

The Injustice of City Inspections by Zoran Windrich

As part of the Los Angeles Housing Departments Systematic Code Enforcement Program (SCEP), City inspectors are required to cite violations that are part of the Los Angeles Municipal Code, Uniform Building Code, the Los Angeles Housing Code and the State of California Health and Safety Code. These codes and the job these inspectors perform implementing them, provide a vital and important service to society, ensuring that landlords live up to their responsibility to maintain safe, clean and habitable rentable units.

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However; when should the line be drawn between tenant and landlord responsibility? Many violations cited by inspectors are, in fact, tenant-induced, even with diligent landlords continually maintaining and repairing their properties.

The Los Angeles Housing Code and the State Health and Safety Code contain two sections specifically identifying what constitutes tenant violations. Both clearly state that in regard to units fully occupied by tenants exercising full control of their respective units, those tenants shall be responsible for certain damages flowing from their occupancy. These deliberate acts often essentially amount to either outright vandalism or at least egregious property damage.

Some tenant violations that fall under this category include:

- Breaking mirrors
- Breaking doors
- Cutting screens
- Pulling sinks off walls
- Putting holes in walls
- Ripping out smoke detectors
- Ripping/Burning carpets
- Failing to maintain cleanliness, hygiene, order
- Allowing dwelling to be infested with vermin
- Chipping sinks and tubs
- Breaking tiles
- Breaking cabinet doors
- Pet damage

In the interest of equity, we need to consider implementing a different strategy in dealing with violations caused by tenants. As it stands, very few, if any, inspectors actually enforce the aforementioned code sections. IN FACT, some inspectors did not even know of their existence. During the course of eight years in this business, having personally inspected over 10,000 units in the City of Los Angeles alone, I know of only two cases where a tenant was actually cited for a violation under these sections. In the typical scenario, the owner is cited and required to satisfy the Order to Comply regardless of tenant responsibility with the threat of REAP (Rent Escrow Account Program) basically removing 50% of the owner's rental income. This is a vital income stream to the property owner to maintain the building, utilities, operations and even covering the mortgage payment itself. It's apparent that this situation can become significantly dire in the matter of several months.

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Tenants who are in violation not only get away scott-free, they often seem to use the fact that inspectors will virtually always go after owners for code violations as leverage against the owner. This is not to say that all properties in REAP are there due to tenant created violations. There are many buildings that have general dilapidation and maintenance disrepair created by time and the outside elements. But there is a significant number of violations by tenants which go unreported every year.

Let's look at how this typically might play out. When a tenant has sole control of the unit and the tenant breaks a mirror on their medicine cabinet, that's a violation. To replace the mirror is expensive because one doesn't find these replacement doors on the shelf; they don't exist. So the whole medicine cabinet has to be replaced at about \$50 dollars plus the labor which may run between \$20 and \$100 dollars depending on the type and adjacent areas. Now, that's if you get someone who's qualified to do the work, but in reality, often the owner or their management company representative will find someone who is not as qualified, running the risk of having it fall out of the wall the first time the tenant pulls a bit too hard. Take the example of entry doors. Tenants have arguments; they fight with each other, girlfriend, boyfriend, husband, wife, strangers, etc. Tenants slam doors and they kick them. They are the ones who break the door jambs, and they're the ones who kick it in, put holes in the door and break the wood jambs and wood trim around the door. Who's held responsible? The owner?

The broken door, broken lock, split door jamb and torn off casing all have to be replaced. In order to do it right an owner has to spend at least \$500 per door or more. Since they know that the act will be repeated, they don't replace the jambs the way they are supposed to; because they know inspectors are not citing tenants - so they're just going to fill it, patch it and paint it. The overall appearance of the patched door brings the value of the property down. Take the toilet for instance. The tenants may get upset and kick them, throw sheets and towels in them, flush and clog them. It is a violation of the law to have any portion of the toilet with a chip or hairline crack. You can't just patch a porcelain toilet, you have to replace it. You can't just run to your friendly hardware store and buy one and install it yourself. You have to have your plumber get a new wax ring and purchase a permit as well. The cheapest toilet is around \$59 dollars plus \$2 dollars for a wax ring and a \$34 dollar permit (for the first plumbing fixture). Keep in mind that a professional plumber charges anywhere from \$50 to \$150 per toilet. Who's held responsible this time? Again, it is the owner, not the tenant.

Another example is where window screens in a unit have been removed, torn or cut by the tenant. This would be a typical SCEP violation and the owner would be required to make repairs within a 30-40 day period before re-inspection. What if the owner makes the proper repair and the tenant damages the window screen again a week later? What does the owner have to do to enforce the tenant's responsibility? They hire an impartial third party to install, document, photograph and swear that the screen, toilet, door, windows, and medicine cabinets have been installed properly at the time and date.

