



LEASE ENFORCEMENT AND EVICTION (300.1)

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Trainer

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About THA

- Affordable Training and Annual Conference
- Advocacy and Technical Assistance
- Ongoing Email News Updates
- Free Ads and RFPs
- State Certification Programs
- Website Resources: 100s of links including Sample Policies/Forms; Vendor Lists; Laws and Regulations
- Scholarships for PHA Employees' Children
- Endorsement of TML Intergovernmental Risk Pool (Prop/Liability/Workers Comp Insurance)

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Lease Enforcement and Eviction

- Purpose of the workshop
 - To discuss ways to enforce the lease successfully;
 - Outline the essential obligations of tenancy
 - Ways to avoid eviction (while still achieving lease compliance);
 - Collecting rent and other charges;
 - Dealing with unauthorized occupants;
 - Terrible housekeeping;
 - Criminal Activity;
 - The eviction process - step by step

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Lease Enforcement and Eviction

- First step is to have a good lease:
- What makes a lease good? It must be
 - Easy to understand
 - Complete (include all the elements required by 24 CFR part 966 plus other “reasonable” provisions)
 - Not full of jargon (PHA or legal jargon are both mistakes);
 - Well organized

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Lease Enforcement and Eviction

- First step is to have a good lease: e.g.
 - **The THA lease has 2 parts, Part I**
 - Identification of the Parties
 - Unit
 - Household Composition
 - Term
 - Rent
 - Utilities and Appliances
 - Utility Allowance
 - Charge for Excess Utilities
 - Security Deposit
 - Execution
 - List of Attachments

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Lease Enforcement and Eviction

- Good Lease, continued
 - **Part II (Terms and Conditions)**
 - Description of Parties and Premises
 - Lease Term and Amount of Rent
 - Charges in Addition to Rent
 - Payment Location
 - Security Deposit
 - Utilities and Appliances
 - Terms and Conditions
 - PHA Obligations

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Lease Enforcement and Eviction

- Good Lease, continued
 - **Part II, continued**
 - Tenant Obligations
 - Defects Hazardous to Life, Health or Safety
 - Inspections
 - Entry of Premises During Tenancy
 - Notice Procedures
 - Termination of the Lease
 - Waiver
 - Housekeeping Standards

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Lease Enforcement and Eviction

- **Essential Obligations of Tenancy**
 - ❖ To pay rent and other charges when due;
 - ❖ To report maintenance needs and to avoid damaging the property of the PHA or other residents;
 - ❖ To report changes in income and family composition as required by PHA policies;
 - ❖ To care for the leased premises as required by the PHA;
 - ❖ To pay utility bills when due;
 - ❖ To permit the PHA to inspect the unit when requested;
 - ❖ To avoid criminal activity;

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Lease Enforcement and Eviction

- **Essential Obligations of Tenancy**
 - ❖ To transfer when required to do so by the lease;
 - ❖ To avoid interfering with the peaceful enjoyment of other tenants;
 - ❖ To comply with the PHA' s reasonable rules

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Lease Enforcement and Eviction

- **Avoiding eviction**

- Why? It saves money and heartache - once tenants believe you will evict, they usually stop paying;
- How? Good orientation; and
- Tenants believing that the PHA means what it says;
- Evicting the worst offenders (everyone else gets the message);

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Lease Enforcement and Eviction

- **Avoiding eviction**

- Talk to your residents about lease compliance:
 - They may not know they are violating the lease (what, you thought they read the lease?);
 - They may be testing you;
 - They may not give a f*#@~
- Always send lease violation notices (even though you talk to them)

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Lease Enforcement and Eviction

- **Avoiding eviction**

- Make it as clear as you can, that the PHA has no choice - it must enforce the lease (it' s not personal);
- The resident has a choice - to comply with the lease or to move somewhere else;
- When the lease violation involves more than one resident, be sure to investigate carefully and get the whole story...

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Lease Enforcement and Eviction

- **Avoiding eviction**

- Explain exactly what the resident must do to avoid eviction;
- Document the resident' s file describing the lease violation discussion;
- Special issues if the resident is a person with disabilities - would a reasonable accommodation help him/her to comply?

