

## INTRODUCTION

The articles of *Legal Problems of Landlord and Tenant* take innovative approaches in developing solutions to problems of the landlord-tenant relationship. Many of the old concepts, practices, and remedies have proved inadequate and are hampering efforts to alleviate the rental housing crisis. As a consequence, these articles are submitted with the hope that their fresh ideas will help to achieve a more modern and equitable relationship between the residential landlord and tenant.

*Tenant Unions: Growth of a Vehicle for Change in Low-Income Housing* is a broad survey of the growth of tenant unions in the 1960's. It first looks at some of the basic reasons for the sudden emergence of tenant unions and notes the early failures and the following successful efforts by tenant organizations in both private and public housing. It then deals with the most significant legal problems faced by the new unions and concludes with a cautious note of optimism for the future of the movement.

*The Residential Lease: Some Innovations for Improving the Landlord-Tenant Relationship* stresses nongovernmental efforts to improve housing conditions. It suggests that the residential lease be the vehicle for remedying particular areas of tenant dissatisfaction with existing conditions. It is submitted that by developing innovative lease provisions the residential lease can meet the tenant's needs while it satisfies the landlord's requirements. The article also places special emphasis on the necessity for compromise between the landlord and the tenant in order to accommodate mounting pressures, including those manifested by tenant organizations as well as economic demands.

*The Tenant as a Consumer* submits that the anachronous and archaic landlord-tenant concept of an agrarian age is no longer valid in today's urban society and that the old concept should be replaced by the modern, realistic, and equitable concept of the tenant as a consumer. The article develops the concept of the tenant as a consumer of housing, *i.e.*, space and services. It argues that because the tenant is a consumer in his own right and is under disabilities similar to those of the consumer of goods he should justifiably receive the benefits offered by a social and legal trend which has begun to protect the consumer of goods. The article suggests that the states should adopt a uniform tenant-as-a-consumer act to provide the needed relief for the consumer of housing and that until the uniform act is adopted the courts should conceptualize the tenant as a consumer and

apply existing consumer protection laws to the landlord-tenant relationship.

*Tenants in Court: The Class Action* discusses federal and state judicial and legislative approaches to the class action and their relationship to rental housing occupants. Noting that present federal court decisions bar the normal tenant class action, an examination is made of proposed federal consumer legislation to evaluate the possibility that tenants may thereby find access to federal courts. California case law is discussed in light of recent trends toward liberalization of the class action concept in the state, and recently passed state consumer legislation is evaluated in terms of its bearing on tenant class actions.

*California's New Legislation on a Landlord's Duty to Repair* focuses on one of California's most recent responses to its pressing substandard housing problem. The article first discusses the new legislation's historical context, giving particular attention to the economic and practical considerations which came to form the need for a public policy of landlord-performed repairs. It then examines and evaluates the impact of the new legislation, concluding that this legislation leaves much to be desired toward properly implementing the basic public policy behind it. Finally, a number of specific modifications are suggested for improving the new legislation's fairness and effectiveness.

*A New Tenant Remedy: Lender Liability for Structural Defects* formulates a new tenant remedy based on analogy to and extension of a recent development in California tort law. For the tenant who suffers personal, property, or economic injury because the leasehold property he rents becomes uninhabitable due to structural defects, an insolvent landlord may often leave him without recourse. In 1968, however, the California Supreme Court possibly paved the way for a new tenant remedy when in its landmark *Connor v. Great Western Savings and Loan Association* decision it held that a bank can be held liable to a homeowner for structural damage to his home. In exploring the new tenant remedy an analysis is made of the *Great Western* case and California Civil Code Section 3434, which is the unsuccessful result of bank lobbyists in California to limit the new lender liability. The analysis concludes that when a lender deviates from its normal financing practices it can be held liable for the defects in buildings constructed with its funds. The article submits that once this general liability is established a lessee is free to take action against the lender and that he should be in the position that the homeowners occupied in *Great Western*.

*Tax Incentives in Rental Housing and the Reform Act of 1969* summarizes the arguments for and against the use of federal tax in-

centives as a means of governmental action and describes income tax incentives given to real estate prior to the Tax Reform Act of 1969. Significant changes in income tax housing incentives contained in the new law are described and briefly evaluated in terms of their efficacy in meeting national housing goals. Comment is made on areas which may have influence in determining the size and quality of the national housing inventory but are not yet within the reach of federal income tax incentives. The article concludes that, compared to more direct subsidies, tax incentives are an inefficient method of allocating public economic resources. Yet the real estate tax shelter, still a part of our national tax policy for the 1970's, provides an important tax incentive to real estate investors. Those most directly concerned, tenants and homeowners, are excluded from participation. Continued reliance on indirect tax expenditures may very well make a decent home for every American an unattainable goal.

*Can Property Tax Reform Help the Low-Income Tenant?* considers ways to alleviate the impact of the property tax on rental housing. Because of the deterrent effect of the tax on investment in housing and its incidence on the tenant, the federal and many state governments have subsidized rental housing by property tax exemptions, abatement, and subsidies. In addition to government subsidization, substantive reform of the tax is considered. Theories evaluated are: site-value taxation or a proportionately higher tax on land than on improvements, a land value increment tax on increases in land values, an assessment based on income value rather than on capital value, and an increase of the property tax base with a tax on intangibles. No single one of these alternative theories is accepted as a panacea for the ills of the property tax, but a combination of these methods is suggested as an aid in solving the critical rental housing problem.

*The Editors*

