

**Sessions Group, LLC
Company White Papers**

INDEX

I.	2 Questions That Changed My Life.....	3
II.	A “Q & A” About Allowing Dogs In The Workplace.....	5
III.	Allergic Reactions Can Hit Managers.....	7
IV.	Attention Managers – Are You For Sale?.....	9
V.	Become A Strategic Negotiator To Succeed.....	11
VI.	Beware – The Shoes You Step Into.....	13
VII.	Checking Your PM Blind Spots.....	14
VIII.	Conflict Resolution – What Kind Of Property Manager Are You?.....	16
IX.	How To Avoid Constructive Eviction Claims.....	18
X.	In The Moment: A Primer On Choking.....	21
XI.	‘Kind’ And ‘Considerate’: Is There Enough Evidence To Convict?.....	23
XII.	Making The Manning Adjustment.....	24
XIII.	Man Down – Next Man Up.....	26
XIV.	Managers: Go Out For A Walk.....	28
XV.	Managers: Never Give In To ‘Just This Once’ Thinking.....	30
XVI.	Negotiations: Know Bargaining Range And Resistance Points.....	32
XVII.	Obituary Networking.....	33
XVIII.	Oh, I’m Just A Property Manager...Or So I Thought Anyway.....	35
XIX.	Property Managers Must Be Quick To Observe, Take Action.....	37
XX.	Property Managers: Have You Read The Lease?.....	39
XXI.	Respect Is Crucial To Job.....	42

XXII. The '6 Bs' Of Property Management.....	44
XXIII. The Key Differential Between Property Managers.....	46
XXIV. The Mind-Set Of An Owner.....	48
XXV. The View From China: Ni Hao!.....	50
XXVI. 'Tis The Season For Reflecting.....	52
XXVII. What Can You Do To Keep Your Property Teams Focused, Content and Engaged?.....	54
XXVIII. What Does A Property Manager Spend Time Doing?.....	55
XXIX. Who's Your Lawyer? It's Time To Bring Legal Counsel On Board.....	57
XXX. You Must Be A 'Wanna Be'	59

I. 2 Questions That Changed My Life

It was a beautiful Saturday morning when an *unexpected knock* came at my door. I thought loudly to myself: Can't they read the *No Solicitors* sign? I mean it is clearly posted in the middle of the door in plain sight! Can't people leave me alone and just allow me to rest from my labors of the week?

I *aggressively* answered the door; armed with a few choice questions as to the intruder's ability to read English. To my surprise, the solicitor was my father. He indicated that he would not take much of my "precious" time but merely wanted to ask me one simple question.

"Does your son know how to throw a football?"

"No."

"I don't know what happened to you. When you were a little boy, I threw to you, all the time."

And he did. I still remember the time when I hit the ball over the apartment house. He made me feel that I was Mickey Mantle! He made me feel...*important...good...happy!*

My father turned, walked away and left me standing in the doorway, thinking about his question and my pathetic, sorry answer. After taking 10 steps or so, he turned back to me and said *he was disappointed in me*, told me that I was *not* that important and surely not that busy. The next morning, a knock on our door, a bag in his hand; he gave it to me. No perturbing question this time, only a plain, simple directive: Go throw the football to my grandson.

Kade knows how to throw a football. It wasn't the throwing to make Kade a great quarterback. It was *to spend precious time with my son* to make him feel that he was John Elway! To make him feel *important, good, happy!*

Now to the second penetrating question: *"Do you know who this is?"*

I was working at a men's clothing store in University Hills. I was a clothing salesman for the summer, home from school. I was the youngest person they ever hired. It was Saturday, just before 11 a.m. I will always remember this day and time. The phone rang. It was for me.

I left my customer who was buying two suits and a sports coat. It was a big sale. I took the call. I told the caller that I was busy and that I would call him back later.

I hung up the phone and went back to my customer. Immediately, the phone rang again. It was for me. Again. I was popular that day I profusely apologized to my customer. I answered the phone.

"Do you know who this is?"

"Yes. It is my father."

"That is correct. And whenever I call, I don't care if you are waiting on the President of the United States. We will talk. Is that clear?"

"Yes."

We talked. We have always talked. We still talk. We will always talk. And it is reciprocal! Whenever I call. Whenever my wife calls. Whenever my kids call. It does not matter who my father is with or what he is doing. MY father always takes our calls. And we talk. And that has made all the difference!

And as I look back on my life, I wish to express my deep gratitude to my father and mother for their tremendous examples and their deep commitment to family! They taught me very clearly these two life changing priorities: No success can compensate for failure in the home - and, the true measure of success and the most important work I will ever do will be within the walls of my home with family!

Although these two simple conversations with my father took no longer than 10 minutes max, I have been running on these key principles and lessons learned for 30-plus years! And that has made *all the difference* in my personal and business life. hank heavens for parents who do not abdicate their responsibilities to recognize needs of their oft "wayward" and "busy" misdirected children, parents who do not hesitate to provide appropriate counsel and demonstrate by word and example what the *real priorities* are. And as James Taylor sings, *how sweet it is to be loved by (parents)!*

II. A “Q & A” About Allowing Dogs In The Workplace

This is the first in a series of articles that deal with commercial real estate management, leasing and landlord tenant issues. As a property manager, it is important to discuss with legal counsel potential liability issues that rear their heads on a regular basis and then inform ownership and receive their input. Did you know that according to the Insurance Information Institute, dogs bite about 4.5 million people every year in the U.S.? When I read this statistic and thought about the trend in which employees are allowed to bring their dogs into the workplace, I called Amanda Halstead. I received the following informative responses and great counsel.

Sessions: Is there any liability for a property owner to allow tenants to bring their dogs to work?

Halstead: As is typical of my profession, I must answer that question with the words, “it depends.” Generally speaking, a property manager would not be liable for an injury inflicted by an animal that does not belong to the property manager. If, however, he knew or had reason to know that the dog was dangerous, the property manager could be held liable for damages, even punitive damages. In *Vigil ex. rel. Vigil v. Payne*, 725 P.2d 1155 (Colo. App. 1986), the court held that by leasing the premises to tenants with a dog known to be threatening, the landlord knowingly created a “clear potential for injury” and was held liable. C.R.S. Section 13-21-115, the Colorado Premises Liability Statute, provides a mechanism through which a manager could be held liable. This statute generally provides that the manager may be liable for its “unreasonable failure to exercise reasonable care with respect to dangers of which the landlord actually knew or should have known.” Irrespective of whether a property manager or building owner ultimately will be found liable for injuries caused by a tenant’s dog, they should anticipate being named as a party in any lawsuit initiated in connection with an injury occurring on the property. Before allowing dogs on the property, I would recommend that the manager confirm that the liability insurance policy provides coverage for injuries caused by dogs. I also would recommend including language in the leases that require the tenant to do the same, with policies naming the building owner and manager as an additional insured. Policies should be carefully reviewed to confirm whether any particular dog breeds would be omitted from coverage.

Sessions: I have heard that Colorado has a “one dog bite rule.” Is that true and how does this apply to owners of commercial properties?

Halstead: The “One Bite Rule” is sometimes known as the “First Bite Rule” or the “First Bite Free Rule.” The idea behind this rule is that an owner should not be liable for any injuries caused to the first victim of his or her dog. There is, however, no such rule shielding pet owners from injuries caused by a dog’s first bite in the state of Colorado. Instead, C.R.S. Section 13-21-124 provides that a person who suffers serious bodily injury may bring a civil action to recover economic damages against the dog’s owner regardless of the dog owner’s knowledge or lack of knowledge of the dog’s viciousness or dangerous propensities. In Colorado, a pet owner is strictly liable for the acts of his pets. In other words, he is liable for injuries caused by his pet, regardless of whether he knew or had any reason to know that the dog might injure someone. These concepts generally apply to dog owners, as opposed to property managers of tenants with dogs.

Sessions: Are there any dogs that cannot be brought into the workplace? I understand that Aurora does not allow pit bulls.

Halstead: Any manager who permits dogs on site should consider instituting rules and regulations in connection with such consent. Those rules and regulations should prohibit any breeds that are not permitted under any applicable laws, codes or ordinances, including any city ordinances. Moreover, those rules should prohibit any breed that might be omitted from coverage under the property manager or tenant's general liability policy. Any such rules should be uniformly enforced and should include, without limitation, a requirement that all pets comply with any and all applicable laws, including any pet licensing requirements and that any pets be up-to-date on their vaccinations.

Sessions: Any other considerations that a property manager and ownership should be aware of?

Halstead: Temperament and liability are not the only factors that should be considered by a manager. A manager should keep in mind that not all tenants, invitees and customers are dog lovers. Moreover, some of those folks may be allergic to dogs or have a fear of dogs. Also, a manager can anticipate increased costs in connection with the removal of pet waste, which might be offset by the charging of pet rent. The manager might want to reserve the right – at any time and for any reason or no reason at all – to remove a particular dog from the property or to revoke all tenants' rights to have dogs on site. Putting clear rules and guidelines in place at the outset is an absolute must for any property manager should a manager elect to permit pets on site.

III. Allergic Reactions Can Hit Managers

I went to the doctor last week complaining of the following symptoms: red eyes, intense itching, a rash, puffy eyelids, sneezing, with my nose running like a faucet. I was just plain miserable. After a thorough invasive pat-down and body scan, the first question I asked Dr. Grope was if he had received his training at Denver International Airport. He gave me the cold stare as he mumbled and scribbled something on my chart. Being a quick study, I sensed that he did not appreciate my humor! On a positive note, at least I did not have to remove my shoes during my exam!

The doctor said that had never seen a patient with 10 allergic reactions at one time. He even had the audacity to say that my 10 allergies were directly related to the time I have spent in the business of commercial property management. He went on to say that at my advanced age, I should do my best to avoid these suspected allergens at all cost. I told the doc that that would be nearly impossible, since the 10 allergy causing agents were everywhere, in every building and tenant leases, nearly all the time.

The doc then prescribed my medications and antibiotics, and emphasized that they are to be taken with care, to assure an allergic reflex is not triggered. The doc said that treatment usually relieves the symptoms. However, the condition tends to recur if exposure to the offending agent continues.

Now, you may be asking just what are the 10 things that the doc found that I am absolutely allergic and for hypersensitive to? I am happy to share with you so that you may take preventive measures to avoid such costly allergens in your career in commercial property management.

- **Lease options.**
There is no benefit to the owner by granting a lease option to a tenant. It restricts and constricts the owner's airway and definitely is not conducive to the respiratory system of the owner.
- **First rights of refusals.**
These make me sneeze and forget that they are ever present and lurking around. And then they sting you when you least expect it. Be aware of such swelling and inflammation within the skin or tenant lease.
- **Operating expense caps.**
Although often needed to keep owners and managers on the "straight and narrow," these are time-consuming and difficult to calculate properly. In some cases, you can control them and in others, you cannot, as can be seen with taxes, utilities, snow removal, insurance, etc.
- **Construction change orders.**
In severe cases, the airway constricts and may result in life-threatening anaphylactic reactions. A variety of tests now exist to diagnose this allergic condition to prevent and minimize this inflammatory response.
- **Budget expense variances.**
These cause "swelling" of the budget passage. Need to be constantly aware of dust and pollen and other airborne particles. Frequently cause rashes, eczema and hives.

- **Past due rent (past 10 days).**
If inhaled, this also can lead to asthmatic symptoms, shortness of breath, coughing and wheezing on a monthly or recurring basis. It may seem to be subsiding, but may recur throughout a prolonged period of the lease term.
- **Nonresponsive owners.**
The affected organ is usually the ears. There is a feeling of "fullness" and "impaired hearing" due to the lack of Eustachian tube drainage/ lack of communication.
- **Lawsuits.**
Multiple organs can be affected, including the digestive system, the respiratory and circulatory system. Depending on the rate of severity, these can cause cutaneous reactions, bronchoconstriction, edema, hypotension, coma and even death.
- **Poorly drafted leases.**
The severity of this type of allergen often requires injections of epinephrine, sometimes through a device known as the EpiPen or Twinject auto-injector. aka "competent legal counsel."
- **Slip-and-falls.**
These result from improper snow removal and ice mitigation – multiple organ systems can be affected, causing abdominal pain, vomiting, diarrhea and sometimes outright attacks of asthma during your deposition, appearance and testimony at trial.

As I walked out of the doctor's office, I dearly understood that my 10 allergic diseases most often were caused by my inappropriate responses, lack of risk management skills, and living in too sterile of an office environment doing paperwork, when 'I should have been at the properties being exposed to enough pathogens to keep my immune system busy.

IV. Attention Managers – Are You For Sale?

One of the most revealing questions that I have ever been asked occurred when I was bidding out a janitorial contract at a major office building in the central business district. One of the bidders came by my office and after a few minutes of "weather talk" asked me if I would like to drive a new Mercedes-Benz. I qualified his question by asking what color and how that could occur. He said, "Sign the contract and you can choose the color!" I was touched and felt so special, to say the least!

I did not know at the time that this janitorial company was also in the Mercedes-Benz business. I have heard of multiple streams of income and diversification, but this was quite the unique business model. I then asked him if he had heard in the marketplace that I was for sale. He stuttered in weak response. I asked him again. "Do you think I am for sale?" In other words, "Do you think I am a prostitute?" He sheepishly bowed his stiff neck as I escorted him to the door and told him never to darken my office by his presence again.

