



GOVERNMENT AFFAIRS SUMMARY OF 2013

We've always known.....

There may be several secrets to success in business, but none more valuable than the benefit trade associations offer to members. Sharing ideas, and especially pooling resources to collectively lobby lawmakers, saves each member millions over time.

Pennsylvania's industry leaders have known about the power of trade groups since our early days, thanks to our most celebrated business strategist and politician, Ben Franklin. He originated the idea of networking among like-minded entrepreneurs.

If he were around today Dr. Franklin would undoubtedly be one of our most enthusiastic members-He'd feel right at home. We have a great deal in common with the groups he formed in his time.

Franklin's Leather Apron Club gave the tradesmen and artisans of colonial Philadelphia a chance to converse and advance their professions. Also known as the Junto, they first met at a local tavern but soon rented a house for meetings and events. Those lucky enough to attend our Harrisburg dinners on the eve of a Capitol conference will have no trouble imagining what Junto meetings must have been like! Junto members were helpful to one another professionally as well as personally, and their association soon became an indispensable part of their lives.

Franklin was all about advancing new ideas. *"Without continual growth and progress, one of his notable quotes goes, "such words as improvement, achievement and success have no meaning."*

He would surely applaud our new look. He would love how it captures the spirit and breadth of our presence in the Commonwealth.

And he would revel in our government affairs success in 2013. It was his lobbying in France that secured the help we needed to win our independence. The remark about getting a seat at the table or instead you'll be on the menu is attributed to a contemporary business leader, but it is so typical of what he would say. No one knew better than Franklin about the importance of a sustained lobbying strategy in protecting an industry and assuring its financial success.

We know the spirit of our benefactor will be adjusting his bifocals and reading over your shoulder as you review the following, an account of our government affairs activity in 2013.

STATE

24- Hour Monitored Security:

A bill to require monitored security in apartment buildings is considered every session. Our lobbying helps hold it in committee. Bill sponsors want to create uniform requirements for every apartment community. But in most cases the costs would far exceed the benefits. HB 217 was introduced in January of 2013 and mirrors the efforts of bills in past sessions. Estimates suggest installing 24 hour monitored security would cost several thousand dollars at the very least. The costs for monitoring would be prohibitive. Moreover, owners' exposure to litigation would be intensified as residents develop a false sense of security and rely solely on property cameras for security. We will continue our efforts to discourage interest in moving this bill out of committee.

Abandoned Personal Property:

We testified before the Senate Urban Affairs Committee in favor of a bill that would amend Pennsylvania's abandoned personal property law. Act 129 of 2012 created responsibilities for residents and owners when residents leave personal property behind after relinquishing the rental premises. Notice to the resident and strict time frames for the resident's reply and retrieval are specified, as well as how long an owner must keep the property.

Rental owners are coping with the unintended consequences that have arisen in the year and several months Act 129 has been in effect. The law does not account for situations in which it is clear residents have obviously permanently vacated the premises without notice or leaving a forwarding address. Rental owners must go to the extreme of instituting an evictions proceeding in those cases in order to fulfill the law's notice requirements about personal property left behind.

State Senator Anthony Williams introduced SB 48 to cover situations where residents have provided no notice but have clearly left for good. We testified in favor of the bill. Tenants' groups oppose the proposal on the grounds that it would allow an easier time for rental owners to execute self-help, or "constructive evictions". We explained the criminal offense of self-help would not be weakened because the bill deals only with cases in which the resident has already left. Further, the bill does not address situations in which rent payments are missed but the resident remains, or where residents have been suddenly called away but keep possession of the premises. The narrowly tailored

SB 48 deals solely with residents who have obviously permanently left, and the law must sensibly account for that circumstance.

At the close of the committee hearing, Chairman David Argall asked us to consider continuing talks with the bill's opponents. We and other real estate organizations are planning talks for 2014. We are also working with other General Assembly members to craft legislation that addresses other problems inadvertently caused by Act 129.

Ban the Box:

HB 935 (Representative James Clay, D-Philadelphia), would prohibit employers from requiring applicants for employment to disclose their criminal histories on their employment applications. The measure is similar to a ban the box ordinance already in effect in Philadelphia. HB 935 was introduced and referred to committee in March of 2013. We oppose this measure. The apartment industry should be exempt from any prohibition against inquiring about a prospective employee's background. We provide homes for people and our employees must hold their physical safety in the highest regard. We literally hold the keys to their lives. Moreover, we are privy to sensitive information about every aspect of their lives. We will continue to lobby to convince sponsors and leadership of the delicate aspects of our industry. We must have the latitude to screen our employment applicants with the highest scrutiny possible.

Bed Bugs:

The media hysteria has somewhat subsided, but the problem of bed bugs remains in all communities, public places, hotels, private homes and multifamily housing. It crosses all socio-economic lines. Last session's legislative treatment of the problem was contained in committee. We are watching for a re-appearance of a bill. Any measure should have language that would require residents to immediately notify owners of a problem, hold them financially responsible if they do not report or do not fully cooperate in eradication procedures, and protect owners from liability relating to an infestation. Additionally, any legislative effort must include clear, reliable information about what it takes to control a problem, including the costs owners will face, which can be enormous.

