



**ILA Legislative Report**

**EDITOR'S NOTE:** During the past session, the legislature authorized a property tax implementation committee. The first meeting of the committee will be held in early September. ILA will monitor the work of this committee. We'll have a report for you in next month's newsletter.

Rep. Jim Kurtenbach (R-Nevada) and Senator Bryan Sievers (R-New Liberty) are chairing the committee.



**Joe Kelly**  
*ILA Lobbyist*

**Sky High!!!**

That might have been what Jackie Weaver of Erickson Properties was thinking as she floated above the Iowa landscape in that massive hot air balloon during the National Balloon Classic this past month. We would like to congratulate Jackie on winning our "Up, Up and Away" promotion. As the winner of the promotion she won 2 tickets for a Hot Air Balloon ride at the National Balloon Classic held August 1-9, in Indianola.

Jackie Weaver participated in our "Up, Up and Away" promotion, and stacked up the most points of any the participants. As described in the full color "Sky High Referral Program" brochure, Jackie was the member who collected the most points for recruiting new Regular, Corporate, or Associate Members, or for placing new rental listings on **Vacancy4Rent.com**.

The "Up, Up and Away" promotion was the latest ILA



Jackie Weaver of Erickson Properties was thinking as she floated above the Iowa landscape in that massive hot air balloon during the National Balloon Classic this past month. We would like to congratulate Jackie on winning our "Up, Up and Away" promotion.



*Continued on Page 3 ...*

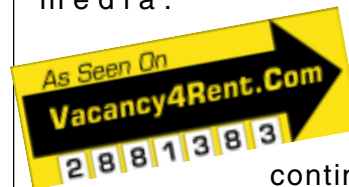
September reflections of Summertime...

**DIALOGUE WITH DIRECTORS**



Seems just like yesterday we were talking about upcoming events at the Spring Seminar. We were looking forward to our first Cubs baseball outing for the members of ILA. And now that season is all but over. And we had those Summer Breakfast Meetings at the Cubs Club. There were some good speakers, timely topics, and just seeing the members each month made us feel pretty good.

We launched the **Vacancy4Rent.Com** signage program at the Spring Seminar as well. Initial acceptance and participation by landlords has been good. As more and more landlords signed onto the program, we have publicized the program in different media.



The sign itself has been a huge success. We have heard many comments from business contacts and personal friends who tell us continually about the **Vacancy4Rent.Com** sign they have seen one place or another. It is a miniature billboard with a very simple message about the vacancy for rent at each location it is seen at. And at the Cubs game we attended in June, we were on the scoreboard at least 3 times that night as **Vacancy4Rent.Com**. We have also appeared in two separate inserts in the Des Moines Business Record. And we are not stopping there, plans call for additional media advertising later this fall.

The Spring Seminar also was the spring board for the ILA PAC. ILA Members who felt the need to have their collective voices heard in City, County, and State government have joined the PAC. With the general election just a mere two months away, we are very much focused to identify and support the candidates who support Landlord friendly propositions. To

*Continued on Page 3 ...*

**This Month's September 2003 NewsBrief .....**

- Dialogue With Directors
- ILA Legislative Report
- The Welcome Mat
- Breakfast Meetings
- Ask An Expert
- Sky High!!!
- Save Your Signs
- Advertise with ILA

- Directors: • Dennis McDonald • Dave Sollenbarger
- WebSite: [www.iowalandlord.org](http://www.iowalandlord.org)
  - Email: [ilaservices@iowalandlord.org](mailto:ilaservices@iowalandlord.org)

## Ask an Expert: Legal Q & A



by **Mark V. Hanson**, Attorney at Law,  
Whitfield & Eddy, P.L.C.  
[hanson@whitfieldlaw.com](mailto:hanson@whitfieldlaw.com)

**Q:** Can an Forcible Entry and Detainer (FED) (action to recover possession of rental property from a tenant who has breached the rental agreement), and money judgment papers be served to the tenant at the same time?

**A:** The short answer is yes. And the short recommendation is if you are going to sue for possession you should bring all matters growing out of your claim at one time.

To keep this discussion cleaner, I omitted statute reference to mobile home parks.

