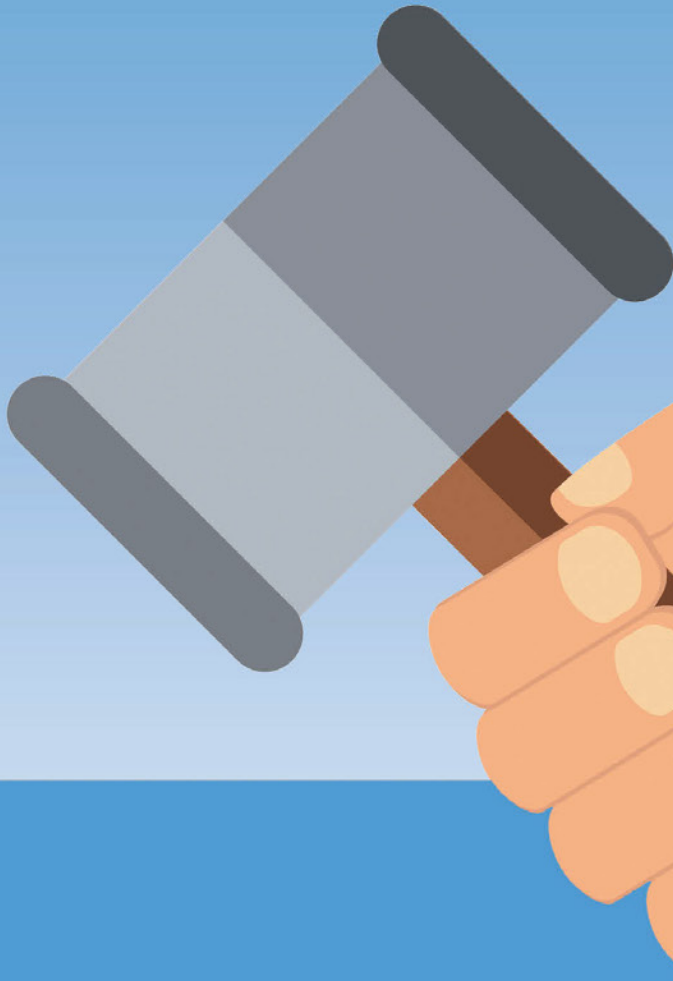


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ASSOCIATION

SUMMER 2015

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## PRESIDENT'S MESSAGE

# It's Your Turn

BY **RON WENZEL**, GREYSTAR MULTI-FAMILY SERVICES

*The best part of learning is sharing what you know.*

– *Vaughn K. Lauer*

When my company relocated me from Texas to Central Florida more than a decade ago, becoming involved in the local apartment association was a no-brainer for me. In Texas, I had spent 10 years working on education, membership, and executive committees for local apartment associations in Dallas and then in Tarrant County. So one of the first things I did when I rolled into Orlando back in 2003 was to reach out to the executive vice president at the Apartment Association of Greater Orlando (AAGO), and volunteer.

I had taught risk management courses for the National Apartment Association's certification programs: Certified Apartment Manager (CAM) and Certified Apartment Portfolio Supervisor (CAPS). AAGO's education committee was the perfect place for me to begin my involvement. Over the next several years, I served on the legislative affairs and government committee, the membership committee, and ultimately the board of directors and then the executive committee, as secretary, treasurer, vice president, and then president of AAGO. As immediate past president of AAGO, I became more involved with FAA, and I went through a similar progression, from secretary to president.

The benefits of my involvement have been enormous. Professionally, I've been able to do my job better getting to know suppliers who might have a product or solution I need, networking with other professionals and recruiting potential staff, and staying on top of current technology and legislative developments that affect our industry. Personally, I've become a more well-rounded individual and leader. Serving as a resource for others has enabled me to continue learning and growing. It's important to me to give back, but I've gained at least as much as I've given.

Maybe you're new to multifamily housing or have recently relocated to Florida. Or perhaps

like me, you've been in this industry most or all of your professional life and you're a longtime member of this association. Maybe you've been thinking about getting more involved but you're not sure how. Great news: There's a wide variety of opportunities at the state level as well as at your local affiliate.

State-level committees include the legislative and government affairs committee, conference committee, APAC board of directors, and of course the FAA board of directors, which comprises the executive committee and the budget and finance committee. If you are a supplier, the Product/Service Council is a great way to increase your involvement and commitment. Plans are in the works to launch an editorial advisory committee, which will help staff identify topics and sources for articles in this and other publications. Do you have other ideas for how you can contribute? Contact headquarters staff and let them know. Chances are, others have the same need you identify.

If you are committed to serving your association — whether at the local, state, or national level — the Leadership Lyceum program will be absolutely invaluable to you. The program has been undergoing an exciting evolution, with more interaction and networking than ever before. (Read more about that and other changes in FAA Update, beginning on Page 8.)

I started my service to this association in education because that had been so important to me, both to become more effective in my job and to gain credentials and certifications. After I attained all I could, I turned my focus to helping others meet their goals.

I chose multifamily housing as my career — I didn't fall into it by accident. This industry, this association, and the associations in Texas have been extremely good to me and my family over the years. That's why I committed to "paying it forward."

Won't you join me? ▲





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# Raising the Bar

BY **JOSH GOLD**, CAE, CMP,  
FAA EXECUTIVE VICE PRESIDENT

*Celebrate what you've accomplished, but raise the bar a little higher each time you succeed.*

— *Mia Hamm*

**A**nniversaries are an ideal time for taking stock. As I look back on my first year as your executive vice president, I'm pleased with what I've accomplished so far. Fortunately, the Florida Apartment Association was already a well-run organization, so I had a solid base on which to build.

When I began in this role last May, my first priority was to listen — to members, association executives, former and current board members, key stakeholders, FAA staff, and others — and learn what I could do to help FAA serve you even better. Your feedback set the bar for what I would aim to achieve, and I think over the past year we've raised that bar together in several ways.

## COMMUNICATION

We're communicating with you on a more timely basis and, whenever possible, customizing e-communications to your needs and preferences.

