



ARE WE PREPARED?

It's been a year since Hurricane Harvey hit Houston, but are we prepared for other natural disasters?

BELIEVE IT OR not, it's been a year since Hurricane Harvey devastated the Gulf Coast. We are still dealing with the aftermath! Some Houstonians have not yet moved back into their homes. Apartment owners continue to deal with insurance companies, lenders and the rehabilitation process.

After Harvey, I wrote three articles. The Aftermath published in October 2017 addressed a number of issues regarding the termination of leases, repairing the property and transferring residents to other units. Harvey Continued published in November 2017 discussed ongoing issues regarding raising rent, dealing with personal property left in an uninhabitable unit and returning security deposits and mold remediation issues. Remnants of Harvey published in December 2017 addressed issues relating to recovery of damages due to the intentional release of flood water from the Barker and Addicks Reservoirs. Although many of the issues were covered in the previous articles regarding what happens after a disaster hits, we now have the opportunity to discuss how we might prepare before an event occurs. Let's discuss what you might think about now in preparation of what could occur later.

Establish line of communication with residents.

Situation to avoid: You manage a 200-unit apartment property. A storm hits, causing the bottom floor to flood and residents to vacate. Three days later, after assessing the damage, you decide that you have to terminate leases and want residents to move all of their belongings out so that the rehabilitation process can begin.

Problem: You can't get ahold of your residents. They have scattered to all different parts of Texas. You wish you would have planned in advance how to communicate with residents and how residents could get ahold of you.

As many owners found out after Harvey hit, one of the most important things you can do is to keep residents informed with respect to what is going on in your community and what is expected of them.

In preparation of a disaster, you and your residents should know how to get ahold of one another after the event occurs. Although you may have lost power at the property, there should be a game plan to contact residents to keep them informed and for residents to know who they can contact if they have questions.

It would be beneficial to have your residents' email addresses and cell phone numbers. It would also be beneficial to have all residents knowledgeable on how you would communicate to them through a property resident portal, the property website or another method.

It may be important to note the standard TAA rental application requests that the applicant identify the applicant's email address and cell phone number. The standard application also allows the applicant to provide an emergency contact, which may be helpful when attempting to reach someone who has evacuated.

Keep your residents informed.

Once you have established a line of communication with residents, you should be prepared for the type of information you will provide to residents. Before a disaster occurs, you may want to send out a preemptive letter with a number of tips a resident might find beneficial in the event a storm hits such as:

- What lines of communication have been established (see above) so that residents know how to contact you or where to get property information.

- Tips on what to do during a storm (the SafeinMyPlace page on the HAA website may be helpful).

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- Identify emergency numbers that may be useful with both city and county officials (including the numbers for police and fire departments).

- Identify any evacuation plans you have for the property.

- Any other information you think might be helpful to residents in their effort to prepare for the oncoming event.

Keep management and maintenance personnel informed as to their responsibilities.

Be sure you are able to get ahold of all management and maintenance personnel before, during and after an event occurs. It would be helpful to have a company-wide method of communication that allows you to have the amount and level of employees needed to be on hand. If employees have trouble themselves with their living situations, you may need to call on other employees that may not have expected to be on call. A preemptive meeting would be helpful to explain whatever plan you have developed so that all employees are on the same page.

Protect your documents.

A number of owners lost documents during Harvey. The management office where documents were kept flooded and hard copies as well as computers were damaged. To avoid this type of situation, be sure that you have access to all documents off site. Although you don't need to necessarily keep

copies of documents in an alternate location, you should, at least, be able to access documents through an off-site computer system. This would allow you to duplicate any documents that may be lost. This would be helpful in any disaster including a fire.

Prepare in advance for what might happen later.

Many owners and management companies become experts in their rights and responsibilities after a flood occurs. It's a good idea to refresh your memory with respect to the options you may have if your property is damaged.

One of the first things you will need to do if your property has sustained damage is to determine the status of leases. If the property is not habitable, you may want to exercise rights to terminate the lease and have residents move their personal belongings out so that the rehabilitation process can begin.

Section 92.054(b) of the Texas Property Code provides that if after a casualty loss the unit is totally unusable for residential purposes, either the owner or the resident may terminate the lease by giving written notice to the other at any time before repairs are com-

pleted. If the lease is terminated, the resident is entitled only to a pro rata refund of rent from the date the resident moves out and to a refund of any security deposit otherwise required by law.

Under Section 26.5 of the standard TAA lease, if the owner believes that catastrophic damage is substantial or that performance of needed repairs poses a danger to the resident, the owner may terminate the lease by giving at least five days written notice. If the lease is terminated, the owner will refund pro rated rent and all deposits, less lawful deductions.

In the event that the unit is not habitable, you have the right to terminate the lease by giving appropriate notice. In doing so, you will cut off the resident's responsibility to pay rent but can require the resident to move all personal belongings from the unit.

Pursuant to Section 92.054(c), if after a casualty loss the unit is partially unusable for residential purposes, the resident is entitled to a reduction in the rent in an amount proportionate to the extent the unit is unusable be-

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cause of the casualty, but only on judgment of a county or district court. Consequently, the resident has rights if the unit is partially unusable but can only exercise those rights after a court proceeding. Of course, absent a judgment from a court, the parties can agree to a reduction of rent if they choose to do so.

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