2017 IREM PUBLIC POLICY PRIORITIES

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HIGH PRIORITY ISSUES

ADA Reform

Property managers around the country are receiving "demand letters" from attorneys threatening lawsuits citing ADA Title III Accessibility violations if a fee is not paid. Business owners, who are often unaware of these violations, are forced to choose between paying the settlement or preparing a defense, rather than removing the barrier.

Fair Housing and Disparate Impact

Under the disparate impact HUD rule, a case for discrimination can be built against a property manager based on statistical analysis which suggests certain policies, such as background checks, have a disproportionate impact on a protected class, rather than the intent to discriminate.

Carried Interest

Carried interest is a share of an investment's profits paid to the investment manager in excess of the amount that the manager contributes to the partnership. This is often used in real estate as the investment manager contributes sweat equity rather than financial capital. Carried interest is currently taxed as a capital gain, but many are calling for it to be taxed as ordinary income.

Marketplace Fairness Act/Online Sales Tax

Currently a state cannot compel a remote retailor to collect and remit sales tax unless they have a physical presence in the state. The buyer is still responsible for paying the tax, though many do not.

1031 Like-Kind Exchange

Section 1031 of the Internal Revenue Code, also called a "like-kind exchange," is a tax provision that has existed since 1921. It allows businesses and individuals to defer taxes when swapping a property for another property of like-kind. Some members of Congress have suggested eliminating 1031 exchanges.

Federally Assisted Housing Issues

IREM Members own and manage over 60% of all federally assisted housing and public housing units in the United States. Under these project-based programs, the federal government, through the Department of Housing and Urban Development (HUD), contracts with private owners to fund the difference between the rent for the unit and 30% of the tenant's income.

Lead-Based Paint in Commercial Properties

The Environmental Protection Agency (EPA) is currently in the rulemaking process for the "Lead Renovation, Repair, and Painting (LRRP) Program for Public and Commercial Buildings" regulations. The language would require certain commercial and public properties to follow strict regulations when doing any work on spaces containing lead paint.

National Flood Insurance Program (NFIP)

NFIP is a partnership between federal, state, and local governments helping mitigate flood risk and providing affordable flood insurance to those who need it most. The Program is set to expire at the end of September, 2017. If it is allowed to expire, flood insurance will become much more costly, or even unavailable.

Additional Issues Monitored by IREM

- Basel III
- The Clean Waters Act
- Right to Rest Legislation
- Source of Income Protection
- Medical and Recreational Marijuana
- Companion and Emotional Support Animals
- Rent Control
- Data Security
- Short-Term Rentals
- Energy Conservation
- Property Management Licensing
- ADA Title III Website Accessibility

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High Priority Issues

ADA Reform

Why it should matter to you: **You and your business may be sued for an alleged ADA violation even if you fix the issue immediately.**

Background: Title III of the Americans with Disabilities Act (ADA) is intended to make places and opportunities accessible to people with disabilities. However, in some states, a few attorneys have filed lawsuits indiscriminately against commercial property owners on behalf of disabled persons. The lawsuits are being filed without notice given to the business owners, who are forced to spend scarce resources on a settlement or preparing a defense rather than addressing and repairing the violation and removing the barrier. When these cases are settled, the bulk of the fees collected are going directly to the attorneys since the ADA precludes the disabled person from collecting damages for violations.

The "ADA Education and Reform Act" (H.R.620) was introduced by Representative Ted Poe of Texas on January 24, 2017, and is a bipartisan bill that is pending in the U.S. House of Representatives.. The legislation has a critical component, the "notice and cure" provision, which would allow business owners the opportunity to rectify a violation within a reasonable amount of time before being threatened with a costly lawsuit or a demand letter for a monetary settlement. It is a common-sense bill that would strengthen the Americans with Disabilities Act and allow all people the opportunity to access commercial buildings.

What IREM is doing about it: IREM is a member of a coalition of industry organizations to advocate for the passage of the ADA Education and Reform Act (H.R. 620) or similar legislation. IREM has submitted letters to Members of Congress in support of the bill. IREM will be actively connecting with Members of Congress and engaging IREM Members to advocate for this bill's passage.

Fair Housing and Disparate Impact

Why it should matter to you: **You may be limited in what you can use to screen potential tenants, despite a criminal background, or history of financial issues.**

Background: Under the disparate impact HUD rule, a case for discrimination can be built against a property manager based on statistical analysis which suggests certain policies have a disproportionate impact on a protected class, rather than the intent to discriminate.

