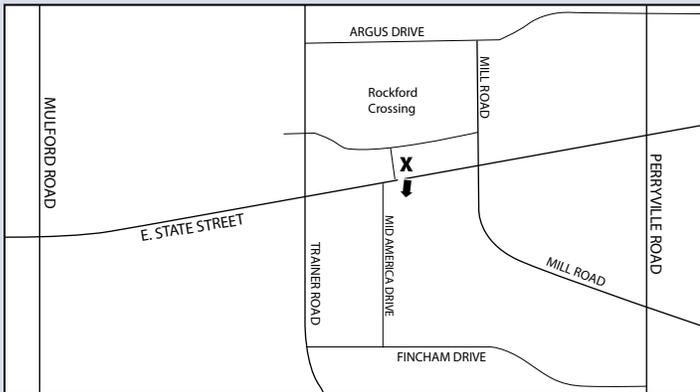




NOVEMBER MEETING

Monday, November 16, at 7 P.M.

Guest Speaker **Sargent Mark Welch** from The Rockford Police Department
How to deal with disruptive people in your rental units



New **Meeting Location**
*Rockford Area
Association Of Realtors
6776 East State St.
Rockford, IL 61108*

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In This Issue:

November's meeting is covering the topic of how to deal with disruptive people in your rental units. Our special guest speaker will be Sergeant Mark Welch from the Rockford Police Department's Community Services Unit. He will discuss the many ways to legally deal with problem people on your properties and how you can work with the police to resolve this unpleasant situation. You need to come to this meeting! If you own a rental unit you are almost guaranteed that you will have a problem with a resident or a resident's guest. If you handle this problem person incorrectly, no matter how well intended you are, you can find yourself on the other end of serious legal issue.

Speaking of legal issues, Attorney Thomas Wartowski, in his monthly article "Tom's Tips" explains the ramification of Senate Bill 1894. SB 1894 will have dire consequences for all property owners and needs to be stopped. Finally, there is a condensed version of "Brain Drippings" and part one of a two part series on how to properly screen your tenants. So, dig in and we will see you on November 16th at 7PM.

Tom's Tips by Tom Wartowski, Attorney at Law

Halloween may be just behind us but our state legislators have left us with something scarier than ghosts and goblins. As I write this column, the Illinois Senate has passed Senate Bill 1894 on a vote of 53-2. It now goes to the Governor who is expected to sign this poorly drafted piece of legislation that threatens to infringe on the rights of all private property owners.

What the Illinois Legislature did was to tack onto a real estate license bill several unrelated provisions that will allow cities to go onto your property, without your permission, to perform a vast array of services that you likely won't want. Those services include:

- "Cutting and removal of neglected weeds, grass, trees and bushes." (If you fertilize your weeds, I guess that would be okay because you wouldn't be "neglecting" them.)
- "Pest extermination." You've got to read the details below to fully appreciate the craftsmanship of this bill – and the extent to which it could infringe on your property rights.
- "Removal of infected trees." This includes the "Emerald Ash Borer" which is the H1N1 of trees for which there is no cure. It has been predicted that the borer will kill virtually every Ash tree in the Midwest. How many Ash trees do you have on your property? Figure on \$500-plus per tree to have someone cut it down and haul it away. No, you can not do what the Forest Preserve District and the City of Rockford Park District apparently plan to do. That is, nothing. This bill, after all, impacts only private property.
- "Removal of garbage, debris and graffiti." No, the bill does not define what "garbage," "debris" or "graffiti" are.

Under this bill, not only can a city presumably come onto your property to perform those "services" but it can – and will – charge you for it. If the owner doesn't pay, then the city can enforce payment of the service cost, plus legal expenses, by way of a lien on the property. The lien would be superior to all other liens, except for taxes, but enforceable only after personal service upon the person to whom the real estate tax bill was sent. The bill extends this same right to a contractor who performs the work on behalf of the city.

Apparently, because cities have had difficulty dealing with properties whose owners can't be found, this bill adds a provision for "abandoned properties" that circumvents the personal service provision for lien enforcement.

