



ILA Legislative Report

The ILA Legislative Committee met on the 4th of August in Des Moines. Those in attendance were: Keith Denner, Pat Knueven, Melissa Johnson, Dennis McDonald and Joe Kelly.



Joe Kelly
ILA Lobbyist

After much discussion and consideration, the Committee identified the following items of legislative interest for the 2006 Iowa Legislative Session:

- 1- The ILA lobbyist should continue working with all groups and legislators seeking to provide relief to commercial property taxpayers. Even if relief cannot be given to all commercial taxpayers, efforts should continue to provide parity to those commercial businesses providing rental housing.
- 2- Even though HF 584, the bill allowing landlords in eviction cases to take the resident's remaining property directly to a garbage disposal site rather than the street curb, passed the House in 2005, the Senate Judiciary Committee would not take up the bill without unacceptable changes to the bill. However, the committee would like to pursue any opportunity available to pass this bill in 2006.
- 3- The Iowa Sheriffs and Deputies Association is considering proposing a bill to extend the 70 days' refilling requirement for garnishment actions. ILA will support the sheriffs in trying to pass this piece of legislation.
- 4- The Committee would like to see the law changed so that sheriffs' deputies would not automatically have to be present when the resident's property is moved to the curb. The sheriff's office would be called at the option of the landlord. In many cases, the evicted resident is no longer on site when the eviction takes place.
- 5- The Committee would like to change the Polk County ruling which does not allow apartment managers to appear in small claims proceedings on behalf of the apartment owner, if the owner's business isn't incorporated. Only the owner of the property or attorney can appear in those instances.

Over 50 people attended the Maintenance Forum last month.

DIALOGUE WITH DIRECTORS



Chris Grimsley from Kansas City put on a fantastic meeting talking about the importance of maintenance personnel in customer service, how they can help retain current residents, preventative maintenance and maintaining professionalism with your maintenance staff.

The Fall Seminar in November will be about Terrorism/Homeland Security and you, the Manager. More information will be in next month's Newsbrief.

Also, last month the Legislative Committee met and discussed the next Iowa Legislative Session starting in January of next year. See Joe's article for more information.

The CAM (Certified Apartment Manager) course will be offered next year starting on January 17th and running one day a week for seven weeks. This course is offered through the NAA and the successful completion of this course earns you the National designation of CAM. The classes will be held at the Regency Homes North Conference Center at 6600 Westown Parkway in West Des Moines. For more details contact Tina Busch, Chair of the Education Committee or Mary Spain, coordinator.

Be sure to read Mark's column Q and A about trespassing. We are also in the process of revamping our website to make it easier to use.

The Welcome Mat

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

Members:

Hochstetler Properties - Virgil Hochstetler of Ankeny
 John & Connie Metten of Ankeny

Associate Members:

Linda Wright of Wright Tree Care, Waukee
 Jeremy DeWitt of DeWitt Painting, Des Moines

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

This Month's September 2005 NewsBrief

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- The Welcome Mat
- Ask An Attorney
- Just The FAX

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.
hanson@whitfieldlaw.com

Q: This question concerns criminal trespass and the Trespass Letter we make available to our members. The Letter refers to Section 716.7 of the Iowa Code. Some of our members have used the

Trespass form and have been informed by DMPD and I believe the Polk County Attorney's Office that landlords cannot serve the Trespass form, that only the police can do that. We have been informed that if the landlord serves the Trespass form, the police will not recognize it. Can you clear this up for us.

A: With this question you are dealing with enforcement of prohibition of criminal activity. See Iowa Code 716.7 and 716.8 for definition of criminal trespass and the defined crime for such activity. (It is fairly lengthy so I am not including it here.) The bottom line is you are dealing with proof to establish the criminal conduct and the ability to arrest and prosecute the individual for the criminal conduct. The landlord can give notice to the trespasser he must not enter the property, but how is the landlord going to prove he/she gave the notice to give the police or county attorney sufficient proof to enable arrest and prosecution and conviction?

Before the police will arrest a person for trespass, the person must have been given notice or requested to abstain from entering or to remove or vacate from the property. If you are going to ask the police to arrest a person for criminal trespass, the police are going to evaluate the proof needed to arrest, prosecute and convict. For example in the situation of definition 716.7(2.b.) entering or remaining on the property, trespass does not occur with the first entry. It occurs with refusing to leave or returning a second time after notice to the person he may not do so. How do the police know the individual was given notice? Their preferred method is for a police officer to give the notice, which can be verbal. When they do so, they call into dispatch the name, birth date, Social Security Number of the individual, and the address of the property. So, they now have record that the individual was given notice. If the individual returns, and a second police officer responds, there is information in dispatch that the person was previously given notice, and the arrest may be made. Then if the county attorney decides to prosecute the trespasser, the attorney can call the police officers to testify.

