

March 2016



District of
Columbia

Department of
Consumer and
Regulatory
Affairs

OCCUPATIONAL &
PROFESSIONAL
LICENSING
ADMINISTRATION

**STUDY GUIDE FOR
PROPERTY
MANAGERS
EXAMINATION**

680931 (3/16)

TABLE OF CONTENTS

1	Management Plan	1
1.1	Market Analysis	1
1.2	Analysis of Alternative Programs	2
1.3	Property Analysis	2
1.4	Responsibilities and Limitations	3
1.4.1	According to Contract	4
1.5	Implementation	5
1.6	Owner's Objective	5
1.7	Analysis of Competitive Properties	5
2	Accounting Systems	6
2.1	Budgeting Process	6
2.1.1	Analysis of Income and Expenses	7
2.1.2	Cash Flow and Projections	11
2.1.3	Capital Expenditures	13
2.1.4	Escrow Accounts and Reserves	13
2.2	Reports and Records	14
2.3	Lease Administration	14
2.3.1	Pass-Throughs	16
2.3.2	Escalator Clauses	16
2.4	Fiscal Responsibility	16
2.5	Asset Management	16
3	Facilities Management	18
3.1	Physical Inspections	19
3.2	Service Contract Negotiations	20
3.3	Utility Management	21
3.3.1	Water consumption	21
3.3.2	Electrical/Natural Gas	22

3.3.3	Other.....	22
3.4	Preventive Maintenance.....	22
3.5	Risk Management/Insurance.....	23
3.6	Capital Repairs.....	24
3.7	Marketing.....	24
4	District of Columbia Laws, Rules and Regulations Regarding Property Management.....	25
4.1	Rent Control.....	27
4.2	Occupancy Housing and Building Codes.....	28
4.3	Leases and Security Deposits.....	30
4.4	Agency/Contract Law.....	32
4.5	Zoning.....	32
4.6	Sale and Conversion.....	32
4.6.1	Transfer of Ownership/ Tenant Opportunity to Purchase Act.....	34
4.6.2	District Opportunity to Purchase Act.....	35
4.7	Fair Housing/Human Rights Act 1977.....	36
4.8	Employment.....	37
4.9	Landlord-Tenant Relationship.....	38
4.10	Police and Fire Codes.....	39
4.11	Record Keeping.....	39
4.12	Tenant’s Rights Under Foreclosure.....	40
4.13	Evictions.....	40

OVERVIEW

The purpose of this Study Guide is not only to assist the property manager in providing material applicable to the District of Columbia Property Manager's Exam but also to be a resource tool. Throughout the study guide are references to web sites, District of Columbia Municipal Regulations (DCMR), and published books, which will assist in researching specific materials more thoroughly and in being a resource directory after completing the exam. Also, important key words are shown in **bold**. Lastly, there are a number of example questions and answers to further assist in the understanding and comprehension of the concepts.

1 MANAGEMENT PLAN

The primary responsibility of a real estate property manager is to understand and implement the owner's goals and objectives. In order to accomplish this and to develop a short term and long term "game plan" for the property, the manager needs to formulate a **Management Plan**. The plan describes in detail the subject property's current use along with its physical condition, fiscal projections, and any operational issues. It also includes an analysis of the market (both regional and neighborhood), the competing properties, as well as potential improvements or alternative uses for the subject property. These items will be discussed further in this section.

Real estate property managers have a variety of organizational and educational programs available to assist in enhancing their knowledge, identifying resources to resolve issues, and expanding their business network. Among these organizations are:

- Institute of Real Estate Management (IREM®) www.irem.org. Offers educational courses that lead to a Certified Property Manager (CPM®) designation.
- National Association of Realtors (NAR) www.realtor.org Designation is a Realtor ®
- Greater Capital Area Association of Realtors (GCAAR) www.gcaar.com Designation is a Realtor ®
- Building Owners and Managers Association (BOMA) www.boma.org offers educational courses that lead to a Real Property Administrator (RPA®) designation.
- National Association of Real Estate Brokers, Inc. www.nareb.com Designation is Realtist®
- International Council of Shopping Centers (ICSC) www.icsc.org
- National Property Management Association (NPMA) www.npma.org Designation is NPMA Certification

1.1 MARKET ANALYSIS

A **Market Analysis** focuses on both a regional and neighborhood evaluation, which includes the demographic conditions, geographic features, governmental prospective, existing real estate supply, potential future developments, and tenant/ resident demand. It is important to focus on how each of these elements impacts the subject property. For example, since employment growth can directly relate to demand for office space, it is important to understand if it is growing or shrinking. Similarly, since population growth can directly relate to apartment demand it is important to determine if it is increasing, decreasing or remaining stable. Actions by local government can also impact all property types (i.e. office, residential, industrial, hotel and retail). Managers should research if the local government is

promoting programs that enhance the quality of life in the area, encourage economic development or improve transportation routes to relieve traffic congestion.

Understanding the real estate supply is also important. The manager should determine the market's current vacancy rate and its forecast. If it is growing, then that could indicate new construction. Significant new construction may lead to an over-supply of space and result in downward pressure on rental rates. These are all issues that need to be understood and explained in a **Market Analysis**.

1.2 ANALYSIS OF ALTERNATIVE PROGRAMS

By performing the **Market Analysis** and a **Competitive Property Analysis** (discussed below), it is easier to identify the subject property's strengths and weaknesses. The manager can then consider different alternatives to improve the property's weaknesses or further enhance its strengths with the ultimate goal to improve overall economic performance. This is also known as determining the property's highest and best use.

This next step is called the **Analysis of Alternatives** and it looks at the theoretical costs and corresponding increase in rents by making different improvements, even the subject property's redevelopment. Since each option to increase value may carry an associated cost, the manager must determine the economic benefits associated with that investment. Among the alternatives to consider are:

- Rehabilitate the property without altering its existing use
- Modernize the property by updating finishes, purchasing new or more efficient equipment or enhancing existing features or amenities.
- Change the use of the building, including the conversion from one property type to another (i.e. from industrial to single story office), or by demolishing it for a completely new development.
- Conversion to a condominium ownership structure

In evaluating all the alternative programs, the manager should consider the costs, the projected payback, the property's zoning, building codes, neighborhood characteristics, labor costs (in-house versus contracted), and timing.

1.3 PROPERTY ANALYSIS

A property can be considered as having a life cycle. The process begins with raw land. The next steps are the planning process, then development and lease-up, followed by occupancy and operations, then decline, and finally obsolescence. Property managers most frequently work on properties that are occupied and operational with the goal of trying to prevent the property from declining and becoming obsolete. Some projects help extend a property's useful life. These are frequently considered **Capital Expenditures** and will be discussed in Section II.

There are three types of obsolescence.

1. **Physical Obsolescence** is characterized as a condition of aging (i.e. wear and tear) or deferred maintenance. Examples are worn carpets, peeling paint, a leaking roof, or dead landscaping.
2. **Functional Obsolescence** is characterized by old or outdated designs or building systems. Examples include equipment that is not repairable because parts are no longer manufactured;

single pane window systems because they waste a large amount of energy; outdated bathroom fixtures because of changing designs and tastes.

3. **Economic Obsolescence** represents a loss in value due to outside forces (i.e. location, market conditions). An example would be an office building, located in a small town, where the major employer closes. This may result in both lower demand and rental rates.

Properties begin to deteriorate as soon as they are completed. This process is called **Depreciation** and it represents the loss in value from the various forms of obsolescence. **Depreciation** can be economically estimated on a broad level.

Question #1

If a new 400 unit apartment building is worth \$12,000,000 and depreciates in value at 2.5% per year, what is its **Depreciated Value** after five years?

Answer #1

$\$12,000,000 \times 0.025 = \$300,000$ per year of **Depreciated Value**

$\$300,000 \times 5 \text{ years} = \$1,500,000$ accumulated **Depreciation**

$\$12,000,000 - \$1,500,000 = \$10,500,000$ **Depreciated Value** after 5 years

A property has many different “values” and the distinctions are important to recognize.

- **Investment Value** – This is the value that is generally used by investors. It is frequently determined either by calculating the **Net Operating Income** and applying a **Capitalization Rate** to it or from **Cash Flow** by determining the **Return on Investment**. These terms will be discussed later in this Study Guide.
- **Assessed Value** – This is the value used by government tax assessment offices. Since it is frequently determined using sophisticated mathematical models that are applied to many similar types of properties over a geographic area, it can be less accurate and produce results that are higher or lower than other types of “values”.
- **Market Value** – This is the value that is agreed to between a buyer and seller. It represents the “meeting of the minds”.
- **Depreciated Value** – This is used for income tax purposes and affects a property’s tax basis. In the past, the Federal Government has implemented accelerated depreciation programs to help promote economic growth.
- **List price** – This is only the price that the owner has offered to sell a property for.

1.4 RESPONSIBILITIES AND LIMITATIONS

There are certain responsibilities and limitations that the manager needs to be aware of and follow. First, by belonging to some of the organizations noted in Section I, such as IREM (www.IREM.org), then the manager must adhere to certain rules of ethics. These would include:

- Loyalty to the client
- Confidentiality

- Accurate accounting and reporting
- Protection of owner's funds (including not commingling the owner's funds with the manager's)
- Conflicts of interest
- Compliance with Laws and Regulations

The District of Columbia also specifies certain regulations applicable to a manager's actions that are contained in Section IV of this study guide.

Additionally, a manager's actions can not only put the management company at risk but the owner as well. For example, an owner can be directly affected by the manager's improper handling of evictions, unlawful rent collections, failure to return security deposits, not maintaining proper compliance with the Rental Accommodations Division (RAD) requirements, and not submitting income and expense documentation, as required annually by the Office of Tax and Assessments, for commercial properties.

1.4.1 According to Contract

The management agreement is a formal and binding contract that establishes the authority and responsibilities that the manager has on behalf of the owner and in operating the property. Many of the provisions typically found in a management agreement are as follows:

- Provides the name of the owner and manager
- Specifies the term of the agreement
- Describes the property
- Describes the services provided by the manager
- Identifies who collects the rent payments
- Identifies in whose name all service contracts are to be made
- Describes when funds are to be disbursed
- Identifies whose employees work at the property
- Determines if fidelity bonds necessary
- Indicates how many bank accounts are needed and their purpose
- Identifies who maintains various building licenses (elevator, boiler, etc.)
- Provides insurance requirements and who secures the policies
- Specifies the management fee compensation

Management agreements typical last for many years. However, they can be terminated for various reasons. The most common are:

- Sale or transfer of the property

- Improper financial reporting
- Stealing funds
- Negligence
- Taking kickbacks or benefiting directly from discounts from vendors
- Commingling funds

1.5 IMPLEMENTATION

Over the long term, by developing and implementing a **Management Plan**, it will assist the owner in meeting their goals and objectives as well as maximizing the property's value and return. It also helps remind both the owner and property manager of the "big picture", which can sometimes be forgotten during the day-to-day process of managing a property. Over the short term, the plan assists both the owner and manager in better planning, prioritizing and understanding the costs associated with each potential decision. This is particularly helpful for older properties that frequently have more planned projects than funds available to complete them.

1.6 OWNER'S OBJECTIVE

As noted above, it is the owner's goals and objectives that should determine all of the recommendations and decisions related to the property. For example, the manager prepares an annual budget, including staffing levels, marketing plans, and capital expenditures, but it is the owner who accepts or modifies the budget. The manager can make recommendations to renovate a building or to change common area finishes, but the owner makes the final decision. Similarly, when it becomes time to sell a property, the manager can make suggestions to enhance its appeal, but the owner decides which, if any, improvements will be made prior to sale.

