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## Can Landlord Say ‘No Guns In My Apts’?

By JOHN TRIPLETT

State laws vary on the issue of what landlords can mandate regarding saying “no guns in my apartments,” and gun possession in general by tenants in privately owned rental properties.

Landlords and property managers need to be aware of whether their state or local government has specific laws, J.D. “Denny” Dobbins Jr., general legal counsel for CrimShield, said in an interview with Rental Housing Journal.

Only four states have specific statutes or laws regarding guns in apartments and rental properties:

- Minnesota says a landlord cannot restrict the lawful carry or possession of firearms by tenants or

See ‘Laws’ on Page 18

## Experts Discuss Rent Growth, Multifamily Trends for New Year

RENTAL HOUSING JOURNAL

Some rental experts from Zumper, a full-service rental platform company, discussed what they see as the forecast for multifamily housing heading into 2019 in a question-and-answer session with Rental Housing Journal.

**NATALIE CARIOLA, SENIOR VICE PRESIDENT OF SALES, ZUMPER**

**Q: What is the overall forecast you see for multifamily heading into 2019 at a high level?**

**A:** We foresee new construction continuing to slow as investors and developers become concerned about a looming recession. We forecast core cities will see flat rents as tertiary markets continue to experience rent growth.

**Q: Our audience is apartment owners, property managers and landlords, leasing agents and maintenance personnel - take a moment and tell us what you see happening for each of those groups in 2019?**



**A:** 2019 interest rates will have a large impact on all of these groups. If the Fed continues to increase interest rates it will force upward pressure on rents and downward pressure on expenses. This will put pressure on sites, leasing agents and maintenance teams to accomplish more with less.

**Q: Where do you see the rent growth**

**in 2019? Is it going to be in the B and C properties as some have suggested? New Urban Center A properties still a little flat?**

**A:** We see rent growth coming from tertiary markets. In our December 2018 rent report the largest rent gains came from Columbus, Des Moines, St. Louis,

See ‘Experts’ on Page 8

## 7 Expectations and Predictions for Multifamily Investing in 2019

By VINNEY CHOPRA

Multifamily investing in 2019 and the market for multifamily properties are continuously changing so here are 7 expectations and predictions for the year ahead.

Due to major political, social, and economic developments, investors will have to look at the bigger picture.

Adaptation is the key to success in an uncertain landscape. Whether to resist, or flow with the current, will still depend on what investors want to achieve in the foreseeable future.

It’s because of these fundamental

reasons that investors will have to keep themselves abreast of significant disruptions in the multifamily investing field.

For that, they will have to be aware of these disruptions and how they are going to affect the profitability and sustainability of their investment portfolios.

You don’t have to look for a fortune teller to get a good glimpse of the future of the multifamily investing market. You only need to view the trends that will shape the investment market.

As we close another year and welcome a new one, let us focus on what to expect

from the multifamily market and look at the trends that really matter in the long run.

### No. 1 – HIGH-RENT SITUATION

Zillow notes that rents across the United States will continue to follow an upward trajectory as demands continue to rise. This would lead to a sellers’ market in which multifamily investors who had held on to their assets for quite some time will find it more practical to sell and reinvest elsewhere.

Still, the rates will vary from one  
See ‘7 Predictions’ on Page 14

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# Portland Rents Down Significantly Over Past Month

## RENTAL HOUSING JOURNAL

The January 2019 Portland rent report shows Portland rents have declined 0.5% over the past month and are down slightly by 0.2% in comparison to the same time last year, according to Apartment List.

Currently, median rents in Portland stand at \$1,120 for a one-bedroom apartment and \$1,320 for a two-bedroom. This is the third straight month that the city has seen rent decreases after an increase in September, according to Apartment List.

Portland’s year-over-year rent growth leads the state average of -1.9%, but trails the national average of 0.9%.

Further insight from Apartment List:

### RENTS RISING ACROSS CITIES IN THE PORTLAND METRO

While rent decreases have been occurring in the city of Portland over the past year, cities in the rest of the metro are seeing the opposite trend. Rents have risen in 8 of the largest 10 cities in the Portland metro for which we have data. Oregon as a whole logged rent growth of -1.9% over the past year. Here’s a look at how rents compare across some of the largest cities in the metro.

Looking throughout the metro, Hillsboro is the most expensive of all Portland metro’s major cities, with a median two-bedroom rent of \$2,000; of the 10 largest cities in the metro that we have data for, Gresham, where a two-bedroom goes for \$1,630, is the only other major city besides Portland to see rents fall year-over-year (-0.5%).

Beaverton, Springfield, and Vancouver have all experienced year-over-year growth above the state average (2.4%, 2.2%, and 1.7%, respectively).

### PORTLAND RENTS MORE AFFORDABLE THAN MANY SIMILAR CITIES NATIONWIDE

As rents have fallen slightly in Portland, many comparable cities nationwide have seen prices increase, in some cases substantially. Portland is also more affordable than most other large cities across the country.

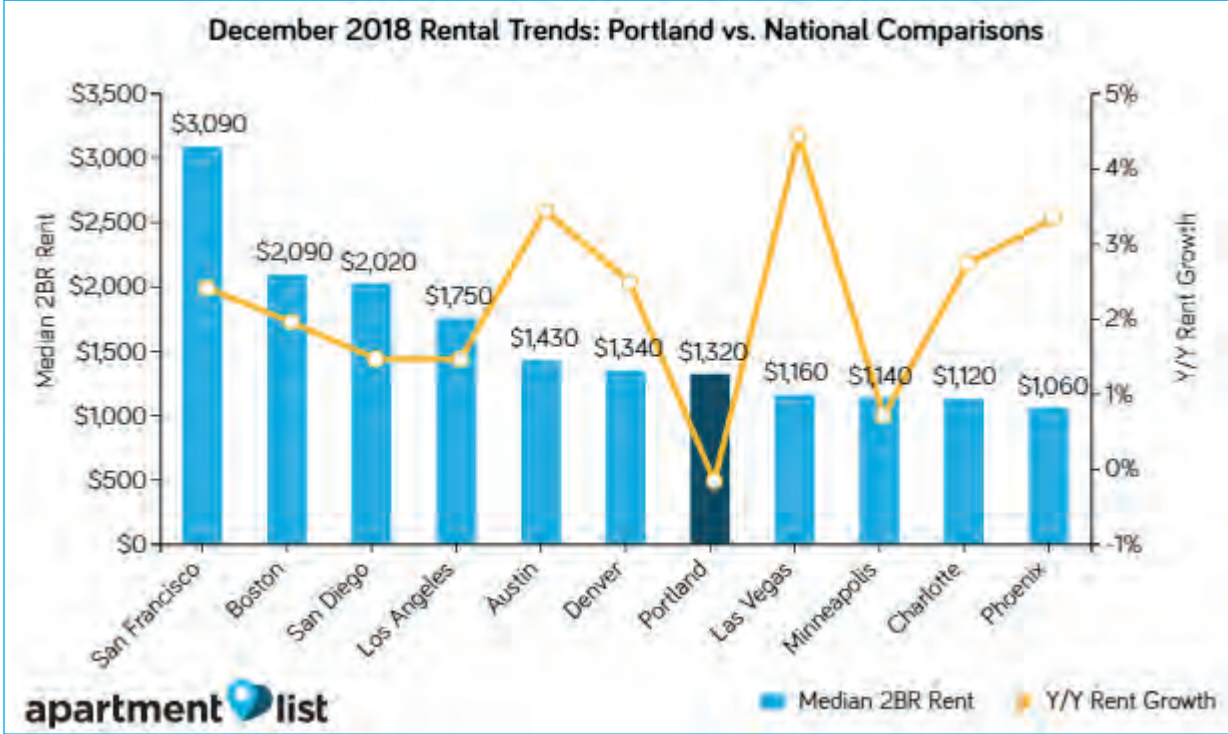
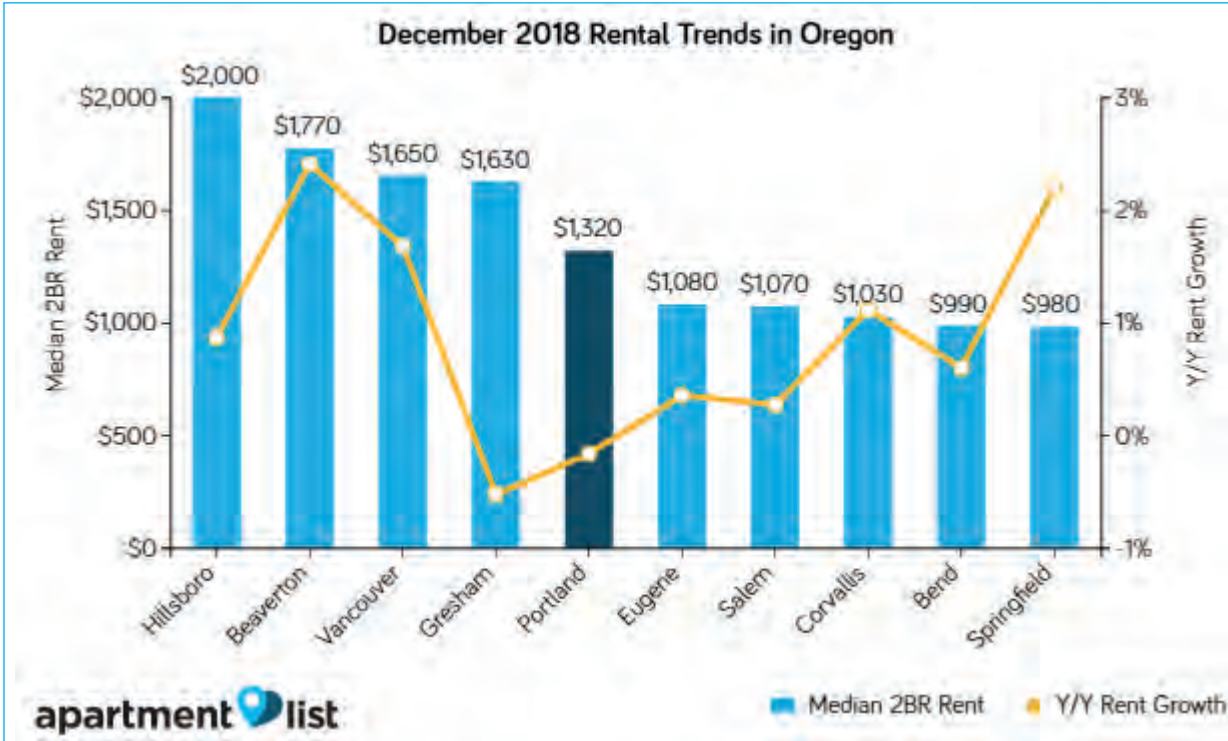
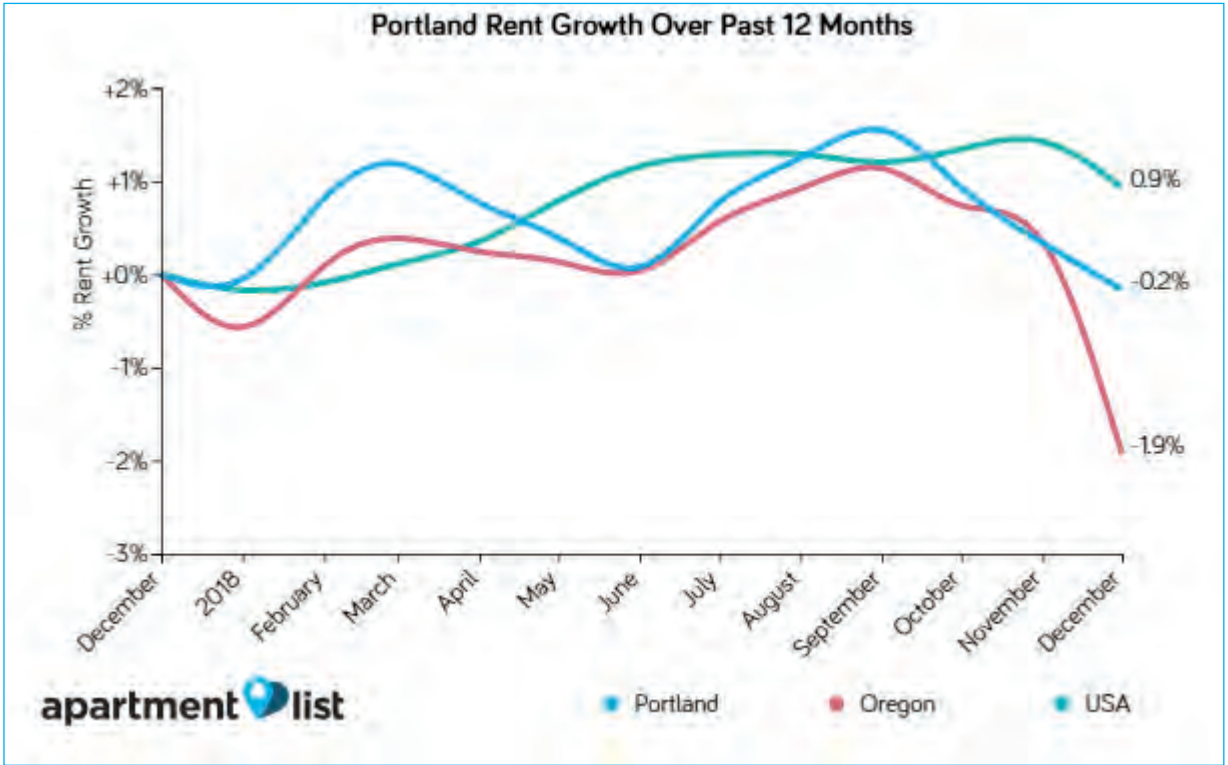
Portland’s median two-bedroom rent of \$1,320 is above the national average of \$1,180. Nationwide, rents have grown by 0.9% over the past year compared to the 0.2% decline in Portland.