This question is covered by Iowa Code Section 648.19. Prior to 2000, the section stated simply: "An action of this kind (FED) shall not be brought in connection with any other action, with the exception of a claim for rent or recovery as provided in sections 562A.24 (tenant claim for damages), 526A.32, (landlord claim for rent) nor shall it be made the subject of counterclaim." This was amended in 2000 to read:

648.19 No joinder or counterclaim -- exception.

1. An action under this chapter shall not be filed in connection with any other action, with the exception of a claim for rent or recovery as provided in 562A.24 or 526A.32, nor shall it be made the subject of counterclaim.

2. When filed with an action for rent or recovery as provided in section 562A.24, 562A.32, notice of hearing as provided in section 648.5 is sufficient. (3 day notice of the hearing is necessary).

3. An action under this chapter that is filed in connection with another action in accordance with this section shall be treated only as a joint filing of separate cases assigned separate case numbers, but with a single filing fee. The court shall not merge the causes of action. The court shall consider the jointly filed cases separately and shall consider each case according to the rules applicable to that type of case.

Prior to the amendment, it would have been recommended that the claim for rent be incorporated into the same petition as the claim for possession. This caused confusion because the hearing on possession would be scheduled within seven days with a minimum three day notice, while a defendant generally had twenty days to answer a claim for a money judgment. Now it is more clear that each claim would be contained within its own separate case and the hearing on the case for possession would be within seven days, and the hearing on the case for money judgment would be set only if the tenant filed an answer within the time allowed, generally twenty days.

Service of notice of the action and hearing is accomplished as follows.

A. By personal service by either the sheriff or by your private process server. Include a conforming copy of an answer form with the money judgment petition.

B. Both jointly filed cases can be served by posting if personal service cannot be made. To post

i. The process server must make at least two attempts to perfect service upon each defendant. The attempts to perfect personal service may be made on the same day.

ii. Post a copy of the original notice upon the real property being detained for each defendant at least three days prior to the date set for hearing.

iii. The plaintiff shall also mail a copy by certified mail to each defendant at least three days prior to the date set for hearing.

iv. Service shall be deemed complete by the filing with the clerk court an affidavit indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph, whether or not the defendant signs a receipt for the notice.

A default cannot be made upon a defendant unless the three days' notice has been given. In the event that personal service cannot be completed in time to give the defendant the minimum notice required by this section, the court may set a new hearing date.

C. A little used method of service for FED's is provided in 562A.29A. which provides notice of termination, notice to quit and petition for FED may be served by personal service as well as by sending notice by certified or restricted certified mail, whether or not the tenant signs a receipt for the notice. If you use this method you would want to file the affidavit of mailing with the clerk of court a minimum of three days before the hearing date. It does not appear this method of service would work for serving the claim for money judgment filed jointly with the FED.

D. Service of action for money can be made by the clerk mailing to the defendant by certified mail, restricted delivery, return receipt to the clerk requested, a copy of the original notice together with a conforming copy of an answer form.

**Editors Note:** If you have legal questions you would like covered in this article, please forward them to: [dennis@iowalandlord.org](mailto:dennis@iowalandlord.org). Opinions and advice contained should be individually considered, and if you have specific questions concerning your operation or legal responsibility you should seek qualified legal assistance of an attorney of your choice.

*"The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. This disclosure is required by the rule of the Supreme Court of Iowa."*

## Sky High!!!

*Continued from Page 1 ...*

activity to encourage membership participation with activities designed to help our organization grow, to strengthen our political power, to help landlords increase their bottom line, to develop a higher standard of professionalism in our industry, and to encourage involvement in social events of interest to the membership.

Upon Jackie's return to Earth, she said, "The balloon ride was great! Way more than I expected! It was kind of exciting, too, because we couldn't find a place to land, so finally landed on a highway. Now that isn't something you don't do every day! Well, at least I don't."



The flight was provided by "Galena On The Fly" home based in Galena, IL. The balloon was in Indianola as part of the National Balloon Classic competition. Galena On The Fly's owner, Andy Williams (not the singer) likes to return to his native



Iowa and fly the over the vast rolling hills of the heartland. For Jackie's flight, 23 year veteran pilot Mark Johnson from Phoenix, Az piloted the craft.

Jackie shared the experience with her husband, Darl. Being so close to their wedding anniversary, they counted this outing as part of their personal celebration. After the flight, Mark Johnson joined Jackie and Darl in bubbly refreshment in celebration of the couples flight. Jackie said "It is something we would not have thought of doing... Wow, what a prize to give away."



