



### ILA Legislative Report

**Editors Note;** *The Iowa Legislature is not in Session. Joe will return in future NewsBriefs, however he would like for you to exercise your right to vote for the candidate and issues of your choice in the upcoming election in November.*



**Joe Kelly**  
ILA Lobbyist

### DIALOGUE WITH DIRECTORS



We've had the second meeting with the Governor's Office of Drug Control Policy Committee. We received quite a bit of information from the NAA which was shared with this committee. Hopefully, it looks like we can come to some agreement without a bunch of regulations.

Our breakfast meetings are over for the year. We stuck to two main topics this summer; inspections fees and property taxes. We hope the conversation has been helpful to you and your bottom line. Our breakfast meetings also serve to be a social venue to help expand your landlord resources and contacts. We plan to hold Breakfast Meetings again next year. If you have ideas for future breakfast meetings contact Connie.

Do you know who represents you in the state legislature? If not, go to: [www.legis.state.ia.us](http://www.legis.state.ia.us) and click on "Find Your Legislator".

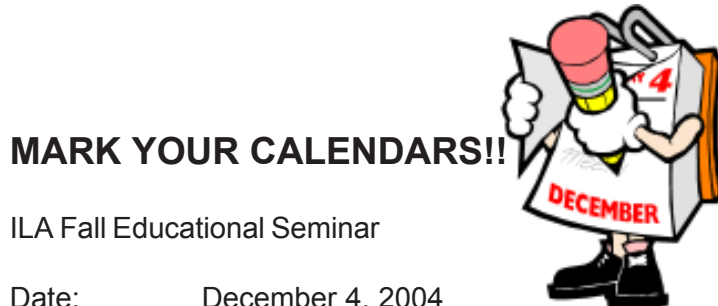
We hope you will be a part of the Super Bowl Charity Fund Raiser on the 17th of October. This fundraiser will benefit the Food Bank of Iowa. We will be awarding over \$500.00 in prizes, and it will be a great time for everyone! Team Registration Deadline is October 7th. If you didn't receive a flyer or have questions, e-mail Karen at [khinds@csmlcorp.net](mailto:khinds@csmlcorp.net).

Check out our report on our September 2nd meeting with the City of Des Moines. This is a big win for all landlords and property managers in Des Moines. This should give notice to other cities in Iowa that inspection fees cannot be increased without a cost justification!

Check out our website at: [www.iowalandlord.org](http://www.iowalandlord.org) for updates and especially our 'Legislative Victories For Landlords'. Let us know which changes have been most helpful to you.

We are still looking for more members for the association's committees. They are what make your association successful.

Enjoy the Fall; Winter will be here soon.



### MARK YOUR CALENDARS!!

#### ILA Fall Educational Seminar

Date: December 4, 2004  
9:00AM to 2:00PM (lunch included)

Location: Holiday Inn-Downtown  
1050 6th Ave.  
Des Moines, Iowa 50314

Topics: Methamphetamine problems in Iowa, and other drug concerns in rental property. Will include 'show and tell'

Speakers: The Governor's Office of Drug Control Policy and Law Enforcement Officials

Seminar Fee: Pre-registration: member \$20, non member \$25.

**The 2004 Fall Seminar  
Call Connie For Details  
515-255-0675**

### This Month's October 2004 NewsBrief .....

- Dialogue With Directors
- ILA Legislative Report
- The Welcome Mat
- Ask An Attorney
- Drug Control Policy Update
- Fall Educational Seminar
- Renting To Aliens

- Directors: • Dennis McDonald • Dave Sollenbarger
- WebSite: [www.iowalandlord.org](http://www.iowalandlord.org)
  - Email: [ilaservices@iowalandlord.org](mailto:ilaservices@iowalandlord.org)

## Ask an Attorney: Legal Q & A



by **Mark V. Hanson**, Attorney at Law, Whitfield & Eddy, P.L.C. [hanson@whitfieldlaw.com](mailto:hanson@whitfieldlaw.com)

**Q:** A question that comes up frequently is restricting potential tenants based on monthly or even annual salary. One landlord wanted to rent only to tenants who made at least \$24,000 per year.

Another question, along the same line, is not renting to tenants who are on some sort of assistance, such as welfare or subsidized housing. Can that be put in a rental agreement.

**A:** We will make a distinction between leases which are part of a government rent assistance program and those which are not. Also keep in mind that income alone does not determine the quality of a tenant.

If the landlord participates in one of the rent subsidy programs, the whole point of the program is to provide suitable housing for the low income tenant, at a rent that the person can afford. So, the landlord who participates in the program is going to be renting to those tenants. However, the landlord does have the right even then to be certain that the tenant is able to pay their portion of the rent. They have to have their own source of income whether it is employment income or welfare income or other sources, sufficient to pay the rent and their other living expenses and bills. The landlord does have the ability to inquire about employment and salary and other sources of income to verify they can pay. And, verification of employment and salary is a part of the paperwork provided to the government as part of the program. If the potential tenant has no employment or other income and no ability to pay his/her portion of the rent or insufficient income to pay the rent and basic living expenses, the landlord would naturally not accept them as tenants. Why take them as tenants, and the next month evict them for non payment of rent?

