



# Kenosha Landlord Association

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### DISCLAIMER

The Kenosha Landlord Association publishes this newsletter to create awareness of issues relating to the rental housing industry. Information is compiled from a variety of sources and the views and concerns expressed by the contributors do not necessarily reflect those of the editor or the Association. When necessary, we suggest you consult an attorney.

# Do You Want To Send Your Tenant Balances To Collections?



**Special arrangements have been made by the Kenosha Landlords Association to address its members' debt collection needs.**

We are now affiliated with Creditors' Alliance, Inc., a full service, national collection agency. Collections begin as flat fee based and include credit reporting and legal action.

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## Real Estate: Banks unload commercial real estate

By Andrew Weiland

Published October 28, 2011

Since the beginning of the Great Recession, banks have been saddled with a glut of commercial real estate that they took back when property owners could no longer make payments or could not get their loans refinanced. For a while, the Federal Deposit Insurance Corp. (FDIC) put little pressure on banks to deal with their commercial real estate portfolio, and banks sat on the commercial real estate assets they were accumulating. However, recently sales of bank-owned commercial real estate have increased significantly as federal regulators are now putting pressure on banks to unload their commercial real estate dead weight, commercial real estate brokers say.

"The banks are just getting rid of it," said Mike Judson, president of Pewaukee-based Judson & Associates.

"It seems like the volume of sales that banks are approving and implementing has picked up lately," said Patrick Gallagher, chief executive officer and principal of Milwaukee-based Siegel-Gallagher. More bank-owned commercial real estate sales are expected in 2012, he said.

Some companies that owned their own buildings lost them to banks because they were unable to make payments on their commercial real estate loans as their business declined since the recession began. Some property owners lost their buildings to banks because they were unable to make payments after they lost tenants and either could not fill the space or were forced to lower their lease rates to fill the space and could not produce enough revenue to make their loan payments, Gallagher said. In other cases property owners lose their buildings because the banks refuse to refinance commercial real estate loans that come due unless the borrowers put up more equity because the



**SENDIK'S TOWNE CENTRE** BMO Harris Bank recently sold the 189,116-square-foot Sendik's Town Centre in Brookfield. It is one of several commercial real estate properties sold by banks recently.

value of the properties has declined. That can happen even if the building has good cash flow and the owner can make their payments, Gallagher said.

"As the economy continues to sputter along there are more borrowers that were holding on as long as they could but are now out of gas and are losing their properties to the lenders," Gallagher said.

Recent sales of bank-owned commercial real estate in the Milwaukee area include:

Cincinnati-based Phillips Edison & Company's purchase of the 189,116-square-foot Sendik's Town Centre, a retail and office development at Capitol Drive and Brookfield Road in Brookfield, from BMO Harris Bank for \$15.4 million.

Capmark Financial Group's sale of Mequon County Club for \$1.5 million to a Milwaukee-area investor who plans to renovate the property.

Chase Bank's sale of the 37-unit Marina Road Apartments at 3303-05 Marina Road in South Milwaukee for \$1.175 million.

The Equitable Bank's sale of a 100,283-square-foot industrial

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## What to Do About Tenant Damages

Tenants have a responsibility to use care when they live in a property. They do not have a license to do damage. While they are not responsible for ordinary wear and tear, they are responsible for deliberate or negligent damage, no matter who did it (except the landlord, of course). Proper care of the property by a tenant begins when he or she moves in. The rental agreement should state that the tenant is responsible for damage over and above ordinary wear and tear. It should also be on the Move-in Checklist. When we do the "Condition of Premises Report" walk through with the tenant, we can explain in detail examples of what damage is normal wear and tear and what is excessive, negligent and/or deliberate.

Working with tenants who have had problems in the past provides a

### Real Estate:

#### Banks unload commercial real estate

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building at 2500 W. Cornell St., Milwaukee, to Nakayla LLC.

