



ILA Legislative Report

The 2006 session is underway. It's the second year of the two-year 81st General Assembly. The second year of the assembly is two weeks shorter than the first. At least the expense money is for only 100 calendar days, as opposed to 110 in the first year.



Joe Kelly
ILA Lobbyist

Every bill that was introduced last year can still be considered this year, although in most instances that doesn't happen. The legislature came up with their system of deadlines in the late 1970's so that there would be a mechanism handy to get rid of bills that weren't going to be considered. There's no need to keep people's hopes artificially alive. After all, there's neither time nor money to do everything that some citizens want to do.

As for landlords, we're still hopeful for some property tax reform. Prominent Des Moines developer, Jim Conlin, has held meetings with numerous legislators, including the leaders of both political parties, to make the case that apartments should be classified as residential rather than commercial. Even though Conlin received favorable responses from most of the leaders, it is still unclear as to whether the reclassification legislation will pass. Such legislation will be introduced.

The other compelling legislation on the property tax front is HF 847, which passed the Iowa House last year with over 70 votes. The bill was stalled last year in the Senate Ways & Means Committee. HF 847 is the bill which would add all commercial property to the current rollback system, meaning that commercial would go up or down at the same rate as agricultural and residential properties. It would, in essence, freeze the disparity between the properties, but would have the benefit of putting a cap on increases of no more than 4% in a year.

Since this is an election year, there will be added pressure on co-leader, Senator Mike Gronstal (D-Council Bluffs), to do something about property taxes.

Continued on Page 4 ...

The Dialogue with Directors has been replaced by the "From the Desk of the AE". AE stands for Association Executive, which is a fancy title for coordinator and contact between the ILA and the National Apartment Association.

From the Desk of the A.E.



More changes are coming soon. Starting with the March Newsletter, you will see several changes. Joe will still have his article on the Iowa Legislature and Mark will still have his column on 'Ask an Attorney: Q & A'.

Check out the new website at www.iowalandlord.org. It has been completely revamped and is still in the process of completion. To log onto the members section, the current login name is January (case sensitive) and the password is January. These will change periodically. If you have comments or suggestions, contact the webmaster at service@theiowa.net. We value your suggestions.

We are looking for more volunteers to serve on the standing committees. See the list of committees and contacts on page 3 in this newsletter.

Copies of the ILA Occupancy Survey are still available. For more information on this contact Connie at ilaservices@iowalandlord.org or call her at 515-255-0675.

Be sure to check out this month's issue of UNITS magazine and the NAAs website at www.naahq.org. Remember the 2006 Denver Education Conference and Exposition on June 15 through the 17th. This is a great opportunity to meet other members of the NAA.

In January we distributed an Associate Membership List along with the Newsletter. Unfortunately, this list had errors. We regret the slip-up. We extend our sincere apology to the Associate Members and to you. A revised Associate Membership List of commercial suppliers providing products and services was sent to our members Jan. 13th. Please use this list to find valuable suppliers of products and services to our industry.

This Month's February 2006 NewsBrief

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| <ul style="list-style-type: none"> • From the Desk of the AE • ILA Legislative Report • Revamped ILA Website • ILA Leadership | <ul style="list-style-type: none"> • Property Management Employee • The Welcome Mat • Ask An Attorney | <p>Directors: • Dennis McDonald • Dave Sollenbarger</p> <ul style="list-style-type: none"> • WebSite: www.iowalandlord.org • Email: ilaservices@iowalandlord.org |
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Ask an Attorney: Legal Q & A



by **Mark V. Hanson**, Attorney at Law, Whitfield & Eddy, P.L.C.
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Q: At the end of a term lease, for instance a one year lease, what are your options for ending the lease and having the tenant vacate? Can you require the tenant to give thirty day notice of termination before vacating? And what would be the penalty available to you if the tenant did not?