- During the 2015 Florida legislative session, FAA government affairs director Courtney Barnard sent weekly **Legislative Updates** that included not only movement on specific bills, but an explanation of how each action could affect your day-to-day operations. Call-to-action emails alerted you when your voice could impact critical decisions. *(Many of you responded, with positive results. Read more in our cover story, beginning on Page 10.)*
- **PSC Update** is sent periodically to members of the Product/Service Council, to support those suppliers who provide support to the FAA through commitments of time as well as financially.
- **Leadership Lyceum** candidates receive information to help them on their journey to become tomorrow's leaders of local affiliates and FAA.
- The **eConnect** monthly e-newsletter is undergoing an upgrade that will include a new look and a design that makes it easier to find the association and industry news you need to stay up-to-date between quarterly issues of our magazine. We're giving it a new name that better reflects who we are and what we do. We hope that by the time you read this, the next issue of **Florida APTitudes** has already been delivered to your email inbox.



- Speaking of our magazine, **Multifamily Florida** has been dramatically upgraded to feature nearly 100 percent home-grown content, including news features independently researched and reported by professional business journalists. We'll continue to bring you articles by respected industry experts as well; whenever possible, those will be tailored for our market and our readers.

## EDUCATION

The **2015 Annual Conference & Trade Show** includes 44 percent more offerings than ever before. In addition to dynamic and inspiring keynote speakers, we're bringing you more concurrent sessions so you can tailor your education to your professional needs. We're calling it **FAA University** because it's almost like you can choose your major (plus there'll be lots of campus-style fun).

The **Leadership Lyceum** course has been reworked to include more opportunities to network and problem-solve — skills they'll need as future leaders of FAA and local affiliates. For example, they've discussed board-level legal and fiduciary responsibilities with an attorney and an accountant, and participated in roundtable discussions with past FAA presidents and other industry leaders. The changes were based on feedback from past and present participants, and with 27 students, the program is at capacity — a good sign for the quality of leaders you can expect in the future.

## ADVOCACY

This year, our legislative efforts focused on proactively effecting change, rather than taking a reactive stance. With your help, we determined areas where changes would benefit our industry, our communities, and the state as a whole.



- We built a **platform of priorities**, identified prospective sponsors in the state House and Senate, and followed up on pertinent bills and amendments. We had some immediate successes; others will take more time.
- We joined the **Sadowski Coalition**, a statewide network of 30 organizations supporting a dedicated revenue source for Florida's affordable housing programs.
- We participated in successful national lobbying efforts for the continuation of the Terrorism Risk Insurance Act (TRIA).

(Read more in *FAA Victories*, beginning on Page 11.)

## RECOGNITION

Our ability to advocate *for* you is supported *by* you, via the Apartment Political Action Committee, so we've stepped up our appreciation a notch. Everyone who gives a minimum amount will receive a lapel pin to show with pride the level of APAC support — silver, gold, on up to diamond. We're making sure to count contributions on the local as well as state level, and we're planning special recognition for the largest individual and corporate donors and highest achieving affiliates.

## SERVICE TO AFFILIATES AND MEMBERS

While we appreciate all you do to support your state organization, we've also identified ways we can better support you.

- We've created the **Affiliate Assistance Fund**, which will allow us to strategically allocate resources to areas where they'll have the biggest impact, based on demonstration of need or planned use of funds. Assistance will also be made available to local affiliates to organize, promote, and execute **APAC fund-raising** events.
- We have attended trade shows, golf outings, officer installations, and APAC events at nearly every affiliate — and will have paid at least one visit to each affiliate by year's end.
- We've invested in **new technology** to enable suppliers to select and pay for their exhibit booths and sponsorships in one simple process.
- We plan to launch a **reimagined website** this summer. Navigation will be more user-friendly, and finding resources will be simplified. Invisible to you, the member, but an important part of improving our service to you, will be integration of the new website with WebLink association management software. This will help us identify your interests and needs, so we can develop future products and services to meet them.

With all these improvements, we've outgrown our Maitland office space and will soon be moving to a new location. Watch for more on that in the fall.

In the meantime, if there's any way you think we could serve you better, please email me at Josh@faahq.org. I'm still listening. ▲



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# 2015 LEGISLATIVE SESSION

BY LAUREEN CROWLEY

**FAA Sees  
Wins Despite  
Challenges**





**A**lthough the 2015 Florida legislative session brought plenty of challenges and a fair amount of drama, it also brought several successes to Florida's multifamily housing industry. Some minor bills were passed that will — if signed into law by the governor as expected — benefit the industry. (See **FAA Victories**, this page.) Other priorities of the Florida Apartment Association, however, hit stumbling blocks.

FAA members and staff worked throughout the session to support two main priorities: full funding of the Sadowski Affordable Housing Trust Fund, and expansion of the repairs maintenance workers are permitted to do. These priorities were identified by members at platform meetings late last year.

## MAINTENANCE WORK

The issue of maintenance work took the form of an amendment to the state's building code bill. The amendment would have made certain types of basic repairs to water heaters, air conditioners, and heating/ventilation/air conditioning (HVAC) systems exempt from requiring a licensed contractor, provided the repairs were to be completed by a maintenance worker who has a Certificate for Apartment Maintenance Technicians, or under the supervision of a CAMT worker.

The House of Representatives did approve a building code bill that included the exemption amendment. Before the Senate took up the bill, however, the House abruptly adjourned in late April — just days before the session was scheduled to end — because of disagreements with the Senate about Medicaid funding. Under rules that govern how the legislature operates, the Senate could have passed a building code bill, but only if it were identical to the House version without any changes. Instead, senators opted to postpone action — effectively tabling the bill until the 2016 legislative session.

## AFFORDABLE HOUSING

The funding of the Sadowski Fund — another priority on FAA's platform — was

## FAA Victories

By Courtney Barnard

Although some of the FAA's main legislative priorities had not yet passed by the session's end, there were several positive changes important to Florida's multifamily housing industry. Three bills of interest were sent to the governor to be signed into law.

**Service animals.** HB 071, sponsored by Rep. Jimmie T. Smith, mandates that a service animal be kept under control of its handler and authorizes the removal of an animal from an apartment community if the animal is not under the handler's control, is not housebroken, or poses a serious threat to others. The bill also strengthens the penalties for falsely claiming a pet is a service animal, making the offense a misdemeanor punishable by a fine or community service or both. This bill was signed into law June 1.

