

COVID-19: Best Practices For Property Managers

PRESENTED BY:



FLYNN LAW GROUP

CONDOMINIUM, RESIDENTIAL AND COMMERCIAL LANDLORD TENANT LAW

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Our Philosophy

- ▶ We provide cost effective representation for property management companies. With attorneys licensed in all six states of New England we practice high quality residential, commercial and condominium real estate law.

We build trusting relationships with all our clients by focusing on results, winning in court, and providing fair cost representation.



What is COVID-19?

- COVID-19 is a highly communicable respiratory virus that spreads easily from person to person.
- According to the Centers for Disease Control, the virus is primarily spread by persons in close contact with one another through respiratory droplets produced when an infected person coughs or sneezes.
- The virus is known to persist on surfaces, like door handles and railings, and can spread from surfaces to people.
- It can be up to two weeks before a person who has been infected begins showing symptoms, and the person may be contagious during this asymptomatic time.

COVID-19 Presents Many Issues for Property Managers

- What steps should property managers be taking to limit or prevent the spread of the virus and keep it from breaking out at developments?
- What should property managers do if a resident tests positive for COVID-19?
- How can sites continue to keep revenues up in the midst of the crisis?
- Flynn Law Group has helped many different clients navigate these issues.

Keeping COVID-19 Out Of Residential Developments

- ▶ Residential property developments, especially multifamily developments with many people in close proximity, are at particular risk from the COVID-19 virus.
- ▶ An outbreak in a building has the potential to quickly spread between residents.
- ▶ Site staff are also at risk of exposure due to close contact they may have with residents.

Prevention Is the Best Medicine:

Given the risks that COVID-19 could pose to residential property developments, the best strategy is one of prevention. Keeping COVID-19 from breaking out in the first place is the best way to limit those risks. What are some ways that property managers can try to limit the spread of COVID into their sites?

Establish Site Specific Policies to Limit COVID-19 Being Spread

- ▶ Property managers should adopt site specific policies that address risks unique to each site, including:
 - ▶ Increase cleaning, especially in common areas of the building. Regularly disinfecting commonly touched surfaces, like door handles and railings, is a good way to limit the virus spreading from surfaces to residents;
 - ▶ Develop procedures to limit the need for person-to-person contact between site staff and residents. Encouraging residents to communicate by phone and email, requesting that documents and payments be submitted electronically, and limiting in-home service to emergencies only can help reduce person-to-person transmission
 - ▶ Encourage staff to work remotely where possible. Essential staff that cannot work remotely should stay home if experiencing any signs of illness.
 - ▶ Consider closing common areas like lounges, recreation rooms, and fitness centers, entirely until the outbreak has passed.
 - ▶ Limit visitors in the buildings: only essential deliveries, no social guests, and if residents must have someone from outside come into the building a limit of one person at a time.

Educate Residents and Follow CDC Guidelines

- ▶ Property managers should make sure to educate residents about, and encourage them to follow, CDC recommendations for limiting the spread of the virus, including:
 - ▶ Encourage social distancing to limit the amount of person-to-person contact.
 - ▶ Residents should be encouraged to wash hands frequently, and to wear face masks if possible when going out of their apartments.
 - ▶ Limit the sharing of household items like dishes, glasses, and eating utensils.
 - ▶ Residents who have experienced any signs of sickness should be encouraged to self-quarantine.
 - ▶ Encourage residents to keep staff informed in the event of a positive test.

What to do if a resident tests positive?

- ▶ If management learns that a resident in the building has tested positive for COVID-19, there are a number of steps it should take in response:
 - ▶ Inform other residents that there has been a positive test in the building, **but do not disclose the identity of the person who tested positive**
 - ▶ Make sure residents are aware so that they can take appropriate steps to protect themselves; but,
 - ▶ Violating state privacy laws, or HIPAA, may result in liability – treat any resident medical information as highly sensitive and confidential to limit disclosure.
 - ▶ Wait for a directive from state or federal governments before disclosing the identity of any resident who has tested positive to public health officials. Disclosure, even to public agencies, without appropriate legal authority could result in liability.
 - ▶ Inform staff as well and provide protective gear to limit the risk of infection by essential on-site staff.
 - ▶ Emergency maintenance and service requests still need to be addressed. Management should develop policies to do so while protecting staff as much as possible.

