



GOVERNMENT AFFAIRS SUMMARY OF 2015

Anchors Aweigh.....

If this were a ship's log, it might read: 2015 –The SS General Assembly nearly capsized in a stormy sea of budget talks and property tax bills. But our Association enjoyed smooth sailing and our voyage continues. The Apartment Association continued to successfully navigate the choppy waters of both chambers of the Commonwealth's General Assembly.

Pennsylvania has a Democrat in the Governor's office and Republicans control the legislature. Governor Wolf may be forgiven if, when elected he thought his Ph.D. in Political Science would be useful. Too bad it's not a degree in the Chaos Theory of Physics –more appropriate to Harrisburg dynamics. Little progress in budget talks or other major issues had been achieved by year's end, as both sides staunchly guarded their respective agendas with endless political maneuvers. In December the Senate sent a budget bill to the House. The House balked and recessed for Christmas. So the Senate resorted to sending an older House bill to the Governor. As Pennsylvania prepared to welcome the New Year, Governor Wolf issued line item vetoes on that bill but authorized some emergency spending for education along with a scathing critique of the General Assembly's actions. Nobody expects a "Sweet 16," at least in the first half of the year, which is primary season. So batten down the hatches.

PAA has been a force for many years in the Commonwealth's Capital, and we enjoyed an even stronger presence in 2015, thanks once again to our proactive members. 2015 saw all hands on deck. Our members spent a record number of hours contacting their lawmakers in support of the spot appeals bill, SB 877, while Association representatives and staff solidified relationships and impressed both "R's" and "D's" with the importance of the multifamily industry. We made progress on SB 877, were consulted on a myriad of additional bills and legislative questions, weighed in heavily on a record number of issues, and took a prominent seat at all pertinent stakeholder tables.

We also continued to advance our members' interests with Pennsylvania's municipal governments, most notably in Pittsburgh and Philadelphia. We were proactive in several local legislative initiatives, heightening our position as Pennsylvania's leading advocate for the apartment industry.

The following is a summary of our Government Affairs activity and the significant legislative events of 2015.

STATE - NEW LAWS

Ninety six general Acts were enacted in Pennsylvania in 2015. The following were of particular interest to the apartment industry:

- 1. Background Checks and Child Abuse Reporting Requirements for Employees Who Interact with Children:** Employees of apartment communities who have direct contact with children, such as lifeguards at apartment pools, could be affected by **Act 15** of 2015. The Act amends Pennsylvania's Child Protective Services law and expands the group of individuals who need background checks or who must report suspected child abuse. The Pennsylvania Department of Health began to contact "public bathing place facilities" (and included some apartment communities with pools) in 2015 to alert them of the changes Act 15 makes to the law. The Health Department took the position that lifeguards at apartment pools need background checks. They also noted that individuals in management positions, swim lesson instructors, coaches and others who have direct contact with children would be included in the new requirements.

Since "direct contact with children" is defined as "the care, supervision, guidance or control of children or routine interaction with children," the Health Department saw reason enough to include apartment swimming pool lifeguards, along with independent contractors and others, in the new mandates for background checks. Association members are urged to consult their legal counsel regarding the specifics of their situations and whether the expanded Child Protective Services Law applies to them.

Act 15 is the latest in at least 23 new laws passed in Pennsylvania since 2013 in response to notorious cases of child abuse in the Commonwealth.

- 2. Steeper Penalties for Code Violations on Blighted Properties: Act 34** of 2015 repealed the offense of "municipal housing code avoidance" in the Pennsylvania Crimes Code and established a new offense in Pennsylvania's Municipalities Code for "failure to comply with a code requirement."

Act 34 says an owner of real property commits the offense of "failure to comply with a code requirement" if all of the following apply:

- The owner has been convicted of a second or subsequent serious violation of the same municipal code provision for the same property.
- The violation poses a threat to public health, safety or property and the owner has not taken a substantial step to correct the violation; and
- The violation is considered a public nuisance and the owner has not made a reasonable attempt to correct it.

The offense would be considered a second degree misdemeanor if it is a second conviction of a serious violation of the same municipal code violation. It would be a first

degree misdemeanor if the offense is based on three or more convictions of serious violations of the same provision of a municipal code violation.

3. Uniform Construction and Property Maintenance Codes and First Class

Townships in Pennsylvania: Association members with properties in First Class Townships could be affected by **Act 51** of 2015. The Act could lead to enhanced inspections efforts on the part of the first class townships. The law was passed at the behest of the Local Government Commission and amends the Pennsylvania First Class Township Code to clarify that first class townships must follow the Uniform Construction Code (UCC) and The PA Construction Code Act for the construction, alteration, repair and occupancy of all buildings and structures within the township. The bill also provides that property maintenance inspectors who can inspect any premises in a reasonable manner may be appointed for administration and enforcement of the township's PM code. First class townships are townships with a population density of at least 300 per square mile, and whose first class status has been approved by voters.

4. Second Class Townships and the Uniform Construction Code and Property

Maintenance Code: SB793 received overwhelming support in both chambers and Governor Wolf signed **Act 69** into law on November 24th. Act 69 amended the Second Class Township code to consolidate existing township powers that allow them to enact and administer construction, occupancy and property maintenance regulations. The Act also specifies that second class townships are subject to the PA Construction Code Act of 1999 and all municipal regulation governing the construction, alteration, repair and occupancy of property in the township must conform to the act. Any proposed ordinance or a brief summary of a proposed ordinance must be published no more than 60 days, or less than seven days before enactment in a newspaper in the township. Additionally, if township supervisors designate code enforcement officers and they enter properties to conduct inspections, they are subject to administrative search warrant standards. Townships may seek appropriate actions or proceedings at law or equity to prevent or restrain property maintenance violations. Also, a court of law can declare any building, housing or property that is in violation of applicable ordinances a public nuisance and may be abatable as such.

STATE BILLS AND ISSUES

A key part of our state government affairs program is monitoring and supporting or opposing pertinent bills and cosponsor memos issued each legislative session. Over 1,700 bills were filed in 2015. Additionally, legislators issued over 2,659 co-sponsor memos, pronouncing their intentions for future legislation. A great number of the bills and memos either directly or indirectly affect our Association members. The key legislative issues we covered in 2015 were:

- **Fair Housing Laws:**

Sex, Sexual Orientation, Gender Identity or Expression: “Sex, sexual orientation, gender identity or expression” would be added to Pennsylvania’s Human Relations Act as protected classes under **HB 1510** (St. Representative Dan Frankel, D- Allegheny). The bill was introduced in September and was referred to the House State Government Committee. An identical bill, SB 974 (St. Senator Pat Browne, R- Lehigh) is in the Senate’s State Government Committee.

- **Landlord and Tenant Law:**

Cable and Satellite Service and Notice to Rental Owners: St. Representative Gerald Mullery (D- Luzerne) re-introduced his bill that would require satellite and cable television providers to notify rental owners via certified mail prior to providing and installing cable or satellite t.v. service to a resident. The purpose is to give owners a “heads up” regarding the installation and possible physical damage to the property. We support this effort and hope for swift action as it orbits the General Assembly. **HB 1427** was introduced in June and went on a trajectory straight to the House Judiciary Committee.