We are also following the trends in litigation. There is growing sympathy among juries for residents who have suffered bed bug infestations. Trends in one state tend to migrate to other states.

Blight and Land Banks:

We continued our participation in the Senate Urban Affairs Blight Task Force, which is studying the blight problem throughout the Commonwealth. We'll be at the table throughout 2014 as well. The goal of the Task Force is to see what has been working to eliminate blight and what additional measures must be developed. Our participation

helps assure any solutions offered will not unduly harm our members' ability to manage their properties or to control costs.

We support most legislation dealing with blighted properties in communities because they have a significant negative affect on the value of our members' properties.

Now that State Representative John Taylor's (R-Philadelphia, Bucks) Land Bank legislation (HB 1682 of 2012) is law, municipalities with a population greater than 10,000 may enter in to intergovernmental cooperation agreements to create land banks. Land banks may design, develop, construct, demolish, renovate and otherwise improve real property. They can charge and collect rents, fees and other charges. They can acquire property through municipal transfer, purchase, lease purchase agreements or other means.

Representative Taylor introduced HB 1363 in 2013 to expand and clarify key definitions in the Abandoned & Blighted Property Conservatorship Act of 2008. The Act allows for the establishment of conservatorships to acquire and manage blighted properties. Proponents in the State House noted the law has been working well in both urban and rural communities in Pennsylvania, but the amendments in HB1363 are needed to expedite the process for conservatorship in the courts and encourage a greater number of nonprofit organizations to participate.

Carbon Monoxide Detectors:

Governor Corbett signed Act Number 121 in to law on December 18, 2013.

The new law requires residences, including apartment units and multifamily dwellings with a fossil fuel burning heater, appliance, fireplace or attached garage to have carbon monoxide alarms in the vicinity of the bedrooms and the fossil fuel-burning heater or fireplace by June, 2015.

We were proactive throughout the year as a major stakeholder in this issue. We participated in negotiations throughout the Act's evolution over the course of several legislative sessions.

Our efforts secured provisions that limit the CO alarm requirements to places with heaters, appliances etc. that burn fossil fuels, thus avoiding costs for those owners whose properties do not have fossil fuel burning apparatuses. We also secured an expanded timeframe rental owners will have to comply. The original bills would have required immediate compliance. The final Act gives rental owners 18 months from the date the bill became effective to comply. The additional time will allow owners to plan for the costs.

We also secured provisions that require occupants of multifamily rental dwellings to keep the CO alarm in good repair, test the device, replace batteries as needed, replace

lost or stolen devices and notify the owner in writing of any deficiencies pertaining to the alarm.

Death of a Tenant:

A dangerous amendment about landlord retaliation has been proposed for this Bill.

Association members will recall our successful efforts in 2011 when much of the language changes we suggested for a tenant death bill were adopted by the sponsor, State Representative Stanley Saylor (R-York). HB 1218 was filed in April of 2013 and uses the same language. But we have suspended our support of the bill.

In late 2013 State Representative Madeleine Dean (D-Montgomery) introduced amendments to HB 1218 that would radically change the intention of the original bill and create situations in which residents could be placed in danger and rental owners would be powerless to protect them.

One of Dean's amendments deals with the ill-conceived and nebulous notion of landlord retaliation. The Amendment would severely curtail rental owners' ability to manage dangerous situations with problem residents, and expose them to great liability and financial hardship.

Under the Amendment, actions rental owners take to decline to renew a lease or evict tenants would be presumed to be in retaliation against a resident for complaining to agencies or authorities about alleged property or lease violations, or if a resident becomes active with any lawful organization. We vehemently oppose this Amendment and are continuing our efforts in 2014 to keep it from passing out of committee.

Rental owners must protect their property and residents from negligent, disruptive or dangerous tenants. They often face great exposure to lawsuits if they do not act promptly to remove problem tenants from the premises. Additionally, many Association members can recount situations in which unscrupulous residents have purposefully damaged the premises and then contacted authorities to complain. We will fight any bill or amendment to a bill that would protect rental residents who fabricate situations in bad faith.

Representative Saylor's original bill would help rental owners as well as the estates of deceased tenants, and we would renew our support if the Amendments proposed by Representative Dean are withdrawn. The original language of HB 1218 states where a tenant who was the sole tenant dies, the executor or administrator would be able to terminate the lease with fourteen days' written notice. The lease could be terminated on the later of the last day of the calendar month that immediately follows the calendar month in which the tenant died; or upon surrender of the rental unit and removal of all of

the tenant's personal property. A tenant's estate would still be responsible for rent or other debts incurred prior to the date of termination of the lease.

Other proposed amendments to this bill include an extensive amendment to the Landlord and Tenant Act regarding leases and victims of domestic violence. See Domestic Violence, below).

Domestic Violence:

Municipal efforts to penalize domestic violence victims by forcing evictions: An effort in Pennsylvania to forbid municipalities from penalizing residents or rental owners for summoning police or emergency help has our support. We supported HB 1796, which would prohibit municipalities from enacting ordinances that require landlords to evict residents over incidents in which police or emergency help is called. At this writing the bill has passed the state House and was headed to the Senate.

