

Broadband Access

Policymakers at all levels of government remain concerned about the availability of broadband to consumers. The misperception that apartment residents have limited access to broadband and other telecommunications services must be addressed and corrected. In fact, most apartment building residents have access to at least two broadband providers, whereas only 38% of all Americans have such access.¹ Multifamily housing providers are not an impediment to residents' choice. They are a conduit that allows residents to obtain low-cost, high-quality communications services.

Broadband service is critical to apartment residents, which means that apartment owners and operators actively seek communications providers to meet residents' expectations. Apartment owners and communications providers enter into agreements that are best negotiated under free market conditions, encouraging competition. Because service providers must compete for the right to serve a building, they generally offer a mix of service quality and quantity at competitive rates which benefits both owners and residents. This allows owners to preserve the limited space for wiring and infrastructure at their communities for the providers who will best serve their residents.

Similar to an overly restrictive San Francisco law,² the Federal Communications Commission's Broadband Deployment Advisory Committee approved Model State Code (MSC)³ that grants communications service providers the right to access and install facilities in multifamily residential buildings. Article 8 of the MSC essentially mandates construction of broadband infrastructure in new and renovated buildings at the apartment owner's expense. Not only does this interfere with private property rights, it disrupts negotiations between property owners and communications service providers, which hurts broadband competition and encourages inefficient investment.

The apartment industry is under increasing pressure to meet demand across the country and address significant housing affordability challenges. While the MSC is model language that may be adopted at the discretion of state and local policymakers, passage of these mandates could negatively impact development costs and rents drastically. Additionally, apartment owners compete vigorously for residents and do this in part by offering quality amenities, such as ensuring access to high quality and reasonably priced communications services. It is imperative that owners maintain this bargaining

¹ Comments on NMHC, *Improving Competitive Broadband Access to Multiple Tenant Environments*, Notice of Inquiry, GN Docket No. 17-142, at p. 3; Comments of Hubacher & Ames, *Improving Competitive Broadband Access to Multiple Tenant Environments*, Notice of Inquiry, GN Docket No. 17-142, at pp. 3-4.

² San Francisco Police Code, Article 52

³ <https://www.fcc.gov/sites/default/files/bdac-12-0607-2018-model-code-states-discussion-doc.pdf>

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power to serve their residents. In very competitive markets, apartment communities often are distinguished only by the types and qualities of the amenities they offer the renter. Lawmakers should not adopt the provisions in Broadband Deployment Advisory Committee's MSC as the overreaching mandate would result in regulation costs and mandatory compliance. Widespread adoption of the MSC would hinder property owners and operators from effectively negotiating telecommunications service agreements, hurting residents.

Lawmakers should reject legislative proposals or mandates that would grant special access privileges to private property, including amendments to the Communications Act and Telecommunications Act, as extensive regulation in this area can interfere and limit market competition and cause overburdensome regulatory cost and compliance which ultimately affects resident's housing affordability.

NAA Position NAA relies on a competitive telecommunications industry that reliably and cost-effectively meets the needs of apartment residents. Mandates similar to San Francisco⁴ and the Broadband Deployment Advisory Committee's MSC interfere with private property rights and disrupt negotiations between property owners and communication service providers. Enacting such regulation harms broadband competition and encourages inefficient investment.

⁴ San Francisco Police Code, Article 52