



Chris Griswold, P.C.

## News From the Firm

March 2019

### Message From Chris....

**Guns and “Constitutional” or “Permitless” Carry.** We’ve all been hearing about this issue a little bit more recently in the news, for those who can legally possess a firearm – now law here in Oklahoma to become effective November 1, 2019 (though still subject to a federal background check to purchase the firearm). In response to a number of inquiries I’ve received from some concerned commercial property owners (as commercial landlords) and property managers (who act for those commercial landlords) in our business community - I wanted to write a short piece about the do’s and don’ts of enacting a uniform gun policy at your privately owned or managed commercial properties **which are open to the public**. I’ll answer the most commonly asked questions from the groups mentioned above. This should be helpful to everyone... (and don’t forget to click on my Facebook or YouTube links below to also see my short video on this material).

### Constitutional Carry

**Question #1:** *“As the owner/landlord or property manager (for such owner/landlord) of a commercial property, can I restrict, prohibit or control people (including commercial tenants) who are otherwise able to open or concealed carry (e.g., non-felons, 21 years of age or older, or those 18 years or older in military service) from coming onto my property with a handgun?”*

**Answer:** **Yes.** Commercial property owners/landlords and property managers (who act on behalf of such commercial property owners/landlords) can control the possession of weapons on any commercial property “...owned or controlled...,” whether concealed or unconcealed. This means that, as either a commercial landlord or a property manager, you can control whether or not your commercial tenants or other people bring concealed or unconcealed guns onto your owned or managed commercial property.

**Question #2:** *“How can I exercise such restriction, prohibition or control?”*

**Answer:** If the privately owned commercial building or property is open to the public, property owners/landlords or their property managers **shall post signs on or about the commercial property** stating such prohibition, as to either concealed or unconcealed weapons, or both.

[**Note:** If the commercial building or property which is leased by a commercial tenant is not open to the public (i.e., a space which only the commercial tenant will go in and out of, and no one else, like a standalone building), then the

commercial tenant can carry concealed or unconcealed guns in their demised space, **unless it's written in their lease that they can't** – however, as a technicality, if and when they pass through any publicly trafficked areas of your owned or managed commercial properties (which are in between their non-public premises and the parking lots of your commercial property), they are still subject to the no carry signs you've posted upon the property, thereby violating your “no carry policy”; thus subjecting them to the consequences found in the answer to Question #4 below. **So, only if the commercial tenant's premises are a private, stand alone building through which no public traffic shall occur (and no common areas exist), will you, as an owner/landlord or property manager, be barred from posting signage on your commercial property (i.e., their leased premises) which restricts persons from carrying concealed or unconcealed guns on that particular commercial tenant's leased premises.]**

**Question #3:** *“Is there anywhere on my commercial property that I cannot restrict, prohibit or control the presence of guns?”*

**Answer:** **Yes.** You cannot, as a commercial property owner/landlord or property manager, establish any policy or rule that has the effect of prohibiting any person (except for a convicted felon), from transporting and storing firearms in a locked vehicle on any property set aside for any vehicle (i.e., parking lots). In other words, **you cannot restrict, prohibit or ban commercial tenants (or such tenant's employee's) from having guns in locked cars located in the parking lots of your owned or managed commercial properties.**

**Question #4:** *“What happens if some person brings a gun onto my commercial property, either owned or managed, after I post signage to the contrary?”*

**Answer:** **It depends.** Be aware, the otherwise lawful carrying of a concealed or unconcealed handgun by a person who can lawfully carry a handgun on your owned or managed property that you have posted no carry signs upon **subjects the person to either being denied entrance onto your property (if you know they are carrying ahead of time), or to being removed from the property if you ask them to leave after your discovery of such firearm (which means they need to leave if your security asks them to leave).** If the person thereafter refuses to leave your commercial property and a peace officer is summoned, the violator will be in violation of law.

**Question #5:** *“What about publicly owned property? What about apartment complexes and residential rent houses?”*

**Answer:** Don't carry on property owned or leased by public entities, such as jails, prisons, airports, or public or private elementary or secondary schools - among other public property types. As for apartment complexes and residential rental homes,

look to the leases (as it usually is private property) and speak with a qualified attorney.

***The information presented within this article is of a general nature and is not intended to be relied upon as legal advice in any particular matter without first consulting qualified counsel.***

#### What My Clients Are Saying

“I can’t say enough good things about Chris Griswold and his firm. He jumped in and tactfully assisted me in navigating a hostile easement issue with the City. Based upon Chris, we were successful in negotiating a fair settlement in a very timely manner. I would highly recommend Chris Griswold to anyone and I plan on using him again in the future.”

***David Ostrowe / Principal & Owner, O&M Restaurant Group / Oklahoma City, Oklahoma***

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