Death of a Tenant: St. Representative Stanley Saylor (R- York) resurrected his bill from last session, along with most of the language we suggested. **HB 447** would give estates of deceased residents the option of ending the lease on the last day of the second calendar month that follows the month in which the death occurred, or upon surrender of the rental unit and removal of all belongings. The bill passed the House in April and is alive in the Senate Urban Affairs Committee. We will continue our support in 2016.

Early Lease Termination:

Termination for Health Care Reasons: St. Representative Madeleine Dean (D- Montgomery) re-introduced her bill to allow individuals with disabilities and senior citizens to terminate their leases early if they need to move to a health care facility or a family’s residence for the purpose of receiving health care. In response to our opposition and serious concerns about potential abuse or fraud on the part of ill-willed residents, language was inserted to require stronger documentation to demonstrate resident need and to provide fair notice to the rental owner. As of the close of 2015, HB 975 was residing the House Urban Affairs Committee.

Termination for Domestic Violence: Representative Dean also re-introduced a bill to provide for early lease termination because of domestic violence, sexual assault or stalking. **HB 1051** mirrors several efforts from past sessions and uses language similar to bills that have been introduced or passed in other states. We met with Representative Dean to discuss our concerns regarding the bill’s impinging owners’ obligations to manage their properties and lease agreements so that the rights of all interested parties and all residents in the rental community are protected. The Pennsylvania Women’s Health caucus and several victims’

rights organizations support the legislation. The movement to protect victims of domestic violence continues to grow throughout the country. This bill presently resides in the House Urban Affairs Committee.

Firearms: In mid-December St. Representative Peter Schweyer (D- Lehigh) announced that he will introduce legislation that would amend the Landlord Tenant Act in a manner that will make it “less burdensome for landlords to evict tenants who discharge firearms within the confines of an occupied structure.” We will work with Rep. Schweyer to make sure the best possible legislative approach is employed in any forthcoming bill.

Flood History Disclosure: St. Senator Stewart Greenleaf (R- Montgomery) re-introduced a bill to require owners to disclose the flood history of a residential real property to prospective tenants, “to the extent actually known by the landlord.” Residential real property is defined in the bill as a single residential dwelling unit. When introducing the bill Senator Greenleaf recalled the serious damage to a 144-unit apartment community in his district from Tropical Storm Allison in 2001. But he failed to clarify the reasons for such a broad sweeping mandate with no qualifying language to allow for mitigating factors such as property or drainage improvements. The bill would also require landlords to inform prospective tenants that they can contact FEMA regarding whether the property is in a flood plain. But he failed to address the precarious nature of the usefulness of current maps of flood plains. **SB 142** was introduced in January 2015 and is currently in Senate Urban Affairs. We will monitor this bill and engage in discussions regarding its usefulness and the real potential for unintended consequences. *{Also see summary of bills regarding flood insurance, Property Issues, below}*

Foreclosure and Notice to Tenants: In December of 2014 St. Representative Tina Davis (D- Bucks) distributed a co-sponsor memo citing her intention to re-introduce legislation that would amend Pennsylvania’s Landlord and Tenant Act to require landlords to provide notice to all tenants if they receive notification of a foreclosure. We have been watching for such a bill and have voiced our concerns about the undue panic or concern such notices could cause residents. *{Also see Rep. Davis’ efforts to require entities foreclosing on properties to register the properties with the municipality and perform monthly maintenance duties at vacant properties, in Property Issues below}*

Revised Evictions Proceedings: St. Representative Scott Petri (R- Bucks) introduced a bill similar to those of past sessions to bring evictions proceedings in line with the original intent of Pennsylvania’s Landlord and Tenant Act. The current evictions process results in at least a 21 day time period between the date an owner receives an Order of Possession (Writ of Possession in Philadelphia) and the earliest time a resident could actually leave the rental unit. Representative Petri’s bill would allow the time periods for the issuance of a writ of possession and a resident’s appeal of the judgment to run concurrently, rather than consecutively, as is current practice. **HB 1715** would allow a rental owner to file an Order of Possession immediately after a judgment is rendered. The bill would also require the owner to file an affidavit after the appeal period runs, certifying the tenant has not paid the judgment or costs and has not filed an appeal. We

are supporting Representative Petri's efforts. The bill, introduced in late November, is in the House Urban Affairs Committee.

- **Land Use:**

Waterfront development tax credit: SB 282 (St. Senator Randy Vulakovich, R-Allegheny) would create tax credits for businesses and individuals who contribute to waterfront improvement organizations. The bill is intended to encourage investment in waterfront development by the private sector. The bill was reported from Finance, re-referred to Appropriations, and discussed in the Senate Democratic Policy Committee last November. A similar bill, **HB 457** (St. Representative Thomas Killion, R- Delaware) has been in the House Finance Committee since last February.

- **Marijuana:**

Medical Marijuana: SB 3 (St. Senator Michael Folmer, R- Dauphin, Lebanon, York) would regulate all facets of medical marijuana cultivation, manufacture and use. Rental owners would be prohibited from refusing to lease to a patient solely for having a medical cannabis access card or using medical cannabis unless it would result in the loss of a monetary or licensing related benefit under Federal law or regulation. Users would be prohibited from smoking cannabis, but use in food or drinks or vaporization would be permitted. Growing and processing marijuana would not be allowed in residential dwellings or areas zoned for residential use. A State Board of Medical Cannabis Licensing would be created to issue separate licensing for growing, production, sales and use. Medical marijuana legislation is gaining support nationwide and several states have passed laws similar to SB 3. This bill is winding its way through both Pennsylvania General Assembly Chambers. It passed the Senate in 2015 and has been placed on the House calendar for January 11, 2016.

Marijuana for Personal Use: Personal freedom, a reduction in crime and regulated use are among the reasons given as a basis for **SB 528** (St. Senators Daylin Leach, D- Montgomery and Larry Farnese, D- Philadelphia), which would legalize the possession and use of marijuana. The bill fails to address the many concerns and potential consequences the use of marijuana would create for multifamily settings. For example, the bill allows for individuals to grow up to 6 marijuana plants at a time. But the bill fails to qualify under what circumstances the plants can be grown and processed. Growing and processing plants in an apartment setting would be ill-advised, to say the very least. The bill was introduced last February and referred to the Senate Committee on Law and Justice. We are watching to see if it gains any traction.

- **Property Issues:**

Blight: State Senator David Argall's (R- Berks, Schuylkill) task force on blighted properties continued its work in 2015. The task force is charged with seeking ways to

help municipalities deal with blighted properties. Additionally, several bills regarding blight were introduced. We are monitoring these bills, working with the task force, and will continue to weigh in on behalf of the apartment industry.

HB 386 would allow governing bodies to petition common pleas courts to divest all county, municipal and school district tax claims against a property. The bill is intended to help local governments deal with properties that are a public nuisance, and tax claims in some extreme cases can delay or prevent their demolition.

HB 434 would expand the definition of “owner” in the Neighborhood Blight Reclamation and Revitalization Act to include mortgage lenders who have taken possession of a property. The Blight Reclamation and Revitalization Act allows in personam actions against property owners that have allowed their properties to fall into serious disrepair. This bill is intended to allow municipalities to bring such actions against mortgage lenders after a foreclosure, to force them to bring the properties up to code or face fines.