The FDIC is putting more pressure on banks to unload their troubled commercial real estate assets, and the environment to sell commercial real estate has improved as opportunistic buyers are bargain-hunting and banks are providing more financing to commercial real estate buyers, commercial real estate brokers say.

"My impression is that the FDIC has gotten more aggressive in pushing the banks to dispose of their commercial real estate assets to get them off of their books," said Dan Jessup, president of Brookfield-based Grubb & Ellis|Apex Commercial.

"I'm not a banker, but from what they're telling me, the regulators have said, 'You need to get rid of some of these properties,'" said Judson.

"It's been a long road," said James T. Barry III, president of Milwaukee-based Cassidy Turley Barry. "(The banks) have had a lot of those properties on the books for a long period of time. They've just decided it's time to make deals and get this stuff off of their books. It's a matter of banks waiting for the market to improve, and the market has improved."

A slight improvement in the capital markets for commercial real estate has helped banks sell the properties they have taken back, Jessup said.

"I think (the increase in sales of bank owned commercial real estate) can be directly attributed to the fact that banks are back

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special challenge in seeing that they maintain the unit appropriately. We have to make it crystal clear what their responsibilities are and what is expected of them. Spend as much time as necessary to make it clear. This subject is probably where you need to spend most of your time with a new tenant whom you know has had a problem with other landlords or who has never lived on his or her own before. Sometimes they are simply so inexperienced that they don't know what sorts of things cause damage. Slamming doors and windows, swinging on doors, climbing up and down drain pipes, climbing lattice work are all things that cause damage, but of which some people have no idea of the cause and effect relationship. It is our job to make it clear, even at the risk of sounding nit picking.

Whatever the problem, it should not be yours, but the tenant's. If it is a repair problem, give him or her the name of someone who can do the repairs, telling him or her the handyman can work at a reasonable price. If there are crayon marks on the wall, tell the tenant that we have an account at a certain paint store to buy paint at a lower price. Make your tenant solve the problem.

#### Tenant Responsibilities

The laws of most states say the tenant has the following duties to his or her dwelling:

Use as intended in a reasonable manner

Keep clean and free of rubbish and filth

Dispose of garbage, rubbish, ashes and debris in "a safe and clean manner."

Keep plumbing fixtures clean

Use all parts in a reasonable manner

Not remove or tamper with a functioning smoke detector, including removing batteries

Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly

permit any person to do so

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<http://wcca.wicourts.gov/index.xsl>

<https://www.eftps.gov/eftps/>

<http://rcj-web.goracine.org/>

[Wwww.wisbar.org](http://www.wisbar.org)

<http://dwd.wisconsin.gov/UI/>

<http://www.pleasantprairieonline.com/>

<http://www.co.kenosha.wi.us/index>

[Wwww.cityofracine.org](http://www.cityofracine.org)

<http://www.dot.wisconsin.gov/drivers/index>

<http://www.epa.gov/>

<http://www.ezpaycorp.com/>

<http://offender.doc.state.wi.us/public/>

<http://www.commerce.state.wi.us/SB/SB-RentalWeatherizationAuthorizations.html>

[http://www.kccjs.org/jail/inmate\\_search/](http://www.kccjs.org/jail/inmate_search/)

<http://www.ssa.gov/pgm/disability.htm>

<http://www.drl.state.wi.us/>

[Wwww.waaonline.org](http://www.waaonline.org)

[Wwww.esnkenosha.org](http://www.esnkenosha.org)

[Wwww.kenoshawater.org](http://www.kenoshawater.org)

[Wwww.usa.gov](http://www.usa.gov)

[Wwww.kenosha.org](http://www.kenosha.org)

[Wwww.fair-credit-reporting.com](http://www.fair-credit-reporting.com)

[Wwww.ci.mil.wi.us/display/router.asp](http://www.ci.mil.wi.us/display/router.asp)

[Wwww.Wifrontdoorhousing.org](http://www.Wifrontdoorhousing.org)

[Wwww.datcp.state.wi.us](http://www.datcp.state.wi.us)

