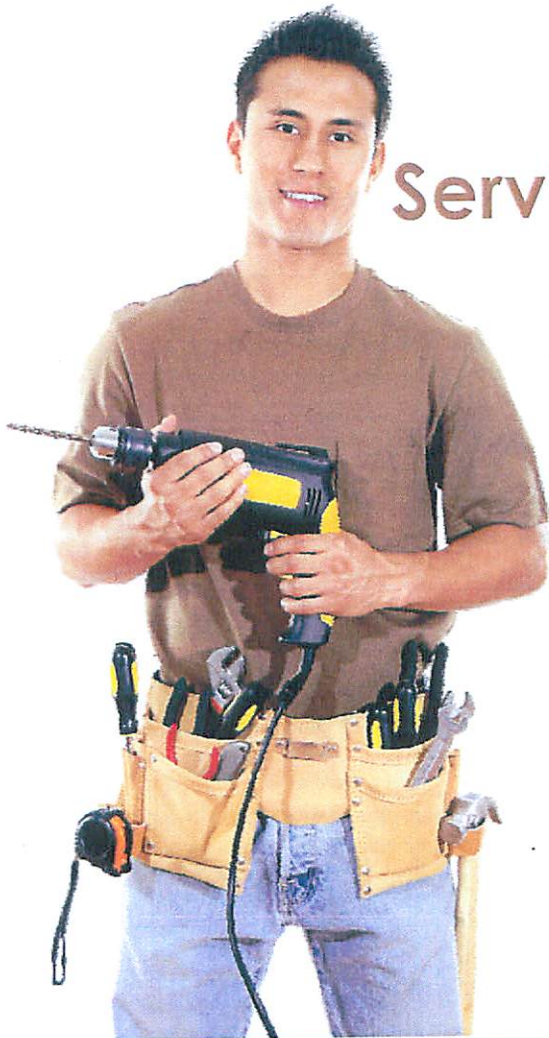


Apartment Association of New Mexico

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Saturday
November 15, 2014
Sandia Resort & Casino

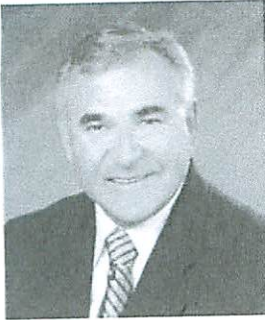
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Key Beneficiary



president's message

| National & State Issues for Legislators



Fall is in the air, cool mornings and fall coats. It is time again to turn off evaporative coolers and start heaters. Just a key reminder to change filters, test batteries in the smoke alarms and in the carbon monoxide detectors, as this could save lives and insurance claims.

We are approaching the November elections; it is so important that we get out the vote and that everyone votes. No matter our party affiliation, it is our obligation to vote, not only as our constitutional right, but in self-preservation. On the national level, several key issues that might affect our industry include housing finance, tax, and immigration reform. The House and Senate are scheduled to return on November 12 for the lame-duck session. Congress will then be faced with an agenda filled with must-pass items that could broadly impact the multifamily industry.

On the state level, the county assessors are preparing a bill that will address tax lightning, raising the current cap from 3% in 2015 to 5% in 2016, 7.5% in 2018, and ultimately reaching 10% in 2019. The debate is the escalation of CAP limitations. The need for change is in uniform agreement by RANM, AANM, HBA, as well as many legislators. The intent of this approach is to reach parity with property values by being current and correct within ten years. There are many considerations and concerns on the effects of these proposed changes, as there is no easy approach to undoing the 2002 legislation capping property values. A companion bill disclosing the sales price would help tax payers define what their current and correct values are, making it easier to self-determine values. Presently, the assessors have the values, and owners need to obtain assistants to establish current and correct values of their property. This has created a cottage industry of protesting taxes. Seeking professional assistance is still a good thing, but need not be the norm for a property owner to figure out their value.

After the November elections, AANM will host a free event to meet and greet your (new) legislators for the coming year. Mark your calendar for November 20 from 4:30-7pm at the Crowne Plaza. Remember, the strength of our organization is your participation, in both time and money. With your support, we can effect change, by being relevant to you and our industry. The only thing worse than no legislation is bad legislation, that is why we must work together to create good legislation, and help influence our destiny.

