

MOPOA NEWSLETTER

Make Your Rental Real Estate Business a Success

February 2019

Inside this issue:

Letter from President	2-5
Calendar & Welcome New Members	7
Egress Explained	8
Welcome to the Early Bird Breakfast	9
How to Ensure Your Property is Appealing to Renters from Every Generation	10- 11
Some Thoughts on Forms	13
Landlord Tenant Act Quick Reference Sheet	15- 16
MOPOA Board Contacts	16
Properties for Sale	17
Membership benefits and membership form	19

LENDER'S NIGHT

The very popular Lender's Night is back for the February 11th meeting. Come and hear representative from various local banks talk.

Monday, February 11th, 2019
6:45 p.m.

Westside Conference Center
(Swanson School)
3534 S. 108th St. Omaha, NE

MOPOA Happy Hour Thursday, February 14th, 2019
Report In Pub 12100 West Center Road, Bel Air Plaza, North
Side, #204 5 p.m. to 7 p.m.

MOPOA Early Bird Breakfast Saturday, February 16th, 2019
Farmhouse Café, 84th & Grover. 7:00 a.m.





"LB 85 would mandate that the cities of Omaha and Lincoln adopt rental registration and inspection programs."

LETTER FROM THE PRESIDENT

By John C. Chatelain, President MOPOA

We appreciate all those who traveled to the Legislature to testify in the Urban Affairs Committee against LB 85 on January 22nd. LB 85 would mandate that the cities of Omaha and Lincoln adopt rental registration and inspection programs. Travel conditions were treacherous and the adversaries awaiting us were fierce.

Proponents of LB 85 were almost exclusively representatives of nonprofits, who operate on direct government funding and/or grants. The tenants who have been made the face of this movement are being put up to it. In other words, we have taxpayer funded nonprofits lobbying for the expansion of government.

We owe a debt of thanks to a **Mark Vondrasek**, a spokesman from a group he called "Tenants United". His presentation put a face on who the other side really is. This proud campaigner stated he wants to stamp out capitalism in Nebraska. He targeted **Dave Paladino** and our association as objects of his scorn.

Another help to our cause came from Omaha City Councilman, **Brinker Harding**, the head of the planning department, **David Fanslau**, and chief code inspector, **Scott Lane**, who all spoke in opposition to LB 85. They were convincing when they testified the City of Omaha is working on a solution and they want to make

sure it is done right.

There were many good comments from those in the industry. **Jerry Reimer** stated that requiring rental registration and inspections will do nothing to address the really bad landlords. They're ignoring the law now and will continue to disregard any future law.

Kennetta Wainwright identified herself as a tenant who wanted no part of a registration and inspection program. **Dennis Tierney** remarked he had been paying fees to the Council Bluffs' registration/inspection program for 13 years and during that time had only one inspection. The recent \$238,000.00 judgment against that city, obtained by attorney, **Rod Dahlquist**, should be a warning to any city contemplating such a program.

As usual, I had much more to say than my 3 minutes allowed. Attached is the presentation, which I delivered to the committee. I tried to dispel the notion that tenants are afraid to file 14/30 notices and request city code inspections, for which I received a mild rebuke from District 8 Senator, **Megan Hunt**. She offered no dissent to Mr. **Vondrasek's rant against the private sector**.

One point no one raised is, what if a tenant consciously chooses to rent a sub-standard house or apartment because it is cheaper. Assuming the tenant can find a landlord who is willing to

rent such a unit, is it permissible for the tenant to do so?

Other legislative bills awaiting hearings are 1) LB 433, which would make it easier for tenants to reacquire their security deposits back, 2) LB 434, which would change the 3 day notice for non-payment to 7 days, 3) LB 435, which would make it easier for a tenant to accuse the landlord of retaliation, 4) LB 395, which would allow a tenant who is a victim of domestic assault to get out of the lease, and 5) LB 396, which would repeal Neb. Rev. Stat. Section 76-1443. That statute provides, "No continuance shall be granted unless extraordinary cause be shown to the court, and then not unless the defendant applying therefor shall deposit with the clerk of the court payment of any rents that have accrued, or give an undertaking with sufficient surety therefore, and, in addition, deposit with the clerk such rental payments as accrue during the pendency of the suit". Repealing §76-1443 would encourage tenants to request long continuances of their eviction hearings, allowing them to continue living in the rental unit rent free. Watch for details including the date, time and location of hearings on these bills.