I have thought much about this exchange and conversation over the years and believe that every property manager will be asked the same question in some form. What will it take for you to sell out, to compromise your sacred name, reputation, even your soul, for a measly buck? Is it the promise of title or position that finally sways you to the dark side? What is it? And once we cave in and compromise, we must forever understand that another now owns us. We have sold ourselves. The thought just sickens me.

Then how do we avoid such compromise and loss in the "excitement of the moment?"

I was taught that "right decisions are easiest to make when we make them well in advance, having ultimate objectives in mind; this saves a lot of anguish at the fork." It seems that numerous times a day I come to a fork in the road and must decide which way I will go. I believe it is critical to have my ultimate objectives clearly in mind so that I do not become distracted at each fork in the road by irrelevant questions. Having an unalterable determination firmly established has given me good reason and good strength to resist in the "excitement of the moment!" We choose what we become! We reap what we sow! And as the years roll by, I have found that my past choices have narrowed the alternatives open to me. James Allen has expressed it in his well-known book, "As a Man Thinketh":

"As the plant springs from, and could not be without the seed, so every act of a man springs from the hidden seeds of thought, and could not have appeared without them. This applies equally to those acts called 'spontaneous' and 'unpremeditated' as to those which are deliberately executed... In the armory of thought [man] forges the weapons by which he destroys himself; he also fashions the tools with which he builds for himself heavenly mansions of joy and strength and peace...Between these two extremes are all grades of character, and man is their maker and master...Man is the master of thought, the molder of character, and the maker and shaper of condition, environment and destiny."

I came across the following quote whose authorship I do not know, but which has had a big impact on my thinking and choices made in the "excitement of the moment":

*Sow a thought, reap an act;
Sow an act, reap a habit;
Sow a habit, reap a character;*

Sow a character, reap an eternal destiny.

In the end, I hope somewhere on my tombstone will be printed in large print the following: "Steve was a great father, husband, son, and NOT FOR SALE!"

V. Become A Strategic Negotiator To Succeed

If I were to choose but one skill from the grab bag of skills necessary for the successful property manager it would be the skill of strategic negotiation. Negotiations are a property manager's chief form of persuasion! In fact, the very best property managers are the best negotiators. And to state explicitly the converse, the worst property managers are the worst negotiators.

Everything in life is a negotiation. Everything! Anytime you deal with someone else, seeking to reach agreement on some matter, you are involved in a negotiation. Dealing with astute owners and tenants, to successful contractors, accountants, and diligent building engineers, a property manager's ability to communicate and negotiate effectively is paramount to his success. Every property manager should continually study, practice, and understand the power and benefit of effective strategic negotiations. Always remember that improvement comes from well-structured experience and perfect practice.

Know your negotiation patterns. In other words, how do you act and respond when under pressure? Can someone know from the look on your face, by the tone of your voice, by the movements of your body if you are angry, surprised, disgusted, embarrassed, or any other number of emotions? Yes, all day long! As in the game of golf, shortcomings or emotions tend to be magnified under stress.

For example, when I play eighth hole at Valley Country Club, the course I played as a kid, with that dreaded magnetic pond to the left, with those magnified out-of-bounds stakes lining the entire left side of this treacherous par 4, I know - I absolutely know - where my ball is going to land off the tee. There is absolutely no doubt! That is why I always bring two balls to the eighth tee box and a 3-foot piece of garden hose (a.k.a. the Sessions "rescue club" that I carefully insert in my mouth as I slowly walk and stumble to the eighth tee box with sweat pouring off my slender body), so that I can breathe as I choke! Some golfers tremble, others find they can't speak, some have hands that sweat profusely. I can't breathe! Is there a pattern? I leave it to you to decide!

I have studied great strategic negotiators and their patterns since the very first day of law school, when Dean Hoffman indicated that great lawyers first study themselves, ever striving to recognize their own peculiar but very consistent patterns when under pressure. Thereafter, they focus on opposing counsel to recognize and clearly identify their peculiar patterns, those *ever consistent* subtle facial expressions, voice changes and body movements that reveal so much more than their mere words. What was chilling to me was when the dean indicated that his law firm literally kept detailed records of opposing attorneys and how and when they compromised, handled pressure, etc. Wow!

So, whether dealing with owners, tenants or contractors, take the time to meet with them, learn their story their language, understand what they think, and see what their culture is like and the way they live. Get a real taste of their habits and way of life! Tour their Web sites. Understand how they approach problems and respond in difficult situations. See how they present themselves. Pay attention! Respect their strengths and carefully observe their weaknesses. And, most important, make sure you are really *hearing* and *feeling* what they are experiencing. That is called preparation! Always remember, we know a lot less about others and ourselves than we think we

do! So start listening, observing, feeling and learning! Stay tuned for part two: Know Bargaining Range and Resistance Points!

VI. Beware – The Shoes You Step Into

I am now an expert on footwear! And it took only one trip to Park Meadows Mall with Debbie and our middle daughter, Cassie, to gain my Ph.D.! I am now an expert on flats, heels, wedges, pumps, 5-inch stilettos, knee-high boots, sling-backs, clogs and daisy sandals. In fact, to make a few extra dollars for the holidays, I am seriously thinking of taking a part-time job in Nordstrom's shoe department...because there is absolutely no sign of recession! And my niche? I will sell by brand—Prada, Gucci, Dior, Dolce & Gabbana, Chloe, Coach, Jimmy Choo, Tory Burch, Manolo Blahniks, and UGG—and by lifestyle, high arch, professional, soft foot bed, waterproof and athletic! And don't get me started on accessories that "perfectly" match the shoes! And I never ever want to hear again that costly phrase, "Shoes make the outfit." Or, these shoes have "environmentally friendly" cork foot beds that "mold to the shape of my foot, providing proper alignment and realigning my entire body for the comfort I deserve and a custom fit unlike any other!" Give me a break!

My only shoe knowledge deficit: I don't even begin to understand women's and men's shoe sizes. My size is 11 ½ EEE or wider. Not many companies make shoes that wide. However, I do enjoy shopping with Debbie, as her shoe size is a 5! And every pair of shoes on display is a 5! That is heaven indeed! We don't have to wait for the shoe salesperson to trudge into the back cavern to find the right size! And every shoe looks great on Debbie's small foot!

And I have never felt so much empathy as when I was watching one woman trying to "squeeze" into and "gracefully" walk in a size 10, 4-inch platform heel, with ankle straps – all I could think of was the movie "Big Foot!" And I know, without a shadow of doubt, that no high heels are comfortable and should ever be worn. They create corns, bunions, sprained ankles and, worst of all, ingrown toenails. Further, I also have come to the conclusion based on absolute irrefutable eyewitness testimonials: The makers of shoes are masochists. They enjoy pain. And they enjoy addiction! Shoes are expensive, rarely fit, wear out and cause toe fungus. And they don't even look that good for long. After you have worn them for a few months, they begin to look lumpy, smelly and out of shape.

Lesson: Shoes are a great example of something property managers tend to slip into or buy more than they need or should. Why? Because many property managers have not thoroughly abstracted and understood their leases, management agreements and service contracts! And as a direct result of their negligence, property managers (even with the best of intentions) unknowingly slip into the tenant's shoes; and may be literally and legally stepping into and taking upon themselves the tenant's duties and responsibilities! Another example: Property managers often slip into their independent contractors' shoes; and, again, may be stepping into and taking upon themselves the contractors' duties and responsibilities, resulting in potential monetary damages.

Property managers beware, all you need are three pairs of shoes: 1) a pair of dress shoes to wear for that special romantic occasion, or for church; 2) a comfortable pair of work shoes that only fit you; and, of course, 3) you need a pair of ECCO golf shoes to play golf in but that's it! Trust me, you do not want to "walk in another person's shoes." And if you are waiting for the "other person's shoe to drop," you won't have to wait long! They won't fit you and you will experience discomfort, pain, potential loss of income and job, and awfully smelly feet!

VII. Checking Your PM Blind Spots

I was snowboarding at Breckenridge over the New Year's holiday and at the beginning of the lift line, several multicolored round and square signs were posted with the following wise counsel: "Look before you go," "Play It Safe," "Play all season," "Be smart," "Pay attention," "Merge with care" and "Check your blind-spots."

And each time I rode the chairlift, I queried my fellow boarders to receive their insights about each sign. That was a most informative and entertaining exercise, to say the least! I learned a whole new language and a few memorable quotes: "air" – To "get air" is to do a jump and take to the air on a snowboard; "biff" – to crash or fall ("Dude, I totally biffed it back there," i.e., bail, wipeout, bit it); "butter the muffin" – a maneuver in which one shifts his weight over the nose of the board and then performs a rotational move such, as a 180 or 360, which typically results in the spreading of snow as if the board were a knife spreading butter; and "goofy foot" – the riding orientation wherein one goes with the right foot forward. I will leave it to you to define the following terms: bonk, fakie, gaper, jib, nose grabber, and tailbone slammer. And my favorite quotes I learned from my fellow snowboarders that day: "*Boarders rule, skiers drool*"; "*A day without snowboarding is like a day on skis*"; and my No. 1 favorite: "*Many dudes attach snowboards to their feet; I attach mine to my soul!*"

As I retired to the hot tub to rest my backside and revive my soul, the sign "*Check your blind-spots*" kept resonating in my mind. As I pondered and meditated upon this very wise directive, I became unsettled with this question: *What are my blind spots as a property manager and what am I doing to remedy my lack of sight?* I have identified four blind spots that a prudent property manager should avoid at all costs:

1. A tenant vacating prior to his lease expiration is definitely a terrible blind spot and a real *tailbone slammer!* The question I ask myself is whether there were early signs that I missed that could have helped ownership mitigate this loss of revenue.
2. A property manager who hasn't seen the light of day because he is glued to his desk faces a terrible job-threatening *blind spot*. That is why I have several different lenses for my goggles, so that, regardless of the conditions – sunny, cloudy, or extreme limited visibility – I will not experience snow blindness while at the half-pipe. In other words, if I am in my office and not out actively visiting with the tenants eye-to-eye, I am literally going blind. I must continually be meeting the tenants to take their financial pulse and then reporting to ownership.
3. A property manager who fails to competitively bid all service contracts on an annual basis has literally *blinded* the owner from receiving the very best pricing and service. And it is absolutely incumbent upon a property manager to verify that the work contracted for has been completed according to specifications, and to do everything possible to avoid change orders. That is definitely a nose grabber!
4. The very worst *blind spot* is wasting the owners' money. For instance, collections: if a property manager does not assess all late charges pursuant to the lease, or fails to pick up rent increases, or fails to properly prepare and bill operating expenses reconciliations, the owner has literally been blindsided by the negligent acts of the property manager. We must

always remember that we are to be wise stewards over the funds of the owner. It is not our money!

Until the next great snow day, don't get blindsided, so that you have to look over your shoulder and wonder if you are going to be removed from the slope and lose your job. And for sure, don't get *bonked*, which is to hit a nonsnow object with your snowboard because the snow blinded you!

VIII. Conflict Resolution – What Kind Of Property Manager Are You?

“The visit lasted no more than five minutes,” said a disgruntled tenant, “and she quickly won me over. Instead of summoning me to come to the management office, sending me a lengthy, condescending e-mail or delegating the matter, she walked to my office in the building to have a brief face-to-face conversation with me. Although the interaction was not long, I felt heard, understood and valued. She cares, and that makes all the difference.”

In contrast, another disgruntled tenant shared this encounter with a property manager: *“He asserted his power and position and delivered a monologue rather than a dialogue during our call. He always hides behind e-mails and never returns my calls. I am amazed he picked up his phone. It always goes to voice mail. I doubt he even knows where the building is located. I have never seen him at the building. He is no property manager. We can’t wait until our lease is up. We’re out of here.”*

What’s the difference? I would suggest it is *belly-to-belly, eye-to-eye, face-to-face leadership*. That’s the secret of great property managers. That is why they are so effective in handling contention, conflict, breach of contracts, missed commitments, broken promises, violations of common courtesy and the everyday abrasions of life. They are not afraid to meet face-to-face, to show recognition and high regard for the other person.

What’s their secret? How and why are they so responsive to others – their concerns, hopes, needs and fears? Because they also understand the four dynamics of empathy: *I hear you. I understand you. I like you. I can work with you!* In other words, they do not take offense. They are able to respond favorably to others because of what they have cultivated inside. As another author writes: *“Regardless of how another person interacts with you, you can give away only what you have inside to give. Just like the proverbial orange, when you squeeze it, you get what is inside – it has nothing to do with who does the squeezing, or the circumstances surrounding the squeeze. What comes out is what is inside. If you respond to hate with hate, or anger with anger, it is not because of what was directed your way; it is because that is what is inside you. You can’t give hate if you have only love inside, no matter how much squeezing comes your way.”*

On a personal note, Debbie and I are proud parents of five wonderful children. Three are now married and we now have five beautiful grandchildren! When our children were young, we attended a parenting seminar hosted by Cherry Creek Schools. It was at this seminar that we met Foster Cline, M.D., and Jim Fay. They completely changed our ways of parenting. They clearly demonstrated the difference between the three parenting types or patterns: helicopters, drill sergeants and consultants. In essence, helicopters make a lot of wind, noise and vibration. They hover, rescue and protect. They behave the way they do because they confuse love, protection and caring. Drill sergeants also make a lot of noise, and they stir things up. They’re forthright and definite. Jim taught us: *“If you are not at war, raising teens by barking orders at them isn’t really effective. In fact, it can cause war. The real world does not operate on punishment, it operates on consequences. And, helicopters can’t hover forever. And eventually, drill sergeants go hoarse!”*

Fay and Cline then introduced us to the third alternative, which has worked so well for us as parents, but also has had direct application in my life as a property manager. The consultant parent/property manager asks questions and offer choices. Such parents don’t dictate, they advise. Like business consultants, guidance counselors and therapists, great consultant property managers do not give orders. They offer their own points of view while exploring those of their

tenants and vendors. They use paraphrasing and thoughtful silences. They don't ground anybody. They rarely get mad and shout and they don't allow themselves to be manipulated or abused. But they do offer lots of empathy and understanding.