HB 613 would be known as the Tax Incentive and Mixed-Use Incentive Program Act, and would authorize local taxing authorities to provide tax exemption incentives for deteriorated properties (which would be determined according to criteria spelled out in the bill) within designated areas. The bill passed the House, received first consideration in the Senate, and was referred to the Senate Appropriations Committee in June.

HB 648 would establish a grant under the Neighborhood Blight Reclamation and Revitalization Act to facilitate code enforcement programs and hire the necessary personnel. Grants could be used to upgrade or remove blighted, abandoned and structurally unsafe structures and dwellings. Grant money would be obtained by imposing a \$250 surcharge on real property owners in violation of one or more provisions of a municipal code for which the owner was previously cited. This bill was removed from the agenda of the House Urban Affairs Committee in March following significant opposition.

SB 482 would establish an optional County Demolition and Rehabilitation Fund in which a fee assessed for each property sold for delinquent taxes would be used towards the demolition/rehabilitation of dilapidated buildings on blighted properties in that county. The fee could be no more than 10% of the purchase price of the property. The bill passed the Senate and was referred to the House in November.

SB 486 would create a county demolition fund for every county and allow county authorities to adopt resolutions or ordinances to authorize the recorder of deeds to charge a \$15 fee for each deed and mortgage recorded. The fees would be deposited in a county demolition and used exclusively for demolition of blighted property (as defined in the Abandoned and Blighted Property Conservatorship

Act of 2008). This bill passed the Senate and was referred to the House Urban Affairs Committee in June.

SB 918 would be known as the Abandoned Property Tax Sale Act and establish a process for declaring properties abandoned. It is meant to ensure that when abandoned properties are purchased at tax sale they will be demolished or rehabilitated and returned to productive use. Purchasers would have to enter into a redevelopment agreement with the municipality or, at the discretion of the municipality or redevelopment authority, demolish the building. The bill is in the Senate Finance Committee.

SB 942 would reduce the time a purchaser of a building with known code violations would have to correct the violations or demolish the building. Currently, under the Municipal Code and Ordinance Compliance Act, purchasers have 18 months. This bill would reduce it to 12 months (or shorter, if the municipality already has a code requiring compliance within a shorter timeframe). Additionally, municipalities could deny an occupancy certificate or similar permit pursuant to the Neighborhood Blight Reclamation and Revitalization Act.

Flood Insurance: HB 1029 would establish a Flood Insurance Premium Assistance Program for eligible residents and businesses of PA who purchase flood insurance. The bill was introduced in April and remains in the House Committee on Insurance. **HB 1299** would establish a Flood Insurance Premium Assistance Task Force to review and analyze the law, procedures, practices and processes regarding the administration of flood insurance. This bill is also in the House Committee on Insurance. These bills could take on even greater relevance in light of St. Senator Stewart Greenleaf's (R- Montgomery) SB 142 (See Flood History Exposure under Landlord and Tenant Law, above) which would require disclosure to tenants if the property is on a flood plain. We are watching that bill and will escalate our opposition if it "grows legs."

Foreclosures and Property Maintenance: Under St. Representative Tina Davis's (D-Bucks) **HB 795**, entities foreclosing on a property would be required to register the property with the municipality. Additionally, foreclosing entities would be responsible for inspection and maintenance of the property on a monthly basis. The bill currently resides in House Local Government committee.

Green Buildings:

HB 937 (St. Representative Brian Sims, D- Philadelphia) would create tax credits for construction or rehabilitation of energy and environmentally high-performance buildings, including multifamily buildings. The bill was introduced in April and referred to the House Finance Committee. Two companion bills in the Senate, introduced by State Senator Matt Smith who has since resigned his seat, are still in the Senate Finance Committee.

HB 940 (St. Representative Brian Sims, D- Philadelphia) would provide tax credits to businesses or individuals for green roofs- defined as an addition to a roof that supports

vegetation and includes a waterproof membrane and drainage layer. This bill is also in the House Finance Committee.

Historic Buildings: St. Representative Thomas Murt (R- Montgomery, Philadelphia) introduced **HB 1004** that would establish a Historic Preservation Incentive Grant Program within the Department of Community and Economic Development. It would provide grant incentives to owners of properties, private or commercial, that are on the National Register of Historic Places, are a contributing property in a National Register Historic District, or are located in a government historic district. The grants could be used for exterior rehabilitation or restoration work. The bill is in the House Tourism and Recreational Development Committee.

Meth Labs: Past versions of this legislation had required rental owners to disclose, in perpetuity, any past meth labs on the property. Our intervention secured important language changes to those bills. This time around there is greater focus on cleanup. In St. Senator John Rafferty's (R- Berks, Chester, Montgomery) **SB 619**, law enforcement officers would be required to notify the PA Department of Health when they arrest persons at a clandestine lab site. Occupation of the property would be prohibited until the lab has been removed and remediated according to Department guidelines. Operators of labs may be ordered to pay the owner restitution. Disclosure of past methamphetamine production on the property, including a statement to the buyer or transferee regarding remediation would also be required. Disclosure must be made before signing an agreement to sell or transfer the real property. SB 619 was introduced and referred to the Senate Public Health and Welfare Committee last March.

Unlawful Dissemination of Residential Information: We are following **SB 866** because it could possibly have a bearing on privacy concerns for our residents in light of local inspections ordinances throughout the Commonwealth that might require registering residents' names. The bill would create the offense of unlawful dissemination of residential information. St. Senator Lisa Boscola (D- Lehigh, Northampton) introduced the bill out of concern about threats by terrorist groups to create "kill lists" of the home addresses of law enforcement personnel. The current language in the bill states an individual unlawfully disseminates residential information if he/she posts or publishes a visual depiction, or the residence of a protected person that they know to be a protected person. The information would have to be on a "publicly accessible medium or social media site or otherwise disseminates the information. The bill was introduced in June and currently resides in the Senate Judiciary Committee.

Property Taxes:

Spot Appeals: The most perilous tax problem for our members continues to be appeals of property tax assessments by school districts. The deals many school districts make with outside firms to advise them on which properties to appeal (for a price, of course) has spawned somewhat of a cottage industry in which school districts and their consultants are assured of significant income from the collaboration. The arrangement leads to their selecting only those properties that can

make the third party fees worth the effort. So the targets on the backs of cherry-picked apartment properties and commercial buildings are bigger than ever, while other similarly situated properties are passed over for appeals. The result is that some properties are excused from paying their fair share of taxes while the cherry-picked properties must pick up the slack and face the financial uncertainty created by the threat of repeated appeals.

Not surprisingly, as we gain ground in the General Assembly and the legislation introduced at our behest wins support, school districts and their consultants ratchet up their opposition. In 2015, St. Senator David Argall (R- Schuylkill) introduced **SB 877**- whose language mirrors legislation that once passed both chambers of the General Assembly. The bill sailed through the Senate Urban Affairs Committee and took its place among other tax bills in the Senate Appropriations Committee, where it awaits the emergence of the best moment for bringing it to the floor for a positive vote from the entire Senate. As 2016 unfolds we anticipate a similar bill will be introduced in the House and we'll continue our legislative journey to end this Draconian era in which school districts use apartment properties as cash machines.

