



ILA Legislative Report

The Iowa Legislative Council, the group of legislative leaders who manage the business of the Iowa Legislature when it's not in session, has authorized the formation of the Property Tax Implementation Committee. Expense payments will be made to the 18 members of the Committee for up to 5 meeting days. The first meeting is scheduled for September 1.



Joe Kelly
ILA Lobbyist

The six legislative members of the committee are as follows:

House

- Rep. Jim Kurtenbach (R-Nevada), Co-chair
- Rep. Doug Struyk (R- Council Bluffs)
- Rep. Don Shoultz (D- Waterloo)

Senate

- Sen. Bryan Sievers (R-New Liberty), Co-chair
- Sen. Pat Ward (R- West Des Moines)
- Sen. Herman Quirmbach (D-Ames)

If you live in any of the legislative districts of these six legislators, it is certainly appropriate, and you are encouraged, to visit with your legislator concerning the inequity of having your residents subject to a higher tax than those who own their own homes.

Of course, even if your legislator is not on the property tax committee, it is still advisable for you to continue to raise the property tax issue with your own legislator.

Drug Control Policy Meeting with Iowa Governor's Office

On August 4th, your lobbyist Joe Kelly and director, Dennis McDonald, met with the Governor's Office of Drug Control Policy. They included: Marvin VanHaften, the Director or better know as the Drug Czar, Dale Woolery, the Associate Director, Mary Chavez, an assistant attorney general for Iowa, Becky Swift and Kurt Smith. As most know, Iowa

Continued onPage 4 ...

DIALOGUE WITH DIRECTORS



It has been another busy month. First, the ILA Legal Defense Committee received the Draft

Report on the cost analysis on rental property inspections for the City of Des Moines. This is the report that MAXIMUS completed because we wanted the City of Des Moines to show us how much it REALLY cost to perform inspections on rental property. The Des Moines Neighborhood Inspection Division insisted that 60% of inspectors' time was spent on inspecting residential rental property. According to the Draft Report, inspections including administrative and travel time, is only "17.44% of their total available hours for rental property inspection work". The Draft Report does make several fee recommendations-16 to be exact; 3 recommendations to increase fees and 13 to decrease fees. Keep in mind, this is only a draft and the final report may change. We have never received the internal cost analysis promised by the City last year and do not expect to receive it.

Also last month we met with the Governor's Office of Drug Control Policy Committee. We have asked the NAA for help on this project. The Governor's Committee provided us with a report on the breakdown of meth lab seizures by county and location. Out of 1249 seizures in Iowa, 61 were in apartments and condos. See the article in this Newsbrief for a complete report on the meeting. The Seizure Report can be seen in its entirety on our website at www.iowalandlord.org. Go to the member section and click on 'Letters & Press Releases'.

On the 10th of last month the ILA-NAA First Legislative Forum and Luncheon was held. See the article in this Newsbrief for a complete run down.

We also have another website addition. It is the list of "Legislative Victories for Landlords". We want you to check this out to review and vote for the five top offensive victories our lobbyist has won since representing the ILA before the Iowa Legislature. Also

Continued onPage 4 ...

This Month's September 2004 NewsBrief

- Dialogue With Directors
- ILA Legislative Report
- The Welcome Mat
- Ask An Attorney
- Drug Control Policy Meeting
- ILA-NAA Legislative Conf.
- WDsM Solicitor Ordinance

- Directors: • Dennis McDonald • Dave Sollenbarger
- WebSite: www.iowalandlord.org
 - Email: ilaservices@iowalandlord.org

Ask an Attorney: Legal Q & A



by **Mark V. Hanson**, Attorney at Law,
Whitfield & Eddy, P.L.C.
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Q. Abandonment. Iowa Code Section 562A.29 mentions 14 days. But the question is: can landlords put in their rental agreements that abandonment is considered to be, say three days?

A. There are a couple code sections which reference abandonment. 562A.29(3) relates to action for rent of the unexpired term. 562A.33 relates to recovery of possession. Neither defines abandonment. 14 days absence is not by itself abandonment. What acts would show abandonment? Giving specific notice to the landlord, surrendering the keys, and ceasing to exercise dominion over the premises are examples. But, often the tenants do not knock on your door at 1:00 am to hand over the keys (with all your light bulbs in their back seat.) Often the tenants vacate and leave personal property behind. Is the property in the unit of such value that you might think they would return to pick it up? Do they intend to retain possession for some length of time. These are judgment calls. There is no hard and fast answer.

One Iowa case stated abandonment as applied to leases involves an absolute relinquishment of premises by a tenant, and consists of acts or omissions and an intent to abandon. So, if it becomes an issue in a case as to whether the premises were abandoned, the facts of each case would be reviewed to determine if the tenant committed acts or omissions and had an intent to abandon, such that the landlord would be lead to believe or should have come to the conclusion that there had been an abandonment..

