set. You should adjust the criteria as appropriate for your own needs. Whatever criteria you set, have them reviewed by an attorney familiar with current landlord-tenant issues before you post them.

### **INTRODUCTION**

Here it is important to “set the tone” for your applicants, making sure that good applicants want to apply and that bad applicants may begin to think twice. Here’s one approach:

*We are working with neighbors and other landlords in this area to maintain the quality of the neighborhood. We want to make sure that people do not use rental units for illegal activity. To that end, we have a thorough screening process.*

*If you meet the application criteria and are accepted, you will have the peace of mind of knowing that other renters in this area [apartment community] are being screened with equal care, and as a result, there may be a reduced risk of illegal activity occurring in the area.*

*Please review our list of criteria. If you feel you meet the criteria, please apply.*

*Note that we provide equal housing opportunity: We do not discriminate on the basis of race, color, religion, sex, disability, national origin, or familial status [add other protected classes, as required by state and local law].*

### **SCREENING CRITERIA**

✓ **A complete application.** *One for each adult (18 years of age or older). If a line isn’t filled in, or the omission explained satisfactorily, we will return it to you.*

This criterion helps to make sure that every application has enough information for you to make an informed decision. One of the simpler methods for hiding one’s financial history is to “forget” to fill in one’s Social Security number or date of birth on the application form. Without a name, Social Security number, and date of birth, credit checks cannot be run. To the person contemplating illegal activity, this requirement will communicate a very basic message: that you will actually screen your applicants. That message alone will turn away some. The primary purpose of the rule is to make sure you get complete information. For example, make sure you get full names, including middle names. It is difficult to run a credit check without a correct name.

This rule also allows you to receive an application from *each* roommate and not just the one with the better rental history. People involved in illegal activity may have friends and roommates who still have clean credit or a good rental history. The obvious approach for such people is to have the person with the good rental history apply and then follow that person into the unit. You have a right to know who is planning to live in the unit, so require an application and verify the information for each person.

✓ **Rental history verifiable from unbiased sources.** *If you are related to one of the previous landlords listed, or your rental history does not include at least two previous landlords, we will require a qualified co-signer on your rental agreement (qualified co-signers must meet all applicant screening criteria) or an additional security deposit of X amount.*

*It is your responsibility to provide us with the information necessary to contact your past landlords. We reserve the right to deny your application if, after making a good faith effort, we are unable to verify your rental history.*

*If you owned – rather than rented – your previous home, you will need to furnish mortgage company references and proof of title ownership or transfer.*

Variations of this rule have been used by many landlords to address the issue of renting to those who do not have a rental history or those who say “I last rented from my mother (or father, aunt, or uncle).” This makes it harder for a dishonest applicant to avoid the consequences of past illegal behavior. While loyal relatives may say a relation is reliable, they might think twice about co-signing if they know that isn’t true.

If requiring a co-signer seems unwieldy for your type of rentals, you may want to offer a different option: Require additional pre-paid rent or security deposit from people who don’t have a verifiable rental history.

✓ **Sufficient income/resources.** *If the combination of your monthly personal debt, utility costs, and rent payments will exceed X% of your monthly income, before taxes, we will require a qualified co-signer on your rental agreement (or an additional deposit of X amount). If the combination exceeds X+Y% of your monthly income, your application will be denied.*

*We must be able to verify independently the amount and stability of your income. (For example: through pay stubs, employer/source contact, or tax records. If self-employed: business license, tax records, bank records, or a list of client references.) For Section 8 applicants, the amount of assistance will be considered part of your monthly income for purposes of figuring the proportion.*

You can, and should, verify self-employment. Those involved in illegal activity may describe themselves as self-employed on the assumption that you will have to take their word as verification. Some will be unprepared to supply tax returns, a copy of a business license, or other verification.

It may also be appropriate to remove income requirements for Section 8 applicants since your local Public Housing Agency (PHA) will have already determined the amount of subsidy based on ability to pay. Also, in some areas of the country it may not be legal to screen a subsidized tenant on the basis of amount of income. Note also that some landlords include a condition for those applicants who do not have a regular monthly income, but do have substantial savings on which to draw. Landlords who set such guidelines often define a minimum cash net worth (described as a multiple of the monthly rent) for people in this category.

✓ **Two pieces of I.D. must be shown.** *We require a photo I.D. (a driver’s license or other government issued photo identification card) and a second piece of I.D. as well. Present with completed application.*

This is a simple and effective rule. Note that the second piece of identification does not have to be very “official.” Generally, a credit card, student I.D. card, or many other types of cards will do. The issue is that a person who carries false identification may not have *two* pieces of false I.D. with the same name on it. Also, especially if you are in a state or local jurisdiction where “age” is specifically defined as a protected

class in rental housing, it will be important to verify your procedure for reviewing photo I.D. with an experienced landlord-tenant attorney prior to implementing this policy.

✓ ***False information is grounds for denial.*** You will be denied rental if you misrepresent any information on the application. If misrepresentations are found after a rental agreement is signed, your rental agreement will be terminated.

If your applicants are not honest with you, you may turn them down. It's that simple.

✓ ***Criminal convictions for certain types of crimes may result in denial of your application.*** You will be denied rental if, in the last X years, you have had a conviction for any type of crime that would be considered a serious threat to real property or to other residents' peaceful enjoyment of the premises, including the manufacture or distribution of controlled substances.

This criterion is more controversial than it may seem, because people who have completed their prison terms need a place to live. In some states people who have been convicted of a crime and served their time are granted limited protected class status. Check local laws for an approach that will be appropriate. Also, don't use this requirement as a crutch; many people who engage in criminal activity haven't yet been convicted of a crime. In addition, few who plan to use a rental for illegal activity, whether or not they have a criminal record, will have a verifiable, acceptable rental history. So, if you use this requirement, be sure you continue to perform other recommended screening steps conscientiously.

✓ ***Certain court judgments against you may result in denial of your application.*** If, in the last X years, you have been through a court-ordered eviction, or had any judgment against you for financial delinquency, your application will be denied. This restriction may be waived if there is no more than one instance, the circumstances can be justified, and you provide a qualified co-signer on your rental agreement.

Although, in most cases, you may turn down applicants who have been through a recent court-ordered eviction, we recommend maintaining flexibility for some instances. After all, some evictions are not deserved. It also seems inherently more fair to give people who have made a single mistake the chance to improve.

✓ ***Poor credit record (overdue accounts) may result in denial of your application.*** Occasional credit records showing payments within    to    days past due will be acceptable, provided you can justify the circumstances. Records showing payments past    days are not acceptable.

If you are renting property, you are effectively making a loan of the use of your property to your tenant. Banks don't loan money to people with poor credit. You don't have to loan the use of your property either. Note that the numbers of days listed here are just one example. The limits you set may be different.

You may also want to have exceptions for specific types of bills. For example, you might wish to allow exceptions if the only unpaid bills are for medical expenses. However, regardless of what other exceptions you define, remember that it is a poor idea to accept tenants who have a history of not paying previous landlords. If they didn't pay the last landlord, they may not pay you either.

✓ ***Poor references from previous landlords may result in denial of your application.*** You will be turned down if previous landlords report significant complaint levels of noncompliance activity, including but not limited to:

- Repeated disturbance of the neighbors' peace.
- Gambling, prostitution, drug dealing, or drug manufacturing.
- Allowing persons not on the rental agreement to reside on the premises.

- *Damage to the property beyond normal wear for which timely reimbursement by the tenant was not provided.*
- *Violence or threats against landlords, other tenants, or neighbors.*
- *Disabling a smoke alarm or carbon monoxide detector.*
- *Smoking inside a rental home governed by a no-indoor-smoking rule.*
- *Failure to give proper notice when vacating the property.*

*Also, you will be turned down if a previous landlord would be disinclined to rent to you again for any reason pertaining to lease-violating behavior of yourself, your pets, or others allowed on the property during your tenancy.*

Check your local laws for the behaviors you can list in this type of requirement. The example above uses a combination of violations of one state's landlord-tenant law and the rental agreement requirements of the landlord doing the screening.

✓ *There is a \$X earnest deposit, conditionally refundable. If you are accepted, the deposit will be applied to your security deposit. If you withdraw your application after we have incurred screening expenses, we will not refund your deposit. In all other cases, the deposit will be refunded.*

This is another policy that may not be legal in all states, while some states allow you to go further (for example, by charging a nonrefundable applicant screening fee). For those who can use it, the key is to assure that every applicant who does apply is committed to renting the unit. That way the landlord doesn't waste time and money screening those who are not planning to rent. Also, this requirement may discourage some people involved in illegal activity from applying. See the discussion on page 14 for more on this topic.

✓ *We will accept the first qualified applicant.*

In the interests of ensuring that you meet the requirements of fair housing law, this is the best policy to set. Take applications for tenancy in the order received, noting the date and time on each application (or, as is often the case, on each *set of applications for one tenancy* when more than one adult applies to share the same tenancy). Start with the first set of applicant(s). If the applicant(s) meets your requirements, go no further and offer the unit to the first applicant(s). This is a fair approach, and it helps make sure that you do not introduce inappropriate reasons for discriminating when choosing between two different, qualified sets of applicants.

### **RENTAL AGREEMENT**

Some landlords post a copy of the rental agreement next to their screening requirements. Others offer a copy to all who wish to review it. The key is to make sure that each applicant is aware of the importance you place on the rental agreement. In addition, you may want to set a procedure to ensure that every applicant is aware of key elements of the agreement that limit a tenant's ability to allow others to move onto the property without the landlord's permission. One approach:

*If you are accepted, you will be required to sign a rental agreement in which you will agree to abide by the rules of the rental unit and/or apartment community. A complete copy of our rental agreement is available for anyone who would like to review it. In particular, in addition to other important requirements, please note that your rental agreement will:*

- *Require that you prevent all household members, guests, and visitors from engaging in any lease-violating behavior.*

- *Forbid you, any member of your household, or your guests, from engaging in illegal drug use, sale, manufacture, distribution, or other criminal activity on or near the property.*
- *Limit your ability to allow guests to stay for long periods without the advance permission of the landlord.*
- *Forbid (or allow) smoking inside the dwelling unit. (See page 25 for discussion about this rule.)*
- *Provide that serious or repeated violations of the lease requirements on these items, or any other item addressed by the rental agreement, will result in termination of your rental agreement.*

*Please read the entire rental agreement carefully, as we take each part of the agreement seriously. The agreement has been written to help us prevent activity that disturbs the peace of the community, promote respectful neighborhood behavior, and to help make sure that our tenants are given the best housing we can provide.*

### **OTHER FORMS AND PROCEDURES**

At this point, you may want to post information, as applicable, about waiting list policies, security deposits, prepaid rent, pet deposits, check-in/check-out forms, smoke detector compliance, and other issues relating to rental of the unit.

## **Regarding “Borderline” Applicants**

The preceding criteria include a number of examples where exceptions are made in borderline cases if the applicant can provide a co-signer. Alternately, some flexibility can also be introduced by setting rules that require borderline applicants to provide larger deposits or more prepaid rent. Introducing such flexibility to your application process can make sure, for example, that you do not turn down good applicants who have a single, justifiable problem on their credit report. Use of such borderline conditions can result in a more fair process for your applicants as well. As with all aspects of managing rental housing, apply your policies for borderline applicants consistently regardless of the protected class of the applicant.

## **Application Information: What to Include**

The best approach is to avoid reinvention of the wheel; contact a local legal publishing company, a rental housing association, or your own attorney for copies of appropriate forms. Whether you are using application forms or rental agreements, make sure you have forms that were designed specifically for the laws that govern your area and are up-to-date with any recent changes. To put it another way: There are very few states where it makes sense to use generic forms found for free on the Internet. Spend a little bit more and use ones that have been endorsed as legally up-to-date for your state and locality.

1. These requirements, and others, will be on many standard forms:
  - ▶ Full name, including middle and any previous names, aliases or nicknames used.
  - ▶ Date of birth (Check local law for regulations that may impact the legality of a landlord asking for date of birth on an application).
  - ▶ Driver’s license or other government-issued photo I.D. number and issuing state or other government agency.
  - ▶ Social Security number (you’ll need it for the credit check).
  - ▶ Name, date of birth, and relation of all people who are going to occupy the premises.

- ▶ Name, address, and phone number of past two landlords (or more if necessary to meet your rental history requirements).
- ▶ Income/employment history for the past year. Income/salary, contact/supervisor’s name, phone number, address. If self-employed, ask for copy of business license, tax returns, bank records, or client references.
- ▶ Additional income — it is only necessary to list income that the applicant wants included for qualification.
- ▶ Bank references.
- ▶ AS APPROPRIATE: Name and phone number of a person to call in case of emergency; information about pets and deposit rules; other information required for application.

2. The following questions are not typically on standard forms, but could be added.

- ▶ “In the last [X] years, have you, or any other person named on this application, been convicted for dealing or manufacturing illegal drugs?” (You could also ask about other types of crimes that would constitute a threat to the health, safety, or welfare of other tenants, the landlord, the property, or neighbors — person crimes, sex offenses, burglary, financial fraud and many other types of crimes would be included in this category. While some jurisdictions in the nation place further limits on the types of crimes that may be included, most do not.)
- ▶ During the last [X] years have you or any person named on this application...
  - ✓ Allowed unauthorized occupants (persons whose occupancy is not permitted by a rental agreement) to move into rental property with you?
  - ✓ Kept an unauthorized pet at rental property?
  - ✓ Disabled a smoke alarm for longer than 15 minutes?
  - ✓ Smoked indoors at rental property where indoor smoking was not permitted?

Of course, if they do have a history of criminal or other lease-violating behavior, they may not tell the truth about it. However, if you discover they have lied, you have appropriate grounds for denying the application or, with the right provision in your lease, terminating the tenancy at a later date should you find out about the past behavior after the applicant has moved in.

## About Fees and “Application Deposits”

In some states, landlords charge an application fee to defray the cost of screening. Others require an earnest money deposit at the time of application to make sure the applicant is serious about renting the unit. While policies vary, most stipulate that if the applicant is accepted, but chooses not to rent the apartment, the fee or deposit will not be refunded. The value of charging a fee or collecting a deposit with the application is preventive:

- **Fees and deposits can promote “self-screening.”** People who are planning illegal activity may recognize your charging a fee as further indication of your commitment to screen carefully. Further, such a policy can discourage those who plan on filling out multiple applications, waiting to start illegal activity with whichever landlord accepts them first.
- **Fees and deposits can save time.** You will spend less time screening people who then decide not to rent from you. Also, with a financial commitment involved, an applicant might take an extra few minutes to make sure every line on the application is filled in completely and accurately, making your



verification process that much easier. Your best investment of the time you save? Spend it screening each applicant more thoroughly.

Charging an earnest money deposit, or an application fee, is not for everyone. In addition, because of the potential for abuse, local landlord-tenant laws often regulate policies associated with deposits and fees, so check your local law to assure the policy you set is acceptable. Unless regulated differently in your area, we suggest the following approach as a fair “earnest fee” policy:

1. **Keep it reasonable.** For example, charge enough to cover the direct out-of-pocket costs of screening a single applicant, but not more (e.g., the cost of a credit check or the amount you pay a screening company to run credit, criminal, and rental history checks). Remember, the major value in charging an application fee, or collecting a deposit, is to make sure the applicant is committed to renting the unit. The fee won’t necessarily cover all costs you incur to screen applicants.
2. **Keep it fair.** The recommended approach, used often by professional managers in states where collection of application fees is legal, is to accept application fees from the first set of applicants for tenancy only. Let the applicant(s) who are second in line know that you will request the screening fee should you turn down the first applicant(s) who applied. If you do collect screening fees from multiple sets of applicants (*not* a recommended policy) return the money to all applicants who were not accepted. After all, if applicants who are not selected for tenancy must give up money simply because a landlord picked a different set of applicants, the cost of just *finding* housing can become prohibitive. Again, the better policy is to collect fees only from the applicant(s) who are first in line.

