

# HOUSEKEEPING HOARDING and RISK

NPH FALL CONFERENCE

SEPTEMBER 21, 2018

# INTRODUCTION

## **The Landlord**

Kayne Doumani  
Director of Asset Management  
Chinatown CDC

## **The Tenant**

Varian Pierce  
Peer Counselor  
Mental Health Association of SF

## **The R.S. Provider**

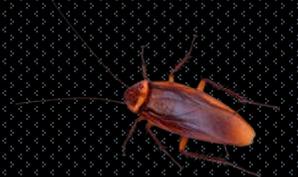
Dara Papo, LCSW  
Care Coordination Services  
Manager at SF DSHS

## **The Lawyer**

Nils Rosenquest  
Attorney  
Rosenquest Associates

# 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



# 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 hoarding problems
  - Property management / asset management
  - Resident services
  - Outside resources
  - Lawyers

# DEFINING THE BEHAVIORS OF HOARDING AND CLUTTERING

VARIAN PIERCE, PEER COUNSELOR

MENTAL HEALTH ASSOCIATION OF SAN FRANCISCO

# DEFINITIONS

- What is the difference between a hoarder and a poor housekeeper? And a collector?
- Behavioral aspects beyond the accumulation
  - difficulty making good decisions
  - difficulty in sorting objects
  - difficulty focusing
- Does the clutter interfere with their daily living?
- The complexity of hoarding disorder is vast, and so little is known.

# INDICATORS

- Recognize early signs
  - Denying pest control
  - Tenant not leaving their apartment very much
- Hoarding is a greater problem with long term tenancy
- Approximately 75% of people with hoarding disorder have some comorbid mood or anxiety disorder
  - In supportive housing, likely more accumulating behaviors than in the general population

# BEST PRACTICES

- First of all, don't call them hoarders.
  - It brings in connotations from the tv shows.
  - Refer to their *collecting behaviors* or their *accumulating behaviors*.

# BEST PRACTICES

- MHASF has a two-prong approach
  1. Peer counseling that emphasizes wellness
    - Change the tenant's values so that their definition of quality of life changes.
    - Value having space, the ability to breathe.
    - "What was life like before you had so much stuff?" Didn't feel anxious when people wanted to come to their apartment. Would invite their family over.
  2. Support groups, from low threshold drop-in to a friends and family group, and treatment groups for people once they've come to terms with the fact that they have hoarding disorder.

# BEST PRACTICES

- Compassion, and a soft approach.
- Ideally, have a peer work one-on-one with the tenant to help them de-clutter. The person you are asking to clean up may not be able to make the decisions.
- The Stick: tenants tend to be motivated by lease violation notices.

# WORST PRACTICES

- Don't communicate disgust or judgement. Control your visceral reaction to the disorder. Maintain a poker face. These tenants already experience a great deal of shame around their situation.
- Don't say, "You've got to get your junk out of here." It can be traumatic to have other people devalue what you think is important. It can even cause the person to have thoughts of suicide.

# RESIDENT SERVICES: BEST PRACTICES FOR SUPPORTING TENANTS

DARA PAPO, LCSW, CARE COORDINATION SERVICES MANAGER

SF DEPARTMENT OF HOMELESSNESS AND SUPPORTIVE HOUSING

# PM/RS

- Role clarification between Property Management and Support Services teams
- Work together from the beginning, with a shared understanding of habitability standards and goals for the tenants
- RS can try to work with tenants, but their services are voluntary. Then it's PM who ups the ante.
- PM is always the bad cop. Their requests are not optional.



# PM/RS

- Best practices around joint unit inspections
  - These can be tied to pest control and annual certifications
  - People often make the mistake of “respecting” the tenant’s desire to not get pest control
    - If you have a history of letting people decline pest control, it can be really hard to change the rules.



# ACTIONS RESIDENT SERVICES CAN TAKE

- Yes, you need to be compassionate. But sometimes compassion causes people to not take action. If it's not a problem from the tenant's perspective, they're unlikely to do anything. Has to be flagged by PM/RS.
- Create clear and effective action/follow up plans
  - For example, as long as there are pathways, they can keep a decent amount of their things.
- Give the tenant more time. Provide trash bags and cans.



# ACTIONS RESIDENT SERVICES CAN TAKE

- Hire someone to do a deep cleaning. This is a valid expense before taking legal action – and a lot cheaper.
- The tenant participating with outside services/in a support group is a good sign that they are trying.



# ACTIONS RESIDENT SERVICES CAN TAKE

- Strategies to increase tenant motivation to address habitability issues.
  - Focus on tenant's reasons to want to stay in housing.
  - Build in immediate incentives and cumulative incentives.
  - Connections to activities tenant takes pride in.