Yes, "*consultant property managers*" live much happier and more profitable lives. Being a great consultant property manager requires not only implementing and practicing the tools and techniques of conflict resolution, but also a very important and basic shift in attitude. I really do believe that it is the daily duty of every consultant property manager to promote the happiness, not discontent, of everyone he encounters. It is a choice. How well we effectively resolve conflicts or not depends on how well we really communicate. I have found that most problems can be solved if both participants feel their opinion is respected and they try to understand the other's point of view. There are three types of property managers: helicopters, drill sergeants and consultants. Which one are you?

IX. How To Avoid Constructive Eviction Claims

I will never forget the first time I heard a tenant say the dreaded words: constructive eviction. I broke out in a cold sweat, drove myself to the nearest emergency room for excessive heart palpitations and extreme nausea. The ER doctor gave me a thorough physical, and had the audacity to give me the following prescription – hire a good trial attorney and get ready for a painful trial and expenditure of lots of money for legal fees and damages.

In order for us all to have a thorough understanding of the legal doctrine of constructive eviction or breach of quiet enjoyment, and to avoid painful and costly consequences, I asked Amanda Halstead to address the following key questions.

Sessions: What is the covenant of quiet enjoyment?

Halstead: The covenant of quiet enjoyment has two components. The first gives the tenant some assurance that she has the right to occupy a property and that she won't be thrown off the property by someone with superior title. The second gives the tenant the right to occupy a property free from disturbances that render the property unfit for the purpose for which it was leased. Although the covenant of quiet enjoyment is implied in every lease, it can be expressly disclaimed. Most commercial leases, however, include an expressly stated right to quiet enjoyment. It should be noted that conditions accepted at the time of lease execution cannot serve as a basis for a constructive eviction. By way of example, acceptance of a leased premises in its "as is" condition could limit the bases on which a tenant may later claim constructive eviction. From a tenant perspective, a tenant should always attempt to carve out any "latent defects or the existence of any hazardous materials" from an "as is" clause.

Sessions: What is a claim for constructive eviction?

Halstead: A breach of the covenant of quiet enjoyment often is referred to as a constructive eviction. A breach of the covenant of quiet enjoyment occurs "when the lessor's disturbance of the lessee's possession renders the premises unfit for occupancy for the purposes leased or deprives the lessee of the beneficial enjoyment of the premises, causing the lessee to abandon them," see *Carder, Inc. v. Cash*, 97 P.3d 174, 184. It should be noted that actual abandonment of the leased premises is not required. There must be acts or omissions of the landlord that deprive or substantially interfere with the tenant's possession or use and enjoyment of a leased premises in order to support a claim for constructive eviction. Acts of a third party cannot serve as a basis for such a claim.

Sessions: What should a tenant do if he believes he has been constructively evicted?

Halstead: If a tenant believes that a condition exists on or about the property that renders the property unfit for the purposes leased, the tenant should first review his lease to determine whether the condition is one that must be remedied by the landlord or the tenant. If the condition is the landlord's responsibility, the tenant should send a written notice, delivered in accordance with the notice provisions of the lease, identifying the condition and requesting that the landlord

address the same. The inquiry into whether a tenant has been constructively evicted is very fact specific. In most cases, a successful tenant will have written multiple letters to the landlord without any meaningful action on the part of the landlord to address the condition.

Sessions: What should a landlord do if he receives notice of a constructive eviction from a tenant?

Halstead: If a landlord receives a notice from a tenant indicating that something needs to be addressed, the landlord should respond promptly. The landlord, like the tenant, should refer to the lease to confirm whether the condition is one that is required to be addressed by the tenant or the landlord. If the condition is the landlord's responsibility, the landlord should send someone to evaluate and correct the problem immediately. An experienced property manager knows that keeping detailed records of the efforts made to address a tenant's concerns can be critical to defeating a claim of constructive eviction. By way of example, if someone complains about a heating unit, a call log documenting the time the complaint was received and what efforts were made to get a contractor on site should be kept. Copies of any invoices and work orders should be maintained. Taking reasonable efforts to address a problem can be just as important as actually correcting a problem. There may be situations where a landlord is unable to get a contractor on site immediately to address a problem. For example, contractors may be inundated with work orders following a hail storm and may not be readily available. If reasonable efforts are made to address a problem and notes detailing the reason for any delay are kept, the landlord likely will be in a good position. Also, remember that tenant notices do not always use the words "constructive eviction." In most cases, they simply will come in the form of a maintenance request or complaint.

Sessions: When do constructive eviction claims usually arise?

Halstead: Constructive eviction claims are asserted most often as a defense to a landlord's claim against a tenant for the nonpayment of rent. Most commercial leases include language indicating that rents are due without notice, demand, offset or deduction. This means that a tenant usually is required to pay rents notwithstanding a condition that might interfere with its use and possession of a property. With that in mind, if a tenant believes he has been constructively evicted, he should contact an attorney to confirm what his rights and obligations are in that circumstance, what notices might be required before such a claim can be asserted and whether it is appropriate to withhold rent.

Sessions: How does a constructive eviction differ from a breach of the warranty of habitability?

Halstead: The warranty of habitability only applies in a residential lease context and not in a commercial context. The warranty of habitability statute provides certain notice requirements that must be met before a tenant can claim that he has been in essence constructively evicted. In the case of a commercial lease, any such notice requirements arise under the lease agreement itself.

Sessions: What is the remedy if the tenant has been constructively evicted?

Halstead: If a tenant is constructively evicted, the lease would be deemed terminated, in which case, the tenant would have no ongoing liability for rents that would have otherwise accrued thereunder. A tenant also might seek an award of damages he incurs as a result of the constructive

eviction, including, without limitation, moving and other relocation expenses, a rent differential (if the rent at his new location is higher) and, even, lost profits. Of course, in a well-drafted lease, a tenant's rights to one or more of the foregoing may have been expressly waived. Whether a tenant has been constructively evicted is fact specific. It is not common for tenants to prevail on these claims, but a landlord should, nonetheless, take situations that could ripen into a constructive eviction claim very seriously. A good landlord/tenant attorney can be essential in navigating the terms of the lease and applicable case law.

Sessions: Class adjourned!

X. In The Moment: A Primer On Choking

I will never forget the recent 2015 Masters golf tournament where Jordon Spieth, 21 years old, led from start to finish, and won the coveted Green Jacket. Each evening, with apprehension, I would turn on the Golf Channel to see whether Spieth had succumbed to the pressure and choked. But he didn't. In fact, Spieth tied the tournament record Tiger Woods set when he was 21, and shot the lowest 54-hole score in Masters history. I am in absolute awe that Spieth was able to compete with the world's best golfers, under the media's constant barrage of commentary, and play with little fear and such hip confidence and composure.

When I played competitive golf, I carried a 2-foot piece of garden hose as my 14th club that I would, more often than not, need to insert down my throat so that I could breathe while choking under the pressure! And that was when I was on the driving range before the match. While embarrassing, it really worked, especially on the 18th hole with a 2-foot putt to win. And there is absolutely no worse feeling than standing over a short putt and knowing you do not have a chance to make it. Over the years, I have purchased more putters, rationalizing that my putting problems (yips) were due to my putters, and not my mindset. I have tried putting cross-handed and every other imaginable grip known to golf to help me make the 2-footer under pressure. I even tried closing my eyes when I putted. And I confess, owning more than 20 putters is another clear sign of choking. And don't get me started on the fearful shank. I broke out in a cold sweat just thinking about the tournament I lost when I cold-shanked my approach on the 18th hole into a pond. I made a double bogey and lost by one stroke.

As every golfer knows, the most well known cliché is that the game is 90 percent mental, which means that the game is largely emotional — it's about trusting and believing in yourself and playing good golf under pressure. Choking is having thoughts go through your mind that should not be there during "the excitement of the moment." I am fascinated with the dreaded "C" word. There is so much to be learned by studying choking, and I have experienced it and have studied it intensely. And I still carry my trusty "no choke" 2-foot garden hose device, and have used it on and off the course for the past 25 years.

Now while most of us will never have the opportunity to compete at the Masters, I do believe that we currently have, or will, encounter moments where we find out whether we can endure well in the midst of great trials and tragedies. In the excitement of the moments how are we going to handle the pressure? Will we endure it well, which is not to be confused with merely "tying a knot" at the end of our rope and just holding on. We are all going to have ups and downs. We must figure out, beforehand, how we are going to deal when the "excitement of the moment" confronts us. Will we be able to adapt to the situation and finish the task with confidence and composure? Or will we revert to the Velcro strip on our wrist — attached to our foreheads, commiserating and grieving our round and lot in life, choking and admitting that we swallowed the apple.

In addition to my trusty "no choke" 2-foot garden hose, I share with you four additional antichoke shots that I acquired over the years, which help me negate my tendency to choke in the excitement of my moments:

1. Discern quickly the beginnings of discord. If a person says or does something that I consider offensive, my first obligation is to refuse to take offense and then communicate privately, honestly and directly with that individual.

2. I must control my temper and disposition, even when I am provoked. I try never to get angry, but treat others mildly. There is absolutely no place in the workplace or in the home for anger. Neal A. Maxwell provided this wise counsel, "Anger should never be offered a seat or invited to sit down, and should never be an overnight guest." No one can make us angry. It is our choice. We can absolutely choose to refrain from becoming angry; to leave unsaid the harsh and hurtful things we may be tempted to say. We should develop the habit of stopping and reflecting before anything comes out of our mouths. And we should never do, write or say anything that we will later regret. I have found it best to smother to death whatever is bothering me until it is gone from me. No good comes from letting off steam.
3. Tolerance is the ability to see another's viewpoint. It is good to possess tolerance and patience, to see things from another's perspective.
4. We must not murmur or indulge in self-pity and must refuse to view ourselves as victims. There is absolutely no need to share any radioactivity out of our resentments, unhappiness and uneasy spirit. We can choose to be of good cheer.

Attitude makes all the difference in our daily lives, and we control our attitude. Every day, every moment, we choose to be miserable or happy, content or dissatisfied. For maximum happiness, peace and contentment, choose a positive attitude.

And now, as I am on the back nine of life, and can clearly see the clubhouse, I will continue striving daily to cultivate an even, unruffled temper, until I can perfectly control myself at all times, in all places and under all circumstances, with grace and utmost respect for myself and others.

XI. 'Kind' And 'Considerate': Is There Enough Evidence To Convict?

Property management is a fascinating yet very tough business. We deal constantly with problems of all kinds with accolades seldom given. We work to solve problems and mediate disputes. It is so easy to become a little cynical and hard hearted. I have known property managers who see everyone as either an ally or a threat.

Here is a key question I would like you to seriously consider: **If you were arrested and were being tried in a court of law for being a kind and considerate property manager, is there enough evidence to convict you?** That is a haunting question that every property manager should seriously contemplate and consider. Yes, this is a "morning matter" that each of us must decide alone, in advance, before the start of each and every work day. It simply is not acceptable to go around murmuring and being constantly grumpy or of woeful countenance. We can and must be of good cheer-all the time!

There is one key trait or "piece of evidence" that will definitely convict a great property manager – the ability to have a calm demeanor and disposition at all times! And the most interesting thing about this critical piece of evidence: this attitude or calm demeanor is NOT situational. A great property manager is kind and considerate, not only while the sun shines; or pleasant and kind when circumstances are positive; but even when something or someone they were counting on does not come through; patient when things are not going fast enough, and kind toward those who treat them unkindly. Yes, great property managers who enjoy the fruits of a calm disposition and friendly demeanor, despite the circumstance or the person they are encountering, are rare indeed. What great discipline and self-control. What a priceless possession!

Second key question: **Is this a learned trait? Can it be developed and acquired over time?** I answer in the affirmative! It is a deliberate choice to form a healthy attitude toward whatever circumstances we are placed in. And what is most exciting, we have the opportunity to practice at home and work, every single day! By way of example, having the ability to resolve differences, without criticism and finger pointing, is another key "**piece of evidence**" that *convicts* a great property manager. Human beings are very good at selectively recalling what happened in the past. We filter all kinds of information and apply our own interpretations. A great property manager will negotiate and mediate deals with a kind disposition and demeanor at all times and in all places that exudes fairness, kindness, and consideration for all concerned. Their deportment literally sets the tone of the meeting with conversation that minimizes issues from escalating into combative and adversarial positions. Although we cannot control what others say or do, we do have absolute control on how we think, act and react in every situation. Property managers can definitely set a positive and conciliatory tone and "*model*" good behavior, with the hope that others will follow their lead. It has been my opportunity through the years to associate with countless individuals who I consider to be outstanding examples.