**Transient occupants.** SB 656, sponsored by Sen. Jack Latvala, reforms the current process for evicting a transient occupant of a property (an occupant who is not on a lease and is not a permanent resident of the property). The bill would alleviate the need for a court order to remove the transient, and would allow a law enforcement official to eject the occupant immediately on grounds of criminal trespass, as long as the current lease holder or owner filed a sworn affidavit regarding possession of the property. This bill was signed into law on May 18.

**Foreclosures.** HB 779, sponsored by Rep. Mia Jones, creates a state-level solution to the now-expired federal "Protecting Tenants in Foreclosure Bill." The bill requires that a new owner of a recently foreclosed property give tenants a notice to vacate the residence at least 30 days before the purchaser intends to occupy the residence. In situations in which a lease exists and the purchaser does not intend to occupy the residence, the tenant can continue to stay until the end of the lease. This bill continues the practice that a lease supersedes a foreclosure, unless the new owner intends to occupy the property.

FAA was able to help prevent two actions that could have been harmful to the multifamily housing industry.

**Fair housing.** HB 439, sponsored by Rep. Eric Eisnagle, originally included language that would have allowed residents filing a fair housing complaint to seek litigation before using any administrative remedies, putting operators of rental units in a place of greater liability and risk of civil suits. The revised bill was signed into law on May 18.

**Playground equipment.** SB 504, sponsored by Sen. Eleanor Sobel, would have mandated increased playground equipment inspections and would have required apartment communities either to hire a certified playground equipment inspector or to pay for an apartment community staff person to become a certified playground inspector.

*Courtney Barnard is the FAA's government affairs director.*

not fully resolved by the end of the regular session, but at least one troubling possibility was averted. Early on in the session, it appeared that funding would not only be

dramatically reduced in this year's budget but also permanently harmed. A percentage of money collected from real estate document stamp fees is allocated for the

Sadowski Fund. Last year, 75 percent of voters approved Amendment One to the state's constitution, earmarking one-third of doc stamp fees to environmental programs.

Early on in the session, Senate Bill 586 called for determining the affordable housing appropriation after the environmental funding was determined. Instead of allocating 16 percent of the entire doc stamp revenue (after certain fees were paid), the bill would have allocated the housing share *after* 33 percent was allocated to environmental programs — essentially reducing the funding to about 10 percent.

There's always a risk that money earmarked for affordable housing could be swept into the general fund in any given budget year, explained Jaimie Ross, president of the Florida Housing Coalition, but this year saw a larger threat.

"Every year, we deal with appropriations, and we don't want it to sweep," Ross said. "SB 586 would have been institutionalizing a sweep of trust funds." Senate leaders had pledged to make up the shortfall so that affordable housing funding would not be hurt this year, she added, but the

damage would have been done for future appropriations.

FAA members and stakeholders responded to calls for action and urged their senators and representatives to reject the bill unless the method of calculation was changed; the Senate Appropriations Committee amended the bill to allot the full 16 percent to housing funds. "It was an amazingly successful effort," Ross noted.

As was the case with many bills during the 2015 session, the bill was not approved before the session ended. Because it deals with financial appropriations, it was, however, scheduled to be heard during a special budget session beginning June 1. And although the long-term allocation was protected, the risk remained that part of the housing money would be swept into the general fund. Therefore, both the House and Senate versions of the bills that implement Amendment 1 protected the full distribution of doc stamp revenues into the housing trust funds every year.


However, the actual proposed appropriations for housing during Fiscal Year 2015-2016 differed significantly between the proposed Senate and House budgets.

The Senate budget appropriated all available trust fund monies for housing programs — \$256 million. The House budget appropriated only \$121.52 million while sweeping \$150 million from the housing trust funds to general revenue.

The Senate and House will need to resolve this difference during the special session. (Watch for email updates from FAA as the session progresses.)

## FAIR HOUSING

A third priority in the FAA platform was to oppose adding classes that would be protected under fair housing laws. No new protected classes were introduced at the state level during the 2015 session. The state's rental housing industry could, however, be affected by the results of a U.S. Supreme Court case. The court in January heard arguments in a Texas case regarding "disparate impact," which deals with the notion that fair housing should come into play when a group of people is affected to a greater extent than others, even if there is no specific act of discrimination. Supreme Court opinions are usually circulated in May or June, and sometimes as late as July. ▲



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# PROTECT YOUR COMMUNITY

## Keep up with Fair Housing Regulations

BY NADEEN GREEN

**W**e who teach fair housing joke that, given the ever-evolving fair-housing landscape, we will never find ourselves out of a job. But you might find yourself out of a job (and relieved of some of your money and assets, too) if you do not keep up with the evolving trends in fair housing. Here are some areas you might want to brush up on.

### TRANSGENDER PERSONS

Many states, cities, and now the U.S. Department of Housing and Urban Development prohibit gender-identity and transgender discrimination in housing (some examples are California; Hawaii; Illinois; Maine; Minnesota; New Mexico; New Jersey and Rhode Island; as well as Washington, D.C.; Lexington, Ky.; and Boulder, Colo.). These laws are a major civil rights victory for the transgender community, which has often been harassed or denied housing. According to Mara Keisling, who has served as executive director of the National Center for Transgender Equality, “These laws make it possible for transgender people to show that the characteristics that help us transition — focus, courage, and determination — are great assets to [those] who will give us that chance.”

### SMOKING

Today thousands of municipalities in the United States restrict where smoking is allowed, and this sometimes includes apartments. For example, a few years ago,

Calabasas City, Calif., required that 80 percent of apartments be designated as non-smoking. “Unfair,” “discriminatory,” and “unequal treatment” may be the chant of smokers (in their often-raspy voices) and they are right. It might be unfair; it is certainly discriminatory and unequal treatment. But it is not a violation of civil rights or fair housing laws, because smokers do not have standing as a protected class. So smoking restrictions (forbidding smoking, segregating smokers) do not present fair-housing issues. Even if there is no governing ordinance, the trend is likely that smoking will become a cause for eviction under many leases in the future. Quite simply, there is no “right” to smoke.

### CULTURAL CLASHES

Somalis often use floor-to-ceiling drapes, which can affect baseboard heating systems and lead to rotting windowsills. The Hmong cook in a style that generates a lot of steam, which can result in mold in kitchens. The potential existed for these scenarios to have resulted in conflict and possibly a fair housing dispute. But with some open-minded foresight and networking, landlords facing these particular issues were able to resolve them. (Instructing tenants about stove vents and compromising on drapes that stop short just above the baseboards are examples of some solutions.)

