

HOUSEKEEPING, HOARDING, and RISK

FEBRUARY 28, 2022

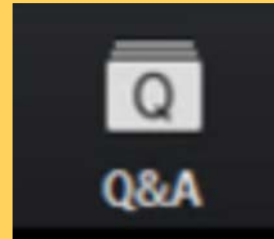
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LOGISTICS

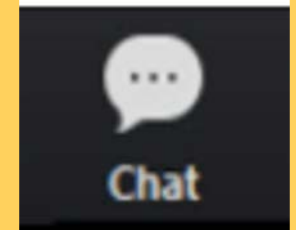
Questions

- Write into the Q&A section



Chat

- Share your ideas



Feedback

- Survey will pop up on your screen when you leave the webinar

Slides and Recording

- Slides are there now
- Recording by Wednesday
- www.chamonline.org/webinars

INTRODUCTION

We will approach this topic
from three perspectives.

The R.S. Provider

Julianna Stuart
Vice President, Community Impact
POAH

The Landlord

Kayne Doumani
Consultant
DAM Asset Management

The Lawyer

Theresa Becerra
Partner
Pahl & McCay

INTRODUCTION

- Wake-up call: a lawsuit
 - A lot of the conditions the tenants were suing over were caused by other tenants
 - But the conditions were ours to manage
- Housekeeping issues:
 - bringing infested items into housing
 - clutter that encourages vermin and makes pest control difficult
 - Violations of local fire codes and safety concerns



INTRODUCTION

- If this workshop tends to focus on hoarding, that's because it is the end of the spectrum and the most difficult to deal with.
- Released in 2013, the DSM-5 included hoarding disorder among the obsessive–compulsive and related disorders.
- That elevated it into the realm of the Fair Housing Act and the ADA.

INTRODUCTION

- Safety concerns
 - Fire and exceeding the capacity of fire suppression
 - Health risks from mold, air, dust
 - Mobility limitations both for the tenant and first responders
 - Loading

INTRODUCTION

- Parties involved in dealing with tenants with housekeeping and excessive clutter problems
 - Property management / asset management
 - Resident services
 - Outside resources
 - Lawyers

RESIDENT SERVICES: BEST PRACTICES FOR A WIN-WIN

JULIANNA STUART, VICE PRESIDENT OF COMMUNITY IMPACT

POAH

ABOUT POAH

- Owner/operator of 12,000+ homes
- 11 States & DC
- POAH Communities: Property Management, Maintenance and Community Impact (Resident Services)
- Utilize principles of trauma-informed care



TRAUMA-INFORMED CARE

- Safety
- Choice
- Trust
- Collaboration
- Empowerment



DEFINING THE CHALLENGE

- Persistent difficulty discarding or parting with possessions, regardless of their actual value
- Perceived need to save items, distress associated with discarding
- Congestion and clutter in living areas, interferes with their daily living



PREVALENCE OF HOARDING DISORDER

- Can begin early in life and increase in severity with age
- Higher rates among people 60+
- Approximately 75% of people with hoarding disorder have some comorbid mood or anxiety disorder



PM + RS COLLABORATION

- Clearly define roles, first among one another, then with the resident
- Develop a shared understanding of the desired outcome
- Communicate in simple, concise and clear language
 - “Excessive clutter” vs “Large stack of boxes is blocking door to the front bedroom”
- Document each visit and next steps



TRAUMA-INFORMED CARE

- Safety – physical and emotional, recognize distress as a valid response
- Choice – maximize choice, recognize power
- Trust – make tasks clear, maintain boundaries and create norms
- Collaboration – honor self-determination, seek to minimize inherent power differential
- Empowerment – encourage self-efficacy, identify strengths, build skills



SOUNDS LIKE...

- “Here are two approaches we could take, which one sounds better to you?”
- “This must be really distressing for you”
- “When I come back next Thursday, I will bring my clip board and our action plan, and we can go over the list together”
- “Looks like you haven’t made as much progress as you had hoped. What would it take for this to be less stressful?”
- “Do you think boxes or bags would be helpful? Do you have other ideas on how we can remove some items?”



ACTION STEPS

- Develop action plan with clear steps, milestones, follow-up
- Break it down into manageable pieces
- Allow time
- Provide trash bags, cans, options



OTHER TIPS

- Offer incentives or create moments to celebrate progress
- Focus on the outcome and the motivations that resonate with the resident
- Provide ample notice for pest control
- Hire service for a deep cleaning. This is a valid expense before taking legal action – and a lot cheaper.



WHAT IF THERE IS NO RSC?

- Communicate with dignity
 - Shame is not productive
 - Recognize the distress and emotion behind the stuff
 - “You work where they live, they don’t live where you work”
 - Use open ended questions to understand motivation “what would it take...” “how might we...”
- Offer an action plan, leverage friends, family or other service providers for follow-up
- Look for resources local to you: <https://poah.findhelp.org>

LEGAL ISSUES AND OPTIONS

THERESA C. BECERRA, PARTNER

PAHL & MCCAY

ABOUT PAHL & McCAY

- The firm was founded in 1989.
- Multifamily affordable housing is one of our primary practice areas.
- Offices in San Jose, CA, and Santa Monica, CA, serving all of California, with attorneys also admitted in WA and FL.
- Theresa Becerra is a Partner and heads up the firm's Santa Monica office.
- This presentation is information only and does not constitute legal advice. Ms. Becerra is only admitted to practice in the State of California. Please consult local counsel in any other state.