If a charging party can prove that policies resulted in a discriminatory effect, the burden of proof shifts to the defendant, who must prove that a given policy is necessary to achieve one of its substantial, legitimate, and nondiscriminatory interests. If the defendant is able to prove this, the charging party can still establish liability by proving the interest could be satisfied with a policy that will have a less discriminatory effect.

As a result of HUD's disparate impact rule, common business policies, which are normally carried out with no intent to discriminate against a protected class, such as occupancy limitations, credit checks, and criminal background screenings, could result in discrimination claims if they are found to have an effect on protected classes.

> ***The U.S. Supreme Court and Disparate Impact*** – Arguments *for Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.* were heard before the U.S. Supreme Court on January 21, 2015. In June of 2015, the Court ruled that the disparate impact claims were valid under the Fair Housing Act. In the

majority opinion, Justice Anthony Kennedy did put forth certain limitations on how one can claim disparate impact, which is helpful in avoiding frivolous lawsuits where no causation exists.

The case, *for Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.* was sent back to the lower court to be reheard. In August of 2016, the U.S. District Court for the Northern District of Texas ruled The Inclusive Communities Project did not satisfy the burden of proof as required to sustain a disparate impact claim as set by the Supreme Court's decision, and opinion written by Justice Anthony Kennedy.

HUD's Guidance Regarding Criminal Background Checks – In April of 2016, the Department of Housing and Urban Development's Office of General Counsel (OGC) published guidance prohibiting the outright ban of tenants with a criminal background. In the guidance, the OGC said housing providers cannot have a blanket policy using criminal history as a reason to prohibit renting to someone. An arrest should not be treated as a conviction, and if a potential tenant has been convicted of a crime they should be reviewed and considered on a case-by-case basis.

This is concerning to IREM Members as there is much gray area in how to implement this policy. The guidance does not give any information on how far back housing providers can look at someone's history to determine if there was criminal activity. This creates an additional problem as the majority of convicted criminals "plea-down," which is when a person accepts a lesser charge in exchange for pleading guilty. For example, a person arrested for domestic battery may be able to plea down to a disturbing the peace charge. In this scenario, the original severity of the crime would not be captured in the final conviction record. The Fair Housing Act has been a champion of treating renters equally, however this guidance suggests doing the opposite which could open the housing provider up to more legal scrutiny.

What IREM is doing about it: IREM is monitoring the issue closely. IREM has hosted a series of educational webinars and in-person sessions with fair housing compliance experts to help IREM Members be in compliance with the policy.

Carried Interest

Why it should matter to you: ***You may pay significantly more in taxes.***

Background: Carried interest is a share of an investment's profits paid to the investment manager in excess of the amount that the manager contributes to the partnership. This is often used in real estate as the investment manager contributes sweat equity rather than financial capital.

Carried interest helps real estate managers who have practical expertise, but may not have the funding to purchase properties, create partnerships with people wanting to invest, but do not have the expertise needed to increase the value of the property. It is used by partnerships where most, if not all, of the capital is provided by limited partners, and the operational expertise is provided by a general partner. Generally, limited partners divide the profits amongst themselves, while the general partner draws a set salary. However, a common practice, is to provide additional incentives for the general partner to perform well by sharing some of the profits above a pre-determined threshold with him or her through a "carried interest." Because the carried interest is not guaranteed, but dependent on the performance of a long term investment, it is appropriately taxed as a capital gain rather than ordinary income. This benefits investors by mitigating their risk, the general partners by rewarding good work, and the communities by encouraging development and creating jobs.

Carried interest has become a popular target for tax reform by both the Democrats and Republicans. Many believe it is a tax loophole for hedge fund managers and other Wall Street investors to avoid paying taxes, but real estate partnerships

account for over half of all partnerships in the United States. By treating carried interest as ordinary income, it would be taxed at a much higher rate. This will make real estate investment less appealing, and slow development.

What IREM is doing about it: There are currently no bills in Congress regarding carried interest. IREM has taken this issue to Capitol Hill for several years to educate Members of Congress on the differences between carried interest in real estate partnerships, and how it is used on Wall Street. We will continue to monitor this issue, as tax reform will surely be a hot topic in 2017.

