

Kimball, Tiley & St. John LLP

Legal Alert

Notice of Change of Ownership and/or Management

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Occasionally, an old issue can become a new “hot topic” even when there is no change in the law. This is the case with the Notice of Change of Ownership and/or Management required under California Civil Code §1962. Tenant attorneys increasingly defend unlawful detainer actions by claiming the landlord has not complied with California Civil Code §1962.

Under Civil Code §1962, a landlord must provide the following information in their lease or rental agreement:

- name, telephone number and address of the person or entity rent payments are to be made;
- the forms of payment accepted; and
- the usual days and hours the person will be available to receive the payments if payments may be made in person.

Landlords are also required to identify the name of the owner of the premises or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the receipt of all notices and demands.

This information must be provided for both written and oral agreements. For oral rental agreements, this information must be provided within 15 days of the agreement. For written agreements, a copy must be provided to the tenant within 15 days after the tenant signs. Once each calendar year, if requested by the tenant, the landlord must provide an additional copy to the tenant, within 15 days of the request.

All of the information above must be updated if there is a change in ownership or management, by properly serving a Notice of Change of Owner/Manager on each tenant. If the information is not updated within 15 days after a change in ownership or management, the successor owner or manager may not serve a Notice to Pay Rent or Quit on the tenant, nor evict for nonpayment of rent that accrued during the period of noncompliance. The tenant remains responsible for the rent, but the rent cannot be pursued in an unlawful detainer action.

If the appropriate notice is not given, and if an unlawful detainer action is filed, the tenant’s attorney may claim that the Notice to Pay Rent or Quit is defective because it includes amounts prohibited under California Civil Code § 1962(c). To avoid this claim, the landlord or management company should send a notice if there is a change in ownership or management, even if the address for payment remains the same. The mere fact that the tenant “knows” where to pay and has paid at the correct address may not protect a landlord from a defense based on noncompliance with Civil Code §1962.

Remember to provide the notice:

- when a property is sold;
- when the landlord changes property management companies;
- when the landlord begins to self-manage a property that was previously managed by a property management company; and
- when the phone number or address of the landlord or property manager changes.

Tip: Check leases/rental agreements to verify that the information required under Civil Code §1962 is complete and current. If the information is not complete and current, serve a Notice of Change of Ownership/Management and prepare and maintain a proof of service to document when and how the notice was served.

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