



Landlord-Tenant Issues: A Legal Opinion Snow!

By Chris Benis,
RHA Legal Counsel

Question: *The recent “snow-magedon” got us thinking about our responsibility (and liability) if a tenant gets injured by slipping and falling in ice and snow (and lots of slush). What do we need to know and what do we need to do?*

Answer: Your question doesn’t specify a lot of background information that I need, such as: type of property (single family or multi family), whether or not you have an onsite manager, what the specific conditions are that you are worried about your resources and availability.

Before proceeding further, let me make it clear that, should someone get seriously injured on your property, there will probably be a claim or lawsuit against you. It is just the nature of our society and legal system. I had someone at one of my properties who claimed to have fallen down some stairs and the first notice I received if the claim was a set of photos taken by the tenant's wife, showing her husband lying on the ground (as if the first thing she would do if he was seriously injured was grab her camera). I had to turn it over to my insurance company who I believe made a “nuisance value” settlement. So, my view of this subject is to first do everything you reasonably can to prevent injuries and second, to give your insurance company a good set of facts to defend the claim. Let’s look at a single-family property first. In this case, your responsibilities are pretty much limited to making sure the property is generally safe as constructed. That means that your handrails are at the proper height and not loose or somehow damaged, that the walking surfaces on the property have the appropriate amount of texture to give decent grip to pedestrians, etc... Assuming the building met code and reasonable maintenance standards, you will be in good position to defend a claim.

In the multi-family context, the same rule applies about compliance with codes and good maintenance. On top of that, however, you have the statutory duty in RCW 59.18.060(3) to “Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident. “Single-family homes don’t have common areas, but multi-family properties have all sorts of them. As with most parts of RCW 59.18.060(3), the key word is to act “reasonably.” There is probably no other word in the legal lexicon that has more legal definitions than one. Reasonableness can be defined in many different ways, but the starting point is to act as a reasonably prudent person in any given situation. Oftentimes, courts also use the term “standard of care” to deal with the

same concept. These questions are often restated as, what would a reasonably prudent person do in the same situation?”

The law doesn’t require you to catch every snowflake on your tongue before it hits the ground, but it does require you to consider reasonably likely scenarios and to be prepared to take action. Thus, where there is an overnight snowfall, there is no way that all the snow can be removed from a large complex before folks head out to work. But just because that is not possible does not mean that you need take no action. Reasonable action might include: having someone (presumably an on-site manager) assess the situation and depending on the condition and resources at hand, address key areas. This might include spreading de-icer on main walkways, put up caution signs, etc... As time and personnel permits, the legal expectations grow and the law would expect your ability to take action expands.

Let’s look at two ends of the “time and ability” spectrum, a duplex without a resident manager and 200 unit complex with a management and maintenance staff of eight. Both properties have a foot of snow on them. Let’s also assume that for two days, the roads are essentially impassable. For the duplex, there is no one onsite to address the issue. Your earliest opportunity to take action would be the third day after the snow. That being said, it might be possible to provide some de-icing solution for the tenants’ own use.

In the multi-family property, particularly because there are personnel on-site, it might be possible to begin to take action at first light after the snow. Again, the first action might be to remove snow from main pathways, lay down de-icer, etc... But, as with the duplex, as time permits, the law would expect a more aggressive action to be taken.

The foregoing having been said, a snowfall (or hard freeze) is certainly within the realm of reasonable expectations. You should have some plan to address such circumstances, and they should be tailored to your specific situation and resources.

This article contains general information and is not intended to apply to any specific situation. If you need legal advice or have questions about the application of the law in a particular matter, you should consult a lawyer.

Christopher T. Benis, RHA legal counsel, is a partner with Harrison, Benis & Spence, LLP. His law practice emphasizes representation of property management firms, individual real estate investors, real estate brokerages, design professionals and construction companies. He is a regular speaker and author on topics related to property management.





Meet One of Our Clients:

Lisa Janicki

Sedro-Woolley's Janicki Industries is adding employees as fast as they can. The result of innovations in the composite engineering and manufacturing processes. They have earned a leading role in what is emerging as one of the hottest technologies in the aerospace, marine and automotive industries. They grew by a whopping 40 percent last year, a rate of growth that CFO Lisa Janicki acknowledges is challenging to manage.

Janicki designs and builds high precision tooling for aerospace, marine, wind energy, and transportation customers. The company also opened a \$19.5 million 100,000-square foot facility in Layton, Utah last year to support its work manufacturing composite parts for the F-35 Joint Strike Fighter program.

The company had opened a 154,000-square foot facility down the road from Sedro-Woolley in Hamilton in 2008, a former Scott Paper log yard, where, among other things, parts for windmills are tooled.

A massive 25-ton autoclave for the Hamilton facility's clean room is due for delivery this month from Southern California. Just getting the autoclave to Hamilton has required in-depth transportation logistics.

Revenues for Janicki grew by a staggering 40 percent in 2011 with a corresponding increase of 25 percent in the company's workforce, (from 440 in 2010 to 526 currently) thanks to some large aerospace projects. CFO Lisa Janicki's projection for 2012 is a robust 12 percent boost in the number of employees to accommodate a 20 percent growth in revenue, a growth rate that she believes is "more sustainable."

Our State's Business Climate is Tough.

But you can do something about it.

"The best thing our company can do for our economy is hire people. The best thing government can do is remove the uncertainty of undisciplined spending so we have the confidence to invest in job creation." Lisa Janicki, Chief Financial Officer, Janicki Industries, Sedro-Woolley

Our State's Business Climate is Tough.
But you can do something about it.

All across Washington State, employers and business owners are adjusting to the new economy, eagerly anticipating a recovery. They're doing their fair share by cutting costs, innovation – even retooling – to retain and create jobs.

Any hope of a sustained recovery rests with private sector job growth – a critical piece to solving our state's significant, recurring budget woes.

Lawmakers must take particular care not to jeopardize a restart of our economy by piling additional tax and regulatory costs on employers. Policymakers should instead be considering incentives that will help retain and recruit employers and jobs.

That's why AWB is encouraging members to contribute to a media campaign that will build greater support for employers, and job creation, across the state.

We can't control the ups and downs of our economy. But we can promote a more business-friendly in Washington state. Your contribution will help ensure your voice is heard clearly in Olympia.

To help ensure your voice is heard in Olympia, visit www.awb.org and click on "We mean Business."

AWB – Association of Washington Business Feb. 2012

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It's because of them I did it myself..."

- Einstein