



ILA Legislative Report

Impact Fees Struck Down

The Homebuilders Association of Greater Des Moines won in Polk County District Court, but won an even bigger victory in the Iowa Supreme Court on the issue of impact fees for developers. Since 1985, the city of West Des Moines had been charging an impact fee to developers of any kind of housing. In 1995, the city doubled the impact fees. The justification for the fees is that the city wanted the money to build new neighborhood parks and recreation areas.

The Homebuilders won on the important substantive arguments, but the Iowa Supreme Court overturned the Polk County District Court on the issue of the takings clause of the U.S. Constitution, the Equal Protection Clause of the Constitution, and substantive due process. If the high court had accepted the district court's findings, then the city of West Des Moines would have had to pay the attorneys' fees of the Homebuilders. These constitutional arguments were important because they almost guaranteed that the city would appeal to the Iowa Supreme Court. Now, the striking down of the impact fees applies all over the state, not just in Polk County.

The court ruled that since the Iowa legislature had not authorized impact fees, Iowa cities and counties couldn't use them as a way of raising money. Home rule offers great powers to cities and counties, but it doesn't afford the opportunity to tax without authority from the legislature.

Home rule does grant broad police powers to local governments to promote the public's health, comfort, and welfare. Local governments do have the right to impose fees. The reasonable cost of inspecting, licensing, supervising, or otherwise regulating an activity may be imposed on those engaging in the activity in the form of a license fee, permit fee, or



Joe Kelly
ILA Lobbyist

Continued on Page 3 ...

Thanks to all those who attended the ILA Breakfast Meeting on the 10th of last month. We appreciated Ben

Bishop's presence as our main speaker. Ben is the Des Moines Neighborhood Inspection Division Administrator. He informed Des Moines landlords that the proposed self-inspection program was not going to be recommended to the City Council. The Inspection division performs many tasks besides housing inspections. With a budget of \$2,000,000, they use about half of that for housing inspections. According to Mr. Bishop, housing inspection fees bring in about \$300,000 to \$400,000. The rest comes from the city's general fund or property taxes.

The City of Des Moines has budget problems, which may be the result of giving millions of dollars in tax money to the large corporations downtown. Now the city is looking at everyone else to make up for their budget shortfall. Residential rental property is not the answer. This property is already taxed at a higher rate than owner occupied property because of the tax rollback that owner occupied property receives. Additional strain is put on the city budget when new property receives tax abatements but requires all the city services.

Several suggestions were made to help the good landlords in the city and put more of the cost where it belongs, on the offending landlords. Right now the good landlords are supplementing the cost of the offending landlords. That needs to stop. Good landlords should have the periods of their permits lengthened so the inspectors can concentrate on the offending ones. Often times, the offending landlords will be fined, which are then waived allowing them to stay in business and continue on their way. Only timely legal action will solve this problem.

The city managers and council have caused their own problems and now they are looking at landlords to help bail them out. We believe no increase in inspection fees are warranted.

DIALOGUE WITH DIRECTORS



This Month's August 2002 NewsBrief

- Dialogue With Directors
- ILA Legislative Report
- Homeland Security
- Breakfast Meetings

- Privacy Regulations
- Ponters To Ponder
- Advertise with ILA

Directors: • Dennis McDonald • Dave Sollenbarger

• WebSite: www.iowalandlord.org

• Email: ilaservices@iowalandlord.org

Terrorists and Homeland Security

Have you noticed that none of the terrorists in recent months never lived on the street. They all lived in rental units. Their pattern of renting and purchasing was to deal with landlords who did not require any paperwork. Just the requirement of filling out a rental application would have been enough to send them out the door. Would they have rented from somebody else? Probably. But maybe they would have drawn enough suspicion to warrant someone checking into them further.

If you have rented to these type of applicants out of humanitarianism reasons, then you should be urged to practice what is called preventative maintenance by conducting quarterly or semiannual inspections. We landlords have the right to keep property in good repair and a duty to make sure everything is working inside the unit. If you rent to these type of individuals and do the periodic inspections, you may discover some strange things about them.

Do they lack personal possessions, little or no furniture, little or no change of clothing and anything else that may indicate their stay is not going to be long. Have they turned on the utilities or telephone service. Maybe they rely entirely on cellular phones.

A simple fact is that these people have the same basic needs of food and shelter that we all do. If we as landlords had practiced basic and thorough screening procedures and periodic maintenance inspections of the their apartments, maybe we make a difference, something more than just providing shelter.

Screening is no different for terrorists than for drug dealers and other criminal elements. They do not lead normal lives. They do not want to call attention to themselves.