Representative Todd Stephens (R-Montgomery) introduced HB 1796 in response to the nuisance ordinances several towns have enacted, most notably the Norristown ordinance that penalizes residents and landlords when police are called over an incident at the property. These "three strikes ordinances" typically require rental owners to evict residents following incidents of disorderly conduct. Aside from unjustly penalizing citizens for summoning their public servants for help, such ordinances place owners in an impossible position and infringe on their property rights.

Domestic violence victims' rights and leasing:

In November, 2013 Representative Mark Painter (D-Montgomery) offered an amendment to the tenant death bill (see above) that would include tenants' rights in cases of domestic violence, sexual assault or stalking. A tenant could be released from a lease under certain conditions with proper notice. Rental owners would also be required to terminate the lease of a perpetrator of domestic violence upon the issuance of a court order requiring the perpetrator to vacate the dwelling unit. The Amendment is similar to domestic violence laws elsewhere in the nation. We are working to assure the language does not restrict owners from managing their properties and lease agreements in a way that protects the interests of all parties.

Early Lease Termination for Entry in a Health Care Facility, or for Mental Illness:

There appears to be a growing tolerance among some legislators for interfering with private contracts, particularly leases, if it suits a social purpose.

Along with her landlord retaliation amendment to the tenant death bill, Representative Madeleine Dean introduced an amendment that is actually a re-introduction of an earlier

bill. Her amendment would require rental owners to terminate leases early if the resident has to move to a health care facility such as a nursing home, or a family member's home for daily care. We secured language that would provide ample notice and protect the rental owner from fraud or abuse of the privilege.

State Representative Louise Bishop (D-Philadelphia) introduced HB 593, dealing with lease termination, this time for terminal or mental illness. Her concept has been the subject of bills over the course of several sessions. Rental owners would be required to allow access to a dwelling by a person designated as the resident's agent or guardian. Additionally, a resident with a certified illness could terminate a lease with 30 days' notice from the resident or the resident's agent or guardian. The notice would have to include a physician's certification. The lease could be terminated only if the resident did not know or have reason to know about the illness at the time the resident entered into the lease. The bill remains in committee.

Our extensive lobbying efforts regarding these early lease termination proposals are based on the significant financial burden they create for rental owners, the unprecedented way in which they interfere with private contracts and their considerable potential for abuse, or fraud by ill-willed residents.

Electronic Lease Payments:

State Representative Cherelle Parker (D-Philadelphia) introduced HB 797 to allow residents to pay rent and deposits by at least one form of payment that is neither cash nor electronic funds transfer. Rental owners would be allowed to demand cash as the exclusive form of payment for three months if the resident has previously bounced a check. Representative Parker introduced the bill at the behest of some senior citizens who do not use or prefer not to use computers, and are dubious of automatic withdrawal arrangements. Although the faction of renters who would prefer to avoid electronic payments is dwindling, the bill serves the needs of some but allows the parties to a lease contract to mutually agree to electronic rent payments. The bill remains in committee. We are working with Representative Parker on this and other issues.

Evictions:

Every session a few lawmakers renew their efforts to amend The Pennsylvania Landlord and Tenant Act regarding evictions. Most bills that have been introduced would allow a rental owner to request a writ of possession immediately after the rendition of a judgment for possession, and require a magisterial district judge (MDJ) to issue the order for a writ of possession immediately following a rental owner's request. The proposals also allow the time periods for the issuance of a writ of possession and a resident's appeal of the judgment to run concurrently. State Representative John Payne (R- Dauphin) would amend the Landlord and Tenant Act regarding summons and

service and the time a tenant has to appeal to a common pleas court. The bill was introduced in January of 2013. It has our support but remains in committee at this time.

Immigration and Rental Housing:

Several jurisdictions in different states have attempted to proscribe renting to illegal immigrants. Hazleton, PA was one of the first. We have always taken the position that regulating the apartment industry including holding rental owners accountable for the immigration status of their residents is not a solution. We must not be placed in the position of serving as de facto law enforcement or immigration authorities. Nor must we be placed in the position of having to balance a duty to regulate the immigration status of our residents with fair housing concerns.

A few years ago the Federal Third Circuit Court of Appeals struck down the Hazleton ordinance on constitutional grounds. The United States Supreme Court ordered them to reconsider their opinion. In 2013 the Circuit Court reiterated its ruling and once again struck down the Hazleton ordinance. But federal appeals courts in different parts of the country have ruled the opposite way, and upheld similar ordinances. It appears the Supreme Court could be called upon to settle the conflict once and for all. In the meantime, the law in Pennsylvania stands as the Third Circuit ruling demands.

Several state measures dealing with immigration were introduced in Pennsylvania last session and in February of 2013 State Senator John Rafferty (R-Montgomery) followed up in this current session with SB 553, which would prohibit employment of illegal immigrants. Immigration bills would pose a great expense to our members and present fair housing problems.

We are monitoring all immigration issues as they could pertain to employment or housing in the apartment industry and will work to strike any proposal that poses a compliance problem or financial threat to our members. This writer also serves as a point-person (industry expert) on immigration for the National Apartment Association.

Mandatory Evictions for Discharging a Firearm:

Most property rules would probably cover this, but HB 1117 would set it in stone. Representative Mike Schlossberg (D-Lehigh) would amend the PA Landlord and Tenant Act to require rental owners to evict tenants convicted of discharging a firearm, which would violate the Pennsylvania criminal law that prohibits firing a weapon into an occupied structure. Representative Schlossberg has stated the bill is intended to assist landlords in removing offending tenants and to maintain the safety and security of the neighborhood. We support Representative Schlossberg's efforts. The bill is in committee.

