



KELLEY CAWTHORNE

ATTORNEYS &
GOVERNMENT
RELATIONS
COUNSELORS

*Frank J. Kelley
Dennis O. Cawthorne
Patrick H. McCollough
James G. Cavanagh
Steven D. Weyhing
David Gregory*

GOVERNMENT
RELATIONS
COUNSELORS

*Rob Elhenicky
Dave Ladd
Melissa Yutzey Bourke*

PROPERTY MANAGEMENT ASSOCIATION OF MICHIGAN:

Legislative Committee Report

April 25, 2006

I. RECENT DEVELOPMENTS & PRIORITY LEGISLATION

- A. AT-RISK PROPERTY PROTECTION ACT. HB 4473** remains on the second reading calendar in the House of Representatives. **Verbal update to be provided at Legislative Committee meeting.**
- B. LANDLORD SELF REPAIR. HB 4171** allowing for reimbursement for landlord and property managers for the costs of self-performed repairs passed the House and was referred to the Senate Judiciary Committee on March 2, 2006. The bill now includes property managers thanks to our joint lobbying efforts.
- C. LICENSURE OF LEASING PROFESSIONALS. Update: We now have an official draft bill which reflects a considerable amount of input from PMAM.** MHC's efforts appear to have slowed for the time being. No bill introduction at this time.
- D. LICENSURE/CARPENTERS.** We have obtained a draft bill which would require licensure of carpenters and the use of only licensed carpenters in repair work. The bill, if passed, could increase industry costs.
- E. NON-ATTORNEY REPRESENTATION.** Rep. Sak (D-Grand Rapids) introduced a bill (**HB 4732**/Judiciary Committee) to allow a non-lawyer with personal knowledge of the facts in dispute to represent another party in certain landlord-tenant cases. Sen. Cropsey (R-DeWitt) has introduced a bill (**SB 815**) to allow property managers with direct knowledge of the facts in dispute to represent themselves in certain landlord-tenant matters when the amount in dispute is \$3000 or less. The bill is in the Senate Judiciary Committee which he chairs. Rep. Mortimer (R-Horton) introduced **HB 5625** to allow real estate agents to represent landlords in small claims court in security deposit disputes under certain circumstances. Referred to House Judiciary Committee.

- F. LEASE CANCELLATION - DOMESTIC VIOLENCE.** Sen. Garcia (R-Howell) changed course and introduced a bill (**SB 808**) allowing victims of domestic violence to terminate a lease unilaterally. However, he has committed to addressing the issues and concerns we presented prior to moving the bill. The bill is in the Senate Judiciary Committee. Sen. Garcia has agreed to work with PMAM in adopting a Colorado-type approach to this legislation.
- G. LEASE CANCELLATION – MILITARY DUTY.** Rep. Frank Accavitti (D-Eastpointe) introduced a bill, **HB 5477**, which would allow a person called up to active National Guard or military reserve duty to cancel a lease on 30 days notice. Bill was referred to House Government Operations Committee in December 2005.
- H. SOURCE OF INCOME.** Sen. Toy (R-Livonia) introduced a bill (**SB 574**/Judiciary Committee) to include “source of income” in the state’s Elliot Larsen Civil Rights Act. Sen. Toy’s office says she has no intention of running the bill in the near future. However, this presents an opportunity to educate her on the issue and possibly to include language that would clarify that locals cannot require owners/managers to accept Section 8 vouchers. Rep. Chris Kolb (D-Ann Arbor) has re-introduced similar legislation in the House (**HB 4984**/Government Operations Committee). Rep. Kolb (D-Ann Arbor) has re-introduced an identical bill in the House (**HB 4984** referred to Government Operations Committee).
- I. UNIFORM CONDEMNATION & RELATED ACTS/PROCEDURAL AMENDMENTS.** **Update: Substitute bills were passed by the House Local Government Committee and are currently on the House floor.** Public Act 40 of 1965 (MCL 213.352) generally requires public agencies obtaining land for a public purpose through purchase or condemnation to pay the necessary and reasonable moving expenses of an occupant of the land. The act caps the payment at \$1,000 for individuals and families, and \$15,000 for businesses, including farming operations and nonprofit organizations.