For more information about fee and deposit policies, as well as guidance on appropriate forms to use, contact a local property management association or an experienced landlord-tenant attorney. For those who are running multifamily units, you may also wish to consult those same sources about a related issue: how to implement a fair waiting list policy for qualified applicants who are willing to wait for an available unit.

## How to Verify Information

Some landlords are surprised to receive calls from other landlords inquiring about the quality of a past tenant. Apparently it doesn’t happen often enough. As one landlord put it, “You can spend \$100 in time and money up front or be stuck with thousands later.” As another put it, “99% of these problems can be avoided through effective screening. There is no better investment you can make.”

As you review the following list, keep in mind that you will not have to do every step for each applicant, but the basics, written in **bold** letters, should be done every time. If you implement no other recommendations in this manual, implement these:

1. **Compare the I.D. to the information given.** Make sure the photo I.D. matches the applicant and the information matches that given on the application form. If the picture, address, and numbers don’t match the application information, find out why — you may have cause to turn down the application. Unless obvious inconsistencies can be explained and verified to your satisfaction, you don’t have to rent to the applicant.
2. **Have a credit report run and analyzed.** A credit report will provide independent verification of much of the application material. You can find out about past addresses, court ordered evictions, credit worthiness, past due bills, and other information. The reports are not foolproof, but they provide a good start. Here are your options:
  - ▶ **Join a credit bureau directly.** If you are managing a number of units and are likely to be screening multiple applicants every month, you may find it cost-effective to join a credit bureau directly and

spend the time to learn how to interpret their reports. While this is an option, note that many large management companies contract with applicant screening firms to gain the benefit of their outside expertise.

**Or:**

- ▶ **Have a third party pull the report and offer interpretation.** If you are not screening a sufficient volume of applicants, or would like assistance in interpreting the reports, contact an applicant screening firm or local rental housing association for assistance. Services vary and you should shop for the organization that best meets your needs. At one end of the spectrum are organizations that handle the entire applicant screening process for you. At the other end of the spectrum are organizations that simply pull the reports and send you a copy. There are many variations in between. Our primary caution is to avoid the many organizations that can be found online that essentially offer nothing but Internet-based searches of public records. Go with professional tenant screening companies that can pull credit checks as well as, typically, more comprehensive criminal background information.

It is important to set up your relationship with your screening company before you begin accepting rental applications. For example, it is likely that the screening company will require specific information from the applicant, along with signature releases, before they can help. Also, unless you meet the screening organization's rules for data security at your location, it may be the case that the screening company will not share the credit report with you directly, but instead review it and then advise you as to whether the information on the credit report is consistent with the minimum criteria you have specified.

- 3. Independently identify previous landlords.** The most important calls you make are to the previous landlords. The best indicator of a tenant's future behavior is his or her past behavior. To begin, verify that the applicant has given you accurate information:

- ▶ **Verify the past address through the credit check.** If the addresses on the credit report and the application don't match, find out why. If they do match, you have some verification that the tenant actually lived there where indicated.
- ▶ **Verify ownership of the property through the tax rolls.** A call to the county<sup>1</sup> tax assessor will give you the name and address of the owner of the property that the applicant previously rented. Some jurisdictions now offer the same information online. (Title companies and real estate brokers typically have ready access to this information as well.) If the name matches the one provided by the applicant, you have the actual landlord.

If the name on the application doesn't match with tax rolls, it could still be legitimate — sometimes tax rolls are not up-to-date, property has changed hands, the owner is buying the property on a contract, or a management company has been hired to handle landlord responsibilities. But most of these possibilities can be verified. If nothing else, a landlord who is not listed as an owner on the tax rolls should be familiar with the name of person who *is* listed, so ask when you call.

- ▶ **If possible, cross-check the ex-landlords' phone numbers through an online search or phone book.** This may uncover the possibility of an applicant giving the right name, but a different phone number (e.g., of a friend who will pretend to be the ex-landlord and vouch for the applicant). If the

---

<sup>1</sup> Most states use the term "county" to indicate how the areas of the state are divided into more local jurisdictions, while some use terms such as borough, township, or parish. Regardless, property ownership is public record and the local jurisdiction in charge of keeping property ownership records will have this information.

owner's number is unlisted, you will have difficulty verifying the accuracy of the number provided on the application.

Now you have verified the landlord's name, address, and perhaps even phone number. If the applicant gave you information that was intentionally false, deny the application. If the information matches, call the previous landlords.

Remember, if the applicant is currently renting somewhere else, the present landlord may have an interest in moving the tenant out and may be less inclined to speak honestly. In such an instance, your best ally is the landlord before that, the one who is no longer involved with the tenant. *For your own protection, be sure you locate and talk to a past landlord with no current interest in the applicant.*

- 4. Have a prepared list of questions that you ask each previous landlord.** Applicant verification forms, generally available through rental housing associations or legal publishing companies, give a good indication of basic questions to ask. You may wish to add other questions that pertain to your screening criteria. In particular, many landlords we spoke with use this question: *"If given the opportunity, would you rent to this person again?"*

Also, if you suspect the person is not the actual landlord, ask about various facts listed on the application that a landlord should know: The address or unit number previously rented, the zip code of the property, the amount of rent paid. If the person is unsure, discourage requests to call you back. Instead, offer to stay on the line while the information is looked up.

- 5. Get co-signers if necessary.** If the applicant meets one of your defined "borderline" criteria (such as having rented from a relative previously) and you have posted the appropriate rule, require that a co-signer apply with the applicant. Verify the credit and background of the co-signer just as you would a rental applicant. To ensure the legal strength of the co-signing agreement, you may wish to have your attorney draw up a document for such purposes.
- 6. For Section 8 renters, consider requesting information from your local Public Housing Agency.** This process is dependent on your local Public Housing Agency's procedures and thus will not be available in all areas. In short, once you have a signed release from the applicant, you may be able to verify information on the application with that contained in the Public Housing Agency's files.
- 7. Verify income sources.** Call employers and other contacts using phone numbers verified from online searches or directory. If an applicant is self-employed, get copies of bank statements, tax returns, business licenses, or a list of client references. Don't cut corners here: Some individuals involved in illegal activity may appear quite successful, but may not be able to verify their income with tax returns, bank statements, or references from established clients.
- 8. Consider checking for criminal convictions.** The process for obtaining criminal background information will vary by state, but you typically will have the right to obtain such information. Outcomes of court proceedings are generally public record and as such can be obtained through the local court system. Note, however, that many law enforcement agencies may not be able to disclose information about criminal background. If your local police tell you they cannot release information, this doesn't necessarily mean the information is unavailable. It may only mean that the information is not available through that channel. Again, you may need to go directly to court records to obtain the information you need. In some areas the information is available online through local court websites. There may also be private tenant screening firms in your area that will do criminal background searches for you.

Your chances of getting verifiable information are best if you have the applicant's name, date of birth, Social Security number, and current address.

One cautionary note: Based on an interpretation of fair housing laws, many attorneys advise that conviction, but *not* arrest, may be used as a basis for rejecting an applicant. Patterns of arrest have proved to be discriminatory against protected classes and, as such, would be inappropriate to use as a screening criterion.

Finally, resist the urge to rely too heavily on this screening technique. Many people who are engaged in illegal behavior have not yet been convicted of a crime.

9. **Verify all other information according to your screening criteria.** Remember, before you call employers, banks, or other numbers listed on the application, verify the numbers through local phone directories or online search.

## Screening Prospective Employees

Many rental owners hire employees to assist with tenant screening, routine maintenance, or other tasks. It is critical that resident managers and other “agents” of the landlord be screened even more thoroughly than applicants for tenancy. In general, when an employee breaks the law while on duty, both the employee and the employer can be held responsible by the harmed party. When the employee violates an element of rental housing law, the liability you will hold for employee misbehavior should be reason enough for extra screening efforts.

One screening tool you should consider very seriously for job applicants is a criminal conviction check, even if you don’t check criminal backgrounds on prospective renters. Once property managers are hired, make certain they are trained in effective applicant screening, along with the warning signs of dishonest applicants. Also, be sure they understand, and follow, the requirements of fair housing laws.

## How to Turn Down an Applicant

In general, if you have posted fair rental criteria and you screen all applicants against those criteria, you may safely reject an applicant who does not meet your guidelines. Opinions vary regarding the amount of information that is required to be given to an applicant who is denied a rental unit. (Note: if you are managing public housing or publicly-subsidized units, your disclosure requirements may be greater than the ones described here.) We recommend, at the minimum, following the guidelines defined by the federal government in the Fair Credit Reporting Act for denial of credit. Check to see if your local jurisdiction requires additional disclosure.

The following is intended as a general overview of how it works for two different types of applicant rejections. See the law itself for an exact description:<sup>1</sup>

- ▶ **If the rejection is based on information, in whole or in part, from non-paid sources** (the word of a previous landlord, for example): While you are not required to disclose immediately your reason for rejecting applicants in these situations, you *are* required to advise applicants of their right to submit, within 60 days, a written request for that information and their right to a response from you, within a reasonable period of time, disclosing the nature of the information upon which the adverse decision was made.

Sample phrasing: “Based on a check of information you provided in your application, you do not meet our posted rental criteria. If you have questions about this decision, you may submit a request in

<sup>1</sup> Contact the Federal Trade Commission by phone at (202)326-3128, or by mail at: 6th Street & Pennsylvania Ave., NW, Washington, DC 20580. A full copy of the text of the FCRA can be obtained at [www.ftc.gov](http://www.ftc.gov).

writing to (your name and address) within 60 days, and we will explain the basis for the decision within a reasonable period of time.”

Of course, if you receive such a request, then report the nature of the information upon which the adverse decision was based. Again, if your screening criteria are free of illegal discrimination and you have applied your criteria consistently, then you may safely reject applicants who do not measure up.

*Note this small additional requirement if the rejection is based on information from a person who is your “affiliate” (e.g., a co-worker or co-owner):* The process is identical to that described above, except that the required response time is specifically stated: 30 days or less from the date the landlord receives the rejected applicant’s written request.

Of course, when possible, keep it simple. For example, if you are turning down an applicant simply because you accepted an earlier applicant, just say so. Or, if one look at the application indicates that the person doesn’t have nearly enough income to rent the unit, don’t make the applicant wait a week to find out; just say so.

- ▶ **If the rejection is based, in whole or in part, on information from a credit report, screening company, or other organization that you pay to provide screening information:** Because of the potential for abuse of, or misinformation in, credit reports, the Fair Credit Reporting Act requires that very specific information be provided to applicants who are rejected based on information obtained from a “consumer reporting agency.” While the information may be provided orally, it is a good idea to give written notification just to make sure you are in full compliance with the Act. The following is only intended as a brief orientation. The screening company, or other consumer reporting agency, you work with should be able to answer your questions and provide you with a simple, written form to help ensure you are in full compliance with the Act.

In situations where adverse decisions are based, in whole or in part, on information from a consumer credit report, a landlord is *required* to provide the rejected applicant all of the following information:

- ✓ Notice of the rejection. For example: “Based on information we have received from your credit report (or other paid source) you do not meet our written rental criteria and we have therefore chosen to deny your application for tenancy.”
- ✓ Disclosure of any numerical credit score used in taking any adverse action based in whole or in part on information in a consumer report and additional, specific information about the credit score such as key factors that affected the score, when the credit score was created, and the range of possible credit scores under the model used.
- ✓ The name, address and telephone number (including a toll-free number if the agency is one that keeps nationwide consumer files) of the consumer reporting agency used that furnished the information.
- ✓ That the consumer reporting agency did not make the decision to reject the applicant and therefore it is likely that they will not be able to explain the reason for the adverse decision.
- ✓ That the applicant has the right to contact the consumer reporting agency within 60 days to receive a free copy of their report.
- ✓ That the applicant has the right to dispute the accuracy or fairness of information in a consumer report furnished by the consumer reporting agency.

Direct applicants to get a copy of their consumer report directly from the credit reporting agency, rather than, for example, providing the applicant with a photocopy of the report you received. Again, in the interests of proving you have met disclosure requirements, you may want to hand out an

information sheet with the disclosure process described and appropriate addresses provided. Contact a local property management association for more details, and again, check your local law for additional disclosure requirements.

The preceding discussion is not intended to be a complete description of all requirements. Your best bet may be to work with your screening or credit reporting agency to make sure you provide all appropriate disclosures.

## Other Screening Tips and Warning Signs

The following are additional tips to help you screen applicants. You should also be familiar with the warning signs described in the chapter on *Warning Signs of Drug Activity*.

- **Consider using an “application interview.”** Some landlords have conduct a brief oral interview, often at the same time they accept the written application. Landlords who use this approach find it has these advantages: First, applicants don’t know which questions are coming, so it is harder to make up a story — something that shouldn’t bother an honest applicant, but may uncover a dishonest one. Second, the landlord has the opportunity to watch responses and take mental notes of answers that seem suspicious. For example, honest applicants usually know their current phone number or middle name without having to look it up.

The interview involves, at minimum, making sure the applicant can repeat basic information requested on the application form without reading it. For example, the landlord might ask the applicant to verify his or her full name, current phone number, current address, and other pieces of information that most responsible applicants will be familiar with without having to look them up.

As with all policies you set, if you decide to do application interviews, you should include a commitment to making reasonable accommodations for those who cannot comply due to status in a protected class — e.g., a disability that causes a speech problem, or possibly language skills associated with a particular national origin.

If you choose not to use an interview approach, at minimum observe the way the application is filled out. Applicants may not remember the address of the apartment they were in two years ago, but they should know where they live now, or just came from. Generally, honest applicants can remember their last address, the name of their current landlord, and other typically “top-of-mind” facts about their life.

- **Watch for gross inconsistencies.** When an applicant arrives in a brand new, luxury sports car and fills out an application that indicates a very low income, something may not be right. There are no prohibitions against asking about the inconsistency or even choosing to deny the applicant if the style of living is grossly inconsistent with the stated income. You may also deny the applicant for other reasons that common sense would dictate are clearly suspicious (credit reports can also reveal such oddities — for example, if the applicant is paying out much more per month to service credit card debts than the applicant is taking in as income, something isn’t right). Many don’t realize it, but unless such a decision would cause a disproportionate rejection of a protected class (e.g., race, color, religion, and others) the law allows room to make such judgment calls.

While you may not discriminate on the basis of race, color, religion, sex, disability, national origin, familial status (the presence of children), as well as other classifications that may be added by your state or local jurisdiction, you *may* discriminate on the basis of many other factors, *provided the effect is not a disproportionate denial of a protected class*. If you deny the applicant for such a reason, record your evidence and the reason for your decision. Be careful when making decisions in this area, but don’t

assume your hands are tied. The law is written to prevent discrimination against protected classes. You are not required to look the other way when gross inconsistencies are apparent.

- **Be aware that people involved in illegal activity may use “fronts” to gain access to your property.** You may rent to someone who has an acceptable rental history and no record of illegal activity, yet once that person moves in, boyfriends, girlfriends, or other acquaintances or family members move in and cause property damage or engage in other nuisance or criminal behaviors. In some cases, the people you thought you rented to don’t move in at all; after using their good references to rent the unit, they give the key to drug dealers, for a fee. *Across the nation, it is the permission given by tenants to guests and others who have not signed the rental agreement that causes the greatest degradation in the quality of life in rental housing communities — both public and private.*

Warning applicants that they will be held accountable for their guests, and then enforcing such a requirement with your tenants, is a cornerstone of protecting your property and the surrounding neighborhood. Make sure your tenants know that they must control their guests, and if they cannot, they should ask for help quickly. Further, most rental agreements specify that only people named on the agreement are allowed to use the unit as their residence. Unless otherwise prohibited by local landlord-tenant law, make sure such a stipulation is in your rental agreement and point it out to all applicants, emphasizing that having another person move in requires submitting that person’s application and allowing you to check references before permission may be granted.

