

## Lessor (Landlord) Duties/Standards of Care

- I. Traditional Rule and its Exceptions:
  - A. Lessors owe no duty at all to their own tenants and the tenant's guests. A lessor treated as having no ties to premises.
  - B. Exceptions which impose a duty of reasonable care to tenants and the tenant's guests:
    - 1. If the landlord has contracted to repair defects, and landlord learns about the defect;
    - 2. If the landlord knows that a defect exists at the time the tenant takes possession, and the tenant does not know nor would a reasonable person know of the defect;
    - 3. If the premises are specifically leased for public use;
    - 4. If the premises are retained in the landlord's control;
    - 5. If the landlord repairs something on the premises, regardless of whether there is a contract requiring it.
  
- II. Discarding the Traditional Rule and its Exceptions:
  - A. Lessor owes a duty of reasonable care to its tenants and the tenant's guests.

### **The Nonfeasance No-Duty Rule (aka No-Duty-to-Act or No-Duty-to-Rescue)**

- I. Traditionally, if the  $\delta$ 's conduct can be characterized properly as "nonfeasance"—*i.e.*, failing to act—then that means the defendant owes no duty to the  $\pi$  and thus cannot be liable. This is the major "no-duty rule." Modern reformulation: did the  $\delta$  *create* a risk of harm that would otherwise have *not* been there? If not, then the  $\delta$  owes no duty to  $\pi$ .
  
- II. Exceptions or qualifications which impose a duty (some of the below can be characterized not as an exception but as "misfeasance"):
  - A.  $\delta$  knows or should know that her conduct, whether innocent or wrongful, has already caused some prior harm to  $\pi$
  - B. Statute imposes a duty
  - C.  $\delta$  takes charge of assisting or caring for  $\pi$
  - D. While  $\delta$  and  $\pi$  are in a special relationship:
    - 1. Land possessor—all entrants
    - 2. Lessor—tenants and their guests only
    - 3. School—students at school or engaged in school activities
    - 4. Custodian—wards (e.g., parent—child)
    - 5. Employer—employees while at work
    - 6. Common-carrier—passengers
    - 7. Innkeeper—guest
  - E.  $\delta$  has made certain promises