What a great tribute to be recognized as one who cares; one who is considerate at all times and in all places, and one whose character is above reproach and whose deportment and demeanor is drenched in kindness and consideration for one another. Charity can become a fundamental state of mind and heart that guides us in all we do! We need to look around, reach out, assess our own capacities, and make a positive difference with everyone we encounter. As a wise poet perceptively observed: "*I never have yet had a twinge of regret for being a little too kind!*"

XII. Making The Manning Adjustment

Why does Peyton Manning call audibles at the line of scrimmage? A) Does he not know what he's doing? B) Is he practicing his oratory skills? C) Is he making an adjustment to the play based upon what the defense is showing? Effective property managers can learn much from Manning in making critical judgment calls and adjustments when necessary. When Manning reaches the line of scrimmage, the initial play called is usually changed to another play based upon what the defense is showing. Likewise, effective property managers must develop the talent and ability to audible and make immediate adjustments to solve a problem – or, at a minimum, mitigate and limit a potential loss. If we cannot make necessary adjustments to our plans like Manning, we will be blindsided, sacked for a loss and even benched.

For instance, consider three issues property managers face that require making an adjustment: risk management, budget reforecast and body count.

Risk Management. Effective managers are great risk managers. They always are looking at their properties and tenants to see where problems are occurring. We may not be able to prevent certain risks, but we can minimize and mitigate losses. The key is to focus on *loss prevention*, which reduces the frequency of a particular loss, and *loss reduction*, which refers to measures taken to reduce the severity of a loss after it occurs. For example, we are approaching the winter season with broken pipes, flooding and potential damage right around the corner, if the property manager has not proactively prepared for such consequences. Remember: things that go wrong are predictable and, if predictable, they are preventable. Are your contractors all lined up, ready to engage at a moment's notice? Do you have on-file, accurate proof of insurance from all contractors and tenants with the proper coverages as required under the lease document and management agreement? If not, you might want to seriously consider turning in your jersey, keys and parking spot, and seek employment elsewhere and in a different profession.

Budget Reforecast. Effective property managers look ahead and prepare great annual budgets. Unfortunately, during the year, the unexpected occurs, which requires the budget to be reforecast. When results do not hit the budget projections, the first question that should come to mind is whether or not the original budget plan was strategically flawed. Great managers will see the variance from the budget targets to actual results and analyze the cause of any variance. To say that you didn't know that the roof would leak, the elevator would break down and the tenant would not vacate is not acceptable. By making proper halftime adjustments (i.e., budget reforecasting), managers can improve performance and enjoy significant comebacks for more desirable reconciliation celebrations at year-end.

Body Count. This is key. When a manager performs a property inspection, unfortunately, the usual focus and scope is limited to exterior building maintenance items. But the No. 1 focus should be engaging the tenants and identifying *body count*. Let me explain: An effective property manager should be much more concerned about the well-being of the tenants and whether they have been injured or are losing blood in their respective fields of play than on the building itself. What is the temperature, or economic well-being, of each tenant? That is the critical need of an inspection – to identify whether a tenant will be able to play the rest of the season or will be watching from the sidelines. If a tenant is on the sidelines (bankrupt, premises vacated, or the lease broken), this is a game changer and could cause the owner serious and, in some cases, catastrophic losses. Turnovers happen, tenants come and go, personnel changes and players get injured. But, the

effective manager, like Peyton Manning, can make a significant difference by providing ownership and brokers early feedback, as a result of a tenant inspection/body count, to negotiate a lease modification to retain and stabilize current tenant occupancy, or quickly default the delinquent tenant and replace it with an income-generating tenant. The abilities of property management and ownership to recognize and call for vital and timely adjustments keep the team marching down the field, and not coincidentally enhance the value of the asset!

XIII. Man Down – Next Man Up

Recently, I was riveted to my seat, watching intently a battle scene portrayed in a war movie. Then, amidst the din of explosions and the shouts of soldiers, there came a cry, “*Man down!*” When that soul cry sounded, several faithful soldiers moved toward the sound, risking their own lives, ignoring any danger to reach their injured comrade. And the soldier down knew that help would come. Whatever the risk, someone would be running low or literally crawling to reach his side, placing himself in the most dangerous of positions, even to the point of giving of his own life, to protect his fallen comrade, and to provide needed aid and comfort. I have found this literally to be true with every great team. They care for each other, cover their backs, and often go “*beyond the call of duty!*”

I bleed orange! I went to graduate school at Clemson, and now that Peyton Manning is in Denver, orange is a wonderful color – it’s even the color of sunsets. While at Clemson, the economy and job market was significantly depressed and it was most difficult to talk with owners and possible employers about work. The mindset of many owners and employers at that time was not about adding talent, but rather how to keep the staff they had on hand, or who do they let go so they can merely stay afloat. It was easy to get discouraged about the future. I am sure the owners, the employees and, for sure, the students, each felt that they were the “man down” with no one coming to their aid.

And I vividly remember a great class discussion on the principle of “Next man up!” Applying this principle to property management, the worst situations I have been in are those where we have transitioned a property, and the soon-to-be former property manager had not prepared concise documentation (i.e., organized property, tenant, and vendor files), but has merely kept important details in their heads. These transitions were a literal nightmare. The former property manager took no thought how the “next man up” would be able to effectively cope and land on the ground running, not limping. Espionage has often crossed my mind. A great property manager should be able to effectively transition a property to another property manager within 30 to 60 minutes, max!

Applied to the Broncos, Peyton Manning has lost a starting left tackle, the starting slot receiver for a handful of games, and on the defensive side of the ball there have been a merry go round of injuries that have caused serious adjustments and, in many instances, compromised performance. It is fortunate that there are players on the bench, who have prepared themselves, kept themselves in shape and are able to execute and perform as the “next man up.” Peyton Manning has worked closely with these new teammates in game conditions. He does an incredible job at raising the level of play for everyone around him, and that is an excellent attribute we all should work on to develop more in ourselves.

Today, many buildings are changing hands and there are many transitions occurring. Therefore, it is absolutely critical that we become experts in effectively transitioning properties, preparing every player for their opportunity to play and perform at the highest level. The “next man up” mindset helps every individual, and every team, to perform the duties they will be required to execute.

There is always a generation shift occurring! The old generation can and must impart much wisdom and guidance to the “*next generation up*” as they prepare to transition to other pastures,

hopefully in the clouds! And, the old can learn much from the new generation, who are anxious to *“get into the game”* particularly in the effective utilization of the Internet and the information age.

Business today is all about disruptive innovations, and life is all about transitions! Everyone and everything is transitioning, from birth, through youth, to adults, making vital connections along the way. And then, we all will transition through death. As Steve Jobs so perfectly perceived, “Death is the destination we all share, no one has ever escaped it. And that is as it should be because death is very likely the single best innovation of life.”

No matter the situation, no matter the conditions, each generation has a critical contribution to make (i.e. whether that be the seasoned veteran calling the shots or the effective manager delegating responsibility to a responsible staff, or the young generation practicing patience while increasing their talent knowing that given the opportunity their chance to perform will come). On the contrary, those who fail to prepare as the “next man up,” or claim it is too hard to make it, will have it written as John Greenleaf Whittier once said: *“Of all sad words of tongue or pen, the saddest are these, ‘it might have been!’”*

XIV. Managers: Go Out For A Walk

Amid aggressive marketing of unhealthy foods and an increasingly *sedentary* environment, there are more overweight property managers today than at any other time in our history. If the trend continues, today's property managers will not survive in this competitive marketplace. There are dire consequences for property managers with poor work style choices. The couch/office potato routine of most property managers needs an extreme makeover!

Did you know that according to the National Center for PM Health Statistics, six out of 10 property managers are overweight and obese? Need we look any further than our own waistline to affirm this grotesque statistic?

Consider the following startling bits of data:

More property managers have diabetes than ever before.

More property managers have acid reflux, ulcers and stomach problems than ever before.

More property managers have chronic fatigue than ever before.

More property managers have insomnia than ever before.

More property managers suffer from depression, stress and anxiety than ever before.

Did you know that only a reported 22 percent of property managers exercise regularly?

That is tragic because property managers should be among the world's healthiest people.

But good news is here!

Unlike most exercise and diet resolutions that last "at best" until the end of January and then are forgotten, the "PM out for a Walk" work style plan is the only real long-term solution for property managers who want to stay alive and working now and in the future.

Here are the delicious, mouth-watering details:

1. Purchase the door hanger "PM out for a Walk."
2. Schedule one hour per day — mandatory!
3. Hang "PM out for a Walk" hanger on your door and get your oversized rear end off your potato-making chair.
4. Show up at one of your properties. It has been said that success begins by simply showing up! Get natural sunlight! Your body needs sunlight. The sun enters the eyes and stimulates energy in the entire body.

5. Now, start walking! I emphasize taking baby steps! Property managers who haven't had a walk for years may want to start with a 10-minute walk every other day. The path to health is taken one step at a time. You will be absolutely surprised what you will see, hear and feel. You just might find numerous trip hazards during your leisurely stroll around and in your properties. Just 60 minutes a day promotes incredible health and financial results. Remember, solar energy reduces depression and strengthens your immune system. Don't be misled by corporate: sun is good for you and it is absolutely needed. Just ask those few (22 percent) property managers who get out of their offices and exercise regularly at their properties!
6. No walking the path alone. You must — at all times when “on the plan” — walk with each and every one of your tenants, your building engineer, a leasing agent and, if time permits, your building owner!
7. Adhere to the “talk test.” Exercise that is too intense can be dangerous. If you cannot carry on a conversation while walking, slow way down — take a deep breath and smell the roses. Listen, listen and listen!
8. Always take the stairs. It is amazing what you find living in stairwells.
9. Eat a healthy lunch with one of your tenants, your building engineer, a leasing agent and, if time permits, your building owner! Except in instances of specific food intolerances, eating with tenants should be a daily staple of every property manager's diet. Absolutely no eating alone! Savor lunch with someone special. It's true, an apple a day with a tenant keeps the doctor (tenant rep brokers) away.

The personal benefits of being healthy should be obvious. Fit property managers generally live long, high-quality lives. Unhealthy property managers don't. Good jobs, building skills and brighter futures await each and every property manager who faithfully adheres to and lives the “PM out for a Walk” work style plan. Investing in one's retirement makes sound economic sense. Yet the golden years may turn to tin if financial security is not accompanied by physical health. I think I am beginning to carve out “six-pack” abs!

XV. Managers: Never Give In To 'Just This Once' Thinking

It is a rare find to purchase a business book that sets forth correct theories, principles and practices, yet which also speaks and provides great insights about those things that are most important and which have direct application in my personal life. I literally struck gold when I read "How Will You Measure Your Life" by Harvard Business professor Clayton Christensen, the foremost authority on disruptive innovation and growth, who was recently ranked No. 1 in Thinkers50 as the most influential business thinker in the world. A 2011 cover story in Forbes magazine noted, "Everyday business leaders call him or make the pilgrimage to his office in Boston, Mass., to get advice and thank him for his ideas." As I could not make the pilgrimage to Professor Christensen's office at Harvard, I did the next best thing; I carefully studied, pondered and engaged my mind as I read this most insightful book!

Visualize you are attending Harvard Business School and have chosen the most popular elective class for second year students, "Building and Sustaining a Successful Enterprise." Professor Christensen writes the business theories studied at the top of the chalkboard, and then writes three simple questions beside those theories:

How can I be sure that:

1. I WILL BE SUCCESSFUL AND HAPPY IN MY CAREER?
2. MY RELATIONSHIPS WITH MY SPOUSE, MY CHILDREN, AND MY EXTENDED FAMILY AND CLOSE FRIENDS BECOME AN ENDURING SOURCE OF HAPPINESS?
3. I LIVE A LIFE OF INTEGRITY – AND STAY OUT OF JAIL?

Working through these questions has been extremely hard work, yet one of the most worthwhile endeavors I have ever undertaken. To bring into sharper focus, I recently attended my 40th high school reunion, which provided a series of fascinating snapshots and case studies. A few observations: *I was shocked* that I was the only one in my class who looked exactly the same as I did my senior year in high school. Thank heaven for name badges and a few old yearbooks to make the connections. I was saddened to learn of those who I felt, leaving high school, were destined to be successful on every level were clearly unhappy. Most did not enjoy what they were doing, except one classmate who was a photographer for Playboy. You would have thought he had won the Pulitzer Prize based upon the attention he was receiving at the reunion. There were also many divorces and unhappy marriages, too numerous to count. A number of my classmates, with whom I had been looking forward to reconnecting, didn't show and, by asking a few questions and visiting with other classmates, I was able to put their life-story pieces together. I was most distraught to learn of those who had died and those who had taken their own lives, not to mention a few who had resided in the penitentiary, convicted of serious crimes. And I hasten to add that along side these disappointments, there were several who have lived exemplary lives and have had rock-solid happy marriages.

I came to the stark realization that we *all* are vulnerable to the consequences of our choices and decisions. In business and in our personal lives, we face daily a series of small, everyday decisions that rarely seem like they have high stakes attached. But over time, they can play out very dramatically. Professor Christensen, when addressing the third question of how to live a life of

integrity and stay out of jail, vividly teaches utilizing numerous real life examples of companies and leaders, that thinking on a marginal basis can be very, very dangerous:

“The marginal cost of doing something *“just this once”* always seems to be negligible, but the full cost will typically be much higher. Yet unconsciously, we will naturally employ the marginal-cost doctrine in our personal lives. A voice in our head says, “Look, I know that as a general rule, most people shouldn’t do this. But in this particular extenuating circumstance, *“just this once,”* it’s OK. And the voice in our head seems to be right; the price of doing something wrong *“just this once”* usually appears alluringly low. It suckers you in, and you don’t see where that path is ultimately headed or the full cost the choice entails.”

