



AANC NEWS

A publication of the
Apartment Association of North Carolina

January/February, 2010

AANC Officers:

President: John Porter
President-Elect: Susan Passmore
Treasurer: Kim Langlois
Secretary: Mindy McCorkle
Lobbyist: Colleen Kochanek
Executive Director: Ken Szymanski

Apartment Association of North Carolina

2101 Rexford Road, Suite 330-E
Charlotte, NC 28211
Phone: 704.334.9511
Fax: 704.333.4221
www.greatercaa.org/aanc.cfm

AANC Web Site Ramping Up

AANC is working diligently to devise a quality website for our members, prospective members, the renting public, elected and appointed officials, and others. This website, somewhat overdue, promises to be informative and useful. The AANC Board has approved our 5 "Top-Level Navigation" headings:

- **Who We Are**
- **Membership**
- **Resources**
- **News**
- **Info for Renters**

www.aanconline.org

It is our sincere goal to have the site go live in the first quarter of 2010. Here is a preview of which "Frequently Asked Questions" we plan to provide answers for in the "Info for Renters" section:

- **Questions About Your Lease**
- **Questions About Rent**
- **If You Have a Complaint About a Property**
- **Questions About Repairs**
- **Questions About Security Deposits**
- **Info for Renters**
- **Early Move-Out/Breaking a Lease**
- **Questions About Evictions**
- **Questions About Satellite Dishes**

North Carolina Apartment Professionals Named to National Apartment Association's 2010 Committees

- **Budget & Finance Committee:** Scott Wilkerson, Susan Passmore (alternates Kellie Falk-Tillett and Fred Dean)
- **Membership Committee:** Tami Fossum
- **Communications Advisory Board:** Mary Gwyn
- **Independent Rental Owners Council:** Susan Passmore (alternate)
- **Legislative Committee:** Ken Szymanski

AANC Mission Statement

The Apartment Association of North Carolina is a statewide organization comprised of local apartment associations to promote safe, affordable housing through participation in the legislative process, and through communication to and education of its members, public officials and the general public.

2010 AANC Delegates and Alternates to the National Apartment Ass'n. AOD

The following people will be serving as North Carolina's 2010 delegates/alternates as part of the NAA Assembly of Delegates at their meetings in March, June, and November.

Delegates:	Delegates:	Alternates:
John Porter	Jon Lowder	Mindy McCorkle
Fred Dean	Susan Passmore	Ken Sherman
Sterling Kelly	Mary Gwyn	Suzanne Pratt
Tami Fossum	Ken Szymanski	
Josie Eatmon	Scott Wilkerson	

AANC Board Members – 2010

Apartment Association of Western North Carolina: Cindy Hart

Cumberland County Apartment Association: Angeline Vargas

Greenville Area Property Managers Association: Emily Carter

Wilmington Apartment Association: Chrissie Link

Triad Apartment Association: Susan Passmore, Mary Gwyn, Kim Langlois, Jody Longwill, Marc Crouse

Triangle Apartment Association: Kellie Falk-Tillett, Matt Smith, Terry Ragland, Meg Piszczek, Will Brownlee

Greater Charlotte Apartment Association: John Porter, Jamie McLawhorn, Tim Hose, Mindy McCorkle, Tim Hose

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Use of AANC-copyrighted forms is an exclusive benefit of membership in an AANC-affiliated Apartment Association. If you are no longer a member of an AANC-affiliated Apartment Association, you no longer have the right to use AANC Leases or forms.

Association Membership Requirement in Current AANC Lease. In order to execute an AANC Lease Agreement or to sign any additional document memorializing an AANC Lease renewal or extension, Lessors attest to their current membership in good standing in the Apartment Association of North Carolina and of an AANC-affiliated local apartment association. If a Lessor is not a member in good standing of the AANC as above, then the AANC Lease Agreement can become voidable and unenforceable (at the option of the Lessee), subject to certain conditions.

