



Praise the Landlord!

by Zachary Lawrence JD

This article is about a tenant's right to exercise his or her religion vs. a landlord's property rights. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

These words were written in 1787 and make up part of the First Amendment to our constitution. These words tell us that we can openly wear a skullcap or burka. That we may read from the Old Testament or the Koran. And that we may observe the Jewish Sabbath, Ramadan, or no religion at all. But when the practice of one's religion infringes on the property rights

of a landowner, who has the last word?

We have a tenant that is asking the landlord permission to erect a Sukkot on the common area of the property. (Sukkot is a structure or hut, commemorating the forty year period during which Jews were wandering in the desert, living in temporary shelters).

Queens, NY.

August 2015

Two orthodox Jewish tenants at LeFrak City in Queens

claim that they are being discriminated against because newly installed lobby doors only open with an electronic key, which they cannot use on the Sabbath, a federal lawsuit alleges. These tenants are suing the landlord in Brooklyn Federal Court for alleged religious discrimination under the Fair Housing Act.

The "Halakha" (Jewish law) prohibits Jews from breaking or creating an electronic circuit on the Sabbath, and on certain Jewish holidays, such as Yom Kippur. These new electronic keys also trigger automatic lights to come on in the lobby of the build-

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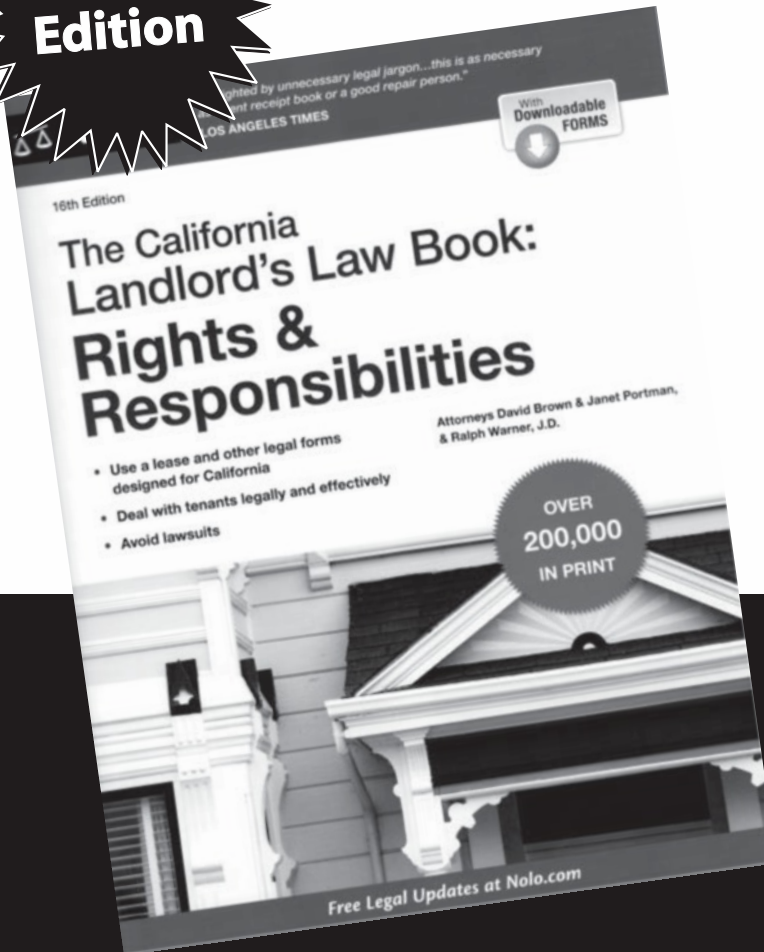
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ing, another violation of the Sabbath.

The building manager reportedly told the tenants to "Go somewhere else if you don't like it." The landlord claims that the new electronic key system was installed in compliance with federal Department of Housing and Community renewal rules and regulations. Where do we go from here? Does the Federal law trump the laws of Moses?

I put this question to eviction attorney Dennis Block, on our live, weekly podcast radio show (Wednesday's at 2:00 p.m. on evict123.com)

Block: This matter has nothing to do with religious freedom. The landlord is allowed to improve his buildings. Many buildings and hotels now have electronic locks. They are safer and more convenient.

It's not a specific discrimination against these tenants. If anything, these tenants' religious beliefs are infringing upon the security of the building. Tenants have options. If this situation now violates the exercise of their religion, the answer is very simple. "Move. Find another place."

Zac: These tenants have lawyers. What is their best argument in favor of their clients?

Block: Their lawyers will play the 'religion card' and

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claim that this is a violation of the right to freedom of religion under the First Amendment.

Zac: If I were the tenant's attorney, I'd argue that the landlord owes some duty to me by offering a reasonable accommodation to offset this inconvenience -for example, a duty to have an on-site manager on the Sabbath, allowing access to the property.

Dennis: Good point Zac, but that's not a reasonable accommodation because, based on your example, the landlord would have to employ somebody for the sole purpose of being a doorman. The issue is that this landlord merely

wants to improve the security of his building. One accommodation could be to offer the option of a having one regular keyed lock in addition to the electronic lock. In any event, the landlord has the right to improve his building and the tenants in this case have a simple solution....find another place to live.

Zac: We have a tenant that is asking the landlord permission to erect a Sukkot on the common area of the property. (Sukkot is a structure or hut, commemorating the Jewish harvest festival and the forty year period during which Jews were wandering in the desert, living in temporary

shelters). This landlord (my client) denied permission for this structure to be placed on the common area. Any comments?

Dennis: Your client may allow this structure, but by no means is obligated to allow it. Again, the landlord has the right to control his own property. That includes the look of the common area. If the tenant wants to build a Sukkot, he may do so, but may also need to find another place to do it.

Zac: May a tenant place on their balcony any religious symbols, such as Christmas ornaments or a nativity scene?

Dennis: If we're talking

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about a religious display on the balcony for a temporary, finite period, I don't see a problem with that. The landlord should allow them to do so.

Zac: Should or must allow them to do so?

Dennis: Should allow it. However, if the tenant's rental agreement prohibits such a display, then the rental agreement will trump the tenant's religious rights.

Zac: Does AOA's Rental Agreement have such restrictions?

Dennis: It states that you may not place any signs, displays or other exhibits or in any portion of premises with-


out the written consent of the owner except as may be provided by law. However, you are allowed by law to post political signs, three months prior to an election, and one month after an election. The issue that the sign is based on must be on a current ballot or referendum.

Zac: May a tenant post a sign that says "I support drought-tolerant lawns."?

Dennis: Under California law, the answer is no. The sign must reflect a current ballot issue, candidate or referendum.

Closing Thoughts

A landlord should allow

reasonable accommodations to allow his tenant the right to exercise their religion. However, when such an exercise infringes on the property right of others, or is simply not practical, the landlord owes no duty to offer such accommodations. Please pray that after this article is published, I am not suddenly struck by lightning. 

Zachary Lawrence JD is the owner of Parkside Property Management and Affordable Landlord Consulting. For management or consultation services, Zachary Lawrence can be reached at (310) 636-1200 or park806@aol.com.

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