If you make it clear you are enforcing these rules only to prevent illegal activity, you may discourage potential problem tenants from applying while reassuring renters that your practices will help encourage property safety. You may further calm concerns of responsible renters if you are able to assure them (subject to reasonable and fair occupancy limits and the opportunity to screen proposed additional occupants) that you will not raise the rent because an additional person moves in. For more about this issue, see the chapter on *Rental Agreements*.

- **Watch out for Friday afternoon applicants who say they must move in that very weekend.** People planning illegal activity know that you may not be able to check some references until Monday, by which point they will already be in the home. Tell the applicant(s) to find a hotel or a friend to stay with until you can do a reference check. Could it cost you some rent in the short run? Yes. Will it save you money in the long run? Absolutely. Ask any landlord who has dealt with criminal activity in a rental unit. It is worth avoiding.
- **Observe the way applicants look at the unit.** Do they look in each room? Do they ask about other costs, such as heating, garbage service, and others? Do they mentally visualize where the furniture will go, which room the children will sleep in, or how they’ll make best use of the kitchen layout? Or did they barely walk in the front door before asking to rent, showing a surprising lack of interest in the details? People who are planning an honest living care about their home and often show it in the way they look at the unit. Some who rent for illegal operations forget to pretend they have the same interest. (Also, if the applicant shows little interest in any of the property *except* the electrical service, take note. Both meth labs and marijuana grow operations can include rewiring efforts.)
- **Consider alternate advertising methods for your property.** Houses that are within a few miles of colleges or business parks may be desirable housing for students or professionals. Some landlords have found success in posting advertising at such locations, thus targeting people who already have a credible connection with the community.

If you consider such an approach, keep in mind that fair housing laws apply in all aspects of managing rental housing, including advertising selection. Advertising through community colleges only may be

acceptable, because such colleges typically enroll a broad cross-section of the community. However, it would be inappropriate, for example, to advertise exclusively through a church newsletter or through the newsletter of a private club whose membership is not representative of the greater community. Such approaches could set up patterns of inappropriate discrimination. Either expand your media selection or change it altogether to make sure you are reaching a fair cross-section of the public.

- **Consider driving by the tenant’s current residence.** Some property managers consider this step a required part of every application they verify. A visual inspection of applicants’ current residence may tell you a lot about what kind of tenants they will be.
- **Announce your approach in your advertising.** Some landlords have found it useful to add a line in their advertisements announcing that they do careful tenant screening or that they run credit checks. The result can be fewer dishonest applicants choosing to apply. Select your phrasing with care. Do not use expressions that in your community might be interpreted as “code” for telling a protected class that they need not apply. Again, it is important to make sure that the opportunity to apply for your units, and to rent if qualified, is open to all people regardless of race, color, religion, sex, disability, national origin, familial status, and other classes that may be granted civil rights law protection in your area.

As a general rule, when you write your for-rent advertising, you are on safer ground describing characteristics of the rental unit and avoiding describing the imagined tenant: “One-bedroom apartment” is fine; “bachelor apartment” is not. Also, avoid descriptions that suggest a possible preference for one group within a protected class over another: “Next to the park” is fine; “next to the church (or mosque or temple)” is not.



# RENTAL AGREEMENTS

*Get it in writing.*

ADVICE WE WERE GIVEN:

“We’ve solved a lot of problems by using the right paperwork at the beginning of the rental term. It improves our legal position and lets the tenant know we are serious from the start.”

## The Basics

Minimize misunderstandings between you and your tenant, thus building a basis for clean and fair problem resolution down the road.

## Use a Current Rental Agreement

Many property managers continue to use the same rental agreements they started with years ago. Federal and state law can change yearly, and case law is in constant evolution. By using an outdated rental agreement, a landlord may be giving up important rights. If a problem tenant chooses to fight in court, an outdated rental agreement could cost the landlord the case.

Sources for up-to-date rental agreements will vary by state. In many areas property management associations provide rental forms and consider it their job to make sure they are consistent with current law. Local legal document publishing companies may also be good sources for effective rental agreements. Be sure, however, that you are buying a form that is developed for the laws of your state — “generic” rental agreements sold nationwide will not work as well as more tailored agreements.

Unless you are planning to work with your own attorney to develop a rental agreement, purchase updated forms from one of these sources.

## Month-to-Month or Long-Term Lease?

In many states, but not all, a landlord may use a month-to-month rental agreement that allows either party to terminate the tenancy without specifying a cause on short notice, 30 days in many cases. On the one hand, if you want the maximum ability to remove tenants involved in problem behavior, this is the type of rental agreement to use. (In some jurisdictions the “no-cause” notice is not an option, in which case, from the landlord’s perspective, every tenant has a long-term lease.)

On the other hand, there are benefits to leases that both parties can enjoy. Good tenants may appreciate the stability of a longer-term commitment, and you may benefit if you have tenants who respect the lease term as a binding agreement. It is true that you give up your right to serve a no-cause notice during the period of the lease. However, you still have options to take lease enforcement action if tenants are in violation of the law or not in compliance with the lease. Landlords who are familiar with the process for enforcing for-cause evictions can succeed with these notices as well. The decision about the type of rental agreement to use (unless you are managing subsidized or public housing with specific lease-term requirements) is up to the individual landlord. Either approach can work.

Regardless of the type of agreement used, keep in mind that no tenant is protected from a landlord’s enforcement action if the tenant violates local landlord-tenant laws or does not comply with a legal provision of the rental agreement. If tenants are in violation of the law, or are not in compliance with the lease, a landlord may serve notices that require the behavior to be corrected or the tenant to move out.

Also, remember that while the terms of your rental agreement are important, even the best rental agreement is not as valuable as effective applicant screening. *The most important part of any rental agreement is the character of the people who sign it.* No amount of legal documentation can replace the value of finding responsible tenants.

## Elements to Emphasize

Inspect the rental agreement you use to see if it has language addressing the following provisions. If they are not in the rental agreement, consider adding them. To gain the most prevention value, you will need to point out the provisions to your tenant(s) and communicate that you take your rental agreement seriously. This list is not at all comprehensive. It only represents elements that are occasionally overlooked and that can be helpful in managing behavior sometimes associated with nuisance or criminal activity.

- 1. Subleasing is not permitted without prior approval of the landlord.** The state statutes we have examined do not regulate subletting, but do allow the landlord to do so. If your state's laws follow the same pattern, this means that *unless* your rental agreement specifies otherwise, your tenants have the right to sublet to whomsoever they please. Make it clear that the tenant cannot assign or transfer the rental agreement and may not sublet the dwelling unless the sublease candidate submits to the landlord a complete application and passes all screening criteria.

You must maintain control over your property. Too often the people who engage in the problem behavior are not the ones you originally rented to. This provision will not stop all efforts to sublease, but it may prevent some and will put you in a stronger position if you have to deal with a problem subtenant.

- 2. Only those people listed on the rental agreement are permitted to occupy the premises.** If the tenant wants another adult to move in, that person must submit a completed application and pass the screening criteria for rental history. The method, and ability, to enforce this type of rule will, again, vary from state to state.<sup>1</sup> For example, you may need to define the difference between a "guest" and a "resident." Since tenants are typically within their rights to have guests stay for short periods of time, it is generally inappropriate for landlords to set rules that attempt to prevent the occasional overnight guest. However, it is appropriate for landlords to place limits on the ability of the tenant to have other adults establish their residence at the rental without permission.

Check with a local property management association or your own legal advisor before setting this criterion. Assuring your tenant that you take this clause seriously may curb illegal behavior by others. Having the stipulation spelled out in the rental agreement will put you in a better legal position should that become necessary.

- 3. No illegal activity.** Make it clear that the tenant must not allow illegal drug activity, other criminal behavior, or allow other activities on or near the premises that constitute violations of applicable local law, including any chronic nuisance codes. Such behaviors are already illegal, but spelling it out never hurts.
- 4. The tenants are responsible for conduct on the property.** Tenants should understand that they will be held responsible for the conduct of themselves, their children, and all others on the premises under their control. Generally speaking, landlord-tenant laws are designed to allow the tenant the same "my home is my castle" right to privacy as that enjoyed by any owner-occupant. However, with the right to

---

<sup>1</sup> New York State law, for example, gives tenants broad permission to move in a number of additional people — certain relatives and other "occupants" — regardless of restrictions in a rental agreement.

private enjoyment of the “castle” comes the responsibility to control what goes on there. Most landlord-tenant laws address this issue, but spelling it out in the rental agreement may help as well.

For people who plan to “front” for illegal activity, this underscores the point that they will be given as little room as possible to protect themselves by claiming that acquaintances, and not themselves, were involved in the activity. Phrasing on this provision should be done with care: You may not go so far as to hold victims responsible for the behavior of people who abuse or intimidate them into silence.

- 5. The tenant will not unduly disturb the neighbors.** Make it clear that the tenant will be responsible for making sure that all persons on the premises conduct themselves in a manner that will not interfere with the neighbors’ peace. The issue here is not the occasional loud party. The issue is prevention of chronic nuisance behavior that can severely impact a neighborhood if left unchecked. Generally, landlord-tenant laws set minimum behavior requirements for tenants so, in many states, a landlord could enforce this type of requirement even if a written rental agreement has not been used.

What does disturbing the neighbors have to do with criminal behavior? It doesn’t necessarily. But we know that managers who attend to their own obligations and require tenants to meet theirs are far more effective in preventing illegal activity than those who take little or no action as complaints of noncompliance roll in. It is almost never the case that a criminal’s first observed, evictable offense is felony-level criminal behavior.

- 6. Indoor smoking is not permitted.** While some landlords forbid smoking everywhere on the property (that is, both indoors and outdoors), the more common practice for those who limit smoking more than is required by law is to forbid all indoor smoking, including inside the dwelling unit. Here’s why: Such rules are proving to reduce management costs while simultaneously offering tenants an amenity that the great majority desire. For landlords, the policy helps prevent the expense of cleaning up after indoor smoking, saves time associated with repairing damage from carpet and counter burns, and reduces the potential cost and liability associated with the fire hazards involved. In multifamily property, rules that forbid indoor smoking (along with outdoor smoking within a defined distance of any building) help reduce tenant-to-tenant disputes over secondhand smoke and increase the stability of the tenant population by offering the benefit of cleaner air in every home.

Equally, for the great majority of tenants “smoke-free” housing is considered a substantial benefit, even by many of those who have a smoker in the household. In short, much has changed since the days when indoor smoking was considered routine or even a right. For example, today most smokers no longer smoke inside their homes. Market research conducted in multiple states on the subject<sup>1</sup> indicates that the great majority of tenants, regardless of income, prefer a rental unit where the landlord does not permit indoor smoking and many will avoid rentals where adjacent tenants are allowed to smoke. In other words, because tenants want it, it is a competitive advantage for landlords who offer it.

Please note: If you allow outdoor smoking, be sure to provide proper receptacles (non-combustible material and tip-proof). Careless outdoor smoking (tossing cigarettes into flower beds, brush, or bark dust) is another common cause of residential fires.

Finally, of course, there is an indirect, but significant, benefit of this rule to the prevention of illegal activity. People contemplating illegal activity are often more attracted to property where rules appear

---

<sup>1</sup> Research conducted by the author, Campbell DeLong Resources, Inc., in Oregon, Washington, Arizona, & New Mexico. Similar research conducted by state and local health departments in various other states. “Smoke Free Housing Toolkit” available from HUD, based in part on research by the authors, at: <http://portal.hud.gov/hudportal/HUD?src=/smokefreetoolkits1>.

lax and are less attracted to property where owners and managers have taken the time to set standards that go beyond the minimums found in many rental agreements.

## Lease Addendum Forbidding Illegal Activity

Many rental owners have begun to attach an addendum to their rental agreements spelling out specific crimes under state and local law that will be considered violations of the lease. A version of such an addendum is often provided at the trainings that accompany this manual. Before using such an addendum, have your attorney review it.

While the behaviors proscribed in such addenda are generally already against the law, spelling them out as prohibited in the lease may allow you additional legal choices should you have to evict tenants for allowing or conducting criminal behavior. Even more important, announcing your commitment to maintaining safe housing through the use of such a lease addendum can help discourage those planning criminal activity from moving in.

## Pre-Move-In Inspection

Prior to signing the rental agreement, walk through the property with the tenant and make a visual inspection together. Some landlords use check-in/check-out forms developed for the purpose; others take photographs that are then signed by both parties; and still others make a pre-move-in video with the tenant. Regardless of the approach, agree on what repairs need to be done. Write down the agreement and have both parties sign it. Make any agreed-upon repairs and document that those have been completed as well. Give copies to your tenant and keep signed and dated copies in your files.

Now, should your tenants damage the property, you have a way to prove it happened after they took possession of the unit. (Note: This also protects *tenants*. The pre-move-in inspection can prevent an unethical landlord from trying to hold a tenant responsible for problems that predated the tenancy.)

The pre-move-in inspection can reduce the likelihood of some tenants causing damage to the premises. It can also protect you against the rare case of a tenant who may attempt to block a legitimate eviction attempt by damaging the premises and then claiming that the damage was preexisting. Note also that, in some states, a documented pre-move-in inspection is required in order for the landlord to be able claim any part of the security deposit to pay for damages or other costs beyond normal wear and tear that are typically covered by security deposits when the tenant moves out.

## Resident's Handbook

Many apartment managers, as well as some single-family housing managers, provide a resident's handbook that spells out rules specific to the property being rented. State landlord-tenant laws typically place restrictions on the type of rules that can be added, but generally property managers have found success with guidelines that restrict excessive noise levels, define behavior for common areas of the premises, and spell out rules for use of unique facilities such as pools or common laundry facilities.

In general, managers of apartments may set additional rules for those common areas that are, in effect, "occupied" by management, not tenants. For example, as the "occupant" of the common areas of an apartment complex, a manager may be able to ask police to remove visitors who are engaged in fights or other intimidating behavior taking place in the courtyard of the complex. In this instance, as in others, managers may exercise more direct, immediate control over problems in the common areas of the property than they can over problems occurring on or inside the specific, privately rented property.

# ONGOING MANAGEMENT

*What to do to keep the relationship working.*

## COMPLAINTS WE HAVE HEARD:

“The tenant moved out and someone else moved in without us knowing it. Now we have drug dealers on the property and the courts insist they are legal tenants, even though they never signed a lease.”

## ADVICE WE WERE GIVEN:

“You need to follow one basic rule — you have to *actively* manage your property. The only landlords who go to court are the ones who don’t actively manage their property.”

“For most managers the experience is one of putting out brush fires all day long. If property managers take a more proactive approach, they will have better lease compliance, better tenant relations, avoid a lot of legal hassles, and have fewer brush fires during the day.”

## The Basics

Maintain the integrity of a good tenant-landlord relationship. Strengthen communications between the landlord, tenants, and neighbors. Help build a sense of community.

## “Management 101”

While the material that follows in this chapter primarily focuses on meeting basic responsibilities of ongoing management, it is impossible to over-emphasize the value of a wide range of management techniques that are not so much a function of law, but of human nature. In a sense, the most important skill for successful property management is not the ability to maintain property, nor is it the dedication to ensure one’s rental agreements remain up-to-date with current law, as helpful as both of those can be. Rather, it is the ability to manage people well. Good, experienced managers understand the importance of setting and reinforcing clear expectations, building an environment of mutual respect, encouraging routine open communications, modeling desired behavior, addressing problems early, and acknowledging beneficial performance.

People who are genuinely skilled in such management approaches can expect to be more successful, with better behaved and more appreciative tenants, than can those landlords who rely on the strength of law alone to ensure acceptable behavior. The desire to take uncommonly good care of another’s property, to pay rent on time (or even early), and to be a good and communicative neighbor does not grow from requirements in a rental agreement alone. It is also a function of both the character of the tenants you select through screening and the tone you set in the landlord-tenant relationship throughout the tenancy. As you consider the basic management approaches described in this chapter, consider how much more effectively they can be applied in an environment where the manager has taken the time to encourage a landlord-tenant relationship based on the values of mutual respect, responsibility, and prompt, open communication.

