



**Government Affairs
2010
Executive Summary**

GOVERNMENT AFFAIRS EXECUTIVE SUMMARY OF 2010

No one could blame any voter who admits to sheer exhaustion, after the grueling election season of 2010. From spring to fall Americans were battered by a blizzard of dastardly campaigning via television and the internet. Candidates were relentless about their one and only message. They hardly bothered to explain why we should vote for them. But everyone blogged and blathered countless reasons for why we would be crazy to vote for their opponents. Now that it's over weary voters may also be wondering how in the world the characters responsible for the vitriolic campaigning can possibly govern in a civil manner.

Some things never change.

2010 campaigning was one for the books, or Kindles, for the record use of new millennium electronic messengers. But the messages they carried are as old as the hills. The esteemed Thomas Jefferson and John Adams, no less, are a case in point. The warfare that passed for campaigning in their day will surely ring a few bells.

Adams' supporters claimed immigrants would take over the country if Jefferson were elected. They called Jefferson a swindler, an amoral atheist and a coward. Adams was demonized as a monarchist, loyal to England and bent on tyrannical rule. Both camps accused the opposing candidate of what we have come to call, "Hiking the Appalachian Trail."

As in days of yore, once all the caustic campaign dust settles the newly elected politicians who are actually interested in good government still have to find a way back to democratic civility. By most accounts Jefferson put aside his cache of invectives and made some progress in leading the country forward- the Lewis and Clark expedition and the Louisiana Purchase are prime examples.

With a relative few exceptions many modern day politicians also willingly turn from politics to statesmanship once their legislative work begins. They get to work with the help of lobbyists – yes lobbyists - and the business of governing continues. With the right information and access to all points of view, the people's representatives can and often do develop the vision they need to manage public affairs judiciously. To do so they need thought-provoking debate and accurate information.

That's the job of the modern day lobbyist- to advocate, educate and inform.

There are several new faces in Harrisburg, and the Republican Party is in control of both the Executive and Legislative branches of Pennsylvania's government. It's a new year, the dust is settling, and everyone is taking a deep breath. Pennsylvania is more than ready for effective legislative stewardship, and the Apartment Association is poised to continue our work of making sure the Commonwealth's multifamily industry is included in the mix.

In 2010 our Apartment Association lobbying efforts elevated our issues to prominence in the eyes of key legislators. We continued to strengthen our industry's position as crucial to Pennsylvania's economy. We held some bills at bay and advanced our influence as stakeholders during the crafting of a number of important pieces of legislation. To many we are known affectionately, or at least respectfully, as the "good landlords." Despite the antiquated term, most legislators are starting to understand we are not the lords of land, but the providers of quality rental housing throughout the Commonwealth. We know how to do the job of property management professionally and responsibly. They can count on our expertise.

The following is a summary of the matters we pursued and confronted in 2010.

STATE

New Laws Enacted in 2010:

Affordable Housing: Act 105 was approved by the Governor on November 23, 2010. It establishes the Pennsylvania Housing Affordability and Rehabilitation Enhancement Program. The Act's implementation will depend on securing sufficient funding for the Housing Affordability and Rehabilitation Enhancement Fund, which the Act also creates. Funds appropriated for the Program may not supplant existing resources dedicated to the Pennsylvania Housing Finance Agency, which will administer the program.

If funded, the Program must provide money for projects to provide safe and sanitary dwellings for sale or rent to low-income and moderate-income individuals or families, the elderly and individuals with disabilities. The Act is also intended to reduce homelessness and rehabilitate distressed neighborhoods.

Inasmuch as balancing the Pennsylvania state budget is particularly challenging these days, it is not clear when funding for Act 105 could be available. But once funding is obtained its broad-sweeping housing implications could present opportunities for the multifamily industry.

Recourse against Owners of Blighted Properties:

Previously enacted legislation, Act 135 of 2008, allows private enterprises, owners, lien holders, secured creditors and others to petition the court to become a conservator of blighted properties.

