

Commercial use of a single family home contrary to lease - Law of Commercial Leases

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London www.grprainer.com/en conclude: In its judgement of July 31, 2013 (File number: VIII ZR 149/13), the Federal Supreme Court (BGH) commented on the commercial use of a single family home contrary to the lease. In particular, business activities of a freelance or commercial nature that are recognizable from the outside, may under certain circumstances constitute a use which, in principle, the landlord does not have to allow without a corresponding agreement. In evaluating this, it does not matter whether the business carried out in the home has caused any concrete disturbance in the past or whether the tenant has tried to avoid such a disturbance. The very type and format of the commercial enterprise conducted in the home can already speak against a possible exemption from the principles involved.

In the case before the Court, the Defendant was operating a commercial enterprise in a single family home involving janitorial services, the dismantling and reinstallation of elevator equipment and heavy transports within buildings, the installation of elevator equipment and the construction of installation equipment. In particular, the Defendant argued that so far, no concrete disturbance had been caused by his business because in the past, he had not received any commercial visits by employees or customers in the single family home rented from the Plaintiff. He also argued that he had not parked the vehicles required for his business on the property of the home or in the street near the property, but only in a place rented separately for that purpose.

The legal provisions for commercial leases differ in some substantial points from those pertaining to residential leases. In particular, commercial leases include neither a special protection against termination nor the so-called social clause, i.e. the tenant's right to object to termination.

Nevertheless, in case of any commercial use of originally residential premises, the landlord and tenant should definitely sign a commercial lease.

A lawyer with experience in the law of commercial leases helps to draw up leases for commercial landlords and tenants. Such a lease will ensure that the interests of commercial landlords and tenant are incorporated in the lease with legal effectiveness, thus preventing future difficulties.

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Anlage: Bild

