



HOSPITALITY LAW

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Week 4:

Legally Managing Hospitality Property

INTRODUCTION TO PROPERTY

- ❖ In the hospitality industry, when a hotel manager is away from the hotel, it is common to say that he or she is “ off property. ”Property, in this sense, refers to the grounds and building of the hotel.



Tick mill (2023), HOTEL PROPERTY INVESTMENTS (HPI) Shares,
<https://forexsuggest.com/wp-content/uploads/2019/12/Buy-Hotel-Property-Investments-shares.jpg>

- ❖ At the same time, when a guest enters the pool area, he or she may see a sign that states, “ Towels are provided for your convenience, but are the property of the hotel. ”In this case, property refers to a physical asset owned by the hotel.



Sam Waldron (2023), Stock in Focus – Hotel Property Investments (ASX: HPI),
<https://www.australianstockreport.com.au/hubfs/hotel-property-investments.png>

Personal Property VS Real Property



Angel Ramos, (2021, Personal Property VS Real Estate Property,
<https://kashmirirealty.com/wp-content/uploads/2020/08/Personal-Property-VS-Real-Estate-Property-900W.jpg>)

- The law treats **real property** differently from **personal property**, and these distinctions are critical for managers to understand.



Felicities (2023), Thai lawyer legal professions character with law books flat cartoon barrister vector design, https://img.freepik.com/premium-vector/thai-lawyer-legal-professions-character-with-law-books-flat-cartoon-barrister-vector-design_40876-2720.jpg?w=740

Real Property

- Real property refers to **land and all things that are permanently attached to land.**
- **Real estate** is a related term that is frequently used when referring to real property

Personal property

- **A tangible** item is one that can be held or touched:
 - **Eg:** furniture, land, equipment, food inventories
- **Intangible** items are those that cannot be held or touched, but have real value,
 - **Eg:** franchise rights, trademarks, money, stocks, bonds, and interests in securities

ANALYZE THE SITUATION 4.1

- Jay Geier purchased a cinnamon roll franchise from a franchisor. To house the operation, he purchased a small, but ideally located, building from David Stein. The two individuals agreed upon a fair price, then both Mr.

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- Geier and Mr. Stein signed the sales contract. Mr. Geier was to take possession of the property on March 1. On the morning of February 28, Mr. Geier arrived at the property to take some exterior measurements he would need in order to get a contractor's bid on resurfacing the parking lot.

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- He observed Mr. Stein removing a window air conditioning unit from the small manager's office at the rear of the building. Mr. Geier protested that the air conditioner should not be removed, as it was part of the sale. Mr. Stein replied that the air conditioner was his personal property and was never intended to be sold with the building, nor was it specifically mentioned in the sales contract.

Your comments:.....!

1. Can Mr. Stein be permitted to take the air conditioner?
2. Would the air conditioner be considered real or personal property?
3. Should the air conditioner have been mentioned in the sales contract?

PURCHASING PROPERTY

- For the hospitality manager, **the buying, leasing, or selling of property** occupies a great deal of time.



6 Beyond (2022), The Elegant Kigali Serena Hotel | Rwanda | andBeyond,
<https://www.andbeyond.com/wp-content/uploads/sites/5/swimming-pool-kigali-serena.jpg>

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- The foodservice director at an extended-care facility will buy property from vendors, such as food, supplies, and equipment, then turn around and sell some of that property
- At the same time, other equipment for the operation may be leased, such as **a dishwasher or a soda-dispensing machine**

1. Purchasing Real Property

- In order to sell property legally, the seller must have **a legal title to that property**. It is the responsibility of the buyer to verify this right, however; otherwise, the buyer may find after the purchase that he or she does not legally own the property at all!

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- **Deed:** A written document for the transfer of land or other real property from one person to another.

- **Deeds** may be either warranty deeds or quitclaim deeds.
- laws governing deeds vary from state to state; thus it is important to make sure that **legal title to the real property** is provided in the **deed.**
- When there is any **doubt as to the legitimacy of the title to a property**, it is sometimes necessary to conduct a title search.

- **Warranty deed**: A deed that provides that the person granting the deed agrees to defend the title from claims of others. In general, the seller is representing that he or she fully owns the property and will stand behind this promise

- **Quitclaim deed**: A deed that conveys only such rights as the grantor has.
- This type of deed transfers the owner's interest to a buyer, but does not guarantee that there are no other claims against the property or that the property is indeed legally owned by the seller

2. Purchasing Personal Property

- For the future hospitality manager, purchases of personal property will, in most cases, vastly exceed purchases of real estate.



Bukassa (2021), Restaurant Round Table With 4 Modern Chairs
Visit, <https://www.restaurantfurniturekenya.co.ke/wp-content/uploads/2021/04/4set-restaurant-furniture.jpg>

- Because this is true, it is very important to have a thorough understanding **of the law and practices surrounding the transfer of ownership of personal property.**

- **Bill of Sale:** is the formal document used to transfer ownership of personal property from one individual or entity to another.

