MOTION 1: Approved by the Executive Committee on October 17, 2013 and the Governing Council on October 18, 2013.

Motions Requiring Executive Committee Approval:
New legislative statement of policy on disparate impact.

Background:
On February 8, 2013, the Department of Housing and Urban Development (HUD) issued a final rule which establishes a national standard for determining whether a particular housing practice violates the Act.

The rule implemented a burden shifting test that requires the charging party to first prove that a practice results in, or would predictable result in, a discriminatory effect on the basis of a protected class. If the charging party is successful proving their case, the burden then shifts to the defendant. The defendant must then prove that the practice taken into question is indeed necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests.

The concern with the final rule is that a business reason, such as imposing a minimum economic standard, may fall into the category of creating an unintended disparate impact on a group of citizens. Another concern is the method of proving one’s case is inconsistent with traditional judicial processes. Historically, in the U.S. judicial system, the charging party, the plaintiff(s), has the burden of proving their lawsuit. It should not be different in this situation.

The recommended legislative statement of policy addresses these concerns.

Please see attachment for full language of statement of policy.

Motion:
To adopt legislative statement of policy on disparate impact.

Other Actions

The Legislative and Public Policy Committee revised the following existing statements of policy (SOP):

1. Carried Interest
2. Small Business Health Plans
3. Passive Loss Limitation
4. Real Estate Mortgage Investment Conduits (REMICs)
5. Consumer Price Index
6. Employee Free Choice Act
7. Energy
8. Electronic Advertising
9. Internet Sales/Use Taxes
10. Housing Financing
11. Rent Control
12. Bankruptcy
13. Liability Insurance and Tort System Reform

The SOP backgrounds were updated, but no new positions with regard to these thirteen SOPs were adopted.

Discussion of Federal Legislative Priorities:
Win Nordblom discussed recent legislative activities of 2012, including the Marketplace Fairness Act, Financial Accounting Standards Board lease accounting, Terrorism Risk Insurance, Tenant Star energy program, and banking capital requirements (Basel III).

Report of Federal Housing Advisory Board:
Gwen Volk gave an update on the Board’s recent activity including the recent meetings in Washington, D.C. Gwen also discussed what FHAB does as a board.

Report on Legislative Forum:
The LPP Committee and its Vice Chair, Win Nordblom, has been organizing and sponsoring a Legislative Forum to inform members, specifically Chapter Legislative Chairs, on emerging trends in local and state legislation. Win welcomed LPP members to join the Forum. Issues to be discussed at the Forum include, Uniform Residential Landlord and Tenant Act, disparate impact, grassroots lobbying, and the sequester.

Capitol Hill Visit Day Review:
Jeff Weatherspoon gave a brief overview of the 2013 Capitol Hill Visits Day that took place on April 10. Issues lobbied on included lead paint in commercial buildings, carried interest, and Internet sales tax fairness.

Report on 2013 Legislative and Public Policy Committee Goals:

<table>
<thead>
<tr>
<th>Committee/Board/Forum Name</th>
<th>Legislation and Public Policy Committee</th>
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</table>
| Purpose Statement (FROM SOP) | • Contribute to the achievement of IREM’s mission and strategic goals through scanning, research, planning, and monitoring relative to legislative advocacy direction, activities, and issues  
• Monitor, analyze, and formulate appropriate positions on current and prospective legislative issues affecting the management of real estate  
• Develop and disseminate Institute policy on all matters of federal legislation affecting the management of real estate  
• Provide guidance to Institute chapters on strategies and positions on state and local issues  
• Monitor the progress of legislative and public policy initiatives and recommend adjustments to the appropriate governance bodies and staff. |
Objectives and Metrics

(What are the outcomes and how will you measure them?)

To provide timely information on legislative and policy issues pertinent to IREM Members. Success of goals can be determined by either quantifying certain tasks or receiving feedback from IREM Members on certain items – such as new Statements of Policy, briefing papers, legislative briefs and news, as well as Calls-to-Action.