## Don’t Bend Your Rules

A key to ongoing management of your property is demonstrating your commitment to your rental agreement and to landlord-tenant law compliance. Once you set your rules, enforce them. Make sure you meet *your* responsibilities, and make sure you hold your tenants accountable for meeting theirs. By the

time most criminal behavior is positively identified, there is a long history of lease and landlord-tenant law violations that the landlord ignored.

There are strong parallels between this basic rule of property management and a concept in law enforcement known as “The Broken Window Theory” which is the cornerstone of an array of crime-reduction techniques based, in part, on the finding that small signs of disorder (such as a broken window, graffiti, or other petty vandalism), when left unaddressed, can lead to much greater disorder.<sup>1</sup> In the landlord-tenant world, a variety of more significant behavior problems can be prevented, including those that may enable very serious criminal activity, if managers are willing to ensure that simple compliance issues are addressed early and consistently. Examples of such active management steps include:

- **When aware of a serious breach, take action as promptly as possible.** If a landlord accepts rent while knowing that the tenant is breaking a rule, but the landlord takes no action to correct the behavior, the landlord could lose the right to serve notices for the specific behavior in the future. Whether this happens upon receipt of one payment or after a pattern of accepting payment without taking action will depend on local law and court interpretation. But the general concept is found in how civil contracts are interpreted; in this case, a landlord waives his or her right to enforce a rule by continuing to accept rent without attempting to enforce the rule violation. Further, regardless of the characteristics of your local law, it doesn’t pay to teach your tenants that they are allowed to break the rules. So, at minimum, as soon as you discover violations of local landlord-tenant laws or of your rental agreement, give tenants written notice that they are required to correct the problem. Then accept the rent.
- **If someone other than the tenant tries to pay the rent, get an explanation.** Also, note on the receipt that the payment is for your original tenants only. Otherwise, by depositing the money, you may be accepting new tenants or new rental agreement terms.
- **If a person not on the lease may be living in the rental, pursue the issue immediately.** If you take no action to correct the behavior, and you accept rent knowing the tenant has allowed others to move in, you may have accepted the others as tenants as well. So either require the illegal subtenants to fill in a rental application and apply, or serve the appropriate notice that would require your original tenant to remove the subtenants under threat of eviction if the action is not taken.
- **Fix habitability and code violations at the property quickly.** Maintaining habitable housing for tenants is the most important of a landlord’s responsibilities. In addition, as discussed earlier, failure to maintain a unit could compromise a landlord’s lease enforcement rights. Tenants may be able to use a “retaliation” defense when a landlord attempts to evict after a tenant has complained that the rental is substandard.
- **If a tenant doesn’t pay rent, address the problem.** Some landlords have let problem tenants stay in a unit, not just weeks after the rent was overdue, but *months*. While flexibility is important in making any relationship work, be careful about being too flexible. There is a big difference between being willing to receive rent late during a single month and letting your renters stay endlessly without paying. If you wish to allow your tenants to live in your unit for months on end rent-free, you may do that, but if you don’t wish that to happen, don’t let it. In general, nonpayment notices (directing the tenant to pay or vacate) are some of the faster lease enforcement notices that a landlord can serve.
- **If neighbors call to complain of problems, pursue the issue.** Although it does happen, few neighbors call landlords about minor problems. If you get a call from a neighbor, find out more about the problem, and take appropriate action. If there are misunderstandings, clear them up. If there are serious

---

<sup>1</sup> *Fixing Broken Windows: Restoring Order And Reducing Crime In Our Communities*, by George L. Kelling and Catherine M. Coles, Touchstone Books, © 1996 by Kelling and Coles.

problems with your tenants, correct them. The chapter on *Crisis Resolution* gives additional information about steps to take if a neighbor calls to complain.

Overall, if you respect the integrity of your own rules, the tenant will too. If you let things slide, the situation can muddy fast. It may mean more work up front, but once the tenant is used to your management style, you will be less likely to be caught by surprises.

## Responsibilities Defined

For a legal description of the responsibilities of landlords and tenants, review your local landlord-tenant law, local maintenance codes, and the requirements of the Section 8 Housing Choice Voucher program if it applies to your units. Also, to state the obvious, if you haven't already, check your rental agreement. Rental agreements typically spell out various responsibilities of both the landlord and the tenant. The following is an overview of the typical responsibilities of both parties.

### LANDLORDS

A landlord's responsibilities typically fall into three areas: The condition of the premises as delivered to the tenant, the obligation to maintain the unit once it is occupied, and the obligation to respect the rights of the tenant. A landlord's responsibilities generally include:

- **Prior to move-in, provide the tenant with a clean, sanitary, and safe rental unit.** This typically means the unit should be cleaned, garbage and debris from previous tenants removed, pest control problems addressed as appropriate, the various systems (plumbing, electrical, heating) working appropriately, the unit adequately weatherproofed, the structural integrity of the unit maintained (e.g., no rotting steps), fire safety issues addressed (e.g., smoke detectors installed and access to secondary exits assured), working locks installed, and any other potential safety hazards addressed.
- **After move-in, make sure the unit remains "habitable."** For occupied units, landlords generally are responsible for all major repairs and are granted both the power and the responsibility to make sure that tenants are doing their part to maintain the habitability of the unit. For example, while the law and the rental agreement may both require that the tenant do sufficient basic housekeeping to keep the unit free of sanitation problems, if the tenant is not doing so, it is generally up to the landlord to require the tenant to correct the problem, typically by serving a type of notice that would require the tenant to remove the garbage or vacate the premises.
- **Respect the tenant's right to private enjoyment of the premises.** It has been a basic characteristic of landlord-tenant relationships for hundreds of years that once the tenant begins renting a home, the tenant has the right to be left alone. With some specific exceptions for such activities as serving notices, conducting maintenance inspections, doing agreed-upon repairs, or showing the unit for sale, the landlord must respect the tenant's right to private enjoyment of the unit in much the same way that an owner-occupant's right to privacy must be respected. In those areas where a landlord does have a right to access, the landlord must generally follow a carefully spelled out notification process prior to entering the rented property.
- **Avoid retaliation against a tenant.** Generally, a landlord may not retaliate against a tenant who is legitimately attempting to cause the landlord to meet his or her responsibilities. For example, a landlord may not increase rent, decrease service, attempt to evict, or take other retaliatory action in response to a tenant asking a landlord to repair a worn-out furnace, fix a rotting step, or take other actions that fall within the landlord's responsibility under the law.
- **Avoid illegal discrimination.** Nationwide, landlords may not discriminate on the basis of a tenant's (or applicant's) race, color, religion, sex, disability, national origin, or familial status. Your state and local

laws may include additional protected classes. This means that you may not use such class distinctions to screen applicants or to treat tenants differently once you enter into a rental agreement. For more information about the application of civil rights laws, see the chapter on *Applicant Screening*.

- **Enforce the terms of the rental agreement and landlord-tenant law.** While both the rental agreement and the law will identify various required behaviors of tenants, in general it is up to the landlord to make sure the tenant complies. If the tenant is not in compliance, the law generally gives landlords the power to serve various types of “cure” and “no-cure” notices to correct the behavior or require the tenant to move out. Essentially, unless the landlord takes action to correct the problem, there are few other mechanisms to correct difficulties associated with problem tenants. (Of course, if your problem tenants are involved in criminal behavior for which there is enough evidence to make an arrest, the police may be able to arrest the tenant and have that person serve jail time. However, while arrest may remove the tenant from the property, you may still need to serve an eviction notice to regain possession of the property. See the chapter on *The Role of Police* for more information.)

## TENANTS

A tenant’s responsibilities are generally to assure that no harm is done to the unit, to respect the peace of the community, and to pay the rent. A tenant’s responsibilities generally include:

- **Do basic housekeeping, comply with the rental agreement, and avoid harming the unit.** In addition to complying with rental agreement provisions, tenants are typically required to use the premises in a reasonable manner, cause no damage to the unit beyond normal wear and tear, keep the premises free of accumulations of garbage and other waste, and do sufficient housekeeping to avoid safety and sanitation hazards. Some landlord-tenant laws also spell out a requirement that tenants be good neighbors, that tenants and their guests may not disturb the neighbors’ peace (in states where it is not spelled out in law, this is one of the first items to place in a written rental agreement). Also, from a civil standpoint, tenants are generally considered responsible for the behavior of others they invite onto the premises. For example, tenants typically cannot defend a landlord’s eviction action by claiming that all alleged violations were committed by friends who visited on a regular basis.
- **Pay rent.** Landlords have the right to receive rent for the use of their property and tenants have an obligation to pay it. Exceptions exist only in those circumstances where landlord-tenant laws allow tenants to withhold rent when a landlord refuses to meet the *landlord’s* responsibilities. For example, if a landlord refuses to fix a broken furnace, the tenant may have the right to withhold rent until the repairs are done. In such a circumstance the tenant may also be able to collect other fines or financial penalties from the landlord (tenants are not advised to attempt such steps without consulting with a qualified attorney first).
- **Enforce the terms of the rental agreement and landlord-tenant law.** Just as it is up to landlords to make sure that tenants comply with the rental agreement and landlord-tenant law, tenants generally hold the primary responsibility for making sure their *landlords* comply. Tenants have various powers to abate rent or take other action to cause a landlord to comply. For some problems, specific agencies can assist in enforcing the law — problems associated with building code violations and fair housing issues are two examples. However, the enforcing agencies often do not get involved unless they are first notified by the tenant. Therefore, chief among the powers generally granted to a tenant is protection from the landlord’s retaliation should the tenant attempt to assert a right defined in the law.

## Property Inspections

A cornerstone of active management is the regular inspection. Unless you inspect, you cannot be sure you are meeting your responsibility to provide safe and habitable housing. In addition, maintaining habitable



property protects your rights as well. If a bad tenant can also claim that you are not meeting your responsibilities, you may have difficulty succeeding with an eviction. Conversely, if it is clear you make every effort to meet your responsibilities (and you document it), a tenant will be less inclined to fight an honest eviction effort.

While the purpose of a maintenance inspection is to care for the unit and ensure its habitability, regular inspections will also deter some types of illegal activity. For example, if tenants know that the landlord actively manages the property, they aren't as likely to start making illegal modifications to the rental in order to set up a marijuana growing operation. Further, inspections can help catch problems associated with illegal activity before they get out of hand. For example, it is common for drug dealers to cause damage to a rental unit that is well beyond "normal wear and tear;" a problem that could be observed, documented, and addressed through the process of a regular inspection program. Though early discovery of such damage is a possibility, the more frequent impact of an inspection program on illegal activity is basic prevention. Illegal activity is less likely to happen at property where the landlord has a reputation for concerned, active management.

The key to successful property inspection is avoiding the adversarial position sometimes associated with landlord-tenant situations. An inspection program done properly should be welcomed by all responsible tenants. Steps include:

- 1. Set an inspection schedule and follow it.** At minimum, every six months. It is a rare home that doesn't need at least some maintenance or repair work at least twice a year.
- 2. Use the inspection/notice procedures defined by local law.** Generally, landlords have the right to do maintenance inspections of rental property if the tenant is given proper notice. However, each state sets its own limits on the conditions under which a landlord may enter an occupied rental. If the inspection is routine, keep the approach friendly. Perhaps call the tenant in advance and then follow up by serving the inspection notice by the methods defined in local law. To help address all maintenance needs efficiently, ask tenants to take note of any concerns they have in advance of the inspection date. Again, when done appropriately, good tenants should appreciate your attention and concern for maintaining the unit.
- 3. Find and address code and habitability problems.** When you inspect the property, check for maintenance problems and handle any routine maintenance, such as replacing furnace or air conditioning filters or putting fresh batteries in a smoke detector. Discuss with the tenants any concerns they have. Make agreements to remedy problems. Then repair what needs to be fixed.

## Utilities

If your lease stipulates that the tenant is responsible for utility bills, and the tenant stops paying for those services, you have grounds for serving a lease-enforcement notice requiring the tenant to get back into compliance with the lease terms or vacate the premises. This may be particularly important to do if, as is usually the case, shutting off the utility would result in the unit no longer meeting habitability standards.

## Keep a Paper Trail

It is difficult to prove the existence of a verbal agreement in court, particularly if the opposing side denies the agreement took place. So keep a record of your agreements and provide copies to the tenant. Just having tenants know that you keep records may be enough to motivate them to stay out of court. You will need to retain documentation that shows your good-faith efforts to keep the property habitable and shows any changing agreements with a tenant, dated and signed by both parties.

## Trade Phone Numbers with Neighbors

Landlords of single-family residential housing sometimes don't hear of dangerous or damaging activity on their property until neighbors have written to the mayor or police have served a search warrant. Quite often the situation could have been prevented if the landlord and area neighbors had established a better communications link.

Find neighbors who seem responsible, concerned, and reliable. Trade phone numbers and ask them to advise you of serious concerns. You'll know you have found the right neighbors when you find people who seem relieved to meet you and happy to discover you are willing to work on problems. Conversely, if neighbors seek you out, work with them and solicit their help in the same way.

Note that landlords and neighbors tend to assume their relationship will be adversarial. Disarm any such assumptions and get on with cooperating. If you both want the neighborhood to remain healthy and thriving, you are on the same side and have nothing to gain by fighting each other.

# APARTMENT WATCH/PROMOTING COMMUNITY

*How to turn an apartment complex into a community*

## COMPLAINTS WE HAVE HEARD:

“We already have an ‘apartment watch.’ The tenants get together and watch the manager to see if I screw up!”

## ADVICE WE WERE GIVEN:

“*Please* teach landlords that their good tenants can help.”

“We started doing apartment watch meetings because we wanted to reduce crime. We’ve kept it up because it is also good for business.”

## The Basics

When good landlords and good tenants work together for the common goal of a safe community, everyone benefits.

## Benefits

In multifamily units, unless your tenants report suspicious behavior, you may not find out about illegal and property damaging activity until the problem becomes extreme. Some people are frightened to report illegal activity until they discover the “strength in numbers” of joining a community watch organization. Whether you call your efforts “apartment watch,” “community pride,” or “resident retention programs,” the goal is the same: Transforming an apartment complex into a community.

Organizing a community is more than just encouraging tenants to act as “eyes and ears.” In the absence of a sense of community, the isolation that residents feel can lead to apathy, withdrawal, anger — even hostility — toward the community around them. Organizing efforts can lead to profound changes: As apartment residents get to know each other and the manager, a sense of community, of belonging, develops, and neighbors and tenants are more willing to do what it takes to keep a neighborhood healthy.

Apartments where a sense of community is enjoyed often have more stable tenancies and lower crime problems than comparable complexes that are not organized. Managers who have initiated such efforts note these benefits:

- Lower turnover, leading to considerable savings.
- Less damage to property and lower repair bills.
- Reduced crime.
- A safer, more relaxed atmosphere for the tenants.
- A positive reputation for the complex, leading to higher quality applicants and, over time, increased property values.