Another case states a landlord and tenant may agree to landlord's remedies if tenant abandons property and fails to pay rent, as long as the provision does not constitute penalty. And the court would consider damages equal to the amount of rent reserved in the lease, plus any other consequential damages, less amounts received in re-letting the property. Can the landlord put in the lease certain provisions defining what would constitute abandonment? Sure. But, it would need to be clear and provable and not work a penalty on the tenant. If you go in front of a judge and claim abandonment, think what proof are you going to need to prove abandonment under your definition. I think three days of absence would be way too short a time period.

Rent: The two Code sections sort of work against each other too. In 562A.29 the question is when is the landlord obligated to begin efforts to re-let, and for how long is the tenant liable for rent. If the landlord does not take action to re-let after abandonment, the tenant is relieved from the obligation to pay rent. But, the duty to use reasonable diligence to re-let does not arise until the landlord has reason to know of the abandonment. If you define abandonment clearly, and know when the abandonment begins, your obligation to re-let also begins.

Also a caution to the landlord is if you want to go after the tenant for the balance of the term's rent, be careful to not do anything that would cause you to lose your right to claim the balance of the rent due. Make effort to rent and document your efforts. Tell your vacating tenant you are not waiving your right to the balance of the rent due for the term of the lease. Do not accept surrender of possession as surrender of the term or estate.

Possession: In 562A.33 the question is how soon can the landlord take possession. Once the abandonment is ascertained, the landlord has the right to reenter. And, the landlord could reenter without a forcible entry and detainer. But, here again, how do you know tenant has abandoned? If it is defined clearly in your lease, you would know.

Editors Note: If you have legal questions you would like covered in this article, please forward them to: dennis@iowalandlord.org. Opinions and advice contained should be individually considered, and if you have specific questions concerning your operation or legal responsibility you should seek qualified legal assistance of an attorney of your choice.

"The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. This disclosure is required by the rule of the Supreme Court of Iowa."



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

ILA-NAA Legislative Conference Held

The Iowa Landlord Association in conjunction with the National Apartment Association held their first Luncheon and Forum on August 10th, and the topic was combating property taxes for apartment owners in Iowa.

Joe Kelly, our lobbyist for 12 years, spoke on the history of commercial taxation for multi-family housing, its effects and current legislative efforts. Joe emphasized the importance of personal contact with your legislators and encourages ILA members to make that contact and to express your concerns that affect the taxation of multi-family housing.

To find who your legislators are, log on to www.legis.state.ia.us and click on "Find your Legislator". It will ask for your address. Once that is filled in- up will pop your federal and state officials, their address, telephone number, their website and their e-mail address.

Mike Ralston, the Director of the Iowa Department of Revenue and Finance talked about how property taxes fall into the mix of all taxes in Iowa including income, sales and other taxes. Mike gave us some insight into what to expect for the upcoming legislative session including some changes in local county assessor offices and how they are handled.

Robert Andewag, attorney with Brown, Winick and Graves spoke about the lawsuit he is researching and the possibility of bringing it before the Iowa Supreme Court. Apparently, because of the recent Iowa Supreme Court ruling concerning the different taxation and the gaming industry in Iowa, the chances are that a lawsuit will take place.

Todd Cohn, manager of state and local policy for the NAA spoke on promoting coalitions when fighting for legislative changes that affect apartment owners; and the successful efforts by the NAA in changing property tax structure for multi-family housing in other areas of the country, and how they can help us defeat our unfair system of property taxes.

Keith Denner, a member of the ILA Legislative Committee conducted a brain storm session on ideas for the upcoming legislative session. It was concluded that one of the biggest problems for apartment owners and managers was the problem of dealing with tenant possessions after they were put out on the curb.

Other concerns were: the slowness of the sheriffs department in serving removal notices, the necessity of refilling the precept for garnishment every 70 days and the inability of serving garnishments to a husband and wife when they work in different counties.

WDsM Solicitor Ordinance

Two of our members, Keith Denner (Sun Prairie Apartments) and Melissa Johnson (Olde English Village), were involved in a successful effort to update the West Des Moines Solicitor Ordinance.

Many of us have had problems with door-to-door, especially magazine, solicitors. Usually, other than asking the solicitor to leave, there is not much that we can do. The reality is that most cities have ordinances that regulate solicitors by requiring them to get a permit, but typically the solicitors do not do so. They annoy and inconvenience our tenants, and they oftentimes deface our buildings.

The new West Des Moines ordinance provides for a penalty for the people who bring in the solicitors. There is a fine of \$500 per solicitor and \$500 per person that they talk to. Information regarding this ordinance has already been posted on national websites. Keith is optimistic that magazines solicitors should just skip West Des Moines.

You may want to consider lobbying your city to adopt something similar so that the magazine solicitors will just skip the entire Golden Circle.

If you would like to view a copy of the West Des Moines ordinance, you can access it at the city's website: www.wdm-ia.com It is Ordinance 1592 under: Mayor and City Council, City Code, Ch. 7, Ordinances Pending Codification.