1.7 ANALYSIS OF COMPETITIVE PROPERTIES

Understanding the subject property's strengths and weaknesses compared to its competition are important factors to know and to be able to explain to the owner. Since most prospective tenants or residents will visit a number of properties before making a decision, it is important to understand how the subject property may rank in relation to its competitors. By understanding this information, the manager can develop a strategy to improve the weaknesses and enhance the strengths through the management plan and budget. For example, if most competitive properties offer concierge services or a health club, then the manager should investigate the cost to implement these amenities and present the findings to the owner. Often the only way to discover some of this information is to tour each of the competing properties.

One of the simplest ways to conduct a **Comparison Analysis** is to prepare a form to collect similar information on all the properties. The purpose of this analysis is to not only identify physical differences as well as strengths and weaknesses, but also to determine a value for each element and to make adjustments to the subject property's rental rate, up or down, based on the results. For example, a competitive residential property that offers studio apartments for \$950 per month also provides a health club for its residents. The health club's estimated monthly value is \$50. To be competitive, the subject property, which does not have a health club, should offer its studio apartments for \$900. A **Comparison Analysis** helps determine if the subject property's rental rates are appropriate for the market. A **Comparison Analysis** form should include:

- Age of the properties

- Locational advantages/Accessibility
- Curb Appeal
- Interior conditions, quality of finishes
- Amenities
- Rents per square foot (commercial) or Rents per unit (apartments)
- Operating expenses per square foot

Once the **Comparison Analysis** chart is completed, the manager can then make adjustments, up or down, to rental rates for the subject property based on whether the competing project's features and amenities are superior or inferior, respectively. Since rental rates can change frequently depending on market conditions, performing this analysis regularly will be beneficial.

2 ACCOUNTING SYSTEMS

For most real estate investments, the measure of its success is determined by the amount of money that is returned to the owner. In order to track and gauge the investment's success, various Accounting Systems are utilized. Some purposes are:

- To make projections about the property's performance, both short term and long term (see Analysis of Income and Expenses below)
- To keep track of the property's actual performance compared to budget (see Reports and Records below)
- To prepare for building system's improvements or replacement (see Capital Expenditures and Escrow Accounts below)
- To understand fully the rental obligations of each tenant as described in their lease (see Lease Administration below)
- To insure that the funds collected from the tenants are handled properly (see Fiscal Responsibilities below)
- To assist in creating value for the owner through effective and efficient fiscal management (see Asset Management below)

2.1 BUDGETING PROCESS

The **Budget Process** generally occurs on an annual basis and involves preparing a detailed list of all anticipated income and expenses (both operating and capital). The purpose of the **Budget** is to develop a means to both track the property's performance and to organize the various types of income (such as rent, miscellaneous income, etc.) and expenses (such as utilities, insurance, payroll, etc.) in a meaningful way. By organizing the income and expenses into detailed accounts, it is easier to see trends, to determine any unusual or non-recurring items, and to make better projections of future performance.

2.1.1 Analysis of Income and Expenses

Income from a property can be generated from many sources. Residents/Tenants pay rent, but additional income can come from other sources, such as parking, vending machines, laundry services, late fees, roof antenna(s), and exterior signage.

Gross Potential Rental Income is the maximum amount of income that a property can generate from all sources. It represents the total potential income from all units or spaces being fully occupied and all amounts owed by the residents/tenants being collected in full.

In certain types of leases, particularly commercial leases, tenants can also be billed for some or all of the property's operating expenses, real estate taxes and insurance. This income source is commonly referred to as **Pass-Through Income, Expense Reimbursements or Recoveries**.

Since vacant spaces do not produce any income and sometimes residents/tenants do not pay for all of their lease obligations, actual income can be less than the **Gross Potential Rental Income**. This difference is referred to as **Vacancy and Credit Loss** and it is subtracted from **Gross Potential Rental Income**.

Income collected from all other sources is commonly referred to as **Miscellaneous Income**. This would include income from coin-operated laundry equipment, vending machines, pay phones, and late fees, etc. These items can be harder to forecast in a budget because they are not always consistent and can vary significantly from month-to-month or year-to-year.

Effective Gross Income is the net effect of all items listed above – **Gross Potential Rental Income**, plus **Expense Reimbursements**, less **Vacancy and Credit Loss**, plus **Miscellaneous Income**. Here is another way to visualize how to calculate **Effective Gross Income**:

Gross Potential Rental Income
+ Expense Reimbursements
- Vacancy and Credit Loss
+ Miscellaneous Income
= Effective Gross Income

Question #2:

If an apartment building has twenty 1 bedroom units which rent for \$800 per month and thirty 2 bedroom apartments which rent for \$1500 per month, what is the **Gross Potential Rental Income** per month and per year?

Answer #2:

Gross Potential Rental Income per month calculation
 $(\$800 \times 20) + (\$1500 \times 30) = \$61,000$ per month

Gross Potential Rental Income per year calculation
 $\$61,000 \times 12 = \$732,000$ per year

Question #3:

If the **Gross Potential Rental Income** is \$800,000, the **Expense Reimbursements** are \$100,000, the **Vacancy and Credit Loss** is 10% of the **Gross Potential Rental Income** and **Miscellaneous Income** is \$25,000, what is the property's **Effective Gross Income**?

Answer #3:

Gross Potential Rental Income	\$800,000
+ Expense Reimbursements	+ \$100,000
- Vacancy and Credit Loss	- (\$800,000 x 0.1)
+ Miscellaneous Income	+ \$ 25,000
= Effective Gross Income	= \$845,000

Question #4

In a 150,000 SF commercial building, the rental rates are \$20/SF and it is 5% vacant. What is the property's Effective Gross Income?

Answer #4:

Gross Potential Rental Income calculation

$$150,000\text{SF} \times \$20/\text{SF} = \$3,000,000.$$

Vacancy Loss Calculation

$$\$3,000,000 \times 5\% = \$150,000.$$

Effective Gross Income Calculation

$$\$3,000,000 - \$150,000 = \$2,850,000.$$

Operating Expenses include all of the costs associated with running and maintaining a property. Some examples are:

- Utilities – Costs for natural gas, oil, electricity, water, Internet and telephone.
- Repairs & Maintenance - This would represent the costs associated with keeping the property safe and operating efficiently.
- Grounds Maintenance – Costs associated with keeping the exterior areas attractive and clean.
- Snow removal – Expenses to clear snow from sidewalks and parking lots, as well as applying ice melting products.
- Trash removal – Expenses incurred to collect and remove all trash including recycling.
- Janitorial – This would include all costs to keep the interior areas clean.
- Real Estate Taxes – All costs related to property taxes, generally including any special assessments.
- Insurance – Includes liability and property damage, rent loss, boiler and machinery, etc.
- Management Fee – The fee charged to the owner for professional management services.
- Administration – The costs associated with running a management office, such as computers, printers and other office equipment.

- Payroll – All costs related to payroll – salaries, overtime, payroll taxes, medical insurance, workers compensation, etc.

In commercial properties, operating expenses are frequently calculated and referred to on a dollars and cents per square foot (\$/SF) basis. By using a “unit cost” basis, it is easier to compare the expenses of one property to other similar properties even though the total areas may vary. This assists in determining how efficiently a property is being operated. Reports can be obtained from organizations such as the Institute of Real Estate Management (www.IREM.org) that show the operating costs per square foot of thousands of commercial buildings throughout the United States.

Question #5:

If a commercial property is 100,000 SF and its annual electricity costs are \$225,000, what is the electricity cost per square foot?

Answer #5:

$$\$225,000/100,000 = \$2.25/SF$$

Question #6:

Building A is 75,000 sf. Its **Operating Expenses** are \$180,000 for electricity, \$30,000 for repairs & maintenance and \$150,000 for real estate taxes.

Building B is 200,000 sf. Its **Operating Expenses** are \$400,000 for electricity, \$55,000 for repairs & maintenance and \$400,000 for real estate taxes.

Which building has lower **Operating Expenses** per square foot?

Answer #6

Building A	Annual Cost	Cost per Square Foot
Electricity	\$180,000	\$2.40
Repair & maintenance	\$30,000	\$0.40
Real Estate Taxes	\$150,000	\$2.00
Total	\$360,000	\$4.80

Building B	Annual Cost	Cost per Square Foot
Electricity	\$400,000	\$2.00
Repair & maintenance	\$55,000	\$0.28
Real Estate Taxes	\$400,000	\$2.00
Total	\$855,000	\$4.28

Building B has lower costs per square foot.

Question #7:

A 200,000 square foot property, with an **Effective Gross Income** of \$4,000,000, has the following expenses per year:

Landscaping	\$50,000
Snow removal	\$10,000
Trash Removal	\$5,500
Insurance	\$0.05/sf
Real Estate Taxes	\$210,000
Management Fee	3% of Effective Gross Income

What are the total annual **Operating Expenses** and what is the cost per square foot of each individual expense?

Answer #7

Insurance Cost Calculation

$$200,000 \text{ sf} \times \$0.05/\text{sf} = \$10,000$$

Management Fee Calculation

$$\$4,000,000 \times 3\% = \$120,000$$

	Annual Cost	Cost per Square Foot
Landscaping	\$50,000	\$0.25
Snow Removal	\$10,000	\$0.05
Trash Removal	\$5,500	\$0.0275
Insurance	\$10,000	\$0.05
Real Estate Taxes	\$210,000	\$1.05
Management Fee	\$120,000	\$0.60
Totals	\$405,000	\$2.0275

Net Operating Income (NOI) is one of the most useful and commonly calculated figures. It represents the money that remains after **Operating Expenses** are subtracted from **Effective Gross Income**. A property that produces a positive **Net Operating Income** indicates that **Effective Gross Income** exceeds its **Operating Expenses**. Conversely, a negative **Net Operating Income** would mean the property's expenses exceed its **Effective Gross Income** and that the owner would likely need to provide additional cash for the property to sustain itself. A common goal of most property managers is to work diligently to help ensure that the **Net Operating Income** remains positive and steadily increases over time.

Net Operating Income is not only a critical measure of the property's ability to pay its bills but is one of the components often used in calculating a property's investment value. This will be discussed further below.

Question #8:

An apartment building has three studio units that rent for \$1000 per month, six 1 bedroom units that rent for \$1400 per month, and three 2 bedroom units that rent for \$2000 per month. For next year's budget, the property manager is projecting to have 1 studio vacant for 6 months and operating expense are forecast to \$125,000. What is the projected Net Operating Income for the budget?

Answer #8:

First calculate the **Gross Potential Rental Income** per year:

\$1000 x 3 units x 12 months = \$36,000
\$1400 x 6 units x 12 months = \$100,800
\$2000 x 3 units x 12 months = \$72,000

Gross Potential Rental Income = \$36,000 + \$100,800 + \$72,000 = \$208,800 per year

Then calculate the **Vacancy Loss**

\$1000 x 1 unit x 6 months = \$6,000

Vacancy Loss = \$6,000

Next calculate the **Net Effective Rent** and **Net Operating Income**:

Gross Potential Rent	\$208,800
- Vacancy Loss	\$ 6,000
= Net Effective Rent	\$202,800
- Operating Expenses	\$125,000
= Net Operating Income	\$ 77,800

Since most properties generally are acquired with a mortgage, the **Debt Service** also must be accounted for. **Debt Service** includes both the interest and principal reduction and is subtracted from **Net Operating Income**. An owner will want to know if the property is producing sufficient **NOI** to pay the **Debt Service**. Mortgage documents contain significant penalties for late or missed payments. As a result, it is important to track these payments carefully.