For the February 11th meeting we're bringing back the popular Lenders Night. Our members will have the opportunity to mingle with representatives of area banks and other institutions who lend money to landlords. Don't miss this great opportunity to connect.



=====

NEBRASKA LEGISLATURE URBAN AFFAIRS

Public Hearing on LB 85

January 22, 2019

John Chatelain, President

Metropolitan Omaha Property Owners
Association

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I currently serve as President of Metropolitan Omaha Property Owners Association, a group of approximately 500 independent rental property owners. It is estimated the members of our association control 10,000 to 20,000 rental units in the Omaha area. MOPOA also affiliates through the Statewide Property Owners Association with the Real Estate Owners and Managers Association of Lincoln, the Gage County Landlord association and other groups.

The vast majority of landlords are good stewards of their properties. It only makes sense we would take care of such valuable assets. Also, it only makes sense we would strive to have good relations with our tenants, because they are our customers. There is a place for government oversight in our industry but there is already ample regulation to protect the interests of the people involved. MOPOA and other Industry Groups oppose any form of involuntary Rental Rental Property Registration and Inspection Program. Creating a negative business climate for small business property owners is the wrong way to go about achieving increased protections for tenants. *Article continued on the next page. . .*

Letter from President Continued

While those proposing a landlord registry and inspection program have good intentions of trying to ensure public health and safety, mitigate blight, and abate nuisance and overcrowding through enforcement of building and health codes— research shows they fail to achieve their goal.

The Nebraska Apartment Association (NAA) researched the effectiveness of Mandatory Rental Housing Inspections and found that in practice, inspection programs have not been shown to effectively achieve the goal of improving housing quality. The downsides of a mandatory registration and inspection program like LB 85 include:

Increased fees for inspections that amount to a regressive tax that gets passed on to renters in the form of higher rent. A similar ordinance in Detroit raised rents by 25% to 50%. Increased regulations and fees would push rents above the level of affordability for low income people, creating more need for government housing and/or homelessness.

Increased rents will likely encourage activist groups to clamor for additional bad ideas such as rent control.

Smaller private landlords may become discouraged and simply convert rental properties to personal residences, reducing the rental housing supply and putting more stress on government housing.

Worse yet, if operating rental housing becomes unprofitable due to added regulations property owners may simply abandon properties, exacerbating neighborhood decline.

Unnecessary inspections will cause inconvenience to both the tenant and landlord, who will have to take time off from work to meet the inspector.

Administrative delays due to inspections may affect the ability to rent property in a timely manner.

Mandatory inspection programs tend to violate the constitutional rights of tenants to privacy and freedom from unreasonable searches and seizure. The U.S. Supreme Court has found that mandatory inspections lacking the permission of the tenant and conducted without a warrant are a violation of the Fourth Amendment to the U.S. Constitution.

Landlords cannot, by law, allow city inspectors to enter a tenant's property without the tenant's approval. Consequently, cities with rental registration and inspection programs have experienced serious problems with accessibility. Because they end up simply collecting the fees and not doing the work cities are vulnerable to litigation. I refer to a 2014 World Herald article about the La Vista rental registration and inspection program. Although the city had collected over \$107,000, in 2014 it had done just 43 inspections. Also be aware of the \$238,000.00 judgment obtained against Council Bluffs for not using the money collected in registration and inspection fees for their program.

LB 85 would be an unfunded mandate imposed upon municipalities. The City of Omaha estimates that there are about 79,000 rental properties in the city. Currently, there are nine inspectors. If mandatory rental registration and inspection is adopted, it is estimated Omaha would need around 80 inspectors. Fees collected from the landlords will not cover the entire cost.

LB 85 would do nothing to address deteriorated owner-occupied properties, commercial properties or properties owned by government agencies, which can have a deleterious effect on neighborhoods.