A new law expands the power of municipal governments to prosecute owners of blighted properties and force compliance with state and municipal property codes.

Senator Argall's SB 900 became law as **Act 90**. AAP was a stakeholder throughout the bill's journey to the Governor's desk. We contributed

clarifying language and participated in discussions at the committee level. Our efforts focused on the innate fairness and financial feasibility of the bill's proposals.

The Act's final provisions include permission for the Courts of Common Pleas in all of Pennsylvania's judicial districts to establish housing courts, whose jurisdiction would include criminal and civil matters arising under the Landlord and Tenant Act and laws concerning the health, safety or welfare of occupants of places used for human habitation.

But the housing courts would have to be established from available funds.

Act 90 also contains a section known as the **Neighborhood Blight Reclamation and Revitalization Act**. Under this section in personam actions may be taken against owners of blighted properties who take no substantial steps to correct the property's problems. Municipalities may also place liens against the assets of owners of problem properties. However the Act expressly prohibits liens on the assets of individuals where the property's owner is an association or trust. Liens on the assets of general partners, trustees (unless otherwise allowed by law), limited partners, shareholders and members or beneficiaries of the association or trust are also expressly prohibited. Municipalities may also deny permits to property owners if any property owned by that individual has final and unappealable tax, water, and sewer or refuse collection actions it or there is a serious code violation. Out of state property owners whose Pennsylvania properties have serious code violations may be extradited to face criminal prosecution.

We Will Continue Working on Several Issues:

Abandoned Personal Property:

We have been promoting legislation to deal with tenants' abandoned personal property for some time. Tenants' groups routinely oppose our efforts, claiming they are worried we are trying to circumvent the Landlord and Tenant Act's evictions procedures. Reasonable discourse with such groups remains challenging. State Senators Browne and Fontana have indicated they will re-introduce legislation if all the stakeholders can come to at least a general agreement.

Bed Bugs

Very late in the 2010 session Senator Farnese (D-1, Philadelphia) introduced a bed bug bill. His delayed efforts assured the Bill would see no activity. But they at least marked the issue as his for the taking in the new session. Other bills are sure to follow.

As rental owners are painfully aware, the only way to have a chance at eliminating bed bugs is through a comprehensive assault, with the complete, detailed cooperation of residents, led by experienced professional exterminators. The Apartment Association is giving this hot issue highest priority this year. At the very least, bed bug legislation must firmly require immediate notice to rental owners upon the discovery of the little critters by residents, and place financial liability on residents if they do not completely comply with eradication procedures.

The bed bug issue is the subject of intense debate on the national level as well. The NAA is leading efforts to help members sort out the issues, introduce state legislation, and deal with the press. They are also pressuring the federal EPA to aggressively pursue the development and approval of safe, effective pesticides.

Bed Bug Lease Addendum

The Apartment Association of Greater Philadelphia is in the final stages of putting together a lease addendum for members. The drafted lease addendum is complete and will be submitted to the Pennsylvania Attorney General for plain language approval.

More Bills about Blighted Property:

Representative Taylor's bill, HB 712 regarding **Land Banks** cleared the House and was referred to the Senate Appropriations Committee.

Representative Taylor has already announced plans to re-introduce it. It would enable any county or municipality with a population of over 10,000 to establish a land bank- an entity that can acquire and hold or manage tax

foreclosed, abandoned properties. The ultimate goal would be to return the property to productive use. The bill would have established a framework for the creation and operation of land banks. The Association supported the bill as a way to help municipalities eliminate blight and strengthen communities.

Carbon Monoxide Detectors

CO Detectors will probably be the subject of Senate activity this session. Last year State Representative Solobay's House Bill 1445 got as far as to be scheduled on the House Calendar in late November. Solobay is now State Senator Solobay of the 46th District. (Allegheny and other Counties), and there's a good chance this bill will be re-introduced. It would have required carbon monoxide detectors in one and two family dwellings and townhouses, as well as multiple single-family dwellings that are not more than three stories high with separate means of egress. At times along the bill's journey, at AAP's behest, language was inserted that would have specifically limited rental owner liability for damaged or missing alarms. The final version of the bill did not contain such a provision. The Apartment Association will renew its fight for such language in any new bill this session.

