

EP23. Propositions 33 and 34 and What About Those Late Fees

Welcome to the Landlord Logic Show, hosted by John Tiner. John is the owner and CEO of Tiner Property Management, a three-generation family business since 1976. Tiner Property Management expertly manages over 1,000 properties in the greater Sacramento area to place quality tenants quickly while minimizing your risk. John stays up to date on all the new laws and regulations and shares his knowledge with do-it-yourself landlords each week.

The Landlord Logic Show with the Tiner Property Management Pros. Joining us now, John Tiner, along with his wife and business partner, Jenny Tiner. Welcome back to the Landlord Logic Show. I'm John Tiner, and in the studio with me today is my wife, Jenny Tiner. Welcome.

Hi, thanks for joining, everybody. We are a property management company located in the Sacramento area. We manage almost 1,200 rental properties, and we like doing this show because we have been in the business a long time. Share the wealth of wisdom. If you need a manager, great, call us, but we're just not here for that. We want to share our knowledge because we got a lot of it. A lot of experience, a lot of hard knocks, right?

Right from the beginning, we help owners get their properties ready for the rental market:

- Clean them up, get all the work done, get them showing nice.
- Take nice professional photography.
- Market them very well.
- We have professional showing agents that come out and make all the showings. We even do that on Saturdays.

Then once we get a great tenant, we call the owner for approval, we put them in, do the move-in condition report, do all the paperwork, do the lease. We've got a great lease agreement that we've worked on for 38 years now. It's gotten better and better over the years.

And then on a monthly basis, we continue to coordinate all the repairs. We enforce the lease. That's a really important aspect of management. Make sure that the tenant abides by the rules that we've agreed to in the lease agreement. And then every month, we're sending the owners their funds due and doing their accounting for them. At the end of the year, they

have all the accounting they need for their tax person. So we do all those services for about the price of a gardener. It's really affordable.

And then make that property management experience really a good one for owners. The whole concept of professional property management is that we make it turnkey. We take the burdens and the concerns out of this. And we take those concerns ourselves, take good care of our owners, and make sure that they just get a check each month.

We also keep up with the laws. And so a lot of our shows, we talk about laws because there are a lot, and they constantly change. And sometimes John just wakes up in the morning and is like, well, we got another California law that starts now. And we also keep up with the rent increases, which is important, which also goes in line with some of those laws.

So a lot of owners are nice. And we're nice too, but they don't want to raise the rent. We enforce that. It's our job.

So if you'd like to reach us, please call 916-974-6003. Or on your cell phone, dial pound 250 and say the word Tiner. Or you can reach us through our website on the Contact Us page. Our website is Tiner, T-I-N-E-R.com.

Yeah, we have a lot of great information on our website. It's free information that we're sharing just like here, but it's on our website. A lot of great videos. All of our radio shows are on there under our podcast and a lot of great information there as well.

But we really gear this show toward do-it-yourself landlords, kind of sharing what you should know to manage a rental property and giving you the secret sauce. But sometimes we give out so much secret sauce, people say, hey, I need some help, and they call us direct, and that's part of why we do this show also.

But today we want to delve into the topic of what landlords need to know about late fees.

Yeah, we're going to talk about that first, and then we're going to talk about a couple. It's voting season. So we are going to talk about a couple very important measures, so make sure you listen to the end of the show because we're going to go through those as well. We've touched on them on some of our other shows where we're getting close to elections, and it is a very important one to vote.

Yeah, they really affect property managers and property owners a lot. But for starters, we're going to go with landlords and what they need to know about late fees.

Some landlords have a policy that I'm not even going to put a late fee in my rental agreement because I don't want my tenants paying late, and if I have a late fee, they're going to think that it's okay, and I don't want them to think it's okay to pay late. And I've

heard that in some of my landlord groups. They've said that, and I understand the logic. We don't want tenants to pay late either.

And kind of jumping ahead to the bottom line on this, we have nearly 1,200 properties, and we have less than 10 a month that we are serving pair quits to remind them to pay the rent after it's due. So we don't have very many paying late at all.

And for us, rent is due on the 1st, and it's late on the 5th. And then we're posting three-day notices after that.