- **The following items are included in a bill of sale:**
 - ✓ Name of seller
 - ✓ Name of buyer
 - ✓ Consideration
 - ✓ Description of the property
 - ✓ Statement of ownership by seller
 - ✓ Date of sale

Bill of Sale: Example

BILL OF SALE

I, _____, of [name of firm, if appropriate], in the County of _____, State of _____, in consideration of _____ dollars (\$_____), to be paid by _____, of [name of firm if appropriate], the receipt of which is hereby acknowledged, do hereby grant, sell, transfer, and deliver to _____ and his [or her] heirs, executors, administrators, successors, and assigns, forever, the following:

(Description of Property)

I hereby warrant that I _____ [or name of firm, if appropriate] am the lawful owner of the Property, that it is free from all encumbrances; that I have the right to sell the property; and that I will warrant and defend my right to legally convey it against any lawful claims or demands by anyone.

In witness, whereof, I _____, hereunto set my hand, this
____ day of _____ 20____.

Seller _____

[Signature of individual or authorized representative of firm]

- Because a bill of sale is a contract, **it can take many forms.**
- In the hospitality industry, it is common for a buyer to agree to buy a certain type of good from a vendor on a regular basis.

FINANCING THE PURCHASE OF PROPERTY

- The buying and selling of property is fairly straightforward when the buyer pays the seller the entire purchase price all at once.
- **Collateral and Liens Collateral** is an asset a person agrees to give up if he or she does not repay a loan

- **Lien:** A claim against property that gives the creditor (**lienholder**) the right to repossess and/or sell that property if the debtor does not repay his or her debt in a timely manner

- **Collateral:** Property that is pledged to secure the repayment of a debt

Mortgages and Deeds of Trust

- When financing the sale of real property, the creditor will generally insist on securing the **debt with a lien backed by collateral**. In most cases, the lien will be filed on the real property being purchased.
- **Mortgage:** The pledging of real property by a debtor to a creditor to secure payment of a debt

- **Deed of trust:** Used in some states instead of a mortgage.
- A deed of trust **places legal title to a real property in the hands of a trustee until the debtor has completed paying for the property.**

- When creditors retain some **legal rights** of ownership in a piece of personal property, they are said to have a **security interest in that property.**
- When personal, rather than real, property is involved, creditors protect and establish their interest by means of a **security agreement.**

LEASING PROPERTY

- Just as it is common to buy personal property in the hospitality industry, it is equally common to lease it.
- Both **real and personal property** can be leased
- A lease is different from a purchase of property in that **leases transfer possession, rather than ownership**

- **Lessor:** The entity that owns the property covered in a lease.
- **Lessee:** The entity that occupies or uses the property covered in a lease.
- **Landlord:** The lessor in a real property lease.
- **Tenant:** The lessee in a real proper

Essential Lease Terms as a Lessor

- Length of Lease
- Rent Amount
- Subleasing Rights of Tenant
- Insurance
- Termination Rights

Essential Lease Terms as a Lessee

- Landlord representation and default.
- Expenses paid by landlord.
- Terms of renewal.

RESPECTING INTELLECTUAL PROPERTY RIGHTS

- **Trademarks:** used to identify the producer, manufacturer, or source of a product
- **Patent:** When an inventor creates something new, he or she may apply for a **patent on the invention.**
- **A copyright** is the set of rights given to reproduce and use intellectual property.

ANALYZE THE SITUATION 4.3

- Sandy Aznovario leased a corner space in a shopping center to operate Olde Style Buffet, an all-you-can-eat buffet geared toward senior citizens and families. The buffet was especially popular on weekends, and its best business was done on Sundays, before and after people in the community normally attended church.

- Kathy Miley was the landlord for the shopping center. She and Sandy signed a net lease, clearly stating that maintenance and repair of the HVAC system would be the responsibility of the shopping center's commercial real estate company.

- On Easter Sunday, the Buffet's busiest day of the year, the head cook reported to Sandy that the overhead exhaust system in the kitchen was not working, and the kitchen was becoming unbearably hot, smoky, and humid. Sandy called the landlord's leasing office and heard a recorded message stating the office was closed because of the Easter holiday.

- then contacted Beatty's 24-hour Emergency HVAC Repair Service, which sent a representative, who examined the HVAC system, then replaced a broken fan belt on the rooftop exhaust fan. Sandy submitted the bill from Beatty's, including a triple-time labor charge for holiday service, to Kathy Miley's company for payment.

- Kathy refused to pay the bill, stating that Beatty's was not the authorized HVAC service company used by Miley, nor did the lease specifically state that HVAC service would be provided on holidays.

Your comments:.....!

1. Who is responsible for this bill?

2. What could have been done beforehand to keep this conflict from occurring?

References

[1] STEPHEN BARTH (2009), Hospitality Law: Managing Legal Issues in the Hospitality Industry , p 86-114 ,[https://www.pdfdrive.com/hospitalty-law-managing-](https://www.pdfdrive.com/hospitalty-law-managing-legal-issues-in-the-hospitality-industry-e157128399.html)

[legal-issues-in-the-hospitality-industry-e157128399.html](https://www.pdfdrive.com/hospitalty-law-managing-legal-issues-in-the-hospitality-industry-e157128399.html)

[2] Uttarakhand Open University (2021), INTRODUCTION TO HOSPITALITY AND RELATED LAWS IN INDIA,

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[extension://mhjfbmdgcfjbbpaeojofohoefgiehjai/index.htm](chrome-extension://mhjfbmdgcfjbbpaeojofohoefgiehjai/index.htm)

Thank you!

Next lecture: Legally Selecting Employees

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