## Key Elements

The key to effective cooperative community building is to have the property manager take the lead and make sure the efforts are ongoing. Community organizing that is run entirely by tenants may have less long-term stability, simply because it is the nature of rental housing that tenant turnover will occur and key organizers may move on. For this reason, having the manager keep the program going is an important part

of a successful program. Further, if management waits until the tenants are so fed up that they organize themselves, the relationship may turn sour from the start. If management takes a proactive role in helping tenants pull together for mutual benefit, the opportunity for a positive working relationship is great. Tips include:

1. **Clean house.** If you believe you have tenants who are involved in criminal behavior, resolve the issue before inviting tenants to a building-wide meeting. Your good tenants may be frightened to attend a meeting where they know problem tenants might show up. In addition, they may question your motivation if you appear to encourage them to meet with people involved in illegal activity. So before you organize, you may need to evict problem tenants and make sure that improved applicant screening procedures are in place. Until then, rely on informal communications with good tenants to help identify and address concerns.
2. **Make community activities a management priority.** Budget for the expenses and consider promotion of such activity a criterion for management evaluation. It is not an afterthought. It is not something that resident managers should “get around to” if there is time. Unless managers make community organizing a priority, it will not happen.
3. **Hold meetings/events quarterly.** Don’t expect major results from the first meeting, but do expect to see significant differences by the time the third or fourth is held.
4. **Meet in the common areas if possible.** While small meetings can be held in the manager’s office, a vacant unit, or, should a tenant volunteer, in a tenant’s apartment, more people will feel comfortable participating if they can meet on “neutral” territory. Also, if you can hold events in courtyards or other outdoor locations, you may have more room to structure special events for children in the same area.
5. **At each event, encourage people to meet each other.** Regardless of other specific plans for meetings, take basic steps that encourage people to meet each other. Simple steps done faithfully can make a big difference over time. At each event:
  - ▶ **Use name tags.** This simple step is important in helping to break down the walls of unfamiliarity for newcomers.
  - ▶ **Begin any formal meeting by having people introduce themselves by name.** The key is to start on equal footing for newcomers and old-timers alike. Making sure that each person introduces themselves helps newcomers feel welcomed.
  - ▶ **Allow time at each event for people to socialize.** Make sure that some of this time happens after the meeting agenda is underway. Once the event is underway, participants will have the shared experience of the meeting with which to start a conversation.
  - ▶ **Offer refreshments.** Whether it is as simple as coffee and pastries or as involved as a potluck or a summer barbecue, free food can attract many to a meeting who might not otherwise have attended.
  - ▶ **Include activities for children and teenagers, as well as for adults.** Getting children involved in games and other events will provide a positive experience for the children and help encourage parents to meet each other. Also, like adults, when children and teenagers get to know their resident manager better, they are more likely to share information. This is important because teenagers, in particular, may have information about a community problem of which the adults are unaware.
6. **Hold “theme” events and special meetings as appropriate.** There is a balance between holding a purely social event and a meeting for the purpose of addressing an agenda. The balance at each

meeting can vary, but it is important to provide some of both. At least one of the meetings held each year should be primarily for the purpose of celebration — a holiday party in the winter or a “know your neighbor” barbecue in the summer. Others can offer a time for socializing and a time for covering an agenda. Meeting agendas can be as varied as the types of apartments and people who populate them. In general meetings should:

- ▶ **Respond to issues that are a direct concern to a number of tenants.** If there are immediate concerns, such issues should take priority over other potential agenda items. If tenants are concerned about gang violence in the neighborhood, less pressing topics may seem irrelevant.
- ▶ **Provide new information about the local community.** This could take any number of forms. You might invite merchants from the area, fire fighters, police officers, members of neighborhood associations or other community groups, social workers, employment counselors, or any number of other people who could share useful information with tenants.

Also, remember the importance of keeping meeting agendas on track, interesting, and focused on tangible, measurable outcomes. If tenants feel that meetings rarely address the published agenda, interest will shrink quickly.

7. **Nurture a sense of shared responsibility.** While it is important for management to continue providing support for the community-building process, it should not be a one-way street. Leadership should be nurtured, and volunteers recruited at each meeting to assist with the next meeting, program, or event. The more residents experience the community-building process as a joint effort of management and residents, the more they will appreciate it. Promoting a sense of shared responsibility can be accomplished in many ways. Here are just a few tips:
  - ▶ **Ask for volunteers to serve on a “tenants’ council.”** The council could meet informally once a month to discuss issues of concern in the complex and to plan the upcoming community-wide events. Don’t be discouraged if only one or two people get involved initially. With success, more will join.
  - ▶ **Whenever possible, have tenants set the meeting agendas.** Whether it is through a tenant council or simply by collecting suggestions at community events, make sure tenants know they play a key role in defining the direction of community-building efforts.
  - ▶ **Give tenants a chance to comment on plans for the property.** Even the simplest issues can be turned into opportunities for community building. For example, if a fence is going to be built or replaced, before going ahead with the work, discuss the plans at a meeting and allow tenants to air concerns or suggestions. You may hear some new ideas that can make the end result more attractive. In those situations where you cannot act on a suggestion, you have the opportunity to explain your reasons to your tenants and at least have them experience a level of participation that they did not previously have. Along similar lines, by listening to tenant concerns, you may discover that a relatively simple adjustment in policy can result in a significant increase in overall tenant satisfaction.
8. **Pick projects that can succeed.** Don’t promise more than you can deliver. Make sure that easily-implemented changes are done promptly so that tenants can see the results. While it is important to take on the larger goals as well (such as getting rid of drug activity in the rest of the neighborhood), short-term results are needed to help tenants see that change is possible.
9. **Develop a communications system.** This can be as elaborate as quarterly or monthly newsletters, complete with updates from management, articles from tenants, advertisements from local merchants, and referrals to local social service agencies. Or it may be as simple as use of a centrally

located bulletin board where community announcements are posted. Whatever the process, the key lies in making sure that your tenants are aware of the information source and that they find it useful enough to actually read it.

**10. Implement basic crime prevention measures.** In addition to the general community-building techniques described, various traditional crime watch techniques can also be implemented. Apartment watch training should be provided to your involved tenants prior to getting underway. Contact a crime prevention officer in your area for more details. Crime prevention specialists can help facilitate the first apartment watch meeting and discuss the practices of local law enforcement. Examples include:

- ▶ **Make sure tenants have the manager’s phone number readily accessible, and that they know to call if they suspect illegal activity.** Of course, tenants should call 9-1-1 immediately if they witness a crime in progress or any life-threatening, emergency situation. They should also contact police non-emergency services to discuss illegal activity that is not immediate in nature. Encourage tenants to contact the manager *after* they have contacted 9-1-1, in the case of immediate and life-threatening situations, as well as to contact management any other time they suspect illegal activity in the complex. The sooner your tenants advise you of a problem, the more opportunity you have to solve it before the situation gets out of hand.
- ▶ **Encourage tenants to develop a list of phone numbers and e-mail addresses for each other.** By sharing contact information, tenants will be able to contact each other with concerns, as well as organize reporting of crime problems by multiple tenants. Note that sharing contact information among tenants should be done on a voluntary basis only; those who do not want to participate should not be required to do so.
- ▶ **Distribute a list of local resources.** The resource list should include numbers for police, fire, and medical emergency services (9-1-1 in most areas) as well as hotlines for local crime prevention, substance abuse problems, domestic violence assistance, employment assistance, and any number of other services and organizations that may be able to assist your tenants.
- ▶ **Teach crime awareness/crime prevention.** You can help your rental community become a safer one by making sure tenants have information about such issues as:
  - ✓ How to contact police, both emergency and non-emergency numbers.
  - ✓ Recognizing and reporting domestic violence and child abuse/neglect.
  - ✓ Burglary prevention.
  - ✓ “Street smarts” — how to walk, shop, bank, and drive with a reduced chance of becoming a crime victim.
  - ✓ How to spot the warning signs of illegal drug activity and where to report such activity.
- ▶ **Purchase a property engraver for each complex.** Encourage tenants to engrave their driver’s license number on items of value — computers, cameras, televisions, etc. Then post notices of the fact that tenants in the complex have marked their property for identification purposes. Burglars would rather steal property that can’t be traced.
- ▶ **Apply “crime prevention through environmental design” changes.** If tenants cannot see the problem, they cannot report it. The chapter on *Preparing the Property* covers environmental design approaches in detail. Essentially, it is important that lighting, landscaping, and building design combine to create an environment where drug dealers, burglars, and other criminals don’t want to be. Make it difficult to break in, close off escape routes, and make sure accessible areas can be easily observed by people throughout the community.

**11. Encourage nearby neighbors and apartment complexes to get involved.** Solving the whole problem may require encouraging similar steps in adjacent apartment complexes or making sure neighbors in nearby single-family homes also get involved. As a starting point, invite area neighbors to at least some of the community events held at the complex each year.

Many of the steps described in this chapter are not easy, and it is common for first-time organizers to become deeply discouraged when they discover, for example, how few people show up to the initial meetings that are called. Our main advice: Stick with it. The changes that these techniques can cause are very significant, but they happen only with repetition, over time.

# WARNING SIGNS OF DRUG ACTIVITY

*The sooner it is recognized, the faster it can be stopped.*

## COMPLAINTS WE HAVE HEARD:

“The neighbors tell me my tenants are dealing drugs. But I drove by three different times and didn’t see a thing.”

## ADVICE WE WERE GIVEN:

“You’ve got to give up being naïve. We could stop a lot more of it if more people knew what to look for.” — Narcotics detective

## The Signs

The following list describes signs of drug activity that either you or neighbors may observe. As the list will show, many indicators are visible at times when the landlord is not present. This is one reason why a partnership with trusted neighbors is important. Also, while some of the indicators are reasonably conclusive in and of themselves, others should be considered significant only if multiple factors are present.

This list is primarily targeted to occupant activity. For information on signs of dishonest *applicants*, see the chapter on *Applicant Screening*.

### **DEALING**

Dealing locations are like convenience stores; there is high customer traffic with each customer buying a small amount.

*Neighbors may observe:*

- **Heavy traffic.** Cars and pedestrians stopping at a home for only brief periods. Traffic may be cyclical, increasing on weekends or late at night, or minimal for a few weeks and then intense for a period of a few days, particularly paydays.
- **Exchanges of money.** Cash and packets traded through windows, mail slots, or under doorways.
- **Lack of familiarity.** Visitors appear to be acquaintances rather than friends.
- **People bring valuables into the unit.** Visitors regularly bring items such as televisions, bikes, appliances, computers, cameras, and leave empty-handed.
- **Odd car behavior.** Visitors may sit in the car for a while after leaving the residence or may leave one person in the car while the other visits. Visitors may also park around a corner or a few blocks away and approach on foot.
- **“Lookouts.”** Frequently these will be younger people who tend to hang around the rental during heavy traffic hours.
- **Regular activity at extremely late hours.** For example, frequent commotion between midnight and 4:00 a.m. on weeknights. (Both cocaine and methamphetamine are stimulants. Users tend to stay up at night.)
- **Various obvious signs.** This may include people exchanging small packets for cash, people using drugs while sitting in their cars, syringes left in common areas or on neighboring property, or other paraphernalia lying about.



*Landlords may observe:*

- **Failure to meet responsibilities.** Failure to pay utility bills or rent, failure to maintain the unit in appropriate condition, general damage to the property. Some dealers smoke or inject much of their profits. As they get more involved in the drugs, they are more likely to ignore bills, maintenance, and housekeeping.

### ***DISTRIBUTION***

Distributors are those who sell larger quantities of drugs to individual dealers or other, smaller distributors. They are the “wholesale” component, while dealers are the “retail” component. If distributors are not taking the drugs themselves, they can be difficult to identify. A combination of the following indicators may be significant:

- **Expensive vehicles.** Particularly when owned by people otherwise associated with a lower standard of living. Some distributors make it a practice to spend their money on items that are easily moved, so they might drive a \$50,000 car while renting a very inexpensive unit.
- **A tendency to make frequent late-night trips.** Many people work swing shifts or have other legitimate reasons to come and go at late hours. However, if you are seeing a number of other signs along with frequent late-night trips, this could be an indicator.
- **Secretive loading of vehicles.** Trucks, trailers, or cars being loaded and unloaded late at night in a hurried, clandestine manner. “Load and distribution houses” (most likely to be found in Border States) are essentially repackaging locations and involve moving large quantities of drugs.

### ***ILLEGAL MARIJUANA GROW OPERATIONS***

Illegal grow operations<sup>1</sup> are hard to identify from the street. They are more likely to be found in single-family residential units than in apartments. In addition to the general signs of excessive fortifications or overly paranoid behavior, other signs are listed below.

*Neighbors may observe:*

- **Electrical wiring that has been tampered with.** For example, evidence of residents bypassing a meter and hooking directly into power lines.
- **Powerful lights on all night in the attic or basement.** Growers will be using powerful lights to speed the development of the plants.

*Landlords may observe:*

- **A sudden jump in utility bills.** Grow operations require strong lighting.
- **A surprisingly high humidity level in the unit.** Grow operations require a lot of moisture. In addition to feeling the humidity, landlords may observe peeling paint or mildewed walls or carpet.
- **Rewiring efforts or bypassed circuitry.** Again, grow operations require a lot of electricity — some use 1,000-watt bulbs that require 220-volt circuits. The extra circuitry generally exceeds the power rating for the rental and can burn out the wiring, resulting in fires in some cases, or the need to rewire before you can rent the property again.

---

<sup>1</sup> In some states, medical or recreational marijuana is allowed, and some types of in-home growing are decriminalized. However, in most cases, landlords may still elect to forbid growing or smoking of marijuana, even where the activity is no longer considered illegal. If your state allows recreational or medical marijuana, verify any marijuana-related policy with a competent landlord-tenant attorney before implementing it.

- **Various obvious signs.** For example, basements or attics filled with plants, lights, and highly reflective material (e.g., tinfoil) to speed growing.

### **METH LABS**

Methamphetamine labs can do serious, and expensive, harm to property quickly. Once the operator has collected the chemicals and set up the equipment, it doesn't take long to cook the drugs. Depending on the method used, a batch can be "cooked" in as little as four hours. Clandestine labs have been set up in all manner of living quarters, from hotel rooms and RVs, to single-family rentals or apartment units. Lab operators favor units that are secluded. In rural settings it's barns or houses well away from other residences. In urban settings it might be houses with plenty of trees and shrubs blocking the views or apartment or hotel units that are well away from the easy view of management. However, while seclusion is preferred, clandestine labs have been found in virtually all types of rental units.

#### *Neighbors may observe:*

- **Odd chemical odors.** The smell of chemicals or solvents not typically associated with residential housing.
- **Chemical containers.** Chemical drums or other containers with their labels painted over.
- **Strong ammonia smell.** Sometimes similar to cat box odor. (This is associated with the amalgam process of methamphetamine production, which has fallen out of favor with meth cooks.)
- **Smoke breaks.** If other suspicious signs are present, people leaving the premises just long enough to smoke may also be an indicator. Ether, which is highly explosive, is used in meth production. Methamphetamine cooks need to get away from it before lighting up.

#### *Landlords may observe:*

- **Many empty containers of over-the-counter cold or allergy medicines.** Faster methods of cooking methamphetamine require the use of large quantities of over-the-counter cold medicines that contain the drug ephedrine. The average cold sufferer may leave one or two empty medicine containers in the trash. The presence of many such empty boxes, bottles, or blister packs is a warning sign.
- **A large number of matchbooks in the units.** Cooks may use hundreds, or even thousands, of matchbooks to get enough red phosphorus from their striker plates. As such, you may observe that someone has been purchasing matchbooks in surprisingly large quantities.
- **A dark red residue on countertops, coffee filters, or aluminum foil in the unit.** The red residue may be left from the use of red phosphorus in the manufacturing process. The cooks usually get the red phosphorus from the striker plates of matchbooks.
- **Strong ammonia/chemical odors.** A particularly strong cat box/ammonia smell within the house. May indicate usage of the amalgam process for methamphetamine production, though this process is infrequently used today. The odor of ether, chloroform, or other solvents may also be present.
- **Chemistry equipment.** The presence of flasks, beakers, and rubber tubing consistent with high school chemistry classes. Very few people practice chemistry as a hobby. If you see such articles, don't take it lightly.
- **A maroon-colored residue on aluminum sashes or other aluminum in the unit.** The ephedrine process of meth production does not give off the telltale ammonia odor. However the hydroiodic acid involved does eat metals and, in particular, leaves a maroon residue on aluminum.

- **Equipment and chemicals in unusual places or quantities.** Heat plates and propane torches in a bedroom or living room instead of stored in a garage or basement. Lye, iodine, solvents, gasoline additives, drain cleaners, or alcohol in unusual quantities or unusual places. Any one of these might not be significant, but a few together, especially in the presence of other signs, could be cause for concern.
- **Bottles or jugs used extensively for secondary purposes.** For example, milk jugs and screw-top beer bottles full of mysterious liquids.
- **Discarded chemistry equipment.** Garbage containing broken flasks, beakers, tubing, or other chemical paraphernalia.

