

Mandatory Rental Housing Inspections

Laws that mandate inspections for apartment housing exist in a variety of forms in thousands of towns, cities and counties throughout the country. These programs are intended to ensure public health and safety, mitigate blight, and abate nuisance and overcrowding through enforcement of building and health codes. However, in practice, inspection programs have not been shown to effectively achieve the goal of improving housing quality¹ while they increase pass through costs to renters.

Mandatory inspection programs are composed of four essential components: registration, fees or taxes, business licensing and inspections by code enforcement officials. Property owners are commonly required to register all units with the municipality and assessed a per unit fee or tax that is levied to cover the costs of the inspection program. These fees typically range from \$10 to \$100 per unit. Once these requirements have been met, the provider is granted a business license to legally rent within the jurisdiction and is subject to annual inspections, re-inspections and inspections at random.

Municipal-wide mandatory rental housing inspection laws require a serious financial commitment from the jurisdiction to ensure consistent enforcement and timely inspections.² These administrative costs are shouldered primarily by apartment owners and operators who fund the program through registration fees and penalties for violations. Fee-funded inspection ordinances undermine housing affordability by unnecessarily increasing operating costs for housing providers. These expenditures are often passed on to residents thereby increasing consumer costs. Providers are also subjected to administrative delays which could affect their ability to operate if violations are found.

While apartment housing contributes to a community's combined stock of mixed housing, mandatory inspection programs single out apartment properties by excluding single family homes from additional inspections and assessments. This effectively places a greater burden on apartment operators and residents.

Mandatory inspection programs can also violate the constitutional rights of property owners and apartment residents to privacy and freedom from unreasonable searches and seizure. In fact, the U.S. Supreme Court has found that mandatory inspections lacking the permission of the apartment resident and conducted without a warrant were a violation of the Fourth Amendment to the U.S. Constitution.³ Moreover, courts have found that the

¹ Ian Crichton, et al., University of Wisconsin-Madison, *Rental Unit Licensing: Applicability to Milwaukee*: <http://www.lafollette.wisc.edu/images/publications/workshops/2003-MilwRental.pdf>

² National Apartment Association, *White Paper on Municipal Apartment Inspection Programs*

³ *Sokolov v. Freeport*, 52 N.Y.2d 341 (N.Y. 1981); *Camara v. Municipal Court of San Francisco*, 387 U.S. 523 (U.S. 1967); *Black v. Village of Park Forest* 20 F.Supp. 1218 (1998); *State v. Finnell*, 115 Ohio App. 3d 583 (Ohio Ct. App. 1996).

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fees levied must be reasonably related to the actual cost of providing the service for which they are imposed.⁴

Increasingly, state legislatures are identifying the burdens these onerous rental inspection programs have on the rental housing industry. Some states have passed legislation that limits mandatory apartment housing inspection ordinances at the local level.⁵ While each law varies in their focus, they all have one primary purpose – to reduce the burden that local inspection policies create for both property owners and residents.

NAA Viewpoint Rental housing inspection laws place an unnecessary financial hardship on owners, infringe on personal privacy rights, and single out apartment housing while excluding other property types. NAA encourages policymakers to consider other proven approaches that target chronic code violations, such as complaint-driven property inspection programs.

⁴ National Cable Television Ass'n v. United States, 415 U.S. 336 (1974); Seafarers Int'l Union v. United States Coast Guard, 81 F.3d 179, 183 (D.C. Cir. 1996); Margola Assocs. v. Seattle, 854 P.2d 23 (Wash. 1993)

⁵ O.C.G.A. § 36-60-13; IC 36-1-20-4.1; KS Stat § 12-16,138; NC Gen Stat § 160A-424, NC Gen Stat § 153A-364; MCL § 125.126; VA Code § 36-105.1:1; WI Stat § 66.0104; RCW 59.18.125, RCW 59.18.030, RCW 59.18.150;