"Abandoned" property, in this bill, is any residential structure "that has been unoccupied by any lawful occupant or occupants for at least 90 days, and for which after such 90 day period, the municipality has made good faith efforts to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, and no contact has been made." The definition defies any legal standard I have ever heard of.

The "pest-control" provision of this bill exemplifies the folly of its efforts. This provision will allow cities to "... provide pest-control activities on any parcel of private property ..." That's right. The city can go onto your property to get rid of "pests."

What is a "pest"? The bill says it means "undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals ..."

By my reading, "pest" could include mushrooms or moss ("wood infesting organism"). Cat and dog lovers will be glad to know, however, that "companion animals" are excluded – no matter how obnoxious they might otherwise be.

What are "pest-control activities"? The bill says it "means the extermination of pests or the prevention of the ingress of pests." "Ingress," as you know means to "enter." The bill does not indicate whether the "ingress" with which the legislators were concerned meant coming onto the land from someone else's land, or from the land into a structure, or from the structure onto the land, or from the land to the neighbors' land, or ??? "Ingress of pests" where?

The bill allows the city to collect "from the owners of the underlying parcel, the reasonable removal cost." "Removal cost" is defined as "the total cost of pest-control activity." "Pest-control activity", you might yet recall, includes "the prevention of the ingress of pests." Only the state legislature could define "removal" to mean "prevention."

This amateurishly written legislation would be funny but for the fact that it proposes to allow cities to come onto anyone's land for vague purposes under vague circumstances. It's questionable whether it would withstand judicial scrutiny.

To be fair, the legislation does not allow the city provide any of the services unless "if, after reasonable notice, the owners of that parcel refuse or neglect" to do it themselves.

What is "reasonable notice"? It is also unfortunate that the bill does not spell out specific standards for property owners. Can the city force you to hire an ex-

terminator if there's a spider on your lawn? Or on the wall of your building? In the basement? How many spiders do there need to be? Is one enough? Two of them? Three? Maybe four? What kind of spider are we talking about? Hopefully, black widow spiders. I hate those.

The "pest-control" provision of this bill is typical of the problems inherent with all of those addressing the removal of "neglected weeds," infected trees, garbage, debris and graffiti.

Some legislators claim that this bill is aimed only at foreclosed properties and absentee mortgage companies. While there are also provisions for that problem, this bill hits every private property owner.

It'll be up to each city, of course, to draft the objective standards and procedures by which it would propose to use the powers vested in it by the legislature but that's another can of worms. The intent of the bill to rid our neighborhoods of hazardous properties is a worthy one but the cure comes at a heavy price, no property owner is willing to pay, figuratively and literally speaking.

The only removal provision that's worth supporting is the removal of this bill. The governor should not sign it.

Tom Wartowski is a Rockford attorney and legal counsel to the Rockford Apartment Association. He owned and operated real estate sales and residential construction companies for nearly two decades. He is past president of the Rockford Association of Realtors and is a long-time property owner and investor.

Brain Drippings

Due to so much content in this month's newsletter, I have a condensed version this month. So, this month let's call it a brain drip.

If you think, like I do, that great Nicor service is an oxymoron, you'll be surprised to learn that Nicor has improved its service with a special phone number just for landlords. The number is 1 877-267-5673. This line is answered by specially trained customer service reps, experienced in dealing with landlord issues. I have used this special line a number of times and it is nothing less than fantastic. However, I have been told, if we do not take advantage of this landlord line, Nicor may discontinue it. So, use it or lose!

Brain drippings is a monthly column filled with helpful tidbits. It is written by Tim Jensen, a local real estate investor for over 18 years. If you have tips you'd like to share send them to tjrockford@gmail.com.

Tenant Screening

by The Rockford Apartment Association

KNOW YOUR LEGAL RIGHTS & RESPONSIBILITIES

Screening tenants involves using the laws of the Federal, State and Local governments. The information provided here is for educational purposes only and does not represent legal advice. Consult an attorney and the appropriate governmental agencies to insure your screening process is in compliance with the law.

WHY SCREEN TENANTS?

