

RECREATIONAL VEHICLE PARKS' RIGHTS AND DUTIES RE "MEGAN'S LAW"

The recent availability of the "Megan's Law" website, www.meganslaw.ca.gov, has resulted in an outpouring of concern from residents who discover that a registered sex offender is living in their community. Park owners and managers need to know their rights and obligations in dealing with applicants for tenancy and existing residents who are discovered to be registered sex offenders. The purpose of this article is to provide guidance on these issues.

Permitted and Prohibited Uses of the Megan's Law Database

The key point to remember is that information obtained from the Megan's Law database, including the website, may only be used "to protect a person at risk." Penal Code § 290.4(e)(1). The information so obtained cannot be used to discriminate in housing, including the rental of a space in a recreational vehicle park. Penal Code § 290.4(e)(2)(G). It therefore cannot be used as the basis for either denying an application for tenancy or terminating an existing tenancy.

Processing Applications For Tenancy

A good argument could be made that, in the case of a recreational vehicle park or other housing facility that is full of children, denial of a convicted child molester's application for tenancy is required "to protect a person at risk." However, as a general rule, the Park should not use any information obtained from the Megan's Law database in denying an application for tenancy. We recommend that the Park not investigate an applicant by means of the database, since this information cannot be used to deny an application for tenancy, but could be used against the Park in the event the sex offender commits another offense in the Park. Residents will be upset that the Park approved the applicant when the Park was aware that he or she was a registered sex offender.

Information obtained from other sources can be used in making the decision whether to approve or reject an application for tenancy. The Park can ask an applicant if he or she has been previously evicted. This can also be determined by checking the UD Registry.

Terminating Tenancy

A tenancy in a recreational vehicle park of less than nine (9) months duration can be terminated without stating a reason on thirty (30) days written notice, pursuant to Civil Code § 799.66. But again, the information obtained from the Megan's Law database can only be

used to protect a person at risk. Thus, simply discovering that an existing tenant is a registered sex offender will not in and of itself constitute grounds for termination of tenancy. There must be a reasonable basis for believing that removal of the person from the Park is required to “protect a person at risk.”

The grounds for terminating a long-term tenancy in a recreational vehicle Park are limited by statute. Typically, a criminal offense would constitute a violation of park rules and regulations. However, the utility of this provision is limited, since the Park must serve the violating resident with a seven (7) day notice to correct the rule violation.

The Park may also be able to evict the sex offender on grounds of “substantial annoyance,” pursuant to Civil Code § 799.70(c), if Park residents are willing to testify against the sex offender.

Addressing Residents’ Concerns

How is Park management to deal with residents who complain about the presence of a registered sex offender amongst them, or demand that the sex offender be evicted?

- The on-site management should acknowledge the complaining person’s concern. However, management should not confirm or deny that a resident is a registered sex offender. Instead, management should explain that all residents are entitled to privacy, and that management cannot discuss one resident with another resident.
- If the complaining person asks why the person he or she believes to be a sex offender was approved for tenancy, explain that information obtained from the Megan’s Law database cannot be used to deny housing.
- If the complaining person demands that Park management evict the suspected sex offender, explain that tenancy in a recreational vehicle park can only be terminated on specified grounds, and that a crime committed prior to commencement of tenancy is not one of them. However, assure the complaining person that, if Park management becomes aware of any new inappropriate behavior, Park management will take appropriate steps.

- Suggest to the complaining person that, if he or she observes any suspicious behavior, he or she notify local law enforcement. Law enforcement officers can take actions that private citizens cannot. Penal Code § 290.45 authorizes a peace officer who reasonably suspects that a child or other person may be at risk from a sex offender to notify educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender, as well as other community members at risk.
- Consider inviting a representative of law enforcement to address Park residents at the Park clubhouse.

Conclusion

In summary, Park management should not disclose an individual's status as a registered sex offender and should not discuss that status with anyone else. If an on-site manager observes suspicious activity, he or she should notify law enforcement.

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