HB 5817 (Tobocman, D-Detroit) would increase cap on payments made to individuals and families to \$5,200. The bill would not, however, increase the cap on payments made to businesses. Also, the bill specifies that occupants of residential property with a leasehold interest of less than six months would be entitled to a fixed moving allowance of \$5,200. Further, the bill provides that the court could award reasonable attorney fees and costs to an occupant with a leasehold interest of less than six months who bring a successful action to recover the moving allowance.

In addition, the act requires an occupant to vacate the property before payment is made. The bill provides that a payment may be made to an occupant before he or she moves, if the payment is necessary to enable to occupant to move.

The Uniform Condemnation Procedures Act (MCL 213.66) generally provides that a condemning agency is not required to reimburse a person challenging the necessity of the taking or the validity of the proceedings for attorney or expert witness fees if the challenge is unsuccessful. **HB 5818 (Drolet, R-Macomb)** provides that the agency would be required to reimburse attorney and expert witness in an unsuccessful challenge if the person's annual income is at or below 125 percent of the federal poverty level.

HB 5819 (Garfield, R-Oakland County) would amend the Uniform Condemnation Procedures Act (MCL 213.59) to require that property owners be paid at least 30 days prior to dispossession of their property. Any disputes that arise after payment is made would have to be resolved at an appropriate hearing before dispossession.

Further, the bill provides that if dispossession requires an occupant of a residential dwelling on the property to move, the occupant could not be required to move unless he or she has been provided a reasonable opportunity to relocate to a comparable replacement dwelling and has been paid the moving allowance as provided under Public Act 40 of 1965.

The Uniform Condemnation Procedures Act (MCL 213.58) permits a public agency to bring a state or federal cost recovery claim against a property owner to remediate any environmental contamination, and further permits the court to allow a portion of the just compensation payment to a property owner remain in escrow as security for the remediation costs. **HB 5820 (Lemmons, III, D-Detroit)** provides that money wouldn't remain in escrow as security for remediation costs if the property is a residential dwelling.

The Uniform Condemnation Procedures Act (MCL 213.55) generally provides that before an agency initiates negotiations to purchase a property, it must provide the property owner with a good faith written offer of "just compensation" for the property. If the agency and the owner cannot agree on the purchase price, the agency may file an action in the circuit court of the county where the property is located, asking the court to determine the amount of just compensation. When an action is filed, the agency must place an amount it believes to be just compensation in escrow and set aside for the property owner.

HB 5821 (McConico, D-Detroit) provides that at the time the agency provides the property owner with its good faith offer of just compensation, it must also notify the property's occupants of the condemnation proceeding, stating their basic rights in the process, including the fact that a person with a leasehold interest of less than six months is entitled to a \$5,200 moving allowance, and that occupants of a residential dwelling could not be displaced until they have had a reasonable

opportunity to relocate to a comparable dwelling and have been paid the moving allowance.

The act also permits a property owner to file a written claim with the agency stating property the owner believes was not included or fully included in the agency's good faith offer, and requires that such claims be filed within 90 days after receiving the written offer or 60 days after a complaint is filed. The act also requires that the agency ask to court to compel the property owner with additional information necessary to evaluate the claim within 60 days after receiving the claim. The bill would delete these time requirements, and provide that the property owners claim would have to be filed along with the appraisal, unless otherwise required by the court. The bill would also require the property owner to provide available information necessary to permit the agency to evaluate any claim that has not fully accrued or is continuing in nature.