Marcellus Shale:

Land use, environmental concerns, a growing need for rental housing, fees and taxes are among the major issues surrounding the mining of the rich Marcellus Shale natural gas resource in Pennsylvania. The apartment industry cannot afford to ignore its tremendous impact. It presents opportunities for development but also poses challenges from possible regulatory control. The Commonwealth is trying to attract the major industries that use and adapt the extracted gas. We will continue to follow and keep members posted on the development of this very significant issue.

Medical Marijuana:

We'll continue talks with sponsors about HB 1181 (Mark Cohen, D- Philadelphia), SB 770 (Senator Daylin Leach, D-Montgomery) SB 1182 (Senator Mike Folmer, R-Lebanon) that would allow medical use of marijuana for qualifying patients.

Representative Cohen's co-sponsor memo noted his intention of introducing the bill for those who need it for medical reasons as well as for those who enjoy smoking it.

The bills would provide for regulation and control of the sale of marijuana and marijuana products. They would also allow users to grow up to six plants for their own use.

A separate bill, SB 528, introduced by Senator Leach, would all the recreational use of marijuana by persons over age 21.

Marijuana use presents a host of problems for rental owners. Fair housing concerns top the list. Federal and state law prohibit discrimination against persons with disabilities. Reasonable accommodations may be required of rental owners for residents who are disabled and wish to use marijuana for medical reasons. Secondhand smoke is another problem, and the nuisance or medical risks it could pose to other residents. The potential for property damage from smoking and growing the plants can be severe. Apartment units make poor greenhouses and rental owners in other states have suffered fires from improper use of electric lines for heat lamps, and water and humidity damage in the form of peeling paint, buckled floors and mold. The problem of increased crime on multifamily properties has reportedly increased in other states who allow marijuana use. Additionally, federal law still prohibits marijuana use, and that poses several concerns for rental owners who would allow marijuana use on their properties.

We will advocate for rental owners over these and other ramifications these bills could cause for multifamily communities.

Meth Labs:

We continue to watch for legislation regarding meth labs in apartment communities. Any ill-conceived bill could pose very serious financial burdens on rental owners. Several bills were introduced in previous legislative sessions that typically required the disclosure of the presence meth labs on properties. We convinced legislators to consider the serious consequences such requirements would hold for rental properties and their efforts to attract and retain residents. We stopped several early bills from requiring owners to continue to disclose, forever, that a property had meth labs even after the problem is remediated. We are watching to see if these bills will be introduced once again before the close of this current legislative session.

Mortgages and Foreclosures:

State Representative Tina Davis (D-Bucks) reintroduced her bill that requires entities that bring foreclosures on properties to assume responsibility for their maintenance. In the past she has also included legislation requiring landlords to provide notice to all tenants about the threat of foreclosure. She and others are concerned about rental residents losing their homes if the property is foreclosed. Requiring foreclosure notices could unduly panic residents, when in actuality leases will be honored. We will continue to discuss our concerns about the effect mortgage foreclosure bills have on rental owners, and follow all efforts to create requirements for rental owners in foreclosure situations.

Paid Sick Leave:

Citing a need for statewide uniformity, State Representative Seth Grove (R-York) introduced HB 1807, which would prohibit political subdivisions in Pennsylvania from requiring employers to provide any paid leave that is not required by federal or state law. Small business owners have been especially opposed to municipality efforts to require paid leave. We have communicated our support of the concept of the bill and would favor its advancement. As of this writing it was reported out of committee and set on the House Calendar for January, 2014.

Pay and Stay Court Ruling:

We closely followed the Pennsylvania Superior Court case that clarified the law regarding “pay and stay” – what a tenant must pay to avoid a lockout. The court case of Johnson v. Bullock looked at the meaning of the wording “rent actually in arrears.” The question presented in the Philadelphia case was: to stop a lockout, must a tenant pay just the amount that is on the Writ of Possession, or the total amount in arrears,

including the rent that accrues after the court hearing until the day of the lockout? The court found that Philadelphia Municipal Court Rules implicitly acknowledge that the authority of a writ of possession is limited to the scope of the judgment from which it derived. The rule is the same throughout the Commonwealth. Tenants must pay only the amount that is on the Writ of Possession to pay and stay.

Property Taxes:

We followed and participated in stakeholder negotiations regarding several initiatives aimed at property tax reform that saw action in the Pennsylvania General Assembly in 2013:

Property tax liens: Governor Corbett signed Act 93 (HB 388) in to law on November 27, 2013. When any municipal tax on real property becomes delinquent, the tax and all charges and fees shall be a lien on all other Pennsylvania real property owned by the delinquent taxpayer. The lien must be filed with the prothonotary of the county where the additional real property is located. Liens under this Act have the same force and effect as a personal judgment against the delinquent taxpayer and will be subject to all prior claims, mortgages, ground rents, charges and estates.

Tax Relief for Long-Term Philadelphia Property Owners: The Governor signed Act 94 (HB 390) in to law on November 27, 2013. Philadelphia City Council has the go-ahead to provide property tax relief to long-term property owners. Council must use financial need or age or both, of longtime owner-occupants to determine relief eligibility until 2024, when they will have more discretion as to what criteria to use.

