

Mini- Storage Messenger

This new monthly feature will try to address questions from the *Mini-Storage Messenger* readers that would be of general interest to other readers. This column is not intended to act as specific legal advice, but instead is educational information about self-storage based on your questions. You should consult with your own attorney before considering changing your policies, procedures or documents based on this column. I invite you to submit your questions. Information about how to submit a question is listed at the bottom of this article. Finally, experts can disagree. This article constitutes one person's opinion and I know, at times, experts in the industry will disagree. We will occasionally run an op-ed piece in this column too.

The first question is one that I know that industry experts disagree on all the time.

QUESTION: Should I allow the local police departments to train their drug-sniffing or bomb-sniffing dogs at my self-storage facility? Am I at risk and am I violating my tenant's rights of privacy?

Answer: I am in favor of allowing the local police departments to train their canine units at your facility. I have several reasons why I am in favor of this practice. First, it is absolutely vital in this industry to maintain a good relationship with your local police and by giving the police the opportunity to train, you are developing the kind of relationship that other self-storage operators will envy. You are acting as a good corporate citizen, trying to insure that you are not running business that has illegal operations. Second, I believe it is an excellent public-relations proposition, and you should make hay with positive public relations when you can get it. Have a local newspaper come out one day while the dogs are sniffing (hopefully, they will not find a bomb), and/or ask for a "thank you" letter from the police department that you can hang on your wall. Third, it is an excellent tenant relations issue. If you are legitimately going to have canine training, make sure you have a sign posted in your office notifying everyone that the property is periodically used for training by the police. If somebody was planning on renting, for example, to manufacture methamphetamine, he is going to go to another facility, although I do not recommend putting up a sign if you do not actually have the canine unit train on a regular basis, as people may rely on this representation that your facility is more secure or safe than any other, and if it turns out not to be true, you may be facing a lawsuit. You should, of course, disclaim on your lease and on the sign, that the service may not always be available and this service does "guarantee" safety.

As long as you disclose to your tenants that the police to use the facility for canine training, it is my opinion you are not invading the rights of tenants' privacy. Courts have held that a "random" find by a canine unit, not directed at any one particular person, car, unit, etc., that turns out to be a positive find, that then results in a search warrant, is not an invasion of privacy. Schools all over the country go on lockdown periodically to allow the drug-sniffing dogs to sniff all of the lockers of students.

I do not agree with other experts who say that it is an invasion of tenant's privacy and would be a deterrent to tenant's renting at your facility. If the tenants are not storing drugs, bombs or bomb-making materials, canine training should not be a problem. Other experts have said that there are liability risks and public relations risks with drug sniffing dogs. Other experts are concerned about a dog bite, but cities carry insurance for these risks, and indemnification can be negotiated. I do not disagree with those experts, I just think the benefits outweigh the risks. Naturally, the police could find drugs or bomb materials on your property, but I would rather drugs or bombs be found by the police and during training rather than after the entire building has blown up or burned down.

Finally, you may upset a tenant some day, having a false positive by a drug-sniffing dog, resulting in a search warrant, resulting in the unit being opened and taken apart to find nothing. I do not have an answer for this one. That could happen; it is going to be a risk of the business. It is also a risk to accept packages for pharmacy representatives and have 24 hour gate access. As a business person, and an entrepreneur, you do take risks and this strikes me as a pretty good one.

Jeffrey Greenberger is a Partner with the law firm of Katz Greenberger & Norton LLP in Cincinnati, Ohio and is licensed to practice in the states of Ohio and Kentucky. This column is for the purpose of providing general legal insight into the Self-Storage field and should not be substituted for the advice of your own attorney.

You can send your questions, comments, or suggestions for future topics to Jeffrey Greenberger at info@selfstoragelegal.com or mail them to Jeffrey Greenberger c/o Katz Greenberger & Norton LLP, 105 E. Fourth Street, Suite 400, Cincinnati, Ohio 45202 or you can reach Mr. Greenberger at (513) 721-5151, or visit his website at www.selfstoragelegal.com.