Eliminating Property Taxes: Several attempts to eliminate school property taxes and shift to an increased Sales and Use Tax and Personal Income Tax have failed in past sessions. The latest effort, Senator Argall's (R- Schuylkill) **SB 76** (titled the Property Tax Independence Act) fell one vote short in 2015 when the Senate tried to amend the provisions of another bill by adding the "76" provisions (The House had rejected a version of "76" in a similar maneuver in 2013). "76" failed in the Senate in 2015 despite efforts by its proponents to "tweak" its language in response to claims that the revenue lost when eliminating property taxes would not be made up through other taxes. Their attempt went down in flames as collateral damage, it seems, in the budget battle. "76" is sure to make a comeback in a future legislative session. But never say never. The Senate rules allow bill language to be resurrected in the same session. We'll stay tuned.

Also see other variations on eliminating property taxes as well as other property tax bills, below.

Additional Property Tax Bills:

We are monitoring all property tax bills and weighing in when necessary because of their potential to affect our property tax issues. They include:

Constitutional Amendment Proposal for the Homestead Exclusion: HB 147 (St. Representative David Maloney, R- Berks) calls for a Pennsylvania constitutional amendment to extend the General Assembly's authority to grant homestead exclusions not to exceed 100% of the assessed value of each homestead property within a local taxing jurisdiction. The legislation would have to be passed twice by the General Assembly in consecutive legislative sessions and then approved by Pennsylvania voters. Our interest in this bill is the

dialogue it will or will not generate regarding all property tax issues. HB 147 remains in the Senate Finance Committee at present.

Constitutional Amendment Proposal to Tax Residential and Commercial Real Property Differently: HB 584 (St. Representative Michelle Brownlee, D-Philadelphia, now resigned) calls for a Pennsylvania constitutional amendment to authorize local taxing authorities to tax commercial properties at a different rate than commercial properties. The uniformity in taxation clause of the Pennsylvania Constitution currently precludes taxing authorities from setting different rates for commercial and residential. However, neither “commercial” nor “residential” is defined in the bill. As with any constitutional amendment, this bill would have to be passed by two consecutive legislative sessions and then be approved by Pennsylvania voters.

Limit Tax Windfalls after Countywide Reassessment: The House passed **HB 1331** on December 4, 2015. Now being considered in the Senate, St. Representative Chris Ross’s (R- Chester County) HB 1331 is to provide clarification on the provisions that require the adjustment of rates of taxes on real property following a countywide reassessment. Ross wants to make clear that each tax must be made revenue neutral after a countywide reassessment, putting to rest any notion that multiple tax rates could be adjusted differently so long as total revenue neutrality was the final outcome. A companion bill, SB 899 passed the Senate and is on the tabled calendar in the House.

Optional Property Tax Elimination: St. Representative Seth Grove (R- York) reprised his efforts to give school districts the choice of implementing an additional earned income tax, mercantile tax or business privilege tax with the additional revenues used solely for the reduction or elimination of school district property taxes. Revenues generated would be used on a dollar for dollar basis to reduce the school district millage rate. **HB 1482** currently keeps company with the other property tax bills in the House Finance Committee.

Millage Rate Increase Procedures: HB 1066 would require a two-thirds majority of all members elected to boards of school directors. Currently a school board may increase property tax rates by a simple majority vote. St. Representative Rosemary Brown (R- Monroe, Pike) introduced the bill in April, noting she hopes requiring a two-thirds majority vote to increase school property taxes would encourage school districts to consider their taxpayers and spend cautiously.

Millage Rate Reduction and Homestead and Farmstead Relief Fund: St. Representative Stanley Saylor’s (R- York) **HB 860** took its place among the plethora of property tax bills in April of 2015. It would provide a 50% reduction in school property taxes for homesteads across Pennsylvania by increasing the

Personal Income Tax rate to 3.7% and the Sales and Use Tax to 7%. New PIT revenue would be used to reduce local millage rates and new SUT revenue would be directed specifically to homesteads and farmsteads. The bill is in the House Finance Committee.

Option to Use Sales, Earned or Personal Income Taxes: St. Senator John Eichelberger (R- Blair, Cumberland, Franklin, Fulton, Huntingdon) re-introduced his bill to allow municipalities in Third through Eighth class counties the option of using a county-wide sales, or earned or personal income tax, to be used as a dollar-for-dollar reduction in property taxes. **SB 592** joined the other property tax bills in the Senate Finance Committee in March, 2015.

Reduction in Property Taxes a la the Wolf Plan: St. Representative Kevin Schrieber (D- York) introduced Governor Wolf's School District Real Property Tax Relief Act via **HB 1144**. It borrows some concepts from the "76" property tax elimination bills and promises dollar for dollar tax relief of property taxes by \$3.8 billion. Tax reductions are targeted to bring greater relief to high-tax, high poverty communities, according to its sponsor. The bill sits among others in the House Finance Committee.

Property Tax Elimination: St. Representative Keith Gillespie (R- York) would call **HB 599** the Residential Property Tax Elimination Act. His goal is to shift the majority of funds collected as property taxes, and collect them as sales and income taxes instead. The plan calls for increasing the Personal Income Tax (PIT) to 4.5%, increasing the sales and use tax to 7% and expanding its use, and transferring all the resulting funds to a new Residential Property Tax Elimination Fund. School districts would have the option of enacting up to a 1% PIT or Earned Income Tax (EIT) for purposes to be approved by voter referendum. The bill will join its property tax bill friends in Senate Finance.

Waterfront Development Tax Credit, SB 282: See SB 282 under Land Use, above.

- **Student Housing:** St. Representative Sue Helm (R- Dauphin, Lebanon) wants to preempt any municipal ordinance that prohibits the occupation of a dwelling unit by students or unrelated individuals living together. She introduced **HB 809** in March. Representatives from several municipalities spoke out against the bill at a hearing in March. We support the measure as it would afford responsible rental owners the flexibility to provide much needed student housing throughout the Commonwealth and create consistency in the way Pennsylvania communities regulate this vital segment of the rental industry. The bill continues its stay in the House Local Government Committee.

- **Utilities:**

Tenant Responsibilities: St. Senator John Wozniak (D- Bedford, Cambria, Clearfield) introduced **SB 625**, which would hold rental residents responsible for unpaid water/sewer bills in cases where the resident is responsible for paying the bill. The bill does not apply to rental communities where the owner pays for water/sewer. The water authority would have to notify the owner about overdue bills. Authorities could not hold owners responsible for payment. The bill was introduced last March and referred to the Senate Local Government Committee. A companion bill, HB 1271 (St. Representative Cris Dush, R- Indiana, Jefferson) is in the House Local Government Committee.

Foreign Load: Foreign load is utility service usage registered on one resident's meter but used by another resident or a common area. Currently, even one lightbulb usage in a common area, if billed to a resident's meter can result in the transfer of an entire utility account into the owner's name. The owner is then responsible for payment on the entire account. **HB 1686** (St. Representative Dan Moul, R- Adams) would make the owner responsible only for the metered usage attributable to the foreign load if the usage is for something such as hallway lighting or a device used directly by a resident for safe navigation of the property. The bill would also allow lease agreements for a reduction in rent in exchange for a resident taking the responsibility for the foreign load. The bill was introduced last November and is in the House Consumer Affairs Committee.