Right, and so it's the next business day after the 5th. It's not there when we get there in our box. Or postmarked, you know, whichever way it is. But when it comes to late fees, you know, what's allowable? So what is allowable? John, how much late fee can you charge? What's in the law? Yes. It's not in the law. Kind of one of those funny areas. So it's a little bit of a gray area, but there are some principles and there's some court precedents to consider. And the exact amount, though, is not in the law. And I see this a lot of times with the landlords giving each other advice on Facebook groups and they're telling each other what the law is, and it's not the law.

So what has been determined to be acceptable by many times in the court is 5% or \$50. Those are acceptable. But that's what's been tested out in court and kind of proved to have been okay. But it would depend on the judge.

There's a few principles that you have to consider:

1. Sometimes people have a daily amount that's due. Every day you're late, it's going to be \$10 more. And so by the 10th, it's \$100. By the 20th, it's \$200. And by the end of the month, it's \$300. Well, I guarantee you they're going to throw that out if you get challenged in court with that. So it's not going to work. It's considered usurious or unreasonable.
2. It can't be punitive in nature. In other words, it can't be designed to punish tenants. So it's not to kick them while they're down if they've struggled to pay the rent. It can't be punitive. It has to make sense for the landlord, too. So it must be based on the inconvenience and the cost that the landlord suffers because of the tenant's late fee. So if the owner couldn't make their mortgage payment and there was a late fee on the mortgage payment, obviously that would be something that would be enforceable or would make sense under the court precedent that we have.
3. It must be reasonable. Reasonable, I like to laugh whenever I see reasonable. We see this a lot in legal terms. That means go to court. That means can you stand in front of a judge and defend your decision to charge that much? And if it doesn't

seem reasonable to the judge, then it's probably not something that you should charge. And it would be embarrassing to get in front of a judge and have to defend that \$10 a day after 30 days being \$300. The judge is going to be angry with you. It's not reasonable.

4. The percentage of fee. So if you say 5% for 10 days, that's not an annual percentage rate of 5%. That's 5% for 10 days. So if you start multiplying that out, that's a lot of money at the year end if that continued for 365 days. So kind of take it on out to its logical conclusion with an annual percentage rate and see if that makes sense. And that's why sometimes these late fees that landlords are trying to charge are not reasonable, wouldn't stand up in court.

It's all good info. How much does Tiner charge for a late fee? Yeah, we've kept it pretty simple because we want it easily defensible. So we're just a flat \$50 late fee. But like I mentioned, we only have about 10 per month that we're serving pay or quit notices for that haven't paid the rent on time. And among those, it's usually somebody who forgot. They didn't answer the phone.

That was going to be my question is out of those 10, then? The majority of them are paying right away. A lot of times it's somebody who forgot. But if they didn't answer their phone, we're not going to wait for them to call us back. We're going to start that clock running toward an eviction in case they don't catch up and pay. So that gets their attention when they get that three-day notice to pay or quit on their doors.

And that's also making sure that you serve that notice appropriately too, correct? Oh, yeah. There's a whole process for that. That's another show that we'd like to probably do sometime is what's the best way and the right way to serve a notice. Because if you didn't do it right and then you go to court, then you're screwed. Yes, you sound like somebody who just went to the legal class on that. We did. And they were talking about that. There's very specific ways to serve pay or quits. And counting the days and how you do that, there's a whole other segment on that.

But Tiner charges \$50 because it's easily defended. And we often waive that late fee. So if we talk to a tenant and say, yes, now you've incurred this late fee, it's \$50. But if you pay them today, we'll waive it for you. So we waive that late fee as a means to get it in right away. So oftentimes we're waiving it just to get them to pay right away.

So in the event that they don't pay, then what would be a best practice for eviction? Right. And I think what you're getting at there is that you don't want to have a late fee on the eviction paperwork. Okay. Just leave it off. Right. So even if the tenant owed it, if you put that three-day, if you put that late fee on the three-day.

What about the notice to pay or quit too? Same thing. Okay. So the best practice if you do serve a pay or quit is not to put the late fees on it because you're probably going to have to get it thrown out if you go to court with it anyway. All the attorneys that are doing evictions in the Sacramento area will tell you don't put late fees on your pay or quit. So you can, if you don't expect to evict a tenant, you could put the late fees on there. We don't, we just leave that off and just serve them for the rent due and then tell them that they also owe a late fee and often negotiate that amount back out. But you definitely don't want late fees on your pay or quit that you're proceeding to court with an eviction. Just leave them off. You don't want to make the judge angry with you right off the bat over a small late fee.