It is absolutely true that the first step down a path is taken with a small decision. Just ask Lance Armstrong! The peril of his marginal thinking led him down an inconceivable path. And in hindsight, it all started with one small injection that would help him get an *“edge.”* This is one of the main lessons I have learned from this phenomenal book – it is easier to hold to my principles 100 percent of the time than it is to hold to them 98 percent of the time. And the only real way to avoid the consequences of uncomfortable moral concessions in my life is to never start making them in the first place. I extend an invitation for you to read this book! If you make this choice, I would greatly appreciate receiving your insights and response so that I may likewise profit from your experience.

XVI. Negotiations: Know Bargaining Range And Resistance Points

There's a wonderful folk saying that I especially find applicable to negotiations: *Who is without knowledge? He who asks no questions!* What do skilled negotiators do that average negotiators do not? First, they ask twice as many questions as average negotiators ask. Their questions have purpose: to elicit real information, especially about the reasons behind positions taken by the other party. They focus more on receiving as opposed to delivering information by asking many questions, seeking understanding and listening intently. And, most important, they seek to establish open communication by setting a friendly and personal tone, if the situation favors this. Rapport building is absolutely the most important aspect of the negotiation process.

Key study. A very interesting study by Rackham and Carlisle shows that skilled negotiators spend 38.5 percent of their time acquiring and clarifying information – as compared with just fewer than 18 percent for these activities by average negotiators. Another study found that “*listening skills*” ranked as one of the top three traits of the best negotiators. The other top-rated skills? Willingness to prepare (rated No. 1), knowledge of the subject matter being negotiated and ability to think clearly under pressure (tied for No. 2), and ability to express one’s thoughts (tied with “*listening skills*” for No. 3.)

Reference: G. Richard Shell, “Bargaining for Advantage.” New York: Penguin Books, 2006, Pages 148-149.

Now the question: Do we know our own bargaining range and resistance points? We cannot know when to say “yes” and when to say “no” without knowing what we are trying to achieve. In other words, do we know our walk away point, our target and have our opening demand clearly in mind? Have we thought ahead about our bargaining range, the concessions we are willing to make and the reasons for those concessions? If yes, we are unlikely to get caught up in the heat of the negotiation and to give up things that we will regret later. Planning our concessions will help us keep our target more firmly in mind and will better enable us to achieve it. We also will be more credible in the positions we take, even when we are making concessions, if those positions are supported by reasons that relate to specific aspects of the negotiation.

Now, assume that the opposing negotiator will be as well prepared as you are. Anticipate what the other side’s bargaining range and walk away and resistance points will be based on the information available. Focus intently on what is being said and what is not being said at every stage of the negotiation. Seek diligently to understand their options, their strengths and weaknesses. Put yourself in their shoes; see it from their perspective. What do they want from this negotiation? What is driving them? Look for signs of neediness in their words and actions. Effective negotiators actively look for and understand the difference between the word “*want*,” which is something to work for, strive for and plan for, but it is never, ever confused with “*need*.” In other words, appearing to “*need*” something too much may weaken your negotiating position.

Key point. Take extra precaution in your preparation to clearly identify and separate your wants from your neediness. Remember, neediness is a killer in a negotiation. Think of it this way: It is very difficult to appear calm, cool and collected when you are practically screaming “neediness.” Not only is it unsettling by itself but also it serves as a clear indicator of weakness in your position.

XVII. Obituary Networking

All together now, finish this sentence: "It isn't what you know, it's..." Who has not been to a funeral service in which a priest is called upon to eulogize a man or woman he or she has never known, the effect of which can be relied upon to come off as successful as a fat guy trying to break a sweat at the DAC...who is no longer a member!

A few years ago I attended a memorial service for an acquaintance that had badly flubbed his life. Alcoholism, way too much golf and a proclivity towards the opposite sex brought him too many sad indignities and a fatal heart attack at fifty on the 17th hole. I thought the priest who conducted the service was wise in scarcely speaking of the man, whom he didn't know—the service was held at the request of the man's mother, who was a member of the church—and instead emphasized the mercifulness of death.

At another memorial service, this one for a man I knew rather better, three speakers arose to quote various great authors on the dead man's behalf, and all three praised him for his sense of humor. However, you needed to be an archaeologist and really dig to get at the jokes they shared, which, when one did get it, turned out to be not very good. The service and our memory of the dead man was only saved when a fourth speaker, one of the man's sons, arose to talk about what a good father he was.

Recently, the CEO of a large private company died and the memorial service was packed, standing room only. What was even more interesting was the long line of employees walking by the open casket. I had expected to see a lot of Kleenex and much mourning. To my utter surprise, there was not a moist eye in the room. They weren't there to mourn or pay their respects, but to be assured...to the last person, that the CEO was stone cold dead!!! One woman even removed a compact mirror from her purse and held it under the corpses nose...it seemed for at least 3 minutes! She only moved on...only...when absolutely assured there was not a trace of fog.

Skill at the obituarist's art...also known as networking, is rare anywhere, but seems at an especially low ebb in Denver, Colorado. I cannot remember having read a single obituary in the Rocky Mountain News that I consider close to dying for.

Now I don't want to frighten anyone unduly, but it seems rather clear to me that the last hour is the key hour...when it comes to networking! That is the hour that judges all of the other hours. No one can tell whether or not his or her life has been successful until their last hour. As Sophocles said, "We must wait till evening to know how pleasant the day has been." Thus, it seems to me, to be a very helpful procedure to spend a little time pre-living our funeral. That is, what kind of person would you like to be when the last hour of your life arrives? What do you want your children, spouse, friends and associates to share at your funeral? What inscription would you have written on your tombstone— "Gone to another meeting;" "Why me, why now;" "I told you I was sick;" "You know what I said about seeing a light when you die? That ain't true. I can't see a thing;" or my least favorite...the last words of Faust before he died: "Faustus is gone to hell!" Now if Faust had lived his last hour first, he never would have permitted himself to come to this unprofitable place. My very favorite, "Safely home, at last!"

So, it is a serious mistake to forget for a moment, as they say in Vegas, "You can't hope to beat the House!" It really is quite humorous to really think that the current diet fads, flossing, trainers,

cosmetic surgeons can do a lot to really change things, to somehow cheat the Dealer. No matter the King's trainer's nor the King's cosmetic surgeons can put any of us back together again...for very long!

All things considered, and speaking as a true property manager, even though my body is long out of warranty, with a lot of mileage on it, replacement parts, almost impossible to obtain, and trade-ins currently not available...I have come to terms that no matter what one's station in life, or what one's wealth or natural endowments, or whom one knows, the Lifeguard's whistle will blow and it's everybody out of the pool, and that includes you and me!

And so...Obituary Networking, what seems a small or mildly amusing subject, when opened up and looked at from a last hour perspective, may be larger and more intricate than anyone had expected.

As for me, I have now focused and narrowed my networking activities on successfully and truly making a difference in the lives of those who matter most to me...and answering the following questions...that I have a real hunch may be asked of me as I exit the pool: (1) Were you honest in all your dealings? (2) How was your relationship with Debbie? Did you love her with all your heart and mind? (3) How is your relationship with your children...and now grandchildren...individually? Did you try and make them happy? (4) Did you magnify your talents and abilities to the betterment of mankind? And finally, (5) did you provide meaningful service to others?

What a thrilling experience that we may truly network and live well, enabling us to die well!

XVIII. Oh, I'm Just A Property Manager...Or So I Thought Anyway

Recently, I was having lunch with two senior property managers at McDonald's. We were going to meet at Starbucks, but I don't drink coffee, and it is such a pain to find close-in parking. And I don't like to walk a mile before I consume lunch. Plus, there really is nothing like a Big Mac and fries to satisfy the palate, and stimulate great conversation!

As we were having a lively discussion about our wonderful profession, I was shocked when one lamented, *"Oh, I'm just a property manger. I really don't think I make much of a difference at all."* I literally fell off my chair, choking on a tender morsel of my Big Mac! When I regained my composure, took my seat and cleared my throat, I boldly exclaimed: *"You've got to be kidding me! We make a huge difference to our owners, tenants, employees, brokers and vendors."* And then for the next hour, while feasting upon another Big Mac, we discussed in depth the tremendous value that great property managers provide in the marketplace. And as all great property managers do during an important meeting, I preserved and took notes on three napkins, listing the value-adds of great property managers.

But, before I share the Top 10 List, you need to know that I feel the same way about property management as Ray Kroc, founder of McDonald's felt, about the hamburger business. Kroc said, *"I didn't invent the hamburger. I just take the hamburger business more seriously than anyone else... it requires a certain kind of mind to see beauty in a hamburger bun."* Likewise, I take and love the property management business more seriously than anyone else, and *I really do see beauty* in a leaking roof, a plugged toilet and a heavy snowstorm, even a delinquent tenant who has not paid its rent for the month. I just love property management and think it is one of the great all-time professions!

And now to the Top 10 List that answers the question: *Just a property manager?*

1. Only the person who is appointed to supervise, manage, operate and maintain a property in accordance with the terms of the management and lease agreements.
2. Only the person who negotiates contracts and agreements providing for the construction of tenant improvements, including contracts with architects, engineers and general contractors.
3. Only the person who on behalf of the owner enters into contracts for utilities, janitorial services, security, landscaping, maintenance, snow and trash removal, and other services deemed necessary or advisable for the operation of the property.
4. Only the person who maintains and repairs the property in accordance with customary standards and operating procedures, and is readily available for all emergencies for the preservation and safety of the property, the tenants and other invitees.
5. Only the person, to the extent the owner requests, to cause to be placed and kept in force all forms of insurance required by law or needed adequately to protect the owner and the manager, and to promptly investigate and make a full and timely report as to all claims. The accurate tracking of certificates of insurance is a critical duty of a great property manager.

6. Only the person who works closely with the tenants, using his best efforts to collect all rent and to be proactive in responding to all tenant requests in a timely and positive manner, knowing that the more he helps his tenants succeed, the more he succeeds. Yes, great property managers get belly-to-belly with their tenants on a regular basis and do not hide behind their desk or computer. They are always in the right place at the right time, making things happen.
7. Only the person who authorizes the disbursement of funds for the successful operation of the property, documented in accurate, timely, monthly financial reports required by the owner. And need I mention the preparation of the operating and capital budgets for the property? Great property managers are constantly focused on improving the net operating income of the property!
8. Only the person who takes all necessary action to be in compliance with legal requirements affecting the property and its operation.
9. Only the person who hires and supervises all personnel and contractors in providing great service to the tenants on behalf of the owner. Great property managers know they are only as good as the people they hire. And most important, they treat tenants "first class," knowing they are the critical assets of the owner!
10. Only the person who coordinates with leasing brokers and the owner, providing all assistance to fill vacancies, thus improving the cash flow of the property. Great property managers really do like leasing brokers touring and showing the property, and strive to make their visits most memorable!

As we finished our nutritious meal at McDonald's, with a tasty ice-cream cone and oatmeal cookie, I shared my favorite quote from Ray Kroc. "*When you're green, you're growing; and when you're ripe, you start to rot.*" Yes, great property managers know the importance of "green" and certainly will "LEED" the way into the future! I hope to see you at McDonald's, either for breakfast, lunch or dinner, where we will sup and expand on the Top 10 List!

XIX. Property Managers Must Be Quick To Observe, Take Action

The capacity of being “quick to observe” is one of the most important traits that a property manager can acquire. In fact, the future success and happiness of a property manager will in large measure be determined by the development of this great character trait.

The word “observe” has two primary uses. One use denotes “to look,” “to see” or “to sense.” The second use of the word suggests “to keep,” “to conform” or “to inspect or take note.”

When we are quick to observe, we promptly look or notice and take note. Both of these fundamental elements – looking and taking note – are essential to being “quick to observe.”

The following are several examples and the lessons that can be learned when we are quick to observe:

BE QUICK TO OBSERVE THE INHERENT GOOD WITHIN EACH PERSON WE WORK WITH AND WHAT HE CAN BECOME. ARE WE REALLY INTERESTED IN THE INDIVIDUAL DEVELOPMENT OF EACH MEMBER OF OUR STAFF? ARE WE PROVIDING OPPORTUNITIES FOR ALL TO EXPAND AND TO GROW AND TO BE AND TO BECOME? REMEMBER, EDUCATION IS THE KEY TO THE DOOR OF OPPORTUNITY.

BE QUICK TO DISTINGUISH THE RELEVANT FROM THE IRRELEVANT, THE IMPORTANT FROM THE UNIMPORTANT. WITH THE MANY DEMANDS AND TIME CONSTRAINTS THAT PROPERTY MANAGERS FACE DAILY, BEING QUICK TO DISTINGUISH THE RELEVANT FROM THE IRRELEVANT AND THEN TAKING ACTION IS THE KEY TO SUCCESS AS A PROPERTY MANAGER. REMEMBER, GREAT PROPERTY MANAGERS ARE GREAT TIME MANAGERS AND VERY EFFECTIVE IN DELEGATING TASKS.