[http://www.illinoistollway.com/portal/page?](http://www.illinoistollway.com/portal/page?_pageid=133,1&_dad=portal&_schema=PORTAL)

[\\_pageid=133,1&\\_dad=portal&\\_schema=PORTAL](http://www.illinoistollway.com/portal/page?_pageid=133,1&_dad=portal&_schema=PORTAL)

<http://www.epa.gov/iedmold1/pdfs/moldguide.pdf>

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A man and his ever-nagging wife went on vacation to Jerusalem. While they were there, the wife passed away. The undertaker told the husband, "You can have her shipped home for \$5,000, or you can bury her here, in the Holy Land, for \$150." The man thought about it and told him he would just have her shipped home. The undertaker asked, "Why would you spend \$5,000 to ship your wife home, when it would be wonderful to be buried here and you would spend only \$150?"

The man replied, "Long ago a man died here, was buried here, and three days later he rose from the dead. I just can't take that chance."

# Molds in the Environment

Molds live in the soil, on plants, and on dead or decaying matter. Outdoors, molds play a key role in the breakdown of leaves, wood, and other plant debris. Molds belong to the kingdom Fungi, and unlike plants, they lack chlorophyll and must survive by digesting plant materials, using plant and other organic materials for food. Without molds, our environment would be overwhelmed with large amounts of dead plant matter.

Molds produce tiny spores to reproduce, just as some plants produce seeds. These mold spores can be found in both indoor and outdoor air, and settled on indoor and outdoor surfaces. When mold spores land on a damp spot, they may be-




gin growing and digesting whatever they are growing on in order to survive. Since molds gradually destroy the things they grow on, you can prevent damage to building materials and furnishings and save money by eliminating mold growth.

Moisture control is the key to mold control. Molds need both food and water to survive; since molds can digest most things, water is the factor that limits mold growth. Molds will often grow in damp or wet areas indoors. Common sites for indoor mold growth include bathroom tile, basement walls, areas around windows where

moisture condenses, and near leaky water fountains or sinks. Common sources or causes of water or moisture problems include roof leaks, deferred maintenance, condensation associated with high humidity or cold spots in the building, localized flooding due to plumbing failures or heavy rains, slow leaks in plumbing fixtures, and malfunction or poor design of humidification systems. Uncontrolled humidity can also be a source of moisture leading to mold growth, particularly in hot, humid climates.

[http://www.epa.gov/mold/append\\_b.html#Health\\_Effects](http://www.epa.gov/mold/append_b.html#Health_Effects)



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# What to Do About Tenant Damages

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## Getting the Tenant to Pay

When we discover damage, such as a broken window, hole in the wall or door, garbage piled up or crayon marks on the wall, send the tenant a note. In the note, remind him or her of a tenant's responsibilities and suggest how he or she can solve the problem.

If the damage is too much for the tenant to fix on his or her own, we can do it or have it done ourselves and send the tenant a bill. In the bill specify when it must be paid and remind the tenant that any damage

can be deducted from the security deposit. If the tenant cannot pay it all at once, make him or her call to arrange a payment schedule. If none of that works, we have the final option of the 30-day Notice with Cause terminating the tenancy. That gives them 15 days to correct the problem or move in 30 days (check the specifics for your state, they vary markedly). Should



the security deposit be inadequate to cover the cost of the damage, we would have to first, bill the tenant for the excess, and then, when he or she doesn't pay, obtain a judgment for the rest.

If we have done our job right at the beginning, though, the tenant will want to work out a solution with us. Some tenants have a history of not getting along with landlords, probably mostly their own doing. But on rare occasions, it is because of the attitude of landlords whom they have rented from.

Regardless of the reason, doing our job right means that we have made it clear at the beginning of the tenancy that we want them

for a tenant, that problems are solvable, and that they can talk to us. If we expect good results we are likely to get them. I have the tenant sign an appendix to the lease. It outlines the charges for cleaning and damages. This way if they decide not to clean they know what the charges will be.

