



GASSA

Georgia Self Storage Association

Board Member Spotlight

NEWSLETTER
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John Colclough, Broward LLC



WHAT'S YOUR BACKGROUND IN SELF-STORAGE?

I am a Georgia native and graduated from the University of Georgia in 1982. I have 3 great kids, all of which are currently in college, so I am up working early every day. I started working in storage in the mid 1980's as a broker finding sites for a developer. I joined Sovran (now Life Storage) in 1989 in their acquisitions department and stayed for 12 years. Since 2001, I've worked as a broker, developer and investor in the business.

WHAT INSPIRED YOU TO ENTER THE SELF-STORAGE INDUSTRY?

As a young real estate broker, I sold several storage sites to developers in the mid 1980's and that's a niche that I have stayed in for 30 years.

WHAT ARE SOME POSITIVE ATTRIBUTES AND CHALLENGES IN THE INDUSTRY?

Self storage has proven to be a solid real estate segment in our culture. Our space meets a broad and fundamental need in our diverse economy as indicated by the growing per capita demand figures. People are mobile and have the disposable incomes to afford our product. Consumers need a safe and convenient place to keep their stuff.

With the recent industry success, there has been a ton of new capital, new investors and new developers in the market. I am concerned that we are going to be significantly over built in many markets. It appears that some deals are being built with some aggressive pricing assumptions. History shows that rents can soften fairly quickly in an over supplied market.

WHAT HAS BEEN AN IMPORTANT LESSON YOU'VE LEARNED SINCE WORKING IN THE SELF-STORAGE INDUSTRY?

Be very aware of the business cycle. The mid 2000's were a good time, followed by the bleak times of the financial crisis. We are having a really good run right now but that will slow down at some point.

WHAT ADVICE WOULD YOU GIVE TO A NEWCOMER?

Take advantage of all the information available today. We have two good trade groups that offer many opportunities to learn about the business the nuts and bolts of operations as well as the details of investment and development. Its a small industry relative to retail, office or multi family so its easier to effectively network, I think.

WHAT DOES THE FUTURE OF SELF-STORAGE LOOK LIKE FOR YOUR REGION AND YOUR COMPANY?

In our markets, the fundamentals are good: solid population, housing and job growth; decent barriers to entry and smart development. If we can avoid significant over building, I believe that we will continue to be a viable and profitable real estate investment.

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LEGAL CORNER - *By Scott Zucker*

Should Lease Agreements Include Contractual Lien Rights?

Forty-eight states plus the District of Columbia currently have statutory landlord's liens available for self storage operators that allow a storage operator to sell its tenant's stored goods once the tenant goes into default (only Alaska and Nebraska do not have statutes in place for self storage). These statutory liens vary among these different states and each state has unique timelines and notices to follow to permit the storage operator, as landlord, to enforce these liens.

One of the essential requirements of these statutory liens is that their requirements must be followed to ensure that the operator cannot be held liable for a wrongful sale. In other words, since the rights permitted are provided under a statute, the statute must be followed in order to take advantage of the statutory protections allowed under the law.

In some states, the laws provide for both a statutory AND a contractual lien over the tenant's stored goods. In such a case the storage operator is effectively given the option of which process to follow, either the one provided by statute or the one that may be outlined as part of the language of the Rental Agreement. Since the statutory process cannot be challenged (because it is law) and a contractual agreement can always be challenged, most operators defer to the statutory lien process when dealing with a defaulting tenant. But, as we learned from a case decided in Alabama, sometimes it may be helpful to have, as an option, a contractual lien in a rental agreement in addition to the reference to the statutory lien right.

In the case of Canyon Development Co., Inc. v. Holcomb Storage, Alabama Court of Appeals, (2012), a storage operator sold its tenant's stored property after the tenant stopped paying the rent. However, the operator did not follow the requirements of Alabama's self storage Act, but instead sent a few letters and made a few phone calls before scheduling the auction of the stored goods. As part of Holcomb Storage's lease, it included the following language:

"In addition to the landlord's lien as provided by Alabama law, but not in lieu thereof, landlord shall have at all times a valid contractual lien for all rentals or other sums of money becoming due hereunder from tenant upon all items situated in the premises, either now or in the future, and upon default by tenant, landlord may enter upon the demised premises as set out further herein and take possession of any and all items situated on the premises, without liability for trespass or conversion, and sell the same without notice at public or private sale, at which landlord or its assignees may purchase."

Holcomb Storage argued that the terms of the rental agreement created a contractual lien in addition to the

statutory lien created by the Act. They asserted that the terms and conditions of the rental agreement gave Holcomb Storage the authority to enter the storage unit, to confiscate the property, and to sell the property upon default by Canyon Development without the necessity of complying with the Act.

The Appeals Court in its decision looked at whether the facility was obligated to follow the statutory lien process or had the option of relying on this contractual lien in the Agreement. The Court referenced the state lien law (Section 8-15-34) which read "An owner's lien as provided for a claim which has become due may be satisfied as follows:" From that the Court decided that the facility was not required to follow the Act but had the option to use a contractual lien since the statute used the term "may" and not "shall".

