



KELLEY CAWTHORNE

ATTORNEYS &
GOVERNMENT
RELATIONS
COUNSELORS

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

PROPERTY MANAGEMENT ASSOCIATION OF MICHIGAN:

Legislative Committee Report

October 24, 2006

I. ELECTION UPDATE

A. GOVERNOR GRANHOLM MAINTAINS CONSISTENT LEAD IN POLLS.

- DeVos fares better in later debates but first debate bomb was costly.
- Governor leads in most polls but has not solidly cracked the 50% mark.
- Election will turn on motivation of Democrats vs. get-out-the-vote machine of Republicans as well as who gets the blame for the Michigan economy (Bush or Granholm).

B. MICHIGAN HOUSE LEANING REPUBLICAN RETENTION WITH POSSIBILITY OF SPLIT CONTROL.

- Republicans currently control 58-52. Incumbents facing strong challenges in Muskegon (Republican seat), Jackson-area (2 Republican seats), and Northern Michigan (Democrat seat).
- Key open seat battles are in Grand Rapids (held by term-limited Republican) and Monroe (open due to death of Democrat incumbent).

C. MICHIGAN SENATE LEANING REPUBLICAN RETENTION.

- Republicans control 22-16. Incumbents facing strong challenges in Kalamazoo (Republican seat).
- Key open seat battles are in Oakland County (Republican seat), Saginaw (Republican seat), and Monroe/Washtenaw (Republican seat).

GOVERNMENT
RELATIONS
COUNSELORS

*Rob Elhenicky
Dave Ladd
Melissa Yutzey Bourke*

D. FEDERAL OUTLOOK

- Many observers believe Democrats will gain the 15 seats they need to retake control of the House of Representatives. This could mean committee chairmanships for Representatives Conyers (Judiciary), Dingell (Commerce), and subcommittee chairmanship for Rep. Stupak (Commerce/Oversight).
- Democrats magic number to retake Senate is 6. Chances are not quite as good for a change in control in the upper chamber.

E. STATE BALLOT PROPOSALS

- Prop 2 Bans Affirmative Action
- Prop 3 Referendum on Dove Hunting
- Prop 4 Eminent Domain Reform (bans use of condemnation for private economic development projects and sets price for takings at 125% of fmv).
- Prop 5 Minimum Funding Increases for Education (2004-05 is baseline with minimum inflationary increases. Has tax implications for all businesses).

II. RECENT DEVELOPMENTS & PRIORITY ISSUES.

NOTE: Legislature was in session only 2 days since last meeting.

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. CABLE TV - STATEWIDE VIDEO FRANCHISING FOR TELCOS.
Update: Rep. Nofs (R-Battle Creek) has introduced a bill (**HB 6456**) which passed out of House Committee and was advanced to third reading in the House of Representatives. As a direct result of contacts by PMAM and Kelley Cawthorne, this bill now expressly recognizes the ability of private building owners/managers to control access to private rights-of-way and to enter into exclusive marketing/service agreements with the provider of its choice. (See Page 20 of H-2 version).

Background: As previously discussed, AT & T and other video providers are seeking passage of a statewide video franchising act that would allow telcos to provide cable services under a single state franchise rather than requiring them to seek franchises with individual cities, villages and townships as is required of incumbent cable providers under current law.

We developed three (3) basic principles in consultation with the Legislative Committee:

1. PMAM supports increased choice for its residents;
2. PMAM opposes forced access by any provider without the consent of the property owner; and
3. PMAM opposes any ban or limitation on existing and future exclusive marketing agreements between providers and owner/managers.

Current Michigan law does not require or authorize forced access by any provider. However, two (2) states mandate video access for telcos and eighteen (18) states require video access for cable operators (conclusions rely in large part on research provided by NAA and NMHC).