Marketplace Fairness Act/Online Sales Tax

Why it should matter to you: ***Brick and mortar stores are your tenants; if they lose business so will you.***

Background: Currently, states are unable to collect the already existing sales tax on purchases made from remote retailers that are based in another state. The buyer is still responsible for including it on their annual tax returns, though many do not.

With the growing popularity of online shopping, brick and mortar stores have an increasingly more difficult time competing with online retailers. Many shoppers wrongly believe their online purchases are tax free and thus less expensive. This disadvantage is turning many stores into showrooms where consumers will browse and view the item in-person, and later purchase the product online to avoid paying sales tax. Without an even playing field many stores are unable to compete and are forced to close their doors. Many IREM Members manage shopping centers and their tenants are being unfairly disadvantaged by online sellers. Even those managing residential real estate benefit from the playing field being leveled as brick and mortar stores create jobs in their communities.

In addition, states would greatly benefit from collecting sales tax that should be paid but is not. States that are looking to decrease their budget deficit could use the money collected from sales tax revenue and avoid looking to raise property taxes, or establishing fees and fines that impact property managers and owners.

What IREM is doing about it: While there are currently no active bills in Congress, IREM will continue to lobby for its passage once introduced.

1031 Like-Kind Exchange

Why it should matter to you: ***1031 Like-kind Exchange increases the liquidity of real estate. Without it some markets will be much harder to enter and exit due to tax burdens.***

Background: Section 1031 of the Internal Revenue Code, also called a "like-kind exchange," is a tax provision that has existed since 1921. It allows businesses and individuals to defer taxes when swapping a property for another property of like-kind. A primary residence does not qualify for the 1031 exchange treatment.

With discussions of major tax reform buzzing around Washington, some Members of Congress have mentioned eliminating this tax provision altogether. The 1031 exchange helps increase the liquidity of properties. Sometimes a property owner has no interest in developing a property, but will choose not to sell it because of the tax implications. Deferring the taxes on the sale of a property encourages owners to sell when they might otherwise hold it. Real estate investors are not the only ones to benefit from this tax treatment. Encouraging investment creates jobs, can raise property values, and provides better facilities for tenants.

What IREM is doing about it: There are currently no bills in Congress regarding 1031 Like-Kind Exchanges. IREM Members have lobbied on this issue during the IREM Capitol Hill Visit Day in both 2015 and 2016 to educate our

Members of Congress on the importance of this tax treatment and how it is a vital tool for real estate investors. We will continue to monitor this issue, as tax reform is set to be a hot topic in 2017.

Federally Assisted Housing Issues

Why it should matter to you: ***Funding federal housing helps you continue to participate in the industry by providing safe and decent housing while filling your vacant units.***

Background: IREM Members own and manage over 60% of all federally assisted housing and public housing units in the United States. Under these project-based programs, the federal government, through the Department of Housing and Urban Development (HUD), contracts with private owners to fund the difference between the rent for the unit and 30% of the tenant's income.

Federally assisted housing puts people into homes who otherwise would have challenges obtaining safe and decent housing. Providing low income earners assistance helps them find housing and it helps real estate managers and owners fill vacancies. Even if you do not own or manage federally assisted property, these programs benefit the public by decreasing homelessness.

> ***Funding for Programs and Initiatives*** – Unfortunately, the demand for affordable housing greatly outnumbers the supply of participating units. Current availability only meets the needs of less than one third of those seeking assistance. This is partly due to Congress significantly reducing funding to these programs, and the enactment of the Budget Control Act of 2011 which put in place various spending caps on nondefense programs including housing programs.
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> ***Clarification of New and Existing Notices, Guidance, and Rules –*** The IREM Federal Housing Advisory Board travels to Washington, D.C. twice per year to meet with HUD, RHS, and HUD's Office of Public and Indian Housing to discuss various policy and ask for clarification and further guidance on items that may be contradictory to other existing policies.

What IREM is doing about it: IREM's Federal Housing Advisory Board (FHAB) meets with federal agencies (HUD, RD, PIH, etc.) in charge of administering these programs twice per year to discuss the needs of the industry.

IREM will continue to monitor all legislative and regulatory activity pertaining to federally assisted housing and engage with policy makers to ensure IREM Members are being represented.

