

**STUDENT GOVERNMENT
ACADEMIC AFFAIRS
COMMITTEE**

WILL MEET

**8:00 P.M. WEDNESDAY
CONFERENCE ROOM,
STUDENT PROGRAMS
OFFICE, MSC
EVERYONE WELCOME**

Off-campus living

Rental security deposits—3 fates possible

This article is the second in a series focusing on the landlord-tenant relationship. Subsequent articles will cover: repairs, subletting, roommates, raising rent and forums for complaints.

By **CHRIS KLING**
Student Legal Advisor

To paraphrase a football adage: "When you put up a security deposit three things can happen and two of them are bad." First, the security

deposit is returned in full to the student-tenant. Second, the landlord returns a portion of the security deposit to the student-tenant and retains a portion. Third, the landlord retains the full security deposit.

By definition, a security deposit is any deposit of money, regardless of amount, which is used to secure full or partial performance of a rental agreement for a residential premises. Virtually every apartment complex requires a security deposit.

The requirements, conditions and amount of deposit are governed either by a series of clauses in the rental contract/lease or by a separate security deposit agreement. By affixing his signature to a rental contract/lease and security deposit agreement, the student-tenant is legally bound by the terms and conditions of those agreements. The typical requirements for return of a security deposit include:

- (1) Occupancy by the student-tenant for the full term of the lease (usually 9 to 12 months);
- (2) Written notice at least 30 days prior to the termination date of the lease (note: the student-tenant will forfeit the deposit by failing to give 30 days written notice *only* if the requirement of advance notice is underlined or printed in conspicuous, bold print in the rental contract/lease);
- (3) The student-tenant has left a forwarding address with the landlord;
- (4) The apartment has been cleaned in accordance with the landlord's move-out cleaning instructions; and
- (5) Full payment of all rent due under the terms of the rental contract/lease.

If a student-tenant fully complies with all the requirements and conditions of the security deposit agreement, he is then entitled to have his security deposit returned in full. The landlord is required by law to either refund that security deposit within 30 days after the student-tenant surrenders the premises or furnish the student-tenant with a written, itemized list of all deductions within the same period.

When only a portion of the security deposit is returned to the student-tenant a question arises concerning the justification for the deduction. Generally, a landlord may make the following deductions from the security deposit:

- (1) Reasonable cleaning charges if the student-tenant failed to adequately clean the premises;
- (2) A fixed cleaning charge, generally for a commercial shampoo of the carpet;
- (3) Charges for unpaid sums due under the rental contract/lease, including rent, late payment fee, returned check fee, unreturned key fee, insufficient light bulb fee, etc.

While a landlord is prohibited from deducting any amount for rea-

sonable wear and tear, he may deduct for any damage resulting from carelessness, accident or abuse. Reasonable cleaning charges are generally subjective decisions of the landlord, motivated more by whim and caprice than by reason.

When a landlord determines that a deduction is appropriate he is required to return to the student-tenant the balance of the security deposit with a written description and itemized list of deduction.

Finally, when the landlord retains the full security deposit, two principal questions arise, i.e. why the retention and what future liability exists for the student-tenant? Various explanations exist for retention of the full amount of the security deposit. More frequently than necessary the owner, or his representative, the manager, has for one reason or another neglected to return the security deposit. In this situation a reminder from the student-tenant is the solution. However, a landlord may determine that just cause exists for retention of the security deposit. In this situation he may or may not furnish the written description and itemized list of deductions as required. If the landlord furnishes the list, the student-tenant may feel the deductions are unjustified for any of a variety of reasons. At this point the student-tenant is well-advised to contact the landlord in person or by

letter and present his objections to the deductions. If a satisfactory solution cannot be reached through open discussion, the student-tenant may then institute formal legal proceedings for a determination of justification for the deductions.

It should be remembered that a multiple occupant situation where an occupant is responsible for the condition of the premises.

If the landlord retains the full amount of the security deposit and fails to provide the student-tenant with a written description and itemized list of deductions, he subjects himself to a potential lawsuit to recover the security deposit. Such a lawsuit the landlord is liable to the student-tenant for the amount of the security deposit plus reasonable attorney's fees incurred. It is shown that the landlord acted in faith in retaining the security deposit, he becomes liable for the amount of the security deposit plus a \$100 penalty, plus reasonable attorney's fees.

The student-tenant must minimize that potential liability in the amount of the security deposit that exists. A clause explaining this liability is frequently included in the rental contract/lease or security deposit agreement. Such a clause present in the TAA security deposit agreement. However, the liability exists even in the absence of a clause.

**Library to award
\$800-plus prizes**

Student book collectors have until Friday to enter the fifth Texas A&M University Libraries' contest.

More than \$800 in prizes will be awarded Nov. 11 in the Friends of the Library event.

The contest is open to all students enrolled at Texas A&M for the fall semester, previous \$100 winners excluded. Collections will be judged to the extent their books represent a well-defined field of interest in which the owner has chosen to collect.

An entry consists of a completed entry form, a bibliog-

raphy, and a statement describing the collection. Students whose collections are named finalists by judges will be able to bring 25 titles they have chosen for final judging. Winning collections will be exhibited.

