



**ILA Legislative Report**

The legislative races in Iowa ran counter to the national trend. Republicans did well in the race for President and in many other states. In Iowa, even though President Bush won the state, Republicans lost three seats in the House, and four seats in the Senate. Republicans will control the House with 51 votes, but there will be no majority party in the Senate. The Iowa Senate has been tied at 25 votes before, back in 1933. However, at that time, the Lieutenant Governor presided over the Senate and broke all ties. That is not the case in 2005. The Lieutenant Governor has no power in the Senate, which will choose its own leaders. Each party will have a leader, and no bill will be brought up for debate unless both leaders agree. Each committee in the Senate will have co-chairs. The President of the Senate will be from one party in 2005, and the opposite party in 2006.



**Joe Kelly**  
 ILA Lobbyist

The Iowa Property Tax Review Committee has resumed its work, meeting on November 10<sup>th</sup>. The final two meetings of the committee will occur on December 15<sup>th</sup> and January 5<sup>th</sup>, 2005. The committee is now in the process of making decisions on how to change the property tax system. The agreed upon changes will be presented to the Iowa legislature in the form of proposed legislation. As noted earlier, only those aspects of a property tax change which can be agreed upon by both

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*From all of us at the  
 Iowa Landlord  
 Association,  
 we wish all of you  
 the very best Holidays!*

Thankfully, the elections and all those commercials are over. Whether your favorite candidates won or lost we can and should move forward. There is plenty going on in December: on the 4<sup>th</sup> is our Fall Seminar the topic being 'Crime and Drugs in Apartments'; on the 15<sup>th</sup> is the Fair Housing class, the first one offered in conjunction with the NAA. Time is running out, time to sign up.

**DIALOGUE  
 WITH  
 DIRECTORS**



The news is not good on the property tax proposals being offered to the Iowa Property Tax Review Committee (read Joe's Legislative Update). If you believe that local governments haven't drained enough money out of apartment owners and small landlords, think again. The proposals by the Iowa League of Cities and the Iowa State Association of Counties are aimed directly at YOU. It is time to get serious and contact your legislator as we have been pleading for you to do the last several months. If you don't make your voice heard, the 25% and 40% rise in property taxes last year will seem like chump change. To contact your legislator, here it is again: [www.legis.state.ia.us](http://www.legis.state.ia.us) and click on 'Find Your Legislator'. Keep in mind that there are several newly elected legislators. If you don't have access to e-mail, you may (in January 2005) contact your state senator at 515-281-3371 and your state representative at 515-281-3221. To get information at the state capitol, call the Legislative Information Office at 515-281-5129 or e-mail them at: [lioinfo@staff.legis.state.ia.us](mailto:lioinfo@staff.legis.state.ia.us). It doesn't get any more crucial than this to keep the bureaucrats out of your pockets. If we do not act during the 2005 Legislative session, we can look forward to digging deeper and deeper into our pockets. If anyone would like to contribute to our lobbyist fund, send it to; ILA Lobbyist Fund, P O Box 13246, Des Moines, Iowa 50310-0246. This will take a Herculean effort by our lobbyist to fight off these proposals by the Iowa League of Cities and the ISAC. They have 50 lobbyists to our one.

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**This Month's December 2004 NewsBrief .....**

- Dialogue With Directors
- ILA Legislative Report
- The Welcome Mat
- Ask An Attorney

- DsM Inspection Fee Refund
- Committee Communique
- Apartment Recovery Underway

- Directors: • Dennis McDonald • Dave Sollenbarger
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## 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:** Can a landlord write the lease so it binds the tenant for 12 months but gives the landlord an escape clause which would allow the landlord the right of giving a 30 day notice to the tenant to move before the 12 months is up?

**A:** This is an interesting idea. Can you bind the tenant to pay the rent for 12 months, but not afford the tenant the assurance they have the right to live there for the 12 months? Lets take a look at it.

There is no provision in the Iowa Landlord Tenant law that would prevent you from doing this. You can certainly write a month to month lease, where either side has the ability to give 30 day notice. You can certainly write a 12 month lease, which binds both sides to 12 months (assuming no violations). The tenant is assured of being able to live there for 12 months on one hand, and is bound to pay the rent for those 12 months on the other hand. The landlord is assured of the rent for 12 months, but is bound to those tenants for the 12 months. The landlord has no right to possession during those 12 months unless there are violations giving rise to termination and forcible entry and detainer.

What if you mix the two? If the tenant agrees to it, I know of no reason why it could not be written that way. The tenant would have to realize that they are in effect agreeing to a month to month lease as far as their right to occupancy is concerned, but may be liable for the balance of the term's rent if they decide to move before the 12 months is up. It may be important to tenants to have assurance of the right to live there for at least that period of time. Or, it may be important to tenants to feel there is equal rights and obligations. If the rental market has a lot of vacancies, I would think it would be hard to get a tenant to agree to this. If I were the prospective tenant, and had other choices, I would go to those other choices.

The second aspect is enforcement and going after the tenant for the balance of the rent if the tenant moves before the 12 months is up. 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. However, if the landlord does not take action to re-let after the tenant vacates, the tenant is relieved from the obligation to pay rent. 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.

**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."*

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## Committee Communiqué

On December 15th, the Educational Committee will be presenting a Fair Housing class in conjunction with the NAA and the ILA. It will include coursework in Fair Housing practices, people with disabilities, families with children, and government housing programs.

