

Landlord Liability for Criminal Activity

A recent Texas court decision provides some guidance as to the potential for a landlord's liability due to criminal activity near his or her rental property.

This case involved a development with 10 four-plex units. The landlord sued in this matter owned two of these units.

The plaintiff's son attended a party in one of the apartments not owned by the landlord but near his property. It was never established if the individual was invited to the party but, nevertheless, the young man was stabbed to death near the defendant's apartments.

The victim's parents sued the landlord for \$2 million, claiming he knew or should have known that the neighborhood was notorious for criminal activity. They also charged that the landlord should have warned "the public," including their son, about the alleged danger and provided adequate security such as lighting, access control devices and security guards.

The local police chief testified that the community was in a low-to-moderate crime area and the development itself experienced "average" criminal activity for a multifamily property. The fatal stabbing was the first-ever violent crime in the surrounding neighborhood. He further stated his officers had yet to respond to domestic disputes, quarrels between neighbors or burglaries in that immediate area.

The landlord argued he had no duty to prevent the stabbing and, more importantly, no way to foresee that the incident would occur.

The Appeals Court eventually ruled in the landlord's favor. Said the court, "Whatever duty a lessor may have to protect persons injured on the leased premises against the criminal acts of third parties, that duty does not arise in the absence of a foreseeable risk of harm. "

In this case, the victim's parents could not establish that there was any specific evidence of prior crimes on or near the premises, which would have raised the issue of foreseeability on the part of the landlord.

The court concluded that the landlord did not have to protect others against unforeseeable criminal acts by people who were not under the supervision and control of the landlord.

Even though the justices ruled for the defendant in this case, it still left open the possibility of liability for a landlord in a situation where there is evidence of previous crimes on or around a property and/or reasonable to expect future criminal activity.

In such scenarios, a property owner or manager should implement adequate security measures. Worth considering the Crime Free Multi-Housing Program.

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