Property Tax Installment Payments in Philadelphia: Act 106 became law on December 18, 2013. It allows Philadelphia to collect property taxes through installment payments.

We supported these measures in an effort to work with their sponsors, Philadelphia area legislators, on the property tax question as a whole.

HB 76 and SB 76- To Eliminate Property Taxes for Funding Education in Pennsylvania: Proposals to eliminate property taxes emerge every legislative session and gain little support. But this year was different. HB 76 and SB 76 are identical bills, and thanks to extensive grassroots efforts by their backers, they achieved some momentum in 2013. The radical idea of eliminating property taxes will not be accepted overnight, however. Michael Beirne of The Kamson Corporation, a valued Association member, put it best: "It usually takes time for an idea to travel from the theoretical to the practical."

Proponents of the “76” bills point to a crumbling education system that keeps losing Harrisburg support. Local homeowners are left holding the bulk of the responsibility for funding schools, and that burden falls hardest on homeowners with the least ability to pay. Seniors, families with lower incomes, and family farmers have been hit the hardest with ever increasing demands for more property tax dollars.

For owners of apartment communities, who are often singled out for assessment appeals by school districts, eliminating property taxes would assure every Pennsylvanian would pay their fair share.

Property taxes are a huge expense for apartment communities, and any serious attempt to eliminate them in favor of an increase in the personal income tax and a broader base for the sales and use tax to fund education cannot be ignored.

Sponsors of both bills specifically asked us, as the representative of apartment industry leaders in the Commonwealth, to weigh in and support the bills. Our Boards of Directors from Central and East met with bill sponsors over the summer and we continue to work toward the advancement of the concept of eliminating property taxes. We will move forward with the work in the coming year, with both Republicans and Democrats, to create a method of funding schools that is fair to multifamily rental owners.

AAGP President Gunti Weissenberger and others met with State Representative Mike Turzai (R-Allegheny) in October of 2013 to discuss the challenges rental owners face with regard to property taxes and the need to reform the law. We emphasized the great contribution the apartment industry makes to Pennsylvania’s economy and the growing problem responsible property owners are having with spot appeals of their property tax assessments (see below). We also explained our reasons for our support of the “76” bills and the enormous affect property taxes have on the operating costs of rental properties, and the economic impact that results.

Satellite TV and Notifying Rental Owners: State Representative Gerald Mullery (D-Luzerne) introduced HB 1495 that would require satellite and cable television providers to notify landlords via a certified letter when they agree to provide and install satellite service for a resident. We agree with Representative Mullery, that owners must be assured of receiving notice about satellite or cable installation, and relying on residents to provide the notice often proves inadequate. Owners are often not aware when an installation causes damage to their property. Landlord Tenant Law currently covers cable television services and requires operators to notify rental owners when they intend to provide and install services. This bill would add satellite dishes to notice requirements. The bill is in committee and we’ll support all efforts to move it through the legislative process.

Spot Appeals of Real Estate Assessments: Association members are being pounded with appeals of their property tax assessments by school boards. Last session we stopped a bill that would have cost our members tens of millions of dollars. An amendment to the bill would have allowed spot appeals when the taxing entity such as a school district stood to gain more than \$10,000 dollars in revenue. That threshold put a huge target on the backs of all apartment community properties. The bill's sponsors wanted the \$10,000 threshold as a way to protect single family homeowners from spot assessments, at the expense of our apartment properties.

We worked with the bill's sponsors during this current session to find a way to pass legislation that protects not just some but all property owners from unfair spot appeals. We had several meetings and discussions with staff and legislators and our work continues in 2014.

At the same time a group of our members pooled their private resources to explore the possibility of challenging the spot appeals practice through litigation. The Pennsylvania Constitution requires uniform treatment of taxpayers.

Additionally, we will work with our contract lobbyist on a separate, concentrated lobbying effort dedicated to developing, promoting and passing legislation outlawing spot appeals of all properties. The legislative effort will continue in 2014.

Summit in Harrisburg: You have a chance to tell our Harrisburg legislators about your industry and how their actions affect your properties and your residents. Join your fellow industry leaders on March 31 and April 1, 2014 for our annual Harrisburg Capitol Conference. Watch for details.

LOCAL

PHILADELPHIA:

Dumpsters:

We presented testimony at the committee hearing that considered Bill No. 130016. The Bill became law in September of 2013. Dumpsters must be licensed and have medallions for tracing the owner and responsible party. For a dumpster on private property the new law requires a one-time license fee, which will be based on the size of the dumpster. We will continue to collect information from members in an effort to show Council the enormous problems the dumpster medallion program poses to Association

members. We lobbied for the elimination of the medallion for dumpsters wholly on private property. The problem of identifying the responsible party on private property does not exist. The matter speaks for itself. Our members have had countless problems with dumpsters on their properties, including extra, unnecessary fees for new medallions every time their refuse companies change dumpsters or when they are lost or stolen. Citations and exorbitant fines are common even when the medallion is present but overlooked. Our effort to collect information on the troubles experienced by our members is ongoing.