BE QUICK TO OBSERVE HOW YOU TAKE IN AND SEND OUT INFORMATION WITH OTHERS, ESPECIALLY OWNERS. QUITE OFTEN, PROPERTY MANAGERS THINK THEY KNOW WHAT CLIENTS WANT OF THEM, BUT FREQUENTLY THIS DIFFERS FROM WHAT THE CLIENT TRULY WANTS (OR AT LEAST EXPECTS). I HAVE SEEN CLIENT RELATIONSHIPS GO BY THE WAYSIDE DUE TO A PROPERTY MANAGER NOT BEING IN TUNE WITH THE MANNER IN WHICH OWNERS WANT TO RECEIVE COMMUNICATION. FOR INSTANCE, ONE OWNER COMMENTED ABOUT HIS FRUSTRATION WITH A PROPERTY MANAGER: “BILL WAS TOO MUCH OF A SYSTEMS GUY FOR ME. HE WAS ALWAYS BOMBARDING ME WITH MEMOS AND REPORTS. I DIDN’T WANT TO READ. I WANTED A PARTNER, SOMEONE I COULD TALK TO EACH DAY AND BOUNCE IDEAS AROUND. BUT HE SEEMED TO BE MUCH MORE COMFORTABLE SHOVING PAPER AT ME.” REMEMBER, HOW YOU TAKE IN AND SEND OUT INFORMATION IS A NEAR-FLAWLESS PREDICTOR OF HOW YOU WILL THRIVE IN A BUSINESS RELATIONSHIP.

BE QUICK TO SENSE WHEN THERE IS A PROBLEM OR CONFLICT AT THE OFFICE OR AT HOME. THERE IS A BOOK JUST OUT THAT I RECOMMEND: “THE ARBINGER INSTITUTE – THE ANATOMY OF PEACE – RESOLVING THE HEART OF CONFLICT.” IT IS A BRILLIANTLY WRITTEN PIECE THAT AWAKENS REFLECTION AND COMPELS ACTION! REMEMBER, GREAT PROPERTY MANAGERS WILL PURCHASE THIS BOOK AND WILL STUDY IT INTENTLY AND WILL COME AWAY WITH THE SECRET!

BE QUICK TO SEE OR SENSE THE STRUGGLES AND SUCCESSES OF YOUR TENANTS. GREAT PROPERTY MANAGERS ARE IN TUNE WITH THEIR TENANTS. THEY WORK HARD TO UNDERSTAND THEM, THEIR BUSINESS PLANS AND THEIR SUCCESSES AND FAILURES. VISITS TO THE PROPERTIES BECOME MUCH MORE THAN MERE JANITORIAL OR LANDSCAPE INSPECTIONS. REMEMBER, VISITS TAKE ON GREATER IMPORTANCE WHEN YOU ARE MEETING ONE-ON-ONE WITH YOUR TENANTS AND LISTENING CAREFULLY TO WHAT THEY ARE SAYING AND NOT SAYING.

BE QUICK TO SEE AND NOTE RISK ISSUES DURING PROPERTY INSPECTIONS. ARE WE ACTIVELY LOOKING FOR DAMAGED AND UNEVEN SIDEWALKS AND CURBS TO AVOID TRIPPING HAZARDS? ARE WE VERIFYING THAT THERE IS PROPER LIGHTING IN ALL INTERIOR AND EXTERIOR COMMON AREAS AND THAT EMERGENCY LIGHTING IS FUNCTIONING PROPERLY? REMEMBER, GREAT PROPERTY MANAGERS ARE GREAT RISK MANAGERS. THEY ARE CONTINUALLY ON THE LOOKOUT TO ALLEVIATE THE CAUSES OF TRIP AND FALL OCCURRENCES.

Yes, the ability to quickly observe, see, feel, understand, inspect and take note clearly differentiates property managers. Thankfully, this character trait can be learned – in fact, must be learned – and implemented!

XX. Property Managers: Have You Read The Lease?

One of my favorite colloquialisms that I apply often to the world of property management stems from a prison term declaration of, "You know it's a Thursday when..." (call me if you want me to explain it in terms you'll never, ever forget.) For example, you know it's a Thursday when you receive a call from a tenant or an owner asking you, as property manager, this taunting question: "Have you read the lease?" This simple question cuts right to the quick and clearly separates the "wheat" from the "chaff," or in other words, great property managers from the mediocre/soon-to-be unemployed property managers.

You know it's a Thursday when you receive a call from a tenant commenting on recent construction occurring in the space adjacent to his offices. "Have you read my lease, specifically paragraph 17, which sets forth my first right of refusal on this space?" I am so allergic to these devastating lease provisions that seem to lurk in the lease document and often are forgotten. They have "teeth," which can cause much financial hardship for all parties concerned. A great property manager would have personally abstracted all of the leases in the building, noting any first rights, options and early termination rights, and would have satisfied any notice requirement.

You know it's a Thursday when you receive written notice from a tenant exercising his "early right to terminate" upon 30 days' written notice, for his current lease, which expires June 2019.

Regardless that this "right" was hidden and buried in the Miscellaneous Provisions of the lease, specifically 37z, a great property manager would have thoroughly read and abstracted the lease, noting this early out option, and advised the landlord, brokers, attorneys and even their mothers of this terrifying provision. Missing this provision during due diligence or transitioning the building from another property management company will cause early heart failure! You know it's a Thursday when you receive written notice from a tenant via his attorney that the "operating expense reconciliations" for the past three years were not calculated correctly. They are now making a demand for reimbursement for all past year's overpayments.

A great property manager would never rely on the calculations made by previous property managers.

Rather, he will carefully analyze and read the lease provisions regarding operating expenses and make his own determination as to the proper and accurate way to reconcile. And if there is any question, whatsoever, regarding the proper calculation, great property managers will seek other competent professionals to read, understand and verify the correct way to calculate this provision.

There must be consistency and a meeting of the minds between all the parties to the lease.

Sadly, what is of greater concern is that in many buildings there are several different lease forms, rather than just one. These forms are often drafted by who knows, and each contains completely different operating expense provisions. It is an absolute nightmare.

I am also completely allergic to "caps" on operating expense provisions. It's amazing to see the audacity of anyone wanting to differentiate between controllable and uncontrollable expenses and then throwing a cap in the mix. In my opinion, caps should be banned forever!

Take note of these hidden lease provisions:

- First right of refusal
- Early right to terminate
- Options to renew
- Caps on operating expenses
- Notification rights
- Maintenance responsibilities
- Constructive eviction

You know it's a dreadful Thursday when you receive a letter from the attorney for the "guarantor" notifying you that his client was not properly notified of previous lease amendments and is therefore no longer bound as guarantor under the lease. A great property manager and owner's legal counsel would have properly notified the guarantor and all parties of concern, with each lease amendment, thus eliminating this costly error, aka heart failure.

You definitely know it's a Thursday when your owner calls your attention to the invoice for heating, ventilating and air-conditioning maintenance that you approved, which is actually the tenant's responsibility under the lease. There is an awkward silence that is deafening when asked whether the manager had read the lease before stepping into the shoes of the tenant and assuming the tenant's liability. And again, many buildings have many different lease forms in place. In these situations, there can be one instance in which the landlord is responsible, and in another, the tenant is responsible and accountable for the maintenance and repairs of the HVAC.

You know it's the last Thursday of the month when you receive written notice from your largest tenant's attorney claiming "constructive eviction," and that the tenant is in process of vacating the premises, with four years and six months remaining on his lease. Can there possibly be a worse scenario? I don't think so. The doctrine of constructive eviction strikes fear in every great property manager.

I willingly share this wise counsel received many years ago from a trusted attorney: He who reads the lease wins.

It is such a short phrase, but such wise counsel. I have been running on this for the past 25 years. And I have never forgotten it. In fact, I am contemplating having the following words carved on my tombstone: "SSS Read the Lease[s]!" There are no shortcuts nor an alternative path around reading every lease, and raising and noting "red flags" regarding any provision that is unclear or subject to various interpretations.

Great property managers will readily seek competent assistance from other real estate professionals to identify and determine the correct interpretation. And when there is a misunderstanding, it is wise to encourage the owner to have his legal counsel draft a lease amendment to clear up any misunderstanding between the parties. This is a great business practice to which all great property managers should adhere.

And now the final question that all great property managers need to ask themselves: Now that I have read the lease[s], do I really understand what each lease provision means and conveys? I will

answer for myself that often I do not know what certain provisions are trying to articulate and set forth.

Therefore, I seek competent legal and accounting assistance to instruct me, which adds to my knowledge base.

Then I can proceed with the tenant and owner to reconcile any lease issue so that both parties are satisfied and happy, feeling that they are being treated fairly and competently, pursuant to the lease. Now that's livin' the dream!

XXI. Respect Is Crucial To Job

Showing respect and kindness goes a long way. No one should ever feel that he matters little to others. As we are bombarded daily with negative messages, political warping, critical sports analysts, wild stock market swings, adverse worldwide events and daily confrontations, it is easy to become negative and intolerant.

I was speaking with a colleague the other day about a comment his former employer made to a forklift driver. The employer looked at the forklift driver and said, "That's why I am an executive, and you're still driving a forklift."

When we consider ourselves more important than others, it is a sign of disrespect. What's more, if you treat a man as how he could be, he will become what he could be, said Johann Wolfgang von Goethe.

In an atmosphere of encouragement and confidence more can be accomplished than in an atmosphere of criticism. Tragically, there are many who become much less than they could be because they are discouraged and made to feel unimportant, unpromising and unappreciated.

When property managers deal with confrontation, they must not choose to be offensive but rather choose to be kind. There is no need for contention. The vocabulary we use and the tone in which we present our suggestions and insights can make us more effective.

When I visited a vendor about its noncompliance with respect to the rules and procedures established for the building, I paused before our meeting to make sure I was in the right frame of mind. It is not an enjoyable task to advise another that he is noncompliant. Responses can run the spectrum from good to bad, based on how we engage and present the issue.

I find that when reproof is given, it is always better to extend with kindness and respect. When presented the right way, each side has the opportunity to listen and understand one another, share opinions and reach a clear resolution as well as identify steps to take to rectify the noncompliance. The relationship became stronger, instead of weaker or damaged.

If our behavior for handling confrontation is patterned after our current presidential political debates, it is time to change the channel! What a terrible way to conduct business. If your mindset is to extort, intimidate, threaten, squelch and win at any cost, it is time to get out of property management. Instead, your mindset must be to treat people positively and give them confidence and encouragement. It really is that important and that simple.

There is a direct correlation with a property manager's success and how she treats her teammates, tenants, contractors and owners. "The deepest hunger in human beings is the desire to be appreciated," said author William James.

Great property managers understand this key principle and apply it in their daily interactions. They are patient, caring, encouraging and extend heart-felt appreciation for all that others do. There are negative influences around us that we must resist. I notice a real lack of tolerance in construction jobs. Construction represents a change. In order to construct something new, inevitably there will be noise, interruption, delays and changes to your normal routine. A little patience, understanding and respect will serve us all well during these improvements.

As we live by trial and error and there is no perfection in any of us, we get to practice on each other. Much of our time is spent at work; therefore, we have a lot of interactions that could cause hard feelings and resentment. We talk of world peace, but often we don't know how to get along with our colleagues. However, there are countless learning opportunities to show patience, kindness, forbearance, love, forgiveness and my favorite – humor. Choose not to go down the lower road of accusations, judgments and annoyance. Changing the inner energy is essential. It is our choice.

XXII. The '6 Bs' Of Property Management

We are so fortunate to work in the real estate industry at a time when there are so many opportunities and challenges. Never have there been so many opportunities to increase our knowledge, improve our talents and abilities, and truly make a difference with our tenants, our properties and our communities.

Conversely, the challenges we face today are real, complex, and even frightful. The present business environment remains very tough with corporate misdeeds, reduced earnings, and downsizing/bankruptcies hanging over us like a dark cloud. There seems to be a steady erosion of the moral and ethical underpinnings of our society. How bad have things gotten in America? The Josephson Institute of Ethics reports, "Nearly half of all high school students steal. Seven in 10 admit to cheating on tests, and 92 percent said they lie." Sadly, they have been taught ever so well by their parents, schools, politicians and corporate America. It feels as if we are wading through a swamp of distortion, diversion, and deception. But, we should not despair, as, for the most part, these problems can be easily handled because they largely involve behavioral decisions that can be made and followed. That is the key!

I have "6 Bs," scrawled on a Post-it stuck to my computer screen, which defines what traits I am looking for in people who work with me. I will address each of them and their implications because, as we conduct ourselves in the world of property management, these are the traits that make a successful, valuable person in business today. Believe me, these traits are what every owner, tenant, vendor, contractor and fellow employee wishes to see in a property manager. So here are my "6 Bs" for property managers that if followed can and will make all the difference in the world:

Be honest. In all our dealings, we must be honest with ourselves and with others. Remember, "It takes 20 years to build a reputation, and five minutes to ruin it." We must never lie under any circumstance. In the next years of our lives we are going to mess something up. We all do. Here is what we should do. Admit it and move on. Do not lie. Do not hide anything. There will be people who will want you not to tell the truth at work. There will be people who you will see who will get ahead from lying. These people are wrong and they will be discovered. A liar is always caught in the business world. When liars are exposed they are finished. Trust is everything, just everything. We will never get tangled if we apply this one test: "Do nothing that would make you or your family unhappy if your statement or act was put on the front of the Rocky Mountain News!"

Be teachable. We are in the most competitive age the world has ever known. We need all the education we can get. We cannot bluff or cheat each other without bluffing and cheating ourselves. Take no shortcuts. Individual development requires much effort and sacrifice. We need to pursue our education through self-discipline and planning. No matter how old we become, we can acquire knowledge and use it. Each of us, regardless of our constraints and circumstances, can find a way to study and grow. Too much time is being wasted on mindless drivel that inhabits TV, sports and videos, when our lives could be dramatically enriched through learning. Education also makes a much more interesting person!

