

Shut Your Mouth!

7 THINGS

Never to Say to a Tenant

BY TERESA BITLER

Anything you say to your tenant can be — and, during a dispute, usually will be — used against you, often with costly results. Here are seven statements you should avoid making as a landlord:

“I don’t think you’ll be happy here.”

Most landlords know that phrases such as “whites only” or “no small children” violate the Fair Housing Act, which prohibits discriminating against anyone in the sale or rental of a property based on race, color, religion, sex, handicap, familial status or national origin. But, any remark that discourages a particular group or ethnicity — “this is a very active community” — or shows preference for another — “predominantly Hispanic neighborhood” — could land you in hot water, even if you genuinely are trying to be helpful. “I don’t think you’ll be happy here” and similar comments can be costly. By violating the Fair Housing Act, you risk significant fines and damages ranging from the tens of thousands to millions of dollars for multihousing properties.

“You may be turning over the keys to your building,” says New York attorney Adam Leitman Bailey. “At the very least, there could be a huge lawsuit, damages and even bankruptcy.”

To avoid this legal nightmare, think before you speak, and when in doubt, consult an attorney. If your applicants have questions about the

neighbors or neighborhood, encourage them to drive the area themselves, instead of making comments to them.

“I’ll work with you on payment.”

Payment plans seem like a good idea at first — the tenants can’t come up with the entire security deposit or they miss a rent payment, so you allow them to make up the delinquent amount over a period of time. Unfortunately, these arrangements rarely work.

If your tenants are having financial problems and miss a rent payment, they probably also are struggling to make other payments. Their cell phone provider will cut service if they don’t pay; the bank will repossess their car. You’ve just demonstrated that you’ll work with them. Guess who is getting paid last?

The payment plan isn’t the problem, though. Landlords offer payment plans because they don’t treat their real estate investments as a business. They listen to the tenants’ sob stories and want to help. As a result, they lose money.

If you can’t manage your properties as a business, hire a property management company to do it for you.

“Make any improvements you want.”

OK, so you wouldn’t give your tenants carte blanche, but even simple improvements can turn disastrous, as Barb Getty learned when she allowed her tenant to repaint.

“He chose a shocking, greenish yellow for the kitchen with a rooster-

adorned border pasted haphazardly along the ceiling and aqua for the living room,” says Getty, author of “The Landlord Chronicles: Investing in Low and Middle Income Rentals.”

“Not only did he use horrible colors, he slopped it all over the carpet, baseboards and ceiling. He was proud of the results — I was appalled.”

Just because the tenant claims to be a professional doesn’t mean he’s qualified to lay carpet, build a new deck or plumb an additional bathroom. Hire professionals and oversee the work yourself.

“Fix it. I’ll reimburse you.”

When your tenant calls about a leaking faucet, it’s tempting to give him permission to fix it, especially if he is a plumber. Presumably, he knows what he is doing, and you don’t have to schedule someone to come out and fix it for you. The tenant is already there and offering to make the repair.

Avoid the temptation to have him do the work and reimburse him.

Even if he submits a receipt, you can’t be certain that the repair was necessary, that he did the work, or that he did a good job. In fact, the receipt he submitted could have come from a friend’s home repair or The Home Depot parking lot, for all you know.

You also set a dangerous precedent. This month, he had a leaky faucet; next month, he could claim the air conditioner blows hot air, and the following month, a ceiling fan could break. Each time, he might ask to do the work and get reimbursed for his time and expenses.

Instead of taking the tenant up on his offer to make a repair, use a professional — preferably someone with whom you've worked before. Have the expert determine whether the work needs to be done, and then, supervise that person's work.

"I own the property."

I'm not suggesting that you lie, but if you manage your own property — something that comes with inherent risks — present yourself as the manager, not the owner. This does two things.

First, it gives you credibility. In the tenant's eyes, you are a professional who knows what to do. You treat the

properties you represent like a business because to you, that's what it is: a business.

Second, you're not the final decision-maker; the owner is. Of course, you're also the owner, but the tenant doesn't know that.

"None of my tenants knows I'm the owner," says Getty. "I'm the property manager, which is also true. They see me as the go-between, someone who is generally looking out for them. This makes my job easier and helps me in potentially sticky situations like evictions, repair issues and settling disputes."

TIPS FOR BEING A BETTER LANDLORD

Treat your investments as business. Adopt a business policy, and act professionally.

Screen your tenants. Put each person over the age of 18 who will live at your property on the lease.

Know the Fair Housing Act. Consult an attorney with all legal questions.

Be friendly, but don't be a friend. Listen, but stick to your policies. Don't get sucked in with a sob story.

Assemble a team — a property manager, broker, contractor and anyone else you might need regularly.

Keep a paper trail. Create a file for each tenant containing the lease, correspondence between you and the tenant and other documentation.

Reward good tenants. Install new carpet or give them a restaurant gift card. They'll continue to be good tenants and tell their friends about you.

PRO MAY BE THE WAY TO GO

You don't have to worry about what to say to your tenant if you have a property management company working for you. Its staff will market your property, show it to prospective tenants, qualify them and collect deposits and the rent. When the tenant has a problem, they field the calls. But you make the decisions; the property management company acts on your behalf.

"Don't worry about what the lease says."

The lease protects both your interests and those of the tenants. It defines responsibilities and sets expectations. It's a legally binding contract between all parties involved.

So, why would you ever tell the tenant to not worry about the lease?

Whenever there's an issue, the lease should be the final word. If the tenant wants his brother's family to move in with him, but the lease specifies no more than three occupants, you shouldn't tell him to not worry. Rather, consult an attorney, and if you decide to proceed, qualify each new occupant over the age of 18 and put each on the

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www.inhousecorp.com

Barnes Properties
www.thelandlordchronicles.net
(317) 213-8361

Adam Leitman Bailey, P.C.
www.alblawfirm.com
(212) 825-0365

lease. After all, if you don't take the lease seriously, neither will the tenant. His attitude toward the lease is a reflection of your own. Adhere to it, and he'll be more likely to, as well.

Nothing.

Sometimes, the worst thing to say is nothing at all.

"You need to communicate," says Jerry Neitlich, a commercial real estate broker. Neitlich recently gave a presentation, "Landlords are from Mars, and Tenants are from Venus," to real estate attorneys at the Orange County Bar Association in Southern California, in which he explained that landlords and tenants have different goals and agendas.

Listen to your tenant, he recommends. Answer his questions upfront. If you don't know the answer, find out and fully disclose to him what you learn. Ignoring the tenant or dismissing him with statements like, "Don't worry about that," or "I don't have time for this," can elevate a relatively minor situation into a major dispute.

Anytime you have a significant conversation with a tenant, it is a good idea to put what was said in writing.

Send a letter or email to all parties involved with the highlights of your conversation. Landlord-tenant disputes often stem from different interpretations of the same conversation. ▲