

Key Control-Liability or Not?

As an apartment complex/property manager or owner, there are many elements to keeping your tenants and their property safe and secure. One critical measure is your key control policies and procedures.

Important key control questions you should have immediate answers to are:

- What is your keying system?
- What keys do you have?
- What keys have you issued?
- What keys are not accounted for?
- Where are the keys?
- Who has them?
- Where did they go?
- Can I account for all my keys?

An inadequate key control program represents a huge liability for apartment complexes and property owners. Did you know?

- Ø A jury awarded \$13.4 million to the family of a woman strangled in her apartment complex in Georgia. A maintenance worker had complete and unrestricted access to all the apartments. (Matthews and Steel Trail Lawyers – Matthews Steel Version 2. Law Office Copy).
- Ø In Texas, a jury awarded a woman \$16 million after being raped by a man who entered her apartment using a back up key. The assailant broke into the office of the apartment complex, selected his victim from files in the office and located the key to the victim's apartment hanging on an unsecured pegboard. (Blake & Associates, Inc, Security Firm, www.blakeassociates.com).
- Ø In Florida, a seven figure settlement was reached out of court with the family of a murdered tenant of an apartment complex. After drinking heavily a maintenance man used a master key to enter the apartment of a 24 year old female tenant and murdered her. Despite instructions from the main office to do away with master keys and find a more secure key control method, the complex never did. The apartment complex was well aware of the dangers of unrestricted access, but did nothing to protect this tenant. (Billings, Morgan, Boatwright and Hernandez, LLC, www.billingslawfirm.com).

According to Daniel B. Kennedy & Thomas Hupp in their Apartment Security and Litigation: Key Issues Journal Report (University of Detroit Mercy College of Education and Human Services) various incidents made the subject of litigation tend to occur within the apartment building (71%) with further analysis revealing the exact locations as apartment unit itself (48%0 and building and common areas, including elevators (23%). Other locations include parking lot/structure (14%) and grounds (15%).

The specific security failures complained as primary issues are inadequate locks (16%), guard issues (10%), and lighting (9%).

Many other large jury awards have been made to former residents because of negligent control and use of the master key. If you require a resident to supply (or you retain) an extra key to his/her apartment, then you must take reasonable steps to safeguard that key. If you maintain a master key that unlocks all units, you must take even greater steps to control access to this key. Obviously, a plaintiff's attorney will look to establish that a failure to have effective key control policies and procedures constitutes negligence on your part.

Another source of potential liability is the theory of reliance. The owner or manager supplies the locks and keys and therefore, a resident must **rely** on management to have re-keyed the door lock and to have secured the back up and master keys. So, in addition to addressing the physical possession of keys in your possession, your program should include documentation of your practices when a tenant moves out. Identify the steps you take to ensure keys are returned and to change the locks before the unit is rented to a new tenant.

The Ten Commandments of Key Control & Verification

The lock-and-key systems most commonly used by apartment communities today are master-key systems, and inherent in those systems is the potential threat posed by the ability of a master-key holder to gain access to the entire community. Nationally, approximately 40-60 percent of all rentals get new residents every year. A lot of time and money are spent on replacing locks, but there are a number of other key control practices that you should follow on a regular basis without exception at your site.

- 1) Always document, in writing, who is using back-up and master keys. Do so in a separate log book showing details of usage and return. Conduct periodic (at least quarterly) inventories on all keys that have been issued and document findings.
- 2) Re-key doors (replace lock mechanisms) whenever a new tenant is assigned and the apartment is turned. Stamp "Do Not Duplicate" on all keys issued.
- 3) Always eliminate or limit the use of a master key.
- 4) Always keep back-up keys in a locked key box.
- 5) Always code the keys so they do not reflect the unit numbers.
- 6) Always secure the code sheet and key box separately.
- 7) Always keep two (2) keys on one hook so you can complete a quick visual inspection and inventory.
- 8) Keep the key cutting machine and blanks keys secured.
- 9) Always lock the room that houses the key box.
- 10) Always set the office burglar alarm after hours.

Keep you tenants safe and avoid liability by recognizing the importance of your key control program!