

**PUBLICATIONS**  
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***BOOK CHAPTERS***

2011-12      *Eviction and Subsidy Terminations*, in HUD HOUSING PROGRAMS: TENANTS' RIGHTS Ch. 14 (National Housing Law Project, 4th ed., forthcoming 2011-12).

***LAW REVIEW ARTICLES***

2011-12      *To Be or Not to Be Unpublished: Housing Law and the Lost Precedent of the Minnesota Court of Appeals*, 35 HAMLIN L. REV. \_\_\_\_ (forthcoming 2011-12).

2009          *Wait a Minute! Residential Eviction Defense in 2009 Still is Much More than "Did You Pay the Rent?,"* 35 WM. MITCHELL L. REV. 762 (2009), on Westlaw at 35 WMLR 762.

Reviewed in M. Levin, *Digest of Selected Articles*, 38 Real Est. L. J. 510 (Spring 2010):

Unlawful detainer (summary eviction) laws often lull landlords, tenants, and lawyers into thinking that all eviction cases are simple matters of whether the tenant paid the rent or breached the lease or failed to vacate in a timely manner. This article challenges this notion by examining the complex mixture of potentially applicable laws: state statutes governing evictions and general landlord-tenant relations, the common law of property and contracts, municipal ordinances, and a variety of potentially applicable federal laws governing fair housing and public and subsidized housing programs. While this article focuses on applications of the law in Minnesota, it is representative of how the confluence of several legal sources makes the areas of eviction and general landlord-tenant law confusing and challenging.

This article is presented as a follow-up to a 2001 article by the same author that focused on state landlord and tenant statutes and common law. In this article, the author addresses an exhaustive range of matters relevant to defenses in eviction proceedings. I have chosen not to elaborate here, but merely to provide a representative list of topics addressed: situations of uncertainty regarding the existence of a landlord and tenant relationship, special rules regarding public and subsidized housing, jurisdictional issues, stay of evictions pending other litigation, satisfying technical preconditions to recovery of the property, special rules regarding tenants who are in military service, covenants of

habitability, rental licenses, rent issues (e.g. conditions precedent, notices regarding rent increases, late fees, waiver, accepting partial payments, amount due, utilities and other charges), tenant redemption rights, violation of tenant privacy and security, illegal activity, potential application of the Fair Debt Collection Practice Act, whether multiple tenants have joint liability, rights and responsibilities regarding foreclosed properties, retaliatory evictions, issues regarding notices, discrimination, manufactured home park lots, potential application of the Uniform Relocation Act, specific issues regarding breach of lease defenses (e.g. no right of entry clause, implied waiver or modification of a lease term, unilateral modification, waiver of breaches by acceptance of rent, reasonable accommodation of disabilities, unconscionability, materiality of breach, cure of lease violations, tenant guest and trespass rules, eviction for emergency police calls, evicting one tenant among others, combining actions for nonpayment of rent and lease violations), post trial issues (e.g. motions for costs, disbursements, and attorney fees), and appeals.

An eviction case can be as simple as determining whether the tenant paid the rent. This is far too narrow a view, however, in many cases. One needs to fully appreciate the complex mix of potentially related laws to properly evaluate the rights of landlords and tenants.

Cited in:

- *How Evictions from Subsidized Housing Routinely Violate the Rights of Persons with Mental Illness*, 5 NORTHWESTERN JOURNAL OF LAW & SOCIAL POLICY 118, n 87 (2010)
- A. Juergens, *Forward*, 35 WM. MITCHELL L. REV. 754, 759 n.21 (2009).

2009 *The Practical Impact of the Court of Appeals: A Panel Discussion*, 35 WM. MITCHELL L. REV. 1334 (2009), on Westlaw at 35 WMLR 1334.

2009 *Minnesota Tenants Gain More Rights in Foreclosure Through Effective Legislative Task Force Collaboration*, 42 CLEARINGHOUSE REVIEW 596 (March-April 2009).

