

REPRESENTING LANDLORDS & TENANTS

Making Money and Minimizing Risks

Representing Landlords & Tenants

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Terminology

Renter vs. Tenant vs. Lessee

Owner vs. Landlord vs. Lessor

Lease vs. Rent

Property Management vs. Leasing

State Licensing Requirements

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- Commercial Leasing
 - ◇ Kansas
 - ◇ Missouri

- Residential Leasing
 - ◇ Kansas
 - ◇ Missouri

Lease Option/Lease Purchase

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- What is the difference?
- Essential parts to each

Listing the property for lease - Exposure

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- Abiding by all the laws
 - ▣ Fair Housing
 - ▣ Federal Law
 - ▣ Real estate Law
 - ▣ Municipal Law
 - ▣ HOA



Listing the property for lease – Minimizing Risks

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- Strong contracts can be deterrents to litigation
 - ▣ Exclusive Listing Agreement (see supplement)
 - Exclusive agreement
 - Agency disclosure
 - Commissions and fees to broker
 - Description of term of Exclusive
 - Limit agent duty to advance funds for owner
 - Define specific authority

Listing the property for lease Minimizing Risks

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Exclusive listing Agreement continued

- Insurance E&O insurance
 - leasing vs. selling
- Manager liability limited
- Cancellation or termination
- Arbitration
- Owner to comply with Fair Housing
- Hold harmless & indemnification

Listing the property for lease

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- KCRAR Real Estate Rental Listing Agreement
 - Section 6 Brokerage Relationship Disclosure
 - Section 7 Brokerage Relationship Confirmation

Residential Lease

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- KCRAR Residential Lease (see supplement)
 - Agency Section 29
 - Compensation section 28
 - Compliance with security deposit limits
 - Compare Exclusive Listing Agreement and Lease to have same terms

Marketing & Leasing - Exposures

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Fair
Housing
& Renters

- Fair housing/Renter Screening
 - State and local Fair housing protections
 - Questions on applications
 - Application fees
 - Who must submit applications
 - Failure to make reasonable accommodations
(vicious dog landlord insurance)

Marketing & Leasing - Exposures

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- ▣ Fair housing/Renter Screening continued
 - ▣ Different terms or rental rates or services
 - ▣ Accepting different proof of income
 - ▣ Using different criteria – exceptions
 - ▣ Differences in professional services

Marketing & Leasing - Exposures

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Fair housing/Renter Screening continued



Pets vs. Service Animals vs. Comfort Animals

Falsely deny availability

Refusing to negotiate terms

Refusing to rent

Differences in availability

Higher deposits or more rent/month

Marketing & Leasing –Minimizing Risks

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□ Apply Fair Housing Principles

Not exactly the same as with sales!!!

- Offer choices when showing properties
- Let prospect set limits
(property backing to a lake no fence)
- Be consistent
- Ask the same questions of everyone

Marketing & Leasing – Minimizing Risks

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- Apply Fair Housing Principles con't
 - Have systematic procedures for application process
 - Keep good records
 - Document staff training
 - Consider insurance

Marketing & Leasing –Minimizing Risks

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Valid written public criteria for renter qualifications

- Certain credit score etc.

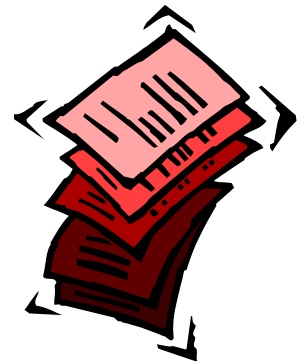
Valid written public rejection criteria

- Poor credit, criminal history (specific), poor landlord references, incomplete application etc.

Marketing & Leasing –Minimizing Risks

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- Use a professional screening company
- Have application form reviewed by attorney
- Written policies and procedures for:
 - Tenant screening
 - Handling credit reports and confidential personal data
 - Procedures for declining applicants
 - Access to properties/keys
 - Handling moneys particularly cash



Marketing & Leasing –Minimizing Risks

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- Minimizing personal risk
 - ▣ Develop office safety procedures
 - Meeting renters at vacant properties is different than in sales
 - ▣ Follow personal safety guidelines when showing properties

Marketing & Leasing - Minimizing Risk

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- KCRAR form Residential Lease (see supplements)
 - Agency
- Pet Addendum
- Additional Disclosures Including Those Mandated By State or Federal Law
 - Lead paint
 - Radon
 - Crime information

Marketing & Leasing - Minimizing Risks

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- Lease agreement and addendums
 - ▣ Agency disclosure
 - ▣ Items included with lease
 - ▣ Possible inability to deliver
 - ▣ Security deposit interest
 - ▣ Use of premises
 - ▣ Maintenance and repairs
 - ▣ Alterations to property
 - ▣ As is clause



Marketing & Leasing– Minimizing Risks

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- Lease agreement con't
 - Locks and security
 - Move out conditions
 - Third party damage
 - Un-inhabitability caused damage
 - Hold harmless clause
 - Insurance
 - Access and inspections
 - Early termination
 - Terms for pets



What's next?