A: Well, it depends on what you want to do. Do you want the Tenant out, or do you want to keep the Tenant? And somewhat on what the Tenant wants. The Landlord Tenant Law Iowa Code Chapter 562A is written to provide more protections for the Tenant, but the Landlord does have options. If you have a government assisted lease, the tenant has a “property right” to continued rental of the unit almost forever, so long as the provisions of the lease are not violated. However, if your lease is not government assisted, the Landlord has the right to terminate the lease as agreed in the contract.

My opinion is that you can rely on the written termination date, except for government assisted leases. 562A.34(3) provides if the Tenant remains in possession without the landlord’s consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant’s holdover is willful and not in good faith the landlord, in addition, may recover the actual damages sustained by the landlord and reasonable attorney’s fees. So, if you want to get rid of the tenant at the end of the lease and the Tenant does not vacate voluntarily, serve the tenant with a 3 Day Notice to Quit. At this point whether the Tenant wants to stay or not is immaterial. Also, do not get your hopes up on proving to the judge the holdover was willful and not in good faith and you are entitled to damages and attorney fees. You will be holding your breath for a long time if you do.

562A.34(3) goes on to say if the landlord consents to the tenant’s continued occupancy, section 562A.9(4) applies. That means the tenancy turns into a month-to-month lease. If this happens, and the Landlord later wants the Tenant out, the Landlord will need to give the Tenant a thirty day notice of termination, and a 3 Day Notice to Quit, before a forcible entry and detainer can be brought. See 562A.34(2). So, if you want the Tenant out, do it right away, do not let it turn into a month to month tenancy or you have the Tenant for a minimum of another month.

Under both the above examples, the Landlord was not communicating with the Tenant before hand, or finding

out before hand what the Tenant’s intentions were. A better business practice would be to communicate with the Tenant more than a month before the termination date. If you do not intend to renew the lease, let the Tenant know. If you would be agreeable to continuing the lease, you may want to extend the lease. At a minimum you want to find out if the Tenant does not want to stay and is planning to move out on the termination date. Or, at a minimum give the Tenant notice a month in advance the lease termination date will be enforced. I believe you could give a 3 Day Notice to Quit to coincide with the termination date (I may be wrong but I would argue to the judge there is no requirement it be served “after” the termination.)

Could you put in your lease a requirement the tenant give you thirty day notice he/she is going to vacate on the stated termination date, and force them to be responsible for another month rent if they do not. No, I do not think that will fly. I think if they move out on the termination date without prior notice, they would be considered as abiding by the written lease. I do not think a judge would award you a money judgment for another month rent in this scenario. I believe, only if they hold over would they be liable for another month rent. I do not believe you can force them to stay or force them into a month to month lease after the termination date, if they have vacated by the termination date.

I do think however, you can provide in your lease that unless Landlord and Tenant agree to extension at least 30 days before the termination date of the initial lease, Landlord will assume the Tenant is not planning to renew and the termination date will be enforced. This will allow the Landlord to plan for the finding a new tenant.

Editors Note:

If you have legal questions you would like covered in this article, please forward them to: **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.”

Need to Rent ???
advertise your rental at:
www.vacancy4rent.com

How to Manage A Difficult Property Management Employee

by Ernest Oriente known as The Coach

Having to manage a difficult employee is never fun and can be the most challenging part of your responsibilities as a property management professional. While never easy, this article will address a step-by-step way to consistently and confidently handle the most challenging employee situations. In addition, how you handle a difficult employee will send a strong and powerful message to those who still work for your property management company.

Addressing the problem: When you first realize you are having a problem with one of the members of your property management team, bring this individual behind closed doors and discuss your specific concerns. The conversation should be brief and to the point, making certain your employee understands the concerns you have and the improvements you expect. Be specific with your comments and only address the business concerns you have, setting aside any personal issues. Of course, always look to support this person of your team in any way possible with the intention of a positive outcome. (Take notes at this meeting, record the date on your notes and place them into this person's employee file.)

Continuing problems: If similar problems persist with this same employee, bring this individual again behind closed doors and present a written memo recapping your concerns. In this memo, list the day/date of your first meeting when you discussed your initial problems with this individual's performance and list the specific areas of improvement, which must happen. Remember, when you are requesting improved performance, the improvements must be measurable and must have a time frame or date when these improvements will be measured and reviewed again. (After you present your written memo outlining your concerns, have your employee sign and date this document which validates the points discussed during this meeting.)

