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PROPERTY MANAGEMENT ASSOCIATION OF MICHIGAN: LEGISLATIVE COMMITTEE REPORT

September 2007

I. PRIORITY ISSUES

A. AT-RISK PROPERTY PROTECTION ACT/INSPECTION REFORM.

UPDATE: The following bills have been introduced: **HB 4958** by Rep. Green and referred to House Intergovernmental, Urban and Regional Affairs; **SB 635** introduced by Sen. Garcia and referred to Senate Economic Development/Regulatory Affairs; and **HB 5206** introduced by Rep. Sak and referred to House Urban Affairs Committee. **UPDATE:** HB 4958 and SB 635 were introduced at the request of PMAM and prospects for a quick hearing in the Senate look good pending some resolution of the state budget crisis. HB 5206 was introduced at the request of the RPOA and would increase the maximum length between inspections from 2 to 4 years and permit a local government to adopt a 6 year ordinance if the most recent inspection uncovered no code violations. **TO DO:**

- Make assignments for committee testimony/support cards; contact other interested groups.
- Set a timeline for committee contacts by association execs and members including additional letters, phone calls and e-mails.
- Committee Members (4/3 R): Senators **Sanborn** ((C)/Macomb/DMAA), **Richardville** ((VC)/Monroe/Washtenaw (part)/Jackson (part)/DMAA/WAA [Seitz]/PMAMM), **Allen** (Grand Traverse/Northern Michigan/KC), **Gilbert** (Port Huron/Thumb/DMAA), **Thomas** ((MVC)/Detroit/DMAA), **Hunter** (Detroit/DMAA) and **Jacobs** (Huntington Woods/Oakland/DMAA [Miller]).

B. DOMESTIC VIOLENCE TERMINATION/SB 103. UPDATE: Various interest groups met with Sen. Garcia several weeks ago to discuss Draft 4. We reached partial agreement on several issues. Moreover, all parties agreed in concept regarding the need for written documentation which is “self-evident”

to entry level employees and not subject to interpretation. The difficult part will be reaching agreement on the details regarding what documentation meets this standard and does not expose property owners and managers to undue liability. The State Domestic Violence Prevention Board housed within the DHS has also weighed in on this issue. **See Attachment A. TO DO:**

- Set follow-up meeting w/ Sen. Garcia for week of 10/1/07.

C. LICENSURE. UPDATE: As previously reported MHC is considering seeking the re-introduction of a bill similar to HB 6554 from last term which would create a new licensure class. We have spoken directly to MAR which has taken a largely hands-off position qualified by the statement that its members would marginally prefer separate licensure to an “exemption” approach. MAR has informed us that it will not take a formal position until such time as it reviews actual bill language. **TO DO:**

- Contact MHC to the effect that PMAM position statement has not changed. We will only support clarifying legislation at this time.

D. BUDGET CRISIS STILL NOT RESOLVED. As previously reported, we anticipate that state leaders will enact significant state income tax increase (3.9% to 4.6%) combined with teacher/public employee benefit reforms and some cost cutting measures in order to avoid a government shutdown. For now, it appears that there is no momentum for an expansion of sales tax to services but proposal will likely come back again next year.

II. OTHER ISSUES FOR DISCUSSION & MONITORING

A. CHANGE ADDRESS NOTICE. HB 4394 introduced by **Rep. Steil (R-Cascade)** and referred to the Regulatory Reform Committee would require a tenant to use registered or certified mail/return receipt requested. In May we received calls from RPOA’s consultant suggesting that bill will come up for a committee hearing in the near future.

B. DUMPSTERS/CITY OF DETROIT

C. EVICTION REFORM. Two (2) bill drafts received back from Senator Garcia’s office.

D. LANDLORD-TENANT/NOTICE REGARDING REPAIRS/SB 379. **Sen. Gretchen Whitmer (D-East Lansing)** introduced a bill which would require that a rental agreement provide that a tenant has a right to a 24 hour notice for non-emergency repairs or maintenance. Referred to Local, State and Urban Affairs Committee.