Senator Washington, D, 4 (Philadelphia and Montgomery) has routinely introduced a CO bill in each session.

Our lobbying efforts have not disputed the role these important devices can play in protecting residents. But we will continue to support provisions in legislation that place responsibilities for the maintenance, repair or replacement of alarms, as well as battery replacement on residents during their tenancies.

Castle Doctrine:

As the ancient saying goes, "a man's home is his castle." Traditionally, persons have the right to be secure in their homes (apartments included) and defend themselves against intruders. House Bill 40 would greatly expand the notion of the "castle doctrine." It would allow persons to defend themselves in their vehicles and in public places (common areas of apartment communities would be included) with deadly force if he or she believes the use of force is immediately necessary to protect against death, serious bodily injury,

kidnapping or rape and the attacker displays or otherwise uses a firearm or replica of a firearm or other lethal weapon. HB 40 passed in both Houses, only to be put to rest by Governor Rendell's veto. But it has such widespread support it is sure to be resurrected in this new session.

Construction Code:

The Pennsylvania Uniform Construction Code continues to command attention. It's one of the most comprehensive, complicated areas for legislation.

- This year new code requirements include fire-sprinkler systems for newly constructed one and two family houses. The Pennsylvania Builders Association contested the sprinkler mandate in Commonwealth Court and sought to stop it from going in to effect for 2011. The Builders argued the sprinkler requirement would increase the cost of construction for a typical house by \$15,000, and thus have a serious chilling effect on new construction around the Commonwealth. The Court dismissed the case. .

The Apartment Association kept contact with construction and housing groups including the Pennsylvania Builders Association in an effort to keep abreast of issues and shared concerns.

- We are especially concerned with the prospect of construction code retrofit mandates that could surface in the future. Apartment Associations in several other states have confronted efforts to require retrofitting existing structures with fire sprinklers. The notion of retrofitting an existing building with sprinklers presents colossal cost implications in every case. Existing buildings may not have the requisite water pressure to support sprinklers. A building's infrastructure may not be able to accommodate the piping and equipment.

When a Resident Dies:

State Representative Stanley Saylor (R-94 York), the new Majority Whip this 2011 session, introduced a bill last session that would have relieved the

estate of a deceased resident from all rent obligations that accrue from the date of the death of the resident. AAP strongly opposed the bill. As originally written, it failed to address the serious issues typically created for rental owners on the death of a resident. Additionally, the perceived problem did not justify carving out such a dramatic exception to an estate's obligations to creditors.

We met with Representative Saylor in an effort to persuade him to abandon his efforts on this bill altogether or at least consider amending it to limit the severe financial burden it would have created for rental owners. In the days following our meeting Representative Saylor indicated his willingness to entertain possible amendments.

We continued our vigilance of the bill after it was referred to the House Urban Affairs Committee. The bill did not move from committee. But we expect Representative Saylor to reprise his efforts in the coming year.

Disruptive Conduct:

Several municipalities in Pennsylvania already require rental owners to initiate eviction proceedings following repeated instances of resident disruptive conduct. Efforts on the state level to require owners of rental properties in cities of the first class to do the same were initiated by Representative McGeehan in 2009 in the form of HB 1192. Resident conduct is an area ripe for abuse in overly broad legislation.

Early Lease Termination:

Returning Representatives and Senators usually re-introduce bills that for one reason or another did not gain traction in the past session. Often their decision to pursue an old issue is based on the sympathetic nature of the subject matter in the eyes of the general public. In the past the notion of allowing residential leases to terminate early for certified illnesses has been one such subject of legislation. If it emerges again in the new session the Association will once again lobby against it.