When a landlord rents to people of various ethnic and religious backgrounds, there is no requirement that a landlord learn about those people or accommodate their customs or beliefs. But good business and

risk management would suggest that the wise landlord learn enough to make the rental experience manageable for all. So, if a particular population is becoming part of a landlord’s demographic, then a self-initiated dialogue with the appropriate cultural association, organization or religious group just might help dispel myths, resolve misunderstandings, and create residents who clearly understand what it takes to be a successful tenant.

### VICTIMS OF DOMESTIC ABUSE

Many landlords will evict residents if there is a “scene,” if there is damage to the apartment, or if the police are called out to the apartment. And these scenarios often are a breach of the lease. But some case law and now state laws, as well as the federal Violence Against Women Act (VAWA), may mean that an eviction is not an acceptable landlord action. (Owners who participate in certain federal housing programs are prohibited under VAWA from evicting domestic violence victims because of criminal activity committed by a member of the victim’s household.) And some states such as North Carolina and Illinois allow victims of domestic and sexual violence to change the locks on their apartments on an emergency basis and to break their leases if they believe it necessary for their personal safety.

A Denver landlord was sued for not allowing a woman who was raped, beaten, and stabbed by her ex-boyfriend in her apartment to relocate to a different community. While the landlord believed there was no legal



basis for the alleged discrimination claim, the landlord settled for \$60,000. Ponder the words of Kary Moss, who has served as executive director of the ACLU in Michigan (which filed suit against a Detroit landlord for evicting a woman whose ex-boyfriend trashed her apartment while she was not home because this was a failure to “properly supervise guests”): “All too often women are victimized twice — first by an abuser and again by a landlord.”

### PIT BULLS AND ROTTWEILERS

Even landlords who do not ban pets completely at their communities will often ban certain breeds of dogs as part of their pet policies. It is not unusual to find pit bulls, Rottweilers, chows and other “aggressive breeds” (including mixed breeds) on the restricted list. Weight limits for pets will also, by their very definition, often result in these aggressive breeds being excluded, since most are medium to large in size. (Breeders have not yet created

a “toy” pit bull.) As of a 2013 HUD notice, those breeds cannot automatically be rejected as service animals in housing. HUD said: “A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal’s actual conduct — not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused.”

### SOURCE OF INCOME

“Source of income” is an oft-seen state or local protected class. This means that all verifiable income (wages, investment earnings, pensions, alimony, child support, and welfare) is included in the calculation of income to support the rent. And in some areas landlords must accept a Section 8 voucher (and the resident who holds it) if

the resident otherwise qualifies for the housing. “Sorry, we don’t take Section 8,” is no longer a legal statement for some landlords.

Certain landlords continue to discriminate based on race, color, national origin, gender, or religion, or because people have children or disabilities. Various fair-housing protections have become law over time because landlords didn’t want “them,” whoever “them” might be. Some landlords continue to restrict housing and its amenities unfairly, and because some landlords do that, we will continue to have new protections put in place through state, local, and even federal fair housing laws. ▲

*Nadeen Green is senior counsel with For Rent Media Solutions™. This article is not to be considered legal advice, and the author and FRMS strongly recommend that you consult with your own counsel regarding any fair housing questions or problems you may have.*



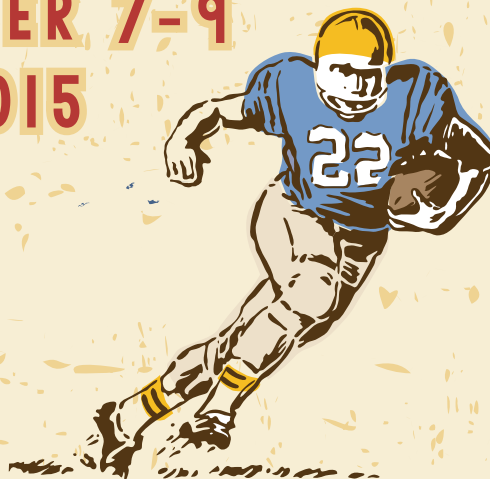
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# The Top 7 ‘Must Know’ Paragraphs PREPARE YOU FOR

BY RYAN R. MCCAIN

If you’ve been in the multifamily housing industry long enough, chances are you may have seen the inside of a courthouse at least once for a landlord-tenant case. Anyone who has ever been on a witness stand can tell you that it can be an extremely nerve-racking experience to testify in any court proceeding.

In the landlord-tenant world, many cases are ultimately decided by the terms and conditions of the lease, in addition to the testimony and evidence of the parties during court proceedings. Therefore, knowing and understanding your lease contract is an essential part of ensuring success in your day-to-day business operations, providing you with the ability to work through issues with your residents on-site, and instilling confidence in your position should you ever find yourself in court for a landlord-tenant case.

The Florida Lease — also known as the FAA Click & Lease — continues to set the standard as one of the most comprehensive residential landlord-tenant lease packages in the state. This article is not intended to be an exhaustive discussion of all provisions of the lease. Instead, it focuses on seven important paragraphs that may help you and your residents avoid lawsuits in the long run, but — if a lawsuit *is* filed — will also help prepare you for the courtroom.

## **Paragraph 6 — Rent and Charges:**

In any action based upon nonpayment of rent, Paragraph 6 will be the first paragraph the judge will review to determine whether the landlord’s notice to pay or vacate is legally sufficient. For example, many tenants will attempt to raise legal defenses asserting that the amount of money demanded on the landlord’s notice includes improper charges that are not defined as rent. Section 83.43 of Florida Statutes defines “rent” as the



periodic payments due the landlord for occupancy, and any other payments as may be designated as rent in the lease. Paragraph 6 of the FAA Lease clearly defines not only the monthly rent, but also late fees and insufficient notice fees as additional rent, which may be included on a notice to pay or vacate. As a caveat, be very careful if your lease includes daily recurring, or per diem, late fees, in addition to the initial late fee (e.g., a provision where an initial late charge of \$75 is assessed on the third of the month, plus a late charge of \$5 per day thereafter until paid in full). In that case, a notice to pay or vacate should only demand late charges up to the date the notice is served. The notice should not demand rent or late fees that may

become due in the future. As long as your notice is legally sufficient (i.e., in accordance with the lease and the law), the language of Paragraph 6 defining rental charges can be used to explain charges to your residents to hopefully avoid a lawsuit in the first place. If a lawsuit is filed, Paragraph 6 is routinely relied upon by the court to establish the validity of your notice.

