



CORPORATE HOUSING 101

Avoid unnecessary problems with corporate leases with these 10 tips.

YOU HAVE 20 corporate leases with Awesome Housing, one of the greatest corporate housing providers in town. Several complaints have been made against occupants of these units, including excessive noise and traffic and drug use. Oh yeah, Awesome Housing also failed to pay rent last month on half of its units. You have residents complaining about the occupants and they have been asking why they can't sublease their units on a short-term basis like Awesome Housing.

You tried to contact Awesome Housing, but all communication has stopped! The owner of Awesome Housing lives in one of the units but won't answer the door or return calls. Should you send a notice to vacate? If so, to whom? Can you evict? Who can you collect the rent from? You have many questions!

Corporate housing can be a valuable way to lease a number of units in a short period of time. Corporate housing also provides flexibility and services that you may not be able to provide. Many corporate housing programs are successful, however, there also may be problems. By following some relatively simple rules, you might be able to avoid some of these issues.

1. Know who you're dealing with.

Seems simple, but you'd be surprised! We often enter into a contract without really knowing who we are allowing to occupy our units. When things are going well, your contract doesn't really matter, but when there are issues, you need to be prepared.

Corporate housing providers can either be legally organized entities or individually owned businesses. There are a number of types of legal entities. These include corporations, limited liability companies and limited partnerships. Each has a separate designation under the law and requires certain steps to be taken before the entity can do business.

Although corporate housing arrangements can be made with individually owned businesses, one would wonder why the individual who owns the business would not simply sign each lease as a resident or a guarantor (if the business owner was not going to reside in the unit). For many reasons (stated below), you may want to restrict your corporate transactions to legally authorized entities.

2. Only deal with a company that is authorized to do business in Texas.

Companies can either be domestic (organized in Texas) or foreign (organized outside of Texas), however, most types of companies (other than individually owned companies like general partnerships or sole proprietorships) must be registered to do business in Texas. Most companies that are organized in Texas need to file documents with the Texas secretary of state's office when they are organized. Foreign companies are required to register before doing business in Texas. Any company registering with the state is also required to identify a registered agent and address where communications can be sent. You can find out what type of company an entity is, whether it is properly registered and the name and address of the registered agent by checking the secretary of state's website at <http://www.sos.state.tx.us/corp/sosda/index.html>.

If a company is not required to be organized by filing a document with the secretary of state (such as individually owned businesses), the company would not be required to register with the secretary of state's office.

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3. If a company is using an assumed name, be sure you know the legal entity behind the assumed name.

It is imperative that you know the entity or individual behind the assumed name. Awesome Housing is not the name of a legally authorized entity. It is an assumed name. If Awesome Housing is an entity authorized to do business in Texas, the entity behind the assumed name will be registered with the secretary of state's office. If Awesome Housing is an individually owned business, the person who does business under this name would file with the applicable county clerk's website.

Companies that are properly registered to do business in Texas (by filing documents with the secretary of state's office), that are doing business in something other than their official legal name, are required to file an assumed name certificate within the secretary of state's office as well as in the county in which they do business. The secretary of state's website will also have assumed names of companies authorized to do business in Texas.

4. Avoid trading somebody's individual liability for corporate liability.

With most corporate housing programs, you would make arrangements with the housing

provider, who would then bring you occupants. If a prospect tells you they want to have the lease in a company's name, you should know the reasons why. A red flag should be raised when a prospect wants to trade individual responsibility for the responsibility of an entity. Recovery under that lease may be difficult if the entity is dissolved or goes out of business. Be careful to avoid this situation by understanding the goal of the company tenant.

5. Have the lease signed by someone other than the principle occupant.

A red flag should also go up if the occupant of the unit is the same person that signs the lease for the company-tenant. Why is the person signing the lease on behalf of a company as opposed to signing it individually? If the company is an entity involved in some type of corporate housing program, chances are the person signing the lease on behalf of the entity would be an authorized representative who is involved in the corporate housing program, not an individual who wants to live in the unit.

6. Know who is occupying your unit.

Remember, you can't have unauthorized occupants unless you know who the authorized

occupants are. Every corporate housing lease should outline a procedure for identifying, screening and approving all occupants residing in a unit. Adult occupants should undergo the same non-monetary checks that residents undergo. If the company-tenant is responsible for paying rent and all other charges under the lease, monetary checks (such as employment or income screening) may not be necessary. This policy and procedure should also extend to occupants that may move in during the term of the corporate housing lease.

7. Use a contract that makes sense.

The standard TAA apartment lease contract is not designed to be a corporate housing lease. For example, Paragraph 2 of the standard lease provides that the apartment will be occupied only by "you" (meaning the resident) and the occupants listed in this paragraph. Paragraph 20 prohibits certain conduct including behaving in a loud or obnoxious manner.