If the landlord is not participating in the rent subsidy programs, they have the ability to establish their own reasonable admissions criteria. Protected class is race, color, creed, religion, national origin, ancestry, sex, disability and familial status. The landlord cannot discriminate on renting to an individual on any criteria based on a protected class. You will notice that income level is not a protected class. You have the ability to inquire about current and past income, current and past employer, bank account or lender, credit references, utility company references, credit history, current and past rental information, legal action. These can all be indices of their ability and willingness to timely pay rent.

If you make a determination that a prospective tenant's income should be a certain level to afford the unit this would be permissible. If you go down that road you might also factor in their other debt and bills. One tenant with income sufficient to meet the landlord's criteria may have so many debts, that the tenant is in worse shape to afford the unit than another prospective tenant with less income but lower debt level. Again remember income level is not a guaranty of whether they will be a good tenant.

Another concern is that all applicants be treated equally and consistently. You cannot use permissible criteria in a manner which is not permissible, or in a manner that hides discrimination based on a protected class. For example, if you use income level as a determination for renting to a prospective tenant of one race, you would need to use the same criteria for all prospective tenants regardless of race. If you ask certain questions concerning income level, source of income, etc. of a prospective tenant of one gender, you would need to ask the same questions of all prospective tenants regardless of gender. And so forth.

Lastly, the question raised putting these criteria in the lease. Do not put this in the lease. Have your criteria written as part of your admission criteria and paperwork. Document and save any information on all applicants and the disposition of their application. If you were to have a civil rights complaint filed against you for discrimination, you would want to be able to prove that you denied admission based on permissible criteria, and that your history is of fair and consistent application of the criteria, and treatment of all applicants.

**Editors Note:** If you have legal questions you would like covered in this article, please forward them to: [dennis@iowalandlord.org](mailto: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](http://www.vacancy4rent.com)**

## Renting to aliens: What to watch out for.

By Michael Wilson, an attorney from Kentucky, Landlord's Bottom Line Bulletin, Jan 2004.

The number of immigrants in America continues to grow each year. In certain parts of the country, many tenants may be present illegally. According to the 2000 census, there are an estimated nine million illegal aliens currently living the United States. Other experts place the figure as high as 11 million. Renting to aliens can pose special legal problems for landlords. However, treating aliens differently from US citizens can constitute discrimination in violation of fair housing laws. Here are a few things to keep in mind when renting to aliens.

Some aliens are authorized to be in the US, either temporarily or permanently. A non-resident alien is a person who has been admitted to the US for a temporary stay that will end when the purpose is completed. The visa of a non-resident alien will begin with a letter. A resident alien is someone authorized to live and work in the US indefinitely. Such persons have been granted resident status by the US Immigration and Naturalization Service or have been issued an alien registration card, also known as a green card.

However, renting to illegal aliens (also known as undocumented aliens) constitutes harboring, a federal crime. The penalty for felony harboring is a fine and imprisonment up to five years, and landlords who rent to illegal aliens can be charged. A Supreme Court case also has held that one who furnishes lodging to an alien who entered the country lawfully, but overstayed his or her visa, would be guilty of harboring if the person knew the alien had illegally remained in the country.

On the other hand, illegal aliens are not without legal rights. Fair housing laws apply to all persons, including illegal aliens. Illegal aliens have other rights as well. A recent New York case held that being an illegal alien did not disqualify the tenant from rent regulatory protection.

Furthermore, an issue in states with large immigrant populations is whether government agencies that interact with aliens must investigate their immigration status. Advocates for illegal aliens argue such requirements discourage aliens from obtaining needed services, calling on the police, or using the court system.

Despite the fact that their presence in the US is illegal, some state agencies may turn a blind eye toward the immigration status of illegal aliens. In the context of these contradictory messages about illegal aliens, landlords approached by prospective tenants who may be illegal aliens need to be aware of the law.

A landlord does not want to be charged with harboring an illegal alien. On the other hand, fair housing laws

prohibit discrimination based upon national origin, regardless of intent. This means the tenant screening process needs to be the same for each tenant. If you only require Spanish-speaking tenants to show they have a driver's license or other photo ID, you may be discriminating. Although an illegal alien has no right to remain in the US under immigration laws, an illegal alien may still be protected under fair housing laws.

There are conflicting opinions regarding what documentation you should require. Some say every tenant applicant should be required to provide a Social Security number. On the other hand, some fair housing advocates argue that requiring prospective tenants to provide Social Security numbers could be unintentionally discriminatory, because legal aliens may not have them. Legal aliens can get a driver's license in any state, but due to recent changes in state laws, illegal aliens can now get driver's licenses in Utah, North Carolina, Virginia and Tennessee.

Immigration is a hot topic politically. State and local laws regarding the rights of undocumented aliens are constantly being proposed. Landlords need to keep abreast of future changes in state and local laws, as well as federal law.

