

A Curiously Busy August

By Tommy Herbert, VAMA Manager of Government Affairs

August is typically a sweaty, slow-moving affair here in Virginia, to wind down the summer and give us time to mourn the coming of school (or celebrate it for parents!) and the shortening of the days. Not so for your intrepid team at the Virginia Apartment Management Association! From Southwest Virginia to the Supreme Court of the United States, there have been a slew of notable developments for Virginia apartment community operators.

VAMA staff were lucky this month, for example, to sit down with a distinguished panel of experts for a members-only informational session on the legalization of marijuana. It was an eye-opening pair of presentations from our two experts, and a really useful Q&A session that you and your staff should have a look at as we navigate Virginia's new status as a recreational marijuana commonwealth. Topics covered run the gamut, from reasonable accommodations to lease provisions to smoke-free communities, and Drew Hamrick of the Apartment Association of Metro Denver and Karen Cohen of Virginia consulting firm Gentry Locke, our experts, had some keen insights to offer. [If you missed it, make sure to watch the recording.](#)

We were also lucky to host our congressional leadership and give Representative Ben Cline (VA-06) an in-depth look at the running of an apartment community. Rep. Cline joined VAMA members Rich McGimsey and Matt Clark at The River House Apartments in Roanoke for some educational recreation this August during the Congressional "August Recess." We were also able to sit down with Rep. Cline briefly to discuss our issues with the since-defunct eviction moratorium issued by the United States Centers for Disease Control and Prevention (CDC) that was laid down in 2020 and extended multiple times.



That unconstitutional act itself does deserve a eulogy, as it was determined swiftly upon its return to the Supreme Court of the United States again to be unlawful. It had, of course, been made clear when the moratorium stood before the Court originally that the CDC never had the authority to impose the rule under the Administrative Process Act as they had claimed. Because

of administrative and bureaucratic realities of the case, SCOTUS mistakenly turned a blind eye in the hopes that it would be allowed to die a quiet death. It was not to be. Through multiple Presidential Administrations, through multiple years of the pandemic, VAMA and the National Apartment Association (NAA) had continued to maintain opposition to it. NAA, in fact, is leading a federal lawsuit, which is the first of its kind in requesting damages. They are looking for plaintiffs on the matter, [and you can learn more about that here](#).

In Virginia, now that the CDC moratorium has been struck down, effectively the only people who are made vulnerable to eviction are those who had been using the CDC declaration in bad faith. Part of that declaration was a certification that the declarer was using best efforts to apply for rent relief. Virginia's own temporary pandemic eviction protections already required this for all nonpayment cases, and the Virginia Rent Relief Program pays to bring those residents current at a pace that leads the nation. As we have continued to do throughout this pandemic, Virginia's apartment operators are working with every resident that they can to avoid unnecessary evictions and keep affected folks in their homes.

I'm reminded of an old one-liner that used to pop up often in election years. "What a difference one hundred miles makes." I have heard it from hopeful future legislators all over the Commonwealth and on both sides of the aisle. The one hundred miles they were referring to were those separating Richmond, Virginia from Washington, DC. The difference was the supposed style and substance of legislating between Congress and the General Assembly. At least in this one sense, the old zinger rings true.