LB 85 would do nothing to address the situation in which tenants themselves are responsible for dilapidated and degraded living units. *Article continued on the next page. . .*

Letter from President Continued

The implementation of new procedures plus an increase in city resources funded by the taxpayer is the wrong way to go about finding a solution. Better, more positive solutions to landlord tenant issues include:

Encouraging good working relationships between tenants and landlords before a problem occurs so the parties can work out their differences directly without triangulation.

Utilizing the remedies provided for by the Nebraska Residential Landlord Tenant Act, such as the 14/30 notice itemizing things needing to be repaired.

Contacting city code enforcement, requesting an inspection of a rental unit, when necessary.

Encouraging more landlords to join and participate in the mission of groups like MOPOA, REOMA and other landlord groups. If there is no landlord association in your town, one can be started.



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Events of Interest

Monday Night Meeting:
February 11th, 2019

6:45 p.m. Meeting held at Westside Conference Center 3534 S. 108th St.

2nd Monday of Month Sept-May

Early Bird Breakfast:
Saturday, February 16th, 2019

7:00 a.m. Farm House, 84th & Grover

(Saturday after the MOPOA Monday Night meeting)

MOPOA Happy Hour:

Thursday, February 14th, 2019

5-7 p.m. Report In Pub 12100 West Center Road

(Thursdays after the Monthly Monday Night meeting)

NE Taxpayers for Freedom:

Wednesday, February 20th, 2019

6:30 p.m.

Millard Library 132nd St. and 1/2 mile So. of West Center Rd.

(3rd Wednesday of the month)

February 2019

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11 <i>Monday Night Meeting 6:45 p.m.</i>	12	13	14 <i>Happy Hour 5-7 p.m.</i>	15	16 <i>Early Bird Breakfast 7 a.m.</i>
17	18	19	20 <i>NE Taxpayers for Freedom 6:30 p.m.</i>	21	22	23
24	25	26	27	28		

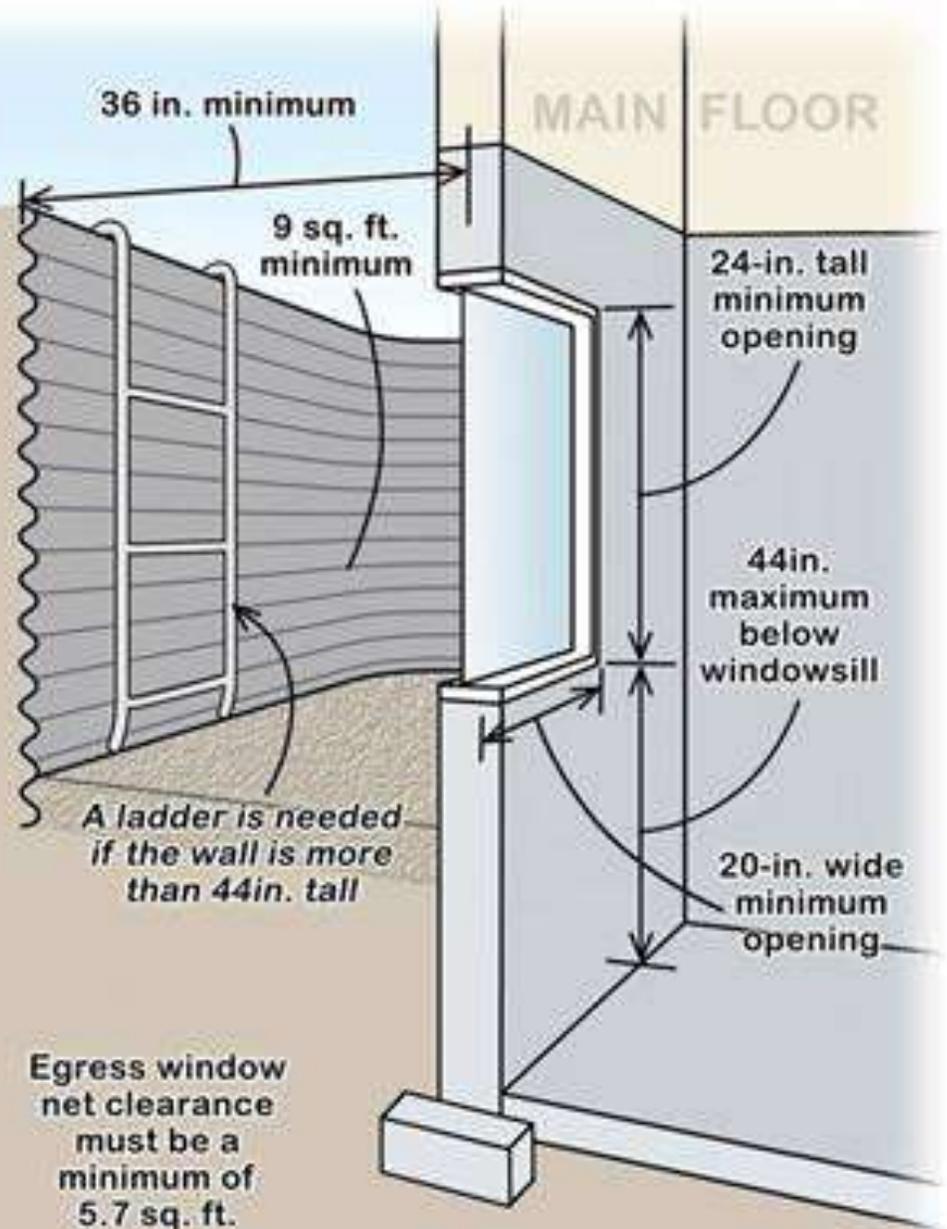
Welcome New MOPOA Member!

