



June 26, 2010

## **A Checklist for Renting Your Condo**

### **The Condo Advantage...**

One of the main advantages of owning a condo is the right to rent your unit without many restrictions. Renting an apartment can be profitable or even a lifesaver, if you need to downsize for a period of time. Once you rent the apartment, you create a "landlord-tenant" relationship with your renter. That relationship is governed by a set of very specific (and technical) laws enacted by New York State and New York City. Those laws tend to favor your tenant, but the "Landlord-Tenant Part" of the Civil Court of New York City does offer a judicial forum, albeit not necessarily a speedy one, for resolving issues that can't be settled by mutual agreement between the parties. There are a number of business related issues that condo owners should consider when entering into a lease. Here they are:

### **Complying with the Rental Requirements of the Condo**

Even though most condos have liberal rental policies, a rental application will have to be submitted to the Managing Agent. The complexity of the rental application can vary from Managing Agent to Managing Agent. Before the lease is signed, make sure that your proposed tenant understands that financial disclosure, various documentation and a background check may be required prior to approval of your tenant. To avoid any refusal by your tenant to submit documentation after the executed lease and other required documents are submitted to the Managing Agent for review, it is a good policy to provide your tenant with the leasing requirements of the condo before the lease is signed. To eliminate misunderstandings, the lease should require submission of a complete rental application by the proposed tenant. In almost all cases, the Board will issue a "waiver" of its right of first refusal to lease the unit

on the same terms and you will be on your way to becoming a landlord.

### **A Word About Co-op Subleases**

Although co-ops are much more restrictive, many co-ops allow sublets for a limited period of time, with other restrictions frequently in play (like only being able to sublet if you have extended work out of town or for financial hardship). The process for approval of a co-op sublet can be as intrusive as a purchase application. All parties should be aware of the process and the proposed sublessee should be willing to disclose the financial information required by the co-op. Most of the following concepts also apply to the sublease of a cooperative apartment.

### **Creditworthiness of Your Tenant**

Even in today's challenging New York economy, a typical one-bedroom condo in a doorman building can rent for more than \$3000 a month. In order to be certain that the proposed tenant is financially stable, a condo owner is required to carefully check the background, references and credit history of his or her proposed tenant. A credit report, which can be obtained with the consent of the proposed tenant, should be reviewed as part of the process. You don't want to rent your apartment to someone with a bad payment history or with outstanding judgments or tax liens. Remember, it will take you many months to get the tenant out of the apartment if there is a problem. If you are not 100% comfortable with your proposed tenant, find someone else. Landlords who are in the business of renting apartments, expect to have a certain percentage of bad tenants. If it's just you and your condo, you can't afford to make a mistake.

### **Using a Rental Broker to Find a Tenant**

Craigslist notwithstanding, in many cases, a condo owner will turn to a rental broker to find a tenant for his or her apartment. Since most people have had little or no experience as a landlord, using a rental broker can be very helpful. The rental broker will advertise the apartment, screen the applicants and collect a fee (in most cases) from the tenant. If you have the right broker, the rental process can be a *slam-dunk*.

### **Insurance**

Condo owners should require their tenant to obtain "*renter's insurance*" to protect against personal injury and property loss, including damage to the tenant's personal property. Although rental coverage will usually be provided under the condo owner's policy, it is important for the tenant to maintain his or her own policy and to add the condo owner as an additional "insured" under that policy. Remember, the condo in which the apartment is located may also have additional insurance requirements for a

proposed tenant.

### **Furnished Apartments**

Condo owners who rent a furnished apartment should attach an itemized list of all personal property located in the apartment, indicating the condition of the property. Taking photographs or making a video of the apartment before the tenant takes occupancy is also a good idea. The tenant should initial the list when the tenant takes occupancy so that there are no disputes as to the furniture and other personal property included in the rental and the condition of such property when the lease begins.

### **Restrict the Right to Make Alterations**

A tenant should be restricted from making any alterations or modifications to the apartment. The possibility for damage or disagreement is just too significant in a short-term lease (two years or less). If you intend to have a long term relationship with a tenant, then allowing the tenant to make minor cosmetic changes to the apartment can be cautiously considered.

### **Who Will Reside in the Apartment?**

The lease should specifically provide who is permitted to reside in the apartment. New Yorkers have a pack mentality. Given the opportunity, renters can produce roommates like rabbits produce offspring. If you want the occupancy of the apartment restricted solely to your tenant (for example, no boyfriends or girlfriends), the lease should specifically say so. Don't be shy, it's your real estate.

### **Pets and Smoking**

The lease should specify whether or not pets are permitted. If you are a softy and are going to permit a pet to occupy your apartment, the lease should provide for the removal of the pet if the pet causes damage to the apartment or to the building or in the event the pet is dangerous. When a pet is permitted, landlords may be able to obtain additional security (sometimes called a "pet deposit"). The condo in which the apartment is located may also have various requirements and restrictions on harboring a pet in the apartment.

In today's world, most folks would prefer renting to a non-smoker. Whatever the agreement between the parties on smoking, it should be specified in the lease.

### **Get a Security Deposit**

Although leases usually require one month's security, two month's security is much better if you can get it. First of all, it communicates to your proposed tenant that you

place a high value on the apartment. Secondly, a tenant will be less inclined to lose an additional month's rent if a problem comes up. As a result, cooperation and compromise are easier to obtain. When a lease is coming to an end, tenants often request that the last month's rent be taken out of the security deposit. This is a bad practice for a landlord and I recommend against allowing the tenant to offset rent under any circumstances. The security deposit should be held until (i) the tenant vacates the premises; (ii) removes all of his or her stuff from the apartment; and (iii) a complete inspection of the apartment is conducted by the owner. Here's a sample Q & A: Tenant: "Can I apply the security deposit against the last month's rent?" Landlord: "No." It's that simple.

### **Using a Property Manager**

If you don't live in the city where your condo is located, you may use a management company to manage the unit in your absence (usually for a percentage of the monthly rent). Using a property manager is often a good idea if you're out of town or uncomfortable dealing with day-to-day tenant issues. The property manager can attend to repairs to the apartment or other problems that may arise during the rental. Make sure you check references on the property manager carefully as you will be counting on this person to protect your investment.

### **Should You Hire an Attorney?**

With a typical one-bedroom condo in Manhattan, a two-year lease can easily top \$60,000.00 in gross rent. Let someone who knows what he or she is doing prepare the lease. If the broker generates the lease, provisions such as renewal rights, brokerage payable in connection with the lease and if the tenant purchases the apartment, as well as other material terms, should be carefully drafted and reviewed. That's what attorneys are for. Don't be economical when it comes to protecting your rights and your apartment.

### **Make Sure You Have an Executed Lease**

I'm stating the obvious, but you would be surprised at how often it doesn't happen or how inadequate some written leases can be for particular situations.

### **Residential Reality: Live and Let Live**

What appears to be the beginning of a beautiful landlord-tenant relationship can turn ugly faster than you think. Do your due diligence, consider all the issues that might impact the tenancy and be upfront about any conditions in the apartment that may be of concern to the tenant. If you do your homework, the relationship with your tenant

does not have to be love-hate. He or she gets a great apartment in New York and you receive a significant, and sometimes, obscene amount of rent. In New York, that's peaceful coexistence...

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