

# Effective Disposal Methods of Tenant Property

Elizabeth Cotner - March 1, 2010



Property managers might have a legal obligation to retain a tenant's abandoned property. Follow these steps to ensure everyone knows their rights regarding personal property.

Tossing a former tenant's personal property can result in large fines for property managers who don't abide by the law.

So before tenants abandon valuable items — or a unit full of their belongings — it's crucial for property managers to have a strategy for property disposal.

"It's important to think it through beforehand so you're not frustrated and you're not trying to be reactionary," says Sylvia Hill, past president of the National Association of Residential Property Managers (NARPM) and broker/owner of the San Jose and Monterey, Calif.-based H.M.S. Development Inc.

## Check Your Clauses

Before you throw anything away, check the lease agreement because the clauses on property abandonment control your course of action, says Albert Rizzo, an attorney with the Law Offices of Albert Rizzo, P.C., in New York. In the absence of a lease, check state statutes.

Hill says such clauses are necessary not only to guide your actions in the event of a problem but also to make tenants aware of what's expected of them.

"I always think it is important for tenants to know up front so we can turn the unit around and rent it again," Hill says.

Typically, if tenants turn in their keys and vacate the premises, the property they leave behind is under the

landlord's ownership based on the lease agreement and/or state statutes, Rizzo says. But if the tenants have abandoned the unit and have stopped paying rent, you must notify them before taking any action.

### **Property Disposal Varies by State**

Keep in mind that laws on disposing tenants' property vary from state to state.

Some states, such as Texas, allow property managers to dispose of items 48 hours after notifying a tenant if he or she has vacated and not paid rent, says Mark Kreditor, broker/president of Get There First Realty in Dallas and past president of NARPM. But other states, such as California, mandate that property managers put items with a value of more than \$300 into storage for 18 days, Hill says.

If you're required to store property, bonded warehouses can hold it under a bond that the owner pays upon pickup. In some states, landlords can sell a tenant's property through an auction to recoup the losses of unpaid rent or property damage.

### **Proceed with Caution**

Property managers should take caution when dealing with abandoned animals, personal documents and prescription or illegal drugs.

Kreditor says you can call the local animal control department to pick up an abandoned pet.

If you must dispose of files with personal information, Hill says, take them to a company that will shred them and give you a receipt for proof.

"You don't want to be charged for stealing someone's identity or information," she says.

If you find hazardous material such as pesticides, paint or oil, follow state and Environmental Protection Agency (EPA) regulations for disposal, Hill says. There are companies that will pick them up and dispose of them for free, she says.

If you find prescriptions or controlled substances, contact local authorities immediately.

"In some cases the Drug Enforcement Administration gets involved," Hill says. "You don't want to throw that out yourself."

### **Work with an Attorney**

Keeping the law on your side every step of the way is a good rule of thumb, especially because the laws on property disposal vary depending on the situation.

"Each circumstance is different," Rizzo says. "If a property manager is unsure, [he or she] needs to go to an attorney before taking action."

Going through the courts, especially in the event of an eviction, gives you a paper trail that protects you from potential lawsuits if proof of legal possession came in to question, Kreditor says.

"That's why I would do it with the courts and start and stop with the law on your side," he says.

### **When in Doubt, Don't Throw It Out**

Kreditor believes it is not only important to follow the law but also that there is a moral obligation to track down the tenant before throwing anything away. That often means calling the tenant's emergency contacts.

That's why Kreditor says property managers should store items they believe might be valuable to the tenant as long as it's reasonable to do so.

"I'm sensitive to doing what's ethical, sensible and humane," he says.

---

The opinions and information contained in this article are the views of the interviewees and are not necessarily those of Lowe's Companies, Inc. or its affiliates ("Lowe's"). Lowe's does not necessarily endorse any of the opinions, views, claims or information expressed herein (or those who made them and the organization(s) they represent), and Lowe's expressly disclaims any liability with respect thereto.

Any use—including the reproduction, modification, distribution, transmission, republication, display or performance—of the content and software on this site is strictly prohibited.

©2013 by Lowe's®. All rights reserved. Lowe's and the gable design are registered trademarks of LF, LLC. Terms of Use Item availability and price may vary by location

Las opiniones y la información que contiene este artículo son los puntos de vista de los entrevistados y no son necesariamente aquellos de Lowe's Companies, Inc., o sus afiliadas ("Lowe's"). Lowe's no necesariamente apoya cualquier opinión, punto de vista, reclamo o información expresada en el presente (ni a aquellos que los hicieron ni a la(s) organización(es) que representan), y Lowe's se exime expresamente de toda responsabilidad respecto de lo que se menciona en el presente.

Se prohíbe estrictamente el uso, la reproducción, modificación, distribución, transmisión, republicación, exposición o realización del contenido y del software de esta página.

©2013 por Lowe's®. Todos los derechos reservados. Lowe's y el diseño del gablete son marcas registradas de LF, LLC. Terms Of Use (en Ingles) La disponibilidad y el precio de los artículos pueden variar según la ubicación.