- *Jeff Malone
- *Walter Henderson
- *Tasha Abourezk
- *Kevin Schaben

Egress Explained:

An egress window is a window large enough, as defined by local business codes for entry or exit in case of an emergency. These are typically required when finishing a basement and are paired with an Egress Well with attached ladder or steps for easy escape.

The picture to the left is a visual explanation of what is needed. Be sure to check with specific building code rules if you are embarking on creating an egress window. Thanks to the MOPOA Member who shared this image!



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WELCOME TO THE EARLY BIRD BREAKFAST

By Jean Chatelain, MOPOA Member

MOPOA Early Bird Breakfast

Saturday,
February
16th, 2019

Farmhouse
Café, 84th &
Grover.

7:00 a.m.
Order off the
menu.

7:30 a.m.
meeting
starts

Another great breakfast at the Farmhouse Jan. 19th. About 20 people enjoyed good food and sharing information.

John Chatelain asked everyone about the survey that the mayor has on her website. Many had responded to it. Some were asking why the Mayor wanted a registration/inspection program. Good discussion of the pros and cons followed. Tuesday, Jan 22nd, LB 85 was going to be heard in the Legislature and a few members were driving to Lincoln to voice their thoughts.

A lawsuit will soon be filed regarding the Yale Apartments.

Doug Kagan from Nebraska Taxpayers for Freedom spoke on a proposal to lower our real estate taxes and after explain the proposal, he offered a petition for people to sign if they were inclined. If enough signatures are received, it will be voted on in the November 2020 election.

Several members have recently lost small claim cases. Judges don't seem to be that

friendly to the idea of the tenant paying for damages done to the home they rent. Careful screening and background checks are very important.

One member was explaining that a lot of refugees are coming to the United States and settling in Omaha. Groups sponsoring them are anti-landlord. Restore Dignity and OTOC work closely with these refugees to get them here but it appears no one is acclimating them to our culture.

We welcomed a new member and all agreed that landlording is still a good business.

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HOW TO ENSURE YOUR PROPERTY IS APPEALING TO RENTERS FROM EVERY GENERATION FROM LANDLORDOLOGY.COM

Written on October 31, 2018 by Sean Miller, updated on November 2, 2018

It's human nature to gravitate toward things we like.

So what you think makes a rental property attractive will probably appeal to other like-minded people. But you could be limiting your market by only doing that.

When you have a rental property, it's best to make that property appealing to the greatest number of potential renters—people that span all generations—not just millennials or baby boomers, for example.

Landlords need to appeal to renters across multiple generations.

The good news is that appealing to one type of renter doesn't have to mean alienating other demographics. Renters across every generation will likely be attracted to the same features in a rental.

