

Who's the Victim



Cracking the Credit Score Case

BY PAUL R. BERGERON III

Resident screening, credit reports, rental payment history and long-form scoring need a keener eye after data breaches at major American retailers.

Identity theft incidents are grabbing headlines nationwide at an alarming rate. The recent Target retail store example over the holidays saw pieces of 140 million peoples' information stolen from point-of-sale credit-card transactions. Consumers' anxiety levels are high as they grow concerned that false identities may be created with this stolen information. Having one's credit report run when applying for an apartment can turn up some unexpected red flags. It also could create excuses and double-talk from residents who may claim that their poor credit scores are a result of false information.

In a sense, credit card and identity-based criminal behavior has potentially created a new victim: Apartment owners. Owners today should be more diligent than ever when reviewing prospective residents' applications. Industry best practices demand that resident screening be conducted for all applicants. Attorneys suggest it goes deeper than that.

Attorney Shane Keith, Hawkins Parnell Thackston & Young, Atlanta, says checking credit scores or doing "quick reads" are "fine tools," but they are no substitute for a review of a full credit report.

"I am shocked when I review leasing files at how many times they do not include the long-form credit report," Keith says. "Those reports will show if patterns exist or if what looks suspicious is an anomaly."

By looking at a full report, owners or property managers could identify these inconsistencies.

"If the rest of the credit report or credit file is good with only one or two bad debts that can be linked to credit theft, then the applicant may otherwise be acceptable," Keith says.

Look Closer

Management does not always need to look at a full report. But doing so can be helpful when trying to decide what to do about the applicant and whether to believe the story.

"Many apartment managers never review full credit reports anymore," says Robin Hein, Esq., Senior Counsel, Fowler, Hein, Cheatwood & Williams, P.A., Atlanta, and could lose credible applicants by rejecting them out of hand.

"Apartment managers now rely on the fast, efficient application processing that score for accepts, accepts with security deposit (or declines), but they should be reviewing a full report if the applicant claims to be the victim of credit theft."

Cost and liability are reasons full-credit reports are not performed, Keith says. "With a full-form, the apartment could (arguably) open itself to liability if one of its employees decided to engage in ID theft or if the materials were left where the public can see them and they fell into the wrong hands. (See "Long and Short of Resident Application Fact-Checking" on pg. 44)

"Apartment owners/managers and their staff members must be diligent to protect this information as they would any of their own confidential information. And access should be limited," Keith says.

Just Who is the Victim?

Brent Sobol, Founder & Executive Director, Legacy Community Housing Corp., Atlanta, says he's amazed at how often applicants, when informed their application has been rejected because of poor credit, will deny what their credit report shows.

Sobol says he's willing to accept that reaction, as long as prospective residents show that they have filed the proper paperwork with local authorities and can provide evidence that they have alerted the credit-card agencies.

"If an applicant says their credit has been damaged by stolen credit card information via Target, for example, that can be verified—if the applicant is willing to do so," Hein says.

The Fair Credit Reporting Act is the source of consumer rights regarding most of the steps a rental applicant can and should take to deal with this situation, Hein says.

"The applicant should have gone to their local law enforcement agency to file a criminal theft complaint and then forwarded that criminal report to the credit card company, collection agency and three national CRAs to have the information updated and stop any adverse actions against them," Hein says.

This is known as requesting to have a 'freeze' put on a consumer's credit history. The first step is an "initial security alert," which remains on the report for 90 days and warns any business that receives the alert that the consumer may be a victim of identity theft and to take appropriate action to verify the individual's identity before granting credit in their name. The alerts are

free and do not require that they be lifted for a business to obtain the individual's credit report.

If fraud is detected, the consumer should then file a fraud victim report with law enforcement and provide that report to the national credit reporting companies.

"Perhaps because the recent Target breach was so extensive, and so often reported in the news, a greater number of individuals chose to take that preventive action," says Carole Clinkscales, Director of Marketing, NTN Online.

"Most of our offices nationwide have indicated that this is becoming a frequent issue for property managers seeking to obtain an applicant credit history. Only the applicant can remove the 'freeze,' and it may take some time to do so."

Kristine Snyder, spokeswoman for Experian says that the number of security freezes "has remained fairly consistent over the past several years, but we have seen a small increase recently with the breaches [such as Target]."

Clinkscales suggests that all leasing professionals and property managers ask applicants if they have requested a credit freeze before attempting to obtain screening reports.

"We hear often that the applicants fail to mention the freeze, resulting in unnecessary processing delays and a greater likelihood of incomplete data collection," she says.