While rents in Portland fell slightly over the past year, many cities nationwide saw increases, including Las Vegas (+4.4%), Austin (+3.4%), and Phoenix (+3.3%).

Renters will find more reasonable prices in Portland than most comparable cities. For example, San Francisco has a median 2BR rent of \$3,090, which is more than twice the price in Portland.

*Methodology: Apartment List is committed to making our rent estimates the best and most accurate available. To do this, we start with reliable median rent statistics from the Census Bureau, then extrapolate them forward to the current month using a growth rate calculated from our listing data. In doing so, we use a same-unit analysis similar to Case-Shiller’s approach, comparing only units that are available across both time periods to provide an accurate picture of rent growth in cities across the country.*

City	Median 1BR price	Median 2BR price	M/M price change	Y/Y price change
Portland	\$1,120	\$1,320	-0.5%	-0.2%
Vancouver	\$1,400	\$1,650	0.1%	1.7%
Gresham	\$1,380	\$1,630	-1.9%	-0.5%
Hillsboro	\$1,690	\$2,000	-0.5%	0.9%
Beaverton	\$1,500	\$1,770	0.2%	2.4%
Lake Oswego	\$1,510	\$1,780	-9.8%	-8.9%
Tualatin	\$1,600	\$1,880	0.5%	6.3%
Wilsonville	\$1,440	\$1,700	-5.0%	1.8%
Gladstone	\$1,500	\$1,760	-2.5%	-0.3%



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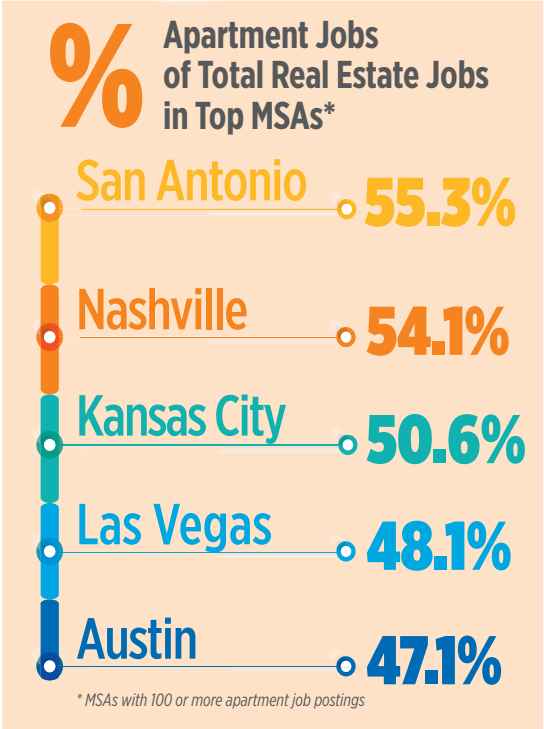
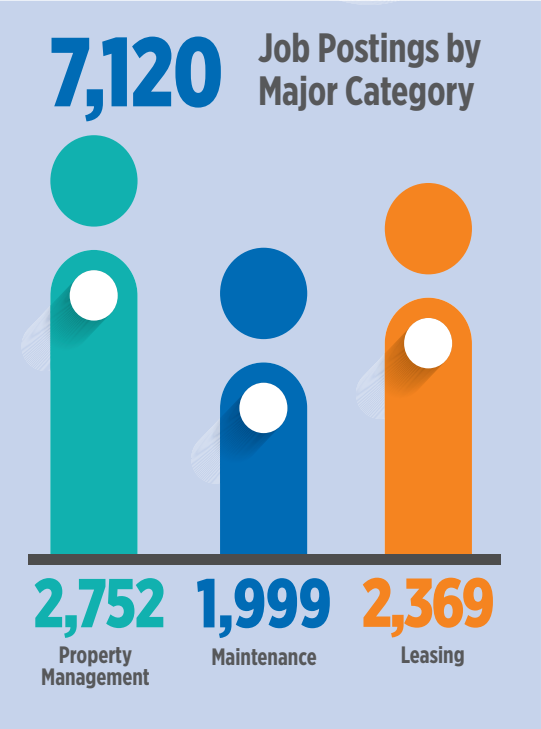
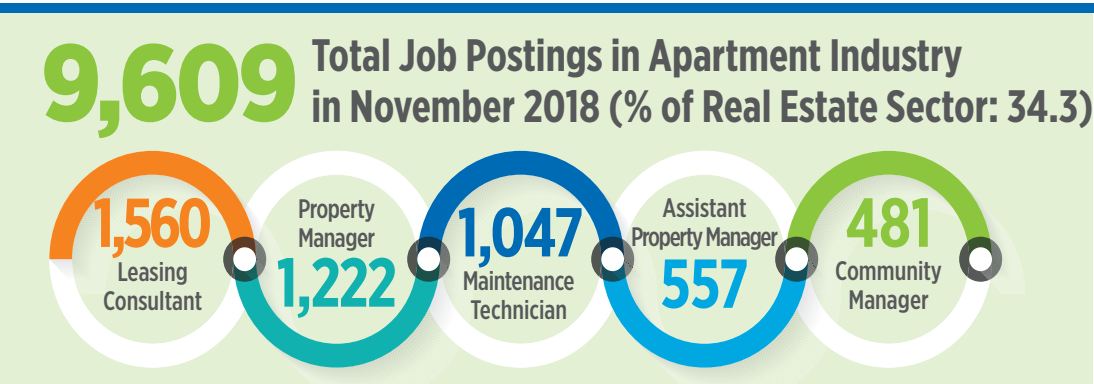
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# Spotlight

Last 6 Months

## Assistant Property Manager

### Markets With Highest Concentration

City	# of Apartment Job Postings	Location Quotient***
Dallas	190	2.6
Los Angeles	147	1.2
Washington, D.C.	146	2.2
Seattle	105	2.6
Atlanta	102	1.9

\*\*\* Location quotients display concentrations of demand within MSAs. U.S.-wide average demand equals 1.0; a location quotient of 1.5 indicates 50% higher demand than the US average.