Evictions:

- We will continue our efforts in the coming session to amend the Pennsylvania Landlord and Tenant Act to allow a rental owner to request the issuance of a writ of possession immediately after the rendition of a judgment for possession, and require a magisterial district judge to immediately issue an order for possession following a rental owner's request.
- Additionally, we support legislation that allows the time periods for the issuance of a writ of possession and for appeals to run concurrently. In 2010 Representative Miller's (R-93, York) bill No. 322 would have addressed these issues. The bill did not make it out of the House Judiciary Committee.
- Representative John Payne's (R-106, Dauphin) Bill No. 1599 also remained in the Judiciary Committee. It would have changed from 10 to 7 the number of days a magisterial district judge would have to schedule a landlord-tenant hearing following the issuance of a summons. It would also have reduced the number of days a tenant would have to appeal a judgment from a lower court to the Court of Common Pleas from 10 to 5.

Fire Extinguishers:

There are sure to be new bills this year at the state level that would require fire extinguishers in rental units.

There is an inherent risk in encouraging residents to fight fires. Although fire extinguishers can be useful in some situations, anyone who operates one must be capable of lifting it and maneuvering it properly. Operators must also be able to make instant decisions about how quickly and easily a fire can be put out. When broadly applied to the general public, the idea of presenting such a duty to rental residents presents more than a few significant problems. While residents have been known to reliably douse smaller fires, it is usually better for all concerned if residents concentrated on making sure all those present leave immediately and calling 9-1-1.

Therefore the finer points of any bill that would require fire extinguishers in apartments must be carefully scrutinized. The Apartment Association

vigorously opposed one such bill last session and prevented it from advancing from the committee.

The Apartment Association will repeat our efforts if necessary in the coming session.

Flood History: Senator Greenleaf (R 12, Bucks and Montgomery) introduced SB 1083, which would have required the disclosure of a property's flood history to lessees of residential real property. The bill would have applied only to single family residences, but we followed it because it would have amended the Landlord and Tenant Act. Future amendments may have an easier time once the flood gates for this kind of legislation are open (pardon the pun). Last session's bill dried up in the Senate Urban Affairs Committee.

Immigration and Rental Housing:

In 2010 Pennsylvania's Federal Third Circuit Court of Appeals upheld the lower District Court's order and struck down Hazleton PA's illegal immigrant ordinances. The ordinances had attempted to regulate rental housing and employment of illegal immigrants. The court said it is highly unlikely that a rental owner's renting of an apartment to an immigrant lacking lawful status could ever, by itself, satisfy the definition of harboring an illegal alien. The appellate court also found the housing provisions of Hazleton's ordinances unlawfully pre-empted federal regulations of immigration. The Apartment Association followed the case for its implications on the employment practices of our members as well as the possible liability it presented to those who rented to immigrants, illegal or legal.

Marcellus Shale: Although not directly related to the multifamily industry, the issues surrounding natural gas extraction from the rock formation known as Marcellus Shale will have a huge impact on our state economy, our state budget, and the financial health and makeup of many of our Pennsylvania municipalities. The multifamily industry will therefore be affected. Moreover, Association members may be landowners whose properties could easily be affected.

Legislation is expected in Harrisburg this session aimed at protecting the rights of surface landowners and regulating gas extraction. Although the

General Assembly stopped efforts to levy new fees and taxes on natural gas companies last session, the issue will be far from dormant in the coming months. The Apartment Association will continue to monitor the issue.

The PA Senate Urban Affairs Committee held hearings in 2010 on the impact of Marcellus shale drilling on housing in the northern tier of Pennsylvania. The hearings highlighted the need for rental housing in that area. The Pennsylvania Housing Finance Agency testified regarding their interest in providing assistance to new and existing developers to meet what they expect to be a flood of demand for housing.

Landowners considering leasing their land to gas companies for drilling should consider issues such as the term of the lease and any renewals contemplated, restrictions on the location for actual drilling, the details of pipeline construction, all state and local rules and regulations and permit requirements, management of post-drilling water and sediment, and hazards to drinking water. Provisions that structure the financial terms of the lease including upfront bonuses, guaranteed payments and royalties must also be considered.

