

Dave Poletti & Associates Presents

The Seattle Landlord Report

A Monthly Publication to Keep Our Clients Informed

MAINTAINING A HIGH STANDARD OF HABITABILITY

April 2011



What is habitability and why is it so important? Essentially, it is anything that endangers the livability of the property and the health and welfare of the tenants. Many common issues are lack of heat, running water, major roof leaks, unsafe electrical, carpeting, stairways, or sidewalks, etc.

When renting a property to others, whether a house, an apartment building, a condominium, etc., it is under the assumption that it complies with an "implied warranty of habitability." Simply put, this means that the property you are attempting to rent is structurally safe for human habitation. An owner must prove basic criteria for "implied warranty of habitability."

The property is to be structurally sound, meaning it does not contain pest problems, holes in the walls, ceilings, or floors, and is safe for occupancy. A home that has any of these problems, or that does not provide adequate protection from the

elements, is not considered fit for occupancy.

Known hazards or problems within the dwelling that might make it unsafe for tenants, such as asbestos insulation, lead paint, carbon monoxide leaks, or problematic plumbing. When renting a property, the owner implies that there are no hazardous aspects to the dwelling.

It is necessary to provide a working bathroom. Therefore, bathroom fixtures, such as a sink, toilet, and bathtub or shower, must be usable for it to be fit for occupancy.

A consistently recurring problem may not fit the implied warranty of habitability. For example, if there is a problem with lack of heat, this is a breach of the implied warranty of habitability.

If a problem exists and the property owner does not provide the maintenance required to solve the problem, it can lead to a lawsuit filed for "breach of implied warranty of habitability" and is subject to the collection of punitive damages. The court has a very dim view of property owners that ignore the safety of their tenants. The court puts the burden of proof on the owner, not the tenant.

Over the years, courts have made many habitability rulings based on the Uniform Residential Landlord

and Tenant Act, the URLTA. When faced with a difficult case between Landlord and Tenant, a judge will often consult the many points of this Act before rendering a decision. A number of states have based their statutory law on this act or the Model Residential Landlord-Tenant Code. Interpretations can vary with different judges and in different states. In addition, states will often model their legislation on rulings based on those of another state. Many people are unaware of the existence of these acts and their impact on tenant relations.

Landlord-tenant law in the United

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Fewer Vacancies-Higher Rents

For the first time in a few years, the rental market is really starting to pick up. Although November and December of 2010 were relatively slow for everyone, we saw a big jump in demand shortly after the first of this year. The only market that seems to be lagging still is the high-end homes and condos where there is simply very little demand or an over-abundance of supply. We have not seen rents increase quite yet but it may be on the horizon.



Things are looking up in Seattle's apartment market, if you're a landlord—with the region's vacancy rated dropping below 5 percent for the first time in several years. The vacancy rate kept dropping over the past few months will rents kept rising, according to two recently released reports.

Why you may ask? Basic Economics. Supply & Demand. The number of new apartments slated for completion this year is just 1/3 the number of 2009 and the continuing decline in home values will likely ensure the preference for renting!



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States originated from English common law developed within an agricultural society. The URLTA stems from this. The basic purposes of the act were to:

Simplify, clarify, modernize, and revise the laws governing the rental of dwelling units and the rights and obligations of landlords and tenants

Encourage landlords and tenants to maintain and improve the quality of housing

Make uniform the law with respect to the subject of this Act among those states that enact it

There are many specific definitions included such as good faith, building, and housing codes, dwelling unit, landlord, owner, person, premises, rent, rental agreement, single-family residence, tenant, etc.

Unfortunately, there are many cases where landlords have ignored maintenance concerning "habitability." These actions have lead to major court decisions. This in turn has produced more Fair Housing laws, lead based paint requirements, mold legislation, and more, all of which have a far-reaching impact on investment property.

As your property management company, we have the expertise to handle these important issues. We make habitability a primary concern to "protect your investment."