

Waste Management Services

Local governments are responsible for the collection and disposal of solid waste as an essential public service. However, waste management has increasingly become the target of privatization efforts by local officials seeking to reduce or eliminate costly obligations from budget line items. Reductions in revenue sharing by states have forced some localities to drastically pair back spending and turn to administrative fees to raise revenue.¹

Apartment housing providers are prime targets for legislative efforts aimed at shifting the responsibility of waste collection services from government to business. Owners, operators, and developers pay for public services through property taxes, yet many cities want to exclude apartments and limit publicly-funded waste collection in their communities. This has forced large apartment communities to contract with private haulers for these services. Since trash services are funded through both property taxes levied on owners of all private property and impact fees charged to developers, rental housing providers and their residents essentially subsidize single-family waste collection and disposal. These policies effectively mandate that a group of constituents must pay more for public services solely because they choose to rent.

A number of cities are also increasing trash fees on apartments to reach ambitious climate goals, such as zero waste. Los Angeles's RecyclA program is prime example. Approved in 2017 by the Los Angeles City Council, RecyclA is a franchise garbage collection program that grants seven trash hauling companies exclusive rights to operate in designated sections of the city. It was designed to divert more waste from landfills and encourage recycling through "transparent and predictable rates for property owners." However, rates have been anything but, with owner-operators being charged an assortment of extra fees, such as access charges to open a property's gate and distance charges compensating haulers for moving trash bins more than 100 feet to the street. According to the Los Angeles Department of Sanitation (LASAN), these service fees contribute to 22% of all program charges for apartment properties.²

The high-density nature of apartment properties means it is cheaper to provide trash pickup services to apartments on a per household basis than single family homes. Given these savings and owners' existing tax obligations, rental housing providers should not be assessed additional fees for service. Furthermore, forcing rental property owners to use private contractors because of municipal service cuts invariably raises a housing provider's costs and hinders their ability to maintain affordable rental rates.

¹ <http://www.governing.com/topics/finance/gov-state-aid-revenue-sharing-intergovernmental-revenue.html>

² https://d12v9rtnomnebu.cloudfront.net/diveimages/LASAN_report_back_to_ECCEJ_110618_final.pdf#page=17

Policymakers also should consider the fair housing implications of limiting trash service. Several court cases have held that this constitutes as disparate treatment. In *WHS Realty Co. v. Town of Morristown*, 146 N.J. 627 1996, the court found the municipality's attempt to limit trash pickup to single-family homes and apartment communities with less than four units to be unreasonable, as no rational basis existed for creating a separate class of people who live in larger apartment communities. In 2011, the North Carolina trial court ruled that the City of Charlotte solid waste disposal policy concerning apartment housing constituted "unlawful, unreasonable, and arbitrary discrimination." This ruling was affirmed by the state supreme court in 2013.³

NAA Viewpoint

NAA opposes legislation that limits trash collection at apartment communities or requires additional fees from rental housing providers for service. As members of their community, apartment developers, owners, operators and their residents fund municipal waste management and are therefore entitled to the same access and quality of service provided to owners of single-family homes.

³ *Cedar Greene, LLC v. City of Charlotte*, 739 S.E.2d 553, 366 N.C. 504 (2013).