Energy Benchmarking:

In 2012 Councilwoman Reynolds Brown's bill to require benchmarking of energy use by commercial buildings became law. We continued our efforts in 2013 to make sure the ordinance was not extended to residential multi-family buildings. Inasmuch as the majority of the housing stock in Philadelphia is pre-World War Two, energy usage and conservation efforts pose unique challenges, to say the least. Moreover, the EPA's idea of comparing the energy usage of like buildings places an emphasis on the wrong issue, especially for multi-family residences with a myriad of different energy users, needs and preferences. There is no evidence that shows a regulatory approach helps reduce energy usage. And benchmarking efforts stigmatize properties, arbitrarily interfere with market forces and influence values. We must keep our vigilance as other cities consider mandating benchmarking for apartments

Fair Housing:

Last Fall Councilman Jones held a joint hearing by the Committee on Public Safety and the Committee on Housing, Neighborhood Development and the Homeless to 'explore methods of detecting and mitigating subtle forms of discrimination that create barriers to minority renters and homebuyers in Philadelphia. We continued our efforts to educate all City Council members about the commitment responsible property managers and owners make to managing their properties according to high professional standards, which includes strict compliance with all fair housing laws. We emphasize how our Fair Housing classes continue to be filled to capacity and the demand for them is growing. We also renewed our recommendation for Council to consider assigning our classes to problem rental owners.

Paid Sick Leave:

Mayor Nutter vetoed the second paid sick leave bill to come along in as many years, and City Council lost its chance to override his veto by one vote. Bill No. 130004 would have mandated specific requirements for employers with more than five employees to provide sick leave for employees. The Mayor applauded the goal of the bill but noted it would have resulted in significant losses of jobs in the city, and hurt its ability to attract

new businesses. We reprised our role as a proactive stakeholder from an earlier attempt to impose a paid sick leave requirement on businesses. We offered the perspective of the apartment industry as Bill No.130004 traveled through the legislative process.

Problem Vacant Properties and a Land Bank Ordinance:

A Pennsylvania Land Bank Bill, authorizing municipalities to create land banks, became law in 2012. Council seized the opportunity and passed Bill No 130156 in December of 2013 as a way of dealing with blighted properties. The Mayor quickly signed the bill into law. The bill sets the work in motion for creating a Philadelphia Land Bank that will be empowered to transfer thousands of publicly-owned vacant properties to the Land Bank. It is hoped a single entity will make it much easier for developers or community groups to acquire multiple lots for larger projects, and hasten efforts to revitalize neighborhoods. Inasmuch as problem properties adversely affect their neighbors' property values, including those of our members, we supported this initiative.

Property Maintenance Code:

We continued our extensive discussions from 2012 with Councilman Bobby Henon and his staff about Philadelphia's property maintenance code and the Councilman's efforts to enact the International Property Maintenance Code in Philadelphia. On December 12, 2013 Council passed Bill No. 120647, repealing most of the city's property maintenance code and replacing it with the 2009 International Property Maintenance Code, but keeping several provisions unique to Philadelphia, including Rental Suitability, Lead Paint Disclosure, and Educational Housing Districts. The bill also amends the City's Administrative Code regarding rental properties. As of this writing the bill remained in the Mayor's office, awaiting his signature. Inasmuch as this bill represents a significant and extensive revision of the Philadelphia Code, it is not clear when the Mayor will complete his review and sign these sweeping changes into law.

Property Taxes:

We worked through 2012 with our allies from several real estate groups including GPAR, HAPCO and BOMA to advance and the interests of Philadelphia rental owners on several issues, including property taxes.

Property Tax Abatements:

This was one of the most important issues to confront our members in Philadelphia in 2013. We worked with several groups on efforts to keep the city's tax abatement on residential construction and improvements. The city's school district is in dire need of funds and Council continues to struggle with funding. In light of those fiscal woes, several Council members set their sights on eliminating the abatement program, or

severely limiting its use. Bill No 130724 was introduced by Councilman Goode to cut the exemption from real estate taxes that apply to the School District. Many property owners, large and small, are simply unaware the current abatement program applies not only to new construction, but major renovations as well, throughout the City. We worked with our real estate coalition partners in lobbying efforts to apply the brakes to any suggestion of doing away with the abatement program. There is much work yet to be done in the coming year.

Sale of Property Tax Liens to Third Parties:

Millions of property tax revenues are never seen because of the city's less than stellar job of collecting delinquent real estate taxes. The bill allows for liens for delinquent property taxes to be sold to third parties. When a lien is filed, rather than selling the property itself at a sheriff sale, the lien itself can be sold to a third party who pays the tax obligation due and then receives the penalties and interest. The sale of delinquent accounts would be allowed only after the taxpayer has either ran out of payment options or simply failed to meet an established tax payment plan. Bill No 130531 became law in November, 2013.

PENNSYLVANIA MUNICIPALITIES

Smart Meters:

We followed the trials and tribulations of PECO and their smart meter woes. The Pennsylvania Public utility Commission has approved PECO's plan to speed up the installation of smart meters for their customers, to be accomplished by the end of 2014-five years earlier than anticipated. Smart meters have two-way communication with the utility. PECO claims the meters allow for more sophisticated billing, grid management and outage control. They had to suspend their smart-meter program last year after several meters overheated and caught fire. They changed meter manufacturers and say the accelerated time frame to install the meters will save \$58 million. Smart meters allow consumers to track energy use during peak and off peak hours and will encourage conservation, according to PECO. They plan to offer "dynamic pricing, in which consumers will have the option to choose separate time-of-use rates, thus offering savings in their energy bills.