### Top Skills Required

Specialized	Baseline
Property Management	Communication Skills
Yardi Software	Microsoft Office
Customer Service	Organizational Skills

### Educational Requirements

0 to 2 Years **83.3%**  
3 to 5 Years **16.4%**

### Projected National Change in Employment

**8.1%**  
2016-2026

Source: NAA Research; Burning Glass Technologies; Bureau of Labor Statistics  
Data as of November 30, 2018; Not Seasonally Adjusted

# Apartment Jobs Snapshot

November 2018

## Asst. Property Manager Jobs in Demand, Report Says

**RENTAL HOUSING JOURNAL**

A recent National Apartment Association jobs report spotlights the need for the assistant property manager position.

Over 9,600 rental housing jobs were available during November 2018, accounting for 34 percent of the broader real estate sector, just slightly below the monthly average for the year, according to the latest jobs report from the National Apartment Association.

The jobs report focuses on jobs that are being advertised in the apartment industry as being available, according to Paula Munger, Director, Industry Research and Analysis, for the National Apartment Association’s Education Institute.

Las Vegas entered the top 5 for apartment job demand for the first time this year, while Nashville marked its fifth month in the rankings.

As expected, experience required was at the entry level, but 78 percent of employers were seeking candidates who already had property management skills.

**EVOLVING ROLE OF THE PROPERTY MANAGER**

The role is becoming more than just a property manager, Munger said.

“The hiring manager gets to a point where they say, ‘I need more than one whole person to do this job.’ So we are seeing more and more event coordinators in apartment communities,” she said.

“Getting residents together, planning events, maybe dealing with outside vendors more than they have,” she said. And not in terms of vendors like a landscaper — “They’ve been doing that forever,” she said.

But more like a celebrity chef or “someone who comes into the building to do a quickie demo. That kind of stuff. I think in general they are having to think a little bit more about, I won’t say event planning, but something along those lines,” Munger said.

**NATIONAL APARTMENT ASSOCIATION JOBS REPORT BACKGROUND**

“Our education institute is a credentialing body for the apartment industry. They hear often that one of the biggest problems keeping our industry leaders up at night is the difficulty in finding talent, attracting talent and retaining talent,” Munger said.

“Labor-market issues are happening in a lot of industries, certainly with the tight labor market we have.”

So NAA partnered with Burning Glass Technologies. “They have a labor-job posting database that is proprietary,” she said, and they can “layer on data from the Bureau of Labor Statistics (BLS).

“We looked at that and thought we could do something that is really going to help the industry and help benchmark job titles and trends as we go forward.”



**President:** Ken Schriver • **Vice President:** Phil Owen  
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www.rhaoregon.org

## RHA Oregon President's Message

# Ready, Willing and Able to Help Organization Weather the Winds of Change that Lie Ahead

Happy New Year! Ken Schriver here, newly elected President of Rental Housing Alliance Oregon. I am both humbled and eager to take on the responsibilities of President, and I look forward to meeting as many of you as I can during my term.

As I've only been a member of the RHA board for a little over a year, I thought it appropriate to share some of my background with you:

I got my start in Oregon property rentals in 1980, a year after graduating from Tigard High School. In order to reduce our living expenses while attending college, my first wife and I were onsite managers for a 30-unit apartment complex just off Barbur Boulevard in southwest Portland.

After graduating from Reed College in 1985, I moved with my wife and son to Los Angeles to pursue a Ph.D. in physical chemistry at UCLA. It would be 20 years before I found myself back in the role of landlord.

In 2005, I met my current wife while we were both working at Vanderbilt University in Nashville. As we were both single homeowners, we decided to sell one house, rent out the other, and establish our home together in a new house.

Today we own a half-dozen rental properties in Oregon, including single-family houses, duplexes, and a triplex. I am semi-retired, so I manage and maintain all of our properties, and only our properties.

I consider myself an archetypal member of RHA: a small business owner who provides safe, fair, and affordable housing to people in our community. I believe that my status as a landlord and my experience as a successful small-business owner, a division manager within a medium-sized corporation, and a faculty member at a major research university provide me with unique tools to help lead RHA.

A great part of being President of RHA is that I get to work closely with an outstanding Board and Executive Committee that bring decades of experience to our organization. The board held its annual retreat in early November, during which many outstanding ideas were discussed.

We are entering turbulent times. The recent elections bolstered the forces at the city, county, and state levels that wish to significantly increase the regulation of landlords. RHA will continue to lobby and present our arguments opposing regulations that are ill-conceived, and we will

continue to support legislation and ordinances that are likely to have a positive effect on the issues of housing affordability and access in our communities. Toward that goal, our Past President Ron Garcia will chair our Legislative Committee in 2019 and will continue to coordinate our efforts in this area.

The winds of change comprise more than just new regulations, however. Technology and social media are changing how we advertise, screen tenants, collect rents, and maintain our properties. Our Education Committee and our Membership / Marketing Committee will be exploring how RHA can help landlords navigate this rapidly changing landscape. The latter committee will also be evaluating ways that our Affiliate Members can maximize the value of their membership in RHA.

Finally, I encourage you to attend an RHA dinner meeting – this is your best opportunity to network and to hold informal conversations about current events affecting tenants, landlords, and property managers. I look forward to seeing you there!

Sincerely,  
Ken Schriver, RHA Oregon President

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OREGON  
**ABANDONED PROPERTY RELEASE**



DATE \_\_\_\_\_ PROPERTY NAME / NUMBER \_\_\_\_\_

RESIDENT NAME(S) \_\_\_\_\_

UNIT NUMBER \_\_\_\_\_ STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

I/we agree that all personal property left at the Premises upon termination of the tenancy is or shall be considered abandoned and that Owner/Agent may immediately sell and/or dispose of the personal property in any manner chosen by Owner/Agent without giving notice or holding the personal property. Owner/Agent need not comply with the provisions of ORS 90.425.

Resident will be responsible for all costs incurred by Owner/Agent to store and/or dispose of the personal property.

This release has been executed by all Residents. If the abandonment is as the result of the death of a Resident who was the only Resident, this release has been signed by the personal representative, designated person or other person entitled to possession of the personal property such as an heir or devisee.

Facsimile, scanned and e-mailed or electronic signatures will be treated as original signatures.

This release has been executed after termination of the tenancy or no more than seven (7) days prior to the termination of the tenancy.

X  
RESIDENT

DATE

X  
RESIDENT

DATE

X  
RESIDENT

DATE

X  
RESIDENT

DATE

X  
RESIDENT

DATE

X  
OWNER/AGENT

DATE

☐ ON SITE

☐ RESIDENT

☐ MAIN OFFICE (IF REQUIRED)

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This forms allows the landlord and tenant to mutually agree that any items left behind may be disposed of without the customary notice periods outlined in ORS 90.425. The earliest this release can be executed is seven (7) days prior to the termination of the tenancy.

*The Multifamily NW Forms Collection is available immediately and electronically at [www.RentalFormsCenter.com](http://www.RentalFormsCenter.com), via electronic subscription software through [www.tenanttech.com](http://www.tenanttech.com) & by mail or pick-up of printed triplicate forms at [www.multifamilynw.org](http://www.multifamilynw.org).*

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1:50-2:40PM  
2:55-4PM  
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KEYNOTE SPEAKER  
**ANNE SADOVSKY**  
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-ASSISTANCE/COMPANION ANIMALS  
-FAIR HOUSING CASES/PENALTIES  
-SEXUAL HARASSMENT  
LUNCH  
BREAKOUT SESSION 2  
-LBGTQ PROTECTED CLASSES  
-NEW SCREENING/LEASING FOR SUCCESS  
-RESOURCES FOR DIFFICULT SCENARIOS  
BREAKOUT SESSION 3  
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Date	Course	Time
JAN 9	HR ISSUES: HIRING INTERNAL APPLICANTS	12:00 PM - 1:00 PM
JAN 11	IT’S THE LAW: STARTING ON THE RIGHT FOOT	12:00 PM - 1:00 PM
JAN 17	STRENGTHENING FRONT LINE SKILLS FOR MAINTENANCE	9:00 AM - 12:00 PM
FEB 6	LANDLORD STUDY HALL: BEST PRACTICES & INDUSTRY STANDARDS	6:30 PM - 8:00 PM
FEB 7	LAW AND RULE REQUIRED COURSE (LARRC)	1:00 PM - 4:00 PM
FEB 8	IT’S THE LAW: PROTECTING YOUR ASSETS	12:00 PM - 1:00 PM
FEB 11	LANDLORD/TENANT PART II	1:00 PM - 5:00 PM
FEB 13	HR ISSUES: CREATIVE POSITIVE WORKPLACES	

RENTAL HOUSING JOURNAL METRO · JANUARY 2019

7

# Experts Discuss Rent Growth, Multifamily Trends

Continued from Page 1

Memphis and Shreveport. Our data also shows value add, B product, is closing the rent gap with A product. If 2019 signals larger concessions in the luxury A product it could leave little price difference between luxury product and value add B product. In that case luxury product could steal market share from value add and slow the rent growth that class is experiencing.

**CRYSTAL CHEN,  
MARKETING MANAGER,  
ZUMPER**

Q: Any specifics for our high-profile markets – Seattle, Portland, Phoenix Denver metro areas?

