

Finding a Live/Work Space for Artists

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A program of the Arts & Business Council of Greater Philadelphia*



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Artist's Introduction to Finding and Maintaining a Live/Work Space

Finding a work space typically involves a substantial commitment of time and money. This commitment makes it easy to lose sight of critical matters leading up to the creation of a final agreement. As an artist, the nature of your creative discipline may further complicate your real estate concerns. But, by becoming aware of your rights and responsibilities, you can find and maintain a successful live-in work space.

The keys to managing a successful live-in work space are: (1) self-preparation and (2) utilizing available resources for advice and support.

Searching for a place to live and work

If you are like many artists, your creative impulses do not switch on and off in accordance with a 9-to-5 work schedule. Whether painting a canvas or writing a novel, your discipline may demand long hours. Choosing to live in an area which meshes with your lifestyle will often prevent subsequent time-consuming disputes from arising.

- Talk to a number of residents about the neighborhood. Local arts organizations and tenants' groups may be able to suggest people to contact.
- The Preservation Alliance for Greater Philadelphia (215-546-1146; www.preservationalliance.com) may be able to recommend some attractive live-in workspace options. Other sources are the Nexus Foundation for Today's Art (215-684-1946; www.nexusphiladelphia.org) and the Philadelphia Housing Development Corporation (215-448-3000; www.phcdhousing.org).

- When looking at a property, consider the needs and attitudes of your prospective next-door neighbors. How receptive are they to your work and lifestyle? How flexible could you be if you were asked to adjust the use of your studio space to accommodate a neighbor?
- Inspect the property thoroughly with a competent building inspector or a friend with the appropriate expertise. The state Attorney General's office (717-787-3391; www.attorneygeneral.gov) publishes a Consumer Protection Booklet which includes information to keep in mind whether you are buying or renting real estate. Make sure that the property's light, ventilation and electrical systems are capable of supporting both your living and working needs.

Renting a separate studio space:

If you feel your creative expression demands the freedom to do as you please, and do not feel compelled by habit or finances to live where you work, a separate studio should be considered.

If you are unable to rent a studio space on your own, splitting rental costs with a second artist may make a separate studio a more affordable option. If you choose this route, keep in mind that most group leases make each co-tenant liable for the entire rent should the other(s) default.

Zoning concerns

Zoning is the system of rules which controls the use of local real estate. Historically, all land was considered mixed-use, with people working where they lived without restrictions. In the age of industrialization, the need to keep pollution and hazards away from the population led to new rules, and eventually Zoning Codes were enacted throughout the land. Philadelphia's

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first Zoning Code was enacted in 1933 as part of a Works Progress Administration project. The city began updating the Code in the 1960s, and the Zone Remapping Program, begun in 1965, re-mapped about 183 neighborhoods (or approximately 70% of the land) in the city by 1999. Currently, Philadelphia is in the process of working on a new Zoning Code (for more information, see www.zoningmatters.org).

Currently in Philadelphia, properties are zoned for Residential, Commercial or Industrial use, using a planning method called “Euclidean zoning.” These zoning classifications are divided further into important subcategories. Euclidean zoning ultimately uses regulations to guide development by classifying the land, and enacting legislations that dictate standards for each classification. The intended use of your live/work space must therefore comply with the workspace’s zoning designation, which generally employs the following guidelines:

- **Residential.** Artistic use must be secondary and non-commercial in nature.
- **Commercial.** More flexible, sometimes allows for both residential and commercial uses in specific parts of the property.
- **Industrial.** Sometimes permits both residential and commercial uses, in addition to industrial uses; a variance may be needed for residential use.

Although these definitions are typical, when looking at a particular property it is important to go to your local zoning department and find out how your prospective home workspace is zoned. For Philadelphia, preliminary Zoning Code information can be obtained from the Department of Licenses and Inspections (215-686-2463; webapps.phila.gov/li/); the website includes a mapping feature that may help you determine your zoning. It also lists the locations and phone numbers of the five district offices - in Northeast, Central, South, North, and West Philadelphia — where you can stop in to get information in person.

A variance or exception can sometimes be obtained to enable a use which would not ordinarily be allowed — a commercial use in a residential zone, for example. Applications for variances are heard by the Zoning Board of Adjustments (215-686-2429; webapps.phila.gov/li/). Since there is no guarantee the Board will issue the variance, one way to protect yourself during the zoning appeal process is to make your lease effective only upon the approval of your variance.

If you have doubts about zoning questions, attorneys from PVLA (215-790-3836; www.artsandbusinessphila.org/pvla) or Community Legal Services (215-981-3700; www.clsphila.org) may be able to advise you on the appropriateness of your intended use of the property or on your chances of obtaining a variance.

Landlords and leases:

A lease is a binding contract between you and your landlord. The lease stipulates the terms and duration of your rental. A long-term lease should always be in writing and should contain any oral promises which your landlord made to you during negotiations. In the event of a dispute, your written lease provides proof of your agreement and protects any bargained-for property rights.

Landlords often use “form” leases which are typically weighted in their favor. While these documents look like final contracts, they can be revised and/or supplemented before they are signed. Some concerns which you may want to address in the lease are:

- **Rental rate:** What the rent covers; who pays the taxes, utilities, insurance and maintenance costs; how and when rent increases will be structured.
- **Fixtures:** Which improvements to the studio — such as lighting or shelving — will be funded and installed by each party, and which may be removed at the end of the lease period.
- **Your art:** An understanding about what types of artistic activities you will be engaged in and at what time of day.
- **Repairs:** A list of items in need of repair with corresponding dates for completion.
- **Conditions:** What preconditions, such as a zoning variance, must be met before the lease is effective.