2.1.2 Cash Flow and Projections

Cash Flow is the amount of money that remains after **Debt Service** is subtracted from **Net Operating Income**.

To help visualize the components needed to determine **Cash Flow**, see the equation below:

Gross Potential Rental Income

- + Expense Reimbursements
- Vacancy and Credit Loss
- + Miscellaneous Income
- = Effective Gross Income
- Operating Expenses
- = Net Operating Income
- Debt Service
- = Cash Flow

Question #9

A property manager is analyzing a 100,000 square foot shopping center that has a **Gross Potential Rental Income** of \$2,500,000, a vacancy rate of 10%, **Operating Expenses** of \$5/sf, and monthly **Debt Service** of \$30,000. What is the projected **Cash Flow**?

Answer #9

Gross Potential Rental Income	\$2,500,000
- Vacancy Rate (10% x \$2,500,000)	- \$250,000
= Effective Gross Income	= \$2,250,000
- Operating Expenses (\$5/sf x 100,000)	- \$500,000
= Net Operating Income	= \$1,750,000
- Debt Service (\$30,000/mo x 12 months)	- \$360,000
= Cash Flow	= \$1,390,000

Cash Flow is often used to determine the owner's **Return on Investment (ROI)**. The **ROI** is one measure used by investors to determine if a potential investment is worth purchasing. It is calculated by taking the **Cash Flow** divided by the initial cash investment. One of the advantages of a **Return on Investment** calculation is it enables an investor to compare different types of investments, in order to decide which one to choose.

$$\text{Annual Cash Flow} / \text{Initial Cash Investment} = \text{Return on Investment}$$

Question #10

An investor is considering the purchase of a hotel property for \$5,000,000 that will be paid with a \$1,000,000 down payment and a \$4,000,000 mortgage. The annual **Cash Flow** is projected to be \$90,000. What is the investor projected **Return on Investment**?

Answer #10

$$\text{Annual Cash Flow} / \text{Initial Cash Investment} = \text{Return on Investment}$$

$$\$90,000 / \$1,000,000 = 9\%$$

Question #11

The same investor is also considering purchasing a medical office building for \$3,500,000. The investment would require a 25% down payment and the balance would be financed by a mortgage. The medical building's cash flow is projected to be \$120,000 per year. Which investment would produce a better return – the hotel or the medical office building?

Answer #11

Annual Cash Flow/Initial Cash Investment = Return on Investment

Initial cash investment = $\$3,500,000 \times 0.25 = \$875,000$

$\$120,000 / \$875,000 = 13.7\%$

The medical office building is the better investment

2.1.3 Capital Expenditures

Capital Expenditures are defined as an improvement or betterment to a property that extends its useful life. All building systems have a useful life and will need to be replaced at some point in time. Some examples are:

- Improvements to a property that update its appearance, such as renovating an office building lobby
- Replacement of major mechanical equipment, such as boiler
- Replacement of a major building system component, such as a roof
- Renovating a space, such as building offices for a new tenant
- Replacing old appliances in an apartment

Capital Expenditures differ from Operating Expenses in the following ways.

- **Capital Expenditures** are not recurring. They typically occur every 5 to 20 years, or more. **Operating Expenses** occur at regular, short intervals (i.e. daily, weekly, monthly).
- **Capital Expenditures** are treated differently under the tax code than **Operating Expenses**. Typically, **Capital Expenditures** are depreciated, while **Operating Expenses** are deducted for tax purposes.

Since **Capital Expenditures** do not occur at regular intervals and involve significant amounts of money, it is prudent to develop a multi-year plan to account for the replacement of all major building equipment and systems. This assists both the owner and the property manager in developing priorities, helping to prevent an unplanned equipment or system failure, and improving overall tenant satisfaction.

2.1.4 Escrow Accounts and Reserves

In order for the owner to prepare for significant **Capital Expenditures**, it is common to establish an **Escrow or Reserve Account**. An **Escrow or Reserve Account** enables the owner to prepare financially for large expenditures by regularly putting aside smaller amounts in a separate bank account (i.e. monthly or yearly). By preparing ahead of time for these large expenditures, it helps prevent the disruption of cash flow needed for **Operating Expenses and Debt Service**.

Escrow Accounts can also be used to hold all tenant security deposits. With residential tenants, it is required that security deposits be held in a separate escrow account from the property's general operating account.

2.2 REPORTS AND RECORDS

In order to keep the property's financial records organized and to be able to report to the owner the property's financial condition, there are two major systems that are utilized.

First, a **Chart of Accounts** is utilized to classify each of the different types of the income it receives (i.e. rent, miscellaneous income) and expenses it pays (i.e. electricity, trash removal, landscaping). This makes it easier to group together similar items, which improves tracking from month-to-month and financial projections. For example, rents from all the residents or tenants would be shown in one account and miscellaneous income in another. Similarly, **Operating Expenses** may contain many categories. Typically each of accounts is assigned an account number and collectively they are called a **Chart of Accounts**. By grouping similar income and expenses together, it also assists in making better comparison between different properties and can highlight variances year-to-year.

The second major report is the monthly **Operating Statement**. This report serves a report card on the performance of the property and the manager. It normally contains all of the property's actual income and **Operating Expenses** for the month and compares it to the **Budget**. It typically would also show the variance between the actual income and expenses on a monthly and year-to-date basis.

2.3 LEASE ADMINISTRATION

The **Lease Administration** process involves thoroughly reading and then documenting all of the rights, terms and obligations that both the owner and resident/tenant have agreed to in the lease. Only by having a complete understanding of the terms and conditions in each lease, will the property manager know the correct amount to bill a resident/tenant, what services are provided to the resident/tenant, and who pays for those services.

Residential properties typically use one standard lease form for all of its residents. However, commercial spaces utilize different formats.

- **Gross Lease** – The property owner pays for all **Operating Expenses**. A derivative of this format is a **Gross Lease** with a base amount (or base year). The property owner pays all **Operating Expenses** up to the specified amount (the base) and the tenant pays for all **Operating Expenses** above that base amount. This is commonly found in office building leases.
- **Net Lease** – The tenant pays for some or all **Operating Expenses** in addition to base rent. Derivatives of this structure are Net – Net and Triple Net leases, where each "Net" refers to additional **Operating Expenses** that the tenant is required to pay for. For example in a Triple Net lease, a tenant would pay for all **Operating Expenses** including real estate taxes, insurance, roof maintenance, landscaping, etc. This is commonly found in industrial leases.
- **Percentage Rent** – The tenant pays rent based on a calculation that relates directly to the tenant's gross sales. This is often in addition to base rent and it is commonly used in shopping center leases.

Owning property entitles one to a bundle of rights. These include:

- The right of possession – the owner of the property has title and can occupy of the property

- The right of control – within the applicable laws, the owner controls the use of the property
- The right of exclusion – the owner of the property can exclude others from using or entering
- The right of enjoyment – within the applicable laws, the owner can enjoy the property
- The right to sell – the owner can sell, transfer, give-away or will the property

When an owner leases a property, it temporarily transfers to the tenant a portion of the right of possession. The tenant then has a **Leasehold Interest** in the property. When a property is sold, the owner's rights are transferred to the new owner, including the transferred rights that the original owner gave to the tenant.

A lease is a written contract between owner/landlord (**Lessor**) and tenant/resident (**Lessee**) for the use of real property and outlines each party's rights and responsibilities. A lease's fundamental components include:

- Parties to the lease
- Description of the property and the premises being rented
- Term of the lease
- Security deposit amount
- Rental amount and late fee
- When rent is due
- What the premises will be used for (**Use Provision**)
- Who insures the property
- Who maintains the property
- What happens if the property is damaged or destroyed during the lease term (**Casualty Provision**)
- What happens if the tenant doesn't pay its rent (**Default Provision**)
- What happens if the tenant doesn't vacate when the lease expires
- If the tenant can sublease the premises or assign the lease (**Sublease and Assignment Conditions**)

After a lease expires, typically a resident/tenant vacates or a resident/tenant remains and a lease extension amendment is prepared and signed by all parties. If neither of those acts occurs, then either a **Tenancy at Will** or a **Tenancy at Sufferance** is created. A **Tenancy at Will** is a leasehold possession such that either the landlord or tenant may terminate the leasehold interest at any time by giving reasonable notice, which is typically 30 days or it may be stated in the lease. It usually occurs in the absence of a written lease and can occur after a lease expires, but the resident/tenant continues to occupy the space and the landlord continues to accept the rental payment. A **Tenancy at Sufferance** (or holdover tenant) occurs after the lease has expired and resident/tenant continues to occupy the apartment or space without the landlord's consent.

2.3.1 Pass-Throughs

Commercial leases typically include some language that enables the owner to be reimbursed for some or all of the property's operating expenses, insurance and real estate taxes. **Pass-Through Clause, Expense Reimbursements and Recoveries** all refer to this concept. Examples would include reimbursements for utilities, landscaping, janitorial, real estate taxes, and repair and maintenance costs. By being reimbursed for these expenses, the owner reduces its risk for unexpected increases in costs.

2.3.2 Escalator Clauses

Typically, multi-year leases contain a provision for the owner to increase the rent on the lease's anniversary date. This concept is referred to as an **Escalator Clause**. This also helps the property to produce a higher **Effective Gross Rent** over time, which can increase the property's value. Examples of **Escalator Clauses** include – fixed annual (i.e. 3% per year) and Consumer Price Index (CPI) increases.

2.4 FISCAL RESPONSIBILITY

Property managers are entrusted to look after other people's money. As a result, sound financial management and accurate reporting are two critical responsibilities of the property manager as the owner's agent. In that role, the manager acts as the owner's fiduciary and is entrusted to perform their responsibilities in the owner's best interest. This includes opening bank accounts, promptly depositing all receipts, and paying vendors when services have been completed.

It is also critical that the owner's funds be kept separate from the property manager's accounts. This is called **Separation of Funds**. All of the funds that the property generates belong to the owner and should be deposited into the owner's account. They should never be deposited into the manager's account. The manager is entitled to a fee from the property's income, which should be paid from the owner's account and deposited into the property manager's account.

Security deposits must be maintained in a separate bank escrow account and it is a good practice to keep reserve funds in a third account.

It is typical that a management agreement would provide for the owner to audit periodically the property manager's books and records. It also may be a requirement in the management agreement to provide for a fidelity bond. This would protect the owner from dishonest acts by the management personnel who are entrusted to handle money.

2.5 ASSET MANAGEMENT

The Asset Management function frequently consists of the following:

- Focuses on the property's long term planning, leasing and asking rental rates
- Often negotiates commercial leases on behalf of the owner
- Evaluates the mortgage and opportunities to refinance the loan
- Considers strategies to maximize value and when to market the property for sale.

Collectively these items are focused on ways to maximize the **Return on Investment (ROI)**.

One common method to determine a property's **Investment Value** is to apply a **Capitalization Rate** to the **Net Operating Income (NOI)**. A property's **Net Operating Income** is divided by the **Capitalization Rate** (or **Cap Rate**) to determine its value. The formula would be:

$$\text{Net Operating Income} / \text{Capitalization Rate} = \text{Value}$$

The **Capitalization Rate** is determined by the market and depends on various factors, including the property type, economic conditions, interest rates, location, and the property's condition. As a result, **Capitalization Rates** are not static. They can vary significantly as the variables noted above change. Variations in **Cap Rates** can have a major impact on value. For example, a property that has an **NOI** of \$200,000 has a value of \$2,000,000 when a 10% **Capitalization Rate** is applied. However, if a 9% **Capitalization Rate** is applied, the value increases to \$2,222,222, an 11% increase. The lower the **Capitalization Rate**, the higher the potential value.

