

Standardize Your Rules for Signing and Renewing Leases

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There are many tasks necessary to properly manage residential rental property. The truth be told, there are more categories of tasks than space necessary to print them in this column. Regardless of how well you are running your residential rental property, there are always seemingly minor aspects of the greater task of property management that could use attention and improvement. One area in need of specific focus is the importance of maintaining specific policies for prospective resident application and current resident renewal.

Your application policies, like your renewal policies, set the standards for qualified residents. They help to quantify and qualify an often untidy reality into a compartmentalized series of data points from which we can make inferences and draw conclusions. They represent our fallback points, the lines in the sand and those things “carved in stone” where we can “take a stand” and find a place where we declare that we won’t compromise. Business-consulting buzzwords such as “metrics” and “benchmarks” put a Madison Avenue sheen onto a very traditional concept of accountability for one’s actions and the goal of meeting expectations held by another or by you.

Take a look at your guidelines and ask yourselves the following questions:

- What standards do you use for applicants?
- Are these standards codified?
- Are they easily available to your leasing and management personnel?
- Are the guidelines easy to comprehend?
- Do the policies eliminate the need for “interpretation” or “judgment calls?”
- Do you make them available to prospective residents? To residents?
- Do applicants and leaseholders have to acknowledge their review of the policies? Do they have to sign the terms as understood, agreed, and accepted?
- Will your guidelines survive a housing discrimination investigation?

By maintaining a list of your application rules and by following it in every case, you not only eliminate the potential for confusion with your staff members but also reduce the likelihood that you will commit a housing discrimination violation. Regular evaluation of your rules is necessary to ensure that you remain in compliance with the most recent legal developments, but getting them onto paper is the first step toward uniformity and legal compliance.

Assuming that your community does not utilize non-renewable lease contracts where all residents must vacate at the end of the term, you will also need to consider your standards for resident retention. Ask yourselves these questions as well:

- Are your policies for renewal different from those for applications?
- Are these policies in writing as well?
- What factors tilt the decision in favor of or against renewal?

By now you are aware that you cannot utilize protected class distinctions as the basis for non-renewal. It is not permissible to prohibit families with children from continuing (familial

status), nor may you elect to decline Muslims (religion), South Americans (national origin and/or race), and/or single men (gender) simply because of who they are. Similarly, if a resident has issued notices of material breaches to you or has contacted a government agency about deficiencies, you may not non-renew them absent other cause, as such a decision constitutes a *prima facie* case of discrimination under A.R.S. § 33-1381.

In addition to the standards you use for determining renewals, you must also look to the rules for different types of housing. The general rule of thumb that non-renewals need no good cause does not apply to all situations. Mobile home communities' managers are aware that they must have "good cause" for non-renewal; many apartment communities have similar burdens. Public housing managers must have "for cause" events before following through with non-renewal or termination, while managers of "Section 8 construction" (i.e., non-voucher) or Section 42 (tax credit) housing may terminate only for material breaches of the lease – never "just because." In HUD voucher housing ("Section 8"), however, no "good cause" is necessary.

Keeping policies on hand and up to date, while maintaining a policy of diligent compliance, will serve you well in your rental management. Acting arbitrarily or capriciously, however, is an invitation for disaster.