The best way to start increasing the appeal of your rental units is by finding the commonalities most of your prospective tenants share. The 2017 "Renter Preferences Report" from the National Multifamily Housing Council is generated from survey responses by more than a quarter of a million apartment renters around the country, and based on the findings, here's how to ensure you're casting the widest possible net:

1. Focus on the essentials

For the most part, renters want the same basics. Air conditioning and access to high-speed internet made the top of the list, with 94 percent and 93 percent interest, respectively. In

fact, 92 percent of respondents said they wouldn't lease a unit without air conditioning. Many renters are also interested in reliable cell phone reception (92 percent), secure parking (88 percent), and secure access to amenities (84 percent).

By starting with these basic features that you know renters want, you can broaden your appeal and attract as many applicants as possible.

2. Adopt useful technologies

Adoption of home automation technology has exploded in recent years; approximately one-third of U.S. broadband households own at least one connected device. Home automation adoption among renters, however, has been below the national average because of the complexity of choosing, installing, and maintaining a home automation system in a rental home. Take this opportunity to install home automation solutions that increase renters' safety, savings, and convenience.

Smart locks prevent the need to rekey after each renter, and they improve safety by allowing renters or landlords to issue unique access codes that show them who was in a rental unit and when.

Exterior video cameras, such as doorbell or driveway cameras, let residents keep an eye on their home from the comfort of their couch ... or halfway around the world. Smart thermostats can improve savings by lowering energy costs when a unit is unoccupied. Water sensors can alert you to flooding before unwanted water has the chance to wreak havoc. Smart lights increase convenience and lower bills by turning off when rooms are vacant.

FROM LANDLORDOLOGY.COM CONTINUED

Voice assistants are appealing to all generations because they make it easy to control other smart home features.

3. Pick a good location

Location is key for any resident when they're choosing a new home. Suburbs no longer hold the same appeal they once did; renters of all ages want to be closer to the action, where restaurants and nightlife are convenient and walkable.

4. Provide maintenance-free living

People of all ages want to live maintenance-free. In fact, one of the biggest appeals of renting is that landlords take care of upkeep and maintenance—from unclogging toilets to repairing broken appliances. Landlords who can respond to maintenance requests quickly and efficiently will attract great tenants.

The bottom line

The rental market is growing and becoming increasingly multi-generational. Millennials may represent the majority of the rental market, but a winning strategy is one that increases the appeal of your properties for all renters, from Baby Boomers to Gen Z. Checking the essential boxes is the most important step you can take—from there, introduce the right technologies in the right locations, and you'll have renters lining up to view your property.

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Forms:

Having the right form for problems that arise with tenants can be very handy or downright necessary. Here are some situations and which form you might choose. If you aren't sure of a situation with a tenant and what to do, feel free to contact our MOPOA number 402-210-0273 or consult with an attorney.

- Tenant hasn't paid rent and it's past due: Send them a 3 Day Notice for Non-payment of rent.
- Car parked on the lawn, snow needs to be shoveled, grass cut, noise, trash, utilities shut off and other lease violations,: Send a 14/30 Day Notice. The resident has 14 days to remedy the issue or at the end of 30 days you can evict them. Did you know that residents can also issue a 14/30 day to the landlord ?
- They want to have a pet: Use a pet addendum
- Any unit older than 1978: You need to do proper Environmental Protection Agency disclosure of Lead Based Hazards
- Need a specific form, go to www.mopoa.com and log in, don't have a log in, email us for it at info@mopoa.com for it.

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Back to the Basics: The Landlord Tenant Act

Volunteer Lawyers Project
Nebraska State Bar Association

Landlord-Tenant Act



The Landlord-Tenant Act (the Act) sets forth the rights and duties of landlords and tenants who are renting residential living space located in the State of Nebraska. The Act also prohibits certain unfair terms in rental agreements.

The Act does not apply to living arrangements at institutions where occupancy is incidental to receiving another service, for example: staying at a hospital; boarding school; alcohol treatment facility; fraternity or sorority. The Act also does not apply to hotels, motels, mobile homes or farms.

What is a lease?

A lease is the written contract between a landlord and tenant that spells out the terms and conditions for renting property. If you sign a lease you agree to its terms and conditions and are legally bound to the obligations contained therein.

