

Larger Penalties Imposed On Property Owners For Overcrowding

The relocation assistance law has been amended to increase the amount of relocation assistance a property owner must pay to tenants who have been evicted as a result of zoning or code enforcement for illegal occupancy. The amendment to the law also imposes fines for the violation on the property owner. The amendments to the relocation assistance law are only effective if the municipality has enacted an ordinance which requires the owner-landlord to pay relocation assistance.

If the municipality has enacted such an ordinance, any tenant who receives a notice of eviction that results from zoning or code enforcement activity for illegal occupancy shall be entitled to receive from the property owner relocation assistance in an amount equal to six times the monthly rental paid by the displaced tenant. The municipality may pay relocation assistance to the displaced tenant who has not received the required payment from the owner. If the owner fails to repay the municipality, a lien can be imposed on the property and collection efforts can be undertaken by the municipality.

In addition to providing reimbursement from the owner for relocation assistance, an additional fine can be imposed on the property owner up to an amount equal to six times the monthly rental paid by the tenant. This fine is to be paid directly to the municipality.

Finally, in the event a landlord or owner receives a new violation (which violation is a

An Overview Of The Child Support Guidelines

Child support awarded in divorce cases and other proceedings is determined by Child Support Guidelines established by the New Jersey Supreme Court. The Child Support Guidelines were developed to provide the Court with economic information to assist in the establishment and modification of fair and adequate child support awards. The premise of these guidelines is that (1) child support is a continuous duty of both parents, (2) children are entitled to share in the current income of both parents and (3) children should not be the economic victims of divorce or out of wedlock birth. The economic data and procedures of these Guidelines attempt to simulate the percentage of parental net income that is spent on children in intact families.

The guidelines must be used as a presumption in determining the amount of child support. However, in specific cases, to ensure that children receive fair and adequate support from both parents, the Superior Courts of the State of New Jersey may either disregard or adjust the Child Support Guidelines to accommodate the needs of the children or the par-

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new violation, not a continuing one) for an illegal occupancy, the municipality can impose a fine equal to the annual tuition cost of any resident of the illegally occupied unit attending a public school. This fine shall be recovered in a civil action by a summary proceeding after affording the owner an opportunity for a hearing.

ents' circumstances where the Child Support Guidelines alone are deemed inappropriate.

Because some child-related expenses represent large expenditures or are not incurred by typical intact families, these expenses should be added to the basic support obligation. They include child care expenses, including day camp in lieu of child care; health insurance for the child; predictable and recurring health care expenses not reimbursed by the medical provider; and other expenses approved by the Court (such as private school or special needs for gifted or disabled children).

Another important element of the child support guidelines is the adjustment for shared parenting situations. In situations where the parent who does not have primary physical custody maintains visitation of two or more overnight visits weekly, the other spouse may qualify for an adjustment in the guidelines. This adjustment is designed to reflect the added costs incurred by the non-custodial parent for food, transportation, entertainment and other non-fixed costs.

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This newsletter is intended for general information purposes and does not constitute legal advice. You should consult with legal counsel to determine how the law may apply to your specific situation.

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FRK&B Announces The Inaugural Issue of FRK&B News

Dear Clients and Friends,

We are proud to introduce to you the first issue of our firm's newsletter, FRK&B News. We know that in today's economy, our clients are faced with making complex decisions in a constantly changing litigious environment. In our newsletters we will keep you apprised of changes in the law that may affect your business, introduce you to areas of the law and our practice with which you may be unfamiliar, and advise you of new developments at our Firm. Further, in the coming months we will try to keep you up-to-date on new laws and rulings and we will continually seek to improve this newsletter so that you will look forward to receiving each successive issue.

In this issue, we cover several changes in the law that affect property owners. We address the Penalty Enforcement Law of 1999, proposed changes to landlord-tenant court proceedings and the new law regarding disposal of a tenant's personal property after eviction. We also present you with an overview of the child support guidelines and the changes in the alimony law. Finally, we introduce you to our Landlord Tenant Department and the attorneys that recently joined FRK&B, as well as share other news about the Firm.

We hope you will find this newsletter to be enlightening and informative. We welcome the opportunity to learn more about your business, explore how we may help you to reach your objectives, and discuss with you any items that appear in our newsletter.

Sincerely,

FEINSTEIN, RAISS, KELIN & BOOKER, L.L.C.

FRK&B Highlights

Join Larry Raiss at the New Jersey Apartment Association Convention on May 10, 2000 at 10:10 a.m. to 11:30 a.m. at the seminar entitled "Don't Sign Your Life Away". Larry along with other experts will talk about the contracts apartment owners typically sign, including laundry contracts, employment contracts and utility and natural gas contracts. The seminar will also provide tips on how to negotiate these contracts. The Convention is being held at the Tropicana Hotel and Casino in Atlantic City, New Jersey from May 9, 2000 through May 11, 2000.

