



# Real Property

## Class 7



# Duties of the Landlord – Part 1

## 1. Possession:

- Split in jurisdictions whether the landlord must **deliver possession** or merely **allow the tenant to take possession**
  - i.e., Does a landlord have to chase out a third party who is wrongfully possessing the land?
  - If the Landlord delivers partial possession, tenant can deduct the rent that corresponds to the share that was not delivered



# Duties of the Landlord – Part 2

2. **Quiet Enjoyment** (implied even if not spelled out in lease):
  - Landlord must not evict tenant in any way:
    - a) **Actual Eviction:** Either by physically evicting the tenant or by causing some else (such as a **bank** foreclosing on a mortgage) to do so.
      - Partial eviction cuts off the duty to pay rent until the tenant is restored!
    - b) **Constructive Eviction:** ("sing")
      - **Substantial Interference** with the tenant's enjoyment of the property
      - **Notice** to the landlord
      - **Goodbye!**



# Duties of the Landlord – Part 3

## 3. Implied Warranty of Habitability (residences only!)

- This applies if the landlord does not provide the tenant with premises suitable for living.
- Tenant's options:
  - a) The tenant can **move out** and terminate the lease.
  - b) The tenant can repair the condition and **deduct the repair price** from the rent due under the lease.
  - c) The tenant can reduce or withhold rent until a court determines what would constitute a fair reduction of the rent due to the condition.
  - d) The tenant can keep the lease going under the same conditions and **sue for monetary damages** caused by the breach of the implied warranty of habitability.



# Duties of the Landlord – Part 4

4. **Other duties** (implied even if not in lease):
- **Control common areas**
  - **Keep the premises in reasonable repair**
  - **Can't evict tenant as retaliation** for reporting a housing code violation



# QUIZ TIME!



# Duties of the Tenant

## 1. Pay Rent:

- Can be contingent on landlord's performance of his or her duties
- Is a prerequisite for tenant's right to remain on the property
- BUT: No "self-help" repossession for failure to pay rent!

## 2. Avoid Waste: (same as any present interest holder)

- Affirmative Waste
- Reasonable Repairs
- Ameliorative Waste (no substantial changes without landlord's consent)

## 3. Refrain from using the property for illegal uses



# Duties of the Tenant (cont.)

4. Honesty from the outset about intended purpose
5. Duty not to be a *nuisance* to the landlord or to other tenants
6. Duty to leave fixtures
  - Whether something is a fixture depends on:
    - Damage that will be cause by removal
    - Tenants intent when installing the item

