

Southwind

**MANAGEMENT
SERVICES, INC.** RECEIVED

August 26, 1991

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Ms. Lori S. Holcomb
Assistant UPL Counsel
Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300

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Dear Ms. Holcomb:

This is in response to the scheduled public hearing regarding the question of whether it constitutes the unlicensed practice of law for a property manager, with or without a power of attorney to draft and serve a Three Day Notice, draft and file a Complaint for Eviction and Motion for Default and obtain a Final Judgement and Writ of Possession for the landlord in an uncontested residential eviction.

As a property management firm of several multi-family rental communities throughout Florida, this is to register our strong opposition to any prohibition to our ability to serve a Three Day Notice. As a practical matter, we always engage the services of local counsel whenever a tenant fails to pay rent as prescribed in the aforementioned Three Day Notice. In other words, our attorneys draft and file the Complaint for Eviction and Motion for Default and obtain a Final Judgement and Writ of Possession for the landlord in an uncontested residential conviction. Thus, we are simply opposing any attempt to restrict our authority to draft and serve the "Three Day Notice" upon which the formal eviction complaint is based.

Our Three Day Notice forms are reviewed in advance by our counsel to ensure that the format itself is in compliance with Florida Statutes, Chapter 83. Our managers simply fill in the required information regarding tenant and/or co-tenant name, address, sums of monies due, the reason for the amount due and the deadline by which it must be paid.

Should the Florida Bar consider this practice to be an unauthorized practice of law, it will greatly endanger the ability we, as management agents, have of practicing business and collecting rent as agreed to in the lease contract entered into between the tenant and landlord. It is not unusual for the site manager to be required to serve approximately 15-20% of any rental community's total residents with Three Day Nonpayment notices during any given month. In point of fact, many tenants are aware that until such time that they receive the subject

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Three Day Notice, the clock is not really running and they can continue to default in their rent payment obligations.

Many of our properties are located in rural communities. The logistics of contacting our local attorney on a monthly basis to prepare the required Three Day Notices are very daunting. We would be at the mercy of counsel's schedule and the preparation and receipt of the notices would delay the notice or service requirements anywhere between 7-10 days each month. This would also unnecessarily increase our cost of doing business and, correspondingly, tenant rents as this cost is passed through to the end user.

Additionally, many of the properties we manage, are financed by a federal government agency and are subject to notice requirements as prescribed by 7 C. F. R.. The code of Federal Regulations does permit the property manager, on behalf of the landlord, to prepare and serve the Three Day Notice. It would appear that this Federal regulation would take precedence over any change that the Florida Bar may be proposing on a State level.

Again, we are in complete opposition to any restriction to our ability as managers to practice good sound management. We would, however, consider an alternative relative to the proposed prohibition of our ability to engage in the eviction process. Should the concern of the Florida Bar be that the Three Day Notices are improperly prepared and served, it would seem that this could be simply addressed by having a certification of compliance prepared by counsel that the Three Day Notice format is in conformance with Florida Statutes. Obviously, we do not want to waste financial or manpower resources by having our counsel file an eviction complaint if we know the Three Day Notice has been either improperly prepared or served. It is believed that any responsible business would insure that, by the time the resident has defaulted and an eviction complaint has been filed, the notice requirements have been met.

I would welcome the opportunity to address any questions you may have. I plan to arrange my schedule to be in attendance at the public hearing scheduled for September 5, 1991.

Sincerely,

SOUTHWIND MANAGEMENT SERVICES



Pamela K. Borton
President