Methamphetamine Labs:

Senator John Rafferty (R-44, Berks, Chester, and Montgomery) plans to re-introduce legislation that would have a chilling effect on the ability of owners to rent properties that have been used as meth labs in the past, even if the property has been thoroughly remediated. Owners would be forever required to disclose to potential residents that the property had once been the site of a meth lab. SB 111, which did not progress out of committee last year, also contained an overly broad provision that would allow any person to file a civil action to enforce compliance with the disclosure requirements. It would have therefore encouraged profit seekers to pursue vexatious litigation. The language effecting these requirements has been included in several bills in previous sessions and the Apartment Association routinely opposes them. We will once again lobby vigorously for changes in the language of any new Meth bill.

Monitored Security in Apartment Communities:

Requiring monitored security in and about multiple dwelling premises is a perennial favorite for proposed legislation in every session. The last effort was by Representative DeLuca (D-32, Allegheny). The Apartment Association will continue to oppose this kind of bill. Conservative estimates suggest requiring 24 hour monitored security would cost several thousand dollars, at least, for installation, and untold costs for the monitoring. Moreover, owners' liability would be substantially intensified as residents develop a false sense of security, abdicate their personal responsibility for their own safety and rely solely on the property owner for protection. No one can assure a crime free environment. Indeed, security cameras could even encourage common harmful practices residents tend to adopt, such as allowing admittance to building entrances to persons they do not know, leaving outside security doors open, or neglecting to close and lock windows.

Summit in Harrisburg:

Apartment Association members from around the Commonwealth joined forces in March of 2010 for our annual **Harrisburg Capitol Conference**. Over 26 participants kept 20 appointments with key legislators and found extra time to drop in on several others. They relayed information about the industry, their properties, and the Association's positions on pertinent issues. At each meeting they stressed their commitment to responsible property management and the need for quality rental housing in Pennsylvania.

This year's Harrisburg Capitol Conference is April 4 to April 5, 2011. Your Association and your industry need you there!

LOCAL

Inspections: Association Members got the job done.

2010's best example of how Apartment Association members can make a difference with local law makers occurred in **Abington Township**, Montgomery County.

It's also an excellent demonstration of the important role the Association plays as a conduit for sharing information and networking among members.

Association members with properties in Abington partnered with a few local realtors and stopped the passage of a proposed ordinance that would have expanded the Township's inspections program. The new ordinance would have required a township Inspection Officer to inspect every residential building for smoke detectors, CO alarms and street numbers whenever there is a proposed change of ownership or tenant. That would have meant inspections before the start of every new tenancy and before closing on the sale of every home. The new inspection would have been in addition to the Annual Fire Inspections already required for multifamily properties.

Several AAGP members with properties in the Township met with Abington's Fire Marshall and Commissioners to voice their opposition to the ordinance and propose a much simpler solution: add the fire safety items addressed in the proposed ordinance to the list of things inspected during the Annual Fire Inspection. The Township would save a great deal of money, and so would multifamily properties that already face seriously tight budgets and timeframes when turning over apartments.

Association members and staff testified at a public hearing in December. They convinced the Commissioners to table the proposal and meet with all stakeholders including the Apartment Association to fashion an acceptable bill that would achieve their objectives in the most efficient manner. Meetings will be set up in 2011.

Philadelphia:

New Law Enacted in 2010:

New Philadelphia Towing Ordinance:

By a vote of 16 to 1 (Councilman Green voted against it) City Council passed a new towing bill that requires illegally parked cars in private parking lots to be ticketed by police before they can be towed away. Council thought the Ordinance is necessary to control problems created by rogue towing companies. But the unintended consequences to apartment communities were ignored. The Police Department, perhaps disingenuously, perhaps sincerely, claimed there would be no problem responding to apartment communities' requests to have cars ticketed in a timely manner. Also ignored was the conflict the Ordinance creates with state law that expressly allows private property owners to have unauthorized vehicles towed from their properties.

