



Apartment Association of Southeastern Wisconsin

Advocating for Sustainable Rental Housing

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2023 Economic and Market Update

Monday, February 20, 2023

- 5:30pm - Registration and Check In
- 6:00pm - Presentation

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Gard Pecor, Senior Market Analyst

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AASEW Mission Statement:

"The Apartment Association of Southeastern Wisconsin is your primary resource for education, mutual support and legislative advocacy for the successful ownership and management of the rental property."

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Nationwide Rent Control?

You're probably seen the headlines in the news recently about the prospect of the Biden administration instituting nationwide rent control.

In late January 2023, the White House released a blueprint for a "Renters Bill of Rights" that lists a wide range of actions federal agencies are taking or considering to "strengthen tenant protections and encourage rental affordability."

[To read the entire act from the White House, click here.](#)

Some excerpts:

- The U.S. Department of Housing and Urban Development will publish a notice of proposed rulemaking that would require public housing authorities and owners of project-based rental assistance properties to provide at least 30 days' advance notice before terminating a lease due to nonpayment of rent.
- HUD will award \$20 million for the Eviction Protection Grant Program in fiscal year 2023, which will fund non-profits and governmental entities to provide legal assistance to low-income tenants at risk of or subject to eviction.
- Wisconsin Housing and Economic Development Authority (WHEDA) and Pennsylvania Housing Finance Agency (PHFA) have capped annual rental increases to 5 percent per year for federally or state subsidized affordable housing. Beginning in 2023, WHEDA policy applies to existing residents in properties utilizing state or federal Low-Income Housing Tax Credits.
- If an eviction is filed, tenants should be given 30 days' notice of an eviction action and the right to counsel during an eviction proceeding.

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- The eviction proceedings should be fair and provide: protection from extrajudicial evictions and lockouts; a hearing in a language the tenant understands or with qualified interpreters; a trained, competent, and independent hearing officer; due process protections, including a written record and the ability to present evidence, cross examine, and conduct discovery; and the ability for a tenant to appeal an eviction judgment without bond requirements.
- Eviction case filings should immediately be sealed, including in cases of nonpayment of rent, thereby reducing the chance for people to be locked out of future housing opportunities without a chance to defend themselves.

What does all this mean?

The announcement doesn't commit the Biden administration or the FHFA to actually enacting rent control. But it does say that the independent agency will "launch a process" to consider it.

The National Multifamily Housing Council (NMHC) has issued a statement dated January 25, 2023:

Our organizations agree that the U.S. faces a serious housing affordability crisis. And while the Administration has correctly made addressing this crisis a priority, we are disappointed that today's release is solely focused on renter protections, creating potentially duplicative and onerous federal regulations that interfere with state and local laws meant to govern the housing provider and resident relationship.

Unfortunately, this effort does nothing to address the underlying cause of the housing affordability crisis.

The U.S. needs to build more housing, of all types and at all price points. We urge the Administration to prioritize the Housing Supply Action plan it issued last year.

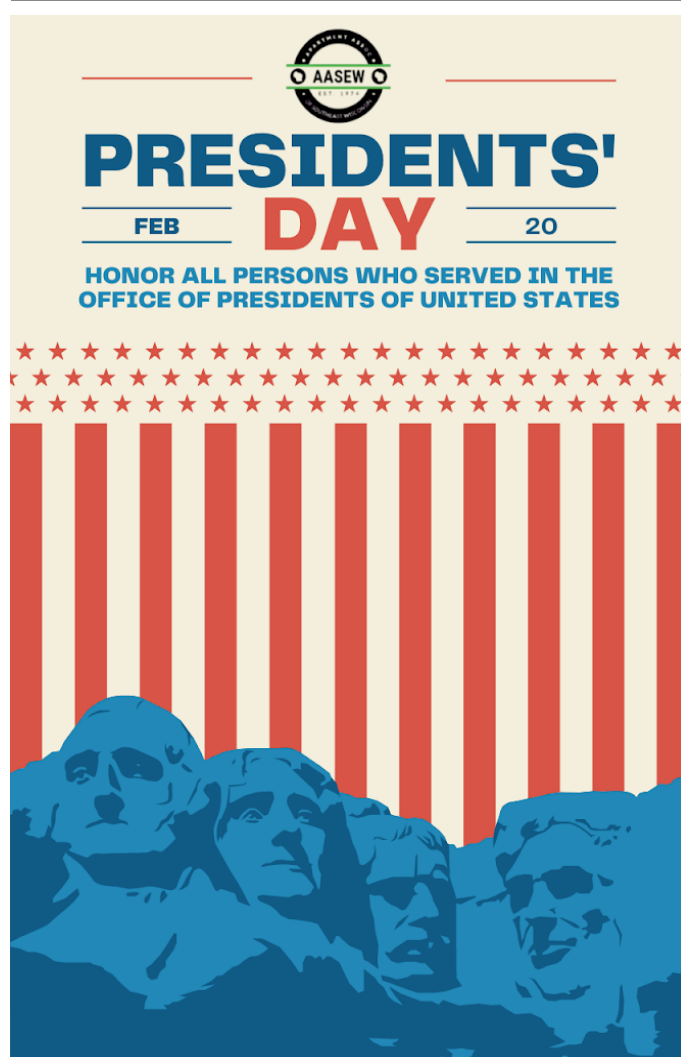
We agree with President Biden's own words when he released that plan: "The best thing we can do to ease the burden of housing costs is to boost the supply of quality housing."