FRK&B welcomes back to the Firm Tracey Goldstein. After spending a year with a Roseland firm, Tracey returns to apply her expertise in foreclosures and commercial and real estate litigation. Tracey will also be representing clients in real estate transactional matters. Tracey is admitted to practice law in New Jersey and New York.

Steven Blaustein also recently joined the Firm. He will work with Gary Gordon on all family related matters, including child support, child custody and divorce matters. Steve's practice also includes corporate law, commercial law, landlord/tenant law, medical

malpractice and personal injury litigation. He is a graduate of the University of Massachusetts at Amherst and received his law degree from Quinnipiac College School of Law. He is admitted to practice in New Jersey and New York.

Rosalie Scheckel is a contributor to the Honorable Mahlon L. Fast's J.S.C. Guide to Landlord Tenant Actions, the renowned guidebook on landlord tenant law. The 5th Edition of Judge Fast's Guide is now available. Rosalie contributed to the chapter pertaining to subsidized housing. The Firm represents numerous landlords who have buildings subsidized by either the federal or state government or who rent apartments to tenants that receive section 8 subsidies.

In a major decision affecting apartment owners throughout the state, Gary Gordon was successful in convincing the New Jersey Supreme Court to refrain from overturning an Appellate Division decision which compels municipalities to provide trash service to apartment buildings. Gary concentrates his practice in commercial, real estate and family litigation.

Richard Kelin and Tracey Goldstein along with other prominent New Jersey attorneys will be presenting a seminar

entitled "The Real Estate Closing from Hell". The seminar will address common problems with residential and commercial real estate closings. The topics include defects in title, new construction issues, problems relating to lead paint, oil tanks, and the complications relating to units occupied by tenants. The seminar will be held at the New Jersey Institute for Continuing Legal Education in New Brunswick, New Jersey on June 6, 2000 from 4:00 p.m. to 8:00 p.m.

Richard Kelin just completed his term as President of the Property Owners Association. He has now been elected to the Board of Directors of the New Jersey Apartment Association.

The Firm was just appointed General Counsel for the Orange Housing Authority in Orange, New Jersey. As General Counsel, the Firm handles all litigation and corporate matters and Justin Kennedy attends the monthly board meetings.

Congratulations to Leslie Phiefer and her husband Glenn Phiefer. On February 5, 2000, Leslie gave birth to Kevin Glenn Phiefer. Kevin was 8 lbs, 5 oz and was 19 1/2 inches long. Leslie is currently on maternity leave, but is expected back to work shortly.

How to Dispose of Tenant Abandoned Property

On January 10, 2000, the New Jersey legislature passed a law that prohibits landlords from immediately disposing of a tenant's personal property after eviction. The new law requires a landlord, after a Judgment of Possession is entered and a Warrant of Removal is executed, or after a tenant has given written notice of his/her intention to vacate the apartment, to notify the tenant by certified mail return receipt requested or by receipted first class mail at the tenant's last known address and at any other address the landlord may have for the tenant, that the tenant must remove his or her belongings within 30 days after delivery of the notice or not less than 33 days after the date of mailing the notice. The new law expressly outlines what the notice must say.

The landlord is required to store all of the property during that time period and is responsible for exercising reasonable care for the stored items. If

the tenant does not contact the landlord during the notice period, the property is conclusively presumed to be abandoned. If the tenant contacts the landlord in writing during the time period in the notice, the landlord is required to hold the property an additional fifteen days from the date the tenant contacted the landlord, or until the expiration of the notice period, whichever is later.

Ultimately, if the tenant fails to respond, the landlord may sell the property at a public or private sale, dispose of the property, or sell some of the property and dispose of the rest. However, the only way the landlord can throw out all of the property is if the landlord determines that the value of the property is so low that the cost of storage and conducting a public sale would probably exceed the amount that would be realized from the sale. If the landlord elects to sell the property, the landlord must conduct the sale in the manner set forth in the Uniform Commercial

Code.

After the property is sold, the landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage and the sale, and any unpaid rent and charges not covered by the security deposit. If there are any proceeds remaining after the deductions are made, the landlord must locate the tenant and return the proceeds to the tenant, with an itemized accounting. If the tenant cannot be located, the proceeds must be deposited with the Superior Court. If the proceeds are not claimed for more than ten years, they escheat to the State.

If a landlord disposes of a tenant's property and does not comply with the statute, the landlord is not entitled to reimbursement from the tenant for the storage and removal costs and the landlord shall be liable to the tenant for up to twice the actual damages sustained by the tenant as a result of the landlord's violation.

