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Landlord



Mike Tripp/The News Leader

Tenant

Relationships



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A stack of files representing cases concerning tenant complaints against their landlords rests on a table at Blue Ridge Legal Services in front of attorneys Lee Dunham, Jeff Link and Kimberle Harding. Such complaints consume between 15 percent and 30 percent of their workload.

Both Staunton renters, owners have rights, responsibilities

By Maria Longley/staff
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STAUNTON — Two years ago, a tough divorce left Samantha Iles financially unable to buy a home. With her two children and boyfriend, she rented a townhouse at 15 Prospect St., part of a row of 1901 vintage townhomes that the landlord told her was on Historic Staunton Foundation's house tour.

But as soon as she moved in, problems began, Iles said. Although she loved the town-

house, Iles said she made complaints about several issues. The radiators didn't work well, and the walls behind them were crumbling. The stairwell spindles were extremely loose. The roof was leaking in her



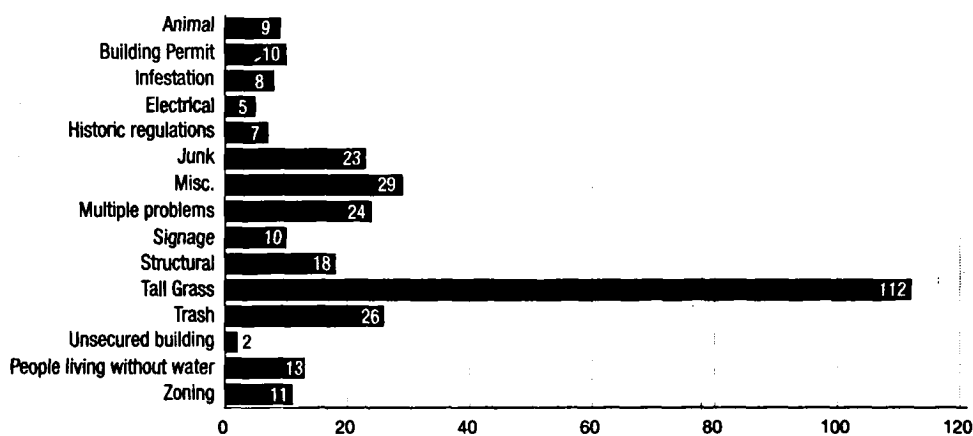
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Christina Shea rents out these historic townhouses on Prospect Street.

Issues

Complaints filed with Staunton building inspector



Complaints filed between February 2003 and January 2005.

Graphic/Jesse Woodruff

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daughter's bedroom and a section of ceiling damaged by the water began sagging. The electrical system tripped off line frequently.

During the 20 months she lived there, Iles said she repeatedly called her landlord, Christina Shea, and told Shea's husband Jay, who took care of minor repairs on the property, about all the problems. But her landlord took several months — nine to fix the ceiling — to make repairs, she said.

It took complaints Iles made to the city's building department to get the major repairs done, she said.

"It took her four days to get the electricity back on when it tripped last May," she said. "You get very tired of having to call, and you begin to ignore the problems," Iles said. "You become disheartened. It's very demoralizing. It's almost a reflection of who you are is what the apartment becomes."

Shea has a very different version of what happened.

Like most other cities, Staunton has its share of tenant-landlord disputes. Many from both sides have had to put up with bad eggs at one time or another. Tenants have had to deal with lazy or irresponsible landlords. And many a trustworthy landlord has rented to a reckless deadbeat.

Yet Staunton Building Official John Glover and John Whitfield, director of the region's legal aid office, agree that Staunton is fortunate in that the days of slumlords — commonly thought of as property owners who profit from renting out substandard housing — are decades past.

But they also agree that there is no shortage of cash-strapped landlords who overextend themselves and wind up in trouble for failing to make essential repairs — repairs that affect the appearance of the surrounding neighborhood and the quality of life of their tenants.