So if you need some help with your rental, maybe you've struggled some with late fees and with late payment, we don't, we're really good. And a lot of that comes down to picking a tenant that's right in the first place. But Tiner Properties is very good at that. We're doing less than one eviction with over a thousand doors managed per year. So we're good at it. We'll be glad to help you. If you want to reach out to us, you can dial with your cell phone, dial pound 250 and say the word Tiner, and that'll eventually ring through to us and give you some information. Or you can call direct at 916-974-6003. You can also contact us through the website, which is Tiner, T-I-N-E-R.com.

Okay, so we were talking about late fees and I know everybody listening, John has a lot of stories here. So give us a couple good, what's your best excuses of why you had a late fee? Yeah, it's kind of like my dog ate the homework stories. Well, we have one that was kind of funny. We had a tenant who paid late and boy, the first time he told us this, it just kind of breaks your heart for him. He said, my mom died and I had to go to Kentucky and I'm out of state, but I'm coming back and I'll get you the money as soon as I get back. Okay, you know, we want to work with this guy, the poor guy lost his mom. Well, a few months later, I think he was a tweaker. He paid late again and he said his mom died again. And again, he did it repeatedly and we had to remind him, no, that's what you said last time. Maybe he had a lot of moms. Yeah, you only get a playback card one time.

Stay tuned, we'll be right back and talk about some landlord ballot issues. As we talk through some of these new laws and best practices, some of you do-it-yourself landlords are going, great. You're taking notes and you're going to implement a lot of these kinds of things in your own properties. But other landlords are hearing this and you're going, this is just too much to keep track of. I'd really like to hire a professional who's vested and does this every day, reads all the legal blogs and stays up to date on all that. Well, if you want to call us for that, we're ideal for you. So we'd be happy to help you out with your own property. We collect your rent every month from the tenant. We place great tenants for you in the first place, screen them out really carefully. We turn down about four out of five and

we are doing less than one eviction for every 1,000 properties. So we're good at what we do. And then on an ongoing basis, we help coordinate the repairs. We do all the accounting for you so that you have everything you need for your tax person. We just make it really turnkey for you and easy. You get a check deposited directly into your account every month and then you don't worry about anything. You worry about your life. You do what's best for you.

On your mobile phone, dial pound 250 and say Tiner. Leave your name and number and we'll provide you with a free e-book with 16 questions you should ask your next property manager. Again, dial pound 250 and say Tiner. Learn why a good property management company doesn't cost, it pays.

Here again are your hosts, John Tiner, along with Jenny Tiner on the Landlord Logic Show. Welcome back, everybody. Thank you for listening. And I do want to say thank you for listening. John, I've gotten some really great feedback from people that listen. Yeah, besides mom and dad. Yeah. So it's funny looking back at how we got into this. We had done some advertising on KFBK and then John's always wanted to do a podcast and we came in here to the wonderful station here and somehow that got to us doing the radio show. And it was just going to be a John show. And then I was in here at that same time and kind of told them my story and they listened to my wonderful radio voice and said, you're going to do the show with them, right? And I said, no, I don't do that. No, if you didn't know, I'm quite, I can be an introvert, y'all. And I don't really like social media. I'm a pretty private person, but I feel that everything we're talking about, I genuinely believe in. And so anyways, I want to say thank you for listening. Thanks for listening again. And we appreciate every listener.

I want to dig into some political items that are coming up that will be on the ballot here in November. And the big one for landlords is Proposition 33. That's kind of the big kahuna. It has the potential to change property management rules with rent control for properties that have been exempt until now. So single family homes have been exempt from rent control because of a ruling, Costa Hawkins ruling. But this would overthrow Costa Hawkins and allow local jurisdictions, being counties and cities, to make their own rent control that would also cover single family homes. And that is a big game changer for people that own properties, single family homes, because now they could have rent caps and they could have just cause reasoning for being able to ask someone to leave. Right now it's an at-will state, so you can just give it in a notice if it's not working. And doing that, it takes out a lot of the incentive for people to own single family rental homes. They've kind of looked at the duplex and the apartment rules and said, well, I'm glad at least we're exempt. Well, if this passes, it would change the rules for single family homes. So that could change the supply of properties. I don't think it'll be good for tenants either. A lot of landlords are just going to

exit the landlord holding process, and they'll be selling these properties to mostly owner occupants, and there'll be less inventory of properties available for renters to rent. So it kind of works against itself when you regulate something where it's been in a free market before that.