Make sure your screening requirements are the same for all prospective tenants, not just ones you suspect may not be legal residents. Treating all tenants the same should help protect you from a discrimination claim. Keep in mind both fair housing laws that forbid discrimination based upon natural origin and federal laws that make harboring aliens a crime. Landlords need to comply with both.

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## Drug Control Policy Meeting - Update

The second meeting was held September 14th with the Governor's Drug Control Policy Committee. Also present was Jerry Nelson, Special Agent in Charge of the Iowa Division of Narcotic Enforcement. The Committee has proposed guidelines for cleaning up from Methamphetamine Labs. The guidelines were written by the Division of Environmental Health at the Iowa Department of Public Health. These guidelines are similar to what other states have proposed. It also follows the guidelines of what the National Apartment Association has proposed in dealing with meth lab sites.

The ILA believes that these guidelines in dealing with meth sites should be sufficient and not require regulations mandating additional requirements. Some states require that future tenants be notified of these locations, however the ILA does not agree with that stance, nor does the NAA. Once the guidelines are completed, they will be posted on our website along with other pertinent information on the methamphetamine problem.



## Final Report from MAXIMUS on Rental Property Inspection Fees in Des Moines

On September 2nd, the ILA Legal Defense Committee met with the City to review the final report and recommendations from MAXIMUS. The fee recommendations were accepted by the City. The number of decreases in fees was 13 and they range from 5 to 50 percent. There were 3 recommendations for fee increases: (a) single family initial inspections will go from \$100 to \$120, (b) HAB (Housing Appeal Board) compliance inspection will go from \$65 to \$200 and (c) HAB compliance appearance will go from \$150 to \$500. The City will submit the new inspection fee schedule to the city council for approval, hopefully before you receive this Newsbrief. The question came up of how everyone who has overpaid is going to be reimbursed. Receiving a credit was discussed but it was agreed that might be too cumbersome to deal with for property managers who have many clients and other landlords who have sold their property after January 1, 2003. Cutting checks to all was agreed would be more acceptable. That part of the discussion was not finalized.

The report showed that the City overcharged rental property owners by over \$105,000 per year. Since the higher inspection fees went into effect on January 1, 2003, it can be seen that the City has a lot of money to reimburse. On September 2th, the Des Moines City Council approved a \$205,109.67 reimbursement to landlords for rental housing inspection fee overcharges. During the same meeting, the council also adopted a lower fee structure for future inspections.

It has taken over two years, countless meetings and money, ( over 80 members donated money to this effort) plus a continuous effort by the ILA Legal Defense Committee to get to this point. It was not easy; fighting the government never is enjoyable. But if the ILA had not started this battle, the fees would have remained the same until the City decided to raise them again; probably again unjustifiably too high.

Here are the names of the committee members who have given of their time and effort. They are: Mike Anderson, Jodi Beavers, Craig Ellingson, Leslie Gearhart, Pat Knueven, Rich Raabe, Lisa Spoon, Carl Wiederaenders, your lobbyist, Joe Kelly, and last but not least your directors David Sollenbarger and Dennis McDonald. Let them know if you appreciate their efforts.

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

## Overcoming The Objection: "Let me think about it."

Ugh! How many times have you heard that one? Just remember, silence is the key. After they say this, count to ten in your head. If they still don't say anything, ask one of these questions:

- 1) What do you need to think about?
- 2) Why do you feel that way?
- 3) What would make you feel more comfortable?
- 4) I'm not sure I understand. Is there something I didn't explain correctly?
- 5) I'm not sure I understand. Is there something I missed?
- 6) Could you be a little more specific?

This will lead the prospect to elaborate on why he/she is hesitating. Then you can uncover and overcome the real objection.

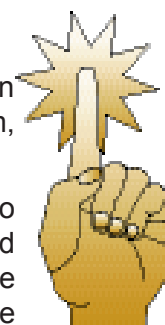
*By Mindy Williams*

*As printed in the Indiana INSites, April, 2004*

## Picture Taking Time

As many of you have discovered, when you place an ad on Vacancy4Rent.com, you can attach an image to your ad.

Now is the perfect time of year to photograph your property. The trees and shrubby are full of leaves. The leaves are just starting to change color. Clear blue skies with wispy white clouds are more often than not predicted for early October.



What better time to photograph your property, so you can use that image to advertise when your units are available for rent? Grab the camera, and shoot some photographys today.

## The Welcome Mat

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

### **Members:**

David Bettes - Urbandale  
Brian Wentz - Des Moines  
Jan Wiltgen, Mgr - Chapowi, LLC, Cedar Rapids  
Pointwest Apts. in WDM

### **Associate Members:**

Flooring Gallery, Kara Stalver, Urbandale  
SSC Corporation (Flooring Gallery & GCO Carpet  
Outlets in Urbandale and Des Moines)

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

**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](mailto: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!)

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 advertise your rental at:  
**[www.vacancy4rent.com](http://www.vacancy4rent.com)**