Some problems at the Prospect Street townhouse that Iles rented were never fixed, Iles said. Although she

asked for one, she said her landlord never gave her a copy of the notes she made during a walk-through of the townhouse before she moved in. Shea had Iles evicted in February for being late on the rent more than twice, a violation of the lease Iles signed, but Iles thinks Shea evicted her and her family in retaliation for her complaints.

Now she said Shea is keeping her \$675 security deposit, citing a laundry list of items that she said Iles is responsible for. But the damages that Shea is charging Iles for already existed, Iles said.

Landlord surprised by complaints

But Shea said Iles never told her about the problems she had in the apartment.

Shea, who bought the row of historic townhouses on Prospect Street five years ago, said she and her husband have put a lot of time and money into fixing up their property.

She proudly took a visitor on a tour of the townhouse.

"I'm not going to deny there were problems," she said. "But (Iles) neglected to tell me about them. Once I was told, everything was fixed in a timely manner."

Shea said she was surprised to receive notices from the city last year.

"I don't understand how the city can listen to one person and then not verify everything with the landlord. She never told me about any of these problems," Shea said. "She never said anything about the ceiling."

Former tenant Jennifer Fitzgerald also complained about water damage in the unit she was living in at the time. According to the notes in the city's complaint records, Fitzgerald told the building department that the "ceiling is ready to fall in any time ... Landlord has been contacted four (or) five times now, but nothing has been done."

Fitzgerald declined to be interviewed for this story.

Shea said she knew the ceil-

ing in Iles's and Fitzgerald's units each had small brown spots, and she had had a roofer fix it. The work hadn't been done properly, and the tenants didn't tell her, she said. Shea said she spoke to Fitzgerald after she called in her complaint to the city. She said Fitzgerald apologized to her about the "miscommunication. She only told my husband once, and she didn't clearly communicate the severity of the problem."

She added that she had Iles evicted because she grew tired of receiving Iles's rental payments late. Shea said she repeatedly warned Iles that if she continued to receive payments late, she would have "to end the business relationship."

Shea said she kept her deposit because she said Iles and her family damaged the apartment, which Iles denies. She said she found permanent magic marker on the walls, moldings and the wood floors, scratch marks Iles's dog made on the door and another door that looked like it had been kicked in.

"It's very important to me to provide people with a nice place to live," Shea said. "My husband and I plan to retire there. We care about that property very much. It's a beautiful, historic building and because it's historic it needs maintenance. I tell all my tenants that if anything needs to be repaired to just let me know."

Compared to other property owners in the city, Shea has few complaints — in fact just the three over the last two years — unlike Berdie Pannell's neighbor on Sunnyside Street, whose name comes up more often in the city's complaint system.

Activist neighbor wants city's help

Like her flawless cotton shirt, Berdie Pannell's farmhouse-style home is bright white, appearing freshly painted. Her house is accented by

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pewter shutters, and ornate woodwork frames a front porch furnished with white rocking chairs.

"I was born next door," she said. "I grew up in this neighborhood. I take great pride in my neighborhood."

She regularly sweeps her front steps and the street.

"People passing by tease me," she said, smiling. "They say, 'Are you working for the city now, sweeping those streets?'"

It angers Pannell that after the hard work she has put into her home, the duplex next door is not kept up the way she takes care of her home, she said.

"It's in bad need of a paint job," she said. "Many times there is trash in the yard. If something needs to be repaired it's just patchwork; in my opinion, it's not really fixed."

But officials said they can only go so far in getting owners to fix their properties under the law.

"We're not the good taste police," said John Glover, the city's building official. Glover oversees three code enforcement officers who enforce fire, zoning and property maintenance violations.

"A lot of people are concerned with cosmetic things, which we can't address," he said. "The code is all about safety and maintenance, not appearance."

The city cannot, for instance, serve an owner with a violation notice for a house with peeling paint, unless the wood is so exposed that the wood is showing rot.

Neighborhood dictates rent

Pannell blames the deterioration of her neighborhood on poorly run rental properties.

In addition to city officials, Pannell has had several conversations with the owner of the rental property next to her home, Gary Theiss.