Be aware. Be aware of your surroundings. Have an eye for change and the ability to adapt accordingly. Look for things that are not right. Remember, things that go wrong are predictable, and if they are predictable, they are preventable! See with your own eyes and hear with your own

years. Get belly-to-belly with your tenants and vendors and listen to understand. Property managers need to come down off the mountain as frequently as possible. We should not be wed to our swivel chairs. We need to be active – personally involved in the front lines, personally monitoring our properties, and taking every opportunity to listen to the heartbeats of our tenants and vendors. Further, this “B” readily applies to security measures, collections and every other facet of property management.

Be of service. There are opportunities for individual service all around us. Frequently we are engaged in various committee or group service projects, which are surely needed and commendable, when quiet, personal service is also urgently needed. A kind greeting, a smile, a little boost or charge of encouragement adds momentum to those we affiliate with. It has been said, “next to physical survival, the greatest need of a human being is psychological survival—to be understood, to be affirmed, to be validated, to be appreciated.”

Be tenacious. Adversity and rejection are just part of life. It is par for the course! It really is what life is all about. The key is how you handle these difficult situations. What does tenacity really mean? Go to the Tattered Cover and buy *Endurance* by Lansing. This is the memoir of the great Ernest Shackleton who triumphed over the most unbelievable set of circumstances in a battle to get his crew from one end of the Antarctica to the other in 1915. Whenever I find the rejection around me overwhelming, I reread this book and remind myself that my trials are nothing, just nothing. As Thomas Pynchon V said, “You wait. Everyone has an Antarctica!”

Be nice. Unfortunately, there is a tendency with a few—and only a few property managers that when they get a little authority and power, as they suppose, they abuse it. They become authoritative, condescending and downright mean-spirited. “Perhaps such littleness is like litter on an otherwise lovely lawn; we must not be judgmental, of course, but we cannot help noticing. Come to think of it, maybe we should all look first to our own lawns.”

And that about wraps it up! Any of these traits can help us, but we need all six to truly succeed. This coalition of traits will make us unstoppable in the world we are going into. Without them, we will go nowhere.

XXIII. The Key Differential Between Property Managers

I have had the great privilege of managing and teaching many property managers throughout my career and have worked with some of the very best in our industry. And what sets them apart or differentiates them as great property managers? Five traits:

1. The strength and depth of their experience base.
2. Their *decision-making* and *problem solving ability*.
3. Their ability to *communicate*.
4. They are *self-motivated*.
5. They have a *passion* for doing what they are doing.

Great PMs have an *extensive experience* base that they rely on when facing normal and abnormal situations. Their experience has provided them with a firm set of *patterns*. And the good news for us mere mortal property managers: Pattern matching and recognition of familiar and typical cases can be trained. Great PMs have great *situational awareness*. If they read a situation correctly, the expectancies should match the events. If they are wrong, they can quickly use their experience to notice *anomalies*. It takes lots of experience and lots of variety in that experience to notice differences. For example, Gary Klein, the decision-making expert, once did an interview with a fire department commander about a seemingly routine call to douse the flames of a kitchen fire in a one-story house in a residential neighborhood. When suddenly the commander thought, "*There is something wrong.*" He turned to his men. "*Let's get out, now!*" Moments after they did, the floor on which they had been standing collapsed. The fire, it turned out, had been in the basement. Initially, he did not know why he had ordered everyone out. He thought he had extrasensory perception. With close questioning, Gary Klein uncovered the following: The living room was hotter than he would have expected for a small fire in the kitchen of a single-family home; and it was very quiet. Fires are noisy, and for a fire with this much heat, he would have expected a great deal of noise. The whole pattern did not fit right. The commander's expectations were violated. *Deviation from the pattern was noticed.*

That is why the commander ordered his men out of the home. Like this fire commander, great PMs use their experience to notice anomalies and then make quick decisions, even life-saving decisions! They detect differences that novice property managers cannot see. They are a model of great leadership and, in particular, a master of guidance in a crisis! Wow!

Great PMs are *great communicators*! When they delegate, they make sure the members of their team know what they are doing and why. Requests and recommendations are never without *full and persuasive explanation*! They want everyone to know what is going on and what is not going on! They make sure that every member of the team knows exactly what is expected of him. They provide valuable feedback on performance. They extend words of praise and encouragement when appropriate. They hold others under their stewardship accountable and are continually raising the bar for greater service. Most importantly, they are great teachers – they teach correct principles and allow others to govern themselves! Wow!

Great PMs take *personal responsibility* for their actions. They are self-motivated. It is the core of everything, because as we move through life we can assume either that we create results or that things happen to us depending on luck or what others do. Great PMs take action and are not hesitant to be held accountable for their words and actions.

Finally, great PMs are *contagiously passionate, loyal, cheerful and decent* – always uplifting others! They build their success on a foundation of camaraderie, loyalty, responsibility, determination and – above all – *optimism!* They are always in the fight, giving their all. They are great team players. They are in love with life and with people and they love to laugh. And, most importantly, *they don't choke under pressure!* Wow!

My hat's off to the great PMs!

XXIV. The Mind-Set Of An Owner

It was the defining moment in my career when I came to the stark realization that I needed to acquire a higher level of understanding of the ways owners really think and attack problems!

I believe that every property manager should seek the opportunity to work directly for an owner for a minimum of two years at the commencement of his or her career. The knowledge gained would provide a depth and vision that would greatly benefit managers throughout their entire professional careers.

Gaining the “*mind-set of an owner*” is the key differentiator between a good property manager and a great property manager. Great property managers focus on the “*best interests of the owner*” and continually “*think like an owner.*”

A few examples can best illustrate this critical mind-set and approach. I had the great privilege of working with Etkin Johnson, a great owner/developer, for many years. I recall vividly that we implemented a very detailed tenant survey to benchmark our performance with our tenants and to identify their specific leasing needs. Upon tabulating the results, I proudly presented them to ownership, expecting a “pat on the back” for our team’s diligence in securing responses from 73 percent of our tenant base. I was asked if I was pleased with this result. I proudly answered in the affirmative – as the industry average was in the low-60 percentile. I was then asked this penetrating “*owner mind-set*” question: “So, Steve... are you suggesting that we should be...*satisfied*...with not receiving any response from 27 percent of our tenants?” I felt like a deer in headlights! There was simply no good answer but absolutely, unequivocally, “NO!” Personal visits were then instituted and the mission was accomplished! The bar had been raised to 100 percent responses from our valued tenants. What a great lesson in vision, with real heartfelt concern and attention to every precious tenant.

Another example: At the very beginning of my career in property management, I worked for a great owner/developer of shopping centers. I will never forget the day I was taught this absolutely critical “*owner mind-set*” lesson. I was having lunch with the owner, savoring my double cheeseburger with fries along with a thick chocolate milkshake, when the owner pulled out a file containing our most recent delinquency report. What an “*inappropriate*” and I might add “*inconvenient*” time to review tenant delinquencies with my mouth full of hamburger and greasy, but very tasty, fries! I sensed immediate indigestion coming on and quickly excused myself to the toilet to swallow an entire pack of Roloids, which did not help in the least! When I returned to the table, not only were my fries cold and milkshake limp, but also we then painfully, slowly, meticulously went through *each and every* 30-day delinquency, *each disgusting* 60-day delinquency (*of which there were many*) and, finally, the *grotesque* 120-day-and-over delinquencies. It was without a doubt the most humiliating experience in my entire career. In fact, it was so traumatic that I am quite surprised, but very thankful, that I can still eat cheeseburgers, fries and chocolate milkshakes!

To make sure that I was experiencing more than indigestion, this great owner then shared this heartfelt assessment, declaration, or whatever else you want to call it: “Steve, how *generous* you are with someone else’s money,” repeated not once but three times! What a gut check – what a reality check! This lesson has served me well and I am so thankful that I experienced it. I have learned from it!

Great property managers really do target issues their owners care about! And as property managers have less control over the income side versus the expense side, to become one of the great property managers, we must (with urgency) pay strict attention to detail – from carefully reviewing all invoices to ensure that all work was completed in a timely and professional manner, to religiously bidding vendor contracts to minimize costs and to extract value.

I am so appreciative of the great privilege I have had of working with and experiencing “*great owners*” who have engaged my heart, mind, digestive tract and feet!

XXV. The View From China: Ni Hao!

Every morning I anxiously arise to greet a new day, savor a new experience, and prepare for my students at China Foreign Affairs University, the only institution of higher learning that operates under the guidance of the Ministry of Foreign Affairs of the People's Republic of China.

At 6 a.m., I am out the door with my favorite digital camera to capture and memorialize this once-in-a-lifetime opportunity! There is so much to see, feel, hear, touch, taste and learn. I think of myself as a mere *observer*, always looking on, and always finding myself in a position where I can get a rather good look. I just wander around the magnificent neighborhoods of "*Old and New*" China, looking for things to recognize, and whenever I see something that I know is good, true and beautiful, I take a moment and express gratitude for the joy of the moment! I am reminded of one of the most important insights I have ever gleamed from Annie Dillard, in her book "Pilgrim at Tinker Creek." Try and get your heart and mind around this great insight: "*There seems to be such a thing as beauty, a grace wholly gratuitous...beauty and grace performed whether or not we will or sense them. The least we can do is to try to be there.*" I assure you I am trying to be there!

I suppose most tourists never really see the real China. It takes time, energy, courage and a real desire to venture out with eyes wide open. It really is one thing to visit a country as a tourist, quite another to actually live *with* and *among* 1.3 billion people for an extended period of time. I feel that I have met most on my early walks and subway excursions! Such encounters (even with my nonexistent language skills) are enjoyable and memorable. Everyone enjoys a hearty "*Ni hao*," spoken with the proper tone, accompanied with a sincere smile! And the children – oh how beautiful and precious. I kid you not – the majority does not wear diapers but rather crotchless pants to facilitate potty training! There is nothing more beautiful than a baby's bottom in all its glory! We do miss our grandchildren. Thank heaven for Skype and Magicjack!

I am fascinated with the millennia of Chinese history; fascinated with ancient streets and hutongs; fascinated with the teeming masses; fascinated with my success to date of crossing the streets amidst crazy drivers of every type of vehicle known to man and then some; fascinated with a country so long closed, gradually opening to embrace itself and the world. This year marks the 30th anniversary of China's economic reforms and opening-up initiated by Deng Xiaoping!

I sigh over the turbulence encountered with change, the colossal problems of scale and density; the pressing demand and need of precious resources. Land erosion is a real threat to China's food supply. It is estimated that about three-quarters of the country's poorest people live in areas affected by land erosion. Crop output will fall and the risk of flooding will increase if desertification continues at the same rate. China is really feeling intense pressure resulting from the global financial crisis: with many plant closings, rising unemployment, social unrest, the reluctance of the people to spend rather than save, and a declining gross domestic product well below the necessary 10 percent minimum level.

China cannot afford to be complacent; challenges ahead are daunting. There are real problems of inequality and regional disparity. China is facing such challenges as uneven development between urban and rural areas, between different regions and cultures, with real and painful imbalance between economic and social development, with the ever-increasing gap between those who have little and those who have some, to the enormously wealthy elite. *The disparity is real.*

Yes, China is opening. And there is much to learn from this great people. My cup is already full! I am steadily gaining a deeper and more meaningful understanding of China's culture and traditions. On a daily basis, I have the greatest privilege of interacting with great students (*who I remind them daily are the future leaders of China*), faculty and government leaders. These one-on-one encounters are providing me with a real glimpse into their minds and hearts. I am most observant of their feelings and thoughts as they courageously cope with their problems, fears and pains. I am in awe of their many personal triumphs and their dreams for better opportunities in the future. Their discipline, loyalty and respect for family and others, and their overriding desire for harmony is real.

And as to the size of Beijing, along with the massive investment in infrastructure and the development that is under way all over China: It is absolutely mind-boggling and literally takes my breath away! You just have to see it to believe it! Come on over! I promise you it will change your life and outlook forever!

Every day when we awake, Debbie and I feel like Dorothy in the Wizard of Oz, but Kansas is nowhere in sight! We are in China! Who would have thought that such a good looking guy with such a beautiful trophy wife of 34 years, from Centennial, Colo., would be in China this very day having such a wonderful experience? What a privilege!

Until next time, "Zai jian!" (Goodbye!)

XXVI. 'Tis The Season For Reflecting

'Tis the Season to pause for a moment around a warm fireplace, sing that favorite holiday tune, "*Chestnuts Roasting On an Open Fire*," and look back and ponder over the year 2006 – to count the fruits of our labor. The season of flowers or of promise may be about over, but now is the season of fruits. The most important question facing each of us: *Where is our fruit?* What have we done with our talent?

As I sat by my warm fireplace, sipping hot cocoa and roasting marshmallows, I came upon a paragraph written by Henry David Thoreau that returned my mind to the preceding year and to the question: *Where is my fruit!*

"I have just put another stick into my stove... I suppose I have burned up a pretty good-sized tree tonight—and for what? I settled with Mr. Tarbell for it the other day; but that wasn't the final settlement. I got off cheaply from him. At last, one will say, 'Let me see, how much wood did you burn, Sir?' And I shall shudder to think that the next question will be, "What did you do while you were warm?"

Ouch! That second question is painful to contemplate. What did I do this past year while I was warm, living in the Mile High City in the greatest country in the world, with certain inalienable rights: life, liberty and the pursuit of happiness?

Did I make a positive difference in the life of another? George W. Young said: "*The greatness of a man can nearly always be measured by his willingness to be kind.*"

Was I honest in all my dealings? Without honesty, our lives will degenerate into ugliness, chaos, and a lack of any kind of security and confidence. Just imagine a society in which it would be unwise or unsafe to trust anyone – from elected officials to financial advisers to insurance adjusters to your child's day care operator or kindergarten teacher?