2007 *Wait a Minute: Slowing Down Criminal Activity Eviction Cases to Find the Truth*, 41 CLEARINGHOUSE REVIEW 55 (May/June 2007), posted at <http://hamlinetpc.homestead.com> under Reading, and Residential Unlawful Detainer and Eviction Defense.

Reviewed by Legal Services of Northern California,  
<http://lsnc.net/housing-programs>:

[The] definitive article by Larry McDonough, adjunct law professor and Managing Attorney at Legal Aid Society of Minneapolis, on practical steps to defending evictions based on alleged criminal activity in most major federal housing programs, including Public Housing and Section 8 programs.

Cited in:

- F. Fuchs, *Defending Families and Individuals Threatened with Eviction from Federally Subsidized Housing, Home-funded Properties, §515 Rural Rental Housing, §8 Moderate Rehabilitation, Shelter plus Care, and Supportive Housing, Hopwa, Tax Credit Housing, Section 8 Housing Choice Voucher Program, Public Housing, and Project Base Voucher Program* at 26-27 (Texas Rio Grande Legal Aid 2010);
- J. Smith, *From Arrest to Reintegration: A Model for Mitigating Collateral Consequences of Criminal Proceedings*, 24-FALL CRIM. JUST. 42, 47 (2009)
- L. McDonough, *Wait a Minute! Residential Eviction Defense in 2009 Still is Much More than “Did You Pay the Rent?”*, 35 WM. MITCHELL L. REV. 762, 845, 847-48, n.487, 493-95 (2009)
- S. Fischlowitz & P. Knapp, *From Here to Next Tuesday: the Minnesota Public Service Program, Ten Years After*, 26 HAMLINE J. PUB. L. & POL'Y 223, 236 n.15 (2005) (citing early draft).

2006 *Still Crazy after All of These Years: Landlords and Tenants and the Law of Torts*, 33 WM. MITCHELL L. REV. 427 (2006), on Westlaw at 33 WMLR 427.

Cited in:

- *Cause of Action Against Landlord for Injury Caused by Dangerous or Defective Condition of Stairs or Steps on Residential Premises*, 41 CAUSES OF ACTION 2D 625 (2009)
- L. McDonough, *Wait a Minute! Residential Eviction Defense in 2009 Still is Much More than “Did You Pay the Rent?”*, 35 WM. MITCHELL L. REV. 762, 802 n. 255 (2009)

Also listed in CLINICAL LEGAL EDUCATION ASSOCIATION (CLEA) NEWSLETTER, Books and Publications, at 41 (May 2007).

2001 *Wait a Minute! Residential Eviction Defense is Much More than “Did You Pay the Rent?”*, 28 WM. MITCHELL L. REV. 65 (2001), on Westlaw at 28 WMLR 65.

Cited and quoted in *Conseco Loan Finance Co. v. Boswell*, 687 N.W.2d 646, 2004 WL 2340107 (Minn. Ct. App. Oct. 19, 2004).

Also cited in:

- W. Ross, *Protecting the Unsophisticated Tenant: a Call for a Cap on Late Fees in the Housing Choice Voucher Program*, 34 SETON HALL LEGIS. J. 227, 236, 239 n. 51, 56-58, 80, 83 (2010)
- *Down and Out and Now Kicked Out: Residential Lease Evictions and the Automatic Stay*, 23 EMORY BANKR. DEV. J. 585, 588 n.27 (2007)
- *Recent Developments in Kansas Residential Landlord-tenant and Eviction Law*, 55 U. KAN. L. REV. 933 n.3, (2007)
- *State Court Rules and Practices Regarding Special Masters*, SM051 AMERICAN LAW INSTITUTE-AMERICAN BAR ASSOCIATION 87 (2006)
- L. Jokela & D. Herr, *Special Masters in State Court Complex Litigation: an Available and Underused Case Management Tool*, 31 WM. MITCHELL L. REV. 1299, 1325 (2005)
- R. Cockey, *Where Left Meets Right: a Case Study of Class-based Economic Discrimination Through Zoning in Salisbury, Maryland*, 3 MARGINS: MD. L.J. RACE, RELIGION, GENDER & CLASS 71, 95 n.111 (2003).