*Paul Lammermeier*

Just want to mention that it's always a good idea to keep all communication with the tenant in writing. When your property is damaged and the tenant agrees in writing to a payment schedule and then defaults on his or her promise, there is no way the

tenant can show up in Court and say "It wasn't me, I didn't do it. It was like that when I moved in."

By agreeing to a payment schedule they have acknowledged responsibility for the act and cannot deny the existence of the damage. If they do, the Judge will surely have follow-up questions of his/her own. Though I agree that tenants should be held responsible for their actions, I would be very careful with encouraging a tenant to do his/her own wall painting. What was a few crayon paintings on the wall will grow into a problem with the carpeting having to be replaced because the tenant did not have the common sense to cover the carpet before painting, or toppled the paint bucket in the process. Of course this same tenant will express to you that it was your fault, after all, you should have known better and they were working at your insistence.

### Brooks

There is a law in Texas I didn't know about that might work with some tenants, especially ones with a desire to eventually become a homeowner. If you have to evict and they don't show up or pay back rent, then after the J.P. rules in your favor, you can file with the county the list their name with the state, which prevents them from buying or selling real property for ten years unless they pay you for all legal expenses as well as any rent owed to you! Of course this will not affect those who don't care about their credit history.

### Monty Peck

*Editor's note:* That, of course, is a judgment and landlords can get one in any state. Check your own state law to see how to get it recorded so it appears on the bad tenant's credit report. As Monty points out, they stay on a credit report for 10 years and earn interest. They can also be renewed.

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## Real Estate: Banks unload commercial real estate

Continued from page 4

(lending) in the commercial real estate market,” Jessup said. “In order for a bank to sell a property, someone has to finance it (for the buyer).”

In 2009 and 2010 banks were extremely reluctant to provide loans for commercial real estate, Jessup said. That has improved some this year, but the parameters are much higher. Borrowers need to provide more equity and more collateral than they did three years ago, he said.

Borrowers that can meet those standards are able to take advantage of the opportunity to purchase commercial real estate assets from banks at rock-bottom prices.

“A lot of buyers have realized there are good opportunities out there right now for distressed properties and if they don’t act now they are going to miss out,” Barry said.

Many of the commercial real estate properties that are selling right now are bank-owned because banks are willing to accept low ball offers that other commercial property sellers cannot, Judson said.

“Some of these bank-owned deals, you look at the price that they sold for, a normal seller can’t sell for those numbers,” he said. “You can’t compete.”



The increase in sales activity, of not only bank-owned properties but also other distressed properties that are on the verge of becoming bank-owned, has provided a boost to commercial real estate brokers.

“We’ve sold more assets this year than we have the past two years combined,” Jessup said. “We’re going to have our best year ever.”

“Brokers are still making deals. It looks like a lot of activity,” Judson said. “But it’s not good for the market. There are a lot of deals being made at good value to the buyers.”

About Andrew Weiland

Andrew Weiland is the managing editor of BizTimes Milwaukee, and also writes about commercial real estate and health care for the publication. He has been with BizTimes Media since 2003. He has been a professional journalist since 1997. He is a 1996 graduate of the University of Wisconsin-Madison. News can be sent to: Andrew Weiland, BizTimes Milwaukee, 126 N. Jefferson St., Ste. 403 Milwaukee, WI 53202.

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## To Lease or Not to Lease

By Robert L. Cain, Copyright 2011 Cain Publications, Inc. Due to a drop in my income I must move from California to Oregon. In Oregon I have a rental property with a lease that does not expire until April 30,



2012; however due to my financial hardship I need to live in my rental property. Can I break the lease for this reason? What costs can I expect to pay? Thank you.

Short answer, no, that is not a valid reason for breaking the lease. If the tenant doesn’t want to move, there may be no amount of money that would persuade him or her to live somewhere else, or that amount of money would be so huge that it would be cheaper for the landlord to live in a five-star hotel until the lease expires.