Take Steps to Proactively Limit Liability

- ▶ In this very litigious age it is easy to imagine a resident bringing suit against a management company or landlord over a COVID-19 related claim. How can sites best protect themselves? Flynn Law has helped many clients establish policies and procedures with an eye towards rebutting any claim that the landlord is responsible for a resident's having been exposed. What are some steps to take to help limit this kind of liability?
 - ▶ Adopt and follow recommendations of the CDC to help limit the disease spreading – relying on a trusted source of authority helps support the argument that management has acted reasonably;
 - ▶ Establish clear and enforceable standards of behavior for residents and visitors to show that management was acting to protect residents;
 - ▶ Enforcement matters! Flynn Law can help develop, implement, and enforce policies which will keep residents safer and reduce the chance that a resident who has become sick might hold management responsible

How Flynn Law Group Can Help

- ▶ What if a resident informs management of a positive COVID-19 test, but refuses to self-quarantine in accordance with CDC guidelines?
 - ▶ Recently, a client came to Flynn Law and informed us of a resident who tested positive for COVID-19, but was refusing to self-quarantine themselves. Flynn Law Group was able to help this client obtain the cooperation of the resident by sending a 30-day notice to quit for endangering the health and safety of the rest of the building
- ▶ What if a member of a resident household refuses to abide by policies established to help limit the spread of COVID?
 - ▶ In another case, a client came to Flynn Law and told us about a resident's household member who was refusing to abide by the site's policy limiting visitors from outside the building. The resident was having dozens of people come in and throwing parties! Flynn Law helped this client bring a case to request an injunction to require the resident stop endangering other residents by acting so irresponsibly!

COVID-19's Economic Impact

- ▶ With the declared state of emergency, and stay-at-home orders for non-essential personnel, many people are experiencing financial difficulties. How can property managers make sure that revenues stay up while during this time?
- ▶ The CARES Act, signed into law on March 27, 2020 places a moratorium on all non-payment eviction cases in covered properties for 120 days after the passage of the law.
 - ▶ Covered properties include properties receiving tenant based, or apartment based, rental subsidies; federal low income housing tax credits; properties with federally backed mortgage loans.

Steps Managers Can Take To Keep Revenues Up

- ▶ Although the CARES Act limits the ability to bring new non-pay cases, cases that were filed prior to its passage can still proceed. This gives managers options!
 - ▶ Enforceable agreements for judgment can be negotiated with residents and filed with courts to ensure that balances are paid;
 - ▶ Motions to enforce existing agreements can still be filed and brought before the courts;
 - ▶ Letters can be sent to residents reminding them of their rental obligations so that balances do not grow too high;
 - ▶ Residents can be advised on available resources that can assist if they are experiencing economic difficulties
- ▶ Cause based evictions are still able to proceed – managers don't have to tolerate poor conduct by tenants.
 - ▶ Tenants in violation of lease provisions can still be brought to court to obtain agreements to correct the behavior;
 - ▶ Management can move forward for possession in cases where agreements are not desirable;
 - ▶ Injunctive relief for emergency matters is still available

Conclusion

- ▶ The COVID-19 outbreak has created a significant disruption to the normal flow of life. As a provider of one of the most essential services, housing, property managers are on the front lines of this crisis. Residential housing developments are uniquely at risk because although many are staying home to help practice social distancing, that means that there are as many people as ever in and around the grounds. With careful planning, Management can take steps to help prevent the virus from spreading into building, and can act to protect staff and residents in case it does. Management also has options to help keep revenues up during this time.
- ▶ Flynn Law Group is ready to assist however you need! We are here to serve you however we can!