

## **Commission Position 24 - Apartment Building or Complex Management**

(Recodification adoption June 7, 2022: CP-42 Commission Position on Apartment Building or Complex Management recodified to CP 24 - Apartment Building or Complex Management)

Updated: August 02, 2022

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The Commission recognizes that owners of apartment buildings or complexes may engage the services of Brokerage Firms or the services of Unlicensed On-Site Managers, or both. An “owner” includes either a person or an entity recognized under Colorado law that owns the apartment building or complex. The “owner” may form a separate entity to manage the apartment building or complex that might employ the services of Unlicensed On-Site Managers. The entity that owns and/or the entity formed by the owner to manage the apartment building or complex must be under the control of the same person or persons.

Pursuant to section 12-10-201(6)(b)(XII), C.R.S., a regularly salaried employee of the owner of an apartment building or complex or the managing entity is permitted to perform customary duties for their employer without a Broker’s License. An Unlicensed On-Site Manager may be employed directly by the owner or may be engaged by the Brokerage Firm and may report to either the owner or the Supervisory or Employing Broker of the Brokerage Firm engaged to manage the property. (*see* Rule 6.3.E.2.). An Unlicensed On-Site Manager may operate at the managed property on a full-time or part-time basis, or from a location designated by the owner or the Brokerage Firm. Because a Broker’s License is not held, the Unlicensed On-Site Manager cannot be paid a commission for the work performed. (*see* Rule 1.58.). The Commission views the following to be customary duties of an Unlicensed On-Site Manager:

1. Performance of clerical duties, including gathering information about competing projects.
2. Obtain information necessary to qualify prospective Consumers for a lease. This includes obtaining and verifying information regarding employment history, credit information, references, and personal information as necessary.
3. Provide access to a property available for lease and distribute preprinted, objective information if no negotiating, offering, or contracting is involved.
4. Distribute preprinted, objective information at an on-site leasing office that is prepared by an owner or Broker if no negotiating, offering, or contracting is involved.
5. Quote the rental price established by the owner or the owner’s Broker.
6. Act as a scrivener to the owner or the Broker for purposes of completing predetermined lease terms on preprinted forms as negotiated by the owner or Broker.
7. Deliver paperwork to other Brokers.
8. Deliver paperwork to owners and tenants, if such paperwork has already been reviewed by the owner or a Broker or has been prepared in accordance with the Employing or Supervisory Broker’s instructions.
9. Collect and deposit rents and security deposits in accordance with the owner’s lease agreement or the Brokerage Firm’s written Office Policy Manual.
10. Schedule property maintenance in accordance with the Brokerage Firm’s Management Agreement or the owner’s lease agreement.

If the owner has executed a written delegation of authority or a Power of Attorney form that authorizes the Unlicensed On-Site Manager to sign and execute leases on behalf of the owner, the Unlicensed On-Site Manager may execute those without possessing a License. If the Unlicensed On-Site Manager works for a Brokerage Firm, the Management Agreement must address whether the Unlicensed On-Site Manager has

*All defined terms referenced in the Commission Position statements are codified in 4 CCR 725-1, Chapter 1 of the Rules regarding Real Estate Brokers.*

the authority to sign leases or not. Employing or Supervisory Brokers supervising Unlicensed On-Site Managers with this authority are expected to review the executed documents to ensure compliance with lease terms, Management Agreements, and local, state, and federal laws, including the Real Estate Brokerage Practice Act and Commission Rules.

Employing Brokers must actively and diligently supervise all activities of an Unlicensed On-Site Manager (*see* Rule 6.3.E.) or delegate supervisory authority. (*see* Rule 6.3.F.) Supervisory duties apply whether the Unlicensed On-Site Manager is an employee or independent contractor of the Brokerage Firm or is a regularly salaried employee of the apartment building or complex owner. The Employing Broker should have a written office policy explaining the duties, responsibilities, and limitations on the use of Unlicensed On-Site Managers. This policy should be periodically reviewed with all employees.