There seems to be a conception about tenants and the rental properties where they live that tenants live in those properties by the sufferance of their landlords. That is, landlords have the right to tell tenants to move whenever the mood strikes the landlords for any reason or no reason. That can be true. If tenants are on a month-to-month tenancy, in most states and cities, landlords can simply give a no-cause notice, and the tenants must vacate.

That changes with a lease. In order to terminate a lease, there has to be a reason, a reason that appears in the lease contract. And a lease is a contract. Both landlords and tenants are bound by its terms for the period of the contract. There is little more sacred in this country than the contract. Article I Section 10 of the US Constitution provides, "No State shall . . . pass any . . . Law impairing the Obligation of Contracts." Contracts rank in importance a

Continued on page 9



3/08

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# To Lease or Not to Lease

Continued from page 8

close second to freedom of the press, speech, religion and assembly. Without contracts being inviolable, commerce would be a hit and miss affair, subject to the whims of either party to the contract thus throwing business into a dark hole of instability.

Of course, as in this case, life happens. What is a rental owner to do if he or she needs to convert a property to personal use or take possession for any other reason during the term of a lease?

The obvious solution, where there is no advantage to either side with a lease, is the month-to-month tenancy—not use a lease at all. That way a landlord can simply terminate a tenancy, in some states with as little as a seven-day notice, but in most with a 30-day notice. And, as I mentioned before, the termination can be for any reason or no reason.

Is a lease an advantage to either landlords or tenants?

One argument is that the lease ensures the landlord will have a tenant for the term of the lease. However, I have heard from property managers, some of whom may have a reason to exaggerate, that half the tenants on a lease move out before the lease is up, leaving the landlord to chase them down for the defaulted rent. Some advantage a lease is in those circumstances.

In cities, such as Seattle, that have a "just cause" termination law, a lease is necessary to protect the landlord because a tenant can move out with 20-days' notice but a landlord can't terminate a tenancy except for "just cause."

Many times tenants prefer a lease because they know the rent will not go up for the term of the lease. That can be an advantage for a

landlord in that a tenant is more likely to rent a unit with a stable rent amount. A simple cure for that is writing into a rental agreement the guarantee that the landlord won't raise the rent for at least a year. There goes the advantage of the lease.

The point is this. Leases are good for property management companies and tenants because they both seem to have some kind of guarantee about either income or rent. But how often are they good for landlords? Under specific circumstances such as city or state laws that prohibit landlords from terminating a tenancy except "for cause," but allow a tenant to move out on a whim, they are almost essential for landlords.

But each landlord has to make his or her own decision. If a tenant insists on a lease, it would be wise to first ask him why he prefers one and second ask if he has ever moved out early on a lease. Landlords can also pay close attention to the length of residency in a tenant's history. It costs at least a month's rent for every vacancy, so a nomad isn't much good as a tenant.

The decision to lease or not to lease can be one that requires careful consideration. Think long and hard before using a lease. Which side of the scales does the situation with the tenant and law push the decision?



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Saturday, January 21<sup>st</sup> 2012, 8am to 4:30pm

Location: Carolyn's Coffee Connection  
1351 - 52nd Street  
Kenosha, WI 53140

The KPD Crime Prevention Unit and the Kenosha Landlord Association designed this Seminar to help landlords make better decisions when managing their rental units.

The following topics will be discussed:

- Property Maintenance Codes
- Crime Prevention Techniques
- Applicant Screening
- Leases and Evictions
- Crime Free Lease Addendums
- Process Serving
- C.P.T.E.D. (Crime Prevention through Environmental Design)
- Fire Safety
- Waste and Disposal

This seminar will help landlords and property managers in the following ways:

- Satisfied tenants build stable neighborhoods
- Active management leads to less turnover
- Stabilized property values and rents
- Lower maintenance and repair costs
- Everyone is safer
- Peace of mind from spending less time on crisis control.

**To register for the seminar please call:  
Crime prevention Unit at 657-3937  
or e-mail: [watch@kenoshapolice.com](mailto:watch@kenoshapolice.com).**

See a live demonstration of our new Crime Mapping Software, and learn how you can receive e-mails about criminal activity in and around your properties.

