



GOVERNMENT AFFAIRS EXECUTIVE SUMMARY FOR 2009

Despite the dark comedy of errors that took center stage in Harrisburg in 2009, or perhaps because of it, our role as protector of Pennsylvania's apartment industry will hit new heights in 2010. You may be shocked, shocked, to learn nothing ever changes in politics or human nature. But thanks to Hollywood, we have proof.

Way back in 1939 Indiana Pennsylvania's native son, the venerable Jimmy Stewart, starred in "*Mr. Smith Goes to Washington*" a movie that, if not for its black and white film, could be easily mistaken for footage of our present day PA General Assembly.

Stewart played a young Senator whose ideals are shattered when he confronts political corruption. He's surrounded by crooked party hacks, jaded legislative staff and cynical reporters who ridicule his earnest efforts to affect helpful legislation. A powerful political boss hides in a back room, smoke filled and all, turning public servants in to private ones with money and quid pro quo. The boss uses a plethora of dirty tricks to discredit the Washington neophyte.

Sound familiar?

"*Mr. Smith*" champions the notion that principles and politics can co-exist. Hard working civic leaders with good ideas can play by the rules and prevail.

It can happen even today, even in real life, even in Harrisburg.

True, 2009 will be marked as the peak of our Commonwealth's "Bonusgate" era. Dozens of former and sitting legislators and staff were indicted on charges of using millions of taxpayer dollars and resources for political campaigns. Public opinion of politicians sunk to an unfathomable low. Frustration, resentment and acrimony ruled the mood "on the Hill". Added to the mix was a challenging recession and prolonged budget squabble. It's a wonder any new bill had even a chance of advancing.

But then, Harrisburg can be a wonder.

The fact is there are still plenty of dedicated legislators and staff who conduct their work in an honorable fashion. Most elected officials continued

in good faith to search for reasonable solutions to any number of issues, and they reached out to those who could provide reliable information on pertinent topics. In the wake of the largest political scandal in recent memory, they couldn't afford to do anything less.

Nobody could risk creating the impression of listening to a single guy in a back room. So we are at a point, for 2010, when trustworthy trade association lobbying can hold sway.

Our Apartment Association is known for its straightforward lobbying style. Law makers can be confident about the veracity of the facts we present and the strength of the arguments we put forward. We are often considered and consulted about pertinent legislation, and many of our concerns have been taken in to account when drafts of bills are made ready for introduction. We have been welcomed as advocate and educator. It's not just an act, and we're ready for our close up in the coming year.

The following is a summary of our Government Affairs activity in 2009:

STATE

Fire Extinguishers

Our lobbying efforts prevented a particularly ill-conceived Senate bill, SB 24, from advancing out of the committee stage of deliberation. Our work resulted in a savings of about \$30 per apartment unit for every owner member. In many cases that amounts to tens of thousands of dollars. But we readily agreed to work with the bill's sponsor in future joint educational efforts aimed at informing residents about fire safety.

Although responsible rental property owners will not hesitate to support initiatives that assure resident safety, the finer points of any effort must be carefully scrutinized. Senate Bill 24 was offered as a possible additional fire safety measure for Pennsylvania. But it might have done more harm than good. The bill would have required fire extinguishers to be mounted near kitchens in every dwelling in buildings that do not have sprinklers.

There is an inherent risk in encouraging residents to fight fires. Although fire extinguishers can be useful in some situations, the operator must be capable of handling the extinguisher and making an instant judgment about how quickly and easily a particular fire can be doused. When broadly applied to the general public, the idea of presenting such a responsibility to residents is highly problematic. In fact, the National Fire Protection Association advises the public to immediately leave the scene of a fire and call 911.

Carbon Monoxide Detectors

HB 1445 attempts to assure widespread use of crucial safety devices that alert occupants of deadly carbon monoxide gas. But, as with any

legislation, the details and potential unintended consequences must be carefully considered. Just before he introduced HB 1445, the prime sponsor agreed to our request to add language that limits owners' liability for detectors that are damaged, misused or removed by residents. Although it is not clear if the final bill will retain such language, subsequent amendments continued to place the responsibility for the maintenance of alarms with rental residents. We have had several meetings the bill's sponsor Representative Tim Solobay and other legislators. We will continue to advocate our positions on any amendments.

Similarly, we opposed SB 29 which would require carbon monoxide detectors, because it does not logically deal with the issue it purports to address.

24 Hour Monitored Security in Apartment Communities:

Conservative estimates suggest such a mandate could easily cost several thousand dollars for installation alone, with enormous added costs for "monitoring" We doubled our efforts to oppose HB 650, which would require 24 hour monitored security in apartment buildings regardless of their size or location. As of this writing the bill remains in the House Urban Affairs Committee.