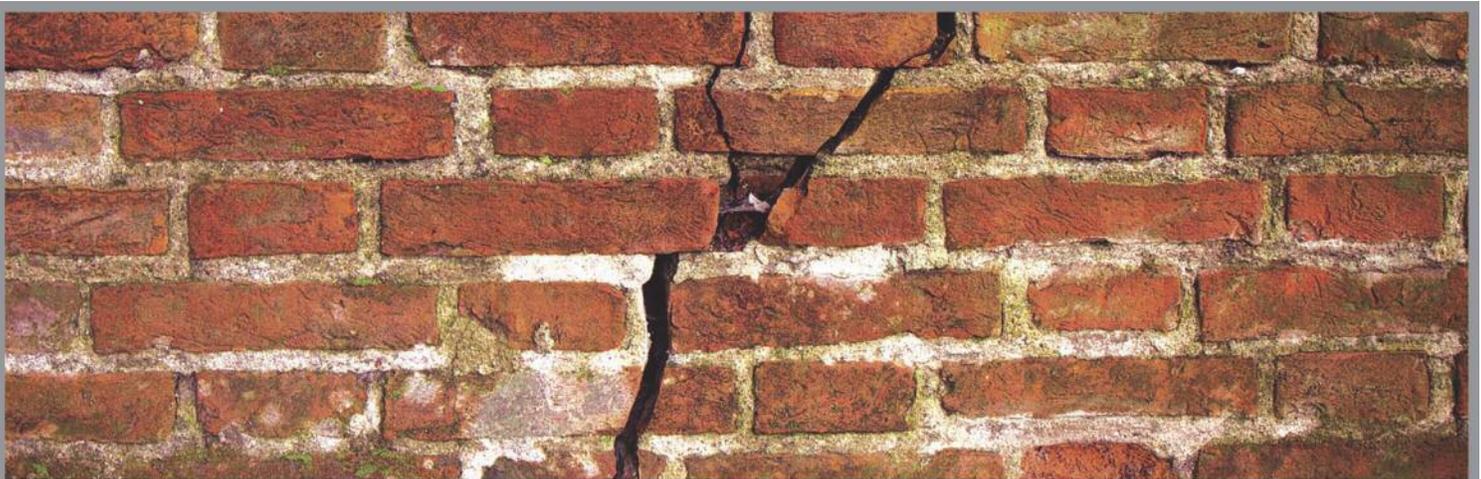
The TAA lease is designed to be signed by an individual resident who will occupy the unit with the other authorized occupants. A business entity is not an individual (does not eat, sleep nor breath). A business entity cannot reside in a unit.

Although the TAA lease is not designed to be a corporate housing contract, it would be beneficial to hold the occupants responsible for the conduct provisions of the lease. By using an addendum to the lease, the provisions that would apply to the corporate entity could be properly identified. In other words, you do not have to recreate the wheel. Just add an addendum to the TAA lease that can be signed by the corporate entity and make sense of the fact that the corporate entity is identified as the "resident" under the lease.

8. Check the criminal history of your occupants.

A corporate lease arrangement should not allow occupants to be screened for criminal history on a less stringent basis than all other residents. The corporate lease addendum (see above) can be used to outline a procedure whereby occupants who move in and out of the unit during the lease term are properly screened for criminal history.

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9. Deal with complaints from other residents about your corporate housing program.

Other residents would love to sublet their unit to bring in some extra money when they are out of town. There are a number of social media sites that are happy to help! When you tell residents they can't because it violates their lease, they may bring up the fact that you are regularly allowing your corporate housing providers to sublease. How is that fair?

Paragraph 30.1 of the TAA lease provides that replacing a resident, subletting, licensing or assigning a resident's rights is allowed only when the owner has consented in writing. Owners would have the right to consent to subletting if the owner determines that it is in the owner's best interest to do so. As long as the owner does not provide or decline its consent on a discriminatory basis, the owner may do what it considers to be in its best business interest.

If you have a corporate housing program, you may invariably be faced with questions from other residents upset that they see units being occupied on a temporary basis. You should be prepared to respond to those residents by indicating that some units may be involved in a corporate housing program, but that does not require you to open your entire property up to temporary housing.

10. If you lease more than one unit to a corporate entity, you may want to take some precautions.

You may want to consider a number of issues when entering into a corporate housing agreement for multiple units at your property. Should you require additional insurance from what is required from individual residents? Will the corporate housing provider indemnify you from all claims or damages relating to or arising out of the conduct of occupants? Will there be restrictions on the corporate housing provider's ability to terminate leases? You may not want to have more than a certain number of leases being able to be terminated in any one month. You also may want to consider a cross default provision which would provide that a default under one lease would be considered a default under all leases. This may give you more leverage when negotiating a resolution to a default.

Corporate housing can be rewarding, but also may be complicated. By taking a few simple steps at the beginning of the arrangement, you will be better prepared to avoid unnecessary problems. 🏠