- A: Several:
- Phoenix
    - Growth in 2018, 2 beds are up 8.2% year to date
    - Healthy job growth, people want to live here for lower rent and cost of living especially on the West Coast (1 bed \$950 2 bed \$1190) stimulates demand for rentals.
    - Vacancies will likely remain low so growing rents most likely in the New Year.
  - Denver
    - +8.6% year-to-date growth rate for 1 beds
    - Similar story in Aurora, +13.6% for



NATALIE CARIOLA



CRYSTAL CHEN



GAUTHIER VAN SASSE VAN YSSELT

- 1 beds & Colorado Springs +8-11% for 1 & 2 beds
- Hot rental market, surge of millennial migration and economic opportunities (wage growth etc.)
  - Though growing prices, still not as expensive as other major cities on the West Coast (like Seattle or California cities) so lower prices overall, makes for attractive market.
  - Most likely continue trend of growing rents 2019

**GAUTHIER VAN SASSE VAN  
YSSELT, REGIONAL ACCOUNT  
EXECUTIVE, ZUMPER**

- Seattle
  - When looking at the Seattle rental market with a short-term perspective, you will see that housing oversupply in combination with a lack of renter

demand during the fall and winter, is resulting in increased concessions, stagnant median rents and even decreasing rents in some submarkets. This increase in concessions and change in median rents is most notable in the urban core of Seattle. However, from a long-term perspective, we continue to see growth year over year with many submarkets experiencing double-digit growth in median rents.

**CRYSTAL CHEN SUMMARY**

- Overall, there will be continued growth in the rental market as the United States is experiencing the lowest rental vacancy rate right now since the early '90s (at 6.8%), which shows a high demand for apartments.
- Increased emphasis on a sharing economy, so renting instead of owning everything from cars to houses is getting more popular.

- 2019 will most likely continue to see a slow for-sale market, with continued interest rate hikes on the horizon, which makes buying less appealing to many.

**GAUTHIER VAN SASSE VAN  
YSSELT SUMMARY**

- Overall, the Seattle rental housing market has a clear oversupply in the urban core of the Greater Seattle Area. This oversupply in combination with lower renter demand during the slow season is causing landlords to push concessions and to adjust their median rents.

In the long term, there is consistent year-over-year growth. The questions is whether or not this short-term trend will continue. We will have to wait and see.

*About Zumper: Based in San Francisco, Zumper has raised \$90 million in venture capital funding to date. Zumper is backed by world-famous investors including Kleiner Perkins, Goodwater Capital, Breyer Capital, Foxhaven Asset Management, Axel Springer, The Blackstone Group, Stereo Capital, Dawn Capital, Andreessen Horowitz, Greylock Partners, NEA, CrunchFund, xfund and Marcus & Millichap. Zumper is creating a smooth, efficient, and transparent renting process for both tenants and landlords. They say they're the first rental marketplace where tenants can search for and rent an apartment on their end-to-end platform, "and we're just getting started."*





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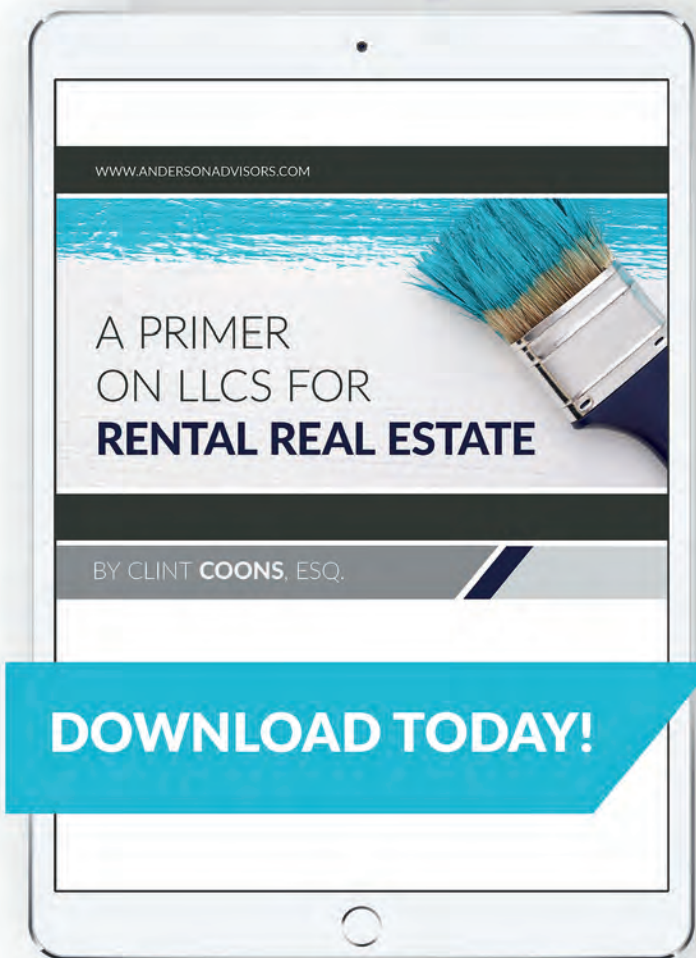
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These are problems that can be easily handled if caught in time. A certified chimney sweep can inspect and clean the units to ensure any issue is addressed. Better safe than sorry.

Though not a seasonal issue (since they are used year-round), dryer vents also should be kept clean.

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Buildup of creosote from a fireplace, or lint from a clothes dryer, can present a fire hazard and should be checked regularly.



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# How to Decide What Amount is Best When You Raise Rent

**Dear Landlord Hank:** How do you decide how much you going to raise rent for tenants in 2019? We have some leases coming up for renewal and of course just got increases from our insurance company and taxes from the county and school district. How do you decide how much? - **Landlord Tim**

**Dear Landlord Tim:** When I have increases in fixed expenses I try, when possible, to pass along the entire cost to my tenants.

If your insurance went up \$300 and your taxes went up \$400, for example, that is \$700 increase total. If you divide that by 12 months it only comes out to \$58.33 per month over an annual lease.

That, to me, is very reasonable and I think most folks could handle that with no problem. I'd be open to discussion if a rent increase could be problematic for a tenant. I would rather not pursue an increase in rent if it is going to cost me a good tenant.

Vacancy costs and rehab costs will more than make up for the small amount of rent you aren't receiving from not increasing a good tenant's rent.

**Dear Landlord Hank:** Do you always use the same paint color throughout all your rentals or do you sometimes use different interior colors? We are considering an accent color on a wall in the living room, but do not want to offend potential tenants. - **Landlord Eileen**

**Dear Landlord Eileen:** I always try



to use the same color throughout all my rentals. That is the most cost-effective and efficient way, for me. Sometimes I can get away with just touching up, and I always know what color I used last without having to keep track of which unit was painted what color, when.

I use an off-white color with bright-white trim. I often will have chair rails in my dining rooms and use a darker color below that complements the flooring, and a lighter color above in the same color family. This requires some keeping track of paint colors and is often a pain, but I like the results, it's a warmer look and more inviting to me.

*"Landlord Hank" Rossi started in real estate as a child watching his father take care of their family rentals in small-town Ohio. As he grew, Hank was occasionally his dad's assistant. In the mid-'90s he decided to get into the rental business on his own, as a sideline. In 2001, Hank retired from his profession and only managed his own investments. A few years ago he and his sister started their own real estate brokerage, focusing on property management and leasing.*



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# 7 Predictions for Multifamily Investing in 2019

*Continued from Page 1*

location to another. The supply and demand for rental housing is also a significant determiner of rental prices. Along these lines, it helps to know where to invest, and emerging markets remain great locations for buying multifamily assets.

## No. 2 – HIGH INTEREST RATES

*U.S. News* relates in an article, rising interest rates are having a ripple effect across the housing market as the Federal Reserve increases borrowing costs.

The Fed raised rates again in December and possibly will two more times in 2019. The effect of the Fed’s rate hikes is seen in mortgage rates, which are about 100 basis points higher compared with a year ago at nearly 4.9 percent for a 30-year fixed-rate mortgage.

October housing starts data also fell short of expectations. Homebuilder sentiment is falling amid rising mortgage rates and stronger home prices, according to the most recent monthly survey by the National Association of Home Builders/ Wells Fargo Housing Market Index. The survey data show that builder confidence dropped eight points to 60 this month. It was 72 at the beginning of 2018.

Experts say some areas of real estate and certain regions may hold up better than others with rising interest rates.

Doug Imber, president, Essex Realty Group in Chicago, says rising rates are the topic of conversation and concern for real estate investors, but the context for why rates are rising matters just as much as the direction.

“Rates go up for different reasons, and the reason that they’re going up now, thankfully, is because we have a very strong economy and the Fed is trying to be mindful of inflation,” he says.

## No. 3 – MULTIFAMILY INVESTING AND COMMERCIAL AREAS WILL REMAIN STRONG

Imber says the economy’s strength is reflected in outperforming real estate sectors. Industrial real estate distribution centers and office warehouse have been doing well.

“Generally, office (space) is having a period of lower vacancy and good rent growth,” he says.

Multifamily units, such as apartment buildings, have had a period of solid growth, and it may continue if mortgage rates continue to rise and home prices remain strong. Those two factors raise the barrier to individual homeownership, and the apartment owner is the beneficiary.

“People stay as renters for an extra year or two while they save up more money for down payments (for home buying),” Imber says. “It’s not just the rates are higher, but if I’m making X amount of dollars in salary, I don’t qualify (for cheaper rates), so I have more money to put down.”

The one caveat to multifamily housing is that supply is starting to increase, which could limit how much landlords can raise rents, he says.

Investors who use real estate investment trusts should be able to withstand higher rates, says Mauricio Gruener, founder of GFG Capital in Miami.

He says throughout the previous Fed rate hike cycles, REITs have held up well.

*The future of the multifamily sector will depend not only on economic policies, but also on the needs of the two most important demographic segments: the millennials and baby boomers.*

Since 1994, REITs have outperformed stocks in every tightening cycle except last year. REITs averaged a return of 16 percent relative to the 10 percent return of stocks during the 23-year time frame between 1994 and 2017, says Gruener, who was citing data that compared the FTSE Nareit Equity REITS index with the Russell 3000 index.

## No. 4 – FOCUS ON EMERGING MARKETS

Possibly the best part of any multifamily investing year-end outlook is a list of emerging markets that are attractive to investors. Indeed, considering the need to build a highly profitable portfolio, investors should buy at the right time and in the right place.