One of the big things that changes with Proposition 33 is the possibility of regulating vacancies and rent during that time. So right now, even with statewide rent control, Assembly Bill 1482, when you have a vacancy, you can catch up to the market rate. So if you had a duplex and it was 30% below the market, the great opportunity to catch up to the market rates is when it's vacant. And then you got a new tenant comes in paying full market rate. But with Proposition 33, then allowing other local municipalities to pass their own rent controls, they could regulate vacancies. In other words, they say no matter what, even during a vacancy, you can only raise it X percentage. I read a lot on this law, and I didn't even know that part of it. No! I found this out in school recently. But yeah, that's one of the big dark secrets for it that are possible. We don't know what's going to happen, and it would depend on the local jurisdictions. Well, what's going to happen is once they get this little part in, then it's their end. I say they, the government, the ones that make the rules, and it's the beginning of the laws. It's kind of insidious. It's an erosion of property rights. So you can't do what you wanted to do with your property anymore. And the government's kind of regulating it all. And the more they regulate, the more problematic it is. So bottom line, vote no on 33. It's not a good law. It's not going to help landlords at all. It's not even going to help tenants. Every time we have the government kind of injecting themselves with rent control, it burns the tenants. It's bad. It's bad for the community. Landlords are not incentivized to keep their properties up or renovate their properties. And so they go into decline. You just can't regulate a free market and do it well. Bad things happen.

And they tried passing this other times, in 2016 and 2020. There's another thing we should be considering, which is a timeline, right? So if they pass this new Proposition 33, it becomes law the first of the year, 2025. Well, if you remember back in 2020, when they passed rent control for the statewide rent control, the rent increase caps were retroactive back to September of 2019. So what I could imagine happening here is that if you had a single-family home that was 25%, 35% below market, and you wanted to catch it up at some point, it may already be too late. Because if you're 20%, 30% below market, you have to give a tenant not a 30-day notice of rent increase, but a 90-day notice of rent increase. Well, 90 days from now is going to put us past the first of the year. And so if they pass rent control very quickly right after Proposition 33 in your area, and they made the start baseline for the rent caps earlier, it could be too late to catch up with the market. So I suggest if you have a home that's below market rents, probably you need to just catch it up. We don't know when they'll pass. It's probably not like counties are going to be ready to roll out other

than the Bay Area and a few places where they're kind of ready to roll out some of the rent control right behind Proposition 33. It may take a while for them to write it. Yeah, they say catch up, but there can be rules with that too with rent caps. So catch up as much as you can rent cap up. Well, there's no rent caps with properties that are exempt right now. But if some of those properties are going to lose their exemption if that passes, and that's the danger. So it'd be better to start catching it up now while you can. You may not be able to later.

Yeah, and it's interesting when you see the commercials for these. We saw one the other night that said that the bullies are the ones that are trying to say no. And it's like, no, the bullies are the government that's trying to make a pass. It's just like, come on. Yeah, people worked really hard. Most of our owners, they only own one or two rental properties. They worked really hard, or their parents worked really hard. They saved their money. They bought a rental. Instead of vacation money, they were painting these properties and doing this work to them. And they did this for years. And now they may be getting to a situation where it just doesn't make sense for them at all anymore. So it's really unfair. A tenant shouldn't be able to walk in and say, hey, because I'm needy, you should discount the rent for me. And that's kind of what happens with rent control in many cases. So if you need help with your rental, you want some information on this topic, or just information in general about property management, we have a fantastic website. It's tiner.com, and that's T-I-N-E-R dot com. Or you can give us a call at 916-974-6003. Another option is you can hit pound 250 on your cell phone and say the word tiner, and that will ring to us, and we'll pick up. And if we don't, leave a message and we'll give you a call right back.