Lead-Based Paint in Real Estate

Why it should matter to you: ***Expanding the lead paint rules to commercial real estate will be expensive for you and could create problems where there were none before, leading to even more expense.***

Background: The Environmental Protection Agency (EPA) is currently in the rulemaking process for the "Lead Renovation, Repair, and Painting (LRRP) Program for Public and Commercial Buildings regulations." The language would require certain commercial and public properties to follow strict regulations when doing any work on spaces containing lead paint. In 2016 the EPA issued an Advanced Notice of Proposed Rulemaking for lead-based paint in commercial spaces, but has not yet moved beyond that.

The main concerns over the EPA's proposed rules of the LRRP Program for Public and Commercial Buildings stemmed from a lack of data identifying hazards in commercial building space. Data has shown that lead paint in child-occupied facilities such as schools, day care centers, and housing pose the greatest health risks. These higher risk buildings are already regulated by existing residential lead paint requirements. Extending similar requirements to public and

commercial buildings would be incredibly costly while serving very little benefit, and could prove to do more harm than good. During the removal process, lead can be released into the air, creating a risk of exposure that would not have otherwise existed if left undisturbed.

What IREM is doing about it: IREM has been heavily involved in the rulemaking process since 2010. Along with a coalition of industry stakeholders, IREM has submitted comment letters to the EPA and participated in public hearings. The EPA is expected to publish their final rule in April of 2017. We will continue to monitor the issue through the implementation period as well.

National Flood Insurance Program (NFIP)

Why it should matter to you: ***Floods can be VERY costly; without this program flood insurance would be much more expensive, or even unavailable. NFIP is set to expire at the end of September, 2017.***

Background: The National Flood Insurance Program (NFIP) is a unique partnership between three levels of government. It was created by the U.S. Congress in 1968 through the National Flood Insurance Act of 1968. NFIP flood insurance is sold through private insurance companies and agents, and is backed by the Federal government. It enables property owners in participating communities to purchase insurance as a protection against flood losses in exchange for State and community floodplain management regulations that reduce future flood damages. As a result, federal expenditures for disaster assistance and flood control are reduced.

The National Flood Insurance Program partners with over 20,000 communities to reduce flooding nationwide and holds 5.6 million policies representing $743 billion in insurance coverage. It provides over 90% of all flood insurance nationwide and close to 100% of flood insurance coverage for individually-owned properties and small- to mid-size commercial properties

In 2012 congress passed the Biggert – Waters Act. This served as a way to extend and reform the NFIP to make it more financially stable. The most impactful reform was eliminating subsidies and changing rates to reflect true flood risk. Some properties had flooded over 10 times without seeing a change in insurance premium. These subsidies cost the government billions of dollars over the life of the program. The Homeowner Flood Insurance Affordability Act of 2014 was passed in 2013 as a way to delay the Biggert – Waters Act in order to allow more time to study the costs of the program as well as remap the floodplains.

The NFIP is set to expire on September 30, 2017. IREM and many other industry stakeholders will advocate for the programs' reauthorization in 2017 to avoid disruption to the program.

What IREM is doing about it: IREM will be advocating for the reauthorization of the NFIP.

Additional Issues Monitored by IREM

ADA Title III Website Accessibility

Why it should matter to you: **You could be sued for violating the ADA if your website is not accessible by people with disabilities.**

Background: The U.S. Department of Justice (DOJ) is currently working to regulate website accessibility for visually impaired individuals and would apply to state and local governments described in Title II of the Americans with Disabilities Act (ADA). Beginning in 2010, the DOJ began the rulemaking process by publishing an Advance Notice of Proposed Rulemaking titled Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations. As the rulemaking process unfolded through the years, hundreds of comments outlining concerns with the language were submitted to the Department.

On April 28, 2016 the DOJ withdrew the Notice of Proposed Rulemaking that had prior been submitted to the Office of Management and Budget (OMB) for official review. The DOJ then issued a Supplemental Advance Notice of Proposed Rulemaking (SANPRM) titled "Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities on April 29, 2016. The purpose of the new SANPRM was to solicit more comments from stakeholders to better shape the rule. In August, the DOJ extended the comment period from August 8 to October 7, 2016 to allow the public more time to prepare comments.

