

## **Screen Your Tenants or Go to Jail! (Landlord Duties After 9/11)**

by Dave Koutney

On September 11, 2001, the world changed. Even for landlords. Mixed in with the airplane pictures were interviews with landlords of the terrorists. How could they have rented to these evil people? Weren't you glad you were not the landlord being interviewed?

***Do business with individuals  
on the government list and you  
could be looking at a \$10 million dollar  
fine and up to 10-years in prison!***

As a landlord you are now one of the links in the front line of America's anti-terror program. How did this happen and what do you need to do? Renting property is a business. That is why you fill out a Schedule E each year. Federal laws and regulations require small businesses to take steps that are designed to prevent terrorists from conducting financial operations in the United States.

What steps you ask? You must have a written plan on how you, in your normal course of business plan to foil money laundering. You must designate a compliance officer to make certain your plan is being followed. You must avoid dealing with people on the government list of individuals suspected of having ties to terrorism or narcotics. Ignore writing your plan and you risk a \$500,000 fine and a 10-year prison term. Do business with individuals on the government list and you could be looking at a \$10 million dollar fine and up to 10-years in prison!

How hard is it for a landlord to comply with the new rules? Surprisingly it is not that hard. The reason is that responsible landlords prefer not to rent to terrorists or drug dealers! Having a written plan on how to screen tenants may be something you are already passing out when you have a vacancy. If you do not have a written plan, it is probably a good time to write one.

Some specific recommendations that your plan should address are:

- ◆ Refuse to rent to applicants that spell their name differently or offer too many different types of identification that are each in different names.
- ◆ Decline to rent to applicants that have no prior verifiable rental history.
- ◆ Do not accept international checks or money orders as payment for the application and credit check fee, first month's rent or for the security deposit.
- ◆ Do not accept third party checks for rent payments.
- ◆ Insist that tenants do not consistently pay their rent in cash.
- ◆ Never accept false, altered or expired identification from applicants.
- ◆ Refuse to process applications from individuals that are not willing to complete the application to rent that you require – even if they want to pay a credit check fee.
- ◆ Check applicant names against the names on the government list (preferably on the Internet) before you make a decision to rent to the applicant. Remember to record that you checked the name by marking a box or checking an item in you application processing procedure.

The next part of your written plan is to designate a compliance officer. The simplest choice is –**You!** Whether you actually conduct the applicant interviews or establish the format for the interview, it is up to you to make sure that your rules are being followed. What is the simplest way to do this? A checklist! Now that you have a written plan just convert the above list into yes or no questions that are on a sheet of paper. After each application is received and processed, staple a copy of your checklist to the Application to Rent your prospect submitted and then fill out the yes / no responses. Sign the checklist or have your staff sign and then forward a summary to you as the compliance officer.

Now the hard part. Suppose you actually have the bad luck of uncovering evidence that one of your applicants probably is a drug dealer or may be a terrorist. Put in your plan what you will do. The government has a Financial Institutions Hotline [(866) 556-3974]. This telephone

number is to report to law enforcement suspicious transactions that may relate to terrorist activity against the United States. What you are not allowed to do is to tell your applicant that you are reporting them. Put in your plan that you will call this telephone number if you become convinced that terrorists are trying to rent from you.

What is left to complete your plan? Sign and date your plan to indicate when you adopted it. Remember to follow your plan whenever you are accepting applications and rents. Probably pretty much the same way you have been accepting and processing tenant applications and rent ever since you became a landlord – only now your plan is in writing and you because you are in compliance with the new regulations you don't need to worry about jail or getting a fine!

*The information contained in this article is not intended as legal advice. Always consult an attorney if you have a particular problem or question. Mr. Koutney is both landlord and a licensed real estate broker. Address correspondence to David Koutney, P. O. Box 2824, Union City, CA 94587-7824.*