The terms of a rental agreement should always be committed to a writing so that every person's obligations are clearly spelled out and misunderstandings are avoided. Before you enter into that handshake-deal, be advised: proving the terms of an oral agreement will be difficult if there is ever a disagreement and parties wind up in court.

Always read your lease in its entirety to make sure you know the full extent of what is being agreed to. Do not rely on promises made by a landlord that are not written down and included in your lease. Make sure to always keep a copy of your lease.

What terms should be included in a lease?

All leases should include the following basic information and terms:

- the address of the property being rented
- the name and address of the landlord
- the names of all occupants allowed to reside at the property
- the amount charged for rent, late fees and security deposits
- the date rent is to be paid each month (otherwise rent is due on the first of each month)
- the initial term of the lease (otherwise leases run on a month-to-month basis)
- the notice required to end the lease (30 days advance notice on a month-to-month lease)
- which party is responsible for paying for electric, gas and water utility
- which party is responsible for repairs and maintenance items

What cannot be included in a lease?

Nebraska's Residential Landlord Tenant Act gives tenants certain rights that cannot be waived, contracted away or given up. It doesn't matter what the lease says, some terms are unfair and are not legally enforceable. A lease may not require a tenant to:

- waive any of his rights or remedies under the Act
- 'confess judgment' and give up the right to defend against a lawsuit
- agree to pay anyone's attorney's fees; or
- limit a landlord's liability for active and actionable negligence (i.e. carelessness)

What are a tenant's rights?

Exclusive Possession

A tenant has the right to live in and occupy the leased premises to the exclusion of all others. Once a landlord has signed a lease and accepted a security deposit from a tenant he is legally bound to deliver up possession of the premises to the tenant on the 'move in' date as found in parties' rental agreement. A landlord is not free to cancel a rental agreement if someone else offers to pay more money to rent the same space. Similarly, a landlord may not decide to move his mother in law into part of your leased space and tell you to 'take it or leave it'.

Safe Housing Fit for Habitation

Every residential tenant has the right to a house or apartment that is safe to live in and fit for habitation. The Nebraska Landlord-Tenant Act requires landlords to comply with the community's minimum housing codes concerning health and safety. Once a landlord receives written or actual notice of a defect materially affecting health and safety he is under an obligation to substantially comply with applicable minimum housing codes in order to correct the problem.

Who must maintain the property?

A landlord with actual or written notice has a duty to follow minimum housing codes materially affecting health and safety, make repairs to keep the premises in a fit and habitable condition, keep any common areas clean and safe, and keep mechanical systems (i.e. electrical, plumbing, and HVAC) in good working order.

The responsibility for specified repairs, maintenance tasks, and alterations may be delegated to a tenant only by written agreement. When renting a single-family house, this 'agreement' may be in the lease itself. In all other cases, such as when renting an apartment, any agreement requiring a tenant to perform specified repairs or other improvements must be in a separate writing signed by landlord and tenant. A landlord may not use these agreements to evade his obligations under the Act.

What is a 14 Day Notice?

If maintenance issues that materially affect your health and safety are ignored, the proper course of action is to mail your landlord a 14 Day Notice. A 14 Day Notice is a letter that describes the unsafe condition and gives formal notice that you are terminating the rental agreement in 30 days unless the condition is fixed within 14 days. If 14 days runs and the safety issue is not corrected, a tenant may end his lease and move out on the date designated in the notice (as long as the designated move out date is at least 30 days from the date notice was received).

What are a landlord's rights?

Freedom to choose his own terms and conditions

A landlord is free to rent out his property at a price and on terms of his own choosing subject to the limitations of the Act. A landlord has the right to receive rent, receive reimbursement for damage to the property over normal wear and tear, and establish terms and conditions governing the tenant's conduct.

Reasonable entry

Upon one day's advance notice, a landlord may enter a leased residence to perform an inspection, make necessary repairs and improvements, or supply necessary services. A landlord may also enter a leased residence for the legitimate business purpose of showing the dwelling to a potential buyer, mortgage lender, future tenant, handyman or contractor.

Except in cases where an emergency exists, a landlord is required to give at least one day's advance notice before entering a tenant's house or apartment and may only enter during reasonable hours. A landlord may not abuse his right of access, for example, to harass a tenant; and, a tenant may not unreasonably withhold his consent for the landlord to enter the premises for a legitimate business purpose.