NATIONAL

Disparate Impact:

A new HUD rule regarding disparate impact cases in housing discrimination is now in effect. We kept close watch on this because HUD is empowered to enforce the Fair Housing Act, which applies to all types of multifamily housing. Moreover, tenants groups throughout the country are stepping up their efforts to expand the application of the notion of disparate impact discrimination.

Discrimination cases can be grouped into two main categories. The first is discrimination due to different treatment- that is, treating or behaving differently toward someone because they are a member of a protected class. This first type of discrimination is also known as “disparate treatment”.

A second type of discrimination could result when a practice or policy, even if unintentional, has a discriminatory effect on persons of protected classes. This is known as “disparate impact”. For example, strict requirements for credit scores have been challenged as having a disparate impact on minority groups. Denials for mortgages is roughly twice for minorities as for white applicants nationwide.

HUD has recognized disparate impact discrimination for some time. Over the years various disparate impact cases decided by federal appeals courts have been slightly inconsistent, according to HUD. So in 2013 HUD created a new rule to provide consistency nationwide.

The new HUD rule codifies the three part test many federal appeals courts have employed for identifying disparate impact discrimination. Under the test the party or plaintiff charging discrimination must first prove a “prima facie” case (that is, show there is enough evidence to reasonably establish the plaintiff’s case. The burden then shifts to the respondent or defendant to prove the challenged practice is necessary to achieve a substantial, legitimate, non-discriminatory interest. Then the charging party or plaintiff has a chance to show the substantial interest could be served by another practice that has a less discriminatory effect.

We followed a U.S. Supreme Court case out of New Jersey that dealt with disparate impact discrimination. It was the first such case to reach the highest court, and their ruling might have struck down the idea of disparate impact altogether, or at least given guidance about what would and would not constitute disparate impact. But the parties settled and pulled the case just before they were to appear for oral argument. The case, Mt. Holly Gardens Citizens in Action v. Mt. Holly, involved residents of a poor neighborhood in New Jersey whose town’s redevelopment plan would replace hundreds of units of low income housing units with middle-income homes. Plaintiffs claimed the

move would have a disparate impact on minorities because some black and Latino residents would not be able to afford to live in the town any longer.

The NAA filed a friend of the court brief in the Mount Holly case, arguing disparate impact claims are not supported by the text of the Fair Housing Act and should not be used to second guess otherwise valid policy decisions. Even if the Court were to find that disparate impact claims can exist under the Fair Housing Act, the NAA brief argued, there must be clarification regarding what could constitute disparate impact and create liability.

A Supreme Court ruling on disparate impact would hold enormous implications for our members. We will watch for a re-emergence of this issue.

PAA Testified at an EPA Meeting on the Lead Paint RRP Rule:

We testified in June on behalf of the National Apartment Association before an EPA panel that is considering expanding the federal lead paint RRP rules. Currently, the EPA Renovation, Repair and Painting rules apply to pre-1978 residential buildings (the year lead was taken out of paint). They are considering expanding the rules to all pre and post 1978 commercial buildings. Such a dramatic change in the rules would affect Association members with mixed-use buildings.

No actual data exists to justify the change. No one knows for sure if a change in the rules is actually needed. The EPA's efforts stem from lawsuits against them that were instituted by public interest groups. An attorney for the plaintiffs in those cases spoke at the same meeting and chided the real estate professionals in attendance for opposing the proposal, saying we should have known it was coming and should be ready with data. In our comments we took issue with his presumptuous attitude.

We noted all factions of citizens have a right to expect their government to act judiciously regarding any call for regulation. Government agencies should not create unnecessary regulations simply because one faction of citizens makes an unsubstantiated demand of another faction of citizens. The EPA should spearhead the collection of empirical data and objectively evaluate the need for any rule expansion. So far the EPA is simply guessing that there could be a problem, and guessing at a solution to fit their imaginary problem. We will follow up our testimony in 2014 if necessary, with additional comments to the EPA.

Building Codes:

The National Apartment Association and their lobbying partner the National Multi Housing Council have saved apartment industry members billions of dollars through their lobbying efforts over building and fire codes.

NAA and NMHC are front and center, arguing for the apartment industry in the arena of building code development. They succeeded in getting various code councils to remove or change a variety of model code requirements that would hurt the apartment industry.

And their work continues.

The International Code Council held hearings for several of their 2015 model codes that affect apartment communities. Included were the International Energy Conservation Code, the International Fire Code, the International Property Maintenance Code, the International Existing Building Code, and the International Residential Code. NAA and NMHC took part in the development discussions for each one. Final Action Hearings completed in October 2013 included changes for the 2015 versions of those codes.

Of particular interest was the International Fire Code item for **retrofit of sprinklers in high rises**. The Codes Council disapproved a proposal to include a requirement to retrofit all existing high-rise buildings with sprinklers within 12 years of adopting the 2015 model code. BUT they approved an alternate proposal to place the retrofit requirement in their code Appendix – which means that a local authority that adopts the 2015 code would have to specifically add the retrofit requirement on to the provisions they adopt. We reported on this and cautioned our members to take heed- for a local authority to adopt something from the Appendix of a model code, they have to do little more than check off a box on a list in the code package. They would not necessarily hold hearings or invite comment from interested stakeholders.