Snyder says that when consumers freeze their credit file, they essentially remove themselves from the credit marketplace, and "they must unfreeze their credit file each time they apply for

The Long and Short of Rental Application Fact-Checking

Attorneys address why performing long-form credit reports can be the right approach.

Many in the apartment industry say that a credit profile with a high-enough score would screen out the highest-risk applicants. In any case, the scoring parameters still have to be adjusted; accounting for bankruptcy and foreclosure are two examples.

Regarding bankruptcies, it is common to hear a property manager say, "We don't worry about them because now the applicant is debt-free and has a 'clean slate.' However, many managers do not realize that a resident who recently filed a Chapter 7 bankruptcy could file a new Chapter 13 bankruptcy—without waiting seven years."

Robin Hein, Esq., Senior Counsel, Fowler, Hein, Cheatwood & Williams, P.A., Atlanta, Hein says that applicants with single-family home foreclosures on their report or who have had automobiles repossessed are types who tend to have more debt than income. The reasons for excessive debt may not be readily apparent, but the foreclosure or repossession may be indicative of other hidden, financial problems that disrupted their ability to pay the mortgage or car loan.

Many property managers may not be aware that the fore-

closure applicant still could be liable to the lender for additional monies called a "deficiency judgment." That is the difference between what the home sold for at foreclosure and the remaining balance on the loan.

Hein says a person under foreclosure or repossession "may be only a few steps away from insolvency." Presumably, he says, being near insolvency should be reflected in their credit score—unless management wrote foreclosures and repossessions out of the parameters. However, the delinquent payments on the loans should still be reflected in the applicant's credit file and would form an important part of the credit score.

Also, many leasing consultants, assistant managers and property managers have not been trained on how to read or analyze a credit report. Even if they can read it, perhaps they do not have the time to drill down and find out what the information in front of them truly indicates.

The credit scoring system usually works very quickly as a predictor of whether the applicant can pay.

Some 20 years ago, management would send the applica-

credit. That process can typically be done via the Internet or by telephone in a matter of minutes. Managing a frozen credit report takes a serious commitment on the part of the consumer,” an Experian spokesperson says.

Disappearing Act

Sobol says when applicants tell him that something he has found on their credit reports doesn't belong to them, he is unsure whether they are telling the truth.

Sobol says that when he asks these applicants for evidence that they have reported the incidents to authorities, “90 percent of the time, they can't or don't produce anything, and they just sort of disappear by not coming back.”

Hein says applicants often do not come back because they realize that the “cover” on their story was blown (and the applicant has terrible credit), or because the applicant “is frustrated about being held accountable and instead chooses to find another apartment community that will just take his or her story at face value.”

Sobol says that based on his personal experiences, those who do produce evidence often present documents that may be forged.

“I've often been given letters from other apartment communities, printed on falsified letterhead, that suggest an apartment collection debt has been satisfied,” Sobol says. “Or, they present a very hokey-looking document that shows a court expungement proceeding took place, or some bogus satisfaction of a

prior criminal act. We'll actually call the courts to verify the validity of the documents presented.”

When this happens, Sobol says he ponders if this person should be criminally prosecuted for attempting to defraud the owner and providing a forged document.

“It's not difficult to buy falsified documents on the Internet,” Sobol says. “Comprehensively interpreting a full credit and criminal report is hard these days—even for screening company experts. Why? Because the information they provide can be cryptic, condensed and/or outright confusing because of how they get the data from the data source. I don't think leaving the leasing decision solely to the screening company and a well-defined set of screening criteria fully relinquishes the owner or manager from any negligent screening liability.”

Sobol says that perhaps a larger problem is that owners and managers are asking their leasing teams, who generally are salespeople by nature, to become fraud detectives for the purpose of protecting the properties' financial interests.

“Leasing professionals shouldn't be asked to be fraud detectives,” Sobol says. “And what compounds this is that, ultimately, there are few criminal repercussions for the applicants who attempt to gain tenancy under false pretenses, so they just keep doing it in some areas. This problem is more rampant than most property management companies either know about or want to let on that they know about.”

Further inquiry by management of the applicant and the CRA

tion to a credit checking agency. The agency would then input the applicant's name and Social Security number on a data terminal and obtain a copy of the full credit report. The agency would then contact the employer to confirm the applicant was still employed and that the amount of earnings reported on the application were correct.

The agency would cross-check the previous or current landlord's address to confirm that the previous address was a rental property. They would contact the current landlord to verify the amount of rent paid, late payments, negative rental information, whether proper notice was given and whether any money was owed to the current landlord.