If the landlord gives the trespasser the trespass form telling him to stay off the landlord's property, what are the landlord's options if the trespasser returns? One would be to call the police to have the person removed

and/or arrested. What proof does the landlord have that he previously gave the trespasser the notice? The trespasser may claim he never was given the notice. So, the police officer must evaluate the testimony of the landlord and the trespasser and the likelihood of that testimony being believed, and the likelihood of the county attorney following up with prosecution. In all likelihood, the police officer will treat this encounter as a first notice to the trespasser, and put the individual's name into dispatch.

If the landlord gives the trespasser the form, another option if the trespasser returns would be to file a complaint with the county attorney. The county attorney will evaluate the proof also. It comes down to assessment of whom will the judge / jury believe. The judge / jury needs to be convinced the trespasser was given notice to not be on the property and refused to leave or came back again. Perhaps if you have the sheriff or private process server serve the notice, your ability to prove the notice was given is improved. But, you still need proof the trespasser refused to leave or came back again. An additional consideration is that the county attorney will evaluate the whole case on whether it is worth his/her time prosecute this particular criminal case.

I do not have problem with the landlord giving the individual the trespass form. This may take care of many problem individuals. However, if the individual does return, I would call the police and have the police treat the presence of the individual as a first entry and have the police give the notice. If the individual leaves before the police arrive, you will need to work with the police to try to have them track down the individual or watch your property.

A civil remedy is to obtain an injunction against the individual to not enter your property. That involves spending money with your attorney and may not provide the remedy you might hope for. Violation of an injunction could lead to either a civil suit against the individual for damages if you can prove any, perhaps contempt of court proceedings leading to incarceration for disobeying a court order, or possible criminal trespass prosecution.

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."

Just The FAX.

Apartment owners may send commercial faxes to people with whom they have an established business relationship, and are not required to get faxing permission in writing, according to new legislation passed in June of this year.

The Junk Fax Prevention Act of 2005 overturns the Federal Communications Commission regulations that would have required businesses to obtain written permission from owners of fax machines before being allowed to fax those people.

The rule does not overturn the Telephone Consumer Protection Act of 1991, which prohibits unsolicited faxes. An established business relationship is enough to act as permission to fax.

Classes set for landlords

By Tom Saul

All Davenport landlords will be required to attend a class sponsored by police that teaches them how to manage property, screen tenants and perform other duties involved in owning rental property, the City Council voted Wednesday night.

The requirement, along with a \$25 fee for attending the class, was made part of a set of rules that cover periodic inspection of the city's approximately 13,600 apartments.

In June, aldermen approved a change that allows owners of the most trouble-free rental property to go up to six years between city-mandated inspections, while requiring that the worst properties be inspected every year.

The idea — supported by the Quad-City Rental Property Association, an organization of landlords — is to have the city focus more attention on rental property that is poorly kept up or results in the most complaints. But some of the rules approved Wednesday still failed to satisfy some in the organization.

Members of the group complained about mandatory furnace and carbon monoxide inspections for those landlords that are able to qualify for the six-year rental inspections. Some said it would put them at the mercy of unscrupulous furnace contractors who could recommend that they get unneeded repairs.

Aldermen also voted to require that owners of poorly kept rental housing who are on the one-year inspection cycle also get regular furnace and carbon monoxide examination.

Associate Member Spotlight

Gorman Roofing Services, Inc.

At Gorman Roofing Services, Inc., we offer a unique philosophy and professional services. Gorman Roofing Services delivers a different concept to our customers in that we want to become a part of your "team" as it relates to all your roofing needs.

Although we are quite capable of providing the necessary roofing services from emergency leak repair to re-roofing any scaled project, Gorman Roofing Services can also assist and help plan your future roofing asset projects.

Using our philosophy, we concentrate on all your roofing needs including maintenance, repair and re-roofing. We work hand in hand with you and your staff to continually evaluate your roofing assets and develop a database that you can use as a tool to manage those assets for a period of 10 year or more.

We GUARANTEE our workmanship, service and your customer satisfaction.

We look forward to the chance to explain the value of our services. For more information, please call Tom Newton at 883-0838.

Associate Member Spotlight

PAGE-HAWKEYE LEGAL SERVICE

/ Keith Page & Shawn Starr

Some of you already know us as Page Investigations. We are primarily a Process Service Company, but much more. First, we are the only company I know in this area that has a full time office staff, so we can speak with you easily, and help you determine the best ways of handling landlord/tenant situations, and prepare, file, and serve the cases for you. We are not attorney's, so cannot represent you. We can also provide credit reports on prospective tenants, for our clients, as well as limited background reports. Please call with your questions. Keith is back.

PAGE-HAWKEYE LEGAL SERVICE

/ Keith Page & Shawn Starr

2731 Douglas Ave.

Des Moines, Iowa 50310

515-276-3984

**ILA Members prefer to do business
with
Associate Members**

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!)