National Apartment Association Seeks CAMT ANSI Accreditation: Implications for N.C. Maintenance



CERTIFIED APARTMENT
MAINTENANCE TECHNICIAN®

The National Apartment Association Education Institute (NAAEI) is actively pursuing accreditation for the Certified Apartment Maintenance Technician (CAMT) education program through the American National Standards Institute (ANSI). In North Carolina, this gives us reason for optimism in the wake of current state law and local enforcement (in a number of counties) to require apartment maintenance personnel to be licensed in the professional trades like plumbing, HVAC, and electrical. Apartment maintenance personnel are generalists and not specialists in nature. Their skill-set and compensation levels are appropriate for our industry. Obtaining ANSI accreditation for the CAMT program (made up of dozens of classroom and hands-on hours of training in all aspects of apartment maintenance) may be viewed quite favorably by the important State Boards of Examiners for the trades. It is the goal of the AANC to have the Boards of Examiners recognize that apartment maintenance is a professional field, but it is a professional field that does not necessitate the grueling training needed for the specialist trades. The NAAEI received a preliminary Commendation from ANSI that reads:

The evaluation of learner attainment is designed , developed and delivered by qualified personnel. The level of due diligence exceeds training industry practices. They cited that NAAEI conducted a Maintenance Job Task Analysis and validated this analysis and developed CAMT Skill Standards. NAAEI plans to submit revised policies over the next few weeks and it is their hope that they will receive ANSI accreditation for CAMT by June.

Accessible Parking Standards Proposal to Go Before N.C. Building Code Council

In South Carolina, Virginia, Tennessee, or Georgia, an apartment developer (following IBC) has a duty to deliver 8 accessible parking spaces for a 200-unit apartment development. A proposed North Carolina amendment would require the developer deliver 14 accessible spaces.

Similarly, in our neighboring states, for a 300-unit apartment development, the developer has to deliver 11 accessible parking spaces, but the proposed N.C. amendment would make the developer deliver 20 accessible spaces.

In recognition of the N.C. approach to fully accessible apartments (TYPE A) which generally requires the developer to deliver 3 more Type A apartments than are required by the IBC, the AANC supports IBC + 3 for accessible parking requirements. In the examples above, we support a requirement for 11 such spaces in the 200-unit development, and 14 such spaces in the 300-unit development. The N.C. proposed amendment is overly generous, with all due respect to all parties. The matter goes before the N.C. Building Code Council at their meetings on March 9th in Raleigh.

2010 Brings New NC Law

Mandatory Carbon Monoxide Detectors (in certain rental units)

This law went into effect on January 1, 2010. It is important to note that it mandates the installation of carbon monoxide detectors in rental units statewide, where those units have (1) a fireplace, (2) a fossil-fuel burning heater or appliance, or (3) an attached garage. Dwelling units where none of these conditions apply (tens of thousands of rental units across the state) have no such mandate (unless they are located in Mecklenburg County). A press release from the N.C. Department of Insurance did not make this distinction, and many media outlets across the state are running the release – implying all rental dwellings must be equipped with a CO detector. AANC has asked the NC-DOI to issue a clarification. The new statutory language to NCGS 42-42 (Landlord to provide fit premises) includes the following sentence:

This subdivision applies only to dwelling units having a fossil fuel burning heater or appliance, fireplace, or an attached garage.

To access the statute in its entirety, visit this page of the NC General Assembly's web site:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_42/GS_42-42.html

Legislative Study Commission on Urban Growth and Infrastructure Issues

This group made up mostly of members of the N.C. General Assembly and local appointed officials will be meeting between sessions of the Legislature in Raleigh starting on January 21st.

The AANC has a fair amount of history/involvement with the matters of Infrastructure Finance and addressing the question, "Who Pays for Growth?", mostly at the municipal level. Here's a bit of a sketch of AANC's view and stance :

- The Home Builders usually carry the ball for the whole real estate development business in opposing impact fees on new development. They disfavor them and it's oftentimes their #1 issue. With all development types reeling in the economic collapse, opposition to impact fees, Adequate Public Facilities Ordinances, exactions, and all the public tools to get developers to pay more into public coffers will be fiercer than ever. Historically, apartment developers are OK with Home Builder advocacy on this matter (because of their fervor and their numbers).

- The apartment business is actually somewhat conflicted on the matter of Infrastructure Finance because the vast majority of apartment owners are not apartment developers (probably 85% or more). So, if the public costs to extend roads, water, sewer, etc. are directed to the broad tax base via the property tax, really and truly, in their heart of hearts, most apartment owners disfavor this approach because it means (arguably) that THEY are paying for growth, or at least a disproportionate share of it.