The Apartment Association entered the New Year with a request to Philadelphia owner members to collect the specifics on every call they must make to get a car ticketed. Perhaps our members' experiences will warrant an effort to get the Ordinance amended or repealed. The Ordinance makes victims out of countless Philadelphia rental residents who will not be able to park in the spaces for which they pay. Moreover, City Council disregarded the affect unauthorized cars will surely have on the quality of life in their apartment communities.

We'll continue Our Work On:

Business Privilege Tax:

Philadelphia Council members Green and Sanchez stirred up the debate on the efficacy of business taxes in the City when they introduced their Bill No. 100635 that would have eliminated the net income portion of the Business Privilege Tax (BPT). The current BPT taxes both the gross receipts and net income of businesses. The Green/Sanchez bill would have eliminated the net income part of the tax and raised the gross receipts part to 5.3 mills, nearly a triple increase. Some apartment Association members would have benefited,

some would have been hurt. Properties operating at a loss would have seen the largest increase in their BPT.

Using the information garnered from members, the Apartment Association engaged in extensive talks with Council and Council staff in an effort to fully illuminate the issues their proposed bill would present to our members.

The goal of the bill was to eliminate the disadvantage the current BPT purportedly presents to Philadelphia based companies. Companies based outside the city can find ways to avoid showing a net income in Philadelphia and thus avoid that portion of the tax. Mayor Nutter and city Controller Alan Butkovitz, among others, opposed the bill. Following two days of hearings Green and Sanchez agreed to collaborate with the mayor on a plan to reformulate the structure of the BPT that would ease the burden on smaller businesses and level the playing field for Philadelphia based companies.

Criminal Records Checks of Prospective Employees:

Philadelphia Council Member Miller introduced **Bill No. 100543, “Fair criminal Record Screening Standards.”** It would prohibit employers to ask employment applicants about their arrest records. It would also prohibit employers from conducting criminal record checks on applicants unless the employer has made a good faith determination that the relevant position is of such sensitivity that a criminal record report is warranted. We met with Miller’s staff to voice our opposition. Every employment position in the multifamily is sensitive. Employees have keys to people’s homes, access to personal information and are privy to their residents’ comings and goings. Moreover, the language of the bill as originally written would be unworkable. The Greater Philadelphia Chamber of Commerce also opposes the bill. Following our objections the bill was tabled and for now will remain in committee.

Lead Paint Disclosure in Philadelphia:

Bill 100011 would require landlords to provide certifications that a pre-1978 property is either lead safe or lead free. Certifications would have to be obtained through a certified inspector, after a completed inspection. A lead safe designation would only be good for 12 months. Council introduced this

new bill despite the fact that there are extremely extensive federal, state and local lead paint rules, as well as Philadelphia's own Health Department regulations, already in place that are proven to protect children and reduce lead exposure. The new bill would require certification to new tenants that properties are either lead free or lead safe.

Among the protections already in place, City Health Department regulations currently require the disclosure of the absence or presence of lead-based paint or hazards and grant every renter the right to a lead inspection. Incidences of elevated blood lead levels in children have dropped dramatically in the years following the implementation of these and other regulations.

The Apartment Association has strongly opposed this bill and continues to lobby Council in the New Year.

Managing Agent and Property Manager Requirements:

Philadelphia City Council passed **Bill No. 090834**, which requires most multifamily properties to designate a managing agent to receive service of notices, orders, and summonses issued by the Department of Licenses and Inspections. The agent must be someone over eighteen years old who either resides within the City or customarily and regularly attends a business office in the City. The managing agent can be the property owner or a corporate principal. Owners who own three or more residential parcels, multifamily dwellings with four or more units, or a rooming house and who do not reside within the City or within a surrounding County must also designate a property manager.

