

Property Management Essentials:

Medical Marijuana



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PROPERTY MANAGEMENT

Property management usually has more to do with ‘grey’ areas than it does with black and white. There is no area more grey right now than with medical marijuana.

The big issue, of course, is that federal and state laws differ from one another. And we know that Federal will always trump state law. Which means, as long as a landlord has an –enforced- policy in place, they probably won’t get into trouble for allowing or not allowing medical marijuana.



How could the landlord get into trouble? Well, a scenario could be

someone with a pot card wants to rent from them. The renter says “this card says I’m disabled, so under the American with Disabilities Act I’m asking for reasonable accommodations from you.” This is a fair statement just as if someone in a wheel chair would ask for a wheel chair ramp, or someone with a seeing eye dog asks to bring their dog into a no-pet property. They are asking for the same accommodation. As long as you have a published policy (that you strictly enforce and never waiver on) that says you do not acknowledge the pot card, and do not allow the use of medical marijuana you’re going to be safe. The problem arises when 1) the applicant was never notified of this policy before their credit was run and/or before they moved in, or 2) the landlord allows tenant A to

use medical marijuana, and does not allow tenant B to use it. In this case, they have opened themselves up for a possible discrimination lawsuit.

The best way to do this is in the landlords published rental applicant selection criteria. When someone fills out an application they need to communicate to the applicant via a document or content on their website, what their selection criteria is for medical marijuana. Be sure to disclose this information to them before you run their credit. Then, when the sign the lease, the landlord should reiterate their policy. A lot of property managers also have a crime and drug free addendum on their lease which further details their policy on medical marijuana, and helps to further protect against liability.

We are not suggesting that landlords or property managers allow or disallow the use of medical marijuana or other consumables, but they do need to have a policy and follow it consistently... as with anything in property management. If a landlord chooses to allow medical marijuana, especially, growing small amounts, they are certainly going to have willing and able renters.

So here’s where landlords have to be very careful. If allowing growing on-premise, and it turns out that the renters are

Key Topics

- *Your medical marijuana / card policy*
- *Americans with Disabilities (ADA) Act*
- *Published selection criteria*

doing something illegally (or violating some form of code), the landlord might be brought into and legal proceedings, and held equally accountable. If you allow growing, know your stuff and seek legal advice in advance.

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