

## SOCIAL MEDIA POLICY - A MUST

In 2009 and 2010 companies saw exponential growth in social marketing – with Twitter usage alone increasing more than 1000%. With most consumers now more likely to be obtaining information about products, services, people and – yes, housing – through the Internet than any other sources, companies cannot afford to ignore social media sites for attracting and retaining tenants.

The downside is that while social media and internet advertising both provide new avenues for reaching out to current and prospective residents in a way that would have been impossible even five years ago, they both come with their own pitfalls. Handled carelessly these pitfalls can create costly pratfalls for property management companies.

Success in this area requires companies to make conscious decisions about what kinds of social media they want to use and how they want to control their messages. Companies that want to take advantage of the opportunities provided through social media need to establish policies that enable them to control their own messages and limit their legal liability. Among other things properties should consider:

What kinds of social media do you want to invest in? There are web pages and blogs, Twitter, Wikis, UTube, media like Facebook and MySpace and other interactive sites. What media you use can have consequences for content and focus. Interactive sites are great for real time interaction with tenants and prospects, unless your problem resident decides to “friend” your property on Facebook and let everyone in cyber land know how poorly you responded to her requests for maintenance. On the other hand, if she is using your Facebook page you have a better chance of controlling the message – and deleting negative comments – than if you leave her no where to post but on [problemapartments.com](http://problemapartments.com).

Who will control the information that is provided? Most companies want to designate a social media director who can screen what the company puts out on its own web pages and social media sites. But what if your up and coming manager just happens to have delightful pictures of tenants having a wonderful time at a luau party celebrating the summer solstice? Or your property is offering incredible concessions for one week only? Should managers have the opportunity to get the information out while it is fresh? What if a prospective tenant posts a query to your MySpace page to ask about the color schemes in your three-bedroom apartments? Is responding to that inquiry something that can be delegated – and how do you draw the line?

Who owns the information that you post on your social media page? As a general rule private individuals have the right to control their own images, so if you post a picture of happy time Tim taking a quick dip in the pool he could become upset

about your misappropriation of his image without his written consent. If his boss sees the picture and realizes it was taken on the day that Tim called in reporting a horrible case of the 'flu, things get worse yet.

Can you control what your employees post on their own social media sites? Companies walk a fine line when they start controlling what their employees say and do when they are not at work. Nobody wants to be the Swiss banker that required its employees – on pain of termination – to wear nothing but flesh colored undergarments. On the other hand, employees are the public face of your company and what they say and do on their own social media sites has clear business and legal implications for how your company will be viewed by current and prospective residents. Although there are certainly limits beyond which companies may not control the private musings of their employees, those limits are not infinite.

For example, the National Labor Relations Board (NLRB) has held that employees who are discussing their working conditions online may be engaging in protected conduct, even if the employer is not unionized, as long as their discussion falls within what the NLRB calls “collective action,” directed at improving the working conditions of employees in general. Under this standard the employees may be able to take their grievances public without negative consequence to their employment. If there is no collective action, however, and your disgruntled employee is publishing comments that negatively impact your company’s standing in the community, there may be reason to engage in disciplinary action against the employee – even if the message is posted after hours and on the employee’s private Twitter account.

How do you respond if your frustrated employee decides to publicly vent about negative interactions with members of groups protected by fair housing laws? The Arizona Attorney General’s Office and HUD routinely check social media outlets for evidence reflecting bias in advertising and treatment of protected groups and these negative comments can create legal liability for you even if your employee was expressing her own opinion in media that you do not control. What do you do about that?

What is a company to do?

Recent figures show that only about 21% of companies in the United States currently have any kind of social media policy and a smaller percentage have effective policies that accurately reflect the current state of the law.

At the Law Office of Scott Clark we strongly recommend that our clients establish effective social media policies to decrease their potential legal liability and to ensure that their employees know how the company expects its image to be communicated. We can work with you to create an individualized policy that

reflects your own specialized needs before someone misappropriates your public image in cyberspace.