We're talking about legislation coming down the pipe that we need to vote on in November, and been talking about Proposition 33, which would allow rent control to come into single-family homes and maybe change the ability of landlords to catch up during vacancies on the market rent. But there's another proposition right behind it. It's number 34, and it is kind of related because a lot of the funding, the majority of the funding for Proposition 33 comes from the AIDS Foundation.

Interestingly, when AIDS was such a problem, so many people were dying of AIDS, they raised a lot of money for the AIDS Foundation, and then they didn't use it all. So they're sitting on a pretty big pot of money, and they have taken up activism in the landlord-tenant rights area, and so they have been pushing in this legislation and other similar legislations that are landlord-hostile.

And so what Proposition 34 does is says that if this money was raised for medical issues for AIDS, then it needs to be spent on medical legislation and that kind of lobbying, not on landlord law. And so what we need on Proposition 34 is a yes vote that requires them to

only spend money on things that are medical-related and would kind of keep them from being activists toward landlord-tenant laws.

So you're saying vote yes on 34. Yes on 34, no on 33. That's the landlord recommendation from Tiner Property Management.

So a yes vote on Prop 34 means certain health care entities would have to follow new rules about how they spend revenue they earn from a federal drug discount program. Breaking these rules would result in penalties such as not being able to operate as a health care entity generally for a 10-year period.

So a yes vote on 34 will force the AIDS Foundation to use the money that was raised for medical issues for AIDS to be used on medical issues and not to be an activist organization that comes after landlords, right? I can't even believe that they do that. They raise the money and they are using money that was raised for AIDS and medical and now they want to stop and they want to put the money towards landlord issues, property management issues. Why are they keeping it in with the medical? Give the money back. Do something else. Stop making rules with other things.

Well, that's what this new Proposition 34 is. So we want to vote yes on 34 and no on 33. Did you hear that, everybody? Yes on 34, no on 33. Make sure you read your ballot clearly and remember to vote. It is a very important, it's always important to vote, but I feel like for many reasons, politically, presidentially, all the measures on the ballot, read it. A lot of stake here. Whatever side of the aisle you're on, it's just an important election to vote.

Well, thanks for listening today. Besides voting, we just want you to also understand what we do and that we're here to help you if you need help. Tiner Property Management is a property management firm that makes owning rental properties easy, painless, turnkey for the landlords. And we do all that work that we've been talking about where you need to know the laws, know how to handle them, and know how to comply with them. We do that for landlords and we do it very well.

So we help you market your property, get it ready to rent, market it, and then find a great tenant. And I mean a great tenant. We're doing, like I said, less than one eviction per thousand. We have fantastic screening guidelines. We're very strict with that. Bicky, bicky, bicky. It doesn't make tenants real happy sometimes because we turn down about four out of five applicants. But when we do pick one, they're good tenants. They're what we call A or B quality tenants in our nicer properties.

So that's what we're doing for you. And then on a monthly basis, we're also, of course, collecting the rent, pursuing the tenant, making them pay if they haven't paid on time, and enforcing the lease agreement, and taking care of maintenance calls. We're taking those

calls at one and two o'clock in the morning on holidays and weekends and finding vendors in there. That happens like in the storms last January. We had trees down, all crushing houses and pipes breaking from frozen pipes. We had all those kinds of things happening.

So we take the calls and we know the vendors. We get them out there, get the property work done, and get your property restored and get the rent coming back in again. And then we do the monthly accounting, send you a check. And get the rent coming back in again. And then we do the monthly accounting, send you a check each month, and also the annual accounting so that you have everything you need for your tax preparer in one easy statement at the end of the year. Yeah, we make it super easy and just very simple for you.

And we're also a tax write-off, management fees. So if you need some help with your rental property, please reach out to us. You can dial pound 250 on your cell phone and say the word Tiner, or you can call me directly at area code 916-974-6003, or go take a look at our website, which is Tiner.com. That's T-I-N-E-R.com. Lots of valuable information for you there.

But thanks so much for listening today, and we look forward to being with you again next week on the Landlord Logic Show. And remember, professional property management doesn't cost, it pays.

Would you like to learn more about the services provided by the Tiner Property Management Pros? Their professional property management team will take care of your rented home from start to finish. Simply dial pound 250 and say Tiner to learn more about the ease of managing rental properties, or check out their website, Tiner.com.

Join us again next week for the Landlord Logic Show with John Tiner.