The Department of Justice is further examining application of this language to public accommodations and commercial facilities (businesses, etc.). The rulemaking process extending the website accessibility requirements to Title III or anyplace of public accommodation has not commenced. However as of November, 2016 there have already been almost 250 lawsuits filed against various businesses (mainly retailers) regarding Title III website accessibility. Plaintiffs claim the business' website is not accessible to people with disabilities and therefore violates Title III of the ADA. The courts have interpreted public accommodations to include websites and mobile apps, but have been split on which websites the ADA applies to. In Morgan v. Joint Administration Board, Retirement Plan of the Pillsbury Co., and American Federation of Grain Millers, AFL-CIOCLC, the Seventh Circuit Court held that a website does not require a physical presence in order to be subjected to ADA accessibility requirements. Conversely, the Ninth Circuit Court ruled that the website in question must be tied to a physical location in order for the ADA requirements to apply.

What IREM is doing about it: IREM is continuing to watch the rulemaking closely, and will comment on any proposed rules put forth in 2017.

Basel III

Why it should matter to you: ***A higher risk weight ratio will make it impossible for some to finance higher risk (often higher reward) projects.***

Background: Basel III is a voluntary regulatory framework that was introduced in response to the financial crisis in in 2007-2008. Under the final rules, high-volatility commercial real estate loans for acquisition, development, or construction of real property are subjected to higher risk weights.

With banks being required to use a high risk weight ratio, financing for high volatility commercial real estate loans will become harder to attain. Those seeking financing for these projects will have to meet higher standards, decreasing the

risk for the banks while increasing risk for developers. Also, these standards will push some investors and developers out of the market, slowing the pace of development in places that need it most.

The rules were initially scheduled to be implemented from 2013 - 2015. After several extensions, the implementation period is now March 31, 2018 – March 31, 2019.

What IREM is doing about it: IREM, along with NAR, submitted several comment letters to federal agencies regarding the Basel III rulemaking. We are continuing to work with agencies to represent the needs of IREM Members during the implementation period.

Rent Control

Why it should matter to you: ***You would not be able to collect appropriate market rents in areas of high economic growth.***

Background: We are opposed to government control of rents. We believe that a property owner has the right to strive for rents that will encourage investment in new construction ventures and existing property. While we are equally opposed to excessive rent increases, we firmly believe that a property should be allowed to produce sufficient income to accommodate the basic needs of its residents.

Rent controls create problems more serious than those they are intended to resolve. Rent control legislation threatens not only the traditional rights of citizens, but significantly affects the housing inventory by hastening the deterioration and loss of existing housing, while it discourages the construction of new housing.

Furthermore, by lowering the value of multifamily property, rent controls affect a community's tax base by causing a disproportionate shift of the tax burden to other types of real estate, especially single-family homes and commercial properties. This shift can potentially curtail vital municipal services. The expense of complying with rent control laws and regulations inevitably increases the cost of housing to the consumer, and the expense of enforcing rent control adds to the cost of local government.

What IREM is doing about it: IREM is monitoring the issues across the U.S. and creating targeted campaigns against any proposed rent control measures.

The Clean Water Act

What it should matter to you: ***You may be required to obtain costly and time-consuming permits to develop certain private lands. Additionally, developing protected land could result in hundreds of thousands of dollars in penalties.***

Background: The Clean Water Act, and specifically the Waters of the U.S. (WOTUS), regulate and define quality standards for surface waters in the United States. The Act made it unlawful to discharge any pollutant into navigable waters. In recent years the EPA has greatly expanded the definition of navigable waters to include things such as tire tracks from farming equipment, which greatly impacts the ability to develop certain lands.

A Resolution of Disapproval under the Congressional Review Act passed both the House and Senate, but was vetoed by President Obama on January 19, 2016. A vote was taken in the Senate to override the veto, but did not gather sufficient votes. The issue has gone all the way up to the U.S. Supreme Court. The Court ruled in May, 2016 in *U.S. Army Corps of Engineers v. Hawkes Co., Inc.,* in an 8-0 decision that landowners have the right to seek judicial review if they are told their land is covered under the WOTUS. This is seen as a victory for private property rights.

What IREM is doing about it: IREM is monitoring the issue.

Data Security

Why it should matter to you: ***Property managers manage large amounts of data including social security numbers and financial information. Protecting that data is expensive, but if your company is involved in a data breach, it is even more expensive to rectify the problem.***

Background: Digitally transmitting and storing employee and customer personal information, such as social security numbers and financial information, for business purposes has become increasingly more commonplace. And with that increase, there has been a rise in data breaches exposing people and businesses alike to fraud and theft.