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Lease signed, money collected, renter moves in.....

This is where **PROPERTY MANAGEMENT** starts



Property Management - Exposures

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- Keys/locks renter security
- Key control within office



Property Management - Exposures

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- Renter moves in more people than on lease
- Renter has day care or business at house
- Renter forgets to mention the pet(s)
- House not habitable for a week during the lease
- Pre-1978 properties RRP April 2010

Property Management - Exposures

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□ Contractors

- Injuries to themselves or others while working at property
- No work comp insurance cost to PM
- Theft at property
- Exceed authorized repair amount
- Materials used not consistent with property
- Work done without proper permits
- Work not done in a timely manner



Property Management - Exposures

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- Maintenance issues
 - ▣ Preventive maintenance
 - Not handled properly and timely additional property damage
 - Allowing renter to do work
 - Allowing owner to do work on their renter occupied property



Property Management - Exposures

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- ▣ Emergency maintenance after hours
 - Not handled properly and quickly
 - additional property damage
 - Possibly loss of rents
 - Risk to renter's life and family
 - Possible angry renter who won't renew lease



Property Management - Exposures

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- Security deposits
 - Ending up in small claims court
 - Specific time constraints to refund deposit
 - Renter using security deposit for last month of rent –protecting your client
 - Damages done by renter not chargeable to renter due to agent non-compliance with state premise inspection laws

Property Management - Exposures

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- Handling money
- Evictions not handled properly
 - Retaliation
 - Illegal handling of abandoned property
- Injury or death of a renter
 - Releasing renter's property to unauthorized person
 - Possible liability to owner and agent/broker if "caused by" property



Property Management – Minimizing Risks

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- ❑ Establish procedures for premises inventory
 - ❑ State laws vary on requirements
 - ❑ Copy of inventory to renter
 - ❑ Written detailed form
 - ❑ Photographs or video
 - ❑ Signature of renter on move in inventory



Property Management – Minimizing Risks

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- Contracts with vendors
 - ▣ Proper licensing
 - ▣ Adequate liability insurance
 - ▣ Workers comp insurance
 - ▣ Expense authorization limit
 - ▣ Work and materials standards
 - ▣ Expectations dealing with renters



Property Management – Minimizing Risks

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- Procedures for maintenance requests
 - ▣ Written maintenance requests
 - ▣ Documenting phone requests
 - ▣ Documenting responses

- Know all sections of state landlord tenant law

- Use an attorney for all evictions

Property Management – Minimizing Risks

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- Policies and procedures for handling money
 - Follow correct procedures for **trust** accounting
 - Procedures for handling cash
 - Who deposits money
 - Where does money get deposited



Property Management – Minimizing Risks

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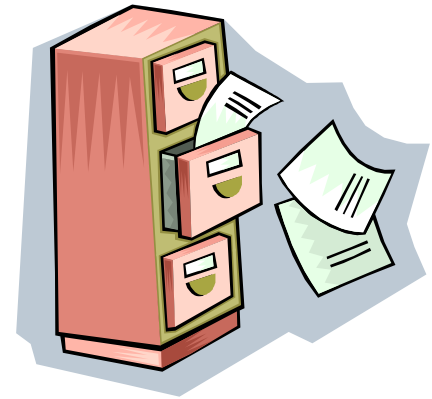
- Security deposit
 - Collect amounts within the law
 - Hold in a **trust** account
 - Disburse sec dep money in accordance with law



Administrative – Exposure

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- ❑ Failure to properly store confidential personal data
- ❑ Failure to store files for correct length of time
- ❑ Failure to maintain Vendor Lead Based Paint certification forms



Administrative – Exposure

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- Incorrect or untimely accounting for owner or renter moneys
- Failing to reconcile trust account
- Failure to submit 1099's to IRS
 - Vendors
 - Owners



Administrative – Minimizing Risks

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- Thorough and ongoing staff training
- Use of accounting software specifically for managing properties
- Hire CPA
 - Issuing 1099's
 - Reconciling trust accounts
- Locked filing cabinets with controlled access



Administrative – Minimizing Risks

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- Computer fire wall if data stored electronically
- Knowledge of Federal, State, Municipal, Real Estate laws affecting document storage



Summary

Control risk by

- ❖ Providing first class service
- ❖ Using Management Agreements and Lease Contracts
- ❖ Documentation and systems
- ❖ Written policies and procedures
- ❖ Ongoing staff training
- ❖ Use experts (CPA, attorneys)
- ❖ Stay informed of laws at every level

Thank you!

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