Leadership Team

Staff Liaison: Beth Wanless  
Chair: Jeff Weatherspoon, CPM®  
Vice Chair: Win Nordblom, CPM®

<table>
<thead>
<tr>
<th>2013 Activities</th>
<th>Key Event</th>
<th>Target Date</th>
<th>Comments/Progress Report</th>
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<tbody>
<tr>
<td>2.</td>
<td>Revise 25 existing Statements of Policy.</td>
<td>April 7 and October 16, 2013</td>
<td>Revised 13 SOPs for October, 2013 meeting.</td>
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<td>3.</td>
<td>Draft new Statements of Policy on new issues, as needed.</td>
<td></td>
<td>As needed.</td>
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<td>4.</td>
<td>Serve as a resource to Chapter Legislative Chairs. Staff to contact Chapter Legislative Chairs at least twice per year. Get monthly email updates out to Chapter Legislative Chairs with information on federal and some state legislative issues. Encourage Chairs to promote the Capitol Hill Visits Day. Hold webinars for Chapter Legislative Chairs.</td>
<td>Ongoing through 2013</td>
<td>Have contacted Legislative Chairs and have spoken to multiple chairs again regarding Capitol Hill. Sent short videos to chairs and other members. Webinar on 4/2 – federal issues briefing. Will hold a legislative forum, the second of 2013, during the October meetings.</td>
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<tr>
<td>5.</td>
<td>Encourage Chapter Legislative Chairs to hold separate legislative meetings; include IREM National staff on calls.</td>
<td>Ongoing through 2013</td>
<td>Chairs have been responsive to this suggestion. Need to implement a better plan for this in 2014. Grassroots lobbying will be presented during 2013 OCT IFLC legislative forum, should provide chairs with info on how to engage local legislators and fellow chapter members.</td>
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<td>6.</td>
<td>Encourage Chapter Legislative Chairs to attend LPP Committee meetings. We also want to encourage Chapter Presidents and all other Chapter meeting attendees to be present at LPP Committee meetings.</td>
<td>Ongoing through 2013</td>
<td>Sent announcements out</td>
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<td>7.</td>
<td>Chapter activities program – Conduct education at breakout session.</td>
<td>Ongoing through 2013 (April and October, 2013)</td>
<td>Holding a Legislative Update at April meetings and will hold one today, during October meetings.</td>
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<td>8.</td>
<td>Revise Public Policy website’s “Chapter Legislative Resources” page.</td>
<td>October, 2013</td>
<td>Ongoing through 2013. Have archived many outdated articles on Public Policy website and will be working on other pages after the April meeting. Revisited the webpage thoroughly over the summer to archive and delete outdated material. Page appears much more organized. Six legislative white papers and are up on site.</td>
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</tbody>
</table>

Strategic Principle(s) Supported

(Check the key principle supported in 2013)

- Organize for Growth
- Manage for Quality
- Build Community
- Market with Intention
Report on IREM Public Policy Website:
Beth Wanless gave a brief overview of the IREM public policy website and the recent changes to the website, including the new State Legislative Database format. Members were encouraged to check back in the coming months for changes to the webpage.

Discussion of State Legislative Issues:
An open discussion occurred on various state legislative issues including Homeowners Associations licensing, property taxes, energy benchmarking, apartment registration ordinances, bed bugs, and smoking in HOAs.

Minutes:
The committee approved the minutes of the April, 2013 meeting in Washington, D.C.