When asked if she would go again, she replied, "In a heartbeat!" Congratulations Jackie from all of us at ILA.

## DIALOGUE WITH DIRECTORS

*Continued from Page 1 ...*

participate and assist with this endeavor should be the goal of every landlord so our assets are protected, and our property rights are sheltered from undo burden. You still have time to assist by joining the PAC, or contributing to it. You can contact either Dave or Dennis (at the office) for questions on how you can help.

And then came July! We launched a little friendly competition – the "Sky High Referral Program". The goals of this competition was to encourage membership participation with activities designed to help our organization grow, to help landlords increase their bottom line, and to encourage involvement in social events of interest to the membership among other things. Our congratulations go out to Jackie Weaver of Erickson Properties for winning the competition.

All in all, we are pleased with the activities of Summer. We would like to increase the number of events and programs that our membership could benefit from. Everything from picnic outings to golf tournaments has been on the table. Educational training seminars, professional development classes, evening dinner meetings and bowling have been as well. But to insure the success of these activities, we would like your participation. First by telling us what you would be interested in, and then by you attending our events.

Additionally, we would like to increase our regular, corporate, and associate memberships. The strength of our organization is influenced by the number of participants in our membership. By growing our membership we are able to offer more professional and social activities. We are better able to influence political outcomes which are landlord friendly. And lastly, we are able to better network to help each of our membership with business problems and the solutions.

### A Picture is Worth...

You know the saying, "A Picture is worth a thousand words." And so it is with advertising. That is why when you advertise on **Vacancy4Rent.Com**,



you are allowed to place an image of your rental property or unit. And like any good photographer will tell you, it is best to take the photo when the subject looks the best. So, we have an offer for you... we will shoot the exterior shot of your rental **FREE** if you place your ad on Vacancy4Rent.com before September 30<sup>th</sup>, AND we will give you an additional **MONTH** placement for **FREE!** Just use the form on the back of the newsbrief, and write the words, "**PHOTO SPECIAL**" at the top.

**Need to Rent ???**  
advertise your rental at:

**www.Vacancy4Rent.com**

## Mistakes Landlords Should Never Make

by Alexander Ruskell, Landlord Tenant Law Bulletin

Here is an acronym that should be practiced, CAP: Consistency, Application and Professionalism.

These are three words that are most often invoked when discussing the issue of mistakes a landlord should never make.

First, be consistent in your policies. Consistency breeds familiarity, and familiarity breeds respect and understanding; if the tenant knows certain rules uniformly applied throughout your properties, there will be no question regarding proper rental procedures and no argument whether one tenant is getting a better deal than another tenant. In single-family dwellings, make sure utilities are in the tenant's name before handing over the keys. Never let the tenant move in without paying the full move-in fees. Remember, especially in multi-tenant buildings, tenants talk. If the tenant finds out a neighbor didn't have to pay all of the move-in fee, the next call will be to you.

Second, apply all rules and regulations to completion. Don't let tenants believe you are a paper tiger, one full of empty threats. Although simply threatening court action might get the action you desire, make sure you are actually following through on your words. If you file an action for nonpayment, don't accept partial payment. If the tenant wants you to drop the case, insist they pay all rent due, late fees, and filing costs that you have incurred so far.

Always follow through with the three day notice and eviction proceedings until payment is received, even if you are forced to garnish the tenant's wages. Most important, never change the locks until a proper eviction has been completed. Although, as a business person, you may be comfortable and familiar with the fact that compromise, legal proceedings, rules and regulations

are not the place to take half-measures, if you feel the need to threaten eviction, then you need to follow the legal rules to the letter.

Once you start cutting corners, the tenant will decide that the law is merely your tool, and that you can make it do what you want. Have the tenant understand the law is out of your hands, and once a legal filing occurs, whatever happens is between the tenant and the legal system.

Third, be professional in all of your dealings with the tenant.

Emotions and feelings are natural, but they get in the way of running your rental property like a business. We all want to have good relations with those we work with, and in a landlord-tenant situation, the people you most often work with are your tenants. Never rent to relatives or good friends. Never accept a tenant without a thorough screening, even if you feel like you are experienced enough to go with your gut feeling.

Keep a written record of every landlord-tenant interaction.

