

Oklahoma Real Estate Commission

Landlords and Tenants You Need to Know!

The following is important information that may be of concern to you as an owner/landlord or as a tenant. Further references to owner/landlord shall be referred to as "owner".

Protect Your Interest – An owner or tenant should carefully read all agreements to assure that they adequately express their understanding of the transaction. If legal or tax advice is desired, they should consult an attorney.

Laws & Regulations – Real Estate Commission regulations pertaining to discrimination in fair housing: A licensee shall not advertise, either personally or through any media, to sell, buy, exchange, rent, or lease property when such advertisement is directed at or referred to persons of a particular race, color, age, creed, religion, national origin, familial status or handicap. The contents of any advertisement must be confined to information relative to the property itself, and any advertisement which is directed at or referred to persons of any particular race, color, age, creed, religion, national origin, familial status, or handicap is prohibited.

Commission statute: Conviction (of a licensee) in a court of competent jurisdiction of having violated any provision of the federal fair housing laws, 42 U.S.C. Section 3601 et seq. is reason for disciplinary action by the Commission.

Landlord/Tenant Act - The Landlord and Tenant Act prescribes the rights and duties of the landlord and the tenant. A copy of the Landlord and Tenant Act pamphlet can be obtained through the Oklahoma Real Estate Commission, 1915 North Stiles Avenue, Suite 200, Oklahoma City, OK 73105, telephone toll free (866)521-3389 or local (405)521-3387. A copy of the Landlord and Tenant Act can be obtained on the Commission's Website www.orec.ok.gov, Publications.

Environmental Hazards - It is the owner responsibility to disclose to a tenant environmental hazards, if any, of which owner has knowledge (such as asbestos, lead-based paint, radon gas, or if a methamphetamine lab has ever been on the premises). In some areas of the state, the local police department has a listing of properties wherein methamphetamine has been discovered, i.e., the Tulsa and the Broken Arrow Police Departments have listed such properties on their websites. These website addresses are: <http://www.tulsapolice.org/sid.html> and <http://www.brokenarrowok.gov> (click on Broken Arrow police). Further, an information pamphlet on Methamphetamine is available on the Commission's website at www.orec.ok.gov.

Lead-Based Paint – applies ONLY to properties built before 1978: The federal Housing and Urban Development Agency (HUD) and Environmental Protection Agency (EPA) regulations require that the tenant receive the owner's "**Disclosure of Information on Lead-Based Paint and Lead-Based Hazards,**" the EPA booklet entitled "**Protect Your Family From Lead in Your Home,**" and the following written warning:

"Every tenant of a residential dwelling that was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

The owner of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the owner's possession and notify the tenant of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."

The owner or tenant can also call the state Department of Environmental Quality (DEQ) at (405) 702-6100 or the Tulsa branch (918) 293-1600 for further information. The DEQ web site, www.deq.state.ok.us has a list of lead-based paint inspectors (some of whom also do mold inspections). Publications can be found on environmental issues on the federal Environmental Protection Agency's (EPA) web site at <http://www.epa.gov/iaq/pubs/index.html> or the Commission's web site www.orec.ok.gov, under Publications.

Flood – An owner or tenant can obtain written flood zone verification by contacting the U.S. Army Corps of Engineers, Flood Plain Management Services. The customary cost of the verification is approximately \$55. Persons can also call and make an appointment to visit the Corps of Engineers' office and examine the maps and information. The Corps of Engineers' phone number is (918) 669-7197 and is based out of Tulsa, Oklahoma.

Additional Information: Depending upon city and municipality requirements, an owner may have additional disclosure requirements to a tenant. For example, the City of Tulsa requires an owner of rental property, any part of which is located in a special flood hazard area as depicted and shown on a Flood Insurance Rate Map adopted by the City, to give written notice to every tenant of said property that the property is located in a designated special flood hazard area. Further, the owner must obtain and keep for inspection upon request by the Director of Public Works or his authorized representative written acknowledgement of receipt of this notice signed by each of the tenants. This notice shall be given and the acknowledgment obtained prior to a tenant taking possession of or occupying the real property. The notice and acknowledgment shall be in a separate document and not a part of any other document, such as a lease.

Flood Insurance - If there is a flood risk, the tenant is responsible for obtaining flood insurance on the tenant's personal property. The tenant should seek advice from an insurance agent.

Hazard Insurance - The owner is responsible for carrying hazard insurance on the dwelling and liability insurance to cover certain types of liability. It is the tenant's responsibility to carry hazard insurance on tenant's personal property. A tenant may also be required to carry liability insurance to cover tenant's liability for injury and damages in connection with the tenant's lease and occupancy of the premises.

All explanations, representations and disclosures concerning the terms, conditions, and provisions of a hazard insurance policy are the responsibility of the insurance agent and are not the responsibility of the broker or the broker's affiliated licensees.

Psychologically Impacted Property & Megan's Law (Title 59, O.S., Section 858-513)

Psychologically Impacted Property - Psychologically impacted property is any property where certain circumstances, or suspicions or facts may create emotional or psychological disturbance or concerns to a tenant. Following are the procedures that a licensee must follow if a tenant desires to inquire regarding psychological factors regarding a property:

1. The tenant must be in the process of entering into a bona fide lease on the property.
2. The licensee must receive a request in writing from the tenant.
3. The tenant's written request must state that such factor is important to the decision of the tenant to lease the property.
4. The licensee shall make inquiry of the owner by submitting the written request to the owner.

