

## **Understanding the U.S. Census – from the Property Management Perspective**

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*The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct.*

Article I, Section 2, United States Constitution.

By now, we all have been inundated with advertising for the decennial Census, starting with a seemingly pointless commercial during the Super Bowl<sup>1</sup> and continuing through additional television spots, mailings, and billboards. We're all aware that it's our responsibility as citizens and residents of this country that we must respond to the Census questionnaire. From funding for government projects to Arizona's representation in the U.S. House of Representatives, our act of answering leads us to be counted and recognized during this every-ten-year exercise.

The Census does not conclude on April 1, 2010, and this is the date upon which you, as landlords and residential rental property managers, become involved. Prior to this date you answered questions as individuals, but the government is not quite through with you. The mandate of the Census, after all, is to enumerate – i.e., count – each and every citizen. I know you must be shocked to learn that some people avoid answering the Census, but the government isn't as easily deterred as they might think.

For four months (April through July), Census workers will visit those households that did not return the Census document. Some of these government agents will visit the leasing offices of residential rental communities and demand information about apartments that failed to answer. This seems intrusive, so management personnel, knowing that residents have a reasonable expectation of privacy and that leasing files are confidential, usually refuse to provide the information to the Census taker unless a warrant or subpoena is issued by a Court. While this is the proper response to most inquiries of that nature, employees of the Census have an absolute right to the information they are demanding.

In order to facilitate the Census, Congress has given certain special powers and privileges to the Department of Commerce and its Census employees. The failure by property management personnel to obey these extraordinary powers carries with it a penalty.

*Whoever, being the owner, proprietor, manager, superintendent, or agent of any hotel, apartment house, boarding or lodging house, tenement, or other building, refuses or willfully neglects, when requested by the Secretary or by any other officer or employee of the Department of Commerce or bureau or agency thereof [...] to furnish the names of the occupants of such premises, or to give free ingress thereto and egress therefrom to any duly accredited representative of such Department or bureau or agency thereof, so as to permit the collection of statistics with respect to any census [...] shall be fined not more than \$500.*

13 U.S.C. § 223. Take note that the Census worker cannot be barred from the property, despite he/she not being a resident. Unlike police officers, private investigators, and snooping neighbors, the agents of the Census are permitted to obtain the information they seek without so much as a

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<sup>1</sup> I must admit that, as a Saints fan, I was paying more attention to the game than the commercials.

court order. On the other hand, the U.S. Department of Commerce can get such an order, and it would be served by U.S. Marshals. Compliance, as you can well imagine, is much less painful than obstructionism. If you have legal counsel, do not hesitate to contact your attorney to inquire about the Census worker's demands, but be aware that the attorney will most likely inform you about your obligation to comply.

The Census exercise ends by December, which is when the Department of Commerce must report to the President. At that point, the entire process concludes for another ten years. Some states will gain U.S. Representatives, others will lose them, and many will see the Congressional district boundaries shift in order to maintain proportional representation. While the Census doesn't have an immediate, tangible benefit, you will see the effects over this new decade.