LOCAL

PHILADELPHIA:

Philadelphia's 2012 session ended on December 31, 2015 and a new four-year session began January 4th of 2016. This means that all of the bills that were introduced but not enacted between 2012 and 2015 are no longer alive. But they could be reintroduced during this new session. Of the 61 bills that we deemed of high importance to the multifamily industry, 21 were enacted with our input and 40 did not pass muster. Below is a summary of Philadelphia bills that were passed in 2015, bills that died in committee at the end of session, and other highlights from 2015.

Philadelphia Ordinances Enacted in 2015:

Access to Vacant Properties

The Property Maintenance Code was amended to add a requirement for owners of vacant property to provide access to the City for exterior and interior inspections. **Bill No. 150650** requires reasonable notice before inspections. Reasonable notice is defined as posting to the building or first class mail to the last known address of the owner as provided on the license application. We monitored this bill for any amendments that could have a greater impact on the multifamily industry. Oddly, in the course of our talks with the bills' sponsors our questions regarding particular references to city code

sections revealed a glaring mistake with the bill. The bill's language called for amending the old Property Maintenance code which had already been repealed. Staff indicated that no one- not even the city's law department, noticed the mistake before we did. We graciously refrained from asking just who is minding their store!

Airbnb and Hotel Tax

While most rental owners already have lease restrictions on short-term rentals and sublets, Philadelphia owners should be aware of a new ordinance that went into effect on July 1, 2015. **Bill No.150441** covers limited lodging rentals that are offered through Airbnb or similar websites and adds provisions for "Limited Lodging" to the city's Fair Practices Ordinance and city ordinances regarding property licenses and use regulations.

The city's 8.5% hotel tax now applies to limited lodging arrangements, and must be collected by the primary resident or booking agent. Primary residents who rent out their homes for more than 90 days in a year, where the lodging to any particular visitor is for no more than 30 consecutive days, must obtain a rental license. Additionally, no one can rent out their homes for more than 180 days annually. Primary residents must also report and pay taxes on the rental income. A "booking agent" is defined as any person or entity that facilitates reservations or collects payment for hotel accommodations.

Included in several express requirements and restrictions: No more than three persons who are unrelated by blood, marriage, adoption, etc. The limited lodging may not result in changes to the residential character of the building. It may not adversely affect the residential character of the neighborhood. For example, there cannot be excessive noise, odors "or other effects that unreasonably interfere with any person's enjoyment of his or her residence." Lodgers' guests are only allowed between the hours of 8:00 a.m. and 12:00 a.m. Smoke and carbon monoxide alarms must be present. Additionally, all limited lodging is subject to the Fair Practices Ordinance -Protections against Unlawful Discrimination.

Criminal Records Screening of Employees

Likely the most egregious 2015 ordinance for Philadelphia property owners was Councilman Curtis Jones's **Bill No. 150815**, which places greater restrictions on the use of criminal records screening when hiring new employees. Despite strong objection from PAA and significant grassroots efforts by PAA members, Councilman Jones refused to exclude the apartment industry from the provisions of the bill. The councilman dismissed our concerns for the safety of multifamily residents and suggested they were based on fear, not fact. We will continue to advocate for the safety of all multifamily rental residents as regulations to implement the bill are developed.

The bill was passed by Council on its final session day on December 10th, 2015 and was signed into law by Mayor Nutter on December 15th. It prohibits employers from basing employment decisions on prospective employees' criminal records unless the records

include convictions for offenses that bear a relationship to the employment sought. But employers cannot do a criminal screening check until a conditional offer of employment is made. And, importantly, in no case can an employer consider criminal records that are over 7 years old, excluding time for incarceration. It goes into effect mid-March.

Dumpsters & Waste

Mayor Nutter signed **Bill No. 140903** in March 2015. The Bill overhauled the City's rules and regulations regarding dumpsters. During talks with bill stakeholders we were able to secure some exemptions for apartment buildings, including a provision that a dumpster lid could be kept open to accommodate a trash chute, a requirement that dumpster providers are responsible for notifying a property owner within 24 hours of changing a dumpster. The ordinance applies to any building with 10 or more units.

Electrical Vehicle Wiring

In late October, City Councilwoman at-Large Blondell Reynolds Brown introduced **Bill No. 150814**, which would have required any development with 10 or more parking spots to provide wiring that would accommodate electrical vehicles in at least 10% of the total number of on-site parking spaces. We worked with the Councilwoman and her staff to amend the bill to ensure that any changes to the code are reasonable for multifamily property owners. The final amendments include concessions the Councilwoman made on our behalf, including a clarification that the bill only applies to new residential developments that provide at least twenty (as opposed to the originally proposed ten) parking spaces. For any new development providing 20-29 parking spaces, at least one parking spot must have the electrical wiring. For any new development providing 30-29 parking spaces, at least two parking spots must have the electrical wiring suitable for vehicle chargers. For 40-49, at least three, for 50-99 at least four, and for any development with 100 or more spots, at least 5% must have the wiring to accommodate electrical vehicles.

These negotiated amendments are a dramatic improvement from the bill's original language. We will continue to advocate on behalf of our owners, to emphasize our industry is on top of innovations and energy-efficient solutions that the market demands and reiterate the important notion that no city ordinance should interfere with private business practices. This bill passed at Council's final meeting on December 10, 2015, and was signed by Mayor Nutter on December 23rd. It goes into effect July 1, 2016.

Expansion of Energy Benchmarking

Following a national trend, in 2012 Councilwoman Blondell Reynolds-Brown's bill requiring commercial buildings to benchmark energy use became law. In January of 2015 she introduced **Bill No. 15011** to expand benchmarking requirements to include all buildings, both residential and commercial, with interior spaces of over 50,000 square feet. We submitted written testimony pointing to the inherent drawbacks of benchmarking for multifamily buildings. We also noted the privacy concerns of our

residents and the fact that apartment owners' are already committed to reducing energy costs, because it is sound business practice to do so. We spoke at the bill's hearing to reiterate our sentiments.

Of the 12 or more groups to testify, we were one of two to raise concerns regarding the bill. The bill ultimately passed, but Councilwoman Reynolds-Brown gave us her assurance she would continue to listen to our and members' feedback regarding compliance challenges. At our request, she also obtained assurances from PECO, PWD and PGW that they will be able to provide aggregate data for an entire building. But she declined to incorporate language in the bill that would have mandated the utilities to provide aggregate data, as we had also requested. We will continue to solicit comments from PAA's Philadelphia members and bring these concerns to Council's attention. Energy usage in multifamily residences, with a myriad of different energy users, needs and preferences, combined with the fact that the majority of the housing stock in Philadelphia is pre-World War II, make apartment buildings a very challenging setting for this type of mandate

Food Waste Grinders in New Construction

A new mandate requires that any structure for which a building permit has been submitted on or after January 1, 2016 must have a food waste grinder in every kitchen. **Bill No. 150651** applies to one-family, two-family and multi-family dwellings. Water supplies must provide sufficient flow to ensure proper functioning of the disposer. One exception would be for buildings connected to an individual subsurface sewage disposal system. We monitored this bill for any pertinent amendments, but did not submit testimony for or against the bill because many members sent us feedback that installing food waste grinders in new construction has been commonplace in the multi-family industry for many years.