**Paragraph 15 — Rent Increases and Lease Contract Changes:** This paragraph provides important protections to both landlords and tenants alike, but can also become problematic if not used correctly. Paragraph 15 stipulates that no rent increases or lease changes are permitted *before the initial lease term ends*



# of the FAA Lease to THE COURTROOM



It is essential to know and understand your lease package to effectively **communicate with your residents**, provide consistent directives to **your on-site team**, and be prepared for court **in the event litigation** is necessary.

(unless allowed for in special provisions, an addendum, or an amendment to the lease). However, the paragraph allows the landlord to increase the rental rate to become effective after the lease term ends and the rental continues on a month-to-month basis, as long as the landlord provides the tenant with proper advance written notice of the increased rental rate (typically at least 65 or 35 days before the lease expiration date, depending on the terms of your specific lease). Unfortunately, we routinely see landlords miss these advance notice deadlines in attempting to charge premium rental rates when a lease rolls onto a month-to-month basis. Paragraph 3 of the FAA Lease (not discussed in this article) provides certain alternatives for future notices if this occurs. However, in the event you are in court for an eviction case, a breach of contract case seeking money damages, or a security deposit dispute case involving month-to-month rental charges that are higher than the rental rate specified in Paragraph 6, generally, the judge will immediately look to this paragraph, Paragraph 3, or both, together with the written notices that were served on the tenant to determine whether the landlord strictly complied with the advance notice requirements of the lease. Thus, you must

review the lease very carefully and be sure to strictly comply with its provisions in the event a month-to-month tenancy is created.

**Paragraph 19 — Limitations on Conduct and Paragraph 20 — Prohibited Conduct:** If a resident, occupant, or guest engages in any conduct other than nonpayment of rent, which you believe has violated the terms and conditions of the lease, chances are you may be able to find relevant language in Paragraphs 19 or 20 of the FAA Lease to support your position in taking appropriate action. These paragraphs offer significant protections in assisting landlords, on-site staff, neighboring residents, families, guests, and the entire community in general to equally use and enjoy your community. For example, Paragraphs 19 and 20 prohibit an extensive array of conduct, including, but not limited to, general disturbances of the peace, housekeeping issues, disrupting business operations, tampering with utilities, soliciting business, engaging in certain criminal conduct or any other conduct that may threaten the health, rights, safety, or convenience of other individuals in the community (including on-site staff and employees). Reference to these paragraphs will prove to be very useful in drafting statutory notices to cure or notices to vacate

based upon the above-described conduct. Additionally, relevant provisions of these paragraphs would ultimately be presented to the court should an eviction lawsuit become necessary. Judges, however, have ultimate discretion to decide whether conduct other than nonpayment of rent warrants an eviction and whether the landlord has carried its burden of proof in any particular case. Therefore, it is imperative that you create a well-documented file, which includes evidence, documentation, incident reports, a list of witnesses, police reports, pictures, videos, and any other relevant information or documentation that may assist in convincingly satisfying a landlord's burden of proof in court.

**Paragraphs 26 — Requests, Repairs and Malfunctions and Paragraph 31 — Responsibilities of Owner:** Another common defense asserted by tenants in responding to eviction complaints for nonpayment of rent is a claim of material defects with the premises and/or that the landlord has failed in its obligations to maintain the premises. Under certain circumstances, a tenant may be entitled to withhold rent or terminate the lease early, and without penalty. However, Paragraphs 26 and 31 of the FAA Lease, together with Florida Statutes Sections 83.51, 83.56, and 83.60, govern this issue and provide a framework of protections, rights, duties, and obligations to landlords and tenants. Such provisions require a tenant to: (a) serve the landlord with written notice of any alleged noncompliance, defect, and/or repair or maintenance request to the premises; and (b) provide the landlord with a seven-day time period to cure or correct such issue(s). The same principle applies that requires a landlord to provide a tenant with written notice specifying a violation of the lease or law and to provide the tenant with an opportunity to cure certain noncompliances

(if it is, indeed, a curable noncompliance). In conjunction with the law, Paragraphs 26 and 31 of the FAA Lease could play an integral part in successfully confronting a tenant's defense that the landlord violated its duties to maintain the premises, particularly when the tenant fails to comply with the prerequisite notice requirements. Such a failure results in the tenant waiving his or her right to assert such a defense to any eviction action.

**Paragraph 33 — Miscellaneous:**

Paragraph 33 is one of the more all-encompassing and protective paragraphs in the

entire FAA lease package and has been used and argued successfully in court proceedings on a number of occasions. For example, we have experienced many cases where residents will claim, either during pre-litigation discussions, during mediation, or on the witness stand in court, that a leasing agent, assistant manager, or manager verbally told them to pay rent late, to deduct a portion of their rent because of issues with the unit, not to worry about receiving a statutory notice, that they can terminate their lease early and vacate without penalty,

etc. Paragraph 33 tends to undermine such tactics by providing important disclaimers and protections, including, but not limited to: specifying language that the landlord or its representatives have made no oral promises, representations, or agreements, and have no authority to waive, amend, or terminate the lease unless in writing and signed by all parties; specifying certain non-waiver language; stating that no employee, agent, or management company is personally liable for any of the landlord's contractual, statutory, or other obligations merely by virtue of acting on behalf of the landlord; including an important waiver of jury trial provision; and providing a "force majeure" clause, which essentially releases the parties from liability if the landlord is unable to perform obligations due to certain extraordinary events or circumstances beyond the control of either party (hurricanes, tornados, fires, floods, riots, etc.). As a word of caution, however, no matter how legally sound or carefully worded such language of a lease may appear to be, there is no guarantee that a court will limit itself to considering only the language of the lease, and not consider other evidentiary factors outside of the contract (if the law allows for same) in making a final determination on the merits of a claim.