Question #12

A shopping center is 15% vacant. Its **Gross Potential Income** is \$5,000,000 and has **Operating Expenses** of \$2,275,000. Similar shopping centers recently sold for an 8% **Capitalization Rate**. What is the current value of the shopping center?

Answer #12

Gross Potential Rental Income	\$5,000,000
- Vacancy Rate (15% x \$5,000,000)	- \$750,000
= Effective Gross Income	= \$4,250,000
- Operating Expenses	- \$2,275,000
= Net Operating Income	= \$1,975,000
/ Capitalization Rate of 8%	/ .08
= Value	\$24,687,500

Question #13

If a shopping center recently sold for \$10,000,000 and it had a **Net Operating Income** of \$875,000, what was the **Cap Rate**?

Answer #13

$$\text{Net Operating Income} / \text{Capitalization Rate} = \text{Value}$$

$$\$875,000 / \$10,000,000 = 8.75\%$$

Question #14

A comparable property to the subject property being managed sold last month for a 7.5% **Cap Rate**. If the subject property's **NOI** is \$1,340,000, what is its **Investment Value**?

Answer #14

$$\text{Net Operating Income} / \text{Capitalization Rate} = \text{Value}$$

$$\$1,340,000 / 0.075 = \$17,866,667$$

Appraisers also often use this method to determine the value for income producing properties.

This calculation clearly illustrates that a property manager can increase a property's value by operating it more efficiently through lower expenses. Reducing expenses, while maintaining **Effective Gross Income**,

has a direct relationship to increasing its Value. For example, by saving as little as \$825/mo. (or collectively \$10,000 per year) in **Operating Expenses** and applying a 10% **Capitalization Rate**, the property manager can create an additional \$100,000 in Value for the owner.

3 FACILITIES MANAGEMENT

Maintaining a property is a process that requires regular inspections, on-going preventive maintenance activities, periodic replacements or upgrades, and an effort to reduce risks. In order to develop and effective overall maintenance plan, it is necessary to understand why maintenance is important and what its objectives are.

The overall objectives of a maintenance program include:

- Implementing and accomplishing the owner's objectives
- Increasing resident/tenant satisfaction and retention rates
- Reducing operating costs
- Optimizing the property's physical capabilities
- Increasing the property's value
- Providing for the safety of tenants, residents, visitors and employees

As described in an earlier section of this study guide, understanding the owner's objectives not only relates to a property's value or cash flow (money), but can relate to the owner's investment plans, including the anticipated hold period and future sale date (time). The longer the owner plans to hold onto an investment property, the more important facilities maintenance functions become and the more directly they can impact the property's future value.

Effective and regular maintenance enables the property to operate efficiently, helps ensure that the equipment will function when needed and for a long period of time, assists in tenant retention, promotes safety, and can preserve value. Maintenance and repair costs can represent a significant percentage of a property's total operating expenses. By investing in programs that promote preventive maintenance and enhance energy efficiency, it can help reduce the likelihood of unplanned and expensive emergency repairs and decrease utility costs. For example, regularly scheduled HVAC filter and belt changes can prolong equipment life and increase efficiency. An excessively dirty filter will not only shorten the life of an HVAC unit, but will also increase its energy consumption. Often, by "investing" in preventive maintenance, the owner will save money by avoiding costly emergency repairs or pre-mature equipment failure.

When equipment operates efficiently and effectively, resident/tenant satisfaction can increase and retention rates can improve. Retaining resident/tenants can significantly improve the property's value and an owner's overall return. By retaining a tenant whose lease is about to expire, an owner avoids lost rent from vacancy and reduces the costs associated with rollover expenses, such as leasing commissions and tenant improvements (redesign of space, including new walls and offices) or apartment fix-up costs (carpet cleaning, painting, and new appliances).

Lastly, safety is also enhanced through good facilities management. Regular maintenance reduces potential hazards, such as a motor burning up because it wasn't maintained regularly, or a fire occurring because electrical panels weren't checked for overheating. By neglecting safety issues, the owner runs the

risk of not only significant repair expenses, but also potential liability issues from resident/tenants who are impacted.

3.1 PHYSICAL INSPECTIONS

Physical inspections are a primary method used to evaluate a property's condition and equipment as well as being the first step to develop a plan to address any issues. Inspections should also be performed whenever a resident or tenant vacates a property, ideally on the same day. Managers should inspect vacant spaces regularly and before any prospective resident or tenant tours the space. Some other areas to regularly inspect include:

- Roof – look for ponding water, debris and holes
- Parking lots – look for trash, abandoned vehicles, pavement alligating, loose gravel and potholes
- Front entrance – look for trash, cracked windows, trip hazards and cleanliness
- Exterior facades – look for cracked windows, loose or cracked concrete, failed caulking, water infiltration points and hazards from anything falling off the building

There are at least four primary objectives to consider prior to any inspection.

1. What will be inspected
2. What is the frequency of the inspection
3. Who will conduct the inspection
4. How will the results be reported and implemented

In order to generate the list of what will be inspected, a thorough walk-through of the property and all of the areas related to its mechanical, electrical, telephone, and fire/life safety equipment needs to be conducted. Then with assistance from various experts such as building engineers, equipment manuals, manufacturer's representatives, or outside contractors, a chart should be developed for each piece of equipment that details what needs to be inspected and its recommended frequency (i.e. monthly, quarterly, semi-annually).

The next consideration is to decide who will conduct the inspection(s) and how the results will be reported and implemented. The manager should consider:

1. If the inspections can be conducted by in-house maintenance staff
2. If the inspection requires any special equipment, such as refrigerant recovery unit or hydraulic personnel lift. These items may need to be rented or purchased
3. If the equipment requires special technical expertise to evaluate, such as training with an infrared camera
4. If a third party is needed to certify the equipment's proper operation, such as a fire alarm operation test or fire extinguisher inspection

Next, it is very important to document each inspection and to retain that information. The reports should identify at least the following:

1. Who conducted the inspection
2. When was the inspection performed
3. What was inspected
4. What were the results
5. Are there any recommendations as a result of the inspection

Lastly, if the inspection reveals that repairs and/or replacements are needed, then all information related to the repair work should be retained as well.

3.2 SERVICE CONTRACT NEGOTIATIONS

In maintaining a property, some services will likely need to be contracted to a third party. To help ensure that a contractor performs the service needed at a competitive price, the manager should identify reliable and competent vendors, develop clear specifications detailing the work to be performed, request bids from multiple contractors (frequently three are sought), inspect the work to check compliance, notify the contractor of any deficiencies, and promptly pay when the work is complete.

There are number of ways to identify competent contractors. Ask other property managers who they have used. Contact members of local organizations, such as the institute of Real Estate Management (IREM), Building Owners and Managers Association (BOMA), and the Property Managers Association (PMA). Attend trade shows where contractors have an opportunity to demonstrate their skills and explain their areas of expertise. Also, contact the contractor's references and inspect the work they previously performed.

Next, it is important to develop a clear and thorough specification for the contractors to bid on. This is frequently called a **Request for Proposal** or **RFP**. A RFP typically includes:

- Specify the scope of the service requested
- How it is to be performed
- Frequency (monthly, quarterly, semi-annually)
- Special requirements
- Acceptable work hours
- Timetable to complete
- Insurance requirements
- Deadline for submission
- Number of personnel to be provided

- Warranty period
- A place for the contractor to provide their price
- References

By preparing a detailed RFP, it will ensure that all the vendors have the same information and specifications and it will help produce the most competitive pricing.

After the work has been awarded, the contractor should be supervised to make sure that the specifications are followed. This should occur as the project progresses, not just upon completion. Periodic inspections are beneficial because sometimes certain important elements of the project may no longer be accessible after the job is completed. For example, when new walls are being erected, inspect them before both sides of drywall are attached. Otherwise, the electrical or plumbing lines will be hidden once the second drywall sheet is hung. If any issues are spotted, notify the contractor while it is still accessible.

Once the project is complete, there will be one final opportunity to inspect and approve the work before issuing payment to the contractor.

Frequently, contractors will warranty their work for a period of time after completion. Make sure to keep records of the warranty period for all services provided.

3.3 UTILITY MANAGEMENT

Other than real estate taxes, utility costs are generally a property's next largest expenditure. As a result, efficient equipment and other energy saving methods can produce significant returns. Evaluating various energy saving methods is an on-going process. New products are constantly being developed for different applications and uses. It is always a good practice to investigate various energy saving methods because as utility costs increase, the **Payback Period** for implementing different projects will decrease. The **Payback Period** is one of the critical benchmarks in determining whether to move forward with a specific project. The **Payback Period** is the cost to implement the energy saving method divided by the money saved.

Cost to implement energy saving method/money saved = **Payback Period**

Question #15:

If it costs \$1500 to purchase and install energy saving light bulbs and ballasts and they are projected to save \$500 per year, what is the **Payback Period**?

Answer #15:

Cost to implement energy saving method/money saved = **Payback Period**

$\$1500/\$500/\text{yr} = 3 \text{ years}$

3.3.1 Water consumption

Do not overlook water reduction methods when evaluation differing ways to save utility costs. There are numerous products available to save water in kitchens, public restrooms or bathrooms. Examples include flow restrictors and infrared activated faucets. There are other opportunities to save water costs that can come from unexpected areas. For example, water utility providers typically charge for both water supplied to the property and water discharged into the sewer. They generally charge for the same number

of gallons supplied to a property as well as discharged from the property into the sewer. However, with an irrigation system, no water is returned to the sewer system. As a result, the property should not have to pay for sewer costs related to its irrigation system.

3.3.2 Electrical/Natural Gas

There are many products available to reduce electricity consumption. Energy saving lighting systems such as high efficiency fluorescent bulbs, electronic ballasts, LED (Light Emitting Diodes), and compact fluorescent lights are all examples of products currently available. These products offer **Payback Periods** that are generally very attractive – often less than 3 years. This makes choosing energy efficient lighting systems a frequent choice and good starting point with any energy saving program.

There are many types of energy management systems available that will help control simple or complex HVAC systems to make them more efficient. These systems typically will utilize a program to control operating hours and other parameters to maximize efficiency. Most systems are also Internet capable, which makes it easier to review readings and modify programs.

New HVAC equipment is given a SEER number (Seasonal Energy Efficiency Ratio) to rate its energy efficiency. The higher the rating, the more energy efficient it is. In 2005, the federal government mandated that all residential HVAC systems manufactured after 2005 have a minimum SEER rating of 13. High efficiency units can carry a SEER rating of 20 or above. Similarly, appliances are given an Energy Star rating to rank their efficiency.

When evaluating different energy saving methods, make sure to keep track of how the energy source is billed. Electricity is billed in kilowatt hours (kWh), while natural gas is billed in therms. This information will be needed to calculate accurately the **Payback Period**.

3.3.3 Other

Utility companies are also concerned with improving energy efficiency in buildings and frequently offer rebates to the property owner for investing in them. These rebates can apply to a single exit sign, complete property-wide lighting retrofit or energy management system. In some cases, the rebate can represent a significant percentage of the project's cost.

Deregulation of electricity and gas can also provide opportunities to reduce costs by seeking multiple bids from energy source providers located all over North America. The local utility company still provides the means to deliver the electricity, but the generation of the power can come from almost anywhere and these providers will frequently lock in rates for multi-year contracts.