Abandoned Personal Property

A bill to provide procedures for what to do with tenants' abandoned personal property was originally introduced last term, at our request. We had several meetings with its sponsors and their staff regarding the particulars of its language. This year Senate members and staff solicited our opinion on the re-introduction of abandoned personal property legislation. We met with pertinent staff and Senators, and many of our suggestions were incorporated in to the drafted language. We continue to advocate for the passage of Senate Bill 1056.

Pennsylvania's Construction Code

Several bills have been introduced that would amend the Commonwealth's construction code. We are especially watching for efforts to require prohibitively expensive retrofits to existing buildings of apparatus such as sprinklers. Our discussions with key legislators are ongoing regarding this potentially ruinous issue. Bills include HB 2042, 2094 and 1114.

Blighted Real Property

We reprised our role as the advocate for a reasonable approach to the problem of neighborhood blight. This year, as in sessions past, we testified before pertinent Senate committees regarding the potential introduction of additional legislation to address the problem. We supported The Abandoned

and Blighted Property Conservatorship Act, number 135 of 2009. At hearings to study the need for additional legislation we testified in favor of a wait and see approach, and urged Act 135 be given a chance to work.

Efforts to pass additional blight legislation did proceed, ultimately, so we met with stakeholders and Senate staff to offer language for a new bill that would be acceptable to all parties. We contributed clarifying language and played a part in discussions about the feasibility and fairness of particular provisions. For example, establishing a statewide data base that lists problem properties, as was originally proposed, could be difficult in this current troubled economy. As a result, a separate resolution, SR 142, calling for the Legislative Budget and Finance Committee to complete a study and cost analysis was introduced. We also urged eliminating a section that would create a private right of action for tenants and neighbors of blighted properties. Senator Argall's SB 900 emerged from these discussions. It was voted favorably out of the Urban Affairs Committee and is currently in Appropriations.

Additional legislation, such as HB 712 and a soon to be introduced similar bill in the Senate, would establish land bank authorities to deal with vacant or tax-delinquent properties. The land bank would be able to acquire properties at tax sales. The land bank would be considered the successful bidder for any property in which no one else bids an amount equal to the full amount of all taxes, interest and costs due. The idea is to give municipalities an efficient system for handling problem properties in a way that will foster community growth and development.

We will continue our participation in discussions of these bills to assure fair treatment of responsible rental property owners. We want to encourage legislators to avoid passing superfluous, over-reaching or financially crushing regulations that hurt responsible rental property owners.

Meth Labs

Methamphetamines continue to wreck havoc on communities and ruin the lives of thousands of Americans, including Pennsylvanians. Several attempts to handle the problem of crystal meth labs emerged from Pennsylvania's General Assembly in 2009. Included among them: SB 1111, which would require owners and lessors with actual knowledge of their properties' contamination to disclose the fact to purchasers and lessees. The bill would also require the Department of Health of the Commonwealth to certify, upon the request of an owner or lessor, that the property has been decontaminated. The bill presents several problems in its present form. It is not clear whether a lessor would be required to continue reporting past contamination once a property has been decontaminated. Additionally, it contains an overly broad provision that would allow any person to file a civil action to enforce compliance, and thus encourage profit seekers to pursue vexatious litigation. We are lobbying the bill's sponsors for changes.

Evictions

Representative Miller continues his efforts to amend the Pennsylvania Landlord and Tenant Act with our wholehearted support. HB 322 would allow a landlord to request the issuance of a writ of possession immediately after the rendition of a judgment for possession, and require a magisterial district judge to immediately issue an order for possession following a landlord's request. Additionally, the time periods for the issuance of a writ of possession and that for appeal would run concurrently.

Representative Payne's HB 1599 also has our support. The bill would change from 10 to 7 the number of days a magisterial district judge would have to schedule a landlord-tenant hearing following the issuance of a summons. It would also change the number of days a tenant would have to appeal a judgment of a lower court to the Court of Common Pleas from 10 to 5.

State Issues Waiting in the Wings

A wide variety of legislative initiatives could have an impact on the apartment industry. As bills are discussed or introduced and bandied about committees in the House and Senate, any of several factors can play a role in the chance of their ultimately becoming law. The dynamics in play this past year were especially intricate because of everyone's preoccupation with the budget crisis and troubled economy, which significantly slowed daily operations in both houses of the legislature. But we continued, business as usual, to monitor and discuss several subjects of bills with their sponsors and committee assignees, as well as their staff. Areas of concern included:

Bed Bugs

It's hard to sleep tight when this creepy subject surfaces. At least one neighboring state is currently considering bed bug legislation. Ideas for bills can sometimes spread faster than vermin, so we are keeping an eye out for similar efforts in our Commonwealth. Legislative issues include financial responsibility and methods of eradication.

Rental property owners are strongly urged to act swiftly as soon as they learn of any bed bug infestation. The National Apartment Association is addressing the problem through the efforts of their Bed Bug Task Force. We are active members of the Task Force.

