



# 2023 Risk Management Conference

Mitigating Today, Ensuring Tomorrow:  
Discover the Path to Resilience



# Case Studies on Negligent Security Claims and Legal Review

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# Where is the Plaintiff Attorney's Focus?

## Foreseeability and Atmosphere of Violence (AOV)

- Calls for Service (CFS): Plaintiff attorneys will rely on crime statistics and police calls for service to show that the landlord should have known or anticipated crime.



# Case Study: Foreseeability and AOV

- **Incident:**
  - 22-year-old male shot to death at insured location.
  - Unauthorized access through fence opening a point of contention.
- **Assistant property manager's testimony:**
  - Attempted to call the police but was reprimanded by the property manager.
- **Property manager's actions:**
  - Allowed convicted felons to live on the property.
  - Neglected tenant screening.
  - Preferential treatment and document forgery.
  - Arrested for public assistance fraud.
- **Security expert's evaluation:**
  - Foreseeability not a defensible argument.
  - Property not maintained in a safe and reasonable manner.
- **Settlement: \$1.2 million.**



# Where is the Plaintiff Attorney's Focus?

## What did or didn't you do?

- Failure to evict.
- Failure to inspect—inspectors search for defective maintenance conditions but inspectors' observations also reveal other things.
- Failure to transfer.



# Case Study: Failure to Transfer

- **Incident Timeline:**
  - **May 11, 2021:** 18-year-old male shot and left paralyzed.
  - **June 2021:** Emergency transfer requested and approved, but waitlisted.
  - **August 30, 2021:** 16-year-old brother shot at but not wounded.
  - **January 18, 2022:** 18-year-old shot and killed while in a wheelchair behind the home.
  - **January 2022:** Replacement unit offered (seven months later).



# Case Study: Failure to Inspect

- **Incident:**

- Child's death due to physical abuse.
- Allegations of neglect: Deprivation of nourishment, imprisonment, lack of light, furniture, heat, and bathroom facilities by foster parent.

- **Claim Against PHA:**

- Negligence claim based on failure to report under Maryland Family Law Code 5-705.
- Plaintiff claims inspector performed a negligent inspection, arguing a hole in the wall filled with feces would have been discovered.

- **Plaintiff Argument**

- Inspector admitted that she did not inspect the second floor

- **Defense Arguments:**

- Plaintiff relied on inadmissible speculation.
- The inspection was conducted six months before the child's death, and before the hole was discovered.
- There were no other witnesses against the PHA.

- **Settlement: \$10,000**

# Where is the Plaintiff Attorney's Focus?

## Physical Security of the Premises

- *Common area doors*: Are they secure?
- *Windows*: Do they all have working locking mechanisms?
- *Tenants routinely propping doors open*: Are lease violations issued to these tenants?
- *Overgrown shrubbery and bushes*: Could a criminal hide in the bushes?
- *Adequate lighting*: Does it work as designed? What is the intent of outside or hallway lighting?
- *Gates and fences*: Are they routinely broken?

**Defense Tip:** We managed to win on summary judgment by showing that the plaintiff had not proven proximate cause of the injury, specifically that the plaintiff had not shown the assailant came in through the broken front door as opposed to some other way.





# Where is the Plaintiff Attorney's Focus?

## What steps have you taken in regards to security?

- *Security Cameras:* Are they working?
- *Door Monitor:* Does this person have any authority?
- *Gated Doors:* creates the illusion the property is secured but is that the intent?

*Do your financial records indicate deliberate decisions to forego security investments?*



# Case Study: What Your Financials Reveal

- **Incident:**
  - Home invasion and robbery
  - Unknown armed assailant accosted plaintiffs as they walked between mailbox and apartment.
- **Defense Arguments:**
  - Lack of evidence that different security measures would have prevented the incident.
- **Judgement:**
  - Judge ruled foreseeability, contrasting persistent violent crime, high crime area, and prior security warnings against the PHA's recent security spending reductions.
- **Settlement: \$1.6M**



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How to Write Resident Communications That Deliver Results | 11:05 a.m.

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