If you would like to view articles about the inappropriate things that magazine solicitors do around the country, log into website http://www.travelingsalescrews.info/mainpage_1.html (click on "Breaking News" to view newspaper article that was in the Des Moines Register) Just a few of the article topics include: 1) Teen Door-To-Door Salesperson Arrested For Assault/ Police: Many Individuals On Sales Crews Have Criminal Records; 2) Cops: Magazine Salesman Stabs Elderly Woman To Death;

3) More West Boise Neighbors Complaining Of "Door To Door Scam"; 4) Door-To-Door-To-Jail Peddler Arrested: Know who is at your door, A convicted sex offender has been arrested while selling magazines door-to-door.

If you would like copies of the letter that Keith submitted to the West Des Moines City Council outlining his frustrations and problems, please feel free to contact his assistant at alissa@ppm-inc.com

Drug Control Policy Meeting

Continued from Page 1 ...

leads the nation in meth lab seizures, not exactly a distinction this Committee wants to retain. The meeting was instigated by Mr. Woolery to see how the Iowa Landlord Association can be of assistance in dealing with this problem. Their main concerns were as follows: meth labs in apartments, clean up procedures after a seizure and the health of future tenants and their children in an apartment that has been cleaned up after a seizure. Our first question to them was how many of these seizures take place in apartments as opposed to other structures such as motels, mobile homes, vehicles and also open air seizures. That figure can be obtained using the 'National Clandestine Laboratory Seizure Report'. The Governor's office has provided that information to us.

Also of concern to the Committee was notification to future tenants that a meth lab was found in an apartment. Several solutions were discussed. One suggestion was to have a mandatory registry of apartments where seizures have taken place. That idea was rejected by the ILA and by the Director. Another idea was to have a notification program such as was set up for lead based paint. It was recommended by us that any program be voluntary and not be so harsh as to make the apartment unrentable.

Also discussed was a plan to coordinate clean up of the apartment after a seizure. Guidelines are not currently in place to clean up an apartment because of the wide variety of destruction or lack of destruction a meth lab can cause in a unit. As of now, it is up to the landlord to clean up the apartment after a meth lab seizure. Hazmat does not come in and do it for you.

Mary Chavez informed us that Iowa Code Chapter 124C, passed by the legislature in 1993, gives the commissioner of Public Safety the authority to clean up clandestine laboratory sites. The definition of such a site clearly includes meth labs. The owner of the property, such as a landlord, is not responsible for the cleanup costs by the state unless the landlord had knowledge of the lab and took no action reporting the site to authorities. If the landlord knew about the site and took no action, then the landlord can be charged with the cleanup costs, which can be substantial.

The ILA has asked the National Apartment Association for assistance in dealing with the Committee. Barbara Vassallo, the NAA Director of State and Local Policy, will be providing us assistance in this area. Apparently, many states are dealing with this issue, but not many have looked at the specific clean up issue.

According to the Governor's Drug Control Policy Committee, Iowa is looking at a projected figure for 2004 of approximately 2000 meth lab seizures, again probably leading the nation. This is a problem that will affect many apartment owners and managers. The ILA is pleased to be a part of the solution and to work in conjunction with the Governor's Office of Drug Control Policy.

Directors... – Continued from Page 1 ...

vote for the top defensive victory. Let us know which ones are most important to you.

We will pass them on to our lobbyist, Joe Kelly.

A reminder of the final breakfast meeting this year to be held on the 21st of September Tuesday at the Cubs Club, 350 S.W. 1st Street - Des Moines. It starts at 7:30AM and is normally over by 8:30 or 9AM. Cost for the breakfast buffet is \$10. The speaker will be Dick Stradley with the Iowa Department of Revenue and Finance. Dick oversees the calculations of the new assessment rates that are mandated by the state and passed on down to the counties. If you have any questions about this procedure or other related topics that may need to be researched by Dick before the meeting contact him at Dick.Stradley@idrf.state.ia.us. Dick will also give us some ideas on what the legislature may be up to regarding property taxes in general.

Our first class presented through the NAA structure will be held in October. The topic will be Fair Housing. For more information, contact Mary Spain (mSpain@apartmentfinder.com).

Our first fund raising event put on by the ILA Fund Raising Committee, chaired by Karen Hinds (khinds@csmcorp.net) will be held in October. It will be a bowling tournament with proceeds going to the Food Pantry of Iowa. See the flyer in this Newsbrief for further details and get signed up now.

We hope everyone's summer has been safe and enjoyable. We look forward to seeing you all at the upcoming events.

The Welcome Mat

The Iowa Landlord Association is pleased to announce the latest members to join ILA.

Members:

Lloyd Kennedy, Johnston
Frank DeMarco, West Des Moines

Associate Members:

A+Lawn & Landscape, Inc.

We encourage our members to use the knowledge and expertise of our Associate Member(s) to help solve landlording issues and problems.

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

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.com