



WILLIAMS, ZINMAN
& PARHAM P.C.

Special points of interest:

- MEDICAL MARIJUANA
- CRIME FREE ADDENDUM
- REAL ESTATE PRICES AND ABANDONED MANUFACTURED HOMES
- MINIMIZING YOUR LOSSES
- PROBLEM SOLVING

Do you own or manage apartments, single family dwelling rentals, mobile home parks, commercial rentals or are you buying foreclosures?

WE CAN ASSIST YOU WITH ALL YOUR LEGAL NEEDS:

- ABANDONMENTS
- LANDLORD—TENANT LAW
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- LITIGATION
- LLC's
- SOLUTIONS!!!

LEGAL REMEDIES

WINTER 2011

MEDICAL MARIJUANA v. CRIME FREE ADDENDUM

Could this new law be a problem for you?

The new medical marijuana law will go into effect when the Department of Health Services comes up with regulations for issuing cards and for licensing dispensaries to sell marijuana.

The law prohibits use in a public place, and allows employers to prohibit use on the job by employees. It also holds cardholders responsible for operating vehicles and watercraft under the influence of marijuana.

State and local law enforcement personnel will not be enforcing drug laws against card holders whose possession and use complies with the new law.

The problem is that possession and use of any marijuana continues to be a serious crime under federal law. A U.S. Supreme Court decision in a case involving a virtually identical medical marijuana law in California held that the federal law continues to apply in California despite the state law purporting to make medical marijuana legal. That case was *Gonzales v. Raich*. You can read it at: http://scholar.google.com/scholar_case?case=15647611274064109718

The Justice Department has announced a policy of not enforcing federal criminal marijuana laws against a person clearly and unambiguously complying with a state medical marijuana law. You can read that at: <http://blogs.usdoj.gov/blog/archives/192>

So medical marijuana use and possession may be legal under state law with no local law enforcement taking place, but remain a serious criminal offense under federal law where prosecution authorities have announced a policy of no action. It's a federal crime in medical marijuana states without practical consequence.



Our problem is with the Crime Free Addendum which most residential landlords are using. Here is what it says:

"Tenant, any members of the tenant's household or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell distribute, or use of a controlled substance (as defined in Section 102 or the Controlled Substance Act [21 U.S.C. 802])."

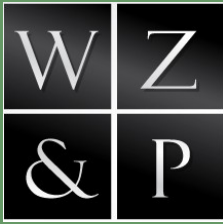
That includes medical marijuana. The question is going to come up whether fair housing laws require a landlord, as a reasonable accommodation to a medical marijuana cardholder's disability, to make an exception to the crime free addendum to allow possession and use in accord with state law even though it violates a federal criminal law that is not being enforced.

This question is a dilemma for landlords who use the crime free addendum with their lease. Verbiage may need to be added to the Crime Free Addendum in the future acknowledging the new law.

Keep in mind, it is always better to be prepared than caught up in a Fair Housing complaint!

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LEGAL REMEDIES NEWSLETTER—WINTER 2011

MANUFACTURED HOME PARKS

The number of abandoned manufactured homes has increased dramatically in the last year. This is due to a number of factors. One primary reason is the low cost of real estate. Low to medium income earners who were previously unable to purchase real estate are taking advantage of the low prices and record low mortgage rates to buy single family homes instead of manufactured homes. This reduction in the number of people seeking manufactured homes, along with the fact that there are few lenders available to manufactured home buyers, make it hard for sellers to sell their homes. The result is many of these people are simply walking away from their homes leaving the lender and/or the mobile home community with the headache. You must act within 10 days of knowing a home is abandoned. This will keep you in compliance and help to minimize your losses

The remedy for this headache only takes a phone call and an average of 72-90 days to cure. We have a vast amount of experience processing abandonments and we can help you with yours. We welcome questions and invite you to call Chris in our office to help you get started. We

Williams, Zinman & Parham P.C. We offer decades of practical and court room experience. We have a state of the art computer system to keep you informed and a qualified staff that you can count on to help you when you need it. From tenant relations to representing you in court and everything in between, you can count on us to represent you with integrity and hard work.

**WISHING ALL A HEALTHY, HAPPY AND
PROSPEROUS NEW YEAR!
THANK YOU FOR YOUR BUSINESS AND
THE TRUST YOU PLACE IN US.**

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