Let’s look at a few cities where better cash flow is expected:

**ATLANTA, GA** – For quite some time, the Atlanta multifamily market has remained robust. With good population growth and affordability, the city is a haven for first-time investors who are out to build their multifamily portfolios. In fact, as new constructions continue to pick up, we are seeing good indicators of a healthy jobs market in this city.

**ORLANDO & JACKSONVILLE, FL** – Going deeper south, there’s Orlando which has always been a primary destination for cash flow-hungry investors. Even though occupancy rates remain high, we can expect new apartment units to offset the discrepancies. We can see the same situation throughout Southern Florida, where investors are leaning away from condominiums and focusing heavily on apartments due to a steady rise in demand for quite some time.

**RALEIGH, NC** – Another southern city in our list of emerging markets for 2019, Raleigh offers more than just historical attractions. For one, the city has had a strong showing in the jobs department. Unemployment was pegged at 3.6 percent and investors remain confident that joblessness will further decline in the coming year with the passage of a new bill that will pull tax rates down and spur the creation of more jobs throughout the country.

**LOUISVILLE, KY** – Despite challenges to rent growth, multifamily markets in the Midwest are not clipping on new property constructions. Taking Louisville as a case in point, demand for rental housing in the city continues to surpass supply. Against this backdrop, along with a decline in the unemployment rate, more rental developments are definitely in the offing.

**FORT WORTH, TX** – The Texas rental market isn’t showing signs of caving in. No doubt, northern Texas is seeing favorable conditions for the multifamily investing sector. As investments come flooding in and job growth is on an uptrend, there remains firm confidence over the fact that Fort Worth is performing well beyond expectations in both newly constructed and value-add investment properties. Emerging from the gains of 2018, competition will definitely boil over as

the New Year approaches with optimism over the economy’s performance.

There are other areas where the job markets are strong and predicted to also do well; for example, Los Angeles and inland areas like Fresno, Provo, Utah, Las Vegas and Phoenix, AZ. Investors are advised to do comprehensive demographic and job growth researches before entering any market.

## No. 5 – CATERING TO A MILLENNIAL AND BABY-BOOMER MARKET

The future of the multifamily sector will depend not only on economic policies, but also on the needs of the two most important demographic segments: the millennials and baby boomers.

While it’s true that more millennials are buying single-family homes, they will have to go through a renting phase before they can fully transition into full-fledged homeowners. Nevertheless, younger sub-segments of the millennial market will definitely start out as apartment renters. Sure enough, a large swath of this market will define emerging markets.

Along with millennials, baby boomers are also expected to steer the multifamily market into high-opportunity areas. Many of them will be retiring and instead of buying single-family homes, they are moving into rental complexes to pursue scaled-down lifestyles.

## No. 6 – THE RISE OF WORKFORCE HOUSING

Aside from these projected developments in the multifamily sector, investors will also have to explore emerging niches. For sure, 2019 will see segments of the market create high-value opportunities along the lines of value-add investments.

One such segment that’s sure to grow is the workforce-housing market. According to HousingWire Editor Ben Lane, workforce housing – which caters to low- to middle-income earners – is expected to outperform other niches in the multifamily sector. This is due to sluggish wage growth and low inventory of housing units. These factors will definitely push demand for workforce housing further, amid a rise of people who are renting out of necessity. This, in turn, will result in new constructions and the rehabilitation of existing supply that multifamily investors should leverage in order to secure better cash flow.

Sure enough, several markets are already benefiting from the strength of the workforce housing sector. Rent growth has been fairly stable, but it’s also expected to accelerate for the better part of 2019 in areas where there is strong demand among wage-earners. Investors will only have to accommodate new renters with revitalized apartment complexes through value-adding components and repositioning.

## No. 7 – OPPORTUNITY ZONES

Treasury in October 2018 proposed

favorable Opportunity Zone regulations that adopted many NMHC/NAA priorities that should enable multifamily investors and developers to get projects off the ground. As the regulations do not address every issue, NMHC/NAA will work with policymakers to make additional changes, including further reducing the threshold for property improvements that rehabilitation projects must meet for Opportunity Zone benefits.

Enacted as part of tax reform legislation in 2017, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. Under the new program, governors have designated more than 8,700 qualified low-income census tracts nationwide as Opportunity Zones. Up to 25 percent of a state’s qualified census tracts may qualify as Opportunity Zones, with each state having to designate a minimum of 25 zones

Now that Opportunity Zones have been designated, real estate developers and others may establish Opportunity Funds that will be eligible for two tax incentives:

First, taxpayers may defer capital gains that are reinvested in Opportunity Funds to the earlier of the date an investment in an Opportunity Fund is disposed of or December 31, 2026. Notably, gains deferred for five years are eligible for a 10 percent basis step up, while gains deferred for seven years are eligible for an additional five percent basis step up.

Second, post-acquisition capital gains on investments held in Opportunity Funds for at least 10 years may be permanently excluded from income.

## THE BOTTOM LINE ON MULTIFAMILY INVESTING IN ’19

Of course, we won’t know for sure if these expectations will hold up.

But what can be gleaned from these observations is a need to address uncertainty, which has always been a prevailing condition in the multifamily property market. Nonetheless, these offer an apt starting point for investors who want to face 2019 with little to no apprehension.

*Vinney Chopra, a mechanical engineer, RE broker, motivational speaker and multifamily investor. As a multifamily syndication expert, he has facilitated over 26 successful syndication deals and has acquired and manages a very successful real estate investment portfolio worth over \$200 million. Vinney has been a professional Fundraising Consultant and Motivational Speaker for over 35 years. He has given over 10,000 speeches and seminars on Fundraising, Positive Thinking, Enthusiasm, Goal Setting, Balanced Living, and has been involved in Business Coaching. He travels and gives live presentations and webinars on Wealth Building. Creating Wealth with Multifamily Investing, Value-Add Win/Win Negotiations, Emerging Markets, Market Cycles, Economic Funding, Commercial Properties Analysis, Due Diligence, investing in Multifamily and the Art of Raising Private Money. You can reach Vinney by Texting the word “Syndication” to 47-47-47 or email [vinney@moneilig.com](mailto:vinney@moneilig.com) to learn from his proven techniques and lectures through his educational academies: [MultifamilySyndicationAcademy.com](http://MultifamilySyndicationAcademy.com) and [MultifamilyAcademy.com](http://MultifamilyAcademy.com).*

# How To Avoid A Fair Housing Claim Over Source-of-Income Discrimination

By ELLEN CLARK

Many states and cities, including Seattle and the State of Washington, have laws against source-of-income discrimination, meaning a property owner cannot choose to reject an applicant based on where his income comes from as long as it is a lawful source.

Source-of-income discrimination has been documented by researchers, and advocates say it creates barriers for people struggling to find housing.

In Baltimore, the City Council is set to take up legislation that would make it illegal for property managers to discriminate against prospective residents because of how they would pay their rent.

This type of discrimination is known as “source-of-income” discrimination, and though not prohibited under federal fair housing law, it is prohibited by some state, city, and county laws. According to reports at least 12 states and numerous cities have similar legislation in place so it pays to check your local city and state laws on this issue. The states of Washington, Oregon, Utah and Colorado all have these types of laws.

Source-of-income discrimination is often directed at people whose lawful livelihoods come from sources other than a paycheck.

Examples of lawful sources of income include:

- Source-of-income discrimination may not be prohibited under federal fair

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TRAINING TIP  
OF THE MONTH

housing law, however, it is prohibited by some state, city, and county laws.

- Housing Choice Vouchers (Section 8)
- Supplemental Security Income (SSI)
  - Social Security
  - Veterans benefits
  - Alimony or child support payments
  - Temporary Assistance for Needy Families (TANF)

What types of actions may be considered discrimination based on a source of income?

- Here are some examples:
- Advertising that a person “must have a job” to rent an apartment.
  - Requiring documentation, such as pay stubs, that are typically only available to people who are working.
  - Advertisements that express limitations as to the source of income of potential residents, such as, “No Section 8” or “We do not take public assistance”
  - Refusing to rent to a person who

- is receiving public benefits.
- Setting income requirements artificially high in order to exclude applicants who receive public benefits.
  - Requiring co-signers or a larger security deposit because of an applicant’s source of income.

If discrimination based on the source of income is prohibited in your state or locality, one of the most important things you can do to make sure you do not end up on the wrong side of a fair housing claim is to keep all employees well-informed.

- Staff members should refresh their fair housing knowledge at least annually and be aware that discrimination based on “source of income” is illegal.
- All staff members who come into contact with residents and prospective residents must be trained in fair-housing laws.

- All staff members should refresh their fair-housing knowledge at least annually and should be very clear that discrimination based on the source of income is illegal.
- Don’t forget about vendors and contractors! Anyone who could possibly interact with your residents should be informed of your company’s fair-housing policy and asked to abide by fair-housing laws.

It is important to remember that many states, cities, and municipalities have expanded fair housing protection to

include additional protected classes. In addition to the source of income, these may include characteristics such as ancestry, marital status, age, military status, and student status.

Even if your area does not include some or all of these additional protections, all people should be treated fairly and equally – as a housing provider, that’s your responsibility!

*Ellen Clark is the Director of Assessment at Grace Hill. Her work has spanned the entire learner lifecycle, from elementary school through professional education. She spent over 10 years working with K12 Inc.’s network of online charter schools, and later, at Kaplan Inc., she worked in the vocational education and job training divisions, improving online, blended and face-to-face training programs, and working directly with business leadership and trainers to improve learner outcomes and job performance. Ellen lives and works in Maryland, where she was born and raised. About Grace Hill: For nearly two decades, Grace Hill has been developing best-in-class online training courseware and administration solely for the Property Management Industry, designed to help people, teams and companies improve performance and reduce risk. Contact Grace Hill at 866.472.2344 to hear more.*

## 6 Appealing Features for College-Age Renters

KEEPE

Many college students outgrow dorms during their college years and start looking for off-campus housing with other students after their initial year of college. If your property is near a college or university, you can maximize on this demographic by using these tips.