High Rise Inspection Fee

In April, Sixth District Councilman Bobby Henon introduced **Bill No. 150266**, which would have mandated city high rise building owners to pay both the rental license fee and the high rise inspection fee. In response to our lobbying the bill was amended to ensure Group R-2 properties that are not condominiums will be subject to the housing inspection license fee in lieu of the high-rise inspection fee. We argued against the bill during the Committee on Licenses and Inspections hearings, noting in particular the exorbitant and unreasonable financial burden it would place on multifamily building owners (the intent of the bill had been to allow individual condominium owners who rent out their units to pay the rental license fee but not the high rise inspection fee).

Had the original language passed, high rise R-2 owners would have had to pay the annual \$50 per unit rental license fee – formerly the housing inspection license fee- plus the \$.01 per square foot high rise inspection fee. The bill was signed by the mayor on June 16th and went into effect on July 15, 2015.

Limits on Student Housing

We were part of a bipartisan effort that defeated an attempt to ban student housing from an area that would have included Rittenhouse Square. In September 2015, Councilman at-Large Bill Greenlee introduced the controversial **Bill No. 150649** on behalf of Council President Darrell Clarke. The original bill would have banned rooming houses, boarding houses, fraternity houses, and housing for students in a broad area around the Square.

This bill was highly contested by several groups, including PAA. After several months of discussions and negotiations the bill was scaled back significantly to include only the 2000 block of Rittenhouse Square Street. That block also happens to be where two projects- a nine-unit and a six-unit building- are currently under construction. In addition to scaling back the affected area, the bill's final language will only ban group living (with the exception of Personal Care Homes), and housing rented solely to students or marketed primarily to students. The bill passed Council during its final voting day on December 10th. Mayor Nutter did not sign the bill prior to the end of session, essentially pocket vetoing the measure in its entirety.

While the provisions of the bill were significantly scaled back both in size and scope, the Apartment Association remained opposed to the bill because of its restrictions on student housing. We will continue monitoring legislation that limits student housing. Currently, the only area within the city that has an overlay completely banning students is an area in North Central Philadelphia near Temple University's campus.

New Definitions and Requirements for Balconies

First District Councilman Mark Squilla's **Bill No. 150502**, which the Mayor signed on December 23, 2015, sets new definitions and requirements for balconies, access structures and roof decks on all new construction within the city. We monitored its progress and attended the Rules Committee hearing to ensure that any proposed changes would not alter the bill in a manner that would harm the multifamily industry. During the meeting, a member of the Philadelphia Crosstown Coalition proposed several amendments that would have negatively affected developers of multifamily buildings. We followed up with the bill's sponsor and his staff to make sure the final language did not include those amendments. For a summary of the bill, please visit www.PAA-East.com.

Paid Sick Leave

After six years of attempts to pass a paid sick leave bill, Philadelphia Councilman Bill Greenlee was finally successful in passing **Bill No. 141026**. The new ordinance requires businesses with ten or more employees to provide employees with one hour of paid sick leave for every 40 hours worked.

Under the Ordinance, full- and part-time employees who work at least 40 hours per year within the City of Philadelphia will accrue paid sick leave at the rate of one hour for every 40 hours worked, up to a maximum of 40 hours per year. Employees who work fewer than 40 hours per year within the City of Philadelphia will accrue unpaid sick leave at the

same rate. Employees may use covered leave (1) for their own illnesses; (2) to address a family member's mental or physical illness, injury, or health condition; or (3) to obtain medical attention to recover from an injury or disability caused by domestic or sexual violence (including stalking) or for related legal services or remedies. Employees not covered include independent contractors, seasonal workers or those hired for fewer than six months, interns, and workers covered by collective-bargaining agreements. Businesses that already provide sick pay on par with or exceeding the law's requirements need not change their policies. Employers must keep records of employee hours worked, sick leave time accrued and taken. The records must be retained for a minimum of two years. Employers that violate the ordinance will be subject to fines, penalties, and restitution. The mandate went into effect in May 13th- employees may begin accruing time as of that date. Recently hired employees can use accrued sick time 90 days after their hire date.

The Apartment Association had a long journey with paid sick leave legislation. We were among those in the business community that strongly opposed the proposal. The measure passed Council and was vetoed by Mayor Nutter in 2011 and 2013. This time, mounting pressure from national organizations were successful in forcing employers of all sizes to provide sick leave.

Rent Increase Notification

City Councilman at-Large Bill Greenlee's **Bill No. 140716**, provides new notice requirements regarding rent increases. PAA and other real estate groups had numerous discussions with Councilman Greenlee about the original bill and its unworkable provisions. We secured important amendments that changed the bill significantly.

The new law requires rental owners to notify residents of a planned rent increase at least 60 days prior to the end of the lease, when the original lease term is for a year or longer. The resident must notify the rental owner of his or her intent regarding a lease renewal within 30 days of receiving the owner's notice. The 60/30 days' notice applies as a minimum. Rental owners are can put longer notice provisions in their leases if they wish. The law becomes effective on January 30, 2016.

Rental Licenses

Chapter 9-3900 of the Philadelphia Code, titled Property Licenses and Owner Accountability was replaced in its entirety by **Bill No. 140892**, which was signed into law in February 2015. This bill reorganized the chapter and parsed out different provisions for rental licenses, vacant lot licenses, vacant structure licenses, and vacant waterfront structure licenses. It also added a requirement to designate a Managing Agent on the rental license application. The bill mandates that no person can collect rent or recover possession without a valid rental license or certificate of rental suitability. Additionally, a single rental license is now acceptable for an entire building.

PAA was instrumental in ensuring that the rental license fee remained at \$50 per unit with a maximum of \$20,000. This is the second time the Apartment Association's work

helped prevent a fee increase. In 2012 our input helped defeat a proposal to increase the fee to \$75 per unit with a maximum of \$25,000. Additionally, while the Certificate of Rental Suitability is still required, we insisted the bill's sponsor use the language contained in the consent decree from our lawsuit. That language requires owners to acknowledge their obligation to provide a habitable property, as opposed to swearing to provide units free of defects that affect health and safety.

Waste Management Plans

Councilwoman at-Large Cindy Bass' **Bill No. 150748**, passed during City Council's final meeting and was signed by Mayor Nutter on December 23, 2015. This new law updates the city's Municipal Solid Waste Management Plan. It changes several sections of Chapter 10-700 of the Philadelphia Code, entitled Refuse and Littering and affects the multifamily industry. Apartments with more than six units must now use a private hauler for waste and recycling collection, and develop Solid Waste and Recycling Plans. Proper waste and recycling signage must be used to identify dumpsters and recycling receptacles. Association members typically adhere to proper waste management practices already. We are encouraging members to provide us with information about their experience in complying with these new mandates.