**Note:** *If you have reason to believe there is a meth lab on your property, leave immediately, wash your face and hands, and call the narcotics division of your local law enforcement agency to report what you know. If you have reason to believe your exposure has been extensive, contact your doctor because some of the chemicals involved are highly toxic.*

### **GENERAL**

The following may apply to dealing, distribution, or manufacturing.

*Neighbors may observe:*

- **A drop in activity after police are called.** If activity stops after police have been called, but before they arrive, this may indicate usage of a radio scanner, monitoring local police radios.
- **Unusually strong fortification of the unit.** Blacked-out windows, window bars, extra deadbolts, surprising amounts spent on alarm systems. Grow operators and meth cooks, in particular, often emphasize fortifications; extra locks and thorough window coverings are typical.
- **Firearms in a context inconsistent with responsible ownership.** Responsible gun owners don't typically use the fact of their ownership to escalate community tensions or promote fear. If you are seeing behavior in relation to firearms that is not consistent with responsible ownership, take it seriously.

*Landlords may observe:*

- **A willingness to pay rent months in advance, particularly in cash.** If an applicant offers you six months' rent in advance, resist the urge to accept, and require the person to go through the application process. By accepting the cash without checking, you might have more money in the short run, but your rental may suffer damage, and you may also damage the livability of the neighborhood and the value of your long-term investment.
- **A tendency to pay in cash combined with a lack of visible means of support.** Some people simply don't like writing checks or making online payments, so cash payments by themselves certainly don't indicate illegal activity. However, if other signs are also noted, and there are large amounts of cash with no apparent source of income, get suspicious.
- **Unusual fortification of individual rooms.** For example, deadbolts or alarms on interior doors.
- **Willingness to install expensive exterior fortifications.** If your tenants offer to pay a surprising amount to install window bars and other exterior fortifications, they may be interested in more than prevention of the average burglary.
- **Presence of any obvious evidence.** Bags of white powder, syringes, marijuana plants, etc. Also note that very small plastic bags, the type that jewelry or beads are sometimes kept in, are not generally used in quantities by most people. The presence of such bags, combined with other factors, should cause suspicion.

- **Unusually sophisticated weigh scales.** The average home might have a food scale or a letter scale, perhaps accurate to an ounce. The scales typically used by drug dealers, distributors, and manufacturers are noticeably more sophisticated, accurate to gram weights and smaller. Of course, there are legitimate reasons to have such scales, so don't consider a scale by itself as an indicator.
- **Large amounts of tinfoil, baking soda, or electrical cords.** Tinfoil is used in grow operations and meth production. Baking soda is used in meth production and in the process of converting cocaine to crack. Electrical cords are used in meth labs and grow operations.

## The Drugs

While many illegal drugs are sold on the street today, the following are most common:

1. **Methamphetamine.** Methamphetamine is a stimulant. Nicknames include: meth, crank, speed, crystal, STP, and others. Meth is usually ingested, snorted, or injected. A more dangerous form of methamphetamine, "crystal meth" or "ice," can be smoked. "Pharmaceutical" grade meth is a dry, white crystalline powder. While some methamphetamine sold on the street is white, much of it is yellowish, or even brown, and is sometimes of the consistency of damp powdered sugar. The drug has a strong medicinal smell. It is often sold in tiny, sealable plastic bags.

Hard-core meth addicts get very little sleep and they look it. Chronic users and "cooks" — those who manufacture the drug — may have open sores on their skin, bad teeth, and generally appear unclean. Paranoid behavior combined with regular late-night activity are potential indicators. Occasional users may not show obvious signs.

Because of the toxic waste dangers associated with methamphetamine production, we have included an additional section on dealing with methamphetamine labs. For more information, refer to that section at the end of this chapter.

2. **Heroin.** A derivative of the opium poppy plant, heroin is a powerful pain killer, both emotionally and physically. Nicknames include brown sugar, Mexican tar, chiva, horse, smack, "H," and various others. Heroin is most commonly injected.

Tar heroin has the look of creosote off a telephone pole, or instant coffee melted with only a few drops of water. The drug has a strong vinegar smell. It is typically sold in small amounts, wrapped in tinfoil or plastic. Paraphernalia that might be observed include hypodermic needles with a brown liquid residue, spoons that are blackened on the bottom, and blackened cotton balls.

According to the National Institute on Drug Abuse ([www.drugabuse.gov](http://www.drugabuse.gov)) the rate of heroin use in the U.S., particularly among young adults, began a consistent year-over-year rise, starting in about 2007. This rise in heroin use appears associated with the increased use (and abuse) of prescription drugs that include related opioids such as OxyContin and Vicodin. Abusers of prescription drugs (a serious issue of its own) will sometimes transition to heroin for reasons of easier access or lower cost. The more recent trends in heroin abuse have also included a geographic move: The drug is no longer associated primarily with urban communities, but is becoming increasingly common in suburban and rural communities as well.

When heroin addicts are on the drug, they appear disconnected and sleepy. They can fade out, or even fall asleep, while having a conversation. Heroin addicts often don't care about very much but their next "fix," and their clothes and demeanor may reflect it. When they are not high, addicts can become quite aggressive. As with most needle users, you will rarely see a heroin user wearing a short-sleeved shirt.

- 3. Cocaine and Crack.** Cocaine is a stimulant. Nicknames include coke, nose candy, blow, snow, and a variety of others. Cocaine in its powder form is usually taken nasally (“snorted”). Less frequently, it is injected.

“Crack,” a derivative of cocaine, produces a more intense but shorter high. Among other nicknames, it is also known as “rock.” Crack is manufactured from cocaine and baking soda. The process required does not produce the toxic waste problems associated with methamphetamine production. Because crack delivers a high using less cocaine, it costs less per dose, making it particularly attractive to drug users with low incomes. Crack is typically smoked in small glass pipes.

Powdered cocaine has the look and consistency of baking soda and is often sold in small, folded paper packets. Crack has the look of a small piece of old, dried soap. Crack is often sold in tiny “Ziploc” bags, little glass vials, balloons, or even as is — with no container at all.

In general, signs of cocaine usage are not necessarily apparent to observers. Users might show a combination of the following: regular late-night activity (e.g., after midnight on weeknights), highly talkative behavior, paranoid behavior, constant sniffing or bloody noses (for intense users of powdered cocaine).

- 4. Cannabis.** Also known as marijuana, hash, ganja, weed, reefer, joint, “J,” “420,” skunk and many others. The drug is commonly smoked from a pipe or rolled in cigarette paper or sometimes eaten — alone or baked into foods. While cannabis is known most commonly for producing a mellow high, the type and power of the high varies significantly with the strength and strain of the drug, ranging from a mild mellowing sensation to what are essentially hallucinogenic experiences.

The marijuana grown today is far more powerful than the drug that became popular in the 1960s and 1970s. Growers use more sophisticated ways to control growth of the plants that result in higher output of the resin that contains THC, the ingredient that gives cannabis its potency. Today’s marijuana is often grown indoors to gain greater control over the crop and to prevent detection by competitors, animals, or law enforcement. It takes 90 to 180 days to bring the crops from seed to harvest.

Users generally appear disconnected and non-aggressive. The user’s eyes may also appear bloodshot or dilated. Marijuana is generally sold in plastic bags, or rolled in cigarette paper.

## If You Discover a Clandestine Lab

Because methamphetamine labs represent a potential health hazard greater than other types of drug activity, we have included this section to advise you on how to deal with the problem. This information is intended to help you through the initial period, immediately after discovering a meth lab on your property. For information about warning signs of methamphetamine labs and other drug activity, see the previous sections in this chapter.

### ***THE DANGER: TOXIC CHEMICALS IN UNPREDICTABLE SITUATIONS***

There is very little that is consistent or predictable about the safety level of a meth lab. Perhaps the only sure thing is that you will be better off if you leave the premises immediately. Consider:

- **Cleanliness is usually a low priority.** “Cooks” rarely pay attention to keeping the site clean or keeping dangerous chemicals away from household items. The chemicals are rarely stored in original containers. Often you will see plastic milk jugs, or screw-top beer bottles, containing unknown liquids. It is all too common to find bottles of lethal chemicals sitting open on the same table with the cook’s bowl of breakfast cereal or even next to a baby’s bottle or play toys.

- **Toxic dump sites are common.** As the glass cooking vessels become brittle with usage, they must be discarded. It is common to find small dump sites of contaminated broken glass, needles, and other paraphernalia on the grounds surrounding a meth lab, or even in a spare room.
- **The chemicals present vary from lab to lab.** While some chemicals can be found in any meth lab, others will vary. “Recipes” for cooking meth get handed around and each one has variations. So we cannot say with any certainty which combination of chemicals you will find in a lab you run across.
- **“Booby traps” are a possibility.** Other meth users and dealers may have an interest in stealing the product from a cook. Also, as drug usage increases, so does paranoia. Some cooks set booby traps to protect their product. A trap could be as innocent as a trip wire that sounds an alarm, or as lethal as a wire that pulls the trigger of a shotgun or causes the release of deadly chemical gases.
- **The risk of explosion and fire is high.** Ether, commonly used in some drug labs, is highly explosive. Its vapor can be ignited by the spark of a light switch. Under some conditions, a bottle could explode just by jarring it. Meth lab fires are generally the result of an ether explosion. The result can be destruction of the room, with the remainder of the structure in flames.
- **Health effects are unpredictable.** Before the law enforcement community learned of the dangers of meth labs, they walked into them without protective clothing and breathing apparatus. The results varied. In some cases officers experienced no ill effects or developed only “mild” symptoms such as intense headaches. In other cases, officers experienced burned lungs from breathing toxic vapors, burns on the skin from contact with various chemicals, and other more severe reactions.
- **Many toxic chemicals are involved.** The list of chemicals that have been found in methamphetamine labs is a long one. Some are standard household items, like baking soda. Others are extremely toxic or volatile like hydroiodic acid (it eats through metals), benzene (carcinogenic), ether (highly explosive), or even hydrogen cyanide (also used in gas chambers). For still others, like phenylacetic acid and phenyl-2-propanone, while some adverse health effects have been observed, little is known about the long-term consequences of exposure.

### **WHAT TO DO IF YOU FIND A LAB**

1. **Leave.** Because you will not know which chemicals are present, whether or not the place is booby-trapped, or how clean the operation is, *don’t stay around to figure it out*. Do not open any containers. Do not turn on, turn off, or unplug anything. Do not touch anything, much less put your hand where you cannot see what it is touching — among other hazards, by groping inside a drawer or a box, you could be stabbed by the sharp end of a hypodermic needle.

Also, if you are not sure you have discovered a clandestine lab, but think you may have, don’t stay to investigate. Make a mental note of what has made you suspicious and get out.

2. **Check your health and wash up.** As soon as possible after leaving the premises, wash your face and hands and check your physical symptoms. If you have concerns about symptoms you are experiencing, call your doctor, contact an emergency room, or call a poison control center for advice.

Even if you feel no adverse effects, as soon as is reasonably possible, change your clothes and take a shower. Whether or not you can smell them, the chemical dusts and vapors of an active meth lab can cling to your clothing the same way that cigarette smoke does. (In most cases, normal laundry cleaning — not dry cleaning — will decontaminate your clothes.)

3. **Alert your local police.** If the situation is one where immediate response can stop a threat to life or property, call 9-1-1. Otherwise, contact the narcotics unit of your local law enforcement agency or

your police department's non-emergency number. Because of the dangers associated with labs, such reports often receive priority and are investigated quickly. Typically, the law enforcement agency will coordinate with the local fire department's hazardous materials team to assist.

- 4. Arrange for cleanup.** Before you can rent the property again, you will need to decontaminate it. Regulations on cleanup vary significantly from state to state. Start by getting any appropriate information from the law enforcement and hazardous materials officials who dealt with your unit. Ask for suggestions on whom to contact in your area. Generally county or state health officials will need to be involved and will have information on methods for decontamination.

Also, if there are remaining issues to be addressed with your tenants, do so. However, when a meth lab is discovered, your tenants will typically have either already left or will no longer have any interest in possessing the unit. In other words, while there may be other issues to resolve, physical removal of tenants is usually not one of them.

Depending on the level of contamination present, cleanup may be as simple as a thorough cleaning of all surfaces and removal of absorbent materials (e.g., stuffed furniture and carpets), or as complex as replacing flooring or drywall. On very rare occasions demolition of the entire structure may be required. Again, contact your local health officials for details.

Because of the range of chemicals involved, and the differing levels of contamination possible, we cannot accurately predict the length of time involved to get a contaminated property back into use.

### ***HOW CAN THE COOKS LIVE THERE?***

If lab sites are so toxic, how can meth lab "cooks" live there? The short answer: Because they are willing to accept the risks of the toxic effects of the chemicals around them. Meth cooks are often addicted to the drug and are often under its influence during the cooking process. This makes them less aware and more tolerant of the environment, as well as more careless with the chemicals they use and more dangerous to those around them.

Meth cooks are frequently recognized by such signs as rotting teeth, open sores on the skin, and a variety of other health problems. Some of the chemicals may cause cancer; what often isn't known is how much exposure it takes and how long after exposure the cancer may begin. Essentially, meth cooks have volunteered for an uncontrolled experiment on the long-term health effects of the chemicals involved. Also, there are occasions when meth cooks are forced to leave as well. For example, reports of explosions and fires are among the more common ways for local police and fire fighters to discover a lab.

Finally, you face a different set of risks in a meth lab than do the cooks. The cooks know which compounds they are storing in the unmarked containers. They know where the more dangerous chemicals are located and how volatile their makeshift setup is likely to be. When you enter the premises, you have none of this information; without it you face a greater risk.

# CRISIS RESOLUTION

*Stop the problem before it gets worse.*

## COMPLAINTS WE HAVE HEARD:<sup>1</sup>

“The problem is these landlord-tenant laws don’t give us any room. The tenants have all the rights and we have hardly any. Our hands are tied.”

“The system works primarily for the tenant — for-cause evictions are very difficult to do. The judges bend over backward to help the tenant.”

## ADVICE WE WERE GIVEN:

“Serving eviction papers on drug house tenants is not the time to cut costs. Unless you already know the process, you are better off paying for a little legal advice before you serve the papers than for a lot of it afterwards.”

“Tell them to read a current copy of the landlord-tenant law. Too many landlords haven’t looked at it in years.”

## The Basics

Address problems quickly and fairly as soon as they come up. Know how to respond if a neighbor calls with a complaint. If eviction is required, do it efficiently. If you don’t know, ask a skilled attorney.

## Don’t Wait — Act

Effective property management includes early recognition of noncompliance and prompt response. Don’t wait for rumors of drug activity and don’t wait for official action against you or the property (e.g., warning letters, fines, closure, or forfeiture). *Prevention* is the most effective way to deal with illegal activity in a rental. Many tenants involved in criminal activity have histories of other noncompliant behavior that the landlord ignored. If you give the consistent message that you are committed to keeping the property up to code and appropriately used, your property will not become an enabling environment for illegal activity. The more common reasons why landlords put off taking action include:

- **Fear of the legal process.** Many landlords don’t take swift action because they are intimidated by the legal process. However, the penalty for indecision can be high. If you do not act, and then accept rent while knowing that a tenant is in noncompliance, you may compromise your ability to take any future action about the problem. Your position is strongest if you consistently apply the law whenever tenants are not in compliance with the rental agreement or your landlord-tenant laws.
- **Fear of damage to the rental.** Some landlords don’t act for fear the tenant will damage the rental. Unfortunately, such inaction generally makes the situation worse. Problem tenants may see your inaction as a sign of acceptance. You will lose what control you have over the renter’s noncompliant behavior; you will lose options to evict while allowing a renter to abuse your rights; and you will likely get a damaged rental anyway. If they are the type who will damage a rental, sooner or later they will.
- **Misplaced belief in one’s tenants.** While developing this manual, we heard this story, and similar ones, with considerable frequency: “The people *renting* the property aren’t dealing the drugs. We haven’t had any problems with them. The drug dealers are their friends who often stay at the property. So what do we do? The tenants aren’t making trouble; it’s these other people.” Ask yourself: Did your tenants contact you, or police, when the illegal activity first occurred? Or did they

---

<sup>1</sup> Note that some “complaints” contain inaccurate or incomplete assumptions about legal rights or procedure.



acknowledge the activity only after you received phone calls from upset neighbors or a warning from the police? Also: Is your “innocent” tenant breaking your rental agreement by having long-term guests or subtenants?