5. With the consent of the owner, the licensee will furnish the owner's response to the tenant.
6. If the owner refuses to furnish the information requested, owner's licensee shall so advise the tenant.
7. If the tenant is requesting information concerning Acquired Immune Deficiency Syndrome (AIDS) or any other disease which falls under the privacy laws, the information can only be obtained in accordance with the Public Health & Safety Statute, Title 63, O.S., 1992, Section 1-502.2A.

Megan's Law - Oklahoma enacted a law that requires law enforcement officials to maintain a database of convicted sex offenders. The information can be obtained online or by calling local police authorities, www.familywatchdog.us or the state Department of Corrections at (405) 425-2500.

Brokerage Services and Disclosure (Title 59, O.S., Sections 858-351 – 858-363) - The following definitions are from the Oklahoma Real Estate Commission's broker relationships statute. For the purpose of this section the term "broker" includes all real estate licensees affiliated with the broker.

Under the Oklahoma Real Estate License Law, a real estate licensee provides services to an owner and tenant as either a "single-party broker" or a "transaction broker". Normally, a broker would provide property management services to a seller as a single-party broker and to the tenant as a transaction broker.

Definitions:

Transaction broker means a broker who provides services by assisting a party in a transaction without being an advocate for the benefit of that party.

Single-party broker means a broker who has entered into a written brokerage agreement with party in a transaction to provide services for the benefit of that party.

Written brokerage agreement means a broker may enter into a written brokerage agreement to provide services as either a single-party or a transaction broker. If a broker does not enter into a written agreement with a party, the broker shall perform services as a transaction broker.

Party means a person who is a seller, buyer, landlord, or tenant or a person who is involved in an option or exchange.

Transaction broker duties and responsibilities - A broker providing this type of service may do so with or without a written agreement with the party. Duties and responsibilities set forth in this section are:

- a. To treat all parties with honesty and exercise reasonable skill and care;
- b. To be available to:
 - 1) receive all written offers and counteroffers,
 - 2) reduce offers or counteroffers to a written form upon request of any party to a transaction, and
 - 3) present timely such written offers and counteroffers.
- c. To account timely for all money and property received the broker;
- d. To keep confidential the information received from a party confidential. Unless required by law, the Broker shall **not** without the express permission of the respective party, disclose the following confidential information to the other party:
 - ◆ That a party is willing to pay more or accept less than what is being offered.
 - ◆ That a party is willing to agree to rental terms that are different from those offered.

- ◆ The motivation of either party in leasing the Property.
- e. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

Single-party broker duties and responsibilities – A broker providing this type of service shall enter into a written agreement with the party. Duties and responsibilities set forth in this section are:

- a. To treat all parties with honesty and exercise reasonable skill and care;
- b. To be available to:
 - 1) receive all written offers and counteroffers,
 - 2) reduce offers or counteroffers to a written form upon request of any party to a transaction, and
 - 3) present timely all written offers and counter-offers.
- c. To keep the party for whom the single-party broker is performing services informed regarding the transaction.
- d. To account timely for all money and property received by the broker.
- e. To keep confidential information received from a party confidential. Unless required by law, the Broker shall **not** without the express permission of the respective party, disclose the following confidential information to the other party:
 - ◆ That a party is willing to pay more or accept less than what is being offered,
 - ◆ That a party is willing to agree to rental terms that are different from those offered; and
 - ◆ The motivation of either party in leasing the Property.
- f. To perform all brokerage activities for the benefit of the party for whom the Single-party Broker is performing services unless prohibited by law.
- g. To obey the specific directions of the party for whom the Single-party broker is performing services that are not contrary to the terms of a contract between the parties to the transaction; and
- h. To comply with all requirements of the Oklahoma Real Estate License Code and all applicable statutes and rules.

In relation to a party giving specific directions to a single-party broker, the party and the broker should ensure that all directions are in writing and reasonable to further the objectives of the brokerage service agreement.

Confidential Information – The following information shall be considered confidential and shall not be disclosed by a broker without the consent of the party disclosing the information unless consent to disclosure is granted by the party disclosing the information, the disclosure is required by law, or the information is made public or becomes public as the result of actions from a source other than the broker:

- a. That a party is willing to pay more or accept less than what is being offered;
- b. That a party is willing to agree to financing terms that are different from those offered; and
- c. The motivating factors of the party purchasing, selling, leasing, optioning, or exchanging the property.

Know Your Rights Under the Servicemembers Civil Relief Act – The “Servicemembers Civil Relief Act” (SCRA) was signed into law in 2003. In reference to receiving permanent change of station (PCS) orders while in a housing lease, the law provides that if the servicemember is deployed to a new location for ninety (90) days or more, then he or she has the right to terminate the housing lease by giving proper notice to the Owner/Owner's Broker. The process for giving notice can be found in SCRA and servicemembers should become familiar with this law. The complete law can be found by going to <http://www.servicememberscivilreliefact.com/link/text-of-act.php>.