

**If We Know, Why Don't We Act:
The Eviction Process**

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Walking through one of the developments managed by the Charlotte Housing Authority with a police officer is a revealing journey. It reveals how our communities are really seen by outsiders and visitors to our developments. More importantly, it pulls back the rhetoric about the kind of job we are doing and exposes the myriad of problems and concerns which exist in these developments. It awakens one to how little we know about reality and the conditions which exist in our communities.

As we walk, the officer talks about his frustration going back time and time again to the same apartments dealing with domestic problems between boyfriend and girlfriend. He talks about the filth and conditions of some of the apartments he has to enter and wonders what can be done about it. He points out problems and apartments where he knows the drug dealers and minor criminals run whenever the police are in the area. He asks "Why doesn't the Housing Authority do something about these problems and evict the families that are causing all of the problems and calls for service?"

A similar walk with the Residents' Organization President for the community exposes one to the perceptions of those who must live there. Not only does the president talk about the things that the Authority hasn't fixed, but the people who are causing the problems in the community and making the rest of the residents look bad. The president echoes the sentiments of many residents: "The Authority knows the problems in our communities, but isn't doing anything about them."

Both the police and the residents often have a similar impression of the Authority - "The Authority doesn't care." Thus, if the Housing Authority doesn't care, why should they.

It is my intent to reassure both the police and the residents that the Authority does care and is attempting to do something about the problems which they have identified. In the process, I hope that I can explain why it sometimes appears that we aren't doing anything about problems which every seems to know exist.

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Knowing v Knowing

While the police and residents can insist that "you know what is going on", there is a real difference between knowing something exists and knowing it exists in a manner which permits a housing authority to take corrective action. There are different kinds of knowing which we must sort through before we can begin to understand the difference between the appearance of doing nothing and doing nothing.

Obviously, the **first requirement of knowing** is that one is aware of what is wrong or going on.

Sometimes, we assume that others see the same things that we do and, therefore, should know and act upon that vision. However, not every one is in tune to the same things nor are they taught to pick up on the same stimuli in the same manner. Thus, the trained police officer observes a drug deal going down when the average citizen would see only a brief encounter between two friends. The police officer riding through a neighborhood is not likely to distinguish between people who belong in a neighborhood and those who don't, especially if there are generally a lot of people out during the times he is riding through. Housing managers, similarly, often do not know the drug dealers in the area and are not aware of their hang outs and where they visit.

It is imperative that residents and the police, as well as anyone else who perceives something that they believe is wrong, make the manager aware of their observations and concerns. This insures that similar knowledge is available to all parties.

The **second requirement of knowing** is that the knowledge fits with our definition of wrong, or something about which we are empowered to act.

When we deal with housing management, that which is worth knowing is contained in the contract between the Authority and the resident, the lease. Thus, what we have knowledge of must be a clear violation of this contract with our residents. It is the lease that spells out the obligations of both the Authority and the resident, the willful violation of which will cause one to become involved in the courts.

Unfortunately, most of our lease provisions are written in legalese and HUD jargon making it difficult for either the manager or the resident to interpret. Because of this obfuscation of the obligations, most residents can honestly say that they don't know what is actually required of them or what their legal obligations are. In other words, they can argue that what we know doesn't count or have any legal meaning upon which we can act.

Take, for example, the language of the Charlotte Housing Authority's current lease concerning who can stay with a resident and their obligations:

- "8. **Tenant's Obligations.** In addition to the obligations set forth elsewhere in this lease, Tenant shall be obligated:
 - a. to use the dwelling only as a private dwelling for Tenant and the members of Tenant's family, as identified and accepted by the Authority, except that the

dwelling may be used to accommodate Tenant's guests for reasonably limited periods, provided such guests observe the reasonable rules and regulations of the Authority applicable to residents of the Project;"

Consider, in contrast to this language, the language in our new lease being considered by our Commissioners and residents:

"14. **WHO CAN VISIT AND WHO CAN MOVE IN**

...

I and members of my household may have visitors or guests. A visitor or guest is someone who is not named on the lease and who does not use my apartment as a residence or stay in my apartment on a regular basis during the day or night. Although the CHA and I may disagree about who is a visitor and who is not, I agree that I must get the CHA's permission before I may let anyone stay more than two (2) weeks.

All visitors or guests to any member of my household must obey CHA rules. I am responsible for the activities of all such visitors or guests, and other persons under control of members of my household while they are on CHA property or staying at my apartment. If they violate CHA rules and regulations while I am not present, I will still be subject to the loss of my apartment and/or any other charges levied by the CHA for damages or violations of the rules. Paragraph 16 below says more about my responsibility for visitors or guests."