If a new tenant keeps referring to his or her old landlord as a jerk, realize this may be an indicator of the tenant's personality, and that you might be the next jerk. As a landlord, you are dealing with a basic, primal human need: shelter.

There are two other rules that apply to all parts of CAP. If possible, live with an easy drive of your rental property. Mistakes seem to multiply exponentially the farther away you live.

Finally, never go into the rental business uneducated. Make sure you have copies of all applicable laws and make sure you keep updated on any changes.

## Save Your Signs

Recently, the City of Des Moines has started to confiscate yard signs that have been placed in the "public right-of-way". The justification of the City's action claims that the signs pose a safety problem, and is a traffic hazard. A vast majority of signs are Real Estate signs. However, "for rent", "garage sale", and other non-permanent signs are also targeted. Perhaps the timing of the confiscations also serves as a notice to the upcoming Political Campaigns about sign placement.

Apparently property owners (or agents) have been placing yard signs on the parking. In an attempt to be

more visible, they have moved the signs closer and closer to the curb. This is especially true on street corners where signs are placed for home showings and garage sales on any given weekend. Thus, resulting in a vision problem for drivers at those intersections.



Because of the strong visual presence of our own **Vacancy4Rent.Com** sign, we want to insure that our landlords are conforming to the city ordinance for their own profitability. We encourage our landlords to place any signs that they may be using (including our **Vacancy4Rent.Com** sign) behind their own property line.

## A False Sense of Security

Even though you may want to maintain good relations with your tenants, do not make any statement to current OR prospective tenants that could give an impression that your property offers protection to people and their possessions. Whenever a tenant or prospective tenant gets on a subject of safety, make sure it is clear that security is not an amenity you offer.

You cannot be expected to protect your tenants from all the threats to them and their possessions that exist in the world.

Never use the term 'security gates'; they should be referred to as being 'gated' or 'limited access entry and parking'. Never use the term security lights or security systems. Instead use words like motion lights or access detection systems. If you have security guards, they should be called hospitality staff or public relations officers.

This all sounds silly, but lawsuits depend on what is stated in a rental agreement and what is said to a prospective or current tenant.

Most landlords have faced the tenant who wants to hold landlords responsible for damage or theft of their personal possessions on their property. They have to be educated where your responsibility ends as a landlord and where their responsibility as a tenant begins.

Even locks on windows and deadbolts on doors should be described as 'meeting housing code requirements' and are of good quality; but do not give them the impression that they prevent break-ins.

If a prospective tenant asks how safe is the neighborhood, make it clear that the way things are in today's world, everyone has to be alert even in so called safe neighborhoods.

If your property is located in a problem area and prospective tenants are really concerned, have them check with the local police department and note on their application that they did.

## Not In My Backyard Opposition

from "Washington Updates" August 1, 2003 issue

The Federal Fair Housing Act remains a sensible way of counteracting NIMBYISM opposition to new apartment construction. The U.S. Department of Justice in a recent lawsuit settled with a suburb of Savannah, GA. The lawsuit charged the suburb with violating the Fair Housing Act when it used racial reasons to reject a developer's proposal to build affordable apartments for seniors using low-income housing tax credits. DOJ accused the suburb of using zoning regulations to discourage minorities residents from moving to the suburbs from the city. The Department noted that the Fair Housing Act's prohibition of racial discrimination includes discriminatory land use and zoning practices by local governments and housing authorities.

The full settlement order is available at:

[www.usdoj.gov/crt/housing/documents/poolersettle.htm](http://www.usdoj.gov/crt/housing/documents/poolersettle.htm)

---

## Breakfast Meetings !

We finish off our Summer Breakfast meetings on September 16<sup>th</sup> which starts at 7:30AM, at Sec Taylor Stadium at the Cubs Club. Breakfasts are at the Sec Taylor Sky Box, and the cost is \$10.00 per person (limit 25). We thank all of you who have attended our Summer Breakfast Meetings this year. Your participation has made the events and our organization better and stronger. Likewise, we are sure you will enjoy our final breakfast 2003 breakfast meeting and the information you will leave with.



Call Connie at 515-255-0675 to reserve your space or e-mail us at [ilaservices@iowalandlord.org](mailto:ilaservices@iowalandlord.org). We look forward to seeing you at our next activity!

---

## The Welcome Mat

The Iowa Landlord Association is pleased to announce the latest members to join ILA.

