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PROPERTY MANAGEMENT ASSOCIATION OF MICHIGAN: 2005 LEGISLATIVE REPORT & 2006 FORECAST

January 2006

I. AT-RISK PROPERTY PROTECTION ACT/LOCAL INSPECTION REFORM PASSES HOUSE COMMITTEE

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PMAM saw the successful introduction of its top legislative priority in 2005: local inspection reform. The At-Risk Property Protection Act (HB 4473) was sponsored and introduced by House Majority Floor Leader Chris Ward (R-Brighton). **PMAM and Kelley Cawthorne successfully secured passage of the bill from the House Local Government & Urban Affairs Committee in May of 2005 despite intense opposition** from the Michigan Municipal League (“MML”) and the Michigan Association of Housing Officials, and various municipalities including notably the City of Grand Rapids, the City of Lansing, the City of East Lansing, and many others. Key components in securing committee support were grass roots contacts by PMAM members and the strong testimony from various PMAM leaders.

Rep. Ward convened an informal work group of interested parties after committee passage. The bill remains on the House floor and in the work group process. Some progress has been made and it appears as though the opposition of some individual cities may be neutralized the MML will not likely remove its opposition any time soon. Moreover, Rep. Ward was the sponsor of several pieces of controversial legislation in 2005 and this may have been a factor in the bill’s progress being delayed, especially after some negative editorials appeared in the sponsor’s district.

We are working closely with Rep. Ward’s office, PMAM leadership, and key industry players to regain our initial momentum. Please note, however, that it took several attempts for the 1997 inspection law reforms to become law. Municipal interests are bitterly opposed to any changes based largely on the potential impact to their revenues in a time of declining state support to local government. It will take a sustained and vigorous effort to defeat these interests.

II. OTHER MAJOR DEVELOPMENTS IN 2005

- A. REPEAL OF “VACANCY LOSS” RULE DEFEATED.** The so-called “vacancy loss” rule was a part of the Proposal A property tax reforms of the 1990’s. Under the rule, an owner may receive a decreased assessment based on increased vacancy rates. Moreover, the corollary provision, that assessments can go up as occupancy goes up, was invalidated by the courts in the “WPW” case several years ago. Accordingly, the status quo is favorable to property owners.

An adjustment to the “vacancy loss” rule has long been sought by local governments and appraisers, as well as the Department of Treasury. **PMAM and Kelley Cawthorne worked closely with the Realtors and commercial property groups to ensure that any reforms were: i) voluntary to the greatest extent possible; and ii) prospective (i.e. not retroactive).** Please note that the **Governor Granholm ultimately vetoed the bills which the Republican-controlled Legislature passed** because they were, in her words, “flawed.”

We expect the issue to resurface in 2006 or future years. Please note that Senate Majority Leader Sikkema has vowed that any reform must be largely voluntary and prospective, consistent with the position of our industry.

- B. KELLEY CAWTHORNE CONTINUES ITS EFFORTS ON BEHALF OF PMAM.** In 2005, Kelley Cawthorne and PMAM opted to continue their successful partnership by renewing their contract for another two (2) year term. During 2005, David Gregory of Kelley Cawthorne made presentations to all PMAM constituent groups including West Michigan, Kalamazoo, Mid-Michigan, Washtenaw Area, and Detroit Metropolitan. Mr. Gregory also served as the award presenter at another record-setting GLASTAR event in East Lansing. Kelley Cawthorne also hosted and coordinated PMAM’s third annual state capitol lobby day in 2005.

In other developments, **Dennis Cawthorne was again named Michigan’s most effective lobbyist** in a survey conducted by the highly respected newsletter **Inside Michigan Politics**. This marks the second straight survey in which Cawthorne received Michigan’s top lobbyist ranking. **Kelley Cawthorne was also rated one of Michigan’s top five (5) most effective lobbying organizations** in the same survey.

Kelley Cawthorne is also proud to announce the addition of **Melissa Bourke** to its government relations team. Most recently Melissa was Assistant Vice-President for State and Federal Relations at **Western Michigan University**. She was previously a top aid to Senate Minority Leader Bob Emerson.

- C. EMINENT DOMAIN/CONDEMNATION REFORM TO BE ON 2006 BALLOT.** The Michigan Legislature passed several bills and resolutions

which would prohibit the taking of property by units of government for primarily private/economic development purposes. The proposed constitutional amendments would also make it more difficult for local governments to condemn property generally and require voter approval in the 2006 general election.

III. 2006 PRIORITY ISSUES

A. MICHIGAN HOUSING COUNCIL SEEKING LICENSURE CHANGES.

We received word in 2005 that an association consisting of low-income/tax credit housing developers and property managers, the Michigan Housing Council, was seeking separate state licensure for “property managers.”

MHC takes the position that approximately 70% of its member employees are out-of-compliance with current licensure laws requiring certain people engaged in property management activities to be licensed as real estate salespeople. MHC leadership is also concerned about increased state enforcement activities based on alleged non-compliance rates.

Kelley Cawthorne took the lead in meeting with MHC representatives and this was followed by a meeting between key MHC and PMAM officials. Please note that there is some degree of cross-membership between the two organizations.

PMAM members clearly have a mixed opinion on the issue of separate licensure for property managers which essentially breaks down into two camps: i) those who believe that any claims on non-compliance are greatly exaggerated and that the status quo is preferable; and ii) those who believe that separate licensure is necessary and would be good for the industry.

In response, the PMAM legislative committee instructed Kelley Cawthorne to take the following position in talks with the MHC:

- That non-compliance among PMAM membership is not significant.
- That IREM model language is preferable to the initial draft bill proposed by MHC.
- That a separate designation or licensure for certain property management activities may be desirable if the testing/education components are consistent with the actual field issues dealt with by property managers.
- That a separate designation or licensure for certain property management activities may be desirable if it clearly recognizes that people engaged in entry level and other administrative function are not now and should not in the future be subject to licensure. PMAM takes the position that under current or future law only

those individuals who have the power to negotiate lease terms and rates are/should be subject to licensure.

- That all segments of the property management industry must play the same rules regarding licensure.
- That PMAM support of any licensure changes is contingent upon the active support of local inspection reform measures by other housing groups.

B. DOMESTIC VIOLENCE EVICTION. 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.

C. LANDLORD SELF REPAIR. We expect the bill (**HB 4171**) allowing for reimbursement for landlord self-repairs to move in the near future. Moreover, a new version of the bill will likely include property managers thanks in part to our lobbying efforts. The bill is currently in the House Judiciary Committee.

D. 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.

E. 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).

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.

- III. **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.
- IV. **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.
- V. **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.
- VI. **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.
- VII. **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.
- VIII. **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.
- IX. **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.
- X. **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.**