Worker Safety Regulations

On September 30, 2015, a new law regarding safety training for construction workers went into effect in Philadelphia. **Bill No. 130847** was signed into law in February of 2014 and included an extended 18 month period before becoming effective. This bill was conceived after the tragic collapse of a center city building during its demolition in 2013. The bill requires contractors, construction managers and subcontractors engaged in building or demolition work to institute and maintain work site safety measures that will protect the general public and workers from harm. The new law's impact on Association members will depend on the nature of particular projects. To read a summary of the law and view the L&I notice, please visit our website.

Bills that Died in Committee at the End of 2015

Many of the bills that died did so due to a combination of PAA staff lobbying efforts and Philadelphia members' engagement with their buildings' district and at-Large Councilmembers. The combined effort secured our ability to convince key council members that certain proposals would be very harmful to the multifamily industry, including owners and renters alike. However, this does not ensure that these or other similar proposals will not be reintroduced in the new session. As always, we will continue to be engaged in the civic process and keep our members informed.

120103: Would have mandated third-party fire damper and smoke damper inspections.

130058: Would have mandated that all construction and demolition debris be recycled.

140034: Would have mandated third-party fire escape inspections.

150097: Would have mandated property owners to disclose the smoking policy in writing.

150275: Would have mandated that a Waste Plan be submitted for any construction project that costs \$10,000 or more.

150538: Would have mandated fire escape signs and inspections.

Other 2015 Happenings in Philadelphia

Bed Bugs

In late 2014 First District Councilman Mark Squilla invited PAA to be a part of bed bug task force meetings. The task force, moderated by Penn State's Pennsylvania Integrated Pest Management Program, was charged with developing policy recommendations for the new Mayor and City Council by January 2016. The task force met each month throughout 2015 and PAA attended every meeting to represent the view of multifamily owners. Other members of the task force included real estate and rental owner organizations, residents rights organizations, entomologists, pest management specialists, several human services organizations, and the city's Health Department and Licenses and Inspections.

The task force sent their final policy recommendation to Councilman Squilla at the end of 2015, but several of the recommendations remained controversial to many members of the task force. If Council or the new Mayoral Administration move forward with legislation, we will continue to represent our members' interests. We will continue to stress there are three parties responsible for bed bug prevention and control: The owner, the tenant, and the pest management professional.

Papal Visit

2015 brought a landmark event to the City of Philadelphia- but with it came a landmark headache for many Center City businesses and residents! We had significant input with the city and Secret Service as plans for the visit progressed to make sure the needs of our members' properties were not overlooked. We identified member properties within the affected center city area and ensured that building managers and owners were apprised of informational and Q&A meetings preceding the September Visit. Center City property owners and managers attended two meetings along with the Building Owners & Managers Association (BOMA) and the Greater Philadelphia Hotel Association (GPHA) members. The first meeting included a detailed overview of the overall plan and put affected properties' owners in touch with their properties' designated secret service agent. The second meeting consisted of a Q&A with city officials, local police, and secret service agents in charge of the visit. While the Papal visit may not have followed the exact plans that were discussed in these two meetings, we hope that PAA's participation and inclusion in these meetings proved helpful to property owners.

Philadelphia Tax Proposal

New interest in shifting the city's tax burden from wage and business taxes to real estate taxes developed in 2015. Leaders of the Center City District and others spent the year promoting their plan for job growth and increased business opportunity. Their solution is to tax commercial and residential properties at different rates, with commercial owners paying 15% more than residents in property taxes, and dedicating the revenue generated to reducing wage and business taxes. Proponents are confident the shift will result in a more competitive business environment, more demand for housing and retail services, more construction jobs and more resources for the City to support services and public education.

Achieving a two-tiered tax structure would require an amendment to the tax Uniformity Clause of the Pennsylvania Constitution- a process that requires the passage of such a proposal in two consecutive legislative sessions followed by a voter referendum from the entire Commonwealth.

Paul Levy, President of the Center City District visited a Legislative Committee meeting in September to explain the plan and field questions from Association members, many of whom were understandably skeptical. It is likely multifamily properties would be considered commercial properties.

Mr. Levy contended the plan would restore a predictable tax structure by gradually lowering the business and wage taxes. He noted the plan calls for wage tax reduction to below 3% over the next decade, and for the net-income portion of the Philadelphia Business Income and Receipts Tax (BIRT) to be cut in half over the same period. He ventured many or most multifamily properties would therefore see their tax obligations reduced, or stabilized. The Apartment Association will conduct a survey of Philadelphia owner members in 2016 and ask them to crunch some numbers regarding their properties, to see if this theory of tax reform would be helpful or harmful to their operations.

PITTSBURGH:

In 2015, the Apartment Association augmented our monitoring of Pittsburgh City Council's proposals. And it could not have happened at a more appropriate time. In the latter half of 2015, Pittsburgh City Councilmen proposed two ordinances, both of which subsequently passed. Both will have a tremendous impact on rental property owners. In 2016 and beyond, we will continue tracking Pittsburgh and will become more involved in lobbying the city's elected officials.

The first bill that passed, Bill No. 2014-1020, requires that rental owners register with the city and pay an annual inspection fee. The amount of the fee will depend on the number of units per property. As of its effective date- December 18, 2015- rental owners will pay \$65 per unit for up to 10 units, \$55 for 11 to 100 units, and \$45 per unit on properties with more than 100 units. A group of rental property owners has filed a lawsuit regarding the ordinance, noting it violates the city's Home Rule Charter. The suit, which was filed in the Allegheny County Court of Common Pleas, cites the same restrictions of the state's Home Rule Charter and Optional Plans Law that a

Common Pleas judge used this month to strike down legislation mandating paid sick leave for city employers. A spokesman for Pittsburgh Mayor Bill Peduto has said that the city is confident that the ordinance will withstand legal scrutiny.

In a separate measure, Pittsburgh also passed Bill No. 2015-2062, which adds source of income to the list of protected classes under Pittsburgh's fair housing laws. The ordinance, which became effective on December 18, 2015, prohibits rental owners from turning away potential residents based on their participation in the Housing Choice Voucher program, commonly known as Section 8. We opposed the bill and assisted PAA-West's grassroots effort to add their members' voices to those of other Pittsburgh rental owners who testified against the measure. However City Council passed the bill, ignoring the negative impacts such requirements have on the amount of available quality rental housing, the intent of the federal law, and the burdens of participating in the program. Area landlords are considering legal action.

NATIONAL

The National Apartment Association advanced several federal issues with the help of their affiliates, including PAA. A complete rundown on NAA's legislative activity can be found on their website, naahq.org. The following is a brief list of the federal issues we followed or in which we were involved on behalf of Pennsylvania members:

Building Codes: We participate on the task force regarding building codes. NAA and the National Multihousing Housing Council devote countless hours and resources to advocate on behalf of the apartment industry before several codes councils. Over the years they have saved apartment industry members billions of dollars. NAA monitored and lobbied for changes to several International Code Council codes including the International Energy Conservation Code, the International Fire Code, the International Property Maintenance Code, the International Existing Building Code and the International Residential Code.

Cyber Information Sharing Law: the Cybersecurity Act of 2015 passed Congress with bipartisan support and the support of NAA/NMHC as well. The legislation encourages private companies to voluntarily share cyber threat information with one another and the government. The law, signed by President Obama in December, contains liability and antitrust protections for companies that share information. Implementation of the new law will begin in 2016.