Tenant screening is a process of evaluating applicants to ensure a successful landlord tenant relationship. In some cases screening will result in rejection of applicants. In many cases, screening will provide important information you can use to tailor the rental agreement to protect the landlord and provide housing to an applicant who may not have a perfect background. Holding a larger security deposit or collecting rent two months in advance instead of one can allow a landlord to take a chance on someone with a history of late payment. Having knowledge of past problems can motivate a landlord to act quickly when similar situations develop. Many people have financial problems due to factors such as job loss or medical bills. A person who has handled these situations responsibly in the past may be a perfect tenant because they are willing to deal with problems that arise. The goal of screening is to fill your apartments with tenants who are likely to honor the rental agreement.

APPLICATION

In order to screen applicants, standards must be established. These may include positive rental references, no history of evictions, a target income-to-rent ratio, good credit history and no criminal history related to the applicants housing. Use a formal written application to get information from applicants relevant to the standards you use for acceptance. The application should include the full name, date of birth and social security number for all individuals who will reside in the property. Information regarding income used to qualify should include the source and total amount of monthly income of each family member who will sign the lease. In the case of evictions some types of income may not be used to satisfy a judgment and only the people who sign the lease may be held responsible for the rent. Get applicant's current and former address, how long at each location, managers names and numbers, amount of rent paid and ask why the applicants wish to move. Ask who should be contacted in an emergency and the

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 and encourage everyone to do the same!

Until further notice

We will donate to the Rockford Apartment Association, 10% of the cost of any AD, placed by an RAA member, in the Renter's Guide.

Now you can rent your apartment and do something nice for the RAA. When you place your ad, you must tell us you are a member and request that 10% be sent to the RAA. (First time customers only.)

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Last time we met . . .

October's meeting was another great one. We were taught how to purchase property with little money and no credit. William Tingle of Georgia spoke of buying property subject-to the existing mortgage. In simple terms, you have the seller deed you the property, then you start making payments on the underlying loan until you sell the place or the loan is paid off. William further taught us how to find sellers willing to do these types of transactions, through creative inexpensive marketing. For more information on buying subject-to or William Tingle visit www.sub2deals.com.

Our vendors last month were the Rockford Register Star and All Seasons Carpet Cleaning. We learned that the Register Star has a special real estate section they are starting and the paper is still alive and well and a great source for getting your property sold or rented. You can call the Register Star at 815 962-2400 for all your advertising needs.

All Seasons Carpet Cleaning explain how carpet cleaning has really changed and they can get almost any stain out. He offered our members the option of inspecting the carpet and telling us whether he can clean it before we pay. In addition, he said that his work is 100% guaranteed and if they can not get it clean, you do not pay. You can real All Seasons Carpet at 815 877-0000.

Two lucky attendees won free advertising from the Register Star and free carpet cleaning from All Seasons. The prizes were values over \$200.

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names and phone numbers of personal or credit references. Request that the applicant disclose any adverse information such as evictions, judgments, or criminal record. The application must include a clause granting permission to verify the information provided and needs to be signed by all individuals who will sign the lease. The same information should be obtained for anyone who is co-signing the lease but not residing on the premises. State on the application the unit location, rent amount, and proposed move in date.

INFORMATION VERIFICATION

Once you have a completed application the information needs to be verified. Property managers can utilize a service such as Landlord Information Services of Tenants (LIST) to perform the screening. The number to contact is 398-LIST. There are many resources available to property managers who wish to do their own tenant screening. Employment information and rental references can be checked by phone. Court records can be accessed to get information on past evictions, criminal record, collection actions and bankruptcy. How to access court records may differ depending on where the applicant lives. In Winnebago county computer terminals are located in the court house for public use. The internet can also be used to gain access to court records, registered sex offenders, and credit reports. Use the following web sites to register for these services.

For Winnebago county court records

WWW.CO.WINNEBAGO.IL.US

(click on the option for subscription)

For Stephenson, Boone and over 20 other Illinois counties court records go to

WWW.JUDICI.COM

To check if applicant is a sex offender

WWW.ISP.STATE.IL.US

One credit report service is Kroll Factual Data. They offer a service specific for tenant screening called Resident Qualifier. The web address is www.KrollFactualData.com <http://www.KrollFactualData.com> The cost is minimal for a basic report from one agency. Other options are available for an additional fee. There are many other similar services available to choose from.