Tenant Disruptive Conduct

HB 1192 would require owners of rental properties in cities of the first class to begin eviction proceedings against any tenant who commits three disruptive conduct incidents in a 12-month period. Disruptive conduct would include loud, untimely, offensive and riotous behavior.

Several municipalities in Pennsylvania have already passed their own versions of tenant disruptive conduct ordinances. One infamous case in 2009

presented a particularly onerous situation for an owner after a tenant called the police because another tenant was cooking with garlic. This and other ridiculous anecdotes prompted the Apartment Association to study the feasibility of statewide legislation to set some reasonable parameters to this area which is ripe for abuse. We will continue to pursue this issue in 2010.

Ending leases early because of unusual circumstances including terminal or mental illness or loss of employment

At least one bill would interfere with the contractual lease agreement between rental owner and resident for debatable reasons. HB 452 would require owners, among other things, to terminate residential leases for certified illnesses.

Green buildings

Environmental concerns make green buildings everyone's concern. Several bills that would amend the tax codes to provide for tax credits for high-performance buildings have been introduced in previous years and are likely to be pursued in the years ahead.

The Second Annual Harrisburg Capitol Conference saw increased support from Pennsylvania Affiliates

Western, Central and Greater Philadelphia Apartment Associations joined forces in March of 2009 to advocate for our members. We met with several key Senate leaders and 10 State Representatives from all corners of Pennsylvania.

Ultimately, we lobby to save our businesses money so the industry can grow. No one will take us seriously unless we show up personally. Please plan to join us Monday evening, March 22d and Tuesday March 23, 2010 for the next crucial visit to the Hill!

NATIONAL

As 2010 gets under way the troubled economy and loss of jobs nationwide will drive legislative initiatives in Washington. But it is likely the following additional issues will receive attention later in the year:

Multifamily finance

The National Apartment Association continues to devote a significant amount of their lobbying resources to the problems created by the current crisis in capital markets and the difficulty rental owners are having in recapitalizing properties. They were also among the few stakeholders invited to special meetings convened by HUD to discuss the issue and the negative impact it is having on the availability of quality rental housing.

Labor

As 2009 came to a close the proposed Employee Free Choice Act faced greater uncertainty. If it survives in 2010 it would present problems for the apartment industry because of the way it handles the issue of how to define collective bargaining units.

E-Verify for Federal Contractors and Immigration issues

A federal court upheld a regulation that requires most federal contractors to use the E-Verify system for confirming employee work eligibility. Firms with federal contracts including those that participate in housing voucher programs and those who provide military housing could be affected. The NAA encouraged those firms to consult with an attorney to determine their individual compliance obligations.

New Lead-Based Paint Regulations

New Renovation, Repair and Painting Regulations are set to go into effect in April of 2010. Workers who disturb lead-coated surfaces in pre-1978 housing must complete an EPA certified training course on lead-safe work practices. Workers must also provide verification that sites are appropriately cleaned based on EPA standards. Despite a successful challenge to some of the regulations by the Sierra Club, the EPA intends to go ahead with the new compliance standards regarding the certification, training and work practice requirements.

To assure our members are current and capable of complying with the new regulations, The Apartment Association of Greater Philadelphia has scheduled a course for certification in EPA Renovation, Repair and Painting (RRP) on Friday, February 12, 2010. Those interested can register at www.aagp.com

Federal Estate Tax and Carried Interest Taxes

Unless Congress changes its mind, the estate tax will disappear for a single year in 2010. Thereafter the law reverts to the higher rates and smaller exclusions that were in place in 2001. But while thousands of estates will avoid the estate tax in 2010, their heirs will be faced with substantial capital gains tax liabilities. The "stepped up basis" for 2010 would be repealed as well. The NAA is currently supporting efforts to stop these changes for 2010.

Changes to the Carried Interest tax are also strongly opposed by the NAA because of the affect it would have on investment partnerships. A carried interest is an interest in the long-term capital gain of a partnership when it sells a property. Investing partners grant the interest to general partners as an incentive. A bill in the U.S. House of Representatives would change the tax on the capital gain value of the carried interest received by a

general partner in a partnership, currently at 15 percent, to ordinary income tax rates, whose rates are much higher. If such a change were to occur, it would have a chilling effect on apartment housing development, especially affordable housing.

This year Legislative activity in Washington will likely heat up just as the National Apartment Association convenes on March 8. It is therefore all the more important for our members to join the Pennsylvania delegation for Congressional visits on Wednesday, March 10, 2010!

LOCAL

Philadelphia

Certificate of Rental Suitability Litigation:

The Court order we obtained that suspended enforcement of Philadelphia's infamous Certificate of Rental Suitability Ordinance is still in effect as of this writing. Meetings progressed in 2009 among the City, the plaintiffs and tenants groups. Stakeholders met in good faith to draft language for a new ordinance. Plaintiffs participated in order to uphold the interests of rental owners. The City has conceded a number of our more crucial points. Talks are expected to continue in 2010.