### **Members:**

Garry Stanfill and Valerie Doyle from Altoona  
Pam Stearns of Des Moines  
James Raddatz of West Des Moines

### **Associate Members:**

We encourage our members to use the knowledge and expertise of our Associate Members to help solve landlording issues and problems.

**Need to Rent ???**  
advertise your rental at:

**[www.vacancy4rent.com](http://www.vacancy4rent.com)**

**Would you like to list your property on the Iowa Landlord Association Apartment Rental Search but you're not on the Internet?**



**Iowa Landlord Association  
Apartment Search Service  
Listing Form**

*Make copies of this form, fill out the form and FAX to: 515-255-0675*

You can mail or fax in your listing directly to our office if this would be easier for you.

To list your property, please fill out this form and send a picture of your property to our office.

Have you a rental property you wish to sell? Advertise it on the web site! Call us for details.

Interested in banner ads on our website?

**ILA Rental Property Search Listing Rates**

- Listing Prices = Members - \$50/mo., Non-Members - \$100/mo.
- Pictures/Logo inclusion = \$10/submission
- Picture/Logo image preparation (if needed) = \$35/hr.
- Photography Services = \$50 trip fee; \$35/hr after 1 hour; Materials at cost; Service available in the Des Moines metro and Polk County surrounding areas; Services are on a scheduled basis; Contact [information@iowalandlord.org](mailto:information@iowalandlord.org) for arrangements.

Your Company: \_\_\_\_\_  
 Your Name: \_\_\_\_\_  
 Your Company Address \_\_\_\_\_  
 Your Phone number for contact \_\_\_\_\_  
 Property Address: \_\_\_\_\_  
 Property City, Zip: \_\_\_\_\_

**Monthly Rent Price:** \$ \_\_\_\_\_ / Month  
**Number of Bedrooms:**  Studio/Efficiency  1  2  3  4+

**Type of Housing:**  Condos, Townhomes, or Duplexes  
 Unfurnished Apartments  Furnished Apartments  
 Single Family Dwelling  Short Term Rentals  Senior Community

**Utility Arrangements:**  None Supplied  Some Paid  All Paid

**Accommodations and General Amenities** – Please check the items associated with this property:

Air Conditioning: .....	<input type="checkbox"/>	Dishwasher: .....	<input type="checkbox"/>	Wheelchair Accessible: ..	<input type="checkbox"/>
Microwave: .....	<input type="checkbox"/>	Stove: .....	<input type="checkbox"/>	Trash Compactor: .....	<input type="checkbox"/>
Balcony / Patio: .....	<input type="checkbox"/>	Refrigerator: .....	<input type="checkbox"/>	Garbage Disposal: .....	<input type="checkbox"/>
Dining Room: .....	<input type="checkbox"/>	Fireplace: .....	<input type="checkbox"/>	Pet Friendly: .....	<input type="checkbox"/>
Computer High				Laundry Type:	
Speed Broadband				<input type="checkbox"/> Washer / Dryer	
Internet Accessibility: ..	<input type="checkbox"/>	Cable Ready: ...	<input type="checkbox"/>	<input type="checkbox"/> Washer / Dryer Connections	
		Garage:	<input type="checkbox"/>	<input type="checkbox"/> Laundry Facility	

**Community Accommodations and Amenities**

Club House: .....	<input type="checkbox"/>	Storage Facilities:	<input type="checkbox"/>	Gated Access: .....	<input type="checkbox"/>
Public Transportation: ..	<input type="checkbox"/>	Tennis Courts: ....	<input type="checkbox"/>	Playground: .....	<input type="checkbox"/>
Fitness Center: .....	<input type="checkbox"/>	Swimming Pool: ..	<input type="checkbox"/>	Whirlpool / Spa: .....	<input type="checkbox"/>

**Run Dates of Your Listing**

Date Begin: \_\_\_\_\_ Date End: \_\_\_\_\_

Your Email Address:  
 \_\_\_\_\_

*Additional Information About This Rental:*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*\*\*\* Don't Have A F.A.X. - - Just copy and mail your form to us. \*\*\**



**(HINT!** For the cost of an ILA membership - Non-members can purchase their membership, save money and experience ALL the benefits of ILA membership!)

**Need to Rent ???**  
 advertise your rental at:  
[\*\*www.vacancy4rent.com\*\*](http://www.vacancy4rent.com)