Data breaches can be very costly for the victims and the business experiencing the breach. Aside from indirect losses due to wary customers doing business elsewhere, there can be numerous costs associated with recovery and liability. Landlords and owners can store several thousand pieces of personal information of tenants and employees. Introduced legislation intended to avert security breaches ***and*** help mitigate their aftermath often require burdensome and expensive actions by property owners and managers.

What IREM is doing about it: During the 2015 IREM Capitol Hill Day, IREM Members urged Congress to approve legislation that was not overly onerous on property owners and managers or their clients. Small businesses should not be liable for the negligent acts of third parties unless contributory negligence exists.

Right to Rest Legislation

Why it should matter to you: ***It is unsanitary, unsafe, and expensive to monitor these areas. It also may interrupt normal business activities.***

Background: Some states and municipalities have introduced “Right to Rest” legislation as way of fighting the criminalization of homelessness. These laws would allow homeless people to carry out life sustaining actions such as eating, sleeping, standing, sitting, and in some cases begging on public property such as sidewalks, parking lots, and parks.

This type of legislation would have wide spread impact. Businesses would be powerless to prohibit the homeless from carrying out any of those life sustaining actions in many common areas such as parking lots and parks. Properties with a lot of public space such as open air shopping centers could expect to lose business if homeless people are free to camp out on sidewalks and parking lots. In addition, manager, owners, and tenants will be faced with covering the expense of cleaning up these areas and maintaining public safety.

This legislation has yet to find any significant support at the state level. The city of Portland, Oregon experimented with a similar policy, but it was brought to an end in August of 2016.

What IREM is doing about it: IREM is monitoring the issue closely. Different versions of the bill had been introduced in state legislatures around the country, but none have found any substantial support and have been met with overwhelming opposition particularly from municipal governments who would be responsible for the cost of cleanup and safety monitoring.

Short Term Rentals

Why it should matter to you: ***Short term rentals result is unknown guests staying in properties with little to no liability. Safety and property maintenance could be at stake.***

Background: Services such as Airbnb, HomeAway, and Couchsurfing are becoming more popular than ever by connecting travelers looking for an alternative to hotels with people willing to rent out their home or a room within their home. With so little accountability on behalf of the renter, municipalities have begun regulating the new industry to varying degrees.

These short-term rentals can be problematic for property managers who are left to police the short-term tenants. Due to the transient nature of these rentals, there is often little knowledge of who the renters are or how to reach them. Also, depending on state and local laws, landlords can be held liable for nuisance tenants. On the other hand, some landlords have embraced this trend by working with tenants to allow short-term rentals and collecting a fee from each one.

Regardless of what a manager or owner decides to do, it is important to be aware of the laws at the local and state level. Some cities require registration, insurance, collecting taxes, and have even banned the practice all together.

What IREM is doing about it: IREM is monitoring state legislatures for any legislative movement.

Source of Income Protection

Why it should matter to you: ***A prospective tenant's source of income could be treated as a protected class. Property managers would then be forced to accept tenant-based subsidies such as Section 8 vouchers. By accepting these subsidies landlords must also accept lease amendments to comply with government requirements.***

Background: The Section 8 housing program for existing housing involves the issuance by a local government of Section 8 certificates which allow the certificate holder to rent any apartment, with the tenant paying monthly rent in an amount usually not more than 30% of the tenant's certified household income to the landlord, and the local government guaranteeing to pay the remainder of the rent, up to local fair market rent limits, based upon unit size. The property operator enters into a contract with the tenant and third party, usually the local housing authority, which pays the portion of the rent above the amount to which the tenant is directly obligated to the landlord, as a rental subsidy. The legislative construction and intent of the program was for landlord participation to be voluntary, meaning a property owner or manager is not required by the federal government to participate in the Section 8 program. Landlords who participate in the Section 8 program and accept Section 8 rental subsidy certificates must follow strict and voluminous regulatory requirements including, without limitation, specific lease terms (required and prohibited), inspection requirements and other required regulations.

In addition to the certificates, the program also grants vouchers to individuals as a form of payment for rent. It is the responsibility of the tenant to make up the difference between the amount of the voucher and the amount of the actual rent. The acceptance of the Section 8 vouchers is also voluntary.

In January, 2017 the "Landlord Accountability Act of 2017" (H.R. 202) was introduced by Rep. Nydia Velazquez (D-NY) to enact Source of Income Protection. As of January 24th, it has not seen movement.

What IREM is doing about it: IREM is conducting a survey in early 2017 of all members in the U.S. to better understand the scope and how it impacts membership.