EVICTON

- After consistent issuance of lease violations with no adequate improvement, you should move to evict.
- As noted above, it is always best to document all the efforts made to provide support for a unit clean-up and pest control (offer to pay for deep clean with hotel relocation, de-cluttering services, etc., milestone/clean-up agreements that allow for sufficient time to meet small sizeable goals, offer list of resources)
- Like lease violations, this is the necessary wake-up call for some tenants
- Most services don't even come into play until a tenant is facing eviction.

EVICTON

- You can approach eviction from a nuisance standpoint.
- If you do move to evict, if you haven't adequately shown an effort to work with the tenant to meet realistic clean-up goals, etc., the judge may try to get the parties to agree to a stipulation that allows the tenant to stay on certain terms.

Terms can include:

- Milestones for cleaning the unit
- Immediate goals like making 3' pathways, clearing blocked doors and windows, removing all garbage/food waste.
- Requirement to allow entry for pest control

REASONABLE ACCOMMODATION

- There is no set definition of what it means to accommodate someone with excessive clutter/housekeeping issues or a diagnosed hoarding disorder. Policies and practices are changing and evolving.
- A tenant may ask for accommodation, but phrase it in a different way. They may point to being elderly, having a mobility issue, or simply not being able to tackle it alone. They are asking for help and accommodation. It's up to management to look for words of "need" and "ask". That is an RA in the making. Down the road, the situation will turn into something. Bring in RS and offer services -- and DOCUMENT.

REASONABLE ACCOMMODATION

- A landlord can only offer services but cannot force a tenant to acknowledge the housekeeping issue or take action. In those cases, your only choice is to initiate the eviction in hopes of either drawing in a third party to help the tenant or moving this tenant out of the property.
- Usually, an RA involves the landlord making changes at a property. But in these cases, the tenant has to make the changes.

REASONABLE ACCOMMODATION

- On the landlord's side, a reasonable accommodation for excessive clutter and housekeeping generally means providing a list of resources to the tenant, additional time to comply, and structure/milestones to meet.
- Often, you cannot get a tenant to accept there is a problem absent a third party's input.
 - Pest control confirms an infestation
 - The fire department issues a citation/warning due to egress/ingress or other fire code violations

REASONABLE ACCOMMODATION

- The order of events when excessive clutter / housekeeping is involved is:
 - Regular inspections/consistent lease violations + involve RS (if available on-site)
 - Issue 10-day notice, enter into milestone/probationary tenancy agreement that gives more time to comply
 - Offer relocation/deep clean/pest control
 - Move to eviction if you cannot reach resolution.

HARM REDUCTION

- Landlord has a responsibility for harm reduction on their property, even if the tenant doesn't recognize that a harm is present. They must ensure that action is being taken address the harm.
- Excessive clutter doesn't happen overnight, not even in a single year. Usually there are signs of this occurring over many years.

HARM REDUCTION

- Landlord could be exposing itself to liability if it ignores clear signs of egress/ingress issues, fire code violations, etc., and does nothing about it.
- There is also a potential liability with mold, pest infestations that may spread to other units, and odors from cluttered units with food and other waste piling up.
- Neighboring tenants can sue for breach of covenant of quiet enjoyment if their units are frequently suffering from infestations or odors, etc., due to a neighbor against whom the landlord fails to enforce lease provisions and house rules.

HARM REDUCTION

- People with excessive clutter/housekeeping or pest issues arising from clutter generally don't report issues in their units. They don't want anyone to come in.
- You must enforce right of entry/inspection provisions of your lease and house rules.
- An undiscovered leaky pipe can generate mold. Once a landlord knows about mold, they have to remediate.
 - A unit in which mold has been allowed to permeate can cost as much as \$60,000 to remediate.

RISK MANAGEMENT / LIABILITY

KAYNE DOUMANI, CONSULTANT

DAM ASSET MANAGEMENT

LIABILITY

- The liability that arises from housekeeping issues can come from the tenant
- However, the greater liability is when the housekeeping becomes an issue for other tenants

LIABILITY

- California Civil Code, 1942.4
 - Landlord cannot collect or raise rent, or issue a 3-day notice to quit if:
 - a unit is substandard, and
 - a public officer of any housing enforcement agency has notified a landlord of substandard conditions, and
 - those conditions have not been abated after 35 days, and
 - the conditions were not caused by an act or omission of the tenant.

RISK MANAGEMENT

- Prepare for a good defense
- Defensive property management practices:
 - Photographs and record-keeping
 - Lease terms and house rules that give the landlord something to act on
 - Don't take no for an answer! The tenant has to let you in, and has to let you perform pest control

QUESTIONS?



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San Diego Hilton Bayfront Hotel
June 15-17, 2022