- C. LICENSURE/LEASING PROFESSIONALS.** PMAM had previously delayed the introduction of a leasing professional licensure bill sought by MHC. Rep. Dave Hildenbrand (R-Lowell) recently introduced **HB 6554** which was referred to the House Regulatory Reform Committee on September 20, 2006. The representative has assured us that he has not intention of moving a bill that does not reflect industry consensus. **KC participated in conference call analyzing bill line-by-line, also secured participation of Realtors in upcoming meeting.**
- D. 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. Became 2006 PA 147.**
- E. COMMERCIAL REDEVELOPMENT ACT. HB 6043** (Pastor, R-Livonia), would for the first time include multi-family units under the commercial redevelopment act, an act which provides for property tax abatements under certain circumstances. The purpose of the bill is to expand the program to include multi-family and smaller projects or buildings which is not currently allowed. The bill passed the House 105-0 on June 29, 2006 and was referred to the Senate Small Business, Economic Development, and Regulatory Reform Committee. PMAM supported bill in committee.
- F. LANDLORD-TENANT – KNOWING RENTAL TO DRUG MANUFACTURERS.** Rep. Steve Bieda (D-Warren) introduced **HB 6282** on June 29, 2006, which would subject a lessor who “knowingly” allows the manufacture, delivery or possession of illegal drugs on rented premises to a \$5,000 fine and/or 180 days in jail. The bill was referred to the Judiciary Committee.

- G. LICENSURE/CARPENTERS.** Rep. John Pastor (R-Livonia) has introduced bills to require the use of only state-registered carpenters and journeyman carpenters. **HBs 6533-34** are quite controversial and have been referred to the House Regulatory Reform Committee. The bills are supported by the Carpenters' Union (AFL-CIO) and strongly opposed by the Michigan Association of Home Builders.
- H. 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.**
- I. 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.
- J. 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.
- K. 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).

II. 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. **CONDOMINIUM ACT/OMBUDSMEN.** Rep. Gosselin (R-Troy) introduced a bill which would create an office of a condominium ombudsmen modeled after a Florida law. **HB 6199** was referred to the House Government Operations Committee.
- F. **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.
- G. **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.
- H. **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.
- I. **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.

J. METH LABS/NOTIFICATION. UPDATE: Bills became PA's 258 and 260 of 2006 on July 12, 2006. SB 1112 (S-1) would amend the Housing Law of Michigan to transfer from the Department of Environmental Quality to the Department of Community Health responsibilities regarding potential contamination of property that was the site of illegal drug manufacturing. Under the Housing Law, a State or local law enforcement agency must notify the enforcing agency and the DEQ regarding the potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. Within 14 days after receiving the notification or as soon thereafter as is practically possible, the DEQ, in cooperation with the enforcing agency, must review the information received from the law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing must be treated by the DEQ as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy the premises.

The bill would refer to the DCH, rather than the DEQ, in these provisions. The bill also would require a law enforcement agency to give notice of potential contamination to the local health department, if it were not the enforcing agency. Currently, the DEQ must promulgate rules. **Bill presented to Governor on 6/23/06.**

HB 5798 (S-1) (Schuitmaker, R-Lawton) would transfer the responsibility for serving as the State's environmental health agency from the Department of Community Health to the Department of Environmental Quality. It would also require that the DCH, in consultation with the DEQ, develop a cleanup of clandestine drug labs guidance document within six months after the bill's effective date. It would further prescribe procedures that law enforcement agencies, the DCH, and local health departments would have to follow after the discovery of an illegal drug manufacturing site. The Senate added the following provision regarding steps a property may take to "decertify" a property as contaminated:

PROPERTY OWNER MAY ESTABLISH THAT THE PROPERTY IS DECONTAMINATED BY SUBMITTING A WRITTEN ASSESSMENT OF THE PROPERTY BEFORE DECONTAMINATION AND A WRITTEN ASSESSMENT OF THE PROPERTY AFTER DECONTAMINATION, ENUMERATING THE STEPS TAKEN TO RENDER THE PROPERTY DECONTAMINATED, AND A CERTIFICATION THAT THE PROPERTY HAS BEEN DECONTAMINATED AND THAT THE RISK OF LIKELY CONTAMINATION NO LONGER EXISTS TO THE ENFORCING AGENCY. THE PROPERTY OR DWELLING SHALL REMAIN VACATED UNTIL THE ENFORCING AGENCY HAS REVIEWED AND CONCURRED IN THE CERTIFICATION.

- K. **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.
- L. **TAX CREDIT/RENTING TO ARTISTS.** Rep. Mayes (D-Bay City) introduced a bill, **HB 6177**, which would provide a tax credit for landlords who rent to artists. Referred to Commerce Committee in June 2006.
- M. **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.
- N. **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.**

III. MISCELLANEOUS ISSUES

- A. **KC SPEAKS AT REGIONAL CHAPTERS**
- B. **GLASTAR**
- C. **NAA CONFERENCE**
- D. **PMAM LEGISLATIVE DAY/RECEPTION**
- E. **LEGISLATOR/LOCAL OFFICIAL-OF-THE YEAR**
- F. **PAC**