3.4 PREVENTIVE MAINTENANCE

There are four categories related to maintenance – Curative, Deferred, Routine and Preventive.

Curative Maintenance involves fixing or repairing something after it has already broken. An example would be fixing a broken sink faucet.

Deferred Maintenance is an ordinary maintenance item that is not performed at the time when a problem is discovered. For example, when the manager notices some minor paint peeling in a stairwell, but delays hiring a painter until more painting work is needed.

Routine Maintenance relates to the cleaning and upkeep that is needed every day. An example is vacuuming the carpet in the building hallways.

Preventive Maintenance is a planned activity that is routinely performed with the intention of extending the useful life of the building and its equipment. Preventive maintenance helps protect the property from unforeseen risks or potential equipment failures, can reduce the likelihood of costly emergency services, and may increase tenant satisfaction. For example, by performing regular inspections and maintenance of elevator equipment, the likelihood of a complete equipment failure is reduced or eliminated. When a major elevator part fails, it can be very costly to repair or replace, it can often involve extensive overtime costs, and it may be very disruptive to the residents/tenants.

3.5 RISK MANAGEMENT/INSURANCE

Proactively maintaining the property can have a direct relationship to minimizing its potential risks. By maintaining floors, parking lots, steps and sidewalks, hazards are minimized to the tenants, residents and guests. Additionally, in the event of an incident, inspection reports and maintenance records can become helpful tools to demonstrate the actions taken and timeliness to correct any issues.

Property managers should also periodically evaluate the property's insurance coverage, limits and premiums. Typical insurance coverage that should be considered includes:

- Fire Insurance – provides coverage in case of fire
- Extended coverage – provides coverage from specific perils such as windstorm, hail, explosion, smoke and water damage
- Boiler and machinery – protects from loss when major equipment fails
- Bodily injury – protects against loss due to liability arising from injury or death on the insured's property
- Fidelity bonding – protects against the dishonest acts of an individual.
- Property damage – protects against liability for damage to other people's property that occurs on the insured's property
- Workers compensation – protects employees who are injured on the job

Most mortgage companies generally require a minimum policy value based on 80% of a property's replacement value.

Some leases also require that residents or tenants maintain contents and personal property insurance coverage. If the lease has such a requirement, the resident or tenant should provide evidence of coverage.

Property managers should also request a **Certificate of Insurance** from all contractors who perform work on the property. By having this form, a property manager can confirm that a contractor has insurance coverage for its liability and its employees. This form is typically provided by the contractor's insurance company and will list the types of coverage, policy periods and expiration dates, and limits of coverage (dollar value). A typical **Certificate of Insurance** will include:

- **General Liability** - General liability insurance (GL) coverage can protect the property owner from a variety of claims including bodily injury, property damage, and personal injury.
- **Excess Liability** – Excess liability or an umbrella policy is issued to provide coverage limits in excess of an underlying General Liability policy.

- **Workers compensation** - Workers' compensation insurance provides wage replacement and medical benefits to employees who are injured in the course of their employment.

3.6 CAPITAL REPAIRS

The following questions should be considered when evaluating any capital projects:

- What are the owner's objectives?
- Are there sufficient reserves to cover the costs?
- What is the best approach to perform the project?
- Will the project reduce costs elsewhere?
- Will the project help increase value for the owner?

Capital repairs can often be categorized in two ways – First, when a piece of equipment or building system is replaced with an identical or very similar unit; Second, when a piece of equipment or building system is replaced with a superior unit that results in the final outcome being better than it was previously. For example, when a cooling tower or boiler is replaced with a similar piece of equipment, the property's life is extended and future cash flow is preserved. However, it is also important to consider projects that will enhance a property's cash flow and/or value. For example, by investing in a high efficiency boiler, the initial costs may be greater, but future utility expenses may be lowered. Remember that reducing expenses can result in a higher property value. Property managers should consider multiple options when evaluating large scale capital projects and present all of the choices to the owner along with a recommendation.

3.7 MARKETING

Marketing is necessary for every property to find new residents or tenants. Its primary goal is to identify as many qualified prospects as possible. Understanding the market, the competition and the subject property are important in order to develop a successful **Marketing Plan**. The plan should clearly describe the subject property's strengths, particularly compared to its competition.

Before starting to market an available space or unit, be sure that it is clean and presentable and that the owner has approved all marketing plans.

Effective facilities management can also be used as a marketing tool. For commercial managers, carefully reviewing all potential expenses for the best value and performing preventive maintenance inspections and repairs regularly may result in lower operating expenses than the competition. Leasing agents can promote this advantage, which can translate to lower business operating costs to prospective commercial tenants.

Currently, many residents and tenants are interested in buildings that promote environmentally friendly "green programs", such as waste recycling, solar, wind or geothermal energy, and the use of less toxic building materials. By trying to utilize these programs whenever possible, it can help market the building in a new way and produce positive results.

Lastly, it is also important to keep existing tenants and residents aware of any new programs. This will help retain existing tenants, which can reduce unit turnover or vacancy.

4 DISTRICT OF COLUMBIA LAWS, RULES AND REGULATIONS REGARDING PROPERTY MANAGEMENT

This section of the study guide is intended to identify some of the Laws, Rules and Regulations that are relevant to a property manager's responsibilities. The references, citations numbers, and web sites are provided to assist in locating additional information.

The **District of Columbia Real Estate Commission** protects consumers by enforcing the laws and regulations applicable to property managers including licensure. The **Commission** consists of nine members, who are appointed by the Mayor. **Commission** members consist of three broker's licensures, two salesperson's licensures, two property manager's licensures, one attorney licensure and one unlicensed consumer. (Source: DCRA Real Estate Legislation and Regulations 47-2853.06 (h))

Property managers are required to be licensed in the District of Columbia who act as an agent for the property owner in all matters pertaining to property management, are under the direction of the owner, and are paid a fee or other valuable consideration. According to the regulations, a licensee engaged to manage real estate shall:

1. Perform in accordance with the terms of the property management agreement
2. Exercise ordinary care
3. Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property
4. Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the owner consents in writing to the release of such information
5. Account for in a timely manner, all money and property received in which the owner has or may have an interest
6. Comply with fair housing statutes and regulations

(Source: DCRA Real Estate Legislation and Regulations 47-2853.195 (a))

In order to apply for a license, the applicant must:

1. Furnish evidence of having satisfactorily completed the examination approved by the Commission
2. Submit a completed application on the prescribed form
3. Include the applicant's business and home addresses, which cannot be a post office box, on the application
4. Have the application sworn to or affirmed before a notary public
5. Pay the required application fee
6. Meet specific requirements, some of which include (Source: DCRA Real Estate Legislation and Regulations 47-2853.142 (a)):

- a. Must be at least 18 years of age
- b. Shall not have been convicted of an offense that bears directly on the fitness of the applicant
- c. Must be a high school graduate or holder of equivalency certificate
- d. Not had a real estate broker's, salesperson's, or property manager's license denied, other than for not passing the examination, for one year prior to applying.
- e. Not had a real estate broker's, salesperson's, or property manager's license revoked in the past three years.

(Source: DCMR Title 17, Chapter 26, Section 2603.1)

The District of Columbia requires that certain documents must be obtained and posted at the property. These include a **Certificate of Occupancy**, and a **Housing Business License** for residential properties and a **General Business License** for commercial buildings.

A **Certificate of Occupancy (C of O)** is a document that certifies that the use of a building complies with **Zoning** regulations and **Building Codes**. A new **Certificate of Occupancy** is required for new building construction or changes in:

- Ownership
- Occupancy Load
- Use

Please note that single family homes, individual units in an apartment building and individual suites in an office building do not require **Certificates of Occupancy**. You must get a **Certificate of Occupancy** before occupation and use of the building. The certificate must be posted onsite. (Source: <http://brc.dc.gov/nonprofit/requirementsorg/coo.asp>)

The District of Columbia requires a **Business License** for all multi-family and commercial properties. Among the key provisions are:

- No person shall operate a housing business in any premises in the District of Columbia without first having been issued a housing business license for the premises by the District. (Source: DCMR Title 14, Chapter 2, Section 200.3)
- The licensee shall have each valid license framed under clear glass or plastic and shall post the license (or cause the license to be posted) in a conspicuous place in the residential building for which that license is issued. (DCMR Title 14, Chapter 2, Section 200.6)
- The Fire Chief and the Directors of the District agencies responsible for enforcement of the housing and health regulations shall inspect every licensed housing business and any premises for which a housing business license application has been filed with the District, and the Chief of Police shall inspect every licensed housing business in accordance with the provisions of this section. (DCMR Title 14, Chapter 2, Section 201.1)
- If the manager of a housing business is someone other than the licensee, that manager shall register his or her full name and address, and the location of the housing business of which he or

she is manager, with the license officer for the police precinct in which the housing business is located. (DCMR Title 14, Chapter 2, Section 202.1)

- The manager of a housing business that is first opened for business after promulgation of these regulations shall register within five (5) business days after the opening of the business. (DCMR Title 14, Chapter 2, Section 202.2)
- If the position of manager is created for an existing housing business, or a change in management of an existing housing business is made, the new manager shall register with the license officer of the police precinct within five (5) business days. (DCMR Title 14, Chapter 2, Section 202.3)
- Concurrent with filing the application for renewal of a housing business license, the licensee shall file with the Director a report itemizing total security deposits being held for that business pursuant to chapter 3 of this subtitle. The report shall include the nature, location, and amount of the escrow account in which the deposits are being held, and any additional information that may be required by the Director regarding the status of the deposits. (DCMR Title 14, Chapter 2, Section 203.2)

4.1 RENT CONTROL

The rent control in the District of Columbia is covered under the **Rental Housing Act of 1985** (DC Law 6-10). The Rental Accommodations Division (RAD), which is part of the Department of Housing and Community Development's (DHCD) Housing Regulation Administration (HRA), is responsible for administering the Act. Under the Act, an apartment building or apartment complex is called a *housing accommodation*, and a single apartment or house is called a *rental unit*. A tenant is a *tenant*, but a landlord is referred to as a *housing provider*. (Source: DHCD Fact Sheet)

The Act applies to all housing accommodations in the District of Columbia, unless they are specifically exempted by the Act. The most common exemptions are rental units in these categories:

- Federally or District-subsidized rental units
- Rental units built after 1975
- Rental units (including condominium or cooperative units) owned by a natural person who owns no more than four rental units, provided the rental units are registered as exempt
- Rental units that were vacant when the Act took effect
- Housing accommodations under a building improvement plan and receiving rehabilitation assistance through DCHD

(Source: DCHD - What You Should Know About Rent Control in the District of Columbia).

Every housing accommodation or rental unit must be registered with RAD by filing a RAD Registration and Claim of Exemption form. Once registered, the housing accommodation or rental unit is assigned a registration number if it is subject to rent control. If it is exempt, it is assigned an exemption number. If a housing accommodation was initially exempt from the Act but later becomes subject to the Act, the housing provider must amend the RAD Registration and Claim of Exemption form at that time. Changes in ownership or management must be filed with RAD within 30 days of the event. (Source: DHCD What You Should Know About Rent Control in the District of Columbia)

Under the Act, any increase in rent must meet these conditions:

1. The new rent charged may not be more than the prior rent plus an allowable increase, as described below.
2. The increase in rent charged cannot be more than the increase allowed under any single section of the Act.
3. The last increase in rent must have been at least 12 months ago (unless the unit is vacant).
4. The increase must not violate the terms of the lease.
5. The housing accommodation must be properly registered with the RAD.
6. The rental unit and the housing accommodation's common elements must be in substantial compliance with housing regulations.
7. The housing provider must give a 30-day notice of any increase in rent

(Source: DHCD What You Should Know About Rent Control in the District of Columbia).

