

Landlords Should Inform Residents of Criminal Acts

A recent case in Georgia shows a court may hold a property liable if it fails to take steps to protect residents from reasonably foreseeable criminal acts.

In this case, an individual shot a resident while he was sitting on a bench outside his apartment building. He was on his way out to purchase cigarettes and began talking with another renter. They noticed a person walking past them and looking at them in a strange manner. The individual approached the residents, inquired about a person living at the property and, when one resident answered “no” to the question, called the person a liar and shot him.

The renter sued the property claiming it failed to provide reasonable safety and security measures to protect him from third-party criminal acts. The trial judge dismissed the case.

On appeal, the appellate court restated that a landlord has a duty to protect residents against criminal acts if he or she has reason to anticipate them. The courts base this on the landlord’s prior experience with substantially similar types of crimes in the area. While crimes do not need to be identical, they must be sufficiently similar so that management notices the dangerous condition.

The resident presented evidence of 64 police reports in the area within the last two years. However, he could not show that the property was aware of the incidents aside from five involving attacks on its security guards.

Although none of these incidents involved firearms or serious injuries, the court found that the community was aware of the problem through the actions of its security guards. Other evidence included an increase in parking lot surveillance in response to possible automobile break-ins.

The court found that the property was aware of the dangerous condition and had a duty to protect residents from it. However, it agreed with the earlier court decision to dismiss the case. The renter admitted he knew of the dangers of sitting on the bench at night and only felt safe sitting there during the day. The court stated the resident failed to exercise ordinary care.

While this case did not result in a judgement against the landlord, the court might have rendered an opposite decision had the facts been slightly different. For example, if the victim was a new resident, guest of a renter or anyone else without knowledge of criminal activity in the area, it would be difficult for a landlord to prove his or her case if he or she has knowledge of the illegal activity.

By Scott M. Clark, Esq.

3008 N. 44th Street, Phoenix, AZ 85018

602.957.7877

sclark@scottclarklaw.com

<http://www.scottclarklaw.com>

August 2000 / Apartment News