- E. LEAD CONTAMINATION NOTICE.** Sen. Martha Scott (D-Detroit) introduced SB 509 (referred to Judiciary). The bill would amend the Truth in Renting Act to require a landlord to provide notice to a tenant within 10 days of receiving notice that a rental unit rests on soil that is contaminated with lead. See Attachment C for bill text.
- F. LEASING RESTRICTIONS/ANN ARBOR ORDINANCE.** Kelley Cawthorne is reviewing legal opinion issued by outside firm to WAAA for possible attorney general opinion request. **UPDATE:** To be provided verbally at meeting.
- G. LOW INCOME HOUSING ISSUES. Sen. Ron Jelinek (R-Three Oaks)** has introduced **SB 80** which would exempt a transfer of “eligible nonprofit housing property from charitable nonprofit housing organization to a low-income person” from the definition of a “transfer” under the General Property Tax Act. **Rep. Joel Sheltroun (D-West Branch)** has introduced **HB 4338** dealing with withholding taxes for entities with regulatory agreements with HUD and MSHDA.
- H. INCLUSIONARY ZONING BILLS.**
- I. DEATH OF TENANT/PROBATE AMENDMENT**
- J. SOURCE OF INCOME.**
- K. TAX CREDITS/MSHDA PROJECTS.** Rep. LaJoy (R-Canton) has introduced a technical bill regarding the use of homestead credits for MSHDA projects. **HB 5183** referred to Commerce.
- L. VACANCY LOSS REFORM. UPDATE:** A new commercial property specific tax act (HB 4375/Condino) previously passed the House and remains in Senate Finance Committee. The Senate version of the bill was discharged (SB 312/Jacobs) from committee and remains on the Senate general orders calendar.
- M. NON-ATTORNEY REPRESENTATION**
- N. FUND-RAISING/PAC.**
- O. LEGISLATOR/PUBLIC OFFICIAL-OF-THE YEAR AWARD**

ATTACHMENT A

STATE OF MICHIGAN
**Department of
Human
Services**

**Michigan Domestic Violence
Prevention & Treatment Board**
235 S. Grand Avenue, Suite 506
Lansing, MI 48933

www.michigan.gov/domesticviolence

Phone: (517) 335-6388
Fax: (517) 241-8903

Memo

To: Ron Hicks
From: Mary Lovik
Date: September 21, 2005
RE: SB 103, lease releases (Garcia)
CC: Debi Cain, Phiang Aldrich

At your request, this memorandum provides you with suggested language to describe the type of documentation that could be required of tenants seeking release from rental agreements based on a reasonable apprehension of injury to themselves or their children due to domestic violence, sexual assault, or stalking.

At the most recent meeting I attended regarding SB 103 (draft 4), agreement was tentatively reached that subsection (1) would state something similar to the following:

“(1) A rental agreement shall be terminated if the tenant submits both a written request for termination and written documentation stating that the tenant or a child of the tenant has a reasonable apprehension of violence from domestic violence, sexual assault or stalking if the tenant continues to reside at the rental unit.”

A major point of disagreement has been the nature of the “written documentation” that would suffice to require termination of the rental agreement. Advocates for victims of domestic violence, sexual assault, and stalking would prefer a broad general description of such documentation, because these crimes can be documented in various ways too many to enumerate in statute (e.g., civil protection orders issued in Michigan or all other US jurisdictions, no-contact orders in criminal cases, parole/probation orders, police reports, medical records, work-first exemptions for DHS financial assistance recipients, CPS service plans, court orders removing child abuse perpetrators from children’s homes, SORA registrations, logs of stalking behavior

provided to police agencies, to name just a few). However, representatives of property management interests legitimately fear that without a clear definition of what constitutes appropriate documentation, lease release requirements would be too difficult to implement. I understood that the property management representatives had concerns that the persons charged with implementing this law would not have adequate knowledge or experience to appropriately evaluate the significance of the wide variety of documentation that could be submitted under a broad, general definition.

Some states (Washington and Oregon) have incorporated form verification documents into their lease release statutes. The following is a suggestion for such a form that has been adapted from the Washington and Oregon statutes – I’d be open to tweaking from other interested parties, as I’ve not had an opportunity to share this with anyone but you.

As used in this section, "written documentation" means:

- (a) A copy of a valid civil protection order issued by a court pursuant to MCL 600.2950, MCL 600.2950a, or a substantially similar law of another jurisdiction;
- (b) Any other court order that restrains a person from contact with the tenant or a child of the tenant;
- (c) A copy of a police report regarding an act of domestic violence, sexual assault or stalking against the tenant or a child of the tenant; or
- (d) A signed verification statement by a qualified third party acting in his or her official capacity as an employee or agent of an entity rendering relevant assistance to the tenant or a child of the tenant, stating that the tenant has reported to the qualified third party that the tenant or a child of the tenant is a victim of domestic violence, sexual assault or stalking. A qualified third party may be a peace officer, a sexual assault or domestic violence counselor as defined in MCL 600.2157a(1)(d), a mental health professional as defined in MCL 330.1100b(14), or a health care professional licensed under act 368 of 1978.