### 1. RENT

Students are reluctant and often financially limited to over-pay for rent. To maximize on renter interest, be sure to price your rent according to similar properties in the area to maximize on interest while maintaining your revenue.

### 2. OCCUPANTS

Generally, students rent an apartment unit with other people. Make sure your policy is flexible on the number of occupants one unit can have to maximize on renter interest.

### 3. PARKING

If your property isn’t centrally located near stores and a university, consider re-evaluating parking costs to ensure your college-age applicants can afford the extra expense. High parking costs might drive students from considering your property as a reasonable place to live.

### 4. REPUTATION

College-age renters review online sites

such as Yelp.com and ReviewMyLandlord.com to get a sense of what to expect from the landlord. If you are receiving bad reviews on these sites, be sure to make changes in your business that will reflect you more positively in reviews.

### 5. AMENITIES

High-end features are not a necessity, but amenities such as laundry, gym, and a pool are all features that can sway college-age renters to picking your property over another. If your apartment complex has useful amenities, be sure to highlight these features on your website and other marketing channels to remain competitive in the market.

### 6. SMART TECHNOLOGY

Millennials and Generation Z are early adopters of smart apartment technology and prefer renting in properties that have already adopted technologies. Technologies such as smart thermostat and lighting systems are among the top devices that are seen as valuable to renters. Invest in smart technology to draw in millennial renters, especially if you are in a competitive market.

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# Advance Water-Leak Detection Offers Savings for LIHTC Sites

By Don Millstein

Virtually all owners and property managers of low-income-housing tax credit (LIHTC) multifamily buildings pay for their tenants’ water usage. Though naturally incentivized to increase water efficiency to save on overall water-utility costs, many LIHTC properties aren’t effectively addressing the biggest culprit of water consumption: water leaks.

Their typical solution of using low-flow devices offers them no control of water usage; plus, the devices themselves frequently leak. An added challenge is that traditional water-metering technology can’t pinpoint the true cause or specific location of water leaks in real time, which makes it difficult – if not impossible – to fix them in a timely manner.

An increasing number of LIHTC developers are installing advanced “smart” submetering with leak-detection systems in order to reap significant

savings on water utility costs. Taking a more sophisticated approach to leak detection relies on wireless water meters that can collect granular data based on time and gallons. These systems also offer cloud-based reporting that delivers daily reports to maintenance teams so they can find and fix water leaks.

Today, LIHTC properties are finding that systems combining water submetering and leak detection can dramatically decrease their buildings’ water consumption – sometimes cutting it in half.

### ASSUMING THE COSTS

LIHTC (“lie-tech”) is a government program created in the 1980s to encourage developers to build low-income housing. To apply, property owners partner with enterprises (e.g., banks) which provide the investment. There are two types of LIHTC tax structures: 4% (non-

competitive) and 9% (competitive), with most developers applying for the 4% tax credit since they’re easier to get approved. Although more expensive than market-rate properties, LIHTC developers like not having to provide up-front money to build their projects, while investors enjoy the tax breaks of the low-fee structure.

LIHTC application criteria is stringent and is different for each state agency. Developers must remain in compliance for 15 years, showing that their properties remain affordable. When creating their proposals, property owners must factor in the estimated utility costs they will charge their tenants. Although tenants almost always pay their own gas and electric bills, the owner, not the tenant, is responsible for the water-utility bill.

One approach to water-utility billing is for LIHTC landlords to calculate how much tenants will pay for utilities based on each tenant’s income. The tenants use a portion of their salaries to pay rent and another to pay utilities. A tenant, for instance, might be expected to pay a total of \$1,000 per month based on his/her salary. If the utility allocation is deemed to be \$100, then \$900 will go toward rent. Of course, it’s in the landlord’s interest to allocate more for rent than utilities; so, if the property owner can reduce water usage by 25%, the utility allocation would go down to \$75, increasing the rent portion to \$925.

Furthermore, utility allocations for LIHTC properties can be set based on the most efficient users, who represent 30% of the tenants.

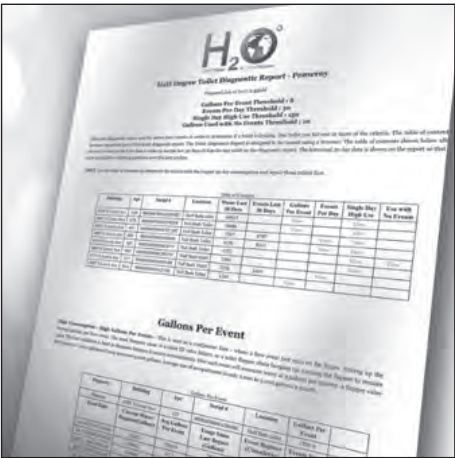
For this reason, reducing water bills is – or should be – a primary objective for LIHTC building owners. A submetering system can help the landlord set the utility allocation accurately based on meter data rather than estimates. Through extremely accurate water usage monitoring and leak detection, the most advanced systems have proven to be the most effective way to reduce a building’s water consumption.

### IDENTIFYING THE CULPRIT

Sometimes LIHTC developers correctly suspect a water leak when they notice their building’s water utility bills suddenly increasing. But they often incorrectly blame the source of the leaks on either underground leaks or pin-hole leaks located in the pipes behind a wall. In point of fact, however, the vast majority of leaks are the ones that they don’t see. These in-unit leaks originate from toilets, hot-water heaters, showers/tubs and sinks. Toilets, which account for about 40% of all water consumption in a multifamily building, represent the biggest cause – a whopping 70 percent – of water leaks.

Water heaters are the second highest cause of leaks. Sophisticated submetering systems are able to leverage the wireless network not only to do submetering and down-the-drain leak detection, they also integrate floor-leak sensors with remote water shut-off capabilities at the water heater or at the point of entry for the apartment.

Even a moderate-sized leak in a multi-unit facility can add up to significant amounts of wasted water – and money. Consider, for example, that a moderate-sized leak is about 1,000 gallons a day.



Reports are emailed daily to property managers.

Now, imagine a 100-unit building with 90 of those units consuming 100 gallons a day per unit, which is about the average amount for a two-bedroom apartment. The water consumption for the 90 rooms would be 9,000 gallons for the entire building. Next, let’s say that the other 10 units each have a moderate water leak of 1,000 gallons day, per unit. The 10 units would add up to 10,000 gallons of the building’s daily water consumption. In other words, just 10 units with a moderate-size leak would represent 10,000 gallons of the 19,000 Gal / Day total – or over 50 percent! (Figure 1.)

### COLLECTING THE DATA

Collecting individual water-usage metering data is an obvious tool for LIHTC property managers to employ when setting out to increase water efficiency. However, not all water meters are alike.

In a conventional water-metering scenario, a multi-unit LIHTC property will have a master water meter provided by the utility collecting water-usage data for the entire building. These point-of-entry meters consist of one water meter at the street and another at the building. As pulse-output meters, they count pulses per gallon. For instance, a master meter will count one pulse per gallon for cold only, or one pulse per 10 gallons for hot and cold water.

Since these conventional water meters offer very little information about water usage, they are unable to detect water leaks. This means that the only way for building owners to improve a building’s water efficiency is to install low-flow devices, such as water-efficient toilets and showerheads. The problem with conventional low-flow devices is that low flow does not mean low leak. They can – and often do – leak. Nor do they offer any type of management or control of water consumption.

To address this issue, the latest advances in submetering allow owners of LIHTC properties to “see” water-usage data at a granular level. Extrapolating vast amounts of data can be used to find water leaks that need to be repaired, which, in turn, can lead to a 30 percent to 70 percent reduction in water utility costs.

The most advanced wireless water meters consist of individual (“sub”) meters installed in one of two ways to collect water usage data:

1. at individual point of use (POU) metering sites where water is used, such as toilets and showers, or
2. at each point of entry (POE) where water enters the apartment

Advanced two-way mesh submetering systems are designed to detect and report water leaks at a single apartment

*Please see ‘Advance’ on Page 17*

100-Unit Building	Water Consumption	Total for Building
In 90 Units	100 Gal / Day (Typical)	9,000 Gal / Day
In 10 Units	1,000 Gal / Day Leak	10,000 Gal / Day
Total Gal / Day		19,000
From Leaks Only		10,000

Fig. 1. If 10 units of a 100-unit building have a moderate-sized leak, the water consumption from the leaks alone can use more than half of the building’s daily water consumption.

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# Advance Water-Leak Detection Offers Savings

Continued from Page 16

down to individual point-of-use (toilets, showers, etc.) throughout the property. Unlike typical water meters installed in apartments to track water by gallons-only, battery-powered wireless water meters employ sophisticated flow sensors to collect metering data at granular levels (Figure 2). This allows them to monitor not only gallons but “events,” such as stops/starts and flushes, along with the time duration of the water flow.

These water meters can monitor up to 8 gallons per minute at an extremely high accuracy rate of +/- 1.5%, which meets and/or exceeds current accuracy standards set by the American Water Works Association (AWWA). Through algorithms in the cloud-based reporting system, the combination of gallons, events and time data can lead to the identification of leaks and excessive usage.

The key advantage of this type of granular monitoring is that monitoring gallons alone does not account for leaks or wasted water. Monitoring needs to be done for each event (or every time water stops and starts) – in addition to monitoring how long the water has been running.

For example, a toilet in an apartment might be expected to record about 10 events, or flushes, a day using 1.2 gallons. But if daily tracking shows 100 events a day at 0.3 gallons, there could be a problem with a flapper valve opening and closing. The property manager alerted to this water usage anomaly can investigate to see if each flush produces a “swoosh” noise and the flapper valve can be replaced to stop the leak.

