

# Monthly Newsletter

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## The difference between a lease assignment and a sublease.

California West permits assignments of lease but prohibits tenants from subleasing. This is sometimes a confusing distinction.

When a tenant (T1) assigns an interest in a lease to another tenant (T2), the new person must comply with the terms of the original lease and the landlord may enforce that lease against both T1 and T2 if there are ever any problems.

When T1 subleases to T2, however, the landlord only has an agreement with T1. If T2 starts causing problems, or if T2 fails to pay rent, then the landlord's only recourse is against T1, who must then enforce a separate agreement against T2. Of course, this becomes difficult if T1 is no longer living at the property.

Assignments are clearly preferable to sublease agreements. That said, in a perfect world, California West would prohibit all lease assignments and all sublease agreements.

The problem with prohibiting lease assignments, however, is it encourages tenants to illicitly sublease their apartments if they must leave a property before the end of their lease. If a person has to move, a person has to move — and a person will move.

Over the years, we have found that allowing tenants the option of assigning their lease to others, although not ideal, is better than tempting them to sublease their property without telling us.

Similarly, to encourage compliance with our procedures, we also have a policy that tenants who correctly assign their lease are no longer responsible for that lease. Of course, the person to whom the lease is being assigned must be approved in the same manner as the original tenant. And we charge a processing fee for this service. But it gives tenants a realistic option if they must move.

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## How California West deals with roommate issues.

At California West, we expect our tenants to solve their own roommate problems. We do not match roommates and we also do not rent by the room.

As a general policy, when we rent a house or apartment to a group of tenants, one of the requirements is that everybody comes to us as a group. Every person who is over 18 years of age and who will be living at the property must fill out a separate application, be approved separately, and must be on the lease or rental agreement.

We do not allow one person to be responsible for a property and everybody else to just live at the property because that gets into sublease issues which we wish to avoid.

Furthermore, our lease agreements are "joint and several" which means that every person is on the hook for the entire property and if any roommate starts causing a problem then we are not in the difficult position of figuring out which roommate to blame. We expect everybody on the lease or rental agreement to ensure that there are no problems at the property.

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## Refinancing might be a wise strategy.

For people who own investment properties, a sometimes overlooked strategy is to periodically refinance your mortgage at a better rate. Of course, this only works when rates are falling but it's never a bad idea to check your options.

Rates are higher today than they were at times in 2013, but rates are still at historically low levels.

California West does not have anybody on staff who works on mortgage financing, but we are happy to coordinate with tenants for an appraiser to visit our clients' properties during the refinance process.

The best thing for our client to do is to periodically check with local banks and other lending institutions, or with a mortgage broker, to compare rates.

The mortgage financing market is constantly changing and it makes sense to call your local bank or mortgage broker to see if you can possibly reduce that monthly expense.

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