The Court held "The language of the rental agreement established a contractual lien that authorized Holcomb Storage to sell Canyon Development's property upon default by Canyon Development. Holcomb Storage sold the property in accordance with the rental agreement signed by Canyon Development, therefore, Holcomb Storage was not required to proceed under the provisions of the Act."

So, would it make sense, as a stop gap measure, that all rental agreements have a contractual lien included in a Rental Agreement in addition to a statutory lien? Possibly. But the best approach would always be to follow the statutory guidelines. In this case, whether the rules were not followed, it saved the operator by having the contractual lien.

Until next month - Happy storing!

Scott Zucker is a partner in the law firm of Weissmann Zucker Euster Morochnik P.C. in Atlanta, Georgia. Scott specializes in business litigation with an emphasis on real estate, landlord-tenant and construction law. Scott is a frequent lecturer at national conventions and is the author of *Legal Topics in Self Storage: A Sourcebook for Owners and Managers*. He is also a partner in the Self Storage Legal Network, a subscription-based legal service for self storage owners and managers. Scott can be reached at 404-364-4626 or at scott@wzlegal.com.

Ask the Experts:

Do you wonder how much more revenue your store could produce?

Have you considered how a third party management arrangement might help you reach your goals?

What new deals are out there that you may be missing out on?



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Wilson Covington

MANAGER'S MINUTE

This *Manager's Minute* features tips and tricks from our GASSA Member managers on how to improve day to day practices, increase efficiencies, and bring in more sales on your property. This month's Minute includes insight from Wilson Covington, manager at Spacemax Self Storage and GASSA board member.

What's something good to be doing now?

You should be preparing for the busy season. Start getting your store ready for max occupancy and fill up the last 5 percent of your target occupancy. Clear out all your past due tenants to make room for new tenants willing to pay.

What's something new you've tried that worked well?

Last fall we started sending text messages to tenants about payment reminders, etc. We found we get a quicker response with texts than emails or phone calls.

What's something you've stopped doing because it wasn't working?

We stopped mass marketing with advertisements and target more specific groups now. No one wants to go across town to store so we don't waste our money on them.

GASSA Regional Luncheons

GASSA is looking forward to providing education to our members in all corners of the state. Join us for one of our Regional Meetings in 2017!

MAY 16TH – Albany

JUNE 20TH – Augusta

SEPTEMBER 12TH – Gainesville

NOVEMBER 8TH – Columbus



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2017 CALENDAR OF EVENTS

DATE	EVENT	LOCATION
March	NO LUNCHEON IN ATLANTA	
March 21, 2017	<i>Self Storage and Internet Best Practices</i> by Mark Shirey	Trevitt Hall, Dalton, GA
April 11, 2017	<i>What Should your Website Do for You?</i> - Speakers TBD	Georgian Club, Atlanta, GA
May 9, 2017	<i>Why and How to Do Marketing All Year Long?</i> - Speakers TBD	Georgian Club, Atlanta, GA
May 16, 2017	<i>What's Happening in GA and Trends for Property Sales</i> by Judith Bennett, Bennett Phoenix LLC, and John Arnold, Bellomy Co.	Albany, GA
June 13, 2017	<i>Online Auctions are Here</i> by representatives from Storage Auctions and Storage Treasures	Georgian Club, Atlanta, GA
June 20, 2017	<i>How to Improve Revenue, Cut Expenses and the Short and Long Term Market Movements</i> by Michael Morrison	Augusta, GA
July 11, 2017	<i>Legal Review</i> by Scott Zucker	Georgian Club, Atlanta, GA
August 8, 2017	<i>Annual Rent Survey</i> by Stacey Gorman, Marcus and Millichap	Georgian Club, Atlanta, GA
September	NO LUNCHEON IN ATLANTA	
Sept. 12, 2017	<i>The Financial Options for Acquiring Solar Energy for your Building</i> by Michael Perkins, Radiant Solar	Gainesville, GA
October 1-3, 2017	2017 Annual Convention	Hyatt Regency, Savannah, GA
October	NO LUNCHEON IN ATLANTA	
November 8, 2017	Topic TBD	Columbus, GA
November 14, 2017	Topic TBD	Georgian Club, Atlanta, GA
December 12, 2017	Topic TBD	Georgian Club, Atlanta, GA

* Please visit www.gassa.org for more information on each meeting.

Don't forget to renew and join to receive GASSA member benefits all throughout 2017!

GASSA offers outstanding educational sessions, networking opportunities, legal support and more! For only \$250 you can become a member today! [Click here to join!](#)

GASSA membership offers these distinctive advantages:

- Access to the Georgia Self-Storage approved rental lease – updated annually by our legal counsel.
- Access to member/vendor directories.
- Member newsletters which bring up-to-the-minute news as well as tips and features of GASSA members.
- Unparalleled networking opportunities – GASSA members gain knowledge from each other.
- Discounts on Monthly Luncheons – held the 2nd Tuesday of the month in Atlanta and periodically throughout other Georgia areas
- National SSA affiliation – GASSA partners with SSA to keep you posted on national news to enhance our statewide actions and benefits.
- Annual Expo – held in the Fall, the GASSA Convention & Expo offers networking, education and vendor meeting opportunities to help you stay competitive.
- Legislative Advocacy – representation on pertinent issues at the Georgia State Capital.

[Click here to join!](#)

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