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Lease Enforcement and Eviction

- The nitty gritty of the Lease

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Lease Enforcement and Eviction

- The Rent Collection Procedure
- Lease Enforcement and Eviction Procedure: Regaining possession of the unit.

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Lease Enforcement and Eviction

- Evictions “for cause”
- Most common violations
 - Unauthorized residents
 - Housekeeping
 - Criminal Activity
 - Other issues

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- Unauthorized residents - the issue
 - Proving the individual is not just “a visitor”
 - Having a rock solid policy on visitors (registering them is a really good idea);
 - Remember, someone is allowed to come over to a PHA unit every day, but he/she is an unauthorized resident if he/she has no other home and spends the night there in violation of your policies.

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- Unauthorized residents - the issue
 - Will other residents agree to testify? (Not if they are afraid of the visitor or the resident being visited)
 - How do you prove someone is an unauthorized resident?
 - Work with the PD, sheriff or constable, check outstanding warrants - if they use your address, you have a good case;
 - Make suspected persons prove they live elsewhere

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- Unauthorized residents - the issue
 - Proving unauthorized persons live elsewhere:
 - Address on ID;
 - Lease elsewhere;
 - Utility bills elsewhere;
 - If the unauthorized person violates the lease, your resident can be evicted

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- Housekeeping problems
- We' re not talking about dust on the refrigerator coils, this is housekeeping that:
 - Causes health or sanitation problems;
 - Violates City/County health or fire codes;
 - Leads to infestations

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- Housekeeping problems, continued
 - Documentation is the key - you will need photos;
 - Always take photos at move in, you need to show the unit was once nice;
 - Before you try to take a housekeeping problem to court, be sure your records show that you have tried other remedies.

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- What you must demonstrate in Court
 - That you inspected and what you found;
 - That you gave the resident an opportunity to cure (clean up);
 - If you refer residents to training, document the referral;
 - That you re-inspected and the situation was still unacceptable;
 - Photos with vermin are good in Court

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- Housekeeping problems, continued
 - Other residents may be willing to testify if the housekeeping is causing problems in their units;
 - Some JPs will not evict for Housekeeping - be prepared to appeal

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- Criminal Activity
 - This may be the most serious problem PHAs face;
 - The Police do not always want to cooperate;
 - What you can offer the PD - guaranteed consequences because the Civil standard of proof is lighter than that in criminal cases.

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Lease Enforcement and Eviction

- Criminal Activity, continued
- What activity justifies eviction?
 - Drug-related criminal activity;
 - Other criminal activity that poses a threat to the life, health or property of other residents, staff or neighbors;
 - What would be covered?
 - What would not?

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Lease Enforcement and Eviction

- Criminal Activity, continued
 - Standard of proof - the preponderance of the evidence;
 - What does this mean?
 - At a minimum, an arrest is probably needed.
 - Just “a lot of traffic going in and out” does not prove that crime is occurring or what crime may be occurring.
 - You do not have to have a conviction

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Lease Enforcement and Eviction

- Criminal Activity, continued
 - How do you prove criminal activity?
 - Do not expect neighbors to testify, although it does sometimes happen,
 - You can subpoena the Police to testify;
 - They hate this, however;

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Lease Enforcement and Eviction

- Criminal Activity, continued
 - Even if you do not usually use an attorney, it is a good idea to be represented in these evictions;
 - Be sure the attorney is familiar with your lease, the part 966 rules and Federal law;
 - Be sure your documentation is unimpeachable.

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Lease Enforcement and Eviction

- Criminal Activity, continued
 - Watch out for the Violence Against Women Act - it protects the victims of violence
 - Issues when the person who committed the crime is a person with a disability

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Lease Enforcement and Eviction

- Lease enforcement and eviction procedure - for cause

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Lease Enforcement and Eviction

- The actual move-out
- Good idea to use temps - make sure they are bonded;
- If the family includes minor children, notify the Department of child protective services

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- Resources: <http://www.txtha.org/index.php/resources/>
- Certification Programs: <http://www.txtha.org/index.php/texas-housing-association-professional-certification-program/>
- Upcoming Classes: <http://www.txtha.org/index.php/calendar/>
- THA Annual Conference: <http://www.txtha.org/index.php/conference/>
- HUD POST:
https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/post

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QUESTIONS

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