The FBI and CIA are at a major disadvantage in that they have to wait until these people are caught committing a crime before their presence is discovered. We as landlords are in a unique position that allows us to closely observe people who possibly should be investigated before they can commit a destructive act.

We can play a vital role in our own homeland security. If one of you has a tenant who seems to fit some of the red flags that were described above, you can report your observations to the FBI at www.ifccfbi.gov.

(Mr. Landlord, May 2002)

Landlords and Homeland Security

Many landlords adopted new security procedures and policies after September 11th. Warnings about the possibility of terrorist attacks on apartments have left many owners and managers questioning whether or not enough is being done to protect their property and their tenants. Landlords and apartment owners should establish a relationship with federal, state and local law enforcement agencies. In the aftermath of September 11th, you should review your procedures for screening tenants to determine how they can be strengthened while adhering to fair housing laws. Law enforcement officials are concerned about screening procedures because of the possibility that would-be terrorists could use photocopied IDs to obtain a signed rental agreement and then use that lease to acquire legitimacy in obtaining residency requirements.

If you don't already, you should require original documents and not copies for identification. A picture drivers license is still one of the best forms of identification. HUD officials have indicated that landlords will not raise fair housing concerns as long as they check all prospective tenants against terrorist suspect lists and verify and report false IDs for all prospective tenants. Where bogus Social Security numbers are found, landlords should report those to the Joint Terrorism Task Force representatives as well as the Social Security Agency and the INS.

Because of the criticism of the FBI, they have added hundreds of new counter-terrorism agents to their staff and have expanded their authority to undertake anti-terrorism surveillance procedures in public places. Now that apartment complexes occupy a higher position on the FBI's scope, these changes will probably lead to more FBI visits to apartment buildings. Landlords should remember that the new USA Patriot Act provides landlords who cooperate with federal law enforcement agencies new liability protections in sharing information.

Don't Do This!

Landlords Jason and Jennifer Zeman of Coralville, Iowa were sentenced to 180 days in jail, placed on probation for one year, ordered to pay a \$750 fine and complete 50 hours of community service-all because they video-taped their tenant. Why? Because they thought their tenant was abusing their dog. The landlords pleaded guilty to electronic and mechanical eavesdropping. The judge who sentenced them said, "this is a significant violation of a trust relationship created by a landlord and tenant".

The crime is a serious misdemeanor, punishable by up to one year in jail and a \$2500 fine.

Need to Rent ???
advertise your rental at:

www.vacancy4rent.net

Pointers To Ponder



Carpeting - - -

Since one of your major concerns is the overall expense [of being a Landlord], you might save by carpeting only a portion of a unit, perhaps just a living room, because it will cost a mere fraction of a fully carpet installation and yet you will have "wall-to-wall carpet" to tout to prospective tenants. Another possibility for savings involves laying durable sheet goods (linoleum, tile, or vinyl) by entrances (usually in a three-foot square) and in hallways where traffic is heavy and carpet tends to wear and spot quickly. You won't notice any savings by doing this right away, but you will in time because you won't have to replace an entire room full of carpeting to eliminate the eyesore of small worn areas. (excerpt from LANDLORDING, by Leigh Robinson)

Terrorism Insurance

Recent FBI warnings to apartments has lowered Congress' skepticism over the need for terrorism insurance. A new study by the Congressional Joint Economic Committee stated that the lack of terrorism insurance 'has become a significant threat to the economy'. The Committee says it found enough problems to warrant a temporary and limited federal insurance safeguard for future terrorist attacks. Federal terrorism insurance legislation is currently stalled in the US Senate.

New Privacy Regulations

Last May, the Federal Trade Commission issued new rules identifying procedures covered companies must take to ensure the security and confidentiality of customer information. The new law which goes into effect May 23, 2003, requires companies to establish programs to notify customers of their privacy policy and to obtain permission before sharing customer information with 'unaffiliated third parties'. The new rules apply to any company that is significantly engaged in a financial activity as defined by the Federal Reserve Board. This probably covers certain apartment industry-related collection agencies.

Apartment companies should consult with their attorneys to determine whether or not these new rules apply to them.

Need to Rent ???
advertise your rental at:
www.vacancy4rent.net

Breakfast Meetings !



The remaining dates for the meetings are; Wednesday, August 14 and Wednesday, September 11th. Breakfast Meetings start at 7:30AM in the morning at the Cubs Club at Sec Taylor Stadium.

Breakfast meetings are limited by space, so please register early. The cost is \$10.00 for the buffet. Our guest speaker will be from the DCI, Information Technologies Department regarding criminal checks on prospective tenants through the Iowa Landlord Association. Call Connie at 515-255-0675 to register or send in your reservation money. We look forward to seeing you!