In sum, the FAA Lease has proven to be an extremely beneficial asset, both in the courtroom and in resolving matters with residents to avoid litigation. It is essential to know and understand your lease package to effectively communicate with your residents, provide consistent directives to your on-site team, and be prepared for court in the event litigation is necessary. Please note that this article includes general information about potential legal issues a landlord or its agent may confront based upon the experiences of the author. It is not intended to be an extensive treatise on all legal issues that can arise in landlord-tenant litigation. Therefore, landlords and their agents should always seek the advice of an attorney to review your specific case or answer your particular questions, since such legal advice will vary on a case-by-case basis depending on the facts and circumstances of each case. ▲

*Ryan McCain is a partner at Barfield, McCain PA and serves as legal counsel for South East Florida Apartment Association.*



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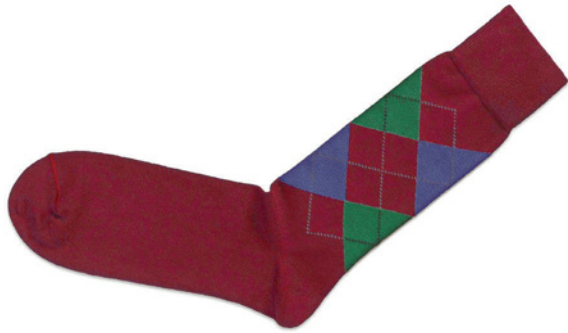
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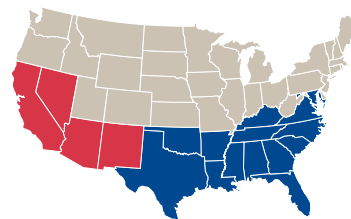
#### Summarized Regional Efficiency Requirements

System Type	North Region	South Region	Southwest Region
Package AC	14 Seer	14 Seer	14 Seer, 11.0 EER
Package HP	14 Seer, 8.0 HSPF	14 Seer, 8.0 HSPF	14 Seer, 8.0 HSPF
Split System AC	13 Seer	14 Seer	14 Seer/12.2 EER ≤ 3.5 tons 14 Seer/11.7 EER ≥ 4 tons
Split System HP	14 Seer, 8.2 HSPF	14 Seer, 8.2 HSPF	14 Seer, 8.2 HSPF

1 North region consists of AK, CO, CT, ID, IL, IN, IA, KS, ME, MA, MI, MN, MO, MT, NE, NH, NJ, NY, ND, OH, OR, PA, RI, SD, UT, VT, WA, WV, WI, and WY.

2 South region consists of AL, AR, DC, DE, FL, GA, HI, KY, LA, MD, MS, NC, OK, SC, TN, TX, and VA.

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# RENTAL PAYMENT History 102

## The more you share, the more you have

BY EMILY CHRISTIANSEN



It's simple. Rental payment history only works if apartment companies share data — and it's easy, because it's automatically sent every 24 hours from property management software to the credit bureau.

“When we started working with rental payment history, one of the things we found — really the key — was that the process of sharing data was very simple,” says Chris Jenkins, vice president of Financial Planning for Chicago-based Equity Residential, which started using rental payment history in 2007. “On the reporting side, we just continue to operate as we normally do — collecting rent, posting payments, processing our daily transactions — not really doing anything different than we would do otherwise. Every night, we transfer all the relevant data to Experian RentBureau directly from our system.”

The best part is that sharing data improves bad-debt recovery, prevents future skips, and offers a credit-history building amenity.

“How can the availability of rental payment data be improved? In a word: more,” Jenkins says. “We’d like to see rental payment data for all our applicants. We think it

has benefits for ourselves, our applicants, our residents, and the industry as a whole. Reporting rental payment data can only be a good thing — not only for ourselves, but for the entire industry.”

When an apartment company reports rental payment history, it can prevent renters who are attempting to skip from getting another apartment until they have satisfied their prior debt. In addition, rental payment history reporting makes renters more aware of the impact bad debt can have on their credit history. That allows apartment companies to recover bad debt more quickly.

Many residents who skip find an apartment before their existing lease is up in order to secure their new apartment prior to the skip showing up on their credit report. Sharing rental payment history allows the other apartment community to identify applicants who already are in a lease agreement and to reject their application. That prevents these residents from skipping.

“We all know that when someone is skipping and they go to rent somewhere else, they almost never include in their application that they are living at the place where they are

skipping from,” Jenkins says. “Using rental payment history really helps us prevent those individuals from re-renting at another community without settling their rental account with us.”

Sharing also gives apartment companies another feature to promote to prospective renters. Many renters know that their positive rental payment history has not been reported to credit reporting agencies in the past. However, doing so can have a significant positive impact on their credit history, making rental payment history reporting an important benefit to those who always pay on time and in full.

“Rental payment history data also gives us a competitive advantage,” says Elizabeth Phillips, regional property manager at HHHunt, based in Blacksburg, Va. “We inform our prospective residents that they can improve their credit score by having good rental history with us. They really like that because the majority of our prospects and residents already have good credit. It’s very important to them to maintain that score or even to increase their credit scores.”

Whether you’re looking to reduce bad debt and skips or increase occupancy, accessing and sharing rental payment history can help you select and encourage the right residents to call your apartment community home. ▲

*Emily Christiansen is the director of marketing for Experian RentBureau. The study can be found at [experian.com/rentbureau/analysis-request.html](http://experian.com/rentbureau/analysis-request.html).*

*Editor’s note: This is the second of two parts. “Rental Payment History 101” appeared in the Spring 2015 issue of Multifamily Florida.*

# Add Your 'Community Quotient' to Your Job Description

BY TRISH HARRIS

**A**s an apartment community manager, it goes without saying that you have a full plate. From marketing and showing available units, to investigating and resolving complaints, to contracting with service providers such as landscaping and security, your diverse day-to-day responsibilities are both demanding and time-consuming. However, when it comes to creating and sustaining an atmosphere that attracts and engages residents, few of your managerial roles are more important than that of building a caring and congenial community.

The ideal apartment community is one in which residents feel included (as much as they want to be), supported (as much as

they need to be), and engaged (as much as they would like to be). Such a community can create richly diverse opportunities for residents to meet and interact with each other, experience engaging camaraderie, and build meaningful friendships.

The benefits of having a true community, however, extend far beyond simply enriching the social lives of the residents. They include:

- Enhancing the sense of security.
- Providing assistance to those in need of physical help.
- Informing residents on topics of interest.
- Communicating about life events that warrant celebration or result in special needs.
- Helping keep the children safe.
- Engaging residents in healthy living.