Our Legislative Committee is continuing its discussion of issues to be presented to the Iowa Legislature when it starts the new session in January.

The ILA Legal Defense Committee will be having another meeting in December after the general elections to reflect on its achievements in 2004 to include its success in getting inspection fee refunds from the City of Des Moines. And, to discuss further monitoring of fees in other cities.

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

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

For those of you who have received inspection fees refunds from the City of Des Moines, check to make sure you have received the correct amount. We have published the entire new inspection fee structure in this Newsbrief and will be posting it on our website at: [www.iowalandlord.org](http://www.iowalandlord.org).

In looking back at Thanksgiving we can all be thankful we have the freedoms that we do. Let us not take them for granted.

We at your Association want to wish all of you and your families a safe and joyful coming holidays.

## APARTMENT RECOVERY UNDERWAY

After years of flat rent growth and increasing vacancy rates, conditions in the apartment industry are clearly recovering according to NMHC's October 2004 quarterly "Survey of Apartment Market Conditions". The Survey's indexes measure changes in occupancy rates, sales volume, availability of equity and debt market conditions between July and October 2004. For only the second time in the Survey's five-year history, all four indexes recorded improvement compared with three months earlier. (The first time was January 2004). The Market Tightness Index, which changes in vacancy rates and rent increases, came in at 60, the fifth consecutive quarter of improving demand. (A score of 50 means more respondents saw improving conditions than saw worsening conditions over the past three months). Apartment property sales continue to post record high levels. A record high number of respondents (38%) said sales volumes were higher than three months earlier, while a record low eight percent reported lower sales volume. The Equity Financing Index rose to 59, the ninth time in the past 10 quarters that the index has surpassed 50, meaning more respondents found equity more available this quarter than last. The Debt Financing Index also rebounded sharply to 58 following two sub-50 quarters.

In a press release announcing the results, NMHC Chief Economist Mark Obrinsky noted that "after a slow start, the apartment industry is now seeing signs of a real recovery. The combination of modest economic growth, strong demographic trends, and the rising cost of homeownership compared with renting is leading to a greater demand for apartment residences. Right now the only thing holding the industry back is the still-weak labor market."

Full survey results are posted at: [www.mnhc.org/Content/BrowseContent.cfm?IssueID-534](http://www.mnhc.org/Content/BrowseContent.cfm?IssueID-534).

Article from the October 29, 2004 NAA AIMS Washington Update

## ILA Legislative Report

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political parties will become law.

The Iowa League of Cities and the Iowa State Association of Counties, ISAC, were asked by legislative leaders to do a study of proposed changes to Iowa's property tax system. Both groups worked over the summer and fall. The proposals from these groups weren't friendly to providers of residential rental property. It was even worse for those people who rent out single family houses and duplexes. Currently these units are taxed as residential. Under the proposal, these units would be taxed at full market value. Owner occupied homes would have a reduction of 50% of a home's market value, subject to a floor of \$10,000 and a ceiling of \$150,000. Second homes would be fully taxed. Large numbers of farm buildings, which aren't currently taxed, would be taxed under the proposal.

The good news for landlords is that the Iowa Property Tax Review Committee doesn't seem to be willing to accept all the ideas of the League and ISAC's proposal. Several committee members expressed concern at the lack of understanding of the burden being shouldered by providers of residential rental properties. The Property Tax Review Committee has now split into three committees to come up with specific recommendations for change. One of the committees is reviewing how to treat residential rental property. Therefore, we're still on the table as an item for change.

It is incumbent on residential rental property owners to continue the dialogue with your members in the Iowa legislature. The time between now and January 10<sup>th</sup>, when the new session begins, can be crucial.

## The Welcome Mat

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

### Members:

Cambridge Apts. - Cambridge, Iowa  
Red Barn, LLC - Jeffrey Short Manager  
Cambridge Apts. - Phil Kaser

### Associate Members:

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

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

*(Reprint)* 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 were 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 appearance inspection 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.

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. If you know any of these people, let them know you appreciate their efforts.

## Des Moines Inspection Fees - Results - Refunds

Here are the new inspection fees for Des Moines passed by the City Council on September 27th:

Single Family, Mobile Home, condo Renewal Inspection	\$ 85.00
Single Family, Mobile Home, condo Initial Inspection	\$120.00
Single Family, Mobile Home, condo Re-inspection	\$ 53.00
Duplex renewal inspection	\$108.00
Duplex Initial inspection	\$142.00
Duplex re-inspection - one unit	\$ 53.00
Duplex re-inspection - two units	\$ 68.00

### Multiple Unit Inspections - Renewal or Initial:

For the first 2 units	\$108.00
for each additional unit	\$ 18.50
Multiple unit re-inspection - one unit	\$ 53.00
Multiple unit re-inspection - two units	\$ 68.00
For each additional unit re-inspection	\$ 15.00

Rooming house inspection - Initial and renewal - first 2 units	\$108.00
for each additional unit	\$ 7.50

Rooming house re-inspection - first unit for each additional unit	\$ 53.00 \$ 5.00
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Housing Appeals Board compliance inspection	\$200.00
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Housing Appeals Board appearance inspection	\$500.00
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The length of the permit has not changed and you can still 'purchase' an additional year without another inspection.

Based on the inspection fees that were paid since January 1, 2003, you should be able to determine how much of a refund you will receive.

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

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