



# Landlords' Business Association

We're landlords... helping landlords!

P.O. Box 812 Greenfield MA 01302

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## Newsletter May 2021 **President's Message**

Hi All,

It is starting to feel like we might be close to the end of this pandemic. There is money out there if you have tenants that are behind on their rent. We are hoping to have an in person meeting or picnic sometime this summer. Please reach out if you would like to help organize it. Also, we are starting a monthly zoom meeting on the 3rd Thursday of each month. Finally a big thank you to Marc Guillaume for taking the lead on redesigning our website, taking on the newsletter, and breathing some new life into the LBA. The website should be going live soon.

Jim Martineau  
413-219-6587

## **Upcoming Events:**

Third Thursday Investor Roundtable Zoom:

We're starting a monthly discussion series about real estate. A chance to network and brainstorm with other landlords, investors or soon-to-be investors. Thursday, May 20th, 7:30pm. Look for an LBA email on the 18th with the zoom link.

## **Newsletter Editor and Board Member Message:**

"There's water coming into the store from Apartment #1," the voice on the phone said. "I think it's their toilet."

My stomach gets that "uh-oh" feeling. At this point, I've been a landlord for 15 years. We had purchased this building the week before and this was my first phone call for a flooding toilet. Entering the apartment, there was clearly water on the floor of the bathroom and the kitchen. "The toilet wasn't working then the sink began to overflow," the tenant told me. "The sink just wouldn't stop!"

We all know that a toilet, about a foot below a sink, will not cause a sink to overflow unless there is serious user error. As we got to know the tenants in Apartment #1, and the other tenants in the 8 unit building called with complaints about Apartment #1, my partners and I knew what needed to happen. We posted notice on their door and filed the papers with the court. It was time for our first eviction.

Evictions are an unfortunate part of being a real estate investor. Nobody likes to tell people they need to leave, especially when you know the tenant has no real options for rehousing. In the past almost 2 years, my partners and I have purchased 30 units, all buildings that were fully occupied when we took possession. The buildings were priced below market, mostly because the previous landlord was either overwhelmed by tenant problems or had lost interest. To turn the buildings around, evictions have become part of our experience.

As the LBA attorney, Atty. Stanley Komack points out, during the time of Covid, evictions have gone from challenging to down right hard. In my and my partner's experience, the offer of money is much more effective. Our process is to use a 2-prong approach - begin the court process and ask the tenant if there is anything we can do to help them find a different apartment. (During Covid, at least in Massachusetts, one couldn't offer cash-for-keys unless the tenant brought it up first.) We've had people move out for \$500 and others for \$1500.

If I'm to give any suggestions on evictions, it's certainly not of the legal kind. As Atty. Komack reminds us again and again, the LBA is not legal council! But, as a landlord trying to help other landlords, my suggestion is to always be pleasant and friendly with the tenant. No tenant is surprised that when they stop paying rent or allow drug dealings in their apartment that the landlord will ask them to leave. They universally appreciate being treated honestly and politely. We're clear about our process, clear with our deadlines and work to keep the lines of communication open. When the tenant leaves behind a mattress and 3 broken TVs, I just remember how difficult their life must be at that moment, when their housing future is unknown. Compassion is key.

Final note: a neighbor of one of my buildings is a landlord of only that one building. Long story short, this person wasn't able to keep their dealings with the tenants pleasant and friendly. My interpretation is that the rough treatment by the landlord ticked-off the tenant so much they stopped paying their \$1200/month rent. Only after the courts had opened, 14 months later, was the landlord able to retake possession of the unit. They know they will never see that \$16,000 in back rent.

Evictions, while a necessary tool, are no replacement for good management.

Marc Guillaume

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The Legal Corner



Stanley D. Komack, Esquire  
Komack Law Offices P.C.  
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Longmeadow MA 01106

Enclosed below, is an excerpt from an article that was written by Eric T. Berkman and published on April 22, 2021 in *Massachusetts Lawyers Weekly*, which involves our dear friend David Burgess of Emerald Lead Testing, who has spoken to our group many times in the past.

### **“INSPECTOR NOT LIABLE FOR LEAD POISONING”**

A licensed lead inspector who certified in 1993 that an apartment complied with lead paint laws could not be held liable for lead poisoning a minor suffered after moving into the unit in 2015, the Appeals Court has ruled.

The inspector, defendant David Burgess, stated in his certification letter that certain surfaces were free of lead paint as required under Massachusetts law and that the unit would remain in compliance “as long as there continues to be no peeling, chipping, or flaking lead paint or other accessible materials and as long as coverings forming an effective barrier over such paint and materials remain in place.”

He also stated that his letter did not mean the apartment was free of lead paint.

