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Tuesday, August 24, 2010

No Medical Pot, Tenants Told

By [Andy Stiny](#)

For the Journal

TAOS — Tenants of 86 rental apartment complexes in 27 cities and towns statewide, including seven complexes in Santa Fe, are being required to sign statements that they will not use or grow medical marijuana in their homes.

The requirement comes because the rents are subsidized by federal money, and federal law does not recognize the legal use of medical marijuana as state law in New Mexico does.

Monarch Properties Inc. recently sent letters to all of the properties it owns or manages in the state asking residents to sign lease attachments agreeing to the medical marijuana stipulation.

Monarch is a private corporation that operates 14,500 multifamily apartment units, some government-assisted, in New Mexico, Oklahoma and Texas, according to its website. The company is headquartered in Dallas with a division in Albuquerque. The government-subsidized rental properties are managed under federal Housing and Urban Development and U.S. Department of Agriculture programs.

Fourteen states, including New Mexico, and Washington, D.C., have enacted medical marijuana laws, according to the website [ProCon.org](#). New Mexico's law passed in 2007 and allows possession of 6 ounces of usable herb and 16 plants, four mature and 12 immature, for those with a medical marijuana card, the website states.

Residents of the New Mexico properties have to sign the amended lease agreement by Sept. 1 or they could be evicted, according to a memo sent from Monarch's Albuquerque office.

Albuquerque attorney Ron Tucker, who represents Monarch only in New Mexico, responded to Journal questions by e-mail.

"Marijuana is a controlled substance, and therefore possession, use or cultivation of the same is illegal pursuant to the Federal Controlled Substances law. Monarch manages a number of properties that are involved in federal housing programs that receive either federal subsidies, financing or other support," Tucker wrote. "Participation in those programs mandates compliance with federal law as well as other federal housing regulations and guidelines."

The federal agencies involved "have sent memoranda concerning medical marijuana, and the pre-emption of state medical marijuana laws by the Federal Controlled Substances Act and other Federal law," Tucker wrote. "Monarch has adopted a policy and developed a lease addendum based upon those memoranda that specifically deals with medical marijuana."

The New Mexico Department of Health, which administers the Medical Cannabis Program here, is powerless against the federal law, spokeswoman Deborah Busmeyer said.

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"Property owners can do what they want. Unfortunately, this is an issue that can happen in any state that has a medical marijuana program," she said.

"Unfortunately, there is nothing we can do about federal law," Busemeyer said. "It's unfortunate when anyone can't get the medicine they need."

Martha Dibella, a public information officer for HUD in Houston, said federal law dictates their policy.

"Marijuana is still a controlled substance under federal law ... they (tenants of federally subsidized housing) are not allowed to use marijuana."

Housing authorities and property managers are going to protect tenants and "going to err on the side of caution," she said, "and not endanger their properties."

Dibella said she was unsure if the letters like those Monarch sent are required by HUD and she was researching HUD regulations. "It's a controlled substance despite what the states say," she said.

According to its website, properties Monarch owns or operates in northern New Mexico include:

- Santa Fe — Cedar Creek Apartments, Paseo del Sol Apartments, Sangre de Cristo Apartments, Santa Fe Apartments, Tres Santos de Santa Fe, Villas de San Ignacio and Vista Linda Apartments.
- Taos — Cielo Azul Cooperative Housing, Mariposa Apartments.
- Las Vegas — Monte Vista Apartments.
- Los Alamos — Canyon Village Apartments, Las Ventanas Townhomes and Mountain Vista Apartments.
- Angel Fire — Angel Skye Apartments.

Fifteen conditions qualify for the state health department's Medical Cannabis Program, and applicants must have their condition certified by a physician.

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