Ignoring Penalty Enforcement Notices Will Be Costly

In December 1999, the Penalty Enforcement Law changed dramatically. In the past, if a property owner did not heed the violation notices from the five year DCA inspection, the DCA would assess a penalty. If the property owner did not appeal the assessment, the DCA would commence a summary proceeding in the Superior Court of New Jersey to obtain a judgment against the owner. At the time of the hearing, the property owner could negotiate the amount of the penalty with the DCA representatives and the Attorney General's Office. Also, as long as the compromise amount was paid, no judgment would be docketed. The effect of the new law is to remove the stage in the proceeding where the property owner could negotiate the penalty amount prior to the entry of judgment.

Under the new Penalty Enforcement Law of 1999, if any administrative agency has assessed a fixed amount of money as a civil penalty, and the individual or entity against whom the penalty was ordered has been afforded an opportunity for a hearing, the administrative agency can request that the Superior Court record that final Order as a docketed judgment. Once docketed, it will appear as a lien against the property.

Now under the new law, apartment owners are faced with having a docketed judgment against them in the event they sleep on their rights and fail to request a hearing and appeal the penalty assessment. Property owners are therefore best advised to immediately request a hearing and notify their counsel upon receipt of a notice and Order of a penalty assessment.

New Alimony Law Takes Effect

The New Jersey legislature recently passed a law that applies to an area of alimony law that had not been addressed by the legislature. Now, in addition to permanent alimony and rehabilitative alimony, the legislature has authorized Courts to award what is now called limited duration alimony and reimbursement alimony. In contrast to permanent alimony, which is common in long term marriages where the parties have disparate earnings and continues until the death of either party, remarriage of the supported spouse or possibly cohabitation, and rehabilitative alimony, which is utilized to assist the supported spouse to develop earning potential when permanent alimony is not warranted, limited duration alimony is exactly what the name connotes: alimony for a limited duration. Reimbursement alimony may be awarded in those situations where one spouse supported the other through advanced

education, anticipating that he or she would benefit from the fruits of the earnings generated from that education.

If a Court determines that an award of permanent alimony is not appropriate, the Court must make specific findings and set out its reasons in support of its decision. Then, the Court must consider whether it is appropriate to award limited duration alimony, rehabilitative alimony or reimbursement alimony. In determining the length of the term of limited duration alimony, the Court must consider the length of time it would reasonably take for the supported spouse to improve his or her earning capacity to a level where this limited duration alimony would no longer be appropriate. The Court is permitted to award any of these forms of alimony separately or in combination as warranted by the circumstances of the parties and the nature of the case.

Changes To Landlord Tenant Proceedings Are Anticipated

The New Jersey Supreme Court decided the case of Community Realty v. Harris, 155 N. J. 212 (1998) in which a tenant was evicted after she signed a Consent Judgment for eviction, but paid all her rent, thinking she was on probation. In this case, the Court was concerned that pro-se tenants could be evicted if they were misinformed or manipulated by landlords because they did not understand Court procedures. As a result, the Court instituted safeguards for tenants and requested that the Special Civil Part Practice Committee draft changes in the Court Rules, devise a uniform procedure and draft forms to be used throughout the State.

The Special Civil Part Practice Committee made recommendations that have been forwarded to the

Supreme Court, which is seeking public comment before it issues its approval or disapproval of the proposed changes. The contents of the report can be found at the following web site:

<http://www.judiciary.state.nj.us/notices/n000208a.htm>

Of the changes presented to the Supreme Court for its review, some of the major changes have already affected day to day tenancy actions including requiring the judge to provide a lecture to the constituents in the courtroom describing the law and the procedures that are followed by the Court prior to the calendar call, requiring landlords to file an Affidavit or Certification if a Stipulation of Settlement or Consent Order was filed, (previously an Affidavit of Proof and of Non-military Service

Meet FRK&B's Landlord Tenant Department

If you need to know the trial date of your landlord tenant case or whether a Warrant of Removal was served, you call FRK&B's Landlord Tenant Department. Many of you speak to members of our Landlord Tenant Department on a regular basis, but have never met any of them. We wanted our friends and clients to be able to put the names and faces together with the voices. Pictured from left to right are Christine Marques, Melissa Alfano, Ophelia Batalion and Selene Jackson.



Headed up by Rosalie Scheckel along with administrator Ophelia Batalion, FRK&B's Landlord Tenant Department processes hundreds of tenancy Complaints and Warrants of Removal each month. The Department assists property managers with the scheduling of Marini hearings, Orders to Show Cause and trial dates, gathers information for the preparation of Notices to Cease and Notices to Quit, monitors tenant compliance with stipulations of settlement, and serves as a liaison between FRK&B's attorneys and its clients. The Department has a sophisticated computer system designed for the purpose of enabling FRK&B to represent all of its landlord tenant clients efficiently and on a cost-effective basis.