



QUESTIONS

for the Self Storage Legal Network

Each month SSLN partners Carlos Kaslow and Scott Zucker will select a question from a SSLN subscriber on an important self storage legal issue and provide their best advice on dealing with the problem.

Question: *We have a moving company that would like to rent a storage unit for their customer. They would like to put the storage rental agreement in the moving company's name. The items inside the unit would belong to the moving client. Is this a recommended practice for self storage operators?*

Answer: This is a great question, because it is becoming a common circumstance for operators who may be asked to rent a space for storing another person's property. Although these may be legitimate requests, there has been growing anxiety for owners to allow this practice based upon stories of moving companies renting spaces and then abandoning the property of their customers. After the default, the self storage operator has no information as to the true owner of the goods and the owners lose their property having no idea where the goods were ever stored.

Therefore, the starting point is really one of determining fundamental facility policy. Do you want to rent space to a person or business that does not own the property that is being stored? If the answer to this question is no, the facility simply establishes a firm rule: We do not rent spaces to movers for storing client property. This rule is also consistent with a common self storage rental agreement requirement that the tenant will only store property that is owned by the tenant. This rule is simple to execute and you will avoid the problems that concern you from renting to a moving company. The downside is that you will not rent spaces to an otherwise good customer.

If you determine that you are willing to rent spaces to moving companies, you need policies that will moderate the potential risks that arise from their not owning the property they are storing. Here is one firm rule that will help: "We do not rent spaces in the name of the moving truck driver." You want to rent the space to the moving business and not an employee. Renting a space to a driver is just too risky.

Also, keep in mind that all moving companies are not the same. It is one thing to rent a space to a national, regional

or even a well-established local moving company. Renting to a moving company that just shows up at your facility to rent a space is another matter. You should have standards for the movers to whom you will rent a space. There might be no issues renting to a Mayflower or Bekins, but you might not want to rent a space to "Two Guys with a Truck."

In order to reduce the risks of having other people's property at your self storage facility, you can insist that the moving company provide complete information on whose property the mover will be storing. This would generally include copies of the bills of lading for each of the mover's customers whose property will be stored.

Although having clear documentation on whose property is in the space may prevent the property from being sold without notice to the true owner, it does not necessarily improve the facility's chances of being paid. If the moving company defaults and, after notice, the true owner collects their stored property, it would require a lawsuit to recover the rent from the moving company.

If the mover is a large national company or a locally based company, this may not be difficult. If you are dealing with a small mover based in another state, it may be impossible. One solution would be to require a significant security deposit from movers. If you collect a security deposit equal to three month's rent for the space, you will have time to resolve the payment problem and minimize the loss of rent.

A facility may be willing to work with a mover for a steady flow of business, but the facility operator should do some investigation so that he or she is confident the moving company is a financially sound business. You also want to work with a moving business that understands your concerns and will work with you.

Storage operators should avoid casual rental to moving companies they know nothing about. Site personnel should be instructed that company policy does not permit renting a space to a moving company driver who pulls up to the facility an hour before closing time. Such rentals are truly risky business and something to be avoided. ❖