

## Laundry Room Do's and Don'ts

BY JAMIE SCHWARTZ, ESQ.



**D**oes your homeowners association lease its common area laundry room to a laundry equipment company that supplies washing machines and dryers for use by residents in the community? If so, this article will provide you with some useful information about what terms are and are not acceptable in a laundry room lease.

These leases are set up as a lease of the laundry room by the homeowners association (lessor) to the laundry equipment provider (lessee). Our office is seeing a trend in prob-

lems with these leases, particularly when the lessor attempts to terminate and compel the lessee to remove its equipment. The leases often times include onerous provisions making it difficult or impossible to terminate the lease. Unfortunately, many of our homeowners association clients wait until they have been experiencing resistance from the laundry equipment company to ask that we assist them. A more productive approach for associations would be to have our office review the lease agreement before it is even signed by the association. That way, we can make sure that the association's interests are properly protected.

### THE DON'TS:

- 1.) **Automatic Renewal Clauses** - Do not sign a lease that has an automatic renewal clause. For example, some leases drafted by the laundry companies say something like, "This Lease shall be renewed automatically on each anniversary date for three (3) successive 2-year terms." Associations should not sign a lease that "locks" them into leases like this. If the association decides to change laundry companies, this makes it very difficult to do so. Associations should, instead, sign leases that have a set term, such as a one year term with a definite expiration date.
- 2.) **Guarantees Regarding Washing Machines in Units** - Do not sign a lease where the association guarantees to the laundry company that no unit owners in the entire community have washing machines or dryers in their units. Short of inspecting every unit on a regular basis, the association has no way of knowing if a unit owner has installed a washing machine and dryer in his/her unit. Do not sign a lease that makes this type of guarantee because if the laundry company discovers there is a washing machine and dryer in a unit, the association will be in breach of the lease and the laundry company could take action against the association for the breach.
- 3.) **Amount of Rent** - Do not sign a lease that says the laundry company will pay the association a certain amount of rent every month LESS "any applicable gross receipts, sales, use, value added, or similar excise taxes." If all of those items are deducted from the rent, the association will not be earning very much money. There are laundry companies that will sign a lease that does not include these deductions.
- 4.) **Vandalism** - Do not sign a lease that makes the association responsible for vandalism to the machines. By placing their machines in the common area laundry room, the laundry company takes the risk that someone might damage their machines. This is not the association's responsibility.
- 5.) **Right of First Refusal** - Do not sign a lease that allows the laundry company to exercise a "right of first refusal." If the association signs a lease with one laundry company, and then decides to lease its laundry facilities to another laun-

dry company, some leases contain a "right of first refusal" which allows the current laundry company to review the bids obtained by the association from other laundry companies and either match the bid or beat the bid. If the current laundry company matches or beats the bids from other vendors, the current laundry company has a "right" to keep its lease with the association. This type of provision in a lease restricts the association's ability to contract with other vendors.

### THE DO'S:

- 1.) **Insurance** - Make sure that the laundry company carries an insurance policy that insures against bodily injury and property damage caused by the employees of the laundry company. Make sure that the laundry company adds the association as an additional insured on its general liability policy.
- 2.) **Maintenance** - Make sure that the laundry company handles all maintenance of the machines. Also make sure that the lease has a clear response time when the laundry company must respond to service requests. The laundry company should regularly inspect and service its machines.
- 3.) **Removal of Equipment** - Make sure that if the lease is terminated by either the association or the laundry company, that the laundry company must remove its machines (at its expense) within a certain time after termination of the lease. We think that 30 days is plenty of time for the laundry company to remove its machines. The lease should contain language that if the laundry company does not remove its machines within 30 days from the date of termination, that the association will remove the machines and store them in a storage facility. The laundry company will be responsible for reimbursing the association for the costs of removal and storage.
- 4.) **Review of Lease** - Contact counsel for the association BEFORE the lease is signed to ensure that the association is not agreeing to something that it should not agree to! It is more difficult to try to terminate a lease with improper provisions after it is signed than it is to ensure the lease is properly drafted prior to execution by the parties. ■