Philadelphia Certificate of Rental Suitability Litigation:

Many thanks to Board Member Paul Cohen, Esq., for negotiating a consent decree with the City over the onerous Certificate of Rental Suitability Ordinance. The agreement ending our litigation will ensure owners can obtain Certificates if their properties have been cited for violations, as long as they have appealed those violations. Owners no longer have to attest a property is free of defects that affect health and safety. Owners must simply acknowledge their already established responsibility to provide a property that is habitable. The Ordinance had required owners to swear there were no

defects, an undefined and impossible standard of perfection, and then face immeasurable potential liability for having sworn to something that cannot be maintained. Additionally, there will no longer be a private right of action granted to residents that is specific to the Rental Suitability Certificate.

FEDERAL

New Law:

Lead Paint - New Federal Renovation, Repair and Painting Regulations:

New extensive repair, painting and renovation regulations went into effect in 2010. In addition to the regulations about lead paint disclosure that have been in effect for many years, federal law now requires workers who do renovation, repairs or maintenance in pre-1978 housing to be trained and certified in the use of lead safe work practices. They must also provide residents with a pamphlet on lead hazard information before starting work, and keep specific records regarding the work performed.

The EPA says it will use a variety of methods to make sure businesses are complying, including inspecting work sites, reviewing records and reports and responding to citizen tips and complaints. Violators could face penalties of up to \$32,500 per violation per day, depending on several factors including the length and severity of the violation. The EPA says they will cooperate with small and large entities to address compliance problems.

The EPA pamphlet, **“Renovate right, Important Lead Hazard Information for Families, Child Care Providers and Schools”** must be distributed to multifamily residents before repairs, renovation or painting is begun. This is in addition to the pamphlet, **“Protect Your Family from Lead in Your Home”**, which multifamily owners have been required to distribute to new rental residents for many years. Both pamphlets are available through the Apartment Association.

Work Continues On:

Environment and Energy:

- Two of the most notable energy bills that would have affected the multifamily industry in 2010 were the Building Star bills, the Senate’s

S 3079, and the Houses' **H 5476**. They would have provided up to \$6 billion in rebates, grants, low interest loans and tax incentives for owners of commercial and multifamily residential buildings who retrofit their buildings with energy efficient equipment and materials, or who undertake services to enhance energy efficiency. It was estimated that building owners would save more than \$3 billion on their annual energy bills, and reduce peak electricity demand enough to avoid the need for nearly three dozen 300 MW power plants. The NAA and NMHC lobbied in favor of both bills and will continue to push for their re-introduction and passage in 2011.

- Comprehensive climate change legislation, known as cap-and-trade, was the subject of intense debate in 2010. The Environmental Protection Agency (EPA) promoted cap-and-trade as a way to regulate greenhouse gasses.

Financial Regulatory Reform and Government-Sponsored Enterprises:

Fannie Mae and Freddie Mac, important sources of financing for apartment communities, will be overhauled sooner or later but hopefully not at the expense of the multifamily industry. In 2010 Democrats pressed for retaining government guarantee of GSE's. Republicans want to end what they refer to as a bailout. The NAA and NMHC will continue to lobby for the multifamily industry and its need for access to Fannie and Freddie.

Immigration:

As discussed in the State section of this Summary, Pennsylvania's Federal Third circuit court of Appeals upheld the lower District Court's order to permanently enjoin Hazleton's enforcement of their illegal immigrant ordinances. The court also found the housing provisions of Hazleton's ordinances unlawfully pre-empted federal regulations of immigration.

Immigration reform did not materialize in Congress in 2010, and is unlikely to in 2011.

Labor Union Elections:

The NAA and NMHC filed a brief in a case before the National Labor Relations Board (NLRB) urging it to preserve secret-ballot elections in union organizing campaigns. The NAA and NMHC have strongly opposed legislative efforts to eliminate the secret-ballot in union elections, such as the dubiously titled Employee Free Choice Act. The Act would also have included dangerous changes to the way in which bargaining units would be formed.