- Unlike home builders, apartment developers very frequently have to "offer" public improvements such as lane-widening, intersection improvements, or making land dedications for parks or schools in exchange for getting re-zoning applications granted. It's not an impact fee, but it has a similar effect.

- The AANC spent several years working and succeeding on getting impact fees "proportionalized" to apartment-calculated impacts, mostly in Orange County but also in Chatham County (previously, school impact fees were flat – the same amount per single or multi-family dwelling).

- There are a lot of claims/studies about "growth paying for itself" and a number of these are quite loose/tenuous. Clearly, though, higher-density housing does. Low-density housing at the urban fringe usually does not. It's funny when a bunch of new subdivisions are platted in a short period of time along a former Farm-to-Market Road; naturally, it becomes inadequate and irate homeowners cry out for local government to widen it, mostly using other people's money!

Understanding Others' Perspectives

By Ken Szymanski, AANC Executive Director

***"Before you abuse, criticize and accuse
Then walk a mile in my shoes" – Joe South***

I've been at this business of apartment association management for a number of years. I've been doing it since the origin of the AANC, if you can believe that! Anyway, prior to working here, I toiled for local governments and a state legislature for over 10 years. I worked alongside mayors and city managers, city planning directors, housing code inspectors, community development leaders, housing authority chiefs, city council members, city attorneys, state senators, and many others. It gave me a unique perspective about the truly honorable profession of "public service". I think it's extremely important to have quality people in government service, given their responsibilities of maintaining and improving quality of life in neighborhoods, cities, and regions. Public servants are motivated somewhat differently than employees in the for-profit business sector, though.

Sometimes, government employees are viewed with a certain amount of dread or even disdain by folks in business, including the apartment industry: "I hope they don't inspect my property"; "Why are they dragging their feet in issuing my permit?"; "Can you believe it, they told me to take my sign down"; "They made us do more fire safety improvements"; "the Magistrate dismissed our eviction case"; and so on. There is a tendency to view public employees as adversarial, headache-inducing and cost-generating. This tension is understandable, but remember that the field employees are almost never the policy-setters; the elected officials are the ones who set the policy. So, rather than being fearful or chagrined by public employees in the field, look to take injustices to the policy makers instead (often through your local apartment association). The city inspector, fire official, health department officer, or planning staffer are usually just doing their job, and their job has been defined as protecting public safety. Imagine doing their job for a few months or a few years and think about the charge and what the work would be like and what you would learn. I knew a seasoned architect/developer in my San Antonio years who once opined, "what's needed is for private developers to work as public planners for a couple of years, and for planners to work as developers for a like time – then both would know more about the way the world works".

I've been part of the National Apartment Association network since 1983 (boy, that's a long time!), and frequently get to interact with other apartment association execs from around the country. There are a lot of diverse and talented execs with the various local and state affiliates, they do a great job, and we all benefit from networking with each other. They actually hail from a variety of career paths and that's part of the beauty of it. But one of my pet peeves in dealing with the other NAA-network execs is that, in discussing local/state public policy matters in national forums, they always, seemingly without fail, assert that the reason a governmental body adopts a new policy, beefs up an existing policy, or "exacts" a new fee-based program is because the governmental unit "just wants more money". There is some truth to this assertion (because government programs cost money, and they obtain it from businesses and private individuals), but it's important to understand what motivates elected officials to act. For example, there may be vocal constituents who are up in arms about housing quality conditions or public safety matters, or there may be a series of media reports/expose's about serious public health concerns (think "carbon monoxide" or pool safety). Elected officials respond to "heat" – if they don't, they won't be in office very long. And in structuring public programs in response to urban problems, they may take an approach to finance a program that tailors a "user fee" to address a problem, as opposed to the use of the broader-based property tax (where everyone pays more and may shoulder a fairly narrow bit of problem-solving). These are some of the difficult philosophical challenges that elected officials have to wrestle with: who pays and how much? Now, ask the question, "how many NAA-network association execs have worked for governmental units in housing, land use planning, or neighborhood conservation and have an understanding of these challenges?": very few. Thus, they don't relate to the point-of-view of elected or appointed officials, and don't understand their perspectives.