Theiss started to buy properties throughout the city in mostly blighted areas 15 years ago. He rents out nearly 50 units.

They may not be polished, Theiss said, but they are inhabitable under the "Uniform Building Code," the state law that sets housing standards. And most importantly, they are affordable, he said. He charges \$375 for his one-bedroom and \$425 for his two-bedroom units.

"The neighborhood dictates what you can charge in rent," Theiss said. "We discovered location matters. Our West Beverley property, for instance, we could fix that up really nice, but we still



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Gary Theiss owns the duplex at 304 Sunnyside St.

couldn't charge more for rent because of where it is. No one would pay higher rents to live in that neighborhood."

Theiss and other landlords who offer similarly priced housing provide a needed service, Glover said, by keeping their prices low. But their properties also appear most consistently in the building department's complaint database.

Of the 310 complaints the city has tracked over the two-year period between February 2003 and January 2005, 107 of those were related to rental properties or properties that are not owner-occupied.

The top five property owners who received complaints were Paul Anderson, with nine, Ray Roberts, with eight and Gary Theiss, David Wade and Anthony Meeks, with six each.

Not all the complaints are related to any serious structural, electrical or plumbing problems. In fact, about one-third of all the complaints regarding rental or vacant properties were about tall grass and weeds. And not all the complaints lead to notices of violation. Some are found to be exaggerated or unfounded. The city doesn't track the number of code violation notices it sends to property owners as a result of complaints.

Glover said in his experience, landlords in Staunton comply with violation notices, although it might sometimes take several notices. During his five years as building official and previous five years as an electrical inspector, he can't recall ever having to take a landlord to court for property maintenance violations.

Glover said the city tried a more proactive approach to get rid of eyesore properties when it

launched its Front Porch Staunton initiative in 2001.

A team of inspectors drove around every neighborhood and documented code violations that could be seen from the street. The owners were sent a "friendly" notice pointing out the problems.

But with only three inspectors and about 9,000 residential and commercial properties in the city, the program was postponed until more staff could be added to manage the caseload.

"It was very successful," Glover said. "You could almost say it was too successful."

Tenants, landlords should know law

Bad landlords can be found anywhere, even in a city as small as Staunton. About a dozen former tenants who called in complaints to the city over the last two years were contacted for this story. Some of the complaints varied from failed plumbing and electrical systems to roach infestations and crumbling walls and ceilings. Some said the landlords wouldn't fix the problems or simply refused to return their calls. Most of the renters declined to be interviewed, some said for fear of retaliation.

Still, the Uniform Residential Landlord Tenant Act, passed in Virginia in 1974, goes far in protecting both tenant and landlord rights, said Legal Aid's John Whitfield.

"I can't see the same pattern of actual slums in Staunton that we used to see," he said. The executive director of Blue Ridge Legal Services, Inc. said his Harrisonburg Legal Aid office has lawyers who specialize in tenant-landlord disputes.

Assistance

The following organizations offer people rental assistance to people who qualify:

- Homeless Intervention Program, or HIP, run by the Waynesboro Redevelopment Housing Authority, 946-9230
- Staunton Redevelopment and Housing Authority, 886-3413
- Staunton Augusta Christian Relief Association (SACRA), 886-3957
- Salvation Army, 885-8157
- Some area churches

"We see more isolated, episodic types of situations," he said. "What we do see is an individual landlord who is struggling to keep up the property financially."

Landlords and tenants who don't become familiar with Virginia's Landlord Tenant Act often make costly mistakes when either has a dispute with the other, Whitfield said.

"A common problem we see is landlords who don't know the law and try to take the law into their own hands," he said. "They will, for example, break the law by padlocking the door or turning off the electricity if the tenant is late on the rent. That's illegal."

Before the act passed, renters had little choice but to accept a bad lease or crumbling apartment, or both. It was either that or move out.

The act covers tenants in most rental arrangements. Tenants who live in an apartment building or in any type of multi-family housing are covered by the act. Tenants also are covered if their landlord rents out more than ten single-family homes in rural counties and more than four single-family homes in cities and in urban counties.

