

# Kimball, Tirey & St. John LLP

## Legal Alert

### Right to Enter Residential Rental Dwelling Units: “Normal Business Hours” Clarified

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California Civil Code Section 1954 allows residential landlords to enter the tenant’s dwelling for certain purposes, including showing the premises to potential purchasers. Prior notice is required (unless an emergency) as well as a requirement that the entry must be made “during normal business hours”. Unfortunately, the legislature failed to state whether or not normal business hours includes weekends, and for years, this failure has been the source of disputes between landlords and their agents and residents, especially when it comes to showing the property to prospective buyers.

In *Dromy v. Lukovsky* (2013) 219 Cal.App.4th 278, the Fourth District Court of Appeal interpreted the meaning of the phrase, “normal business hours” as the phrase is used in Civil Code Section 1954. The court defined “normal business hours” in the context of the right of the landlord to show his property to prospective purchasers, as “...objectively reasonable hours under the facts and circumstances of the case, keeping in mind the right of tenants to quiet enjoyment and the right of landlords to sell their property.”

In *Dromy*, the homeowner wanted to sell his tenant-occupied property and began to show the property to prospective purchasers over weekends. The tenant refused entry arguing that weekends did not constitute “normal business hours”. The Court of Appeal held the statutory term “normal business hours” per Civil Code Section 1954 means objectively *reasonable hours under the facts and circumstances of the case*, and that the owner and his real estate agent were entitled to hold open houses on two weekend afternoons per month with advanced and proper notice to the tenant. As we have been arguing for years, the courts stated “It is undisputed that the custom and practice of licensed real estate agents is to hold open houses during weekends, thereby making viewing residential property more convenient for prospective purchasers, most of whom work during weekdays.”

Even though the court limited the number of times the landlord could enter during the weekend, they decided that in the real estate industry, some weekend hours may be considered “normal business hours”, when the purpose of the entry is to show the unit to prospective purchasers.

The Fourth District Court of Appeal rulings are binding authority in all areas in its jurisdiction which includes six southern California counties, San Diego, Imperial, Orange, San Bernardino, Riverside and Inyo. Properties not located in these counties can use this case as persuasive authority.

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