The most common allowable increase in rent is an annual adjustment, based on the increase in the Consumer Price Index (CPI-W). For most tenants, the most that their rent can increase is the CPI-W percentage plus 2%, but not more than 10%. For tenants who are elderly or disabled, the maximum increase in rent charged is the CPI percentage only, but not more than 5%. Allowable increases based on CPI are sometimes called *automatic* -- because no petition or other special steps are required. (Source: DHCD What You Should Know About Rent Control in the District of Columbia)

The Act allows an adjustment in rents when related services or facilities supplied by a housing provider or a housing accommodation or for any rental unit in the housing accommodation are increased or decreased. A housing provider files a petition, serves copies to the tenants, and presents the case for the change at an OAH hearing. Tenants may support or oppose the petition. The OAH makes a ruling on the petition, based on:

1. The cost to the tenant of buying alternate related services or facilities comparable;
2. The operating cost to the housing provider of the related services or facilities; or
3. The fair market value of comparable related services or facilities

(Source: DHCD What You Should Know About Rent Control in the District of Columbia).

4.2 OCCUPANCY HOUSING AND BUILDING CODES

District regulations set "Turn On" date for heat as October 15 and the "Turn Off" date as May 15. Landlords must keep heating equipment in good repair and capable of maintaining a temperature of at least 70 degrees (DCMR Title 14, Chapter 5, Section 501.2). In any living unit where the tenant cannot control or set the temperature, the building's heat must be kept at least:

- 68 degrees between 6:30 am and 11 pm
- 65 degrees between 11 pm and 6:30 am

(DCMR Title 14, Chapter 5, Section 501.4)

Get every furnace, boiler, and central heating system inspected between March 1 and September 1 of each year and submit the inspection report to DCRA. (DCMR Title 14, Chapter 5, Section 501.10)

Each residential building shall be provided with a water heating facility which is properly connected with the hot water lines of the required fixtures, and which is capable of providing sufficient hot water at a temperature of not less than one hundred twenty degrees Fahrenheit (120 F.) at those fixtures to meet normal demands. (DCMR Title 14, Chapter 6, Section 606.1)

Where the hot water heating facility is not under the control of the occupant of any habitation, the owner or licensee of that residential building shall provide and maintain a continuous supply of running hot water to meet normal needs. (DCMR Title 14, Chapter 6, Section 606.2)

All structures located on premises, including, but not limited to, accessory structures (such as walls, garages, fences, and sheds) shall be maintained in a sanitary and structurally sound condition and in good repair. (DCMR Title 14, Chapter 7, Section 701.1)

All walkways on private property shall be maintained in good repair, free of holes and safe for walking purposes. (DCMR Title 14, Chapter 7, Section 701.2)

The roof shall be maintained so it does not leak, and all rain water shall be drained and conveyed from the roof so that it does not cause wet walls or ceilings. (DCMR Title 14, Chapter 7, Section 702.1)

Each window shall be fully supplied with window panes which are without open cracks or holes. (DCMR Title 14, Chapter 7, Section 705.1)

Each exterior door, when closed, shall fit reasonably well within its frame and shall be equipped with a lock which will permit easy egress without a key but will prevent entrance to the multi-unit dwelling without a key unless the door is opened from the inside, electrically or otherwise, by one (1) of the tenants or by an employee of the building owner. (DCMR Title 14, Chapter 7, Section 705.5)

Loose or peeling wall covering or paint on interior surfaces shall be removed, and the surface so exposed shall be repainted or repaired by the owner. (DCMR Title 14, Chapter 7, Section 707.1)

The owner of each apartment house shall maintain and provide the tenants of each apartment the use of a secure mail receptacle which has been approved by the United States Postal Service. (DCMR Title 14, Chapter 12, Section 1204.03)

In the District of Columbia, a building permit is required for the following:

- New construction and foundations
- Additions, alterations, or repair of existing buildings
- Demolition

- Razes
- Construction of retaining walls, fences, sheds, garages, or vault construction
- Erection of signs or awnings
- Layout of interior space for tenants in new or existing commercial buildings (e.g. changing the floor plan of a building from six one-bedroom apartments to three two-bedroom apartments)

(Source: <http://dcra.dc.gov/DC/DCRA/Permits/Get+Answers+on+Building+Permits>)

A building permit is an authorization to build according to a specific scope of work, including approved plans. Any modification of permit scope or approved plans must be specifically approved.

A building permit issued by the Department of Consumer and Regulatory Affairs does NOT give you the authority to:

- Build in or occupy public space
- Remove or prune trees greater than 55” in circumference (18” in diameter) on public or private property. (If your project requires that you prune or remove trees, please contact the Department of Transportation (DDOT) Urban Forestry Administration)
- Occupy your building after construction. (You must get a Certificate of Occupancy before you open your business or occupy your commercial building.)

(Source: <http://dcra.dc.gov/DC/DCRA/Permits/Get+Answers+on+Building+Permits>)

Construction in the District of Columbia is regulated by various building codes. The provisions of the *Building Code* shall apply to the construction, alteration, addition, repair, removal, demolition, use, location, movement, enlargement, occupancy and maintenance of all buildings and structures, appurtenances attached to buildings or structures, signs, advertising devices and premises in the District of Columbia and apply to existing or proposed buildings and structures; except as such matters are otherwise provided for in other ordinances or statutes, or in the rules and regulations authorized for promulgation under the provisions of the *Building Code*. These regulations establish minimum maintenance standards for all structures and premises for basic equipment and facilities for light, ventilation, space heating and sanitation; for safety from fire; for space and location; for safe and sanitary maintenance of all structures and premises now in existence; for minimum requirements for all existing buildings and structures for means of egress, fire protection systems and other equipment and devices necessary for life safety from fire; for rehabilitation and reuse of existing structures, and construction and those for alterations and repairs.

(Source: http://os.dc.gov/os/frames.asp?doc=/os/lib/os/info/odai/title_12/dcmr_12-a_building_code_supplement.pdf)

4.3 LEASES AND SECURITY DEPOSITS

The District of Columbia has issued regulations related to leases and security deposits. Some of the pertinent regulations are:

- Any security deposit or other payment required by an owner as security for performance of the tenant's obligations in a lease or rental of a dwelling unit shall not exceed an amount equivalent to the first full month's rent charged. (DCMR Title 14, Chapter 3, Section 308.2)
- All monies paid to an owner by tenants for security deposits or other payment made as security for performance of the tenant's obligations shall be deposited by the owner in an interest bearing escrow account established and held in trust in a financial institution in the District of Columbia. (DCMR Title 14, Chapter 3, Section 308.3)
- All monies held by an owner for security deposits or other payments covered by this section shall be paid into an escrow account within thirty (30) days. (DCMR Title 14, Chapter 3, Section 308.4)
- The housing provider shall post in the lobby of the building and rental office at the end of each calendar year, the following information: Where the tenants' security deposits are held and what the prevailing rate was for each 6-month period over the past year. (DCMR Title 14, Chapter 3, Section 308.7)
- Within forty-five (45) days after the termination of the tenancy, the owner shall tender payment to the tenant, without demand, any security deposit and any similar payment paid by the tenant as a condition of tenancy in addition to the stipulated rent, and any interest due the tenant on that deposit or payment as provided in paragraph, or
- Notify the tenant in writing of the owner's intention to withhold and apply the monies toward defraying the cost of expenses properly incurred under the terms and conditions of the security deposit agreement. (DCMR Title 14, Chapter 3, Section 309.1 (a) and (b))
- The owner, within thirty (30) days after notification to the tenant pursuant to the requirement of §309.1(b), shall tender a refund of the balance of the deposit or payment, including interest, not used to defray such expenses, and at the same time give the tenant an itemized statement of the repairs and other uses to which the monies were applied and the cost of each repair or other use.

There are also regulations related to delinquent rents and evictions under the Rental Housing Act. Some of these are:

- If a housing provider seeks to recover possession of a rental unit on the grounds that the tenant is violating an obligation of the tenancy, the housing provider shall first serve the tenant with a notice to correct the violation or to vacate. e (DCMR Title 14, Chapter 4300, Section 4301.1)
- The notice shall provide at least thirty (30) days for correction of the violation and shall specify what actions need to be taken by the tenant to avoid an eviction. (DCMR Title 14, Chapter 4300, Section 4301.2)
- The notice to correct the violation or to vacate may state that the housing provider may evict if the violations are uncorrected at the conclusion of the thirty (30) day notice period. (DCMR Title 14, Chapter 4300, Section 4301.3)
- No tenant may be evicted from a rental unit for any reason other than for non-payment of rent unless the housing provider has properly served the tenant with a valid written notice to vacate and has served a copy of that notice on the Rent Administrator not more than five (5) days after service on the tenant. (DCMR Title 14, Chapter 4300, Section 4300.1)

- No action for possession of a rental unit may be initiated by a housing provider before the expiration of the time period set forth in the notice. (DCMR Title 14, Chapter 4300, Section 4300.2)
- If a housing provider seeks possession of a rental unit by bringing an action in the Superior Court of the District of Columbia and the basis for the intended eviction is the non-payment of rent, the notice to vacate pursuant to § 501(a) of the Act need not be served on the Rent Administrator. (DCMR Title 14, Chapter 4300, Section 4300.3)

4.4 AGENCY/CONTRACT LAW

The **Statute of Frauds** refers to the requirement that certain types of contracts be in writing in order to be enforced. If such agreements are not in writing, it does not render them void, only voidable by one or both parties. Real estate contracts and contracts which extend for more than one year typically fall under the **Statute of Frauds**. This could include a property management agreement. Moreover, since a property management agreement typically describes the numerous responsibilities of the manager as well as the relationship between the owner and manager, it is always a prudent policy to have these agreements in writing.

4.5 ZONING

The District of Columbia **Zoning Commission** regulates land uses through the use of zoning. By establishing **Zoning Classifications**, the government can regulate certain areas of the city for residential, commercial and industrial uses. **Zoning Regulations** are also used to control other building aspects within a particular zoning. For example, **Zoning Regulations** can address height limitations, density, **Floor Area Ratios (FAR)**, set backs, parking requirements, and green spaces. As a result, **Zoning Regulations** can also have an impact on property values.

When a proposed developed is designed to comply with all of the applicable **Zoning Regulations** for the site, it is called a **Conforming Use**. When a property owner applies to develop a property that conforms to all zoning codes, generally the government cannot interfere with the owner's rights to proceed. When a property previously complied, but no longer does, it is considered a **Non-conforming Use**.

In some situations, the **Board of Zoning Adjustment (BZA)** needs to grant a **Special Exception** for a permitted use provided certain criteria are met. Additionally, the **BZA** is authorized to vary or modify (a **Variance**) any part of the zoning regulations, where because of an exceptional situation, the strict application of the **Zoning Regulations** result in "exceptional practical difficulties or exceptional and undue hardship" upon a property owner. Such hardship may result from physical characteristics which make the property unique or difficult to use. (Source: <http://dcoz.dc.gov/services/bza/bza.shtm>).

4.6 SALE AND CONVERSION

The Rental Conversion and Sale Division (CASD) administers the Rental Housing Conversion and Sale Act of 1980. The Conversion Act regulates, among other things:

- tenant opportunity to purchase rights,
- tenant first rights of refusal,
- offer of sale notices,
- notices of transfer

- the conversion of property to cooperatives or condominiums.