Disparate Impact Supreme Court Ruling: The U.S. Supreme Court issued a disappointing ruling for the apartment industry in the long-awaited disparate impact discrimination case, *Texas Department of Housing and Community Affairs vs. The Inclusive Communities Project*. The Court validated the use of the disparate impact theory of liability in fair housing discrimination and held the impact or unintended consequences of policies and practices on protected classes can be considered discrimination under fair housing statutes. Although the Court cautioned disparate impact liability must be limited so businesses can continue to make practical business choices, apartment community policies, rules or practices could continue to be targets for discrimination claims based on disparate impact. Although the Court said the party bringing a disparate impact discrimination case must show "robust causality" between the business policy

or practice and the discriminatory effect on a protected class, it remains to be seen whether this is enough to discourage specious challenges to apartment community practices or procedures. Indeed, some experts suggest the Supreme Court ruling will encourage disparate impact claims. Rental owners are encouraged to review their policies and tailor them as narrowly as possible to their business concerns, keep scrupulous records, and be prepared to substantiate their policy decisions.

Energy Efficiency Standards for Gas Furnaces: NAA/NMHC continued its opposition to the proposed energy regulations that would raise the minimum energy-efficiency standard for non-weatherized gas furnaces. Older, affordable properties would bear extremely severe cost increases when replacing furnaces. The proposed rules would require non-weatherized gas furnaces to have a 92% fuel use efficiency. But in many cases, because of their different venting requirements and configurations, retrofitting a new furnace would be prohibitively expensive or next to impossible. NAA will continue their efforts in the coming year.

Taxes: Despite their increasingly hostile, confrontational approach to legislation, Congress managed to pass a few measures helpful to the apartment industry. In the tax arena, the tax extenders package proved favorable to the priorities of the apartment industry in areas including bonus depreciation, small business expensing, energy efficiency and affordable housing development. NAA's website contains complete descriptions of these developments.

Model Landlord/Tenant Act: The Uniform Law Commission wrapped up its work on the 2015 Model Landlord Tenant Act, which will be available for states to adopt either in whole or in part. An NAA task force that included PAA members worked to recommend changes to the model law. Topics included landlord duties, death of a tenant, domestic violence, early release from tenancies, abandonment of personal property and several others. We have already seen a few of these issues make their way into proposed legislation for Pennsylvania. The model act will help our advocacy efforts in some situations, and hinder us in others. We expect a more concerted effort to bring about change to our 1951 Landlord and Tenant Act and provisions from the new Model Act will surely be considered.

Music Licensing: We continued our work on the NAA task force charged with educating members about music licensing and developing a cohesive position on the issue as it affects apartment communities. The task force developed a flow chart that NAA members can use to familiarize themselves with situations in which music licenses may be required on properties. While not intended as legal advice, the flow chart, "Music Licensing at a Glance" can be used as a first step in assessing their music licensing obligations. The chart is available on www.NAAHQ.org.

The current copyright statute's definition of public performance does not take in to account the unique circumstances of apartment living and therefore unfairly limits where apartment residents can listen to music in their homes, or apartment communities. Requiring performance fees from multifamily properties is a growing problem and apartment owners around the country are facing demands for license fees for using copyrighted music on their properties. The work of the task force will continue and NAA is consulting with experienced copyright attorneys to explore the

best theories on which to develop a formal position and demand changes in the law for the apartment industry.

WOTUS and Water, Streams, Ponds, Puddles and Property:

The EPA is fighting to gain greater control over all waters of the United States. Their proposed rule would allow them to regulate even storm water runoff. The rule would have a significant impact on the apartment housing industry because of the significantly expanded scope of lands that would be subject to federal permitting requirements under the Clean Water Act.

Developments and construction projects could be severely hampered by extra levels of federal permit requirements. A federal court has temporally stopped the implementation of the rule and NAA and NMHC continue to aggressively lobby the EPA and Congress about the significant harm that could result to the development of much needed rental housing.

PAC ACTIVITY

Harrisburg lawmakers deal with thousands of issues each legislative session. We must make sure that our issues don't get lost in the shuffle. Our political action contributions are vital to that effort. The **PAA PAC** is a statewide fund dedicated to supporting state candidates. **Please help us grow this essential fund. Watch your mail in the coming weeks for your PAC contribution request.**

The following PAC contributions were made in 2015:

Candidate for Mayor Lynne Abraham, D- Philadelphia
St. Rep. Bill Adolph, R- Delaware
St. Sen. David Argall, R- Schuylkill
St. Rep. Stephen Barrar, R- Delaware
St. Rep. Kerry Benninghoff, R- Centre
St. Sen. John Blake, D- Lackawanna
St. Sen. Jim Brewster, D- Allegheny
St. Sen. Pat Browne, R- Lehigh
St. Sen. Jake Corman, R- Centre
St. Sen. Jay Costa, D- Allegheny
St. Rep. Madeline Dean, D- Montgomery
St. Rep. Frank Dermody, D- Allegheny
City Councilman Allan Domb, D- Philadelphia
St. Sen. Larry Farnese, D- Philadelphia
Candidate for City Council Ori Feibush, D- Philadelphia
City Councilman Derek Green, D- Philadelphia
St. Rep. Kate Harper, R- Montgomery
St. Rep. Sue Helm, R- Dauphin
City Councilman Bobby Henon, D- Philadelphia
House Republican Campaign Committee
St. Sen. Vince Hughes, D- Philadelphia
City Councilman Curtis Jones, D- Philadelphia
St. Rep. Warren Kampf, R- Chester

Mayor Jim Kenney, D- Philadelphia
St. Rep. Joseph Markosek, D- Allegheny
St. Sen. Bob Mensch, R- Montgomery
City Councilman David Oh, R- Philadelphia
St. Rep. Bernie O'Neill, R- Bucks
City Councilwoman Maria Quinones-Sanchez, D- Philadelphia
St. Rep. Dave Reed, R- Indiana
St. Sen. Joseph Scarnati, R- Jefferson
St. Sen. Mario Scavello, R- Monroe
St. Rep. Brian Sims, D- Philadelphia
City Councilman Mark Squilla, D- Philadelphia
Candidate for City Council Paul Steinke, D- Philadelphia
St. Rep. John Taylor, R- Philadelphia
St. Sen. Rob Teplitz, D- Dauphin
Candidate for Mayor Anthony Williams, D- Philadelphia

On the Horizon

- **NAA Annual Capitol Conference: March 6 – 8, 2016.** Visit www.NAAHQ.org for details.
- **PAA Annual Harrisburg Visit: April 11 & 12, 2016.** Watch for details.
- **Legislative Activity Update Calls:** For all interested PAA members: A chance to talk about our government affairs activity during conference calls in 2016:

Thursday February 25
Thursday April 28
Thursday June 30
Thursday September 29
Wednesday November 30

Watch our Government Affairs Updates newsletters for call-in details.

- **Lease & Law Handbook:** A must have for leasing agents, managers and rental owners. Hard copies available as a handy reference right at your fingertips. Or access online at www.paallbook.com. Contact aborovik@paahq.com or cgertz@paahq.com for details.

Respectfully Submitted:
Christine Young Gertz, Esq; Alisa Borovik