Energy Conservation/Sustainability

Why it should matter to you: ***Mandatory energy conservation programs could cost you time and money.***

Background: IREM strongly supports positive incentives for energy conservation activities and oppose mandatory programs. We support energy tax incentives such the 179D tax deduction and voluntary programs like Energy Star.

Mandatory Benchmarking – Some states and cities have enacted mandatory benchmarking initiatives. The scope of these initiatives varies, but may lead to sub-metering or expensive retrofitting of properties. Your business would incur additional responsibilities and costs associated with collecting and submitting data.

Recognizing the serious concerns of global warming, IREM supports the development of voluntary standards for reducing greenhouse gas emissions. We support the use of sustainable materials in the construction of buildings, and programs that reduce the "carbon footprint" of real estate assets. However, requirements to retrofit existing buildings must take into consideration the needs of the buildings and costs associated with such changes. Additional research is necessary to determine to what level greenhouse gases are affecting the environment versus natural climactic changes humans cannot control.

179D Tax Deduction – Section 179D of the Internal Revenue Code is a tax deduction for energy efficiency projects in commercial buildings and some multifamily properties. It expired in 2013; Congress extended it retroactively for 2014-2016, but expired once more on December 31, 2016.

What IREM is doing about it: IREM is a member of a coalition of industry partners to extend the 179D tax deduction. IREM will continue to oppose mandatory energy conservation policies.

Medical and Recreational Marijuana

Why it should matter to you: ***States are continually legalizing marijuana to varying degrees, but it is still illegal at the federal level. This can create conflicts between laws and with banking and insurance needs. Growing marijuana can also provide safety issues in various rented properties.***

Background: Since 1996 in the United States, 28 states and the District of Columbia have passed some version of laws allowing for the legal use of marijuana. While the laws vary, all 28 jurisdictions allow for some use of marijuana for medical purposes. Marijuana use, cultivation, and possession are still illegal under federal law.

There are certain things to consider when leasing space to marijuana based businesses. For example, federal banking laws do not allow banks to do business with companies participating in an activity that is illegal under federal law. As a result, businesses involved in the marijuana industry operate on a cash only basis. This means rent and other payments can be expected to be made in cash or money order. Also, so much cash on hand makes these businesses targets for burglary and theft. Responsibility for security measures should be clearly identified in leases. In addition, obtaining property insurance can be difficult.

What IREM is doing about it: IREM is continually monitoring state legislatures, keeping a close eye out for medical and recreational marijuana bills being introduced.

Companion and Emotional Support Animal

Why it should matter to you: ***Many real estate managers have tenants who have requested companion animals in pet-free housing. Without clear guidance from the federal government, many are unaware of what options they have regarding allowing or disallowing animals.***

Background: The Americans with Disabilities Act allows certain protections and rights for persons who qualify for a service animal. A service animal must be trained to perform a specific task or action that helps the person with day-to-day activities and currently only includes dogs and in some instances, miniature horses. Although the ADA has differentiated between a service animal and an emotional support animal, many landlords feel there is abuse among prospective tenants who claim an animal is a service or companion animal in order to be able to have a pet or banned breed in rental housing. No clear guidance exists to assist real estate owners in managers in helping their tenants understand their rights to refuse a companion animal.

What IREM is doing about it: IREM is interested in getting clear guidance from the federal government and will be monitoring the issue.

Separate Real Estate Licensing

Why it should matter to you: ***Having to get multiple licenses can be costly and time consuming, and is often redundant.***

Background: In recent years, there has been interest in creating separate state-mandated certification or licensing for property and community association managers. In general, supporters of state mandated community association manager certification or licensing believe that managing community associations is different than real estate management of other properties and states should recognize this by requiring separate certification or licensing for those engaged in community association management.

Many IREM Members manage multiple types of properties, such as residential apartments, condominiums, cooperatives, and home owner associations. By requiring separate licensing anyone managing multiple property types may need to carry separate licensing for each one. This could mean significant costs to you and your business in terms of both time and money. Overall, IREM is opposed to separate licensing for these activities, but defers to each state as this has been found to be a state's rights issue.

What IREM is doing about it: IREM has a working group to analyze, and possibly revise, the existing IREM policy position. Currently, Ohio, Louisiana, and Colorado have both expressed interest in exploring separate licenses. IREM Staff will continue to monitor these states and the issue around the nation.