1983 *Overcoming Barriers to Solar Energy Development in Minnesota*, 1 WM. MITCHELL ENV'T L. J. 1 (1983), posted at [http://heinonline.org/HOL/Page?handle=hein.journals/wmelj1&div=4&g\\_sent=1&collection=journals](http://heinonline.org/HOL/Page?handle=hein.journals/wmelj1&div=4&g_sent=1&collection=journals)

1982-83 Co-Executive Editor, 1 WM. MITCHELL ENV'T L. J. (1983), posted at [http://heinonline.org/HOL/Page?handle=hein.journals/wmelj1&div=4&g\\_sent=1&collection=journals](http://heinonline.org/HOL/Page?handle=hein.journals/wmelj1&div=4&g_sent=1&collection=journals)

1981-82 Staff Writer, 8 WM. MITCHELL L. REV. (1982).

#### **ONGOING PUBLICATIONS**

1988 - *Residential Unlawful Detainer and Eviction Defense* (1<sup>st</sup> ed. 1988 through 11<sup>th</sup> present ed. May 2010): manual, forms, and unpublished decisions appendix, on the internet at <http://www.povertylaw.homestead.com> (under Readings and Residential Unlawful Detainer and Eviction Defense), a website supporting poverty law courses, and at [www.projusticemn.org](http://www.projusticemn.org) (for members, under Civil Law, Library, Housing, and Eviction Defense), a site supporting public interest and *pro bono* work by attorneys and law students, and presented at Volunteer Lawyers Network's Housing Law Institutes since 1988. The manual is used by attorneys, advocates, and laws school clinics in Minnesota and around the country.

1990- Housing Fact Sheets for the Minnesota Legal Services Coalition, posted at present <http://www.lawhelpmn.org/MN/index.cfm>

2000- Advisor to [www.projusticemn.org](http://www.projusticemn.org) and [www.probono.net](http://www.probono.net), sites supporting

*present* public interest and *pro bono* work by attorneys and law students.

#### **MANUALS, ARTICLES, REPORTS, NEWSLETTERS, AND INTERNET MATERIALS**

- 2011 *Hamline Trial Practice Clinic Highlights, and Public Service Work*, AALS Clinical Section Newsletter at 16-17, 47, (Spring 2011).
- 2011 *2010 Hennepin and Ramsey County Housing Court Judge Review Cases* (Report prepared for the Minnesota Senate Judiciary and Public Safety Committee. April 2011).
- 1996 Co-author, *Residential Landlord-Tenant Claims in Conciliation Court: A Bench Book for Conciliation Court Referees* (Minn. Dist. Ct. 4<sup>th</sup> Dist. 1996).
- 1993 Co-author, *Summary Residential Landlord-Tenant Actions in Housing Court: A Bench Book for Judges, Referees and Mediators* (Minn. Dist. Ct. 4<sup>th</sup> Dist. 1993).

#### **CURRENT RESEARCH**

Use of regional substantive law mentors in doctrinal courses

Methods for supporting the work of adjunct clinicians

Survey and comparison of housing law clinics

Comparison of state common law and statutes around the country concerning whether tenants can sue landlords in tort for injuries resulting from habitability problems

An official observer's critique of the work of the National Conference of Commissioners on Uniform State Laws Committee on Revision of the Uniform Residential Landlord and Tenant Act

Review of common law and statutes requiring corporations and limited liability corporations to be represented in courts by attorneys

Application of the Fair Debt Collection Practices Act to eviction actions for rent filed by attorneys