Bankruptcy Reform

The stalled bankruptcy reform legislation (HR333/S420) which was pending in Congress may now be resurrected. Current law allows residents (tenants) to remain in the property after their lease has terminated by preventing rental housing providers from initiating eviction proceedings. The new provision would help a rental housing provider's ability to reclaim its property once it has obtained a judgement for possession and the resident has filed for bankruptcy, or where the resident has recently used illegal drugs or endangered property.

ILA Legislative Report – *Continued from Page 1 ...*

franchise fee. In addition, according to the Iowa Supreme Court, a city may charge a citizen when it provides a service to that citizen. These aforementioned fees are not taxes.

West Des Moines' impact fee was in addition to its regular building permit fees. The benefit of the money charged to developers went into the city's general fund to be used to purchase land for parks and for the building of parks. These benefits accrued to the entire city, not just to the newly constructed housing.

The Iowa Supreme Court concluded that the impact fee in West Des Moines was actually an excise tax, which is a tax imposed on a transaction or a condition to the exercise of a privilege. Reaching this conclusion, the court found that the impact fees, being excise taxes on developers, couldn't be enforced because there is no legislative authority granted to local governments to impose the tax.

The Iowa League of Cities has announced that it will ask the legislature next year to pass legislation allowing for the use of impact fees in Iowa.

Would you like to list your property on the Iowa Landlord Association Apartment Rental Search but you're not on the Internet?



**Iowa Landlord Association
Apartment Search Service
Listing Form**

Make copies of this form, fill out the form and FAX to: 515-255-0675

You can mail or fax in your listing directly to our office if this would be easier for you.

To list your property, please fill out this form and send a picture of your property to our office.

Have you a rental property you wish to sell? Advertise it on the web site! Call us for details.

Interested in banner ads on our website?

ILA Rental Property Search Listing Rates

- Listing Prices = Members - \$50/mo., Non-Members - \$100/mo.
- Pictures/Logo inclusion = \$10/submission
- Picture/Logo image preparation (if needed) = \$35/hr.
- Photography Services = \$50 trip fee; \$35/hr after 1 hour; Materials at cost; Service available in the Des Moines metro and Polk County surrounding areas; Services are on a scheduled basis; Contact information@iowalandlord.org for arrangements.

Your Company: _____
 Your Name: _____
 Your Company Address _____
 Your Phone number for contact _____
 Property Address: _____
 Property City, Zip: _____

Monthly Rent Price: \$ _____ / Month
Number of Bedrooms: Studio/Efficiency 1 2 3 4+

Type of Housing: Condos, Townhomes, or Duplexes
 Unfurnished Apartments Furnished Apartments
 Single Family Dwelling Short Term Rentals Senior Community

Utility Arrangements: None Supplied Some Paid All Paid

Accommodations and General Amenities – Please check the items associated with this property:

Air Conditioning:	<input type="checkbox"/>	Dishwasher:	<input type="checkbox"/>	Wheelchair Accessible: ..	<input type="checkbox"/>
Microwave:	<input type="checkbox"/>	Stove:	<input type="checkbox"/>	Trash Compactor:	<input type="checkbox"/>
Balcony / Patio:	<input type="checkbox"/>	Refrigerator:	<input type="checkbox"/>	Garbage Disposal:	<input type="checkbox"/>
Dining Room:	<input type="checkbox"/>	Fireplace:	<input type="checkbox"/>	Pet Friendly:	<input type="checkbox"/>
Computer High				Laundry Type:	
Speed Broadband				<input type="checkbox"/> Washer / Dryer	
Internet Accessibility: ..	<input type="checkbox"/>	Cable Ready: ...	<input type="checkbox"/>	<input type="checkbox"/> Washer / Dryer Connections	
		Garage:	<input type="checkbox"/>	<input type="checkbox"/> Laundry Facility	

Community Accommodations and Amenities

Club House:	<input type="checkbox"/>	Storage Facilities:	<input type="checkbox"/>	Gated Access:	<input type="checkbox"/>
Public Transportation: ..	<input type="checkbox"/>	Tennis Courts:	<input type="checkbox"/>	Playground:	<input type="checkbox"/>
Fitness Center:	<input type="checkbox"/>	Swimming Pool: ..	<input type="checkbox"/>	Whirlpool / Spa:	<input type="checkbox"/>

Run Dates of Your Listing

Date Begin: _____ Date End: _____

Your Email Address:

Additional Information About This Rental:

*** Don't Have A F.A.X. - - Just copy and mail your form to us. ***



(HINT! For the cost of an ILA membership - Non-members can purchase their membership, save money and experience ALL the benefits of ILA membership!)

Need to Rent ???
 advertise your rental at:
[**www.vacancy4rent.net**](http://www.vacancy4rent.net)