The competitive and professionally managed apartment industry is, by definition, resident-centered. There is no rental housing industry without our residents.

We reiterate the message we conveyed in both meetings with and letters sent to the Administration in July and December of last year—removing obstacles to new housing production should be the Administration's priority.

The coalition members include:

- CCIM Institute
- Council for Affordable and Rural Housing
- Institute of Real Estate Management
- Manufactured Housing Institute
- Mortgage Bankers Association
- National Affordable Housing Management Association
- National Apartment Association
- National Association of Home Builders
- National Association of Housing Cooperatives
- National Association of REALTORS®
- National Leased Housing Association
- National Multifamily Housing Council



Rent Control: Policy Issue



Overview

Rent regulation policies (also known as rent stabilization, rent freeze, price-gouging and/or more commonly, rent control) are government-enforced price control measures limiting the rents that property owners may charge in market rate rental housing.

Rent regulations mandate an artificial cap on rent, or in the case of "Cancel Rent" initiatives prevent the collection of rents during emergencies like COVID-19, without monetary investment or compensation by the governing jurisdiction.

Rent controls distort the housing market by deterring or discouraging the development of rental housing and investment in maintenance and rehabilitation. With little to no ability to earn a profit, investors will shift their investments to other non-rent regulated jurisdictions.

In practice, these policies have the effect of increasing the cost of all housing by forcing a growing community to compete for fewer housing units, and reducing the quality of rental housing.

As an Owner or Operator, How Does this Affect My Business?

Currently, 31 states preempt local governments from adopting rent regulation laws while California, the District of Columbia, Maine, Maryland, Minnesota, New Jersey, New York, and Oregon have rent control policies in place at the state or local level.

However, as housing instability and tenant displacement concerns gain more attention, local governments are increasingly pushing back on preemption laws and considering adoption of these restrictions.

While each jurisdiction's rent control regime is slightly different, their laws and regulatory frameworks often perform similar functions. With taxpayer funding, they establish a local rent board to administer the program and regulate enforcement.

They govern the amount and frequency of rent increases, require an approval process for special assessments to cover repairs or major capital improvements, and allow for decontrol of a rent-regulated unit upon vacancy or exceptions for new construction.

Also, rent control policies are often coupled with just cause eviction measures or other restrictions that severely limit the ability of an owner to manage rental communities effectively.

Link:

- [National Apartment Association Rent Control Fact Sheet \(PDF\)](#)

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Review Your Rents Now



By Tim Ballering, AASEW Board Member

Most recent rent control measures use the day of the introduction of the bill as the baseline rent.

Owners would be wise to review their rents now.

If you are being generous to that good renter who has been with you a decade and pays far less than market rent, not only will you be stuck at low rent even after they move, but your building will be worth less when you decide to sell as the new buyer will also be held to the same cap.

"There is no force in the universe more powerful than compound interest," — attributed to Albert Einstein

If you're renting a unit for \$900 and the neighboring house is at \$1,000 today, you have a \$100 difference. But that difference grows.

Let's say the government is generous and allows 4% per year increases. After ten years, the \$900 rent becomes \$1,332, while the \$1000 rent is \$1,480, a difference of \$148, perhaps long after the renter you were being generous to has moved. Your property would also be devalued compared to that adjoining property due to the lower allowable rent.

If the inflation rate continues at 6.5% and the government allows that generous 4% rent increase, your \$1000 rent in ten years is \$776.33 in today's dollars. The \$900 is worth 698.70 in today's dollars.

I'm certain many properties would fail or fall into serious disrepair well before they hit the \$200-a-unit-a-month haircut.



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Economists' Conclusions on Rent Control



By Dawn Anastasi, AASEW Board Member

There is an article from October 2018 from Brookings that has been cited a number of times regarding rent control.

The article is titled, "What does economic evidence tell us about the effects of rent control?" and [can be found here](#).

The key takeaway from this article can be found in the last few sentences:

Rent control appears to help affordability in the short run for current tenants, but in the long-run decreases affordability, fuels gentrification, and creates negative externalities on the surrounding neighborhood.

These results highlight that forcing landlords to provide insurance to tenants against rent increases can ultimately be counterproductive. If society desires to provide social insurance against rent increases, it may be less distortionary to offer this subsidy in the form of a government subsidy or tax credit.