"Where the old law is just this dark void for the tenant, the new law is a very balanced law and defines everybody's role clearly," Whitfield said.

In most cases, tenants who educate themselves about their rights can protect themselves from landlords who don't follow the law, he said.

Demand a walk-through before you move in

By Maria Longley/staff
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STAUNTON — In retrospect, Samantha Iles said there are some things she would have done differently to have avoid-

ed the problems she had at the Prospect Street townhouse she rented until February.

John Whitfield, executive director of Blue Ridge Legal Services, a Harrisonburg Legal Aid office, said Iles made the same

mistake many tenants make when they're moving into a new apartment:

"She needed to insist that she and her landlord do a pre-tenancy checklist and to get a copy before she signed the

lease," he said.

Doing a thorough walk-through and documenting any existing damage in detail is

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important in case there is a dispute about the security deposit down the road, he said.

Whitfield and valegalaid.org — a Web site created by Virginia legal aid offices and their partners to provide up-to-date information on poverty law issues — recommend that tenants be aware of the following before they move into rental housing:

■ Make sure the lease you're signing is a model lease under the Uniform Residential Landlord Tenant Act. If it's a model lease, it usually will say so in fine print in the footer or header. Landlords who know the law use that lease. The landlord-tenant act prohibits lease clauses that waive tenant rights under the act.

"My favorite one is when a landlord says in the lease that

if you violate anything on this lease, (the landlord) gets to keep all your deposit for liquidated damages," Whitfield said. "That is an illegal clause."

■ Do a detailed walk-through of the apartment and note all cracks, stains, marks — any damage or flaws.

■ During your walk-through, make sure these work: Heat, air conditioning if provided, door and window locks, major appliances such as the stove and refrigerator, as well as the toilet and faucets. Check for major cracks and evidence of old leaks, since those might not have been fixed. Make sure there is no mold growing anywhere. Ask about insulation in old houses — they can be expensive to heat.

■ Don't sign a lease until you're satisfied with the conditions, otherwise you might be walking into trouble.

Landlord's duties

Under Virginia law, all landlords must do these things:

- Follow building and housing codes affecting health and safety.

- Make all repairs needed to keep the place fit and habitable.

- Keep in good and safe working order all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances that the landlord supplies, or must supply.

- Supply water, hot water, air conditioning if provided, and heat in season; unless the tenant alone controls the heat, air conditioning, or hot water, or unless provided directly by a utility company to the tenant on a separate meter.

You and the landlord may agree in writing that you will do some of the landlord's duties, except the duty to follow building and housing codes affecting health and safety. The landlord must do this no matter what. If you and the landlord agree that you will do some of the landlord's duties, this must be in writing and must be done in good faith. A writing that tries to shift to the tenant any duties which can't be shifted cannot be enforced.

What extra duties do landlords covered by the Virginia Residential Landlord Tenant Act have?

Landlords covered by the VRLTA must do these extra things.

- Keep clean and safe any common areas used by more than one tenant household.

- Provide and keep up trash containers (except for single family houses).

You and the landlord may agree in writing that you will

On the Web

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do these extra landlord duties. The landlord must follow building and housing codes, make repairs, and keep in good shape the electrical, plumbing, sanitary, heating, ventilating, and air conditioning (if supplied), no matter what. If you and the landlord agree that you will do some of the landlord's extra duties, this must be in writing and must be done in good faith. A writing that tries to shift to the tenant any duties which can't be shifted cannot be enforced.

What duties do all tenants have?

Under Virginia law, all tenants must do these things.

- Keep your rented space and plumbing as clean and safe as conditions permit.

- Use all utilities and appliances reasonably, and get rid of trash.

- Not destroy or mess up the property, or allow anyone else to.

- Not disturb your neighbors, or allow anyone else to.

- Follow the lease and reasonable rules of your landlord.

What extra duties do tenants covered by the VRLTA have?

None. Tenants covered by the VRLTA must do the same things as other tenants.

— Source: valegalaid.org