**Safe Housing is a Right  
and a Responsibility!**

## RENTERS

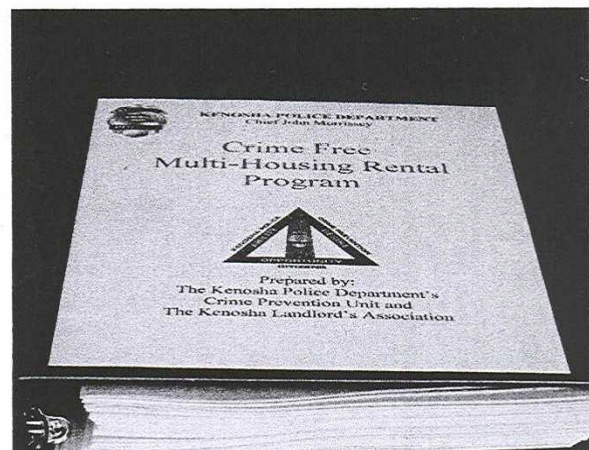
Tell your Landlord about  
this free seminar.

## LANDLORDS

Learn how to attract/retain  
responsible Renters.

# TAKE THIS FREE CLASS!

**\$25 manual is FREE to take home with you!**



## Elections At Our November Meeting

Nominations will be accepted at our November meeting. Nominate yourself or a friend.

President  
Vice President  
Secretary  
Treasurer

Attend our November meeting for more info.

## Wisconsin Apartment Association

Will teach two free classes first or second level series. What class would you like to attend? Attend our meeting in November and let one of the KLA board members know what your topic is: First Series Classes: Law And the Landlord, Fair Housing, Tenant Screening, Bookkeeping or Evictions. More information to come in months ahead.



## You're invited to the Kenosha Landlord Association 2011-2012 Holiday Party

Wednesday, January 18, 2012 at 7:00pm

Location: *Bombay Louie's*  
2227 60<sup>th</sup> St., Kenosha, WI

**Dinner includes:** Dinner Entrée (menu selection), salad, bread basket, dessert, and choice of coffee, hot tea or soda. Tip is included in the cost.

The cost is **\$5/person** for a delicious meal at the Bombay Louie's Restaurant. Please complete the form below and send with a check payable to:  
**Kenosha Landlord Association P.O. Box 1505 Kenosha, WI 53141**

Deadline to sign-up is January 3, 2012 - No exceptions!

Cocktails at 6:30 pm

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Telephone (\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_

Kenosha Landlord Association  
2011-2011 Annual Holiday Party

Wednesday, January 18, 2012 at 7:00pm

12-07

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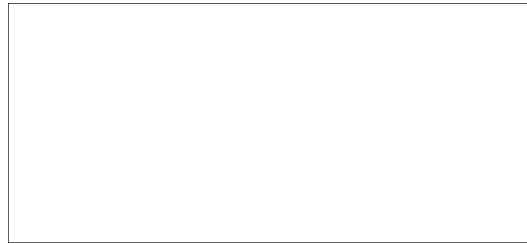


**Kenosha Landlord Association**

**P.O. Box 1505**

**Kenosha, Wisconsin 53141**

RETURN SERVICE REQUESTED



**Next Meeting**  
**NEW Location**

**Carolyn's Coffee  
Connection**

**1351 52 St., Kenosha**

On our regular  
3rd Wednesday the month

**November 16, 2011**

**At 7:00 P.M.**

**Rich Rondenbeck**

**From Kenosha Area  
Business Alliance**

Will be presenting an overview of it's role  
in the community and current projects & programs  
promoting small business in Kenosha.

**Carolyn's Coffee Connection**

**1351 52 St, Kenosha**

**(Free Wi-Fi Available. Park at the Boys & Girls  
Club Across The Street.)**

**[www.kenoshalordassociation.ws](http://www.kenoshalordassociation.ws)**

*Free Food Or Snacks Provided At Meetings*