IV. OTHER LEGISLATION OF INTEREST

- A. **AFFORDABLE HOUSING/INCLUSIONARY ZONING. HB 4180** (Hunter, D-Detroit). Referred to Commerce Committee. Bill would authorize locals to zone or enter into developer agreements for affordable housing.
- B. **BLIGHT/CONDEMNATION.** Rep. Tobocman (D-Detroit) has introduced a bill (**HB 5202**, referred to House Local Government Committee) which would amend Michigan's existing blight condemnation law.
- C. **BUILDING CODES/LOCAL AMENDMENTS.** Sen. Hardiman (R-Kentwood) introduced a bill (**SB 490**/Local Urban and State Affairs) that would allow a local unit of government to adopt local changes to a fire prevention or property maintenance code under the Single State Construction Code. It appears Senator Hardiman introduced this bill at the behest of the City of Grand Rapids.
- D. **BUILDING OFFICIALS/PENALTIES. SB 150** (Kuipers, R-Holland). Referred to Economic Development, Small Business and Regulatory Reform Committee. Bill would add new penalties and complaint investigation procedures for wrongdoing by building officials. A similar bill, **HB 4507**, sponsored by Rep. Rick Baxter (R-Jackson) introduced and referred to House Commerce Committee.
- E. **HOME INSPECTIONS/LICENSING. HB 4134** (Lemmons, D-Detroit). Referred to Regulatory Reform Committee. A reintroduction of a bill from last term that would include home inspectors in occupational licensure code.
- F. **HOUSING IMPACT STATEMENTS.** Reps. Ward (R-Brighton) and Huizenga (R-Holland) introduced **HBs 4836 and 4837** which would require local governments to provide affordability impact statements on new ordinances or regulations which affect housing. Referred to House Natural

Resources and Great Lakes Committee. Bills recently received a committee hearing and are backed primarily by the Home Builders.

G. **LANDLORD-TENANT/TECHNICAL CHANGE.** The House passed a bill, HB 5030, sponsored by Rep. Steil (R-Cascade) which makes a purely technical change to a notice provision in the landlord-tenant act. The bill is currently in the Senate Local, Urban and State Affairs Committee.

H. **LIABILITY/LEAD PAINT/MOLD. HB 4182** (Hunter, D-Detroit). Referred to Judiciary Committee. Would amend RJA to make a person who “knowingly” rents, leases, or sells real property with lead-based paint, toxic mold or asbestos without disclosure is liable for triple damages, costs, and attorneys fees in a civil suit.

I. **METH LABS/NOTIFICATION. HBs 5797** (Jones, R-Eaton County) would require state and local law enforcement agencies to notify the Department of Community Health (rather than the Department of Environmental Quality), and the local health department (if the enforcing agency is not the local health department) about the potential contamination of property where illegal drug manufacturing has occurred. The bill was reported by the Health Policy Committee and is currently on the House floor.

HB 5798 (Schuitmaker, R-Lawton) would require the Department of Community Health, within six months after the bill's effective date, to develop a *Cleanup of Clandestine Drug Labs* guidance document that would include detailed protocols for the preliminary site assessment, remediation, and post-cleanup assessment of indoor environments and structures, as well as to promulgate necessary rules. The document would be developed in consultation with the Department of Environmental Quality, and made available to the public on the department's website.

J. **TAXATION –ENERGY EFFICIENCY CREDITS.** Rep. Kolb (D-Ann Arbor) introduced **HB 5741** to provide a tax credit for landlords who upgrade energy efficiency of residential rental property; provide for. Amends. Referred to House Tax Policy Committee.

K. **ZONING/NON-CONFORMING USES.** Rep. Steve Tobocman (D-Detroit) has introduced a bill (**HB 5203** referred to House Local Government Committee) which would amend the city zoning act to make clear that a local ordinance can call for the termination of a non-conforming use after a period of amortization.

L. **ZONING VIOLATION FINES.** Rep. Hune (R-Fowlerville) introduced a series of bills (**HBs 5294-96**) which would amend municipal zoning statutes to create a 30 day grace period to correct a zoning violation prior to liability for a fine. The bill would also limit such fines to the lesser of the following: i) \$500 for a criminal fine only; ii) \$250 for each day of violation; or iii) or 3% of

SEV. The bills passed out of committee and are currently on the House floor.

ATTACHMENT A
MICHIGAN'S ANTI-RENT CONTROL STATUTE

LEASING OF PRIVATE RESIDENTIAL PROPERTY (EXCERPT)
Act 226 of 1988

123.411 "Local governmental unit" defined; rent control prohibited; management and control of residential property.

Sec. 1.

(1) As used in this section, "local governmental unit" means a political subdivision of this state including, but not limited to, a county, city, village, or township, if the political subdivision provides local government services for residents in a geographically limited area of this state as its primary purpose and has the power to act primarily on behalf of that area.

(2) A local governmental unit shall not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential property. This section does not impair the right of any local governmental unit to manage and control residential property in which the local governmental unit has a property interest.

History: 1988, Act 226, Imd. Eff. July 5, 1988