The Condominium Act regulates condominium formation and registration of condominium units before a developer may offer units to interested buyers. CASD also administers the Structure Defect Warranty Claim Program. CASD also administers the Housing Assistance Payment Program (HAP), under which persons may be eligible for financial assistance if they are displaced because of the conversion of their apartment building to a condominium or cooperative. (Source: <http://www.dhcd.dc.gov/dhcd/cwp/view,a,1243,q,641679.asp>)

Some important aspects of the District of Columbia Municipal Regulations (DCMR) related to Sale and Conversion are:

- An owner of a housing accommodation who wishes to convert shall provide to each tenant household and to the Conversion and Sale Regulatory Office a request for election. (DCMR Title 14, Chapter 4700, Section 4701.1)
- After receipt of a request for election, a tenant organization, if one exists or is established, may give notice and conduct an election. (DCMR Title 14, Chapter 4700, Section 4702.1)
- Within thirty (30) days of receipt of the owner's request for election and after coordinating with the Conversion and Sale Regulatory Office, the tenant organization shall set the date of the election, and notify the owner of the date, time and place of the election. (DCMR Title 14, Chapter 4700, Section 4702.2)
- The date of the election shall be within sixty (60) days of receipt of the owner's request for election. (DCMR Title 14, Chapter 4700, Section 4702.3)
- A request from an owner or tenant shall be made within fifteen (15) days of the expiration of the thirty (30) day period allowed for the tenant organization to set a date for an election after coordinating the date with the Conversion and Sale Regulatory Office. (DCMR Title 14, Chapter 4700, Section 4702.13)
- Within forty-five (45) days of such request, or such longer time as may be necessary, the Conversion and Sale Regulatory Office shall schedule and conduct an election. (DCMR Title 14, Chapter 4700, Section 4702.14)
- The owner shall provide each of the tenants or subtenants of the housing accommodation at least one hundred twenty (120) days notice of intent to convert to cooperative or condominium ownership. The notice shall be in a form approved by the Conversion and Sale Regulatory Office, and shall set forth the rights of tenants and subtenants pursuant to the Act. (DCMR Title 14, Chapter 4700, Section 4705.1)
- The owner shall pay each relocating tenant household a minimum of one hundred twenty-five dollars (\$125) up to a maximum of five hundred dollars (\$500) if the tenant presents the owner with a receipt or a written estimate from a moving company, truck rental agency or other relocation service. (DCMR Title 14, Chapter 4700, Section 4709.3)
- The owner shall pay the relocating tenant within seven (7) days after receiving a request for payment under § 4709.3

- Before an owner of a housing accommodation may sell, issue a notice to vacate or recover possession for the purpose of demolition or discontinuance of the housing use, the owner shall give the tenant(s) an opportunity to purchase. (DCMR Title 14, Chapter 4700, Section 4711.1)
- The owner shall send an offer to each tenant of the housing accommodation and to the Conversion and Sale Regulatory Office. The offer of sale shall be sent by first class mail (DCMR Title 14, Chapter 4700, Section 4711.2).
- The owner shall post a copy of the offer of sale in a conspicuous place in the common areas of the housing accommodation if it consists of more than one unit (DCMR Title 14, Chapter 4700, Section 4711.3).
- The offer of sale shall include the following information (DCMR Title 14, Chapter 4700, Section 4711.4):
 1. The asking price and material terms of the sale;
 2. A statement of tenant rights and responsibilities pursuant to the Act;
 3. A statement as to whether a contract with a third party exists for the sale of the housing accommodation and that a copy of such contract will be made available to the tenant(s) within seven (7) days after receiving a request; and
 4. A statement that the owner will provide to the tenants the following information within seven (7) days after receiving a request for any of the following if applicable:
 - a. A floor plan of the building, if available;
 - b. An itemized list of monthly operating expenses for each of the two (2) preceding calendar years;
 - c. Utility consumption rates for each of the two preceding calendar years; and
 - d. Capital expenditures for each of the two (2) preceding calendar years.

4.6.1 Transfer of Ownership/ Tenant Opportunity to Purchase Act

Before an owner can sell a tenant-occupied rental accommodation, the Landlord must provide the Tenant(s) with an opportunity to acquire their residence. This is also known as **TOPA** or the **Tenant Opportunity to Purchase Act** (D.C. Law section 42-3404.02). The specific requirements of this law vary based upon of rental accommodations of a single unit, 2-4 units or 5 or more units. The general guidelines are as follows:

1. Landlord makes Offer of Sale to Tenant(s)
2. Tenant(s) may Request Information about the accommodations, including:
 - a. Floor Plan
 - b. Itemized list of operating expenses; utility consumption rates, and capital expenditures for the previous two years.
3. The Tenant, Tenants or Tenant Organization submits a Statement of Interest.

4. The Tenant, Tenants or Tenant Organization then negotiate with the Landlord
5. The Tenant, Tenants or Tenant Organization reach settlement
6. If the Landlord has not entered into a sales contract within a specified time period, depending on the number of units, the **TOPA** process must start over with a new Offer of Sale. (Source: DC Office of Tenant Advocate).

4.6.2 District Opportunity to Purchase Act

The **District Opportunity to Purchase (DOPA)** program promotes affordable rental housing by maintaining the affordable status of existing affordable rental units as well as increasing the total number of affordable rental units within the District.

To this end, **DOPA** requires rental property owners to provide the District of Columbia with the opportunity to purchase housing accommodations consisting of five (5) or more rental units, provided that twenty-five percent (25%) or more of the rental units are “Affordable Units”. **DOPA** offers of sale should be submitted concurrently with, but are subordinate to, a tenant’s right to purchase under **Tenant Opportunity to Purchase (TOPA)** law.

An “Affordable Unit” is defined as means a rental unit in a housing accommodation for which the current monthly rent, including tenant-paid utilities, is not greater than 30% of the monthly income of a household at 50% of the area median income (AMI). AMI is the median income of the D.C. metropolitan statistical area, defined annually by the U.S. Department of Housing and Urban Development, adjusted for the household size. Utilities include all tenant-paid utilities, such as heat, air conditioning, cooking, electricity or hot water.

The **DOPA** Offer of Sale must include:

1. The asking price and material terms of sale;
2. A statement as to whether a third party sale contract exists for the housing accommodations and that a copy of any third party sale contract shall be provided to the District within 7 days after receiving a request;
3. A list of tenant rental names and their corresponding unit numbers, along with the current rent charged for each rental unit as of the **DOPA** Offer of Sale issuance date;
4. A list of vacant rental units, their unit numbers and the current rent charged for each rental unit as of the **DOPA** Offer of Sale issuance date;
5. A list of Affordable Units, their unit numbers as of the **DOPA** Offer of Sale issuance date and the owner’s calculations for determining the Affordable Units;
6. A statement that the owner of the property will provide, within 7 days after receiving a request, the following information: monthly operating expenses, utility consumption rates, capital expenditures for the previous 2 years, and a building floor plan.

The **DOPA** Offer of Sale shall be sent to the Department of Housing and Community Development, Rental Conversion and Sale Division (Source: D.C. Official code 2001 ed., as amended, 42-3404.31-37)

Question #16:

An owner asks the property manager to submit an Offer of Sale under DOPA. The property manager should submit the offer to:

- A. The District of Columbia Mayor's office
- B. The District of Columbia Department of Housing and Community Development
- C. The District of Columbia Real Estate Commission
- D. The Department of Housing and Urban Development

Answer #16:

B

4.7 FAIR HOUSING/HUMAN RIGHTS ACT 1977

The District of Columbia **Human Rights Act** is intended to end discrimination in the District of Columbia based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, and place of residence or business. (Source: <http://ohr.dc.gov/ohr/cwp/view,a,3,q,491858,ohrNav,%7C30953%7C.asp>)

In 1999, the **Office of Human Rights** was established. The Office is empowered to undertake its own investigations and public hearings on any racial, religious, and ethnic group tensions, prejudice, intolerance, bigotry, and disorder; and on any form of, or reason for, discrimination, against any person, group of persons, organization, or corporations, whether practiced by private persons, associations, corporations, city officials, or city agencies; for the purpose of making appropriate recommendations for action, including legislation, against such discrimination. (Source: Human Rights Law Subchapter III, 2-1403.01 (b))

Complaints filed with the Office alleging unlawful discrimination in residential real estate transactions or violations of FHA shall be served on the complainant and respondent within 5 days of filing, with a notice identifying the alleged discriminatory practice and advising the parties of their procedural rights and obligations under this chapter and FHA. (Source: Human Rights Law Subchapter III, 2-1403.02 (d))

In accordance with the D.C. Human Rights Act of 1977, the District of Columbia does not discriminate on the basis factual or perceived.

It is unlawful for any person to practice discrimination in the rental or sale of housing accommodations and commercial space in the District of Columbia on the basis of the categories below.

Race	Color
Sex (Gender or sexual harassment)	National Origin
Religion	Age
Marital Status	Personal Appearance
Sexual Orientation	Gender Identity or Expression
Familial Status	Family Responsibilities
Matriculation	Political Affiliation
Disability	Source of Income
Place of Residence or Business	Victim of an Intra-Family Offense (Domestic Violence)

(Source: http://ohr.dc.gov/ohr/frames.asp?doc=/ohr/lib/ohr/pdf/brochures/revisefair-housing/rev_fair_housing_law_poster_eng.pdf).

4.8 EMPLOYMENT

Since property management companies generally hire employees in both the administrative and maintenance fields, they must comply with the District of Columbia Wage and Hours Law. Among the items in the law are:

- The minimum wage required to be paid to any employee by any employer in the District of Columbia shall be the minimum wage set by the United States government from time to time pursuant to the Fair Labor Standards Act plus \$1. (Source: DC Official Code Div V, Title 32, Chapter 10 32-1003 (a))
- No employer shall employ any employee for a workweek that is longer than 40 hours, unless the employee receives compensation for employment in excess of 40 hours at a rate not less than 1 ½ times the regular rate at which the employee is employed 1. (Source: DC Official Code Div V, Title 32, Chapter 10 32-1003 (c))
- Every employer subject to any provision of this subchapter or of any regulation or order issued under this subchapter shall make, keep, and preserve for a period of not less than 3 years a record of:
 - (A) The name, address, and occupation of each employee;
 - (B) A record of the date of birth of any employee under 19 years of age;
 - (C) The rate of pay and the amount paid each pay period to each employee;
 - (D) The hours worked each day and each workweek by each employee.(Source: DC Official Code Div V, Title 32, Chapter 10 32-1008 (a) (1))
- Every employer shall furnish to each employee at the time of payment of wages an itemized statement showing the date of the wage payment, gross wages paid, deductions from and additions to wages, net wages paid, hours worked during the pay period, and any other

information as the Mayor may prescribe by regulation. (Source: DC Official Code Div V, Title 32, Chapter 10 32-1008 (b))