Committee Members Present:
Mr. Jeff Weatherspoon, CPM®
Mr. Robert Winder Nordblom, CPM®
Mr. George Caruso, CPM®
Mr. Paul Fessler, CPM®
Mr. Chet Fitzell, CPM®
Mr. David Gibbs, CPM®
Ms. Amy Lee Hedgecock, CPM®
Ms. Tiffany Lynn Jackson, CPM®
Ms. Kimberly Mitchell, CPM®
Ms. Debbie Prejeant, CPM®
Mr. Wayne Tyler, CPM®

Excused Committee Members:
Mr. Robert Britigan
Ms. Tammy Hendrix
Mr. Stanley Johnson
Ms. Mary Scherer

Committee Members Absent:
Mr. John Bentz, CPM®
Mr. John Bergman, CPM®
Mr. Richard Wasilik, CPM®

Additional Attendees:
Mr. Aaron Bosshardt, CPM®
Ms. Charlene Tucker, CPM®
Mr. Peter Lewis, CPM®
Mr. David Barrett, CPM®
Mr. Will Allen, CPM®
Mr. Robert Miller, CPM®
Ms. Dawn Carpenter, CPM®
Mr. David Fortune, CPM®
Ms. Robin Quick, CPM®
Ms. Gwen Volk, CPM®
Mr. Greg Martin, CPM®
Mr. Clark Lindstrom, CPM®
Mr. Curtis Olson, CPM®
New Legislative Statement of Policy on Disparate Impact

**Disparate Impact**

*Background and objective:*
On February 8, 2013, the Department of Housing and Urban Development (HUD) issued a final rule to formalize its existing identification of discriminatory effects liability under the Fair Housing Act (“Act”). The new rule establishes a national standard for determining whether a particular housing practice violates the Act.

Within the rule, HUD implemented a burden shifting test that requires the charging party to first prove that a practice results in, or would predictably result in, a discriminatory effect on the basis of a protected class. If the charging party is successful proving their case, the burden then shifts to the defendant. The defendant must then prove that the practice taken into question is indeed necessary to achieve one or more of its substantial, legitimate, nondiscriminatory interests. If satisfied, the charging party may still establish liability by proving that the substantial, legitimate, nondiscriminatory interest could be served by a practice that has a less discriminatory effect.

The concern with the final rule is that a business reason, such as imposing a minimum economic standard, may fall into the category of creating an unintended disparate impact on a group of citizens. Another concern is the method of proving one’s case is inconsistent with traditional judicial processes. Historically, in the U.S. judicial system, the charging party, the plaintiff(s), has the burden of proving their lawsuit. It should not be different in this situation.

IREM members participated in an NAR working group to determine fair and reasonable policy statement language regarding disparate impact.

**IREM position:**
We believe in a housing market free from discrimination. We oppose policies and practices which are known to have a disparate impact on any demographic group defined by race, color, religion, national origin, sex, handicap, familial status, sexual orientation, or gender identity. We support the right to continue a policy or practice that has or could have a known disparate impact if there is a legitimate business purpose for the practice or policy and that purpose cannot be accomplished in a readily identifiable and not unduly burdensome means with a less discriminatory impact. We oppose actions by governments, groups or individuals which require unreasonable research by IREM members into whether policies or practices do indeed have such a disparate impact, or which inhibit the implementation of otherwise sound business practices.
Burden of Proof:

- We believe the burden for proving that a policy or practice has a discriminatory effect lies with the party alleging discrimination.
- We believe that once a policy or practice has been shown to have a disparate impact, or that it will likely have a disparate impact, the IREM member or other practitioner implementing the policy or practice need only demonstrate a legitimate business purpose for the policy or practice.
- We believe that the party alleging discrimination has the obligation to demonstrate that there is a readily achievable, less discriminatory alternative to achieving the legitimate business purpose of the policy or practice without being unduly burdensome to the IREM member or other practitioner.

Remedies for Policies or Practices which have a Disparate Impact:

- We believe that unless an IREM member or other practitioner knew or reasonably should have known of the discriminatory effect of a policy or practice, the only remedy for such a discriminatory practice should be correcting the action to remove the discriminatory effect unless there is no other readily achievable, less discriminatory alternative to achieving the legitimate business purpose of the policy or practice without being unduly burdensome to the IREM member or other practitioner.
- We believe that whether or not a housing market is free from discrimination should be measured by the impact of actions, policies and practices and not solely by the demographics of people living in particular neighborhoods or buildings.

(Adopted 9/13)