

# EVICTION INFORMER

MESSAGE FROM THE PRESIDENT:

## POST-FORECLOSURE EVICTIONS IN 2012: WHAT YOU NEED TO KNOW

As Nevada continues to see large numbers of foreclosures and investors purchasing properties at auction, the Justice Courts continue to be inundated with evictions on foreclosed properties. Given that, since January, we have two new judges hearing eviction cases (Judges Janiece Marshall and William Kephart) and that occupants of these properties are getting more "creative" in their attempts to lengthen their rent-free stays in these properties, we wanted to make you aware of some trends we are seeing:



owner may explain why they believe they should not be evicted.

We have found that, even though significant time has passed from the initiation of the Three Day to the hearing date, the Courts are giving the former owner an additional 30 to 60 days to vacate after the hearing. The theory behind this additional time is to allow the former owner to challenge the foreclosure in District Court if he so chooses. Therefore, when advising your clients about purchasing a home at auction, make sure they are aware of the significant delay that may exist in obtaining

possession of the property.

### A WAVE OF SUSPECT LEASES

Under federal law, tenants in foreclosed properties are treated differently depending on whether they have a current lease with the former owner. If the tenant did not have a current lease or was month to month, the tenant may be evicted using a Ninety Day Notice followed by a Five Day Unlawful Detainer Notice and a civil eviction. However, if the tenant had an on-going lease, the new owner must honor the lease including monthly rental rate and length of lease. Not surprisingly, we have seen numerous tenants appear at their hearing with suspect leases for minimal rent, for multiple years and with significant security deposits (which are the new owners responsibility to return at the end of the tenancy). The Court have been generally accepting these leases as "genuine." The only way to challenge these leases has been to obtain an affidavit from the former

*(Continued on page 2)*

INSIDE THIS ISSUE:

<i>Post-Foreclosure Evictions in 2012</i>	1
<i>Love and Property Management</i>	1
<i>Eviction Fact</i>	2

**The Eviction Informer is a regular newsletter produced by Southern Nevada Eviction Services. Please feel free to distribute it to Industry professionals who may be interested in learning more about the eviction process.**

Published by:

Southern Nevada Eviction Services  
Edward D. Kania, President  
Donna Young, Director  
501 S. 6th Street  
Las Vegas, NV 89101  
Telephone: 702-366-0321  
Fax: 702-366-1636  
www.vegas-evictions.com

Copyright, 2012, SNES

### FORMER OWNERS GETTING 30-60 EXTRA DAYS

To evict a former owner of a foreclosed property, Nevada law requires that a Three Day Notice and Five Day Unlawful Detainer be served on the former owner. If the owner does not vacate by the expiration of the notices, the new owner must file a "formal" eviction. The Court then sets a court date approximately six to seven weeks from that point, at which time the former

## LOVE AND THE PROPERTY MANAGER

BY: DONNA YOUNG, DIRECTOR OF OPERATIONS

In honor of the re-release of Titanic in 3D (opening April 4. Check local listings), we wanted to discuss love and property management. Or actually, what happens when love goes bad and the property manager is caught in the middle. You rent to a

single individual who allows his boyfriend/girlfriend/significant other to move in and then...trouble in paradise. You could be subject to significant liability if you don't handle the situation correctly.

### Evicting the Significant Other

Once the fighting starts, your "legitimate" tenant may ask you to evict their significant other or simply ask you to change the locks on the door. However, under the law, you cannot do either. If the

## POST-FORECLOSURE EVICTIONS (CONT.)

owner stating that the lease is fraudulent.

### "MIXED USE" PROPERTIES

As previously stated, the initial eviction notice given is different (3 Day vs. 90 Day) depending on whether the occupant is the former owner or a tenant. Recently, we've come across several situations where there is both the former owner and a tenant in the property (former owner is living in the property but rents out 1 room). Technically, the new owner must issue a Ninety Day since there is a tenant in the property. However, some judges have allowed an eviction on a Three Day for

the former owner only. This actually would allow the new owner to move into the property and share it with the tenant. When faced with this situation, the tenant often is willing to accept a small cash-for-keys payment to vacate. The bottom line is that it is now even harder to remove an unauthorized occupant from a property acquired at auction. The Courts continue to ignore that use of a home by the former owner or tenant has a value and that the new owner should be compensated for said value. We will continue to monitor the courts' rulings on these issues.



## LOVE AND THE PROPERTY MANAGER (CONT.)

tenant allows his/her mate to move in, that person is now considered a "tenant" under the law. Therefore, neither you nor your tenant can simply change the locks. This person must be evicted utilizing the traditional eviction methods.

Moreover, your tenant, and not you, must evict their significant other. Technically, the s.o. is a sub-tenant. Consequently, the tenant must evict the sub-tenant. If the significant other is required to pay rent to the tenant and has not, the tenant can proceed with a Five Day Pay or Quit. If the significant other is not required to pay rent, the tenant can post a Five Day Tenant at Will Notice followed by an Unlawful Detainer Notice and Summary Eviction.

### Releasing Personal Property

Another trap for the unwary property manager is releasing a tenant's personal property

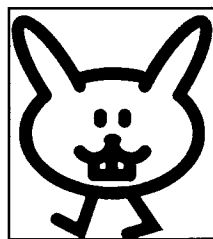
to a non-tenant. This usually arises when the relationship goes sour, both parties decide to vacate and the non-tenant/significant other comes to you to get his belongings ("That's MY Adele CD!"). You could potentially be liable if you allow the significant other access to the property and allow him/her to remove belongings which the tenant claims was hers ("That Hangover DVD was MINE!"). The tenant on the lease is the only person who is allowed access to the premises and who is authorized to remove belongings. Unless the tenant gives you written permission to allow his ex-mate to remove belongings, only release items to the tenant.

### Releasing Security Deposit

Similarly, don't release security deposit to a non-tenant even if she initially

paid the deposit. Under Nevada law, the security deposit is the property of the tenant and should only be released to the tenant. Just because a significant other, not on the lease, actually paid the deposit does not change that.

Break-ups can be painful. However, property managers should not be part of that pain. By following the law, managers can be sure to live happily ever



**NOTE: The Easter Bunny is not an Unauthorized Pet for Purposes of a Three Day Nuisance Notice**

VISIT OUR WEBPAGE AT  
[WWW.VEGAS-EVICTIONS.COM](http://WWW.VEGAS-EVICTIONS.COM)  
 TO LEARN MORE ABOUT THE  
 EVICTION PROCESS AND TO  
 READ OUR BLOG

### EVICTION FACT:

The constable must be able to identify the property in order to complete a lock-out. The deputies may refuse to perform a lock-out if the house/apartment numbers are missing, because they cannot absolutely identify the property. Some tenants are aware of this situation and have removed the numbers so as to avoid eviction. Therefore, make sure your property has the address numbers clearly marked, even if you have to write the number on the door with a marker.