Careful conversation with the current owner may actually reveal that it was a friend of the applicant who agreed to pose as the owner and therefore gave a good reference.

The agency would then type up its own summary of the credit report and analysis of whether to accept or reject the applicant. The turnaround time was usually several days.

As time went on, this process was computerized so that when the credit report was pulled, it was placed back into the agency's own reporting format with some scoring or analysis built in.

Over time, background checking and calling of employers and owners and crossing-checking records was no longer cost effective, as it is a very labor-intensive process. So, the credit score became the easier solution from both cost and efficiency perspectives.

In some cases credit reports can show incorrect information about current employment and residency. Historically, when this information was not accurate, even a full credit report may not solve the riddle, leaving onsite professionals to manually verify information by calling the applicant, their employer and current owner, a time-consuming and inefficient process.

Today, the availability of rental history is helping streamline the process. Experian RentBureau maintains an extensive database of rental history data on 11 million residents.

Communities leveraging traditional credit scores in concert with rental history data gain a fast, accurate and comprehensive means of determining the risk an applicant poses at the point of lease.

Apartment communities are encouraged to contribute rental history information from their portfolio to create an even more robust and accurate database that could serve the apartment industry's greater good to better assess applicant risk. —*P.B.*



Second Thought: Ask Regional Exec



A reasoned exception/override can be made based on looking at a prospect's total credit/income/payment behavior history and criminal report, says Mary Gwyn, Chief Innovator, Apartment Dynamics.

"This is not to do so based on a 'gut feel,' but by drilling down into the details," Gwyn says. "For example, they have a big medical blip on their credit, but they pay the rent on time, have sufficient income and it appears that everything else, overall, has been paid promptly.

"Or, perhaps they have three credit cards that they claim were run up by an ex-spouse, and everything else on their report is within guidelines. These are examples where we then can make an exception."

Gwyn says that for her company and what she recommends to her clients is that override signatures be required by regional-level management staff for some applicants' profiles. The same, she says, applies when considering applicants' criminal histories.

"We don't use vendor-provided scoring, but have been persistent in reviewing reports," Gwyn says. "Some 'bigger' owners and management companies prefer the scoring models, assuming they have reduced liability by taking the decision away from

site staff because they may not have the training or ability to make decisions within company guidelines. There are risks both ways, but a lot of companies say there is less risk using the scoring model alone."

Owner Brent Sobol says it is important if regional executives are asked to review decisions that are made based on credit reports that they are given complete information to make a sound decision. "Just giving them a condensed credit report might not be enough information for the proper decision to be reached," he says.

Attorney Robin Hein suggests that if owners or management companies are leery of a prospective resident, but see enough evidence that should be accepted, they could cover themselves by considering possibly charging a higher security deposit or a full month's rent in addition to the first full (not prorated) monthly rent.

"This might help them overcome their concerns about the applicant's ability to pay," Hein says. — *P.B.*

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to provide proper document verification of the efforts that the applicant showed to dispute the bad debt and place a fraud alert on their credit file would go a long way toward documenting whether they were victims of a crime.

Focusing heavily on a prospective renters' rental payment history can lead to more qualified residents signing leases, says April Lash, Director of Operations at Land and Company.

The Holy Grail: Rental History

"Past rental behavior is the best indicator for how an apartment applicant is likely to pay rent in the future," Lash says. "Rental history data, available through our resident screening partner, provides detailed rental payment and collection histories, giving accurate, unprecedented insight into the rental history of prospective residents."

Comprehensive positive and negative data can lead to better leasing decisions, says Lash. "Through this process, we reduce the number of conditional approvals and increase automatic approvals," explained Lash, who accesses Experian RentBureau rental history data through its existing resident screener. "The begin and end lease dates in this data helps to avoid the mistake of leasing to someone attempting to skip at another property. We also have access to information such as prior late payments, outstanding balances, skips and write-offs. So rental history truly complements our screening process and gives us another resource to accurately measure the risk an applicant poses at the point of lease regardless of credit score, or the lack of a credit score entirely."

The rental history database is objective, unbiased and reported directly from thousands of apartment communities' property management software systems, Lash added.

When a community furnishes its resident data it also enables residents the possibility to improve their own credit. Experian is currently the only credit bureau to include positive payments on credit reports when residents pay in full and on time. 

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Apartment crime: We've all got it, but what are you doing about it? What are the warning signs? Via an interactive show-and-tell, hear two law enforcement officers turned property managers/owners share their tips and techniques for successful management of crime issues in apartments.

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