Public officials have a job to do. There will always be problems with inconsistent inspectors and the like. And in some ways, it's a shame that there has to be an EPA and other agencies, but they're there in response to abuse.

Sing it again, Joe:

***"If I could be you and you could be me for just one hour
If we could find a way to get inside each other's mind"***

Fair Housing Accessibility Retrofit Mandates for Owners: North Carolina Fares Better Than Most

By Ken Szymanski

The experience over nearly two decades that North Carolina apartment developers and owners have had in complying with accessible design requirements under the Federal and State Fair Housing Acts has been difficult and complex. But regarding the regulatory response to non-compliance, Tar Heel State apartment operators have been somewhat fortunate. This is my perspective as having served in my role since 1986.

As many members know, Federal law mandated that multi-family rental housing built for first occupancy after March, 1991 have certain design and construction requirements with modest accessible design features. The main requirements were: an accessible entrance on an accessible route; accessible and usable public and common use areas; usable doors; accessible route into and through the covered unit; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforced walls for grab bars; and usable kitchens and bathrooms.

But even though the Fair Housing Amendments Act was adopted in 1988, and the duty to design and construct accessible apartments was effective in March of 1991, the U.S. Department of HUD wrestled with and struggled in issuing clear design rules throughout the 1990's – meaning apartment developers had no clear “safe harbor” for accessible design features, characteristics, and standards for most of the decade, in North Carolina and throughout the nation. The first “Fair Housing Act Design Manual” was prepared for HUD in August of 1996 by Barrier Free Environments out of Raleigh, NC, but the manual was revised in April of 1998. In the 1990's, the standards were in flux and importantly, were not part of the N.C. Building Code. Thus, there was no public official charged with reviewing plans or inspecting construction from a Fair Housing Accessibility viewpoint. No one to point out compliance problems with drawings, plans, or in the field.

In a number of states outside of North Carolina, Fair Housing advocacy groups and enforcement agencies have sometimes sued apartment developers for designing and constructing apartment communities in the 1990's for a failure to include certain features of accessible design (as unlawful discrimination). Large cash settlements (as much as \$44 Million) or mandates to retrofit apartments resulted. But in North Carolina, the North Carolina Fair Housing Center and other HUD-endorsed enforcement agencies have never sought cash settlements or retrofit solutions when property surveys indicated that apartment developers fell short of delivering optimal accessible design features. Instead, the N.C. Fair Housing Center and others have sought affirmative approaches from apartment owners in dealing with disabled residents, such as delivering accessible parking spaces as a Reasonable Accommodation.

Fire-Safe Cigarettes

A smoldering cigarette butt in a trash can sparked a fraternity fire that killed five students at UNC Chapel Hill in 1996. And smoking materials may have caused a 2007 Brunswick County beach house fire that killed seven S.C. college students.

Fire safety officials believe legislation now in effect requiring tobacco companies to sell "fire-safe" cigarettes in North Carolina will lead to fewer smoking-related fire fatalities, serious burns and property damage.

North Carolina's law, passed in 2007, is one of more than 30 laws taking effect with the new year.

"The whole purpose of this legislation is not to tell people you can't smoke but if you are smoking there's a safer way to do it," said Ernest Grant with the N.C. Jaycee Burn Center at UNC Hospitals in Chapel Hill

The "fire-safe" cigarettes are made with different paper that slows ignition, making them more likely to go out if left unattended. The standards require cigarettes to burn out at least 75 percent of the time when not in active use. The cigarettes can be lit again.

North Carolina is one of 12 states making the change here in 2010 to require all cigarettes to meet standards first implemented by New York in 2004. Every state but Wyoming now has a similar law that is in effect or will take effect.

N.C. ranks #4 of states in NAA Network, by unit count

North Carolina's apartment unit count is now ranked #4 of the states in the NAA network, trailing TX, FL, and GA. Here's AANC's current unit count in the context of the leading state apartment associations:

Texas	1,746,382
Florida	367,834
Georgia	366,642
North Carolina	275,924
Arizona	199,551
California	196,540
Indiana	192,736