In order for knowledge to be significant enough to act upon, therefore, it must have a clear referent in the lease. The clearer the requirements set forth in the lease, the easier it is for the housing authority to act upon a problem or concern.

The **third requirement of knowing** is that the knowledge that we have must be capable of being verified. It cannot be hearsay or rumor. We must have first hand knowledge or be capable of presenting acceptable evidence of the event or, in our case, lease violation.

When a fourteen year old boy came to me one day to tell me that a fifteen year-old I had been transporting back and forth to basketball practice from one of our developments had asked him to go to work for him, I knew that something was wrong. When I asked him what he wanted him to do and what he had said, he told me that he wanted him to haul drugs for him from one place to another and he told him that "he couldn't run as fast as he could". I later learned that same fifteen year-old had purchased a new 380-Z with cash and that he was buying hamburgers and fries for everyone after games.

I knew that this young resident of Earle Village was selling drugs. But I didn't know it in a way that would not jeopardize my major source of information, my son. Without either first hand knowledge or some other means of corroborating "what I knew", I would have to have my son testify in order for it to hold up in court and, even then, the case would be weak circumstantial. Thus, we often don't

act on what we "know" because it might jeopardize our residents or sources without assurance of achieving our objectives.

Most of what we know when we consider lease terminations will be hearsay. Even police reports may be considered to be hearsay unless we have a police officer who has knowledge of the report testify to its authenticity. The same is true for documents obtained from other sources.

While this may seem to be an added burden when one considers presentation of a case, it can be a benefit as well. The officer or resident who testifies usually has a lot more knowledge that they can bring to the matter than the police report or initial report which they gave. They can testify to other occasions when they encountered or observed similar or related violations. Such first hand knowledge gives life to the allegations brought in an eviction hearing or grievance process.

The **fourth requirement of knowing** is that the knowledge must have been meaningful enough to cause one to act. If we first knew that an unauthorized guest lived was living with a resident a year or more ago and did nothing, then why should that same knowledge cause us to evict today. The courts and others will always ask "what makes the knowledge significant now if we haven't done anything about it in the past?"

In 1985, the North Carolina Supreme Court issued a decision which held that public housing assistance is a right of the recipient. As an entitlement, we cannot evict unless the resident wilfully violates the rules and regulations. Thus, once we have spelled out what we know and how we know it, we have to insure that the residents knew in the same manner that we knew. That is, we must insure that they knew they were in violation of the lease.

This is why what we do with our knowledge is so important. What efforts do we make to insure that residents understand the lease and its requirements, especially regarding those actions or inactions which could result in termination of their lease? How have we made them aware of lease violations or potential violations of the lease?

Too often I encounter a road block in an eviction because the head of house changed and the new head of house never signed a lease in their name. When this happens, we increase our chances of losing any action against the resident if they challenge that action because our primary piece of evidence that the family had ample knowledge of the requirements has not been verified by the resident's signature. The same is true with re-examination documents listing current occupants.

The Charlotte Housing Authority has made a significant step toward insuring the residents know and understand the lease. Starting July 3, 1990 and ending December 1, 1990, the Authority will have met with all 5,000 residents residing in developments it manages. The purpose of these meetings was to insure that every resident understood their lease and the Drug-Free Public Housing Policies of the Charlotte Housing Authority.

The **fifth requirement for knowing** involves the willful nature of the actions by the resident. Did the resident ignore warning or offers of help?

After you've sent warning letters explaining the lease violations and asking them to come in to talk

to the manager concerning these matters; after you've held conferences with them and had them sign an agreement that they understand the lease and their violations of the lease; do they continue to act in violation of that lease? This is the crucial requirement of knowing which can bring the kind of actions which citizens, the police and the residents desire in their lament that "the authority isn't doing anything".

Shared Knowledge

The authority often can't do anything because one of the elements of knowing is not present. They can't do anything if no one has told them. They can't do anything if it is not a violation of the lease. They can't do anything if it can't be verified or if verification jeopardizes residents or others. Nothing can be done if residents don't know it is a violation. However, once we are certain that the resident knows in the same way that we know, **then**, if they continue to do the same things, you will not be evicting them, but they will have evicted themselves. No grievance panel or court will disagree with your knowledge if you have done these things.

You will find that even the resident will agree with your conclusion that they must go because they are in violation of the lease. The evidence is irrefutable and the conclusion undeniable.