AANM works to represent you and your concerns. We are all in the same boat, therefore, it is important that we all row together in the same direction. If fact, we supported (with a favorable outcome) a formal tax board hearing appealing the assessor's decision of removing the cap when you change legal entities but not ownership. For example when you refinance and are holding your property in an LLC and are required by the lending institution to remove it from the LLC and put it in your name for financing and then returning the property to the LLC. This was a lending requirement, not a change in ownership. See the *Legal Corner* article on page 7 for more detail. In the final months of the year we will prepare for the upcoming sixty-day legislative secession starting in January.

Remember Casa Ball in November! This is our marquee event of the year to raise money and awareness for Heading Home's efforts to make homelessness rare, short-lived, and non-recurring. It was a blast last year, and this year the committee has put a 1940's swing on the night. Register now for November 15th at Sandia Resort and Casino. Go to www.casaball.com for all the details.

I look forward to seeing you at Casa Ball Swing!

Sincerely,

Chuck Sheldon, CCIM, CPM[®]
T&C Management
AANM Board of Directors President

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It looks like good tax news may be on the way for New Mexico's independent property owners, thanks to a recent Bernalillo County decision involving the thorny issue of tax lightning.

Earlier this fall, AANM intervened on behalf of a Bernalillo County member whose property taxes went up simply because he changed his properties' ownership structure. The effort was successful, setting a precedent for future tax lightning decisions.

THE BACKGROUND

As many know, New Mexico caps increases in real estate values at 3% per year for tax purposes. When property is sold, the cap goes away and the property gets reassessed at its current value. The result is often a super-sized tax increase — tax lightning!

Tax lightning has lightened your wallet. Sellers earn less for their properties because the properties become more expensive for future owners to operate. Buyers often must increase rents to help pay for the higher taxes if the market allows, or receive less net income. Nobody is happy—not the seller, the buyer or the resident.

The Supreme Court of New Mexico recently ruled tax lightning to be constitutional and consistent with New Mexico law, but the

Apartment Association of New Mexico has been working on ways to provide relief for those most affected by these tax increases. However, in 2013, Bernalillo County added a new wrinkle. The county began to rule that putting property into (or taking it out of) a limited liability company was the same, for tax purposes, as selling the property to totally new owners. This meant that a change in ownership structure was reason enough to remove the 3% cap—even though the new limited-liability company was owned by exactly the same people!

SMALLER OWNERS HIT HARDEST

The new way of treating limited liability companies hit independent owners more than others. It is contrary to every reason for having a cap on increases, but it's true. Larger companies have usually worked out their structure long ago, but a smaller owner often needs to form limited-liability company to protect their properties as their needs evolve, and may even need to take it out of the company for refinancing.

Earlier this year, two owners who got "stung," acting alone, challenged this broad interpretation of tax lightning. In both cases, the Bernalillo County Valuation Protests Board upheld the County's interpretation and removed the 3% cap.



HERE IS WHERE WE CAME IN.

This fall, AANM got involved in an appeal on behalf one of our members, a retired local owner with limited resources, to fight the tax notice he'd received after changing the structure of his ownership. As volunteers, member Todd Clarke and I presented our member's case to the Bernalillo County Valuation Protests Board on behalf of AANM and the member. We're able to report that the Board changed course, ruling that the member's transfer of ownership to a limited liability company did not trigger tax lightning since it didn't change the "proportion" of ownership. In other words, no sale took place.

That's very good news for our member. And, provided the Valuations Protest Board continues to follow this decision, it is also very good news for all of Bernalillo County's independent property owners. ☺



about the author

Gene Vance, Esq., serves as Legal Counsel to the Board of Directors for the Apartment Association of New Mexico (AANM). Gene is an integral part of the overall legal process of AANM forms, such as the New Mexico Owner-Resident Relations Act booklet or the Residential Lease Agreement, offered at AANM. Gene is also a past recipient of the AANM Tributes, Lifetime Achievement Award.

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