To be sure, tenants can be victimized by friends or relations; for those tenants who seek you out and ask for assistance, help as best you can. But be wary of stories you hear from tenants who don’t admit to problems until after you have received complaints from neighbors or police. Those who enable illegal activity on property they control may be held accountable for the behavior.

## The Secret to Good, Low-Cost Legal Help

If you are not familiar with the process for eviction, contact a skilled landlord-tenant attorney *before* you begin. By paying for a small amount of legal advice up front, many landlords have avoided having to pay for a lot of legal help down the road. The law may look simple to apply, but as any landlord (or tenant) who has lost in court can attest, it is more complicated than it seems. While researching this manual, we repeatedly heard from both landlords and legal experts that the vast majority of successful eviction defenses are won because of incorrect procedures by the landlord and not because the landlord’s case is shown to be without merit.

If you don’t know a good landlord-tenant attorney, find one. If you think you “can’t afford” an attorney, think again. Too often, out of fear of paying an attorney fee, landlords make mistakes in the eviction process that can cost them the equivalent of many months’ rent. Yet many evictions, *when done correctly*, are simple procedures that cost a fraction of a month’s rent in attorney’s fees.

Finding a good landlord-tenant attorney is relatively easy. Search directories for those local attorneys who list themselves as specialists under a subcategory such as “landlord and tenant.” Generally, you will find a very short list because few attorneys make landlord-tenant law a specialty.<sup>1</sup> Call at least three and interview them. Ask about how many evictions they do per month and how often they are in court on eviction matters. In our experience, the safest bets are those attorneys who handle many such cases per month; they see it as a major part of their practice, not a sideline that they advise on infrequently. Once you find attorneys who have the necessary experience, pick the one you feel most comfortable working with and ask that person to help.

## If a Neighbor Calls With a Complaint

If a neighbor calls to report suspicion of criminal activity (or any other dangerous or nuisance activity) at your rental, take these steps:

- 1. With the initial call, stay objective and ask for details.** Don’t be defensive and, equally, don’t jump to conclusions. Your goal is to get as much information as you can from the neighbor about what has been observed. You also want to avoid setting up an adversarial relationship — if it *is* illegal activity, you need to know about it.

Also, promise not to reveal the caller’s name to the tenant without permission (unless subpoenaed to do so). Even if you have difficulty believing what is being reported about your tenants, you do little or no harm by protecting their names. In contrast, if your disbelief leads you to treat a dangerous situation too casually and tell criminals the names of neighbors who call to complain, very serious harm could be the result. Ask the caller for:

<sup>1</sup> In some communities you may not find any attorneys listed as specialists in this type of law. In such a case, try contacting a local property management association for referrals or call a few local property management companies and find out who they use, then interview the attorneys to find the one you feel comfortable with.

- ▶ **A detailed description of what has been observed.**
- ▶ **A letter documenting what has been observed, sent to you and to your local law enforcement agency's narcotics division.** If you have Section 8 tenants, have a copy sent to the local Public Housing Agency also.
- ▶ **Name, address, and phone number, if willing to give it.** If neighbors don't know you, they may be unwilling to give you their names on the first call. This is one reason why we recommend you meet neighbors and trade phone numbers before a crisis occurs. Consider: If the only thing neighbors know about you is that you have rented to irresponsible or dangerous tenants, they will have reason to be cautious when they call.
- ▶ **Names of others you can call who could verify the complaint, or ask that they encourage other neighbors to contact you.** You will need more evidence than the phone call of a single neighbor to take meaningful action. Explaining this need may help further encourage the neighbor to ask others to call. Also, having multiple complaints can help protect the caller by taking the focus off of a single complainant as the "cause" of the activity being discovered.

A single call from one neighbor doesn't necessarily mean your tenants are doing anything illegal. However, a single call *is* justification to pursue the matter further.

2. **Find out more.** Go to other sources for additional information and assistance. Your goal is to collect enough information to verify any problems at the rental and then to take appropriate action.
  - ▶ **Get in touch with other neighbors.** Even if your tenant is running a high-volume dealing operation, it is likely that some neighbors will suspect nothing. Many people are unobservant or give their neighbors a very wide benefit of the doubt. However, while some neighbors may be unaware of the scope of the problem, it is also likely that others will have a lot to tell you.
  - ▶ **Contact police.** Get in touch with a district officer for your area and contact the narcotics division of your local law enforcement agency. Determine what, if anything, they have on record that can be revealed (see separate chapter on *The Role of Police* for details).
  - ▶ **Call a crime prevention specialist.** Many communities have police officers assigned to crime prevention work. Others hire civilians to perform the task. Start by calling your local law enforcement agency and asking for information about neighborhood crime prevention assistance. Reports from neighbors may have been called into local crime prevention staff. Crime prevention staff may also have additional information that can help you address the situation effectively.
  - ▶ **If you feel comfortable doing it, consider a property maintenance inspection.** Again, few tenants involved in serious illegal activity are model renters. Discovery of maintenance violations may provide sufficient basis for serving notices without having to pursue the more difficult route of developing a civil level of proof that dangerous criminal behavior has occurred.
3. **Once you've identified the problem, address it.** If you discover that your tenant's behavior is not related to dangerous, threatening, or illegal activity, contact the neighbor who called and do your best to clear up the matter. If you discover no illegal activity but strong examples of disturbing the neighbors' peace or other violations, don't let the problem continue; serve the appropriate notices. Likewise, if you become confident your property is being used for illegal activity or other dangerous behavior, take action. (If you discover that problems reported are related to domestic violence or child abuse, consider approaches that will most effectively accomplish the twin goals of stopping the harm to the neighborhood and providing appropriate support for the victims. It is especially important to

contact a competent attorney to address these types of situations.) The following are examples of options you might pursue. The specifics will be dependent on your local laws:

- ▶ **If the evidence allows it, serve a tenancy termination notice for the alleged criminal activity.** The type of notice will depend on your local law. For drug dealing and manufacturing many jurisdictions allow a very fast notice, such as an “immediate,” “24-hour,” or “3-day no cure” notice. (Such notices do not actually force eviction on such short notice. Rather, they “terminate” the rental agreement on short notice, which allows the landlord to start the process for seeking a court-ordered eviction that much more quickly.)

Keep in mind that, if your tenant wishes to fight in court, you will need to establish a civil, not criminal, level of proof that criminal activity has occurred. This is a lower level of proof than local law enforcement would need to get a conviction. Nevertheless, allegations of criminal or other dangerous activity should be made with care. Given the seriousness of the charge, always contact an attorney before proceeding with this option.

Note also that your failure to act if you have grounds for serving such a notice may also put you at risk. If your tenants act on a threat, or continue to carry out extreme behaviors that endanger the community, you could face legal action by harmed neighbors or by the local government for not taking action once you had knowledge of the problem.

- ▶ **If you have the option, consider a “no-cause” or “nonrenewal” notice.** In some rental situations, such as a month-to-month tenancy or at the expiration of a lease term, you may be able to terminate the rental agreement without giving a cause. This is not an option in every jurisdiction, but if it is in yours it can be a legal, less adversarial way to solve the problem.
- ▶ **Consider serving notice for other apparent causes.** “Cause” in this case could be disturbance of the neighbors’ peace, nonpayment of rent, or any other significant issue of noncompliance with the rental agreement or your landlord-tenant law that you have discovered recently. Again, if you have criminal activity, an inspection will likely reveal a failure to maintain the property as provided in the rental agreement, additional people living in the unit, or other noncompliant behavior. While the specifics vary by state, note that for-cause notices served for many types of less-serious noncompliant behavior may need to be “curable” (essentially, if the tenant can fix the problem in a legally-defined period of time, the tenant will be allowed to stay in the unit).
- ▶ **Consider mutual agreement to dissolve the lease.** A frequently overlooked method. Essentially, if both you and your tenant can agree that the tenant will move by a specific date, you may not need to pursue the court-ordered eviction process at all. In some instances this can be beneficial to both parties. Write the tenant a letter discussing the problem and offering whatever supporting evidence seems appropriate. Recommend dissolving the terms of the lease, thus allowing the tenant to search for other housing without going through the confrontation of a court-ordered eviction. If applicable, assure tenants who are receiving a rent subsidy that a mutual agreement to dissolve the lease will not threaten program eligibility.

Make sure the letter is evenhanded — present evidence, not accusations. Make no claims that you cannot support. *Have the letter reviewed by an attorney familiar with landlord-tenant law.* Done properly, this can be a useful way to resolve a problem to both your tenant’s and your own satisfaction without dealing with the court process. Done improperly this will cause more problems than it will solve. Don’t try this option without doing your homework first.

Finally, if you evict someone for criminal activity, *share the information.* Landlords who are screening tenants down the road may not find out about it unless the information is documented. For example, if the tenant received a rent subsidy of some type, make sure the program provider has the appropriate

information. Also, contact the screening company or credit reporting service you use and advise them of the circumstances; they may also be able to keep track of the information.

## How to Serve Notice

When a notice to terminate a lease or rental agreement is served, quite often the tenant moves out and the procedure is complete. However, in those cases where a tenant requests a trial, the details of the process will be analyzed. As one landlord puts it: “90% of the cases lost are not lost on the bottom-line issues, but on technicalities.” Another points out: “Even if you have police testimony that the tenants are dealing drugs, you *still* have to serve the notice correctly.”

Eviction options include a legal process that you must follow. In addition, the process may also be affected by the provisions of your rental agreement, Section 8, or other subsidized housing contract. Begin by reading your rental contract and landlord-tenant law. One of the best tools you can develop is a comfortable, working knowledge of the law. In any eviction, take the following steps:

1. **Start with the right form.** When available, use forms already developed for each eviction option. Forms that have been written and reviewed for consistency with state law can generally be purchased through property management associations or legal documents publishing companies. In some states, the form may be written right into the statute. You can, of course, have your attorney generate the appropriate notices as well.
2. **Fill it in correctly.** If it is a for-cause notice, you must cite the specific breach of landlord-tenant law or section of the rental agreement that the tenant has violated. In addition, briefly describe the tenant’s noncompliant behavior. You will need to have the correct timing of the notice recorded. There will be other elements to include. For example, if it is a Section 8 rental, you may need to note that a copy of the notice is being delivered to the local Public Housing Agency. If you are not experienced in filling out and servicing such notices, this would be the point to get legal assistance.
3. **Time it accurately.** Issues of timing vary significantly by state. Overall, it should be noted that cases can be lost because a landlord did not extend the notice period to allow for delivery time, did not allow sufficient time for a tenant to remedy a problem, or did not accurately note the timing of the process on the notice itself. Check landlord-tenant law, your rental agreement, and your Section 8 contract (if applicable) to make sure you are timing the notice properly.
4. **Serve it properly.** Again, check the law and your contracts to make sure the process is correct. Generally, placing the notice directly into the hands of a tenant whose name is on the rental agreement is allowable in any jurisdiction. Other types of legal delivery vary. In some areas all mailed notices must be by certified mail. In other areas only standard first-class mail may be used and a certified mail notice would be considered illegal. So don’t guess. Read the law, check with your attorney, and proceed from there.
5. **Don’t guess; get help.** As mentioned earlier, unless you are comfortable with the process, consult with an attorney *who is well experienced in landlord-tenant law* before you serve a rental termination notice. If you have criminal activity on your property, you already have a major problem. Now is not the time to cut corners in order to save money. Using the correct legal process could save you thousands in damages, penalties, and legal fees down the road.

## Levels of Evidence

An eviction trial is a civil proceeding. This means that civil levels of proof are typically all that are required to succeed. For example, in eviction court landlords have established a strong proof of criminal activity in a rental by providing the following:

- Credible testimony of neighbors who have observed related behavior (such as that described in the chapter on *Warning Signs of Drug Activity*).
- Their own testimony about additional signs that may have been observed on inspection of a unit.
- The subpoenaed testimony of a police officer who has made an undercover buy from a tenant or arrested a tenant for possession of drugs.

From a *criminal law* standpoint, this level of proof might not be enough for police to get a search warrant. But it can be enough to prove criminal behavior for a civil court. Of course, the actual level of proof required in your jurisdiction will be determined by a combination of local law, court precedents, the presiding judge, and the “trier of fact” (a judge or jury) who hears the case. For more on the issues of criminal versus civil law, see the following chapter on *The Role of Police*.

## The Court Process

The popular belief is that a “termination” notice is sufficient to force a tenant to move out by the date specified on the notice. In fact, the notice is just the first step. Technically, the landlord’s first notice to vacate means that, should the tenant not move out by the date specified, then the landlord may file suit to regain possession of the property. While many tenants will move out before the initial notice expires, if the tenants do not, the landlord will need to start a legal action with the local courts to regain possession of the property.

In cases where a tenant wishes to resist eviction, the tenant will be allowed to remain on the premises until a landlord has received a court judgment against the tenant. Then, if forced physical removal of the tenant is required, it will be done by a local law enforcement official — most commonly a sheriff or marshal. The specific procedure varies significantly by jurisdiction, as does the length of time required.

Perhaps the most compelling point we can make about the entire eviction process, from service of notice to arguing in court, is this: *Eviction is an expensive, time-consuming way to “screen” tenants.* You will save much heartache and considerable expense if you screen your tenants carefully before you rent to them, instead of discovering their drawbacks after you are already committed.

## If You Have a Problem with Neighboring Property

When chronic nuisance activity is present in a neighborhood, every affected person makes a conscious or unconscious choice about what kind of action to take. The choices are to move away, to do nothing and hope the problem will go away, or to take action to stop the problem. Doing nothing or moving away usually means the problem will remain and grow larger; somebody someday will have to cope with it. Taking action, especially when it involves many neighbors working together, can solve the problem and create a needed sense of community.

Many neighbors are under the impression that solutions to crime are the exclusive responsibility of police and the justice system, that there isn’t much an individual neighbor can do. Actually, there is a lot neighbors can do, even must do, in order to ensure they live in a safe and healthy community. Getting more involved in your neighborhood isn’t just a good idea; it is how our system of law and civic life was designed and the only way it can really work. With that in mind, the following is a list of proven community organizing techniques to help you begin.

- 1. Find others concerned about the problem and enlist their help.** As you consider the steps described below, keep in mind that multiple neighbors following the same course of action will magnify the credibility and effectiveness of each step. In particular, several neighbors calling a government agency

separately about the same problem will usually raise the seriousness of the problem in the eyes of the agency. Involvement of multiple neighbors also increases safety for everyone because retaliation is less likely to occur when perpetrators perceive that complaints are not all coming from a single person.

