

Student Housing or Just Apartments? Understanding Effects of Residential Landlord- Tenant Ordinances on Student Housing Developments

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As colleges and universities search for new ways to stay on the cutting edge of the student housing market while still maximizing every dollar spent, more are contemplating partnerships with private developers. These partnerships can help colleges and universities develop cost-effective student housing projects but also can generate additional challenges if the deal is not structured in a way that is sensitive to existing **residential landlord-tenant ordinances (RLTOs)**.

Most municipalities have RLTOs which govern the mechanics of the landlord-tenant relationship, including security deposits, standards for habitability, and eviction proceedings. Depending on the municipality, there may be exclusions which exempt student housing from these onerous requirements, but taking advantage of these exemptions can be challenging in a deal with a private developer. As more private developers become involved in the construction and operation of student housing, the lines between the traditional on-campus dormitory and the off-campus apartment have become blurred and it can become unclear if a RLTO will apply to the development. If the university and the developer do not structure the deal with the RLTO in mind, the student housing development could be subject to additional inspection processes, longer and more complex lease agreements, and even requirements for judicial proceedings to remove students from housing.

In order to avoid these issues, it is first important to understand the legal framework governing the residential landlord-tenant relationship in your area and to identify any exclusion for student housing. Second, a college or university should understand the level of control and involvement required of the institution in order to qualify for the exclusion. For example, in Chicago, student housing that is controlled or supervised by an institution of higher learning may be exempt from Chicago's RLTO, even if the institution does not own the property. Finally, a college or university should work with its private developer to structure a transaction which can take advantage of any relevant exemptions. This might include putting university-trained resident assistants on floors occupied by students within a privately owned development or including the development in a university-run housing lottery.

By beginning a development project with awareness of the legal framework governing the municipality in which the project is located, institutions can successfully collaborate with private developers, while still retaining the benefits and exemptions granted to traditional student housing.

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