The premises changed ownership multiple times before plaintiff Rodriguez Navarro, an infant at the time, became a tenant in 2015. When Navarro was diagnosed with lead poisoning, his mother sued Burgess on her son’s behalf, alleging the defendant knew or should have known young children would be occupying the apartment and that he negligently issued the compliance letter.

A Housing Court judge dismissed the claim, finding that Burgess had no duty to the plaintiff under the circumstances. The Appeals Court affirmed.

“Here, there is no allegation that Burgess knew the plaintiff would become a tenant of the premises more than twenty years after the inspection, or that he knew the plaintiff would rely on Burgess’s decades-old initial compliance letter. Thus, the question is whether it was reasonably foreseeable to Burgess that a tenant so remote in time from the inspection would so rely,” Judge Gabrielle R. Wolohojian wrote for the court. “[T]he answer to this question is ‘no.’”

For more information, please see [Navarro v. Burgess et al.](#), Appeals Court Docket No. 19-P-1542.

The above is intended to provide general guidance for legal issues. No attorney-client relationship is established. For answers relating to your specific facts, circumstances and questions, please feel free to call me.

STANLEY D. KOMACK, ESQ.  
(413) 785-1851

## **Atty. Komack Comments About Evictions and Working with the Court**

**\*\*\*\*\* ATTENTION -- VERY IMPORTANT\*\*\*\*\***

**YOU MUST READ THE LINKS IN THEIR ENTIRETY BEFORE USING OR PROCEEDING WITH ANY OF THE ITEMS OR FORMS. DO NOT USE THE FORMS BEFORE VERIFYING THE CORRECT PROCEDURES.**

**ALSO READ HOW COURT IS NOW OPERATING.** Document located at: <https://www.mass.gov/housing-court-rules/first-amended-housing-court-standing-order-6-20-temporary-modifications-to#introduction>

## **WHAT PROVISIONS OF THE CARES ACT EVICTION MORATORIUM REMAIN IN EFFECT?**

V. 8/28/20

The 120-day eviction moratorium in §4024(b) of the CARES Act expired on July 25, 2020. However, portions of the CARES Act still apply to evictions. Therefore it is still necessary to determine if a property is covered by the Act, and whether these provisions apply.

**The following provisions of the CARES Act still apply:**

1. 30-day notice requirement: §4024(c) requires "covered dwellings" (those at properties that participate in a federal subsidy program or have a federally-backed mortgage)\* to provide a 30 day notice to vacate after expiration of the 120 day moratorium period prior to filing eviction.\*\*

The 30 day notice requirement in §4024(c) does not have an end date in the statute (compare to other provisions of the CARES Act where Congress chose to include a sunset date). §4024(c) is in Title IV, Subtitle A of the CARES Act. §4029, the last section of Subtitle A, specifies that "the authority provided under this subtitle" terminates December 31, 2020, but only with regard to "new loans, loan guarantees, or other investments". No provision specifies the date when authority to require a 30 day notice per §4024(c) terminates.

Want to see the actual legal text? <https://www.congress.gov/bill/116th-congress/house-bill/748/>)

**Notice to Quit has gotten harder!**

Atty. Komack, our legal council, reminds us: The Notice To Quit process has changed. Now, when you serve a notice to quit, you must also serve, at the same time, a Form Accompany To Residential Notice to Quit must be upload it to the state website. Here's what appears to be the new process (this newsletter, as it should be abundantly clear, is not actual legal advice!)

1) Decide which notice to quit you need to use (14 day or 30 day)

2) Service the notice along with the Form Accompany To Residential Notice to Quit.

<https://www.mass.gov/info-details/notice-to-quit-attestation-form-and-submission-information> 3) Submit the Notice to Quit and the form Accompany Residential Notice to Quit to the state website.

<https://www.mass.gov/forms/massachusetts-notice-to-quit-form-submission>

Also, Atty. Komack reminds us that tenants who can't pay because of Covid are supposed to fill out the

(continued on next page)

CDC form, called a declaration, and give it to us, the landlord!

[https://www.cdc.gov/coronavirus/2019-ncov/downloads/evictiondeclare\\_d508.pdf](https://www.cdc.gov/coronavirus/2019-ncov/downloads/evictiondeclare_d508.pdf)

Covid has certainly made some parts of landlording harder!

