

Laundry Room Leases – Updated

By Dale S. Alberstone, Esq.

Does your laundry room lease contain language saying that upon the expiration of the initial term of the lease, the lease will be renewed for one or two additional terms? If so, that automatic renewal provision may be voidable.

In prior AOA columns, I discussed this lease renewal issue, but will now revisit it in great detail as **thousands apartment owners suffer from this same insidious lease provision.**

The Basic Law

Let's start with the basics. California Civil Code Section 1945.5 provides that an automatic renewal or extension provision in a printed lease for the rental of residential real property is voidable by the party who did not prepare the lease unless the questionable provision (1) appears in at least 8-point boldface type, and (2) appears immediately prior to the signature line for the lessee. If the renewal provision appears on the back side of the lease (but only the front is signed), then it will be sufficient if there is a specific reference to the renewal printed in boldface type on the front, just above the signature line.

The purpose of the law is to clearly notify the party who did not prepare the lease (always the apartment owner) that the term of the lease may be automatically extended. Absent such notification, the innocent and unsuspecting recipient of the agreement (once again, the owner) may be burdened by many years of an extended lease term.

Laundry Room Leases

A significant percentage of California laundry room leases contain the oppressive automatic renewal provision. Since the forms used are prepared by the laundry companies, renewal clauses are frequently included. Unfortunately, owners do not realize that until years later when they attempt to cancel the lease.

Most companies' pre-printed forms provide that the initial term is either 5 or 10 years. With some laundry companies, the duration of the initial term appears in the lease in words (e.g., "five" years or "ten" years), rather than designated with numerals (e.g., "5" years or "10" years). One reason for this is that those businesses might not want it to be readily apparent to the apartment owner (or the management company for the owner) of the length of the initial lease term. In any event, many laundry room leases are written in such a manner that it takes some effort to actually figure out what the duration of the initial term is.

Some companies will place in large print immediately above the signature lines on the front side of the lease a statement that the provisions on the reverse are a part of, and incorporated into, the document. That language does not, itself, satisfy California law relative to automatic renewals as it does not specifically reference the renewal provision (printed on the back). It merely incorporates the numerous paragraphs on the backside of the lease.

If the owner turns over the lease and is inclined to read all of the provisions on the back, he/she may find the automatic renewal language. **But the catch is that the language frequently allows just the laundry company to terminate the renewal provisions of**

the lease, rather than allow the owner to do so. For example, some leases provide: *“This lease shall be renewed from the date of its expiration for two additional terms each equal to the original term unless lessee gives lessor written notice of lessee’s intention not to renew this lease.”*

Many owners who actually read that provision when they sign the lease mistakenly conclude that since the laundry service is installing the washers and dryers, the owner is the lessee who has the right to cancel the automatic renewals.

However, a more careful reading reveals that the laundry company is the lessee and the owner is the lessor. That is because the laundry company leases the room from the owner; the owner does not lease the laundry equipment. Thus, only the laundry company, not the building owner typically has a right to cancel the automatic renewals. Some laundry companies have form leases which allow either the owner or the company to cancel an extended term. That is a fair business practice, although I would prefer, on behalf of the owner, not to have the provision included at all. Again, some laundry companies are professional and will strike the clause upon request.

Is The Automatic Renewal Provision Legal?

No reported California case has ruled on the question. The issue is whether the laundry room is “residential” real property or “commercial” property.

In my legal opinion, the laundry room is residential real property and therefore the renewal provision may be voided by the apartment owner (or management company) if the reference to it is not included immediately above the place where the parties signed the lease.

Practically all apartment buildings (with the exception of some mixed use complexes which contain both retail space on the ground floor and residences above) are zoned exclusively as residential property. The fact that the laundry company may install coin-operated washers and dryers in the room does not, in my opinion, convert a laundry room to commercial real property, with the remainder of the building staying residential real property. Zoning ordinances do not allow for laundry rooms to become commercial real property just because coin-operated equipment is placed in them.

A Recent Case

In a declaratory relief case which I filed in the Los Angeles Superior Court in December 2009 on behalf of an AOA member, I argued that under Civil Code Section 1945.5, the two 10-year renewals of the initial 10-year term (i.e., total 30 years!) were voidable by the owner because (1) the laundry room was residential property, and (2) the automatic renewal clause did not appear immediately above the place where the lessee signed.

The laundry company maintained that the laundry room was commercial real property, and therefore the Civil Code section did not apply.

Three months into the litigation, the laundry company made a written “Offer to Compromise” to my client. The Offer provided that judgment in court could be entered against the laundry service which (1) would terminate the lease at the end of the initial term, (2) would require the laundry company to remove their machines at the end of the initial term, and (3) would award my client her costs of suit and reimbursement of her reasonable attorneys fees. Believing that the laundry company

would pay more to make the case against it go away, my client did not accept the Offer. Eventually, the case was settled, with the terms of the settlement being confidential. Because it was confidential, I am not permitted to disclose what the provisions of the settlement were.

My Legal Opinion

It is my legal opinion that if and when one of these laundry cases ever reaches the California Court of Appeal, the appellate court will publish a decision determining that a laundry room in an apartment building is, indeed, residential real property, and therefore subject to Civil Code Section 1945.5. Such a published opinion will become a controlling precedent for all laundry leases with automatic renewal provisions, thereby allowing owners to easily void the many thousands of existing, non-complying renewal clauses.

Recommendations:

I recommend the following:

- **For existing laundry leases, read the document very carefully to determine whether or not it has an automatic renewal provision in it.** (Usually it will be tucked away on the back of the contract.) **If there is such a provision, and if the automatic renewal does not comply with the Civil Code requirements, promptly send a certified letter to the laundry service requesting they voluntarily cancel the renewal clause. If the company refuses, promptly confer with legal counsel to formally void the automatic renewal, either through negotiation or litigation.**
- **For new laundry leases, insist that any provision for an automatic renewal or extension be stricken before you sign the contract or give the company your business. Also, if there is a printed “Right of First Refusal” clause, strike that as well so that you are free to select a different laundry company, should you desire, upon the expiration of the initial lease term.**

Let me conclude by saying that most laundry companies, as reported to me by my clients, are ethical, responsive to the owners, and reasonable to deal with. Some are not. Perhaps the best way to select a new laundry company is to speak with other apartment owners before selecting one.

Dale Alberstone is a prominent litigation and transactional real estate attorney who has specialized in real property law for the past 33 years. He has been appointed to periodically serve as a judge pro tem of the Los Angeles Superior Court and is a former arbitrator for the American Arbitration Association. He also testifies as an expert witness for and against other attorneys who have been accused of legal malpractice. Mr. Alberstone has been awarded an AV rating from Mardindale-Hubbell, which is a registered certification of Reed Elsevier Properties, Inc. An AV rating reflects an attorney who has reached the heights of professional excellence and is recognized for the highest levels of skill and integrity.

The foregoing discussion is intended as a general overview of the law and may not apply to the reader’s particular case. Readers are cautioned to consult an advisor of their own

selection with respect to any particular situation.

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