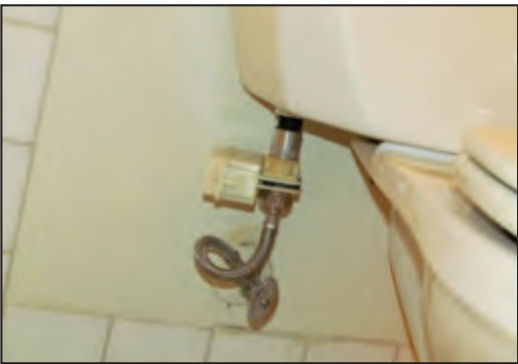
A common way to find leaks due to equipment problems is for one or two events to use a large volume of water. In this case, a toilet chain might be stuck or a fill valve might be cracked, causing water from the tank to continually flow into the toilet and down the drain. In this case, the chain can be jiggled or replaced, or the fill valve can be replaced to stop the water from being wasted.

### TAKING ACTION

Many water meters on the market collect ongoing water-usage data. But the most sophisticated submetering and leak detection systems offer “actionable reporting” of the data as it is collected in real time. This monitoring of hourly data to detect leaks and wasted water offers obvious advantages compared to waiting 45-60 days to analyze an end-of-month water bill. Even more unique to collecting actionable data is that these water meters do not just provide the data, they detect and report sporadic anomalies, or stop-start events, on an hourly or daily basis. This is important since leaks start and stop constantly.

Using the granular event data provided by the water meter, property managers can drill down to specific causes and then can deduce if a water leak is being caused by a broken flapper, broken chain or a cracked fill valve. The property manager can then alert maintenance staff to repair the equipment.

These advanced systems also have an alarm feature that instantaneously alerts the property manager to severe leaks that need immediate attention. Two types of alarms can be triggered by data using the following criteria: a High Gallon Alarm, based on X gallons used per hour for N



**Fig. 2. Battery-powered wireless water meter measures water consumption at point-of-use entry locations like toilets and showers. The meters can track granular data to evaluate “events” (flushes, etc.) for each toilet in a multi-unit apartment to detect leaks.**

*An advanced submetering system equipped with leak-detection and reporting capabilities is essential for LIHTC property managers and prospective developers alike.*

hours; and a Constant Flow Alarm, based on water use exceeding that expected for 60 minutes of flow.

Leak-detection reports can be sorted by serial number, property, apartment, point-of-use and leak size. Emailed daily, the reports are pushed through an automated system where the building manager can assign them to as many as 10 recipients. The reports are stored on a secure server in near real time. An easy-to-use dashboard shows a variety of user selections, including billing data, exception reports, a configurable reporting function and alarms. Additionally, asset managers also can use this ongoing data to track the building’s historical water-consumption information, as well as evaluate maintenance response times and other information.

Besides leaks, another major cause of water consumption, particularly for LIHTC properties, is “over-occupancy.” In addition to safety concerns and lease violations, over-occupancy leads to higher utility costs. Advanced metering systems offer LIHTC property managers an important tool for detecting and reporting this problem so they can take corrective action.

For instance, each toilet in a single-bedroom apartment assigned to two people might have 10 events a day at 1.2 gallons per event. However, if each toilet increases to 25 events a day – still using 1.2 gallons – the property manager can assume the events are 25 flushes, rather a leak, and that more than two people are living in the apartment.

Ongoing water consumption monitoring also tracks the average daily usage, or ADC, for each apartment. If an apartment with an ADC of 70 gallons/day is suddenly using 300 gallons a day with no indication of leaks, over-occupancy may be the cause.

In the case of either leaks or over-occupancy, the critical advantage of using advanced submetering systems is the ability to make minute, accurate assessments of water usage in real time. The manager doesn’t have to take immediate action if consumption data shows that an apartment is experiencing a higher-than-normal level of consumption of, say, 25 events at 1.2 gallons in one day.

Since the increase may be due to a party or other one-time situation, the manager can wait to see if the high-consumption data persists over a week or more.

### THE VERDICT

An advanced submetering system equipped with leak detection and reporting capabilities is an essential tool for LIHTC property managers and prospective developers alike. The most sophisticated two-way wireless mesh metering system pinpoints the location of the leak at its source, offers clues to the cause, and then delivers the information, via instant alarms and daily reports, so that the problem can be fixed.

The control and management of data sets wireless submetering apart from other conventional systems. After installation, managers typically see a 24-month payback in water savings costs. It also offers them an “insurance policy” of knowing they will meet the 15-year affordability requirement

mandated by the tax credit. The bottom line: LIHTC property owners can’t afford to ignore water leaks and only the most sophisticated water meters offer an effective tool for finding and fixing them.

*Don Millstein is president of H2O Degree, which manufactures a broad line of wireless radio-based submetering and leak detection systems that measure individual apartment or condo use of water, domestic hot water energy, boiler and chiller energy, electricity, gas and BTUs. The systems are ideal for tenant billing, leak detection reporting down to the toilet level and energy analytics. The company also offers Green Thermostats, which track energy use and apartment temperature while allowing tenants and property owners to set temperature set-points and schedules, adjust set-back temperatures when tenants are away or asleep, report HVAC maintenance issues, and provide control for vacant utility cost. For more information, please go to: [www.h2odegree.com](http://www.h2odegree.com).*



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# Laws on Gun Prohibition Vary from State to State

*Continued from Page 1*  
their guests. Minnesota Statute 624.714.

- Tennessee: A private landlord can prohibit tenants, including those who hold handgun carry permits, from possessing firearms within a leased premises. Such a prohibition may be imposed through a clause in the lease. Tennessee Statute § 39-17-1307(b).
- Virginia public housing prohibits landlords from restrictions on gun possession for tenants. Virginia Rental Housing Act 1974 Tennessee 55-248.9.6.
- Wisconsin has a complicated maze of where a weapon can and cannot be possessed. Wis. Stat. § 175.60(21)(b).

All the other states are generally silent on the issue, Dobbins said, meaning that private housing providers can choose what they want to do on the issue. California, Arizona, Colorado, Oregon, Utah and Washington are five of the states that are silent.

For instance, Virginia law says public landlords cannot use a prohibition clause in their lease, and it does not require that a gun-free zone sign be applied or at the property.

“Now in Minnesota they have a different law. Generally, private landlords may not restrict the lawful carry of firearms by tenants. All the other states are silent on whether private landlords can prohibit tenants from carrying weapons or possessing weapons on the property,” Dobbins said.

Unless your landlord is a governmental entity, like a city, or state, agency, public housing or receives state or federal funding for rental assistance on your property, the 2nd Amendment is unlikely to apply. However, private housing providers who say ‘no guns my apartments’ and prohibit tenants from possessing firearms in a residential rental unit, raises other constitutional and insurance issues.

## CAN A LANDLORD SAY ‘NO GUNS IN MY APARTMENTS’?

“Generally, the answer is ‘yes’ that a landlord can say ‘no guns in my apartments.’ But, I think we need to take the most practical approaches we can for all the issues surrounding the question such as having something in our lease that says, ‘Keep your weapons inside, and if you bring them onto the common areas we will evict you. If you keep them

to yourself, safely tucked away in the private confines of your apartment unit, that’s fine. We don’t care.’

“For me, I would simply say to private landlords, ‘Look, the real issue here that you want to protect against is for tenants having guns willy-nilly, or just being carried around and shown off on the property common area.’

“You can stop that kind of behavior cold in the common areas altogether so go ahead and put something in your lease to stop it. Prohibiting that kind of behavior will help protect against liability issues, insurance issues and 2nd Amendment challenges. What about prohibiting tenants from having guns in their apartment unit? Generally, a private landlord can do that too, but there are a wide variety of issues to think about when you do so.

“Most states have not made a decision whether or not to prohibit the constitutional rights of someone who wants to have a weapon in their apartment unit for their own protection. What that means is that leaves it up to the private landlord to make a decision,” Dobbins said.

“Yes, a private landlord can say, ‘We prohibit all tenants from possessing a gun anywhere on the property.’ The private landlord can make that decision because there hasn’t been a case yet that draws the 2nd Amendment into the private landlord decision-making process on the issue as has happened with Fair Housing issues like race, color, national origin, familial status, religion, gender, age, military status and Americans with disabilities.

“That’s going to pit the private landlord who says, ‘No guns in my apartments’ or weapon possession in the rented apartment unit against the tenant who says, ‘Well, I have a constitutional right to a weapon to protect myself.’ That case has not been heard yet.” Dobbins said he thinks we will eventually hear that issue because “someone is going to finally get that case to the Supreme Court.”

“From a practical point of view on the liability issue, let’s say a landlord says, ‘No weapons possession in the rented apartment unit.’ The tenant moves in and he wants to possess a weapon in the rented apartment unit but he decides to live there without possessing a weapon. Now somebody breaks into his home and kills his wife and his kids and he didn’t



have a weapon to protect himself and his family. I don’t want to be that landlord who says ‘No guns in my apartments’ because I don’t want to get sued because I took that personal constitutional right away.

“The landlord is going to say, ‘He agreed to it and he moved in.’ Of course, the person who had their family killed is going to say, ‘Yeah, but I still had a right and you made me not have a gun and took away my 2nd Amendment constitutional rights to protect my family.’

“I don’t want to be that landlord,” Dobbins said. On the other side, if weapons are allowed on the property and someone gets killed or injured by a tenant intentionally, or even negligently, from a discharge of a weapon on the property, even while inside their own apartment unit, you know the attorney for the injured is going to go after the deep pockets of the landlord and manager and their insurance companies. It is an ugly Catch 22.”

## ISSUES ON HOW ‘NO GUNS IN MY APARTMENTS’ WOULD BE APPLIED

“You run into a few issues in terms of how that is applied in actual practice. For instance, where you have a law that says landlords can prohibit gun possession in an apartment unit in a lease, well, how are you possibly going to enforce that? You don’t know what a tenant brings into the property,” Dobbins said.

“You don’t know what they’re going to have in their home. You don’t know if they have weapons in their apartment unit. You can’t really go in and inspect for weapons. If they have a safe you can’t go look in the safe to see if they have weapons. Even if a state has a rule that says you can prohibit weapons, there’s no practical way to enforce that rule.