Terminating this employee: If necessary, termination of this employee may be required. If so, make the termination, swiftly. This person's attitude can be detrimental to the morale of your property management company and their attitude might be affecting those around them. A termination meeting should be done at the end of the day so this person's departure will not disrupt others.

Lastly, make certain this termination meeting is brief, state exactly why this person is being terminated and have all final paperwork ready for signature. (Take time to analyze what went wrong and look for possible solutions. Was this person the perfect fit for the position, did we give this person proper training.)

ILA Leadership

Dennis McDonald
Association Executive
Chair of the Legislative Committee
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515-270-2796

Rosie Culver
Chair of Fund Raising Committee
Co-chair of Vendors Committee (Suppliers Council)
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Mary Spain
Chair of Public Relations Committee
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515-327-0606

David Sollenbarger
Chair of ILA Political Action Committee (a separate entity)
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Melissa Johnson
Chair of Membership Committee
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515-223-1010

Mark Harpenau
Co-chair of Vendors Committee (Suppliers Council)
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Tina Busch
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advertise your rental at:
www.vacancy4rent.com

ILA Legislative Report

Continued From Page 1 ...

If nothing happens with HF 847, Republican candidates will be able to charge that the Democrats stopped property tax reform. Again, it's too early to determine the fate of HF 847 or any other alternative proposals which may arise, including our reclassification bill.

Landlords will introduce legislation to solve problems which have arisen from two court decisions: one from Polk County and one from Cerro Gordo County.

In Polk County, a judge has ruled that an owner or owners of rental property can't have their managers go to small claims court on their behalf. This interpretation came from Iowa Code 631.14...."In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee." In other words, if you own a corporation, you can send employees to small claims court, but if you own the property on an individual basis, you have to show up yourself, even though your manager is fully capable of representing you.

In Cerro Gordo County, a judge has ruled that Iowa Code 562A has no provision stating that a 30 days' no cause non-renewal eviction can be used for leases which have terms longer than 30 days. After reviewing the code, we have to agree that the judge was correct. However, our argument would be that a lease provision could cover this problem. Nonetheless, it's an oversight that should be cleared up.

To get quicker notification of what's going on in the legislature affecting landlords, be sure to send me your e-mail address. Send it to joekelly@qwest.net. Be sure to put me in your address book so that your spam programs don't reject my e-mails to you.

Revamped ILA Website Revealed

In January our webmasters released the revised ILA website. It has a new look, new functionality, and new features. The goal was to make the site more attractive and user friendly.

Among the new features on the site, you will find Guest and Member Section menus on every page. Easy access to future classes and seminars listings. Members once logged in can access the ILA forms library and archived newsletters. Lead Poisoning, Mold Remediation as well as Drug and Meth Lab Information are just a mouse click away.

After the new site was up, the Executive Committee voted to eliminate any images of member properties on the Home page and succeeding pages. They purposed generic out of state properties be showcased instead.

There are several pages that are awaiting content, otherwise it is up and fully functional.

If you have not already visited the ILA website, we encourage you to do so. You will find it on the web at: www.iowalandlord.org. If you have any suggestions or comments, you may submit them by e-mail to: ilaservices@iowalandlord.org, or call Connie at 515-255-0675.

**ILA Members prefer to do business
with
Associate Members**



Colorado Convention Center

June 15-17, 2006 - Denver, Colorado

Find details at;

<http://www.naahq.org/meetings/naaeducon.htm>

The Welcome Mat

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

Members:

Richard Eyerly in Urbandale, Iowa

West Glen Town Center in West Des Moines, Iowa

BKM Renovators (South Glen Apts.) in Des Moines

Scott & Jon Henrichsen in Louisville, Nebraska

Associate Members:

We encourage our members to use the knowledge and expertise of our Associate Member(s) to help solve landlording issues and problems.