- Every employer who is subject to any provision of this subchapter or any regulation issued under this subchapter shall keep a copy or summary of this subchapter and any applicable regulation issued under this subchapter, in a form prescribed or approved by the Mayor, posted in a conspicuous and accessible place in or about the premises at which any employee covered by the regulation is employed. (Source: DC Official Code Div V, Title 32, Chapter 10 32-1009)
- Every employer shall pay all wages earned to his employees at least twice during each calendar month, on regular paydays designated in advance by the employer; provided, however, that an interval of not more than 10 working days may elapse between the end of the pay period covered and the regular payday designated by the employer, except where a different period is specified in a collective agreement between an employer and a bona fide labor organization; provided further, that where, by contract or custom, an employer has paid wages at least once each calendar month, he may lawfully continue to do so. (Source: DC Official Code Div V, Title 32, Chapter 13 32-1302)
- Whenever an employer discharges an employee, the employer shall pay the employee's wages earned not later than the working day following such discharge; provided, however, that in the instance of an employee who is responsible for monies belonging to the employer, the employer shall be allowed a period of 4 days from the date of discharge or resignation for the determination of the accuracy of the employee's accounts, at the end of which time all wages earned by the employee shall be paid. (Source: DC Official Code Div V, Title 32, Chapter 13 32-1303 (1))

4.9 LANDLORD-TENANT RELATIONSHIP

In each lease or rental of a habitation entered into after June 12, 1970, the owner shall provide to the tenant upon execution (or within seven (7) days after execution) an exact, legible, completed copy of any agreement or application which the tenant has signed. (DCMR Title 14, Chapter 3, Section 303.1)

No owner shall cause to be placed in a lease or rental agreement any provision exempting the owner or premises from liability or limiting the liability of the owner or the residential premises from damages for injuries to persons or property caused by or resulting from the negligence of the owner (or the owner's agents, servants, or employees) in the operation, care, or maintenance of the leased premises, or any facility upon or portion of the property of which the leased premises are a part. (DCMR Title 14, Chapter 3, Section 304.3)

No owner shall place (or cause to be placed) in a lease or rental agreement a provision waiving the right of a tenant of residential premises to a jury trial, or requiring that the tenant pay the owner's court costs or legal fees, or authorizing a person other than the tenant to confess judgment against a tenant. This subsection shall not preclude a court from assessing court or legal fees against a tenant in appropriate circumstances. (DCMR Title 14, Chapter 3, Section 304.4)

In each lease or rental of a habitation, the owner shall provide written receipts for all monies paid to him or her by the tenant as rent, security, or otherwise, unless the payment is made by personal check. (DCMR Title 14, Chapter 3, Section 306.1)

If payment is made by personal check, and there is a balance still due which is attributable to late charges, court costs, or any other such charge in excess of rent, the owner shall provide a receipt stating the nature of the charges and the amount due. (DCMR Title 14, Chapter 3, Section 306.4)

4.10 POLICE AND FIRE CODES

The operator of each housing business shall maintain all required fire extinguishing equipment in an operable condition. (DCMR Title 14, Chapter 9, Section 901.1)

Each owner or operator of a housing business shall install smoke detectors and comply with the requirements of the Smoke Detector Act of 1978 (DCMR Title 14, Chapter 9, Section 904.4). Some of the sections of the Smoke Detector Act of 1978 that property managers should be familiar with include:

1. The owner of each dwelling unit shall install at least 1 smoke detector to protect each sleeping area. In efficiency, the owner shall install the smoke detector in the room used for sleeping. In all other dwelling units, the owner shall install the smoke detector outside the bedrooms but in the immediate vicinity of the sleeping area. (§ 6-751.03 (a))
2. Except as provided in subsections (b) and (c) of this section, the owner of each dwelling unit, hotel, motel, hospital, nursing home, jail, prison, and residential-custodial care facility shall directly wire the smoke detector to the power supply of the building. (§ 6-751.05 (a))
3. An owner subject to this subchapter shall maintain each smoke detector in a reliable operating condition and shall make periodic inspections and tests to ensure that each smoke detector is in proper working condition. (§ 6-751.06)
4. A tenant of a dwelling unit that is not in compliance with this subchapter may purchase, install, and maintain a smoke detector or visual alert system, or arrange for proper installation and maintenance of a smoke detector or visual alert system, and may deduct the reasonable costs from the rent for the dwelling unit. No tenant shall be charged, evicted, or penalized in any fashion for failure to pay the reasonable cost deducted from the rent for the dwelling unit. (§ 6-751.10 (a))
5. An owner of an apartment building shall post in conspicuous places in the common areas of the building and provide to each tenant or unit owner, by hand or first-class mail, a written notice that includes (§ 6-751.11):
 - (A) Instructions on the operation of the apartment building fire alarm;
 - (B) Whether the apartment building fire alarm is separate from or connected to the smoke detectors in the individual dwelling units;
 - (C) Whether the apartment building fire alarm is connected to the Fire and Emergency Medical Services Department; and
 - (D) A warning that in the event of a fire the Fire and Emergency Medical Services Department must be contacted immediately by calling 911.

4.11 RECORD KEEPING

In order to comply with The District of Columbia's Laws, Rules and regulations, a property manager either directly, or on behalf of the property owner, is required to maintain certain records.

- A Certificate of Occupancy and Business License- These items were both discussed in detail at the beginning of this section.

- Security Deposits – Since an owner is required to pay interest on security deposits, accurate record keeping is critical. More detailed information on security deposits is contained in section C above.
- Income Taxes – Owners are required to file an income tax return (either personal or business) related to the property. As a result, it is very important for the property manager to maintain accurate records of all income and expenses. This includes keeping copies of rental receipts and checks, invoices, and cancelled vendor payments. At the end of each calendar year, the owner will typically be provided with a copy of the property’s income and expense statement, which summarizes the items needed for the owner to include on its tax return.
- Licensure’s Continuing Education requirements – A licensed property manager in the District of Columbia is currently required to attend 15 hours of continuing education every two years, except for the first renewal. Currently, all District of Columbia Property Manager’s licenses expire on February 28 of each odd-numbered year. Continuing education must be completed from a Commission approved school before the license’s expiration date. The current required courses are Fair Housing (3 hours), Ethics (3 hours), DC Legislative Update (3 hours), and General Electives (6 hours). The specific courses and hour requirements are subject to change with each two year cycle.

4.12 TENANT’S RIGHTS UNDER FORECLOSURE

Property Managers need to understand what rights tenants have when the property they are managing experiences a foreclosure. As noted in the Eviction section below, a property’s foreclosure is not a legal basis to evict a tenant. It is NOT include in the 10 statutory reasons. The bank or other financial institution becomes the new landlord and there is no change in the tenant’s rights (Source: DC Office of Tenant Advocate. <http://ota.dc.gov/release/dc-law-protects-tenants-during-foreclosures-0>).

Transfer of ownership of a rental accommodation pursuant to foreclosure or foreclosure sale is exempt from Tenant Opportunity to Purchase Act (D.C. Code 42-3404.02(c)(2)(c)).

Following a foreclosure, a tenant’s lease terms remain the same, including their rental payment amount and lease term, even if the tenant is month-to-month.

4.13 EVICTIONS

Evictions in the District of Columbia are governed under D.C. Code Section 42-3505.01. A property manager needs to understand that a landlord may evict a tenant for only one of ten specific statutory reasons:

Nonpayment of rent;

Violation of an obligation of tenancy, of which the tenant failed to correct after notice;

Tenant performed an illegal act within the rental unit;

1. Landlord seeks in good faith to occupy the rental unit for personal use and occupancy;
2. Landlord sells rental unit to a party who seeks in good faith to occupy the rental unit for personal use and occupancy;

3. Landlord seeks to renovate rental unit in a manner in which tenant cannot safely occupy;
4. Landlord seeks to demolish rental unit;
5. Landlord seeks to substantially rehabilitate rental unit;
6. Landlord seeks to discontinue rental unit for housing and occupancy; or
7. Landlord seeks to convert rental unit to a condominium or cooperative after securing Governmental approval.

Judicial process is required for all evictions. Furthermore, in all cases other than non-payment of rent, a filing with the Rental Accommodations Division (RAD) is required.

A tenant may not be evicted just because the initial lease term expires, or because the rental property has been foreclosed upon.

In order to evict a tenant, the landlord must go through the judicial process. The tenant must be given:

1. A written Notice to Vacate (except for non-payment of rent, if the tenant waived the right to
2. notice in the lease);
3. An opportunity to cure the lease violation, if that is the basis for the action; and
4. An opportunity to challenge the landlord's claims in court.

(Source: DC Office of the Tenant Advocate. <http://ota.dc.gov/page/guide-eviction>).

Question #17:

Which of the following is a legal reason for a landlord to evict a tenant?

- A. The property experiences a foreclosure
- B. The lease expires
- C. Landlord wants to occupy the rental unit
- D. Landlord sells the building

Answer #17:

C

BIBLIOGRAPHY, SOURCES AND WEBSITES

1. Principles of Real Estate Management, 15th Edition, Institute of Real Estate Management, 2006.
2. Managing Your Maintenance Programs, by Brad J. Ashley, CPM®, John N. Gallagher, CPM®, Mary Jayne Howard, CPM®, Richard F. Muhlebach, CPM®, Lee A. Whitman, CPM®, 2010.
3. The Real Estate Manager's Technical Glossary, by Thomas J. Griffin, CPM®, 1999
4. Department of Consumer and Regulatory Affairs (DCRA), Real Estate Legislation and Regulations.
5. District of Columbia Municipal Regulations (DCMR)
(<http://os.dc.gov/os/cwp/view,a,1207,q,522392.asp>)
6. District of Columbia Certificate of Occupancy
(<http://brc.dc.gov/nonprofit/requirementsorg/coo.asp>)
7. District of Columbia Municipal Regulations (DCMR), Chapter 2, Housing
(<http://users.erols.com/anc2e/DCMR/Title14.html>)
8. District of Columbia Housing Regulation Administration
(<http://www.dhcd.dc.gov/dhcd/cwp/view,a,1243,q,641672,dhcdNav,%7C32177%7C.asp>)
9. DCHD What You Should Know About Rent Control in the District of Columbia
(<http://www.dhcd.dc.gov/dhcd/lib/dhcd/services/rental/rentcontlfs7.pdf>)
10. District of Columbia Building Permits
11. (<http://dcra.dc.gov/DC/DCRA/Permits/Get+Answers+on+Building+Permits>)
12. District of Columbia Zoning (<http://dcoz.dc.gov/services/bza/bza.shtm>)
13. District of Columbia Building Codes

(http://os.dc.gov/os/frames.asp?doc=/os/lib/os/info/odai/title_12/dcmr_12a_building_code_supplement.pdf)
14. District of Columbia Sale and Conversion

(<http://www.dhcd.dc.gov/dhcd/cwp/view,a,1243,q,641679.asp>)
15. District of Columbia Office of the Tenant Advocate

(<http://ota.dc.gov/page/tenant-opportunity-purchase-act-topa>)
16. District of Columbia Department of Housing and Community Development, District Opportunity To Purchase Act
(<http://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/2015-04-07%20DOPA%20Guideline%202015.pdf>)
17. District of Columbia Fair Housing (<http://ohr.dc.gov/ohr/cwp/view,a,3,-q,491858,ohrNav,%7C30953%7C.asp>)

(http://ohr.dc.gov/ohr/frames.asp?doc=/ohr/lib/ohr/pdf/brochures/revisedfairhousing/rev_fair_housing_law_poster_eng.pdf).

18. District of Columbia Official Code 2001 Div V, Title 32, Chapter 10

(<http://www.does.dc.gov/does/cwp/view,a,1234,q,539346.asp>)

19. District of Columbia Smoke Detector Law of 1978. Title 6, Chapter 7, Subchapter IV

20. District of Columbia Office of the Tenant Advocate (<http://ota.dc.gov/node/303962>)

21. District of Columbia Office of the Tenant Advocate (<http://ota.dc.gov/page/guide-eviction>)

22. Pearson VUE (<http://www.pearsonvue.com/dc/realestate/ce.asp>.)