“The second issue then becomes really important, ‘Do you really want to be the case of first impression?’ Meaning, do you really want to be the landlord who takes on some attorney and a 2nd Amendments rights person because the landlord says you can’t have a gun in your own apartment unit to protect yourself? We have all seen lately that ... the mentally ill people, criminals and terrorists can get guns. So, why should a private landlord have a rule where concerned tenants cannot possess a gun in their rented apartment unit? A private landlord does not want to become the trial case for a tenant who says, ‘Wait a second. I have a 2nd Amendment right to carry and to have weapons to protect myself and my family.’

“The landlord says, ‘Well, having a

weapon on a private property is not a protected class like the protected classes listed above. Having a right to possess a weapon in one’s apartment unit is not a current enumerated protected class,” Dobbins said.

“But, I tend to disagree with those people who say it’s not a protected class because there is a constitutional personal right to bear arms – period. The protected classes in the housing arena listed above are all federal mandates. Well, an enumerated constitutional right in my mind is the same thing. A court case will determine that issue at some point.”

## LET’S BACK UP AND LOOK AT THE ISSUE

If a landlord says “no guns in my apartments,” Dobbins suggested looking at two 2nd Amendment cases he thinks makes the tenant’s right to a weapon in the tenant’s apartment unit a personal right, and thus, a protected class.

“Here’s what we know. The federal government can impose some restrictions on guns. There have been a lot of debates over time as to what the 2nd Amendment means because it has a phrase in it regarding militias and it also talks about “the people’ right” as opposed to a “person’s right”. There’s been this idea that the ability or the right to bear arms is not a personal right. Rather, that it is a right of the people for a prepared militia.

“This issue came up in a case in the U.S. Supreme Court in 2008. It’s called the Heller Case. It dealt with individual rights to possess weapons. The Heller case made it very clear that there is an individual right to possess weapons as opposed to just a right of the people for the purposes of maintaining a militia.

“The restrictions, Heller goes on to say, deals with felons and the mentally ill. Such people have no personal rights because those rights are stripped for the mentally ill and felons. There still remained a question after Heller. The question after Heller was, ‘Well, that’s great but what about the states? How does the federal law impact state laws on the subject?’

“In 2010, the McDonald case went before the Supreme Court and that dealt with the 14th Amendment, which forbids states from passing rules to the contrary of the federal law. There were basically four elements in McDonald that they dealt with: whether there could be a state prohibition against handgun ownership, whether a state could force an annual gun registration and impose a fee for

***See ‘No Easy’ on Page 19***



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# No Easy Answers for Landlords Regarding Guns on Property

*Continued from Page 18*

annual registration, require that guns be registered prior to acquisition, and whether a gun could be forever unable to be registered if the registration lapsed. Those laws were struck down in the McDonald case. Basically the opinion stated that the 14th Amendment applies as to the individual right to possess guns and that states cannot pass laws that infringe upon that federal constitutional right.

“So it seems to me that private landlords forbidding tenants from possessing firearms in their apartment unit could be successfully challenged based on the 2nd Amendment, I think, because Heller and McDonald make it a personal right, which I think makes it a protected class,” Dobbins said.

“I guess the simple answer is in those five states that we mentioned...private landlords in those states can choose what they want to do, but when a private landlord chooses to ban tenants’ ability to possess a firearm in their apartment unit they face the ugly music of liability issues and constitutional infringement,” he said.

### A PROPOSED LEASE CLAUSE

Dobbins said he would propose the following lease clause for landlords to consider.

“For me, as a landlord, I would say ‘No weapons in the common area.’ This is something that I put in my leases and in my client leases. It provides reason, accountability and protections for the landlord, the tenants and staff. It’s a section called ‘Weapons’ for the lease and this is what it says:

“Weapons of any kind, including, but not limited to, dart guns, air guns, BB guns, slingshots, handguns, rifles, or any mechanism that could be used to propel an object that could cause harm to person or property are not allowed in the common areas, are not allowed in the office, are not allowed anywhere on the premises outside of the actual unit, and are not allowed to be displayed, shown, exposed, demonstrated, or exhibited anywhere in the community premises, except in case of self-defense or the need for imminent and immediate protection of residents’ life or property, or for self-defense or immediate and imminent protection of resident, resident’s occupants, guests or invitees life, or property. If a resident desires to possess a legal weapon in resident’s unit in that case the resident must safely and inconspicuously carry said legal weapon to and from the resident’s unit in a manner that

resident ensures other residents and staff do not see said weapon. Illegal weapons are never allowed visibly on the property outside of the unit. If resident or resident’s occupants do possess a legal weapon in the unit, resident shall be responsible for the proper and safe possession, handling and storage of said weapon. Landlord is not and shall not be responsible in any way to resident, occupants, guests, or invitees for any accidental, negligent, or intentional act involving any weapon or discharge thereof on, near, or off the property.”

“That’s my clause,” Dobbins said. “It covers a lot of ground because I don’t want to take away a tenant’s right under the 2nd Amendment after the Heller and McDonald cases, yet we need to make sure that tenants understand, in the common areas especially, if they brandish or show a weapon they will be evicted. However, I do not think it is a good idea to take away a tenant’s right to possession in their own apartment unit. That is just how I personally look at it. Each private landlord has to make a decision on this subject based on an analysis of all the factors set forth in this article. I suggest you talk to your attorney and your insurance broker to make your own decision on the subject,” Dobbins said.

### WHAT ABOUT RESTRICTIONS ON AMMUNITION IN APARTMENTS?

If a private landlord says ‘no guns in my apartments’ can the landlord say you can only have so much ammunition? Or no ammunition?

“Yeah, private landlords can if they want to, but the same factors are at issue as for gun possession in a tenant-rented unit.”

“Here’s another issue to think about. Let’s say a private landlord prohibits the possession of firearms and the private landlord calls their property now a ‘gun-free zone’ or a ‘weapon-free zone.’ In my mind, they’ve done exactly what the schools have done when you call a school a gun-free zone. You’ve just opened it up to (mentally ill) people and you’ve said, ‘Hey, nobody here has weapons. Come over here and break in. Come over here and cause havoc to our property because no one is allowed to have weapons here and cannot defend themselves. Come in and steal from them, rob them, do whatever you want to do with them.’

“I think that sets a very bad precedent and as a premises liability expert, I would say that by doing that you’ve now opened yourself up to say you called yourself a

gun-free zone, when it is just not true. You’ve invited bad guys to your property and you intentionally, unknowingly maybe, but still intentionally put your residents at risk of harm. That’s how I look at it.

“Once you invade someone’s privacy in their home for their own protection and their own desires regarding the 2nd Amendment, now you’re creating some issues that you don’t really need to create. Even if a landlord has a prohibition for tenants regarding guns or ammo, it’s not going to stop someone from having weapons if they want them in their apartment unit. So why have the rule at all? Why take on extra liability and extra problems when we know that possessing a weapon in one’s apartment unit is practically unenforceable. A tenant should be able to possess a firearm if they want one, but if the tenant goes around bragging about it, or showing it off, that tenant needs to go.

“Now if a management company maintenance employee goes in and he sees a stockpile of ammunition or weapons I would immediately contact the authorities and let them deal with it as they will,” Dobbins said.

### SHOULD PROPERTY MANAGERS HAVE GUNS?

Two property managers in Portland were shot by a tenant following an eviction last year. Should property managers have guns?

“Well, I think we’re getting into that debate a little bit with one of the remedies that’s been brought up about possibly arming teachers. In Israel the government trains and allows trained teachers to be armed for many years now. Israel has no problem with gun violence in schools because everyone knows the teachers are not only armed but they’re trained.

“Now that’s something for management companies to decide because they’re put in the pickle of, ‘Okay, if my managers and staff have a weapon and they use it, am I going to be sued?’ If they don’t have a weapon and can’t use it, am I going to be sued? They’re in a real pickle because if they do allow staff to carry they need to make sure those staff members are very well-trained and don’t misuse that weapon.”

“For me as a property owner I would not mandate my staff to possess weapons. However, I would not take my staff’s constitutional right to protection away either. If the staff lawfully carries a

concealed weapon, that is their choice. However, I would not want them to carry openly. Again, you have to decide as a landlord how to handle this issue after consultation with your attorney and your insurance carrier.”

### SUMMARY:

“There’s something to the deterrent factor, whether you have a liberal slant on guns or a conservative slant on guns. The facts are the facts. We just have to deal with them in a practical way. There are no easy answers as to what private landlords should do about whether or not they allow their tenants to possess a legal firearm in their own apartment unit in the face of constitutional rights, liability issues, insurance coverage and individual feeling about weapon possession. But, it is an issue that needs deep thought and consultation with professionals.

“I think we need to take the most practical approaches we can for all of these issues, having something in our lease that says, ‘keep your weapons inside’ and if you bring a weapon in the common area we’re going to evict you. Or, no weapon possession allowed period and if we learn you possess a weapon on the property, we are going to evict you. Whatever your chose, make sure that it in writing and cannot be misunderstood. If you have something in your lease on the subject, make it crystal clear.”

*J.D. “Denny” Dobbins, Jr. is CrimShield’s general legal counsel. He brings more than 20 years of experience and a passion for protecting businesses, their customers and their bottom lines. Dobbins works with company attorneys to develop pertinent criteria to assess risk factors for granting access by individuals to customers and facilities. He also testifies as an expert on negligence, negligent hiring and negligent retention, especially relating to non-delegable duties. His job is to help CrimShield investigators understand the laws of every state, as each state has different statutes and legal terminology. RentPerfect is a company devoted to protecting companies from negligent hiring and negligent retention as well as providing tools to stop management headaches, reduce customer complaints and eliminate lawsuits. This unique preventative approach to reducing criminal activity transforms the way companies hire and monitor employees, contractors, vendors and volunteers. RentPerfect helps companies assess potential risk and implement easy-to-use solutions.*



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