What is a 3 Day Notice?

To evict a tenant for nonpayment of rent, a landlord must first mail or hand deliver to the tenant written notice informing of the delinquent rental balance and of the landlord's intention to terminate the rental agreement if rent is not paid within three days after service of notice. A landlord must accept payment from a tenant that is made in compliance with the notice. A landlord is under no duty to accept a partial payment or a payment made past the three day time period specified in the notice.

Prohibited Actions - retaliation, utility shut-off, self-help

A landlord may not retaliate against a tenant who has complained to code enforcement about the condition of the premises by increasing rent or decreasing services.

A landlord may not shut-off electric, gas, water or other essential services to the tenant, nor may he attempt to recover possession of a dwelling unit by interrupting such services.

A landlord may not use self-help and lock out a tenant who has not paid rent. A court order of eviction is required before a tenant can lawfully be forced to move.

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Security Deposits

A landlord may require a tenant to pay a security deposit equal to (but not greater than) one month's rent. A landlord may additionally require payment of a pet deposit equal to (but not greater than) twenty-five percent of one month's rent.

When a lease ends, a landlord may apply the deposit towards unpaid rent and any damage to the premises over normal wear and tear. Upon written demand, a tenant has a right to receive, within 14 days, an itemization of any costs that were deducted from his deposit and a refund of any balance.

Rent Increases

A landlord may not raise the amount of rent charged before the specified term of a written lease ends. For example, a one year lease locks in the amount a tenant may be charged for rent for twelve months.

Once an initial lease term runs, a lease runs on a month-to-month basis by operation of law until a new lease is signed. When a lease runs on a month-to-month basis, a landlord must give a tenant at least 30 day's advance notice that rent will increase. As long as proper notice is given, a landlord may increase rent in an amount of his own choosing.

If you do not agree to an increase in rent, your only option is to give your landlord a 30 Day Notice and move out. A month-to-month lease is terminated by giving your landlord written notice at least 30 days in advance of a new monthly term that you are ending your lease. (Unless otherwise specified, a monthly term starts on the first day of the month, i.e. the day rent is due.)

What happens if I move out before my lease runs?

Moving out prior to the expiration of a lease agreement will not absolve you of your responsibility to pay rent until the space is re-rented or the remaining months run. When a tenant moves out early, a landlord is obligated to mitigate his damages and take steps to lease the premises to new prospective tenants.

Does notice have to be in writing?

To prevent misunderstandings all notices should be in writing and clearly dated with a copy kept for your safekeeping. Certain notices must be in writing: any notice to pay rent, make necessary repairs, or to end a lease must be in writing to be effective.

The information in this brochure is for educational purposes only. It is not legal advice or a substitute for legal advice by a lawyer. If you want legal advice, you should contact a lawyer licensed to practice law in Nebraska.

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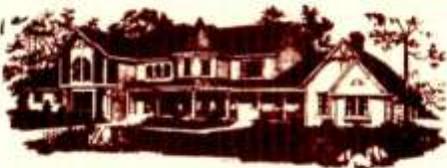
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- Discounted Services: To Tenant Data—discounted cost to MOPOA members . www.tenantdata.com 402-934-0088.
- Our educational organization has 450 plus memberships, representing around 1,000 persons and businesses active in the rental real estate field. We are dedicated to increasing the professionalism of the rental business through education.
- New Member Forms Packet, which includes a Lease Agreement and a Three Day Notice. The Tenant Data tenant application and EPA Lead Disclosure and pamphlet and the 3rd party notices from OPPD and MUD, Fair Housing Rules, and NE Landlord/Tenant Act Brochure and more, so you have all the important forms in one packet.
- A Monthly Meeting (Sept-May) is held which is both informative and educational. We will strive to keep our members up to date on matters that affect us in the rental property business. Second Monday of the month Sept-May. Westside Community Center at 3534 S. 108th St. at 6:45 p.m.
- A Monthly Early Bird Breakfast Meeting is held year round on the Saturday following the Monday night meeting. 7:00 a.m. Monthly Happy Hour on the Thursday after the Monday Night Meeting. These are great times to learn from and network with other landlords.
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