

**Keeping Your Properties, Tenants
And Business Safe From Sex Offenders**
by **Brendan O'Brien**

I was annoyed at first, but I understood the woman's position. If I had been in her shoes, I would have done exactly the same thing. "I'm sorry to have to back out," she said. "I have young children and I found out that the apartment is in a neighborhood with a lot of sex criminals."

I have young children myself, and I don't want them living near sex criminals. Actually, I'd really like to take all these perverts on a one-way boat ride. But since that's not practical, I'll settle for not having any sexual predators living in my neighborhood – or in the neighborhoods of my apartment buildings – and certainly not in the buildings themselves. Keeping the sex offenders out is one way of protecting my tenants and my business. It should be on your mind too.

We have four goals in dealing with sex offenders:

- The first is to know who they are in the neighborhood of our properties.
- The second is to keep them out of our properties to the extent possible.
- The third is to keep them out of our neighborhood.
- The fourth is to avoid any legal action in connection with sex offenders.

The first step is to find out who your local sex offenders are. Sex offender registries are authorized through three federal laws; the Jacob Wetterling Act of 1994, Megan's Law of 1996, and the Adam Walsh Act of 2006. These laws required state sex offender registries, required states to make their information available to the public, created the three-tier system for seriousness of sexual crimes and created a national offender registry – however, the national offender registry has been ruled unconstitutional by a federal judge.

You can find your local sex offender registry by Googling your state name and "sex offender registry." The registries don't work the same way, so finding what you want can be tricky. Most do not allow you to see all offenders because Megan's Law did not require this. In addition, you may not be able to search through entire cities.

I do have that ability in New Hampshire, but if you live in a state that does not allow citywide searches – Nevada comes to mind – search for all the streets around your property. In my case, I found three local offenders living within a half mile of one property. However, offenders in the sex offender registry may move around, and so you will need to recheck from time to time.

In most states, you have the right to reject sex offenders from your properties because of their criminal history. A criminal background check will reveal any past crimes. Be careful here because your prospective tenant may be the perfectly innocent and upstanding "John Smith," not the one with three rape convictions.

However, in California, Megan's Law (which is implemented by each state in its own way) prevents landlords from rejecting prospective tenants only because they are registered sex

offenders. This puts California landlords in a terrible jam because they may also face legal action (or loss of business, in any case) from other tenants who don't want to live in a property with a sex offender. I don't know of any other state which does this. There have been numerous attempts to clarify the law to give landlords more protection.

Anywhere else in the country, sex offenders may also be part of a protected class if they have a related disability under the Americans with Disabilities Act – for example, if they are recovering alcoholics or drug addicts. Generally, however, you can still reject these offenders if you do not have a history of rejecting other disabled prospective tenants.

Keeping sex offenders out of your neighborhood is more difficult. As noted, sex offenders move around, so buying properties that aren't in an "infested" neighborhood is no protection. However, there are some areas where sex offenders are banned from living for other reasons. It may be that your state or community prohibits sex offenders from living near schools. In those cases, properties near schools will probably be a safe bet.

Entire communities have tried banning sex offenders in the past, but those laws have generally been rejected by the courts.

Depending on your state, you may have a Megan's Law requirement to provide information about the availability of the state sex offender database. I don't believe there are any states that require you to notify prospective tenants or tenants about specific sex offenders, however.

If you do have sex offenders living in or near your properties, and your existing tenants find out about it, they may try to break the lease. Generally they will not be able to do so. In the real world, however, their efforts will still cost you a lot of time and aggravation, and may land you in the paper as "the guy with the sex offender living in his building." This will obviously make your property much less desirable for new tenants.

Finally, suppose the worst happens – the offender attacks someone in your property. What are your legal ramifications? Landlords have been successfully sued because a tenant living in their property, or a handyman or contractor working on the property, attacked another tenant. I don't know of any lawsuits where a tenant successfully sued because of an attack from a neighbor (someone not living on the property). Generally speaking, then, if you do your best to not bring in tenants or hire workers who are registered sex offenders, you will be safe from these kinds of lawsuits.

A landlord himself, Brendan O'Brien is the creator of Property Master™ online property management software. Property Master™ software lets owners or managers manage their rental properties from any computer, anywhere, anytime, over the Internet. For more information, please visit their website www.pcpropertymaster.com.