To Rent or Own, That is the Question... which is finally being asked around Washington D.C. among our federal government officials. They finally seem to be catching on to what we in the multifamily industry have known all along: home ownership is not for everyone and public policy exclusively devoted to home ownership has never been sound. The federal government started favoring home ownership over renting way back in the 1930's, when owning one's own home was thought to assure one would be less likely to go along with the political unrest taking shape during the Great Depression. But following the recent mortgage foreclosure crisis, today's massive government programs that support ownership over renting are getting a second look.

Taxes:

Efforts to increase the tax on carried interest did not succeed in 2010 but remain a distinct possibility for 2011, as the new Congress is sure to spare nothing in its search for revenue to reduce the federal deficit.

AAP'S POLITICAL ACTION COMMITTEE FUND

Campaign Law- A New Supreme Court Ruling on Campaign Finance:

The United States Supreme Court handed down an extraordinary decision in 2010 that is known as **Citizens United v. FEC**. It affects the constitutionality of several provisions of Pennsylvania's Election Code and political campaigning. It is worth mentioning in this Summary because of the enormous attention it received, which may have created some misunderstanding as to what the ruling did and did not do.

Also, the case has such historic significance for political affairs our Summary of 2010 would not be complete without it. Therefore, here is a brief look at what the case was all about, and what it means for us.

The case dealt with a scathingly critical video about Hillary Clinton that was produced by the group called Citizens United. They wanted to broadcast the video on cable TV during the 2008 presidential primary season. The Federal Election Commission said they could not air it within 30 days of a primary. Citizens United took legal action. The case ended up at the Supreme Court.

During the oral argument before the Supreme Court a lawyer who was arguing in favor of preserving federal restrictions on campaign spending admitted to something that apparently caused some unease among the Justices. Besides banning the broadcast of videos such as the one about Hilary, a Justice wondered, would the law also ban the publication of any corporate funded campaign book just before an election? The lawyer answered yes. The thought of book-banning prompted Justice Alito to exclaim, "That's pretty incredible", and other Justices at once fixed their combined gaze on the lawyer. The lawyer's answer evidently convinced all the Justices that they should take a much closer look at the legitimacy of any United States law that could ban books. So they ordered the case to be re-argued and told the lawyers to focus on whether the Constitution permits any ban on corporate spending in candidate elections. That is what led to their momentous decision.

The Court ultimately ruled that the provisions of the Federal law that prohibit corporations and unions from making independent expenditures for ads to advocate for the election or defeat of a candidate for public office are unconstitutional. Therefore, from now on corporations and unions can spend their money on ads that support or oppose candidates.

Citizens United did not affect the way Associations can raise PAC funds, nor change the campaign finance reporting requirements we must follow. Additionally, it did not change the laws that prohibit corporations and unions from making contributions to candidates and political committees or coordinating their expenditures with candidates and political committees.

The long and short of the issue for us: Association members can still make contributions to our PAC, and our PAC can still make contributions to candidates. Our PAC fund is still alive and strong, and needs the support of every Association member.

PAC ACTIVITY:

In 2010 we contributed to candidates statewide, in Western, Central and Eastern Pennsylvania. Our contributions are based on a candidate's leadership role in the General Assembly, committee assignments, and the degree to which we can count on them to appreciate the issues facing our industry.

We need your PAC support. We will be an effective long-term player in Harrisburg only so long as we continue to grow our PAC fund. Legislators must face thousands of proposals for new laws every year. The way we separate our issues from the crowd is through continued contact with them, and by supporting their campaigns.

And we need you as part of our collective voice. We need to know your concerns and your ideas. Together we will continue to advance Pennsylvania's multifamily rental industry.

Respectfully submitted,
Christine Young Gertz, Esq.

Government Affairs Director

DATES TO REMEMBER:

- **National Apartment Association Capitol Conference: March 13 to March 16, 2011**
- **Apartment Association of Pennsylvania Harrisburg Capitol conference: April 4 to April 5, 2011**