

NARPM®
BROKER/OWNER RETREAT

Top 10 Ways to Get Sued

By Donna E. Hanbery, Esq.

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Hanbery & Turner, P.A.

33 South Sixth Street, Suite 4160

Minneapolis, MN 55402

(612) 340-9855

1. Be a Landlord

- Being a property owner or real property manager renting to residential tenants is not for sissies. Growing number of state, federal, and local laws apply.
- Good forms, procedures, consistency and professionalism can minimize claims.
- But this is a high risk area.
- Many of the riskiest areas, such as discriminatory rental practices, are not covered by standard liability policies.

2. Too Many People Talking - Texting - Email

- Having the tenant pick and choose between the manager and owner to “hear what s/he” wants to hear is risky.
- Best - keep one point of contact:
 - For screening, all communications, and repairs, maintenance and service.
 - Avoid “casual comments.”
 - Keep it professional. Tenants are customers - not friends.
 - Sloppy emails - text - everything you say can and will be held against you.
- Risk areas:
 - Owners wanting to do work on property to “save money.”
 - The owner who wants to be “big brother” - to “stop by” - “inspect” - check on tenant.
 - Occasional monitoring, checking the property from the curb, is good. But just “dropping by” is the same as stalking or snooping in the minds of most residential tenants.

3. Dealing With “Domestics.”

- Victims of “domestic violence” are considered a protected class (sex) by HUD. Also some state law protections.
- Expanding view of “sex discrimination” - under a disparate impact theory.
- Do not reject an applicant based on “too many domestics.”
- Be careful if charging for damages (i.e. kicked in door) or terminating a tenant due to “domestics.”
- The only “d word” should be disturbance.
- Try to do a trespass before termination.

4. Testing.

- Individual applicants (and their friends and advocates), residents, state and federal agencies, the Department of Justice, and advocacy organizations can “test” landlords to determine if your practices are fair or discriminatory.
- Be careful of phone inquiries.
- Importance of returning calls and promised.
- Take the time to deal with relay systems and deaf or hard of hearing callers.
- Beware of questions about accessibility, “companion animals” or “other people,” “other residents,” or “children,” the neighborhood.
- Testing can be by phone, email, or person.
- Beware of linguistic profiling (callers with accents).
- Are your email responses consistent?
- For showings and in person:
 - Be consistent.
 - Return calls.
 - Keep records.
 - Stay up-to-date on availability.
 - Be clear with applicants about when a unit is “available” and procedures for “holding” a unit.

5. Challenges With Children.

- Minor problems equal major expenses.
- Risk areas - occupancy standards. Anything less than two people per bedroom is suspect. For homes with dens, other rooms, keep in mind that “size” does count.
- Be careful with lease policies, rules, and communications.
- Problem communications:
 - “You must supervise your children at all times.”
 - Rules that limit what children can do without valid, objective basis.
 - Referring to children as “little monkeys,” “animals,” “brats,” etc.

6. Problems With Property.

- Different states have different requirements, definitions, for “abandoned” property.
- It is seldom safe to “toss” property.
- One man’s junk is another man’s jewels.
- Advance authorization (lease or rule provisions) allowing landlord to “throw” property left behind may not be valid.
- Attempt to get signed authorization to toss any personal property or debris left behind at time of move/checkout.
- When in doubt - take lots and lots and LOTS of photos.

7. Who’s the Boss?

- Make it clear to your service people, employees, or contractors, that they cannot make deals, agreements, or decisions on behalf of your company or the owner. That means do not sign ANYTHING (laundry rooms, lawn and snow, trash hauling, etc.)
- Do not give your “caretaker,” “handy-person,” the title of “Manager.”
- Standard lease should make it clear that no agreements except in writing.

- Standard lease and other communication should advise tenant of the name or title of the person or the entity that is the decision maker.
- Train staff to “kick things upstairs.”
- Do not make promises - even “may bes” to residents.

8. Educate Owners That State and Federal Fair Housing Laws can Mandate Exceptions for Persons With Disabilities.

- Disability discrimination cases have become the most common.
- Owners and managers are required to make reasonable accommodation in rules, policies, practices or service when accommodations are necessary to afford a disabled person equal opportunity to use and enjoy the dwelling.
- Reasonable modifications can be required where the disabled person, at his or her expense, is entitled to make reasonable modifications of existing premises and common areas.
- In certain cases the owner or manager can require the modification to be removed and the premises restored at the end of the tenancy.
- Do a disability law “101” case with your owner. You may want to reach out and include homeowner or condo association leadership. This can be a big liability area. EVERYONE KNOWS THEIR RIGHTS.

9. Screening is not Like Dating.

- You cannot lead several people on and pick your favorites.
- Renting is a business. Owners may pressure you to take multiple applications and let them “pick the best.”
- Need to set the bar, and be prepared to rent, on a first come, first serve basis, to persons that qualify.

9. Two Simple Words That can get you Sued.

- “You people” or “those people.”
- Sounds silly, but I have had three or four cases over the years where these phrases have been “quoted” as discriminatory references to other residents, other classes, or residents.
- Refer to people, and where possible children and guests, by name. Be careful of generalizations.

10. Questions you Should not ask.

- Some questions are just like “does this dress make me look fat?” - with the kind of questions that can get a person in trouble.
- Some explains of questions that have led to lawsuits:
 - Where are you from?
 - Any question that you do not routinely ask of all applicants.
 - Can I get you a cup of coffee? (Are you offering it to everyone?)
 - Would you like to go out? Tenants and dating do not mix.