

Leasing in Associations

Tenancy is a fact of life in community associations. Managers and board members who make genuine efforts to include tenants in community affairs are more likely to have positive experiences with renters.

It's imperative that you treat your tenants with respect. The idea that tenants are less desirable residents than owners is an unfortunate stereotype. Just as there are owners who contribute to the well-being of an association, many tenants have that same potential.

Many people have their first experience in common-interest living as tenants in community associations. Since today's tenants may be tomorrow's board members, treating them courteously, respecting their rights and encouraging them to participate in the association is in everyone's best interest. Also, tenants have most of the same rights as owners do, so treating them the same as owners may be required by law.

The rules for tenants are, or at least should be, the same as the rules for owners—in other words, rules are for all residents. There are also rules regarding *leasing*, and these require a little more attention. Be sure to ask the manager or association attorney to review your leasing rules to ensure that they align with the association's governing documents and all applicable laws.

Board members should be aware that federal agencies take note of leasing in community association units, so it's very important to make sure you're following the law. There are two areas that should be of particular concern:

- **Discrimination against persons with disabilities or with families.** The 1988 amendments to the Fair Housing Act forbid discrimination against disabled persons in leased homes. Also, unless a community association passes stringent standards that qualify it as "Housing for Older Persons," discrimination against families with children is also considered unlawful.
- **Federal loan mortgage underwriting.** As a general rule, a high percentage of leased homes may threaten loan underwriting by federal agencies like HUD and the VA. On the other hand, these agencies may frown on overly restrictive rules regarding leasing because they constitute interference with an owner's property rights.

The association manager can be a valuable resource to owners. Owners should let the manager know where to reach them if there are problems with the tenants. They should provide a copy of the signed lease and contact information about the occupants to the manager or a board member.

Owners should be advocates for their tenants with the association board or manager, making sure tenants have access to the recreational and parking areas and that they have all keys and passes they need. Importantly, owners should ensure tenants know how to contact the manager.

Even though tenants don't typically vote on association matters, they're still a part of the community by virtue of their residence and should be encouraged to participate in association activities.