- Attracting potential residents who value relationships.
- Enriching the lives of all.

## WHERE DO YOU BEGIN?

The good news is that you don't have to do it alone! The opportunities for building community are limited only by your imagination and your ability to involve energetic residents who are dedicated to the concept. Here are just a few ways you can get the ball rolling.

- Conduct a "town hall" meeting to determine interests of residents.
- Choose a passionate and engaging staff member who would like to be the staff representative for building community.
- Create several resident groups that will spearhead programs, initiatives, and events. These groups might include:
  - **Social Time Committee** to plan meet-and-greet gatherings, parties, cook-offs, and happy hours.
  - **Topics of Interest Committee** to explore subjects for study and sharing.
  - **Love the Arts Committee** to engage art-loving residents in activities and local art events.
  - **Green Committee** to start a community garden and explore conservation and recycling ideas.
  - **Charity Involvement Committee** to arrange for apartment community participation in local charities, such as food banks, runs or walks for medical research, Habitat for Humanity, etc.
  - **Welcome Neighbor Committee** to provide informational packets to new residents. Packets should include contact information for all committees.

Ask for a volunteer to maintain a **Greater Community Calendar** for informing residents about local activities in which they might want to participate as a group.





- Determine whether there are residents who would like to participate in regular or recurring special interest groups.
  - Cards and board games
  - Dinner club
  - Book club
  - Other
- Establish a **Facebook** page that can be used to keep residents informed about events, initiatives, and news, such as births, deaths, and special celebrations.

### IT'S A QUALITY OF LIFE ISSUE.

Connecting. Engaging. Communicating. Caring. Community is about all of these warm and fuzzy things. And without it, people can feel isolated, invisible, vulnerable, and even lost.

Being a part of something *in community with others* brings quality and purpose to all of our lives. And when it comes to apartment living — well, isn't that the real reason we refer to our properties as *apartment communities*? ▲

### WHAT'S YOUR CQ (COMMUNITY QUOTIENT)?

This checklist will help you determine your CQ and how you can raise it!

- ☐ I understand the importance of "community" in apartment living.
- ☐ I consider building community an integral part of my responsibilities as apartment manager.
- ☐ I invite and welcome residents to share their ideas for enhancing the sense of community at my apartments.
- ☐ When I show potential residents around, I always make sure to talk about what a close-knit community we are.
- ☐ I am excited about the many opportunities that exist for building community at my apartments.
- ☐ I try to come up with ways for my residents with similar interests to find out about each other.
- ☐ My apartment community has a broad range of activities that involve and engage residents and bring them together.
- ☐ I have implemented programs designed to enhance the community atmosphere at my apartments.
- ☐ I see it as part of my role to address the social, emotional, physical, educational, and spiritual well-being of my residents.
- ☐ I have engaged residents to help design and develop ways for them to get to know each other.

#### SCORING (number of checks):

9-10: Congratulations! You are a community-savvy apartment manager!

7-8: Nice going! You're on your way.

0-6: Definitely room for improvement. Now is the time to start thinking "community."



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# Spyglass Offers Contemporary HOMES IN A LUSH LANDSCAPE

BY MARY LOU JAY

**W**ith the opening of the Spyglass community on May 1, Fort Family Investments has introduced chic California contemporary design to a 252-apartment rental community in the Southside area of Jacksonville.

Spyglass' main four-story building features a spacious, modern lobby with high ceilings, sunny yellow walls, and gray ceilings, floor, and trim.

"It feels like you're walking into a distinguished club or hotel," said Jody Mayor, the company's director of property management. The color scheme continues through the common areas, such as the Gather and Go Internet hot spot, where residents can enjoy a chat and check their email using a WiFi connection on one of four computers.

The building's fitness center has separate rooms for all types of modern training: cardio, circuit weight, TRX (total body suspension) — even a yoga room with a ballet barre. There's a bronzing room with a tanning bed and a golf simulator for residents looking for some extra practice on the greens.

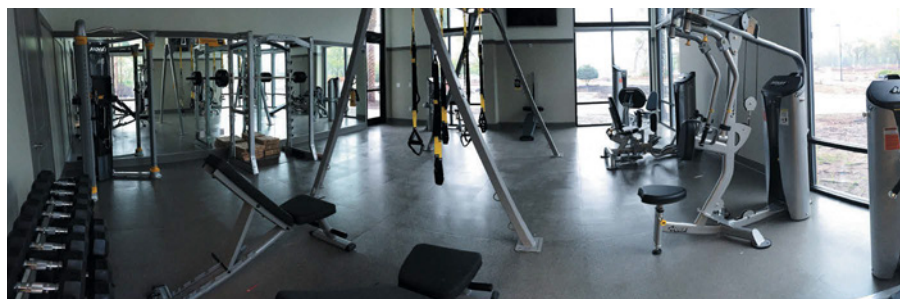
The resort-style, beach-entry pool just off the lobby is the community centerpiece. Long and sleek, surrounded by a white concrete deck, the pool has four cut-out areas with large, floating cushions. "The pool is like something that you would see in a runway show; it's a wow factor for our residents and our guests," Mayor said. "You know you're in a Fort Family community when you see luxurious pools and palm trees — the big, luxurious jewel, queen, and canary palms," she added. A poolside party pavilion offers a summer kitchen with grills, smokers, a serving bar, a flat screen

TV, and a fireside lounge — everything residents need to relax.

## MODERN FEATURES

The Spyglass community, which will be completed by the end of July, is located conveniently close to St. Johns Town Center and its variety of shopping, entertainment, and dining venues. The apartments are less than a mile from I-295 and close to Deerwood Business Park, where more than 15,000 people work.

People interested in convenient living will find 216 studios and one-, two-, and three-bedroom apartments inside the main building at Spyglass, and 36 separate bungalows and townhomes on the grounds. All are contemporary style, with high ceilings, white walls, gray accents, and gray vinyl plank flooring and carpeting. Large windows and luxurious, floor-to-ceiling French doors







that open onto balconies bring in abundant natural light. (The town homes and bungalows have screened-in-patios.)