Furthermore, they must be able to witness receipt and installation and possibly testify to the repair at great expense to the property owner. All of this for a simple \$20 to \$50 repair. The end result is that the small business owners and mom and pop businesses which are the lifeblood of any community are getting out of the business or leaving the city altogether. In their place, the large conglomerates are moving in and remodeling on a large scale and raising rents accordingly. Now many middle class and lower income tenants who abide by tenant laws are being squeezed out of affordable housing due to the destructive acts of a few and inaction on part of the City. Somehow the spirit and intent of the Blue Ribbon Committee that wrote their findings over ten years ago seems to be getting lost.

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When I recently gave a presentation to apartment owners on how to make repairs and what to do when challenged by SCEP, the majority of the questions raised were about this very predicament. In that class, the suggestion was made that the City or Apartment Associations maintain a record of these repeated gross offenders. We could call this the "Greenlist", (as opposed to blacklist), because these tenants cost owners and the City a great deal of hard-earned money. If the law, as it is written is a just

law in the first place, then let's enforce it. (See Uniform Housing Code and CA Civil Code at the end of this article). I suspect it's not being enforced in a fair and equitable manner merely because it's easier to attach the violation to the owner who has a vested interest in fixing it than to the tenant. Perhaps it's time to ask ourselves where the justice lies when it comes to violations willfully or negligently caused by tenants.

Editor's Note: As a SPECIAL, FREE SERVICE TO MEMBERS - AOA maintains a "Greenlist" of tenants who have created substantial nuisance, damaged property or skipped out owing rent. This list is compiled of reports by other apartment owners on residents who may not have been evicted and won't show up on an eviction report, but were undesirable as tenants. When obtaining tenant screening through AOA, this list is automatically reported to you whenever you obtain an eviction report. These records are statements sent in by landlords regarding a particular tenant and are used to provide a residential history that may contain both positive and negative ratings.

The report will appear in our eviction search, and can be flagged with any of the following comments: ?Good tenant ?Vacated owing rent ?Created nuisance or ?Damaged property. There may be additional comments detailing the nature of a problem. All tenancy information is reported verbatim to the member and emphasized that the reporting information is not filed in any type of court of law. The primary focus in reporting a tenant record is to encourage the member to contact the reporting landlord to verify the tenant's history at the residence.

If you would like to report a tenant to this list, simply fill out the AOA Tenant Move-Out Report on the following page and return it - there is no additional cost to help out a fellow housing provider!

1997 Uniform Housing Code, Section 201.3 - Occupant Responsibility. Occupants of a dwelling unit, in addition to being responsible for keeping it clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which they occupy and control, shall dispose of their rubbish, garbage and other organic waste in a manner required by the health ordinance and approved by the health officer. Occupants shall, when required by this code, the health ordinance or the health officer, furnish and maintain approved devices, equipment or facilities necessary to keep their premises safe and sanitary.

California Civil Code, Section 1941.2 (a) – Tenant Responsibility. No duty on the part of the landlord to repair a dilapidation shall arise under the Section 1941 or 1942 if the tenant in substantial violation of any of the following affirmative obligations, provided the tenant's violation contributes substantially with the landlord's obligation under Section 1941 to effect the necessary repairs: (1) To keep that part of the premises which he occupies and uses clean and sanitary as the condition of the premises permit. (2) To dispose from his dwelling unit of all rubbish, garbage and other waste, in a clean and sanitary manner. (3) To properly use and operate all electrical, gas and plumbing fixtures and keep them as clean and sanitary as their condition permits. (4) Not to permit any person on the premises, with his permission, to willfully or wantonly destroy, deface, damage, impair or remove any part of the structure or dwelling unit or the facilities, equipment, or appurtenances thereto, nor himself do any such thing. (5) To occupy the premises as his abode, utilizing portions thereof for living, sleeping, cooking or dining purposes only which were respectively designed or intended to be used for such occupancies.

Zoran Windrich worked as a Rehabilitation Construction Specialist for the Los Angeles Housing Department for five years after the 1994 Earthquake and was instrumental in starting the Systematic Code Enforcement Program and writing the initial ordinance that is today being used. He is the founder of Windrich Group, Inc., a company dedicated to assisting property owners complying with the building code issues, legalizations, architectural plans and construction related to multi-units in the City of Los Angeles. He can be reached at (818) 883-8733 or visit their web site at www.windrichgroup.com.