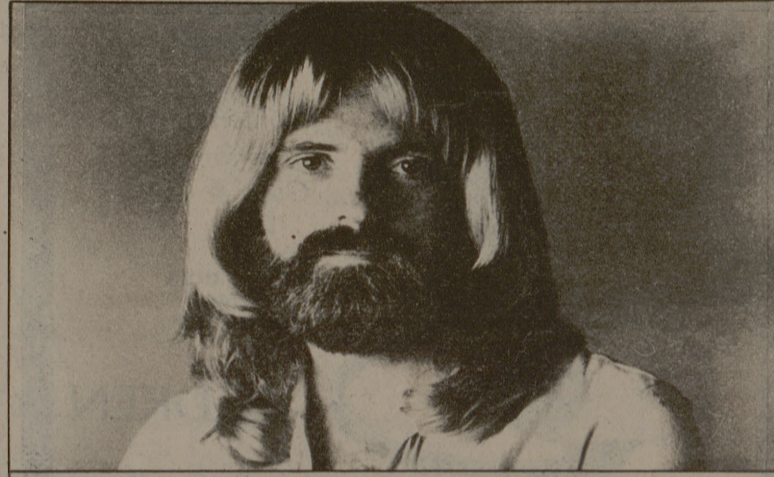
Entries should be turned in to a member of the contest committee. Chaired by David Chapman in Archives, the committee includes Dr. Irene Hoadley, director of libraries; Linda Dreier, special acquisitions; Evelyn King, special collections, and Sharon E. Smith, serials department.

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Tickets:
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Tickets & information at MSC Box Office 845-2916.

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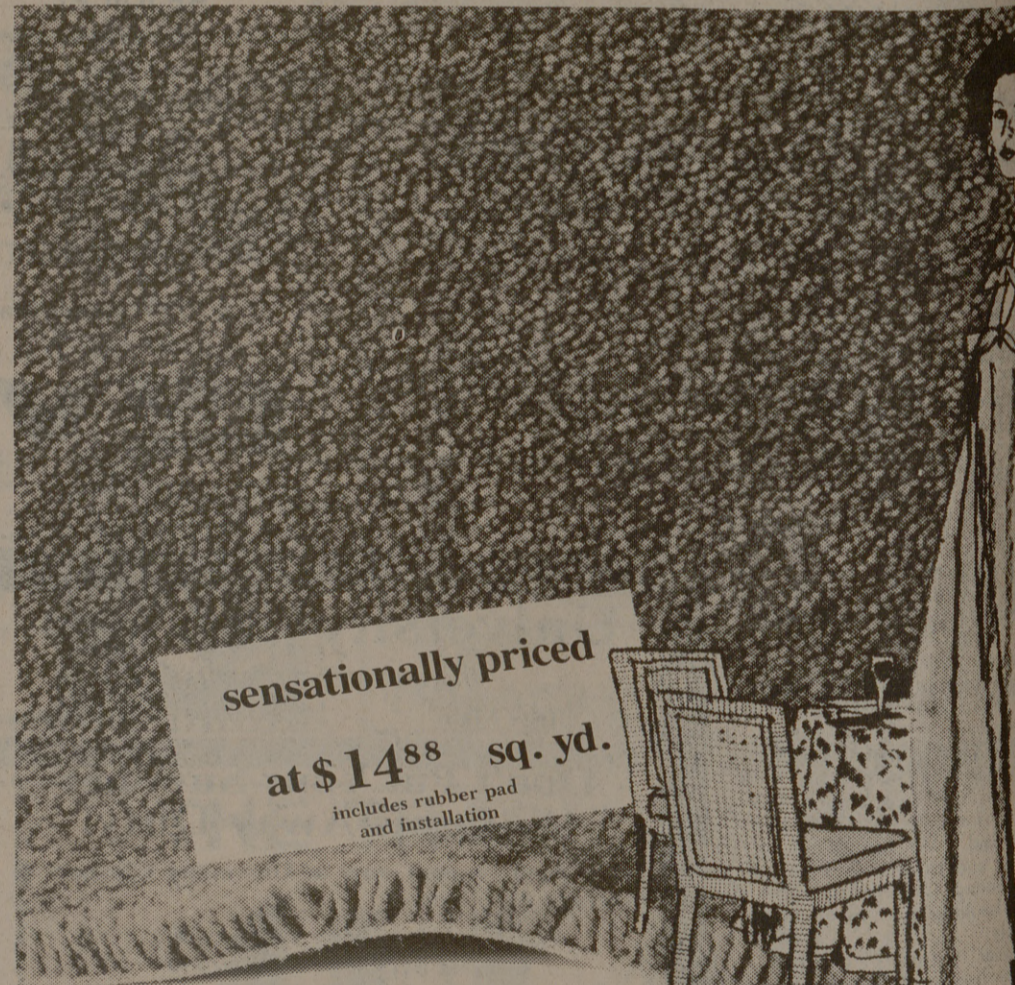
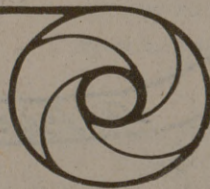
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