Spyglass' modern kitchens feature espresso cabinetry, brushed nickel finishes and lighting, islands with pendant lighting, stainless steel appliances, and white recycled glass countertops that sparkle in the light. Other amenities include wall-mounted, swivel, flat-screen TVs, full-size washer and dryer, and walk-in closets.

"Everything looks clean and modern and rich," Mayor said.

Spyglass offers more than a dozen floor plans. The small studio apartment is only 530 square feet, but does include a separate bedroom without a door. One-bedroom homes range in size from 665 square feet to 811 square feet; two-bedroom homes from 1,001 to 1,311 square feet; and three-bedroom homes from 1,259 square feet to 1,387 square feet.

"Our three-bedroom home has expansive city windows; when you walk in, two walls of the living room are floor-to-ceiling glass," Mayor said.

A "mingle room" on each floor gives residents a chance to socialize in a common lounge area complete with WiFi, TVs and video games.

For an extra fee, residents can park in the controlled access underground garage. Bungalows and townhomes, which sit above the parking, have their own separate garages. There's also plenty of free street-level parking.

## SHARED AMENITIES

Pets — even large dogs — are welcome at the Spyglass community. To ensure that pet owners act responsibly, Spyglass uses

the PooPrints program, which stores DNA information from each pet. If an owner neglects to clean up a mess, the management sends a sample to PooPrints, which then identifies the animal. The owner of the animal then pays a hefty fine. "It really helps to keep the property clean," Mayor said.

Dog owners who want to give their pets an opportunity to run can pay a small fee to join the priority club program. This allows them to take advantage of the PAWS-itively dog play park and other amenities at two nearby Fort Family communities, Hacienda Club and Cabana Club. Both are within easy walking distance.

"The Hacienda Club has a game room with classic arcade games and the Cabana Club has a pool with lap lanes for someone

who wants to swim for exercise," Mayor said. "It provides our residents with a bigger amenity package."

When one community holds an event — such as the popular weekly visits from a food truck — residents of other communities are welcome to attend, too. "Wine Down Wednesday" and "Yappy Hour" at the dog park are two popular events for residents of all the communities.

It's all part of the personalized service at Spyglass and the other Fort Family properties, Mayor said. "We are locally owned and managed, so when a resident or a prospect comes into our office they are not a number. We know them by name, and they know when they walk into the office they will see the same familiar faces." ▲



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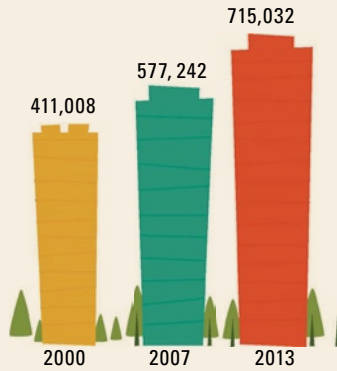
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# Affordable Housing

Florida has a critical and increasing need for housing its low-income seniors, veterans, persons with disabilities, and hard-working families. We live in a growth state, now with the third largest population in the country and largely dependent upon a low-paid workforce to support our tourism- and agriculture-based economy. *Source: Florida Housing Coalition Advocacy Webinar*



## COST-BURDENED RENTER HOUSEHOLDS

Florida's affordable housing gap grew throughout both the housing boom of the early 2000s and the economic stresses of recent years. In 2000, there were 411,008 low-income, cost-burdened renter households in Florida.

This number increased to 577,242 in 2007 and to 715,032 in 2013.

This represents a 24 percent increase in households in need just from 2007 to 2013, even though the total number of households in the state grew by less than 2 percent.

*Source: Florida's Affordable Rental Housing Needs: An Update, Prepared by the Shimberg Center for Housing Studies, University of Florida*

## FAMILIES AT RISK

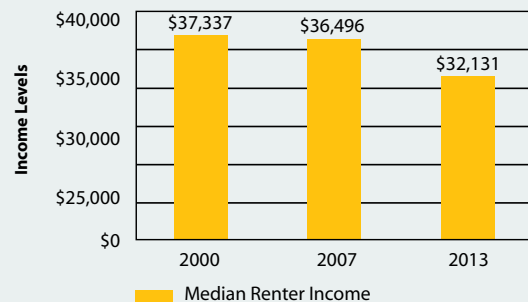
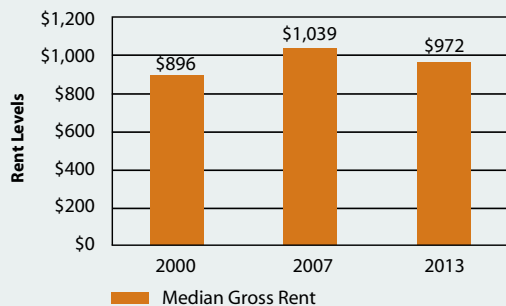
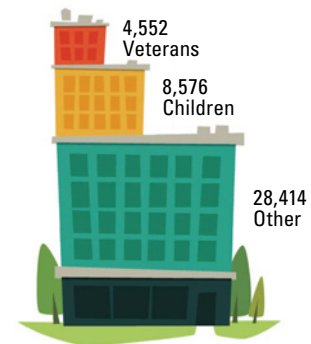
There are more than 920,000 very low income families (earning less than half the median income) who are severely cost-burdened (paying more than half of their income for housing). These families are one missed paycheck away from homelessness.

*Source: 2015 Home Matters Report for Florida*

## HOMELESSNESS IN FLORIDA

Florida currently has the third largest homeless population in the nation, including 41,542 people living in homeless shelter and on the streets. This includes 4,552 veterans and 8,579 children. These numbers do not include people who are doubled up with family or friends, or living in hotels/motels.

*Source: Florida Housing Coalition Advocacy Webinar*



## RENT-TO-INCOME RATIOS

Rents increased substantially through the housing boom years of 2000-2007, with the median rent rising from \$896 to \$1,039 (all figures in 2013 dollars). Median rent then fell to \$972 in 2013, but renter incomes also dropped. The median renter income fell from \$36,000-\$37,000 in the 2000-2007 period to just over \$32,000 in 2013. As a result, the share of median income that would be needed to pay the median rent rose from 29 percent in 2000 to 34 percent in 2007 and 36 percent in 2013. *Source: Florida's Affordable Rental Housing Needs: An Update, Prepared by the Shimberg Center for Housing Studies, University of Florida*

For more about affordable housing in Florida, please see our cover story, Page 10.

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