Have your lease reviewed before you sign it. It is an excellent idea to get experienced interpretation of your lease and suggestions about ways you might change it. Should a problem arise, you can contact the Attorney General’s office (1-800-441-2555; www.attorneygeneral.gov). PVLA attorneys also review workspace leases for eligible clients.

Qualify your landlord.

A landlord will often consider your history as a tenant before agreeing to grant you a rental. You should take the same cautious approach when choosing a landlord. Talk to past or present tenants of the rental space and ask about the landlord’s responsiveness to repair requests, the maintenance of the common areas (e.g., stairs and hallway) and what level of respect exists for tenants’ privacy. Contact local tenants’ groups to find out whether they have logged complaints against your prospective landlord.

Keep records of all oral and written correspondence with your landlord.

These records may prove invaluable if you find it necessary to enforce your rights at a future date.

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Addressing a problem:

When a problem arises, try to work out a fair solution with the other party before escalating the situation. This approach may help preserve an important long-term relationship. Address the problem promptly and maintain records of your contacts for future reference. Some common problems and suggestions for handling them include:

- **Repairs.** As a residential tenant, you have a right to habitable premises. Your landlord must maintain your rental in compliance with local Housing Code standards. Notify your landlord of needed repairs and try to establish a reasonable repair schedule. If he or she is uncooperative:
- Put your repair requests in writing, if you have not done so already, and mail them to your landlord by certified mail, return receipt requested
- Allow your landlord a reasonable period of time in which to respond.
- Arts/legal service groups may provide you with advice, or may intercede on your behalf. You may have available several self-help remedies, depending on the severity of your repair problem. These include: 1) withholding rent in an escrow account until the necessary repairs have been made, and 2) paying for the repairs yourself, then subtracting their cost from the rent due. Before taking either of these serious steps, you may want to contact an arts/legal service group for advice.
- Consider reporting the matter to the Department of Licenses and Inspections (L & I). L & I enforces the Housing Code, and may inspect the premises to make certain that your landlord has complied with its provisions. L & I may require a repair job if a violation exists. Your landlord is not permitted to retaliate against you for reporting a code violation. It is important to note, that the Housing Code is concerned with major issues of habitability and safety, not minor repair needs.
- **Eviction:** A tenant may be evicted under Pennsylvania law if: 1) the lease period has ended, 2) the tenant has not paid the rent due, or 3) the tenant has failed to comply with a significant lease provision. Other reasons are insufficient bases for eviction. Most important, your landlord may not have you legally evicted without going through the court eviction process:
- **Eviction process:** The eviction process takes time — you cannot be immediately tossed out of your live-in workspace. Generally, a landlord must give written notice to move within the appropriate period of time. The appropriate period may be determined by the written terms of the lease, by the duration of the lease, by Pennsylvania law or by the reason you have been asked to leave. After that time has elapsed, the landlord may seek a hearing in Municipal Court. If the landlord wins the hearing, he or she may then request the sheriff or court officer to proceed with actual, physical eviction. According to Title 9, Chapter 9 of the Philadelphia Code (Section 9-1603), a landlord may not physically evict a tenant by himself. A landlord also may not change the locks on your space without your permission. If your landlord attempts either of these evictions — termed “self-help” evictions — you can get immediate help by calling the police.
- **Appeal process:** If either the landlord or the tenant loses the Municipal Court hearing, they can file an appeal to the higher courts. During the appeal, a tenant cannot be evicted from the space as long as the rent is paid to the landlord or to an escrow account. Consult your Legal Services group(s) if you are considering filing an appeal.
- **Constructive Eviction:** As noted, you have the right to habitable premises. You also have the right to use and enjoy your rental free from unwarranted interference. If your use and enjoyment is substantially disrupted (e.g., your landlord shuts off your water for an extended period of time), you may have the right to end the lease and to vacate the premises without further obligation to pay rent.
- **Legal Service Groups:** Ask for help whenever you are facing or considering any eviction matter. Self-help remedies are not appropriate in many situations. Where appropriate, these remedies have limitations which must be observed.
- **Landlord selling your property.** A residential lease which gives your landlord the right to sell your personal belongings to satisfy unpaid rent is invalid. Under no circumstances may a residential landlord resort to this procedure.
- **Discrimination.** Discrimination in the selection or eviction of a tenant on the basis of race, color, religion, ancestry, national origin, sex or handicap is illegal. Contact the Philadelphia Commission on Human Relations and Fair Housing Commission (215-686-3237 or 215-686-4670; www.phila.gov/human-relations/), a free service, if you feel you have been subject to discriminatory treatment.
- **Landlord and Tenant Court.** Landlord-tenant matters such as breach of lease and eviction of tenants are handled by the Landlord and Tenant Court, which is a division of the Philadelphia Municipal Court, located at 34 South 11th St., 5th Floor, Room 500. It is open Monday through Friday from 9am to 4:30pm, and they may be reached by phone at 215-686-7987 or 215-686-2900. Before you take your case to court, consider whether you are willing to spend the time and money required to pursue your action. Filing fees are not large and are recovered by the winner, but decisions are subject to appeal to the higher courts. The court’s website has pamphlets available in PDF format governing how to file an eviction complaint (<http://fjd.phila.gov/pdf/brochures/how->

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to-file-an-eviction-complaint.pdf) and about the Mediation Program the Landlord and Tenant Court offers (<http://fjd.phila.gov/pdf/brochures/housing-court-mediation-program.pdf>).

If you're ready to set up a live/work space, it is wise to consult an attorney. The attorney will be able to give you guidance as you undertake this process. For more information regarding this issue, or any other arts-related legal issue, contact:

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