

# SMARTPRO™

*The Property Managers Errors & Omissions Insurance Program*

## Property Manager Claim Scenarios



*Below is a listing of potential Property Manager Claim Scenarios:*

1. A property manager is aware of an incident, such as a slip and fall. He does not report this incident to the buildings insurance carrier, as the person got up, brushed themselves off and walked away. A few months later, a lawsuit is received. The insurance carrier for the building declines for late notice. The owner of the building in turn sues the property manager.
2. A property owner brought suit against the property manager of a retail location for lost income, alleging the property manager failed to provide an adequate level of services. The property owner charged that the property routinely had an insufficient number of security personnel and parking lot attendants on the premises and that the property manager was negligent in maintaining the exterior of the building and parking lot.
3. During the course of the sale of a commercial property, a title agent reported over \$300,000 in liens against the property placed by local officials for unpaid fines for repeated safety violations. Upon investigation, it was discovered that an employee of the property manager was discarding the safety inspection reports issued by local officials and ignored the cited violations and accumulating fines. The property manager was able to resolve the code violations while local officials agreed to reduce the fines. The owner was able to recover the value of the fines and other related damages from the property manager.
4. Suit was brought against a residential property manager for the alleged failure to pay interest to tenants in a timely fashion at the appropriate rate, failure to disclose certain local code violations and failure to advise tenants of specific local regulations. As there were numerous tenant plaintiffs, the suit was styled as a class action and incurred significant defense costs even though most of the allegations were eventually dismissed.
5. Suit was brought against a residential property manager by the property owner alleging breach of contract with respect to numerous duties, including the failure to maintain an acceptable level of active leases, failure to collect and forward security deposits and rental income, failure to maintain adequate expense records, failure to pay vendors in a timely fashion and failure to supervise on-site personnel. Damages included lost revenues and expenses incurred as a result of the alleged breaches.
6. A property manager was sued, along with the former property owner, for misrepresentations made to the new property owners during the purchase process. Allegations included the omission of allegedly known facts regarding the condition of the property, as well as inaccurate representations regarding the status of future maintenance and repairs. The new property owners sought restitution for the diminished property value and loss of rental income.
7. A property manager sub-contracted a janitorial service to clean a tenant's premise that had an Automated Teller Machine on-site. The janitorial service had access to the secure area from which the ATM could be serviced, and failed to turn the alarm back on after cleaning the area. An undetected burglary occurred and the owner of the ATM made a claim against the property manager alleging the property manager failed to supervise the sub-contractor and failed to use due diligence in the selection of the sub-contractor.
8. A property manager was contracted by a policy owner to manage a strip mall. Several tenants refused to renew their leases and moved their stores to competing mall properties in the local area, citing the condition of the sidewalks and general disrepair of the building exterior as the reason for relocating. The property owner brought suit against the property manager for negligence and breach of contract, alleging that the property manager was aware of the maintenance issues and did not undertake reasonable efforts to correct the problems. Damages sought include the loss of rental income from the vacated leases as well as expenses incurred to acquire new tenants.
9. A Property Manager fails to place insurance or fails to renew coverage on a location only to see a claim result.
10. A Property Manager fails to obtain Certificates of Insurance from contractors for WC, resulting in the building being liable for additional premium for hiring uninsured contractors.
11. A Property Manager mishandles accounting and financial matters, resulting in penalties, cancellation of service, or fines.
12. A Property Manager exceeds the authority under the contract they have with the building by making decisions without a board or owner's permission such as hiring a contractor, purchasing equipment etc.
13. A Property Manager fires an employee of a building and is sued for discrimination.
14. A Property Manager is sued for Wrongful Eviction, Invasion of Privacy or Wrongful Entry.



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### 1. Protect and Preserve

Property managers are often torn between protecting and preserving the general liability loss ratios of their clients and reporting incidents for which there is little chance of claim. When there is a legitimate belief that “no claim occurred,” a property manager can find themselves being sued by their client when a claim materializes and is denied for late notice.



### 2. Down, Out and In

In good economic times and in bad, property owners look for excuses when the revenue that they expected of a property is “down.” Property managers can soon find themselves “out” when suits alleging inadequate service come “in” regarding inadequate security attendants or inadequate maintenance of the properties.



### 3. Nest Egg

Property managers rely on their system and personnel to administer the properties in their charge. Problems occur when either a system or an employee is not up to the task. Unfortunately these failures can “nest” until a situation brings them to light. Take the situation in which an irresponsible employee ignored safety violations. When the property was ready for sale, a title search discovered \$300,000 in liens as a result of fines from the local municipality. That’s just one “egg” sample of what can go wrong.



### 4. All Along The Watchtower

Property managers grow by bringing in new clients. But often property managers are taking over from other property managers who were under-performing. The problem is that during the new property manager’s “watch” problems are discovered. The current property manager is on “top” of the “tower” consisting of consecutive property managers. Consider the case of a property manager who took over a schedule of properties; while integrating the properties into their processes, a loss at one of the locations revealed that there was no insurance on the property. All the property managers in the tower were sued.



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