2. **Make sure police are informed in detail.** It doesn't matter how many police we have if people don't call and tell them where the crime is. Even if you have had the experience of calling without getting the results you expect, keep calling. As you also follow other recommendations of this section, keep working with police throughout the process. Establishing a connection with a particular officer who works the area regularly is often a key to success. Other strategies include:
  - ▶ **Report incidents when they occur.** Call 9-1-1 if it is an emergency or call police narcotics detectives, gang units, and other special enforcement units as appropriate. You may need to do some research to find out which part of what agency deals with a particular type of problem.
  - ▶ **Keep activity logs or diaries** about the address when disturbances are frequent, and encourage neighbors to do the same. Share copies of these logs with an officer, in person if possible.
  - ▶ **Encourage civil abatement action.** When speaking with enforcement officials, be aware that, in addition to criminal investigation, police may also have the option of using civil law to help solve a problem, such as fining the owner or closing property that is associated with illegal drug activity.
3. **Consider direct contact with the property owner.** Many activists contact the owner directly and ask for help in solving the problem. While police officers may do this for you, it is also an option available to any person directly. Understand that there may be a risk to your personal safety in contacting an irresponsible owner, so plan your approach carefully. In general, try a friendly, cooperative approach first; it usually works. If it doesn't, then move on to more adversarial tactics. Here are some tips for the friendly approach:
  - ▶ **Use tax records to find the owner.** Local property tax assessment records generally will identify who owns the property.
  - ▶ **Contact the owner.** It is amazing how often this simple step is never taken. Discuss the problem and ask for assistance with stopping it.
  - ▶ **Suggest this training.** If the property is a rental, consider delivering a copy of this manual and encourage the owner to attend a Landlord Training Program in your area.
  - ▶ **Describe events.** Provide the owner with specific descriptions of events: Answer the questions who, what, where, when, and how about each event.
  - ▶ **Give police references.** Give the property owner the names of officers who have been called to the address. (Names of specific officers are far more useful than general statements like "The police have been out frequently.")
  - ▶ **Help locate criminal records if appropriate.** Learn how to access criminal background information, or how the property owner can. For example, if an occupant has a criminal record in your county, the local court house should have records.
  - ▶ **Share activity logs.** Give copies of activity logs to the landlord if it appears the landlord will use them to support lease enforcement actions.
4. **Enlist the help of others.** If it becomes apparent that the problem will not get resolved without more effort, it may be time for more aggressive action. This may take a higher level of organization and structure for the neighborhood. Here are some approaches to apply more pressure:

- ▶ **Remind others to call.** After any action you take, call several other neighbors and ask them to consider doing the same thing, whether it is reporting an incident to police, calling the landlord, or speaking to a local official. Do *not* ask neighbors to call and repeat your report. Do ask neighbors to make an independent assessment of the problem you have observed and, if they also consider it a problem, to report it as well.
  - ▶ **Call the Public Housing Authority.** If the residents are receiving public housing assistance, contact the local Housing Authority and report the problems observed.
  - ▶ **Call code inspection.** Call your local building maintenance code enforcement department to report maintenance code violations. Maintenance codes address building structure, sanitation, maintenance, safety, and appearance (e.g., peeling paint or graffiti), as well as nuisance conditions such as abandoned cars, trash, noxious weeds, or other indicators of unapproved use or general neglect. Most properties with problem residents will have many violations of maintenance codes as well.
  - ▶ **Consider calling the mortgage holder.** Sometimes the holder of the mortgage on a property can take action if the property is not in compliance with local law. Generally, if a financial institution is holding a mortgage on real property, the name of the institution will be listed on the title records, kept by the local assessor's office.
  - ▶ **Write letters or e-mails.** All community members have the power to write to anyone — mayors, council members, chiefs of police, building inspectors, and others. Your written documentation can add credibility and legitimacy to a problem that has not received as much attention as required. The first letters should be to those in a position to take direct action: a police officer, code inspector or other person tasked with addressing problems like the one you are working on. Don't write letters to managerial or political authorities until you have given the "chain of command" a chance to work. Do write letters to such authorities if it becomes apparent that the help your neighborhood needs is not forthcoming. When necessary, follow up calls or letters with personal appointments.
5. **Two strategies of last resort.** Generally, these activities should be undertaken only by a well-organized group, and only when consistent, diligent work with police, neighbors, and city officials has made little or no progress.
- ▶ **Consider getting the media involved.** After making a concerted effort to get results through other means, discussing the problem with the media can be a way to focus more attention, and sometimes resources, on a problem. However, going to the media with your complaint before communicating clearly to the responsible organization can be counterproductive. It can cause justifiable resentment in public officials who feel blind-sided by the media attention on an issue about which they had no prior warning. Also, be aware that if the problem is associated with criminal drug or gang activity, attracting media attention that results in your being the featured interview subject can increase the risk to your personal safety.
  - ▶ **Start legal action against the property owner.** Neighbors harmed by a nuisance property can also pursue lawsuits directly. In the final analysis, even the most negligent property owners will take action when they fully realize it will cost more to ignore the problem than to stop it. The legal options vary by jurisdiction. In general, this is not an easy process to pursue and should be considered only as a last resort. The vast majority of neighborhood problems can be solved without having to go through the time and expense of legal action.

# THE ROLE OF POLICE

Build an effective partnership.

## COMPLAINTS WE HAVE HEARD:

“The problem is the police won’t get rid of these people when we call. We’ve had dealers operating in one unit for four months. The other tenants are constantly kept up by the activity — even as late as 2:00 or 3:00 in the morning on weeknights.”

“I called police about one of my properties. They wouldn’t even confirm that anyone suspected activity at the place. A month later they raided the house. Now I’m stuck with repair bills from the raid. If they had just told me what they knew, I could have done something.”

## ADVICE WE WERE GIVEN:

“In almost every case, when the police raid a drug house, there is a history of compliance violations *unrelated to the drug activity* for which an active landlord would have evicted the tenant.”

— Narcotics detective

## The Basics

Know how to work with the system to ensure rapid problem resolution. Have a working knowledge of how your local law enforcement agency deals with drug problems in residential neighborhoods.

## Defining the Roles: Landlords and Police

It is a common misconception that law enforcement agencies can evict tenants involved in illegal activity. In fact, only the landlord has the authority to evict; police do not. Police may arrest people for *criminal* activity. But arrest, by itself, has no bearing on a tenant’s right to possess your property.

Eviction, on the other hand, is a civil process. The landlord sues the tenant for possession of the property. Note the differences in level of proof required: Victory in civil court requires “a preponderance of evidence;” the scales must tip, even slightly, in your favor. Criminal conviction requires proof “beyond a reasonable doubt,” a much tougher standard. Therefore, you may find yourself in a position where you have enough evidence to *evict* your tenants, but the police do not have enough evidence to *arrest* them. Further, even if the police arrest your tenants, and a court convicts them, you still must evict them through a separate process or, upon release, they have the right to return to and occupy your property.

Many landlords are surprised to discover the degree of power they have to stop illegal activity at their property and thus remove the threat to the neighborhood. As one police captain put it:

“Even our ultimate action against a drug operation in a rental, the raid and arrest of the people inside, will not solve a landlord’s problem, because the tenants retain a legal right to occupy the property. It’s still the tenants’ home until they move out or the landlord evicts them. And, as is often the case, those people do not go to jail, or do not stay in jail long. It’s surprising, but the person with the most power to stop the impact of an individual drug house operation in a neighborhood is the property owner, the landlord. Ultimately [the landlord] can make the people not be there anymore. The police can’t do that.”

The only time law enforcement may get involved in eviction is to enforce the outcome of your civil proceeding. For example, when a court issues a judgment requiring a tenant to move out and the tenant refuses, the landlord may go to the sheriff (or other appropriate law enforcement agency) and request that the tenant be physically removed. But until that point, law enforcement may not get directly involved in the eviction process. However, police may be able to provide information or other support appropriate



to the situation, such as testifying at the trial, providing records of search warrant results, or standing by while you serve notice.

Again, criminal arrest and civil eviction are unrelated. The only connection being the possibility of subpoenaing an arresting officer or using conviction records as evidence in an eviction trial. No matter how serious a crime your tenants have committed, eviction remains your responsibility.

## What to Expect

Police officers are paid, and trained, to deal with dangerous criminal situations. They are experts in enforcing criminal law. They are not authorities in civil law. As such, if you have tenants involved in illegal activity, while you should inform police, do not make the common but inaccurate assumption that you can “turn the matter over to the authorities” and they will “take it from there.” Because landlord-tenant laws are enforced only by the parties in the relationship, when it comes to removal of a tenant, landlords *are* the “authorities.” With that in mind, you will get best results from police by providing any information you can for their criminal investigation, while requesting any supporting evidence you can use for your civil proceeding.

To get good cooperation, remember the rule of working with any bureaucracy: *The best results can be achieved by working one-on-one with the same contact.* Further, while this rule applies to working with any bureaucracy, it is especially important for working with a law enforcement agency where sharing information with the wrong person could ruin an investigation or even endanger an officer. If an officer doesn’t know you, the officer may be hesitant to share information about suspected activity at your rental.

Your best approach, therefore, is to make an appointment to speak with a narcotics officer in person or to call your local precinct and arrange to speak directly with an officer who patrols the district where your rental is located. There can be a huge difference between the type of information available through a single, anonymous phone call and the amount of assistance possible if you arrange an in-person meeting.

The type of assistance possible will vary with the situation, from advice about what to look for on your property, to documentation and testimony in your eviction proceeding. But remember that it is not the obligation of the police to collect information necessary for you to evict problem tenants. While you can get valuable assistance from police, don’t wait for police to develop a criminal case before taking action. If neighbors are complaining that you have criminal activity or other dangerous situations in your rental, investigate the problem and resolve it as quickly as possible (see the previous chapter on *Crisis Resolution*). Do not assume that the situation at your unit must be under control simply because the police have yet to serve a search warrant at the property.

## Closure and Forfeiture

Versions of laws are on the books nationwide that allow such actions as heavy fines against owners who allow drug manufacturing or sale on their property, closure of such property for specified time periods, or even forfeiture of property when the owner’s complicity with the crime can be established.

While it is valuable for you to be aware of the specific laws that affect your area, it is a characteristic of most that they are rarely used on properties that are actively managed. If you are screening your tenants well, enforcing your rental agreements, and in apartments, encouraging a sense of healthy community among your good tenants, it is unlikely that such laws will ever be used against you or your property.

# SECTION 8 HOUSING CHOICE VOUCHERS

## ADVICE WE WERE GIVEN:

“Few landlords realize it, but you can screen a subsidized applicant the same way you screen any applicant. Most don’t screen subsidized applicants for rental history — either because they don’t know they can, or because they are too excited about the guaranteed rent check.”

“For landlords the message is simple. Bottom line, if you screen your tenants, Section 8 is a very good program.” — A Section 8 Program Director

*The term “Section 8” refers to a number of federal subsidy programs that allow people of limited means to rent housing. The tenant pays a portion of the rent, while the federal government pays the rest. The Section 8 program is under the control of the U.S. Department of Housing and Urban Development (HUD) and administered locally by Public Housing Agencies (PHAs).*

## The Basics

Understand the legal and practical differences between publicly subsidized and private renting. Have the same success rate as can be expected with private rentals.

## Some Benefits

The most important benefit of participating in the Section 8 Housing Choice Voucher program is that, if done responsibly, it helps the entire community. Those landlords who meet their responsibilities and require Section 8 tenants to do the same provide a valuable service, by renting decent housing to good tenants who otherwise could not afford it. In addition to the satisfaction of serving the public good, landlords can enjoy additional direct benefits for their business:

1. **Reliable rent.** A large portion of the rent, and sometimes all of it, is guaranteed by the federal government. So, once the paperwork is processed, you’ll get the subsidy portion on time, every month. Also, assuming you screen your applicants responsibly, your tenants should be able to pay *their* portion on time since the amount is predetermined to be within their means.
2. **“Fair Market Rent.”** HUD and local Public Housing Agencies work to ensure that vouchers are sufficient to help the tenant meet the cost of renting in the area. For landlords who are not aware that higher rents are more typical, it may be a pleasant surprise to discover that fair market rent is higher than you have been charging. Those who are charging rates comparable to other nearby rentals will receive similar amounts under Section 8.

## Some Misconceptions

*Public Housing Agencies (PHAs) prescreen their participants along the same guidelines that a landlord should use.*

**False.** The PHA screens primarily for program eligibility (e.g., income level). It is up to the landlord to screen tenants: Make sure they can pay the remainder of the rent, check their rental record through previous landlords, and run all other checks the same way you would with a private renter. You are not only permitted to, you are expected to. You may turn down Section 8 applicants who do not meet your screening criteria, and accept those who do, just as you would with any other applicant. As one

program manager put it, “For landlords the message is simple. Bottom line, if you screen your tenants, as you should be doing anyway, Section 8 is a very good program.”

*Landlords who rent to Section 8 tenants must use the Public Housing Agency’s model lease.*

**False.** Revised HUD guidelines are designed to make it easier for the landlord to use the same lease that is used for nonsubsidized tenants. However, the landlord will generally be required to use an approved lease addendum, provided by the local housing agency that adds to and/or modifies some of the conditions of the lease that the landlord typically uses with nonsubsidized tenants. As should be obvious, it is important to read such paperwork before signing and to be aware of differences between the conditions of your Section 8 lease and/or lease addendum and the conditions under which you typically rent to non-subsidized tenants.

*Tenants on Section 8 cannot be evicted.*

**False.** This misconception arises primarily from a confusion about the types of notices that can be served on a subsidized tenant. While it is true that, during the initial term of the lease, a Section 8 lease will forbid the use of “no-cause” or “non-renewal” notices, in general, all “for-cause” notices still apply. So, for example, if a tenant is violating the terms of the lease or damaging the property, a landlord may serve the applicable for-cause notice as defined in the local landlord-tenant law. HUD regulations now permit landlords in many areas to use a lease that will permit “no-cause” terminations after the initial term of the lease. Check with your local PHA to see whether such an approach is available to you.

Section 8 participants are bound by the same state and local landlord-tenant laws that govern non-subsidized rental relationships. In theory, the only difference should be the phrasing of the lease. However, there *are* instances when evictions can be more complicated with Section 8 tenants. Your best approach, as with any eviction, is to speak with an experienced landlord-tenant attorney before starting the process.

# RESOURCES

Because many of the key resources available to landlords and property managers vary by city, county, and state, it is impractical to provide a resource list in a national manual. Therefore, the following are examples of the types of resources you may wish to use as you pursue your property management goals and suggestions for how to locate them.

## ***PROPERTY MANAGEMENT ASSOCIATIONS***

The service and type of support offered by each organization varies. Examples of services include: rental forms, continuing education, attorney referrals, answering landlord-tenant questions, legislative lobbying, running credit checks, monthly meetings to discuss topics of interest, and various other services. The level of service and ability to advise varies as well. Start with an online search for rental housing, apartment, multifamily, or landlord associations in your state. Note that some are associated with national organizations such as the National Apartment Association, the National Association of Home Builders, the National Association of Housing and Redevelopment Officials, the National Association of Residential Property Managers, the Institute of Real Estate Management, the National Multifamily Housing Council, and others.

## ***TENANT SCREENING SERVICES***

Screening companies that serve your area well are often best found by joining a local property management association and asking other members who they use. Select an experienced screening company that specializes in landlord-tenant services; that is, they are in the tenant screening business and are not simply selling aggregate online searches of otherwise publicly available data.

While credit reports are standard, other services vary and may include: providing records of courthouse eviction proceedings; tracking landlord complaints on problem tenants; search of public records for judgments, tax liens, or lawsuits; criminal background checks; employment verification; verification of address; and reference checking with the present and previous landlords. Your best bet is to contact a few different companies, interview them about their level of service (and fees), and check *their* references and reputations with other landlords.

## ***CRIME PREVENTION/APARTMENT WATCH***

For help in setting up an apartment watch in your complex, contact a crime prevention specialist at your local law enforcement agency and find out what types of assistance are available.

## ***COMMUNITY-BASED ORGANIZATIONS***

Methods of locating such organizations will vary. Begin by contacting your city or county's local agencies for citizen participation or community development. These types of non-profit organizations are generally involved in various community-building projects, from rehabilitating housing, to organizing neighbors, to providing a range of referral and support assistance for people in the area. Staff at some community-based organizations may be able to provide more in-depth information about specific neighborhood concerns than can citywide agencies.

## ***SECTION 8 HOUSING CHOICE VOUCHER PROGRAM***

Contact the Public Housing Agency in your area for answers to questions regarding the Section 8 program.

***LAWS AND ORDINANCES***

A basic Internet search can often lead you quickly to relevant information about state and local laws that impact your community. However, before relying on laws you find on the Internet, check the source; the websites of state legislatures and city and county governments are often more reliable than are third-party websites. Laws are also generally available through your local public library, your state legislature's information service, and directly from your local county and city governments.