Our ongoing work with the NAA on this and other issues includes offering the perspective of our members, serving on their Legislative Committee, and participating in meetings such as the EPA meeting on the RRP rules.

Immigration:

As discussed in the state portion of this summary, this writer serves as an NAA point-person on the subject of immigration. The issue must be followed carefully, given its importance to the apartment industry. A patchwork of state and local laws dealing with immigration has sprung up to fill the void of federal guidance, and the need for uniform and comprehensive federal legislation is increasingly evident. Immigrants are a big part of the demand for apartments and an important component of the workforce serving apartment construction and operations. The NAA is advocating for interior and border enforcement, a temporary visa program that addresses our workforce needs, a reliable national employment verification system to be phased in over time, and a practical earned legalization process for undocumented individuals currently working in the United States.

Model Landlord/Tenant Act:

The Uniform Law Commission is an organization that provides states with model laws on a variety of topics that are typically the subject of state law. Their model Landlord and Tenant Act has not been revised in several years. An NAA task force studied the proposed the ULC's Revised Uniform Residential Landlord and Tenant Act and made recommendations to the Uniform Law Commission as it prepared to meet in the Fall. Several PAA members and this writer served on the task force, and Paul Cohen served as a liaison on behalf of the National Apartment Association at meetings of the Uniform Law Commission. NAA made a number of recommendations to the ULC as a result of the task force work. Topics included the death of a tenant, landlord duties, tenant duties, domestic violence and early release from a tenancy, abandonment of personal property, and many others.

Music Licensing:

Generally, federal copyright law requires users to pay for a license to use copyrighted materials in a public performance. This often applies to apartment communities who may play music in their fitness rooms, leasing offices, at their pools and other "public" areas. Such use of copyrighted music can be considered a public performance.

The copyright law as it pertains to music can be complicated. Many factors play a part in deciding whether a license may be required, and what type of license is appropriate. The music industry has established several organizations to follow who around the world is using copyrighted music. They include BMI, ASCAP and SESAC. They are collectively known as Performance Rights Organizations (PROs).

Many apartment communities have been contacted by PROs and urged to buy licenses or risk being sued for copyright infringement. Annual fees are based on the number of units in the community. For example, properties with 300 units have been charged \$197. Those with 300 to 600 units have been charged \$396. PROs make the assumption that the more units in a property, the more "public performances" are possible. The NAA is following this changing area of the law and we are helping to gather information and chronicle the experience of our members.

ONE TRILLION REASONS WHY WE MATTER:

In 2013 the NAA gave us an incredibly useful tool for our Pennsylvania lobbying work. They commissioned an economic report that shows just how valuable our industry is to the nation's economy. We've referred to it in countless meetings with state and local legislators.

Despite the worst economy in a generation, multifamily rental housing continues to make a significant and positive contribution to national, state and local economies. NAA

and NMHC published the study in their comprehensive report, “The Trillion Dollar Apartment Industry.”

The combined spending by the apartment industry and its residents generated an **economic contribution of \$1.1 trillion to the national economy and supported 25.4 million jobs in 2011.**

With this information, industry stakeholders and federal, state and local officials can better estimate the substantial, sustained contribution apartments make to their communities and the nation as a whole.

In Pennsylvania, apartment operations created a total economic impact of 5.1 billion dollars, and supported 66,900 jobs in 2011. Apartment construction contributed 438 million to the Commonwealth’s economy during the same time period.

In the Philadelphia region, our industry contributed 3.5 billion dollars to the economy, supporting 28,000 local jobs.

We’ve known all along-no community can be strong without quality rental housing. We’ve been touting the figures all year to back it up.

ALSO ON THE NAA AGENDA:

In 2013 NAA/NMHC’s extensive lobbying agenda also focused on Housing finance reform, energy efficiency, business and property operations, U.S. Mail delivery to multifamily properties, terrorism insurance, telecommunications, ADA accessibility issues, tax policies, and numerous additional issues.

Looking Ahead:

Join us in Washington DC for the NAA Capitol Conference, March 11 and 12, 2014. The value of face-to-face meetings with members of Congress and their staff cannot be overemphasized. NAA needs us to put the finer points on national issues. Visit naahq.org for details.

Our next Harrisburg Capitol Visit is March 31 to April 1, 2014. The absolute best messenger for telling a State Senator or Representative what apartments mean to their districts is you. Please join us for this all important visit. The health of your business and your industry depends on our lobbying efforts.

Watch for your PAC contribution request: Our PAC fund is critical to our lobbying efforts – and our lobbying efforts are critical to every member’s bottom line.

Harrisburg lawmakers deal with nearly 5,000 proposals for new laws each session. We must make sure our issues don’t get lost in the shuffle. Our Political Action contributions are vital to that effort. The **PAC** is a statewide fund dedicated to supporting candidates

for Pennsylvania offices. **Please help us grow this essential fund.** Watch your mail for our PAC contribution request, and support our fundraising activities.

Respectfully Submitted,

Christine Young Gertz, Esq.

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