# ACTIONS RESIDENT SERVICES CAN TAKE

- How to support tenants to maintain progress/reduce back-sliding.
- Support around allowing regular pest control.
- Follow up if PM is not issuing appropriate lease violation notices (too lenient/too strict).
- Incentives – how can tenant feel rewarded for progress made/maintained.



# ACTIONS RESIDENT SERVICES CAN TAKE

- Indicators of when to bring in external resources
  - Immediate health and safety issues.
  - Risk of eviction.
  - Risk of abandonment. Sometimes people would rather move than divest.



# LEGAL ISSUES AND OPTIONS

NILS ROSENQUEST, ATTORNEY

ROSENQUEST ASSOCIATES

# EVICTION

- After a consistent issuance of lease violations with no adequate improvement, you should move to evict.
- Like lease violations, this is the necessary wake-up call for some tenants
- Some services don't even come into play until a tenant is facing eviction.

# EVICTIION

- You can approach eviction from a nuisance standpoint.
- If you do move to evict, the judge will likely work out a stipulated agreement as to what has to occur for the tenant to keep their housing. Terms can include:
  - Participation in a support group
  - Demarcating on the floors and walls the area in which clutter must be contained
  - A requirement that the tenant keeps food and trash contained

# REASONABLE ACCOMMODATION

- There is no set definition of what it means to accommodate someone with a hoarding disorder. Policies and practices are changing and evolving.
- RA as a formal thing only happens when the tenant has gotten themselves an advocate.
- Even then, there have been cases where the tenant refuses to acknowledge the problem, so they don't work with landlord on accommodation.

# REASONABLE ACCOMMODATION

- Tenant has to do most of the accommodating, not the landlord. Not like other accommodations in which the landlord has to make changes.
- The reasonable accommodation of hoarding is to be given extra time to work through it.
- Aim for settling. The tenant probably can't fix the problem, but they can try to control it.
- Good rule of thumb: What skin is it off the landlord's nose? If the tenant can conform to keeping a reasonably safe and habitable environment, that should be enough.

# HARM REDUCTION

- Even if a tenant won't advocate for themselves or get an advocate, the landlord has some responsibilities around harm reduction and accommodation of the tenant's disability.
- There is potential liability if a hoarder couldn't get out of their unit in a fire
- There is also a potential liability with mold. (Are you insured for this, specifically?)

# HARM REDUCTION

- People who hoard generally don't report issues in their units. They don't want anyone to come in.
- 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, DIRECTOR OF ASSET MANAGEMENT

CHINATOWN COMMUNITY DEVELOPMENT CENTER

# 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



Chinatown Community  
Development Center

華協中心

# LIABILITY

## CIVIL CODE - CIV

### DIVISION 3. OBLIGATIONS [1427 - 3272.9]

#### PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273]

#### TITLE 5. HIRING [1925 - 1997.270]

#### CHAPTER 2. Hiring of Real Property [1940 - 1954.05]



Chinatown Community  
Development Center

華協中心

# LIABILITY

## CIVIL CODE - CIV

### DIVISION 3. OBLIGATIONS [1427 - 3272.91]

1942.4

CHAPTER 2. Limiting of Real Property  
[1940 - 1954.05]



# LIABILITY

- a. A landlord of a dwelling may not demand rent, collect rent, issue a notice of a rent increase, or issue a three-day notice to pay rent or quit... if **all** of the following conditions exist prior to the landlord's demand or notice:
  - 1) The dwelling substantially lacks any of the affirmative standard characteristics listed in... the Health and Safety Code, or is deemed and declared substandard...



# LIABILITY

- a. A landlord of a dwelling may not demand rent, collect rent, issue a notice of a rent increase, or issue a three-day notice to pay rent or quit... if all of the following conditions exist prior to the landlord's demand or notice:
  - 2) A public officer or employee who is responsible for the enforcement of any housing law, after inspecting the premises, has notified the landlord or the landlord's agent in writing of his or her obligations to abate the nuisance or repair the substandard conditions.



Chinatown Community  
Development Center

華協中心

# LIABILITY

- a. A landlord of a dwelling may not demand rent, collect rent, issue a notice of a rent increase, or issue a three-day notice to pay rent or quit... if all of the following conditions exist prior to the landlord's demand or notice:
  - 3) The conditions have existed and have not been abated 35 days beyond the date of service of the notice and the delay is without good cause.



Chinatown Community  
Development Center

華協中心

# LIABILITY

- a. A landlord of a dwelling may not demand rent, collect rent, issue a notice of a rent increase, or issue a three-day notice to pay rent or quit... if all of the following conditions exist prior to the landlord's demand or notice:
  - 4) The conditions were not caused by an act or omission of the tenant or lessee...



Chinatown Community  
Development Center

華協中心

# 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



Chinatown Community  
Development Center

華協中心

QUESTIONS?