Did I actively seek to improve my mind and talents? Education is the training of the mind. It is something that need never stop. No matter how old we become, we can acquire knowledge and use it. We can grow and progress and improve – and, in the process, strengthen the lives of those within the circle of influence. And the more pressing question: Have I actively sought the improvement of my children's mind and talents? As James Michener stated: "*A nation becomes what its young people read in their youth. Its ideals are fashioned then. Its goals are strongly determined. And the foundations are established for future action.*"

Have I increased in wisdom and thought? We can gather wisdom and profit from it. I remember what Francis Bacon said about books: "*Some are to be tasted, others to be swallowed and some few to be chewed and digested.*" I love to learn. I relish the opportunity to acquire knowledge. I savor the words of thoughtful writers, poets and musicians. May I be so bold as to suggest that far too many people spend far too much time mesmerized by the mindless drivel that too often inhabits television, videos and the Internet. What a contrast it is, a refreshing and liberating contrast, to read the great literature of the ages.

Have I been gainfully employed? Nothing of real substance comes without work. Nothing happens in this world until there is work. It has been said: "*Work is the miracle by which talent is brought to*

the surface and dreams become a reality." I am thankful for the opportunities I have had to work and magnify my talents and abilities!

Was I actively involved in civic affairs, rather than simply trembling on the sidelines, filled with anxiety about America? Did I vote? Have I written any letters to my political leaders expressing my opinions for their consideration? Am I an active member in my home community?

Yes, in retrospect, I have produced a *variety of fruit* from my labors this past year. My life has been filled with problems to solve and associations to savor. I have wrestled with dilemmas large and small. I have known something of discouragement and, on a few occasions, have felt the exhilaration of achievement. And I have come to see things a little more clearly through Mr. Thoreau, who so astutely observed: "*O how I laugh when I think of my vague, indefinite riches. No run on my bank can drain it for my wealth is not possession but enjoyment!*"

Happy chestnut and marshmallow roasting!

XXVII. What Can You Do To Keep Your Property Teams Focused, Content and Engaged?

The real question should be: Do you have a track record of helping other people succeed? If your team were asked about your leadership, managerial and supervisory abilities, what would they say? In other words, "Why should I listen to what you have to say? Why should I follow you?" Since past actions speak louder than words, you as a leader will be judged by your past and present behavior, words and deeds.

What would be your responses to the following questions: Do you keep everyone informed about what is happening? Do you hold effective project-team meetings? Do you take the time to teach and coach? Do you delegate responsibilities effectively? Have you ever suggested or, better yet, implemented new ways to improve productivity? Are you encouraging your teammates toward their next achievement? Are you honest and open with your team? Are your communications short and to the point, but not rushed? Do your team members feel that they play an important role on the team? Have they been heard and, more importantly, understood? Are you available to each member of the team to provide guidance and further direction, to keep the process moving forward? Have you clearly identified and painted the big picture or the "light at the end of the tunnel?" Do you furnish your team with all the necessary tools, technologies and support to help each team member succeed? Do you share all news, positive or negative, with your team so each member can understand and gain further experience? Do you encourage good competition within the team that facilitates cooperation and appreciation for everyone's talents and abilities? And finally, are you supportive of your team members providing service to others in the community?

If you are not known for effective team leadership and guidance, why should your team expect anything different going into the future? Leopards don't change their spots! As the old saying goes, "A leader does not build a business – a leader builds an organization that builds a business." The good news is that if there exists a sincere desire to help others, then coaching, leadership, managing – whatever you want to call it – is a learnable skill!

XXVIII. What Does A Property Manager Spend Time Doing?

Most property management companies claim that their existing tenants represent their most important asset in their real estate portfolio.

However, when one examines their behavior, one finds that the vast majority of a property manager's time is allocated to reviewing financial reports, reporting upward, attending internal company meetings, firefighting employee issues within their own offices (internal politics), computer and telecom problems, and reviewing leases and vendor service issues – rather than spending quality time with their existing tenants! Simply put, property management companies say they believe in one thing, but appear to be doing another. What's going on here?

First and foremost, property managers need time, precious time, to meet with their tenants on a regular basis. Market research indicates, "We know a lot less about our tenants than we think we do." When property managers spend time with their tenants, they discover many things, including: their real and often unstated concerns and needs; their financial viability and soundness; changes in the organization; and information regarding their future space needs and occupancy.

Property owners should not find out news about their tenants from reading the newspaper, but should have been advised by the property manager in advance. I once knew a property manager who lost his job the day an owner came into town and wanted to tour his properties. The problem arose when the property manager had to get a map out to find a couple of the properties! That is similar to an experience I had when I first got into this business and toured the vacancies of a high-rise building with an owner. I mistakenly assumed that the on-site manager and staff had inspected every floor and vacancy prior to the owner's tour. What a poor and costly assumption!

I no longer make any assumptions as it relates to vacancies and inspections by others. I want to see with my own two eyes. I had not the slightest idea what was behind the many, many, many doors on each of the 32 floors! If I had a parachute, I would have jumped out of the 23rd floor. It was horrible. Each door we came to, I felt like I was a contestant on Let's Make A Deal. I had not the slightest idea what was behind each door. That day I felt that I literally came to the show (work) as one of the Three Stooges!

Since then, like Monty Hall, I now know what is behind every door in every building in my portfolio, having spent extra time and care with the vacancies. It has made all the difference in the world to my peace and happiness in this fascinating business known as property management. As property managers, we must take pride of ownership in our buildings and ensure that our vacancies are white-oxed, and in great show-able condition. First impressions with a prospective tenant are lasting. There are no dress rehearsals in today's marketplace!

Property managers also can demonstrate their respect for their tenants by carefully listening to their concerns and working diligently to solve the tenants' problems. We all know what it's like to request service and not receive service. To ensure tenant satisfaction, solve their problems with a positive attitude! Our tenants must not only be "satisfied" with our firm's services, but also "super-pleased." We must demonstrate by our words and actions that we are happy to provide them first-class service. That is what our tenants are paying for and that is what they deserve. Isn't that how great tenant relationships are built?

If property management companies want the substantial benefits that flow from developing existing tenant relationships, they can have them. But they won't occur automatically. They must be explicitly managed!

XXIX. Who's Your Lawyer? It's Time To Bring Legal Counsel On Board

I just spent three wonderful days in Steamboat Springs with 500 attorneys attending the 30th Annual CLE Real Estate Symposium. And I also received 12 hours of continuing education credits. *Now that is livin' the dream!*

My wife knew I was excited to attend this real estate law conference and warned me, "*Now Steve, don't get too excited in there.*" Little did she know that we would be covering such dynamic and humorous topics as buying and selling contaminated properties (*the dirtiest presentation that day*), managing environmental risk, public-private financing (*public improvement fees, tax-increment financing, urban renewal authorities, TABOR and so on*), 2012 case law updates, 2013 CREC contract forms (*all brokers should memorize and understand the Conway-Bogue Supreme Court Decision*), common water law issues, lurking special districts in a distressed market (*they can do a lot to you...ouch!*), Colorado Common Interest Ownership Act updates, eminent domain, railroad rights of way in Colorado (*Willis Carpenter's presentation with accompanying song was the highlight of the symposium*), receivership sales of real property, cool and gnarly title issues, insurance ABCs and, last but not least, ethics (*taught by John Moye, one of my favorite law professors at DU!*)

Now, if I had my choice of attending the Olympics or going to court to watch two great litigators in battle, I would, without a doubt, be sitting front row in the trial court! In my view, litigators are the pinnacles of the legal profession – brain surgeons of the highest order – cerebral warfare at its finest!

As we all know, we are living in a very litigious and nasty society. My rule of thumb: Any time I am dealing with a real estate issue that is remotely complex, or if I discern even a hint of a problem, I immediately consult legal counsel to represent and guide me through the minefields.

Sadly, there are many owners, brokers and property managers who have paid a lot of tuition, because they thought they knew what they were doing without the benefit of great legal counsel. In fact, I have observed that those who have not consulted legal counsel at the commencement of an assignment always paid the largest legal fees. And please don't get paranoid over their hourly rates. You get what you pay for. It is results that you are after!

And I do love big powerful law firms that have so many great lawyers under one roof that can be called upon, on a moment's notice, to address various and sundry issues as zoning, easements, environmental, title issues, lease negotiations, bankruptcy, FEDs (forceful entry detainer), receiverships, collections, estoppels, etc. And I also have received great legal advice from small law firms, because it really is all about selecting a lawyer with expertise in the issue at hand who is responsive to my needs. *Can it possibly get any better than that?*

I owe such a tremendous debt to lawyers! My father has truly enjoyed the practice of law for the past 50 years and has taught me well. I will never forget the day when I was commiserating about my lot in life. When questioned by my father about my forlorn condition, I told him all about the issue, and then dejectedly stated "*That's life.*" His response was less than empathetic! "*NO...my son, that's NOT life. You can do something about it!*" And I am proud to say I took his stern counsel that day and have been running on it for the past 35 years! And that lesson taught by my father has made all the difference in how I have lived my life!

And in a nutshell, this is what I so love about great lawyers: They act on their client's behalf, minimize brain damage and really make a world of difference. They do not settle for the status quo! And neither do I! And, most importantly, they have literally saved the owners we represent and me so much brain damage and money over the years!

I often have been asked, "*Who's your Daddy...Who's your Mama...even Who's your Caddie?*" I will tell you that for owners and for property managers, the more important question is, "Who's your lawyer?" If you do not have a great lawyer and law firm on your team, wake up immediately and call me. You must find competent legal counsel who has the expertise, requisite knowledge and competency that will ensure that you are properly and effectively represented when things do not go as planned.

XXX. You Must Be A 'Wanna Be'

Once upon a time...No. Imagine, then, an extremely good looking, obese property manager who, responding to some slight but persistent physical discomfort and the urging of an importunate wife, pays a visit to an endocrinologist – a doctor.

After suffering from the painful and humiliating ordeal of having blood drawn, and sitting on the edge of the papered and quite cold table-bed, he is relieved to hear that the “*persistent physical discomfort*” is of no major concern and is, therefore, nothing to become alarmed about. Since this property manager has always considered himself a fairly healthy specimen – even though shaped like a cantaloupe – he gracefully descends from the table-bed, expresses thanks to the doctor and is just about out the door when he hears the doctor say those dreaded words: “*Hold on big fella...please sit back down.*”

The doctor – after reviewing the blood work – looked up and made the following statement that forever will be forged in my mind:

“*You must be a wanna be.*”

Excuse me. “*I must wanna be... what?*”

“*You must wanna be a DIABETIC?*”

And, to make matters worse, “*You are also an alcoholic!*”

I quickly pointed out to him that I am not an alcoholic – and quoted Shakespeare to make my point “*That men should put an enemy in their mouths to steal away their brains? That we should, with joy, pleasance, revel and applause, transform ourselves into beasts.*” (Othello, 2.3.290, 1604.)

With this profound new insight, the doctor, while looking at my double chin and protruding pouch, clarified his last assessment with: “*You are a food alcoholic...same thing!*”

Oh!

“Well,” I said, “maybe I should get a second opinion.”

The doctor said, “Do what you want...it is your life! It is a real shame to spend it as a *diabetic food alcoholic!*”

If all business improvement is like curing a fat property manager and a recovering food alcoholic what, then, actually gets people and organizations to change?

A major crisis! When the first heart attack arrives, or when revenue drops off suddenly, it is absolutely amazing how quickly businesses can act to deal with known inefficiencies and bad habits they should and could have tackled head-on years ago.

I have noticed that I am constantly choosing between what I want to do and what I should do. I do not want to exercise regularly, but know that I should. The base of this conflict is the difference between “*want*” and “*should.*” Psychologists have studied these discrepancies. “Everybody behaves like two people, one who wants a lean body and the other who wants dessert...the wayward one needing only to get occasional control to spoil the other’s best laid plans.” (Schelling)

Personally and professionally, we already know what we should do: lose weight and exercise more, much more! In business: build client relationships, be team players, provide “wow!” customer service!

We know *what* to do; we know *why* we should do it; and we know *how* to do it.

The real question we should seriously ask ourselves: “Why don’t we do it?”

Now there is an interesting question!

The primary reason I do not work at areas I know I need to improve is that the rewards and pleasures are in the *future*; the disruption, discomfort and discipline needed to get there are *immediate*.

To reach our professional and personal goals, we must change our lifestyles, our eating habits now! You don’t cure half the problems of alcoholism by cutting out half the drinks. There is no pretending to be on the program. You are either seriously on the program, really living what you have chosen, or you are absolutely wasting your time.

I have come to the realization: The real battle is not external but internal. The real battle is effectively managing the conflict between the want self and the should self. My *should* self insists on complete abstinence while my want self demands a cookie. I am managing one day at a time. Each day, my *want* and *should* self make a deal to give up “drinking, aka cookies” for one day. Such a deal sounds reasonable to my want self who can believe that it can eat a cookie at any other time in life except for today. And tomorrow, my *should* self once again will make the same deal with my want self, and once again I will abstain for that day.

To conclude: Having just returned from my follow-up visit to my dear, dear friend and endocrinologist, my favorite doctor – having reviewed my latest blood work and looking at my new stealth body – stood up, shook my hand and said: “I didn’t think you had the self-discipline to change. You are very fortunate my friend. But, remember, this is no pardon. It is but a stay of execution!”