



Monthly Newsletter

February 2024

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Winter storms result in mostly fence and moisture damage.

California has a history of unpredictable rainy seasons. This year has been wetter than average, but barely, and “average” is not really a thing. The epic Winter of 2023 is actually helping us because we fixed many issues of concern last year, and were able to avoid them this season. That said, there are still problems that we have been dealing with, including lots of fences falling down and the usual moisture intrusion issues that come with heavy rain.

Fences are, of course, relatively easy to fix. The more difficult issue for us is when tenants complain of “mold.” In the Environmental Hazards pamphlet that we distribute to all tenants when they sign their leases and rental agreement, it states that mold is “present virtually everywhere, indoors and outdoors” and that the “California Department of Public Health (CDPH) does not recommend testing as a first step to determine if you have a mold problem.” The pamphlet goes on to list a number of reasons for why testing is not an advisable first step, among them that “there are few available standards for judging what is an acceptable amount of mold” and that “some people are much more sensitive to mold spores than are other people, [so] mold testing is at best a general guide.”

With all that in mind, dealing with a suspected mold problem really is a case-by-case situation and sometimes testing is advisable to determine if the amount of mold is any different indoors versus outdoors.

General Cleanup Procedures are as follows:

- Find and remove sources of moisture;
- Find and determine the extent and area of visible mold growth;
- Clean and dry moldy areas – do not allow dust from the moldy areas to get into the rest of the home; and
- Bag and dispose of all material that may have moldy residues, such as rags, paper, leaves, and debris.

One thing to keep in mind is that most insurance policies exclude mold but do cover moisture damage that results from a sudden burst of a pipe or other covered incident. The difference between mold damage and moisture damage is often a tricky distinction.

Q1 nonresident withholding will be sent to FTB in April.

California West encourages all of our nonresident clients to obtain withholding waivers and forward those to us at your earliest convenience.

We have heard reports from some nonresident clients that other management companies do not withhold. Even though that would be nice for all of us, because withholding is a hassle, it is not our understanding of the law. In fact, the Franchise Tax Board (“FTB”) has a detailed explanation of the rules for property managers on its website:

<https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/august-2020/property-managers-and-california-withholding.html>

In short, withholding agent rules apply to any “property manager providing services to nonresident property owners, including but not limited to renting, leasing, or collecting rent or lease payments on behalf of the nonresident owner.” The FTB requires property managers “to withhold 7% on rent or lease payments to nonresidents when the total payments of California source income, excluding property management fees, exceed \$1,500 for the calendar year.”

That said, California nonresident property owners may qualify for a waiver, which they can obtain by submitting a “Form 588, Nonresident Withholding Waiver Request” to the state of California. The most common reason that we have seen for successfully obtaining an exemption is when the client has “state tax returns on file for the two most current taxable years ... [and] is considered current on any tax obligations with the Franchise Tax Board (FTB).” We strongly encourage our clients to submit a waiver request every two years (they are valid for two years) and forward us the Waiver Determination Notice once received. The success rate is quite high for clients who go to the trouble of filling out the paperwork. The quickest way to get the waiver approved is online through the FTB website (<https://www.ftb.ca.gov/myftb>) but the Form 588 can also be printed and mailed to the FTB.

Logistically, the way we comply with the withholding requirement is that we collect rents at the beginning of each month and send the proceeds to our clients later each month, minus withholding and other expenses. We then hold that withheld money in a trust account and forward it to the state of California on a quarterly basis. The next payment to the state of California is due in April.

With that April deadline in mind, if you have had money withheld by us and you have not yet sent us your Waiver Determination Notice then please do so at your earliest convenience, so that we may stop withholding and if you get that to waiver notice to us before we send the money to the FTB then we can cancel the prior the withholdings and send the previously withheld money to you. If we do send the money to the FTB then you will have to request a refund if appropriate, which will most likely be done when you file your 2024 tax return.

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