

*2009 Landlord Conference  
October 28, 2009*

**Understanding Landlord/Tenant Law**

David Thomas, Deputy General Counsel discussed two important issues: (1) Security Deposits and (2) Mitigation of Damages.

He emphasized the importance of returning student-tenant deposits and what landlords can/cannot use of their tenant's deposit. If deductions are made from the Security Deposit a detailed written itemization along with the balance of the deposit must be returned to the tenant as provided for in the Utah Codes and the rental agreement "within 30 days after termination of their tenancy or within 15 days after receipt of the tenant's new mailing address, whichever is later." Sometimes student-tenants fail to provide a stamped self-addressed envelope to the landlord to return their deposits. If this occurs and you do not have any forwarding address information, landlords must not use the deposit nor apply it to any other charges. According to the Utah Statute of Limitation, landlords must keep the check until the student-tenant claims it or in a file for six (6) years.

Mitigation of damages is another issue to be considered by all landlords and managers. This requires landlords to do all they can to exercise fairness and good faith in resolving problems with students and their contracts. This applies to areas such as assigning rental spaces, assisting in selling a student-tenant's contract, and other issues dealing with disability and international students. If a case goes to arbitration or to court, the landlord will be questioned as to what they did in a commercially and reasonable fashion to mitigate the problem? If they fail to show fair and reasonable efforts to the question, the court will probably side with the student-tenant.

Another important discussion was the Graduation and Internship Clause. The contract allows students who are graduating or going on internships to be released from their contract with a 120-day notice. Landlords were encouraged to offer a 4, 8, or 12 month contract and the university would consider dropping the 120 day notice requirement. This would be in line with the University's effort of encouraging the students to complete their education as quick as possible without concern for a housing contract that could keep them here for months after their graduation.

**Helicopter Parents and Millennial Generation Discussion**

Hilary Davis of Aspen Ridge Management shared her experience on 'Helicopter Parents' and the Millennial Generation, which she learned from attending a landlord conference in Las Vegas. 'Helicopter Parents' is a term given to parents who tend to always hover over their college-aged children and assume their responsibility by doing everything for them. The questions are: How do you deal with these kinds of parents? Are they a challenge or an opportunity? Davis suggested eight (8) ways to have a better relationship with Helicopter Parents: (1) Co-market: they are valuable resources and landlords can get some of their best ideas from them (2) Provide ongoing information to them and engage personally with them (3) Communicate (4) Acknowledge and

understand their frustrations by showing what they say is valued and important (5) Don't assume anything (6) Landlords must know their role (7) Respond quickly to them (8) Listen. Landlords can connect and market to students through other means of communication technology such as: Facebook, MySpace, Website and Texting.

### **Physical Facilities Discussion**

This presentation covered "How to Information" on maintaining rental properties and keeping them in good condition. Good property maintenance builds business by keeping tenants happy. Landlords must establish a plan for cleaning and preventing maintenance problems. (See attached information). Simple routine preventive maintenance practices such as checking plumbing, heating and cooling systems, caulking, interior and exterior lighting and window screens can prevent complaints, overlooked damage and save a lot of money. Landlords can prevent mold by making sure there is no moisture in all areas of their property. Landlords must also routinely check carpets and furnishings. Carpet tiles are an option for easy, cheap and durable installation. In choosing furnishings, check the construction, springs and the upholstery for quality. Hire a good technician. Get to know your Maintenance Person and develop a trustful relationship where you can guarantee a job done right.

### **Q&A**

We discussed the Occupancy Survey and the Tenant Checklist. They were told that OCH will do the Tenant Checklist in Sep/Jan and the Occupancy Survey in Oct/Feb of each semester to prevent confusion. There have been some concerns from some landlords about the amount of time they have taken in gathering the information. It was suggested having OCH provide a list of the survey so they can collect the information at the time they sign-in students. This could easily be done by each facility by creating your own list of approved institutions and establish your own system for recording places.

Off-Campus Housing will continue to encourage students to be proactive if they have gaps with their housing contracts between Summer term and Fall semester to get their housing situation taking care of to avoid being homeless. Many facilities addressed this concern by allowing their incoming tenants to move in early. Their efforts were applauded. The concern still exists and each owner was asked to become part of the solution.

The Swine Flu was discussed. Owners had not experienced too many cases. OCH encouraged all present to become familiar with the symptoms and the preventive measures they could take. BYU has a link on their webpage ([www.flu.byu.edu](http://www.flu.byu.edu)).

Landlords must be aware of solicitor's scams who claim they have received permits from Provo City. They should not be allowed on your property.

Student tenants are responsible for their guests and should abide by the residential living standards which include visiting hours as specified in the rental agreement.