Building Façade Inspections

Philadelphia City Council passed a bill that will require affected buildings to conduct building façade inspections every five years. The Apartment Association participated in stake holder's talks with Council members that ultimately led to several amendments to the bill. All buildings in Philadelphia that are six or more stories in height and all buildings that have any appurtenance that is more than 60 feet are affected. Additionally, Council reserved for future legislation the areas in the City where any building over two stories, other than one or two family dwellings, will be affected. Starting years for initial inspections are staggered according to the age of the building.

Expanded Requirements for Property Managing Agents and Property Managers

We were consulted on a bill that would change the language in the ordinance that contains requirements for registering property managers and agents for service. Bill number 090834 would specifically require owners of one-family, two-family or multiple-family dwellings, rooming houses, dormitories or hotels in Philadelphia to designate a managing agent to receive service of notices, orders or summonses from the Department of

Licenses and inspections. The bill would also require any owner of more than three residential parcels or any owner of a family dwelling with four or more units, or any owner of a rooming house who does not reside in the city or in a surrounding county to designate a property manager (the bill includes a definition of property manager). The bill would also empower the Department of Licenses and Inspections to require any owner to designate a property manager if it thinks it's necessary to protect public health, safety and welfare. Additionally, new filing requirements to record the name of such agents and managers are included in the bill. According to city council legislative staff, the bill is intended to clearly define those responsible for property upkeep: agents, managing agents, and property managers. The City also wants to be sure it can keep track of and hold someone responsible for maintenance. The Apartment Association is continuing talks with the bill's sponsors.

Five County Area

Inspections

Many rental property owners are all too familiar with rental property inspections ordinances, which are often referred to as "RPIO's". Along with inspections for property maintenance code violations, several municipalities have passed ordinances that require property owners to monitor and supervise their residents.

For example, one borough in Montgomery County PA requires owners to, *"discourage and prevent as may be possible disruptive conduct which may result in damages to the premises, breach of the peace, and disturbances of the community."* Owners get three chances per year. On the third strike of disorderly conduct of a resident, an owner must contact the resident to remind him or her to behave. The resident must also be reminded that such behavior could result in the occupancy being, *"closed for a period of up to six months."*

Along with discussions with Harrisburg legislators about how to reign in ordinances that obviously go too far, the Apartment Association is asking all members to keep us abreast of any effort to pass an inspections or behavior ordinance in their locales. We would support efforts to assure habitable rental communities without overly broad mandates to control behavior to the point of absurdity.

PAC ACTIVITY

The system demands a serious commitment to raising funds and supporting candidates. We can not be long-term players in the Capitol

without it. Thanks to the contributions from members and the efforts of our PAC Committee, our PAC fund grew substantially in 2009.

Law makers are hit from all angles with thousands of pleas for legislation each year. They will respond to those who make their interests a priority. Our PAC account supported candidates statewide and advanced the issues important to Western, Central and Greater Philadelphia. The amount of particular contributions is generally based on a candidate's leadership role in the General Assembly and committee assignments.

2010 will be an especially important election year. The Governor's race, 25 Senate and 203 House seats are on the line. What with all the upheaval in leadership in 2009, many of these races are taking on an even greater significance. Additionally, the celebrated maxim of lobbying was never truer:

The best time to lobby is when you don't need anything.

We have a real chance to develop positive relationships with new faces and those just starting out in leadership roles.

We've Got Your PAC, and Your Back

The willingness of industry leaders to support their Association's government affairs activities is directly related to the long term health of the industry. Associations need its members to comprise its collective voice. Let us know your concerns, give us your ideas, and help us advance Pennsylvania's apartment industry. For more information, please feel free to contact Christine at cgertz@aagp.com.

In Memoriam

In 2009 we mourned the loss of our dear friends, Steve Altman, AAGP's Legislative Committee Chairman, PAC Treasurer and Past President, his brother Dan and Dan's son Doug. Their lives were tragically ended in a plane crash last summer.

Steve was one of the original architects of our Government Affairs program. Everything we do in Harrisburg, in Philadelphia, anywhere, is the product of his ingenuity. He was the first to connect the dots between industry growth and political action. We could always rely on Steve to skillfully assess even the thorniest of issues and point the way forward. He's irreplaceable. We'll miss his advice and counsel, his warm spirit, his incomparable sense of humor, and his great example on how to live life to the fullest.

Respectfully submitted:
Christine M. Young Gertz, Esq.
Government Affairs Director.

Dates to Remember:

National Apartment Association Capitol Conference, March 8 through 10, 2010.
Harrisburg Capitol Conference, March 22 and 23d, 2010.