



SHORT-TERM LETTING

Rental Agent vs Property Manager

(This brochure is intended for Property Managers and Agents)

The growth of self-catering apartments and villas has proven a boon to the activity of *Property Management* throughout Portugal. Despite some ups and downs in the past, a combination of ingredients makes this business highly promising in the foreseeable future. In addition to the traditional factors of climate and political stability, new components such as ever increasing demographic mobility within the EU and the advent of low-cost air travel throughout Europe promise to make tourism a year-round phenomena rather than a 10 week season in the summer.

However, confusion generated around the holiday let licensing issue has led a number of agents to move their business operations outside of Portugal. Even so, the properties themselves cannot be moved and potentially remain vulnerable to attack if not prepared. Smaller operators often cannot afford to take refuge abroad.

How can Property Managers protect themselves against the pitfalls of Portuguese regulating legislation?

In addition to the 3 C's for the individual property owner - Clarity, Compliance and Common Sense - there are additional ways that Property Managers can better organise themselves to defend against potential problems associated with tourist-related activities in Portugal.

a) Separating Services

It should be obvious that Property Management is one activity, being a rental agent, quite another. The latter requires a real estate operator's licence issued by INCI (formerly IMOPPI). Although not incompatible,



the two activities should best be kept separate. In the initial registration of one's business, the Economic Activity Classification (*CAE*) is better be described as *Property Management for Others* rather than providing *Furnished Accommodations for Tourists*.

b) **Internet Advertising**

It is essential to be seen as a *service provider*, merely acting as outsourcing Agent on behalf of the Owner. Any advertising should make explicitly clear that the rentals are contracted directly between Owner and Holidaymakers. The Owner may outsource certain services such as marketing, administration, etc. Nevertheless, the purpose and applicable legislation must be clearly stated. In a set of agreed "*Terms and Conditions*" for any lets, it is essential to be explicit regarding which legislation should apply. On Internet Listings, you should have a Legal Disclaimer in Portuguese as well as in English to clarify the intended statutory purpose of the listings.

c) **Outsourcing Client Accounts**

Many Property Managers run internal *client accounts* where they collect money from the Owners for expenses as well as credit income from rentals. This in-house arrangement can work when the business is small but often becomes stained as volumes grows and eventually can easily spin out of control. More importantly, the practice blurs the essential distinction between Property Manager and Owner by mixing accounts and moneys together. If, in the other hand, separate bank accounts were to be used by each Owner with the Property Manager intervening to make and receive payments on behalf of the Owner, the line of demarcation would always be clear. An Owner's funds go directly in and out of the Owner's bank account; Property Managers would reckon separately and be paid accordingly for services rendered. This banking "outsourcing" arrangement can usually be set up without charge to either Property Manager or Owner.



d) **Property Management Compliance**

Not only do Owners have to be compliant with Fiscal Representation requirements and filing of annual income tax returns, Property Managers have their own compliance obligations to be met. The initial business registration mentioned in nº 1 above is only the first of a number of necessary steps when operating a business in Portugal. If your business is to be a true success, playing by the rules is essential in the long run.

If you act solely as Property Manager or merely as an agent for the Owner in administering holiday lets, being on solid, defensible ground is all-important when facing a potential challenge from inspectors. As is always the case, clarity, compliance and common sense will provide an excellent foundation for any on-going, successful business.

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