



ORCA TALES

"We can tell you more about them than their mother"

DIVIDE OR BE CONQUERED

What Apartment Owners Can Learn From Wall Street About Modern Lawsuit Protection

Provo, Utah (March 14, 2005)—Having recently consulted its 20,000th client on lawsuit protection, the National Foundation for Tax Planning & Asset Protection reveals the most important trend in lawsuit protection.

When the Marriott Corporation split into two separate entities in the early 1990's, it did so to separate its cash-rich assets from its lawsuit-prone operations. That's a lesson apartment owners can take to the bank. The New York Yankees recently set up 70+ limited partnerships to hold its assets. Should apartment owners be doing the same?

While most apartment owners will not be sued as often as global hotel chains, million dollar judgments against apartment owners are issued on a regular basis. Lead-based paint lawsuits, faulty heating systems, and failure to maintain property properly have all produced \$1 million-plus lawsuits in the past 10 years. There is no right or wrong way to diversify. There are so many variables to consider: how many apartments are owned? What is the value of the different properties? What can the owner afford to risk? Below, are some general principles that apartment owners can use to protect themselves from lawsuits.

Separate One Property from Another

One apartment owner who owns three apartment buildings has placed each of the buildings into separate limited partnerships. If one limited partnership gets sued because of faulty wiring in the apartment building it owns, the other limited partnerships and their assets will be protected.

Separate Property Ownership from Property Management

Owning rental property is always risky. You simply cannot predict everything that can possibly go wrong. But, you can minimize that risk if you own the property in one entity and turn over the management of the property to another. You gain substantial asset protection if you own the property through carefully structured and properly drafted limited partnerships. Then, set up a separate management company, with a legally binding management agreement, to actually collect the rent, facilitate repairs, and handle other routine management tasks. In this way, if a lawsuit is filed, the property itself will be protected, even if the management company is found to be at fault.

Separate Personal Assets from the Rental Properties

"Too many apartment owners manage their rental properties like a family business," says Larry Oxenham, Vice President of the National Foundation for Tax Planning & Asset Protection, a professional services organization that teaches apartment owners and other business professionals how to properly ...

...structure their business and personal assets to maximize protection from lawsuits. Having educated thousands of business professionals on asset protection, Oxenham observes that this area "trips up" more apartment owners than any other. "If apartment owners are going to use limited partnerships, corporations, or limited liability companies, which they should, then they need to run them like separate business entities. This means maintaining separate business accounts, filing separate tax returns as required, and above all, it means spouses cannot go grocery shopping with the business checkbook."

As a general rule, the farther apartment owners can structure their hard earned personal assets from their professional legal liabilities, the less likely they could ever be taken away.

Mr. Oxenham has a long career in the areas of tax reduction, lawsuit protection, and estate planning. He has authored several publications on the subject, including being a contributing author to the best selling books, "21 Secrets of Real Estate Millionaires," "America's Greatest Tax Secrets Revealed," and "Cover Your Assets: Lawsuit Protection."

****For more information about Mr. Oxenham, please contact at 1-800-375-2453, or email: spencert@nftpap.com.*

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Thanks, Rebekah

In Observance of Memorial Day
our office will be closed on
Monday, May 30th.
Have a Great Weekend!

Where and How to Obtain Criminal Records There is NO Central Location of Records

Contrary to popular belief, obtaining a criminal record is not as easy as going on a computer and getting thumbs up or thumbs down. There are over 10,000 state and federal courthouses in the United States, spread out over some 3,300 jurisdictions, each with its own database of records. There is no national computer database of these criminal records available.

Yes, the FBI and state law enforcement have access to a national computer database called the National Crime Information Center (NCIC). However, it is absolutely illegal for most private companies to obtain criminal information from law enforcement computer databases without specific legal authorization. Government criminal checks are only available for positions such as schoolteachers or childcare workers or other positions where state or federal law specifically mandates such a check.

Remember: Due Diligence –Our Responsibility to the Community

Dear Clients and Friends (Property Management Companies, Landlords, Employers),

Let's be frank. We are talking about peoples lives and our duty to help protect them—yes, we are our brother's keepers—at least to a certain extent. And, there is no bigger liability than when a person is hurt on our property if we are found to have been neglectful. Look what has been happening in Florida regarding children. The heat is on at every level to act with due-diligence. Instant Databases are attractive in that they are “instant” AND advertised as inexpensive/cheap. **BUYERS BE-WARE**—make an educated decision based on comparing databases and/or screening companies. Below are the results from four databases. They are put side by side for easy comparison. The first database is NOT instant and the one we use at Orca (one of many). The three following are popular, commonly used “instant” data, advertised to be “Nationwide” and thorough. Impressive? You be the judge. We at Orca have already made up our minds—NO COMPROMISE!! NO INSTANT DATABASES UNLESS THERE IS NO OTHER CHOICE.Rebekah Near

COURT RECORDS DATABASES AVAILABLE ON THE MARKET

Subject Comparison (John Doe #1)

<u>ORCA Information, Inc.</u>	<u>Instant Database #1</u> <small>(Schools / Health Care HAVE to use)</small>	<u>Instant Database #2</u>	<u>Instant Database #3</u>
Juvenile Record: 9/00 Child Molestation 1st Degree, Guilty			Juvenile Record: 9/00 Child Molestation 1st Degree, Guilty
11/02 Theft, Guilty		11/02 Theft, Guilty	11/02 Theft, Guilty
3/03 Malicious Mischief 3rd Degree, Guilty	3/03 Malicious Mischief 3rd Degree, Guilty	3/03 Malicious Mischief 3rd Degree, Guilty	3/03 Malicious Mischief 3rd Degree, Guilty
Registered Sex Offender	Registered Sex Offender	Does NOT show as Registered Sex	Registered Sex Offender

Subject Comparison (John Doe #2)

<u>ORCA Information, Inc.</u>	<u>Instant Database #1</u>	<u>Instant Database #2</u>	<u>Instant Database #3</u>
11/04 Attempt to Elude Pursuing Police Vehicle, returned from warrant on 1/20/05 case still active and pending	1/05 Attempt to Elude, status not received	No records found	We were given forty-seven records to choose from. However out of those only one could be the applicant. This record listed the following VERY LIMITED information: Charge - unknown, filed on 11/23/04
11/04 Unlawful Detainer, Default Judgment - this record in Name Match Only			
4/04 Probable Cause Hearing for Felony Flight, Dismissed		No records found	
4/04 Driving Under the Influence, Active case still pending	11/04 Driving Under the Influence, status not received		
4/04 Reckless Endangerment, Active case still pending			
11/04 Driving While License Suspended 2nd Degree, Guilty	11/04 Drivnig w/License Suspended or Revoked, not recieved		
Not a Registered Sex Offender	Not a Registered Sex Offender	Not a Registered Sex Offender	Not a Registered Sex Offender