Atty. Komack reminds us:

**THE ABOVE IS INTENDED TO PROVIDE GENERAL GUIDANCE FOR LEGAL ISSUES. NO ATTORNEY-CLIENT RELATIONSHIP IS ESTABLISHED. FOR ANSWERS RELATING TO YOUR SPECIFIC FACTS, CIRCUMSTANCES AND QUESTIONS, PLEASE FEEL FREE TO CALL ME.**

**STANLEY D. KOMACK, ESQ. 413-785-1851.**

## INVESTOR'S CORNER

ADDRESS	TOWN	DESCRIPTION	DOM	SALE DATE	LIST PRICE	SALE PRICE
33 Pleasant Street	Deerfield	2 Family	2	01/05/2021	\$345,000	\$348,000
7-9 Federal Street	Montague	2-Family	75	01/07/2021	\$279,900	\$270,000
148 Conway Street	Greenfield	2-Family	26	01/14/2021	\$215,000	\$207,500
95 Main Street	Shelburne	2-Family	290	01/27/2021	\$179,900	\$162,500
17 W. Main Street	Montague	2-Family	34	01/29/2021	\$219,900	\$192,000
139 Conway Street	Greenfield	2-Family	50	01/29/2021	\$199,000	\$179,000
20 1/2 G Street	Montague	6-Family	118	01/29/2021	\$269,000	\$215,000
60 Central Street	Montague	4-Family	31	02/05/2021	\$299,500	\$290,000
7 Graves Street	Deerfield	2-Family	9	02/09/2021	\$144,000	\$144,000
32 Power Square	Greenfield	2-Family	35	02/10/2021	\$148,000	\$131,500
39 W. Main Street	Orange	2-Family	25	02/11/2021	\$39,999	\$40,000
7 South Street	Buckland	2-Family	68	02/12/2021	\$269,000	\$269,000
124 Petty Plain Road	Greenfield	3-Family	16	02/22/2021	\$275,000	\$296,900
69-71 7 <sup>th</sup> Street	Montague	2-Family	21	02/26/2021	\$289,900	\$305,000
415 Tully Road	Orange	2-Family	37	02/26/2021	\$229,900	\$215,000
54 Wells Street	Greenfield	2-Family	18	03/03/2021	\$125,000	\$100,000
80-82 Ashfield Street	Shelburne	2-Family	87	03/12/2021	\$189,900	\$185,000
8-10 Grant Street	Greenfield	2-Family	19	03/16/2021	\$289,000	\$315,000
156 E. Main Street	Orange	4-Family	38	03/19/2021	\$239,000	\$220,900
167 E. Main Street	Orange	6-Family	289	03/29/2021	\$85,000	\$75,000
28-30 Walnut Street	Greenfield	2-Family	23	03/31/2021	\$189,900	\$190,000

Multi Family Listing	Average Days On Market	Average List Price	Average Sale Price
21	62.43	\$215,276	\$207,205

Multi Family Sales in Franklin County                      Mark D. Abramson, CCIM, CBR, GREEN                      Office 413 203 6254

01/01/2021 thru 03/31/2021 from MLS                      mark@cbumr.com                      Cell: 413 772 9390



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18 Main Street  
 Greenfield, MA 01301



## Deleading in Massachusetts

On Tuesday, May 4th, the Recorder ran an advertisement reminding prospective tenants that it is illegal for landlords to discriminate based on the age of the possible tenant. The advertisement, from the Massachusetts Fair Housing Center, is spot on. At LBA, we do not support any kind of tenant discrimination.

We would like to remind our members of the Moderate Risk Deleading courses offered periodically throughout the state. <https://www.mass.gov/service-details/training-providers-for-moderate-risk-deleading>.

The closest provider is in Springfield, Emerald Lead Testing. It's an 8-hour course and afterward, you can do most deleading work on properties you own. The next course by Emerald Lead Testing (who has spoken at our meetings several times) is Saturday, May 22nd. 413-736-LEAD

Note- the law around deleading (it's not really deleading since lead paint on most walls and trims can stay in place) was made much easier to comply with a few years ago. My partners and I recently finished a deleading project on a single-family we own. The process cost about \$1000 for the testing (\$500 for the initial, \$500 for the final test) and about \$4000 for the work (covering exterior trim with aluminum, replacing 4 doors.) and now we have a certificate! Because I had taken the moderate risk deleading course, and since I'm the owner, I was able to do the work myself. Not exactly a painless process but we've reduced our liability and feel good about following best practices. Marc Guillaume



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In service to the members of the

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Input or suggestions and articles are welcomed from all members and/or professionals. Any views and/or advertising appearing herein are not necessarily endorsed by nor the

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accounting or other professional services. The information in

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professional person should be sought. The Landlord's Business

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**New address? New email? New phone #?**

Please email your new contact information to

[lbainc@outlook.com](mailto:lbainc@outlook.com)

**Interesting in being part of the discussion?**

The Franklin County Landlord Open Email group is a great place to ask your landlording questions and get answers back from local landlords! Interested in joining? Just email "join" to [solarmarc@gmail.com](mailto:solarmarc@gmail.com) and I'll add you to the group list!





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