A verification statement by a qualified third party must be in substantially the following form:

VERIFICATION

[Name of organization, agency, clinic, professional service provider]

[Name of tenant]

PART 1. STATEMENT BY TENANT

I, ----- [Name of tenant], do hereby state as follows:

(A) I and/or my child have a reasonable apprehension of injury from domestic violence, sexual assault, or stalking.

Briefly describe the incident of domestic violence, sexual assault, or stalking:

.....

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s) and at the following location(s):

.....

By submitting this statement, I do not waive any privilege protecting communications with the qualified third party or agency named below for any purpose other than this request for a release from my rental agreement dated _____ with _____ [landlord name]

I state under penalty of perjury under the laws of the state of Michigan that the foregoing is true and correct. Dated at
(city) . ., Michigan, this . . . day of . . . , 20...

.....
Signature of Tenant

PART 2. STATEMENT BY QUALIFIED THIRD PARTY

I, ----- [Name of qualified third party], do hereby verify as follows:

(A) I am a _____. [state profession/capacity as qualified third party]

(B) My name, business address and business telephone are as follows:

I am employed by -----.
[Name and address of agency]

(C) I verify that the person who signed the statement above has informed me that the person or his/her child is a victim of domestic violence, sexual assault or stalking, based on incidents that occurred on the dates listed above.

(D) I reasonably believe the statement of the person above that the person or his/her child is a victim of domestic violence, sexual assault

or stalking. I understand that the person who made the statement may use this document as a basis for gaining a release from the rental agreement with the person's landlord, and that this person does not thereby waive any privilege protecting communications with me or my agency for any other purpose.

[Signature of qualified third party making this statement]
Date: -----

SB 103/Draft 4 CommentsPMAM SUPPORTS A CONCISE BILL WHICH PROTECTS
VICTIMS VIA CLEAR STANDARDS AND EASE OF USE FOR
PROPERTY OWNERS/MANAGERS

- Draft 4 doesn't accomplish either goal. It has gone from 3 to 6 pages so it is no longer easy to understand or administer.
- Due to unclear standards of proof, entry level employees will be placed in the position of judge and jury in interpreting complex legal and medical records.
- Any document justifying the extraordinary relief of the ability to unilaterally terminate a lease of real property must be self-evident and not open to interpretation in order to protect the legitimate interests of both victims and property owners/managers.
- We urge Michigan to use successful laws from other states as a guide and not to reinvent the wheel.

Page 1, Line 2

- Change "is released" to "may be released" due to the ambiguous nature of allowable evidence of victim status.

Page 2, Line 14

- Strike reference to continued occupancy. A tenant who has presented evidence of an imminent threat of danger and received a release of rental obligations must immediately vacate the premises in order to preserve the safety of the property and the legitimate economic interests of property owners.
- Insert a reference that all other rights of a terminating tenant are contingent on immediate vacation. No other state allows continued occupancy.
- Moreover, this proposed language conflicts with other provisions of the Landlord-Tenant Act (requirement of sending a bill within 30 days of move-out subject to double damages).

Page 2, Line 16

- Allowing 60 days to pay rent is confusing in light of the continuing obligation to pay rent for a period specified above. Further evidence of unnecessary complexity.

Page 3, Line 7

- PMAM opposes all subsections which contain the conditional language “. . . if the tenant can demonstrate a verifiable threat of present danger from domestic violence, sexual assault, or stalking.” Again, this places untrained, entry level employees in the position of having to make judgment calls rather than relying of a self-evident document. This is bad public policy which will not promote public safety and possibly lead to unnecessary litigation.

Page 3, Line 19

- What constitutes “verifiable”? We would like to see this definition or standard tightened up.

Page 4, Line 6

- Strike both subsections dealing with medical records. We are not aware of any state which requires property managers to get into the business of interpreting medical records. Again, entry level property managers are not qualified to interpret this vague standard and it will only cause problems for all parties.

Page 5, Line 4

- Strike entire subsection regarding documents. This provision is commercially impossible as various third party advisors have to view such documents in the normal course of business (bankers, regulators, attorneys, etc). Property managers handle all manner of sensitive information without confidentiality mandates. Moreover, there is the very real possibility of a Catch-22 whereby a property owner/manager would be required to turn over such documents in a collections case but also prohibited from doing so under this section.

Page 5, Line 15

- Strike subsection regarding “discretionary” release. It adds nothing and opens the door to potential new liability.