CREDIT REPORTS

These services provide an abundance of information regarding applicants. Credit reports contain information on payment history of a person's accounts. The number of payments made 30, 60 and 90 days late are noted for each credit account. Accounts that have gone to collection are also noted. An idea of an applicant's monthly obligations can be calculated to see if the rent payment will be within their budget. Remember to

include estimates for auto insurance payments when the credit report shows auto loans. Look for bankruptcies on both the credit report and the court house records. If the bankruptcy has not been dismissed or discharged the applicant needs the courts approval to enter into a contract.

CROSS REFERENCE INFORMATION

When obtaining a credit report, an applicant's social security number is being submitted along with their name. This insures that the information obtained is for the applicant. When using the court records no social security numbers are used. Care must be taken to verify that the information relates to the applicant and not someone with a similar name. Date of birth, and middle initials are important information to compare. Look at items such as traffic violations to see if addresses match those provided on the application. Check the names of all participants in a case to see if they are the same people who intend to occupy your apartment. Question the applicant about any information that is not clear in the record.

COURT RECORDS

The court record will also show any evictions filed against the tenant. An eviction will appear as a Forcible Entry and Detainer. Look at the case participants to obtain the address from which the tenant was evicted. Check to see if the plaintiff in the case is the same as the landlord listed in the application for the corresponding address. The plaintiffs phone number may also be listed. Call them to get the specifics of the case. Look at the docket sheet to see the details of the case. Look first to see who won. The eviction may have been filed without proper cause. See if the applicant was served and appeared in court. Find out if any monetary judgment was paid to the plaintiff.

Criminal complaints filed against the applicant in the county whose records you access will be listed in the court records. Crimes to screen for should include prostitution, sex offences, sale of drugs, violent crimes, use of weapons, and multiple occurrences of domestic disturbances. Verify if the individual was found guilty or innocent. Look to see how old the charges are and if there is recent history of good behavior. The State of Illinois maintains a web site to identify sex offenders throughout the state. Perform a criminal check for all individuals residing in the apartment. If people move in after the lease signing or are visiting for an extended time they should also be screened. The court records are public and no permission is required to access them to evaluate if someone is a potential problem.

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Rockford Apartment Association Code of Ethics

We, the members of the RAA, recognizing our duty to the public and the intimate nature of the relationship between the apartment resident and the owner, or manager, and being aware of the vastly increasing role of the apartment industry in providing the home of the future, and in order to provide the apartment-residing public with the maximum in quality and service upon the highest standards of honest and integrity, do hereby bind ourselves, with each and every member, together and alone, agreeing that, so long as we remain members of the RAA and so long as nothing contained herein shall be unlawful, we shall:

1. Promote, employ and maintain a high standard of integrity in the performance of all rental obligations and services in the operation of our apartment communities.
2. Maintain and operate our apartment communities in accordance with fair and honorable standards of competition, ever mindful of the purposes of the Rockford Apartment Association and in compliance with the bylaws thereof.
3. Strive continually to promote the education and fraternity of the membership and to promote the progress and dignity of the apartment industry in creating a better image of itself in order that the public may be better served.
4. Seek to provide better values, so that an even greater share of the public may enjoy the many benefits of apartment living.
5. Establish high ethical standards of conduct within the apartment industry in the business relationship between the owner, managers and suppliers of products and services to the apartment industry.
6. Maintain property standards of the appropriate governmental authority.
7. Ensure that every qualified individual, regardless of that individual's race, color, religion, gender, disability, familial status or national origin is afforded the same opportunity to rent an apartment and enjoy the benefits of apartment living.

Financial statement available upon request to members in good standing. The content and opinions expressed in the RAA newsletter do not necessarily reflect the views of, nor are they necessarily endorsed by, the Rockford Apartment Association or its board.

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Hurd Properties II LLC	124 Water Street Suite 204	1-815-519-5583
State Line Rentals	7210 E. State Street Suite 002 (LL)	1-815-398-8886
Terra Creek Apartments	375 Bienterra Trail	1-815-397-3320