This would remove landlords' incentives to decrease the housing supply and could provide households with the insurance they desire. A point of future research would be to design an optimal social insurance program to insure renters against large rent increases.

In summary, rent control does not help in the long term. However, it's a buzz word that sounds good to people who are paying rent and don't want to have their rent increased, even though costs are increasing for rental property owners.



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Six Benefits Of Exchanging Into Delaware Statutory Trust Properties

By Dwight Kay, founder and CEO of Kay Properties & Investments



There are a number of potential benefits associated with exchanging into a Delaware Statutory Trust (DST) 1031 property.

However, it is important to note that these potential benefits should also always be carefully weighed with the potential risks that are possible with DST investments, and as with all real estate investments, investors should consult their tax attorney and or Certified Public Account before investing in DSTs.

Still, DSTs continue to grow in popularity, especially among aging baby boomers who are tired of managing their own properties and are looking for a way to transition into a passive income stream. DST investments not only provide investors the potential for passive income but also the following six benefits as well.

1. Tax Deferral Using the 1031 Exchange

Many real estate investors have wanted to sell their rentals and commercial properties for years but haven't been able to find a property to exchange into and just can't stomach the tax bill after adding up federal capital gains tax, state capital gains tax, depreciation recapture tax, and the Medicare surtax.

The DST 1031 property solution provides investors the ability to move from an active to a passive role of real estate ownership on a tax-deferred basis.

2. Eliminating the Headaches of Property Management

Because many DST investors are at or near retirement, they are simply tired of the hassles that real estate ownership and management often bring. They are tired of the tenants, toilets, and trash and want to move away from actively managing properties.

The DST 1031 property provides a passive ownership structure, allowing them to enjoy retirement, grandkids, travel, and leisure, as well as to focus on other things that they are more passionate about instead of property management headaches.

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*All data as of 12/31/2021. \$11B represents PGIM Real Estate's U.S. multifamily production.

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3. Increased Cash Flow Potential

Many investors are receiving a lower amount of cash flow on their current properties than they could be due to their properties having under-market rents, vacancies, or vacant land sitting idle. DST 1031 exchange properties provide an opportunity for investors to potentially increase their cash flow via a tax-deferred 1031 exchange.

4. Portfolio Diversification

Often, 1031 investors are selling a property that comprises a substantial amount of their net worth. They want to reduce their potential risk, and instead of buying one property (such as another apartment building) or one NNN building (such as a Walgreens pharmacy or Taco Bell restaurant), they decided that investing in a diversified portfolio of DST 1031 properties with multiple locations, asset classes (property types), and tenants is a better fit for their goals and objectives.

This is similar to how investors tend to invest retirement funds in mutual funds and Exchange Traded Funds (ETFs), as opposed to placing their entire retirement savings into the stock of one particular company. However, it is important to note that there are no assurances that diversification will produce profits or guarantees against loss.

5. Locked-In Non-Recourse Financing

One of the requirements for a 1031 exchange is to take on "equal or greater debt" in the replacement property to what you had in the relinquished property (the property you are selling).

In today's lending environment, it is often hard for investors to obtain non-recourse financing at an acceptable interest rate and terms. Due to the DST 1031 properties' sponsors typically having strong lending relationships, they are able to secure non-recourse financing at some of the best terms available in the marketplace.

The DST 1031 investors are the direct recipient of these financing terms that they would otherwise often not be able to obtain on their own.

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6. Access to Institutional-Grade Real Estate

DST 1031 properties provide access to large, institutional-grade real estate that is often otherwise outside of an individual investor's price point.

With the typical minimum investment of \$100,000, investors are still able to purchase an ownership interest in large \$20 million-plus apartment communities, \$5 million-plus pharmacies, or \$15 million grocery stores, for example. This allows investors access to a level of real estate that they just would not have been able to exchange into before.

That being said, we also have had many clients with very large 1031 exchanges opt to invest in DST 1031 properties because they did not want to place "all their eggs into one basket" by purchasing one single, large investment property.

Dwight Kay is the founder and CEO of Kay Properties & Investments, one of the nation's leading 1031 exchange and Delaware Statutory Trust real estate investment specialty firms in the United States.

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- Ad space for more than one run must be purchased in blocks of 6 or 12 consecutive runs, and must be paid in full to receive block prices.

AASEW Legislative Report



By Heiner Giese, AASEW Legal Counsel

I. Local News

First, an important correction to my January report: I had said that Emergency Rent Assistance funds were likely to run out this spring but Connor Goggans of Milwaukee County Housing Division advises that funds should be available through summer. Here is his info on the situation:

SDC/City of Milwaukee and Community Advocates/County of Milwaukee have enough ERA 2 to last thru at least most of the summer, and it is very possible County will last a bit longer than that.

Further, despite ERA, Milwaukee County will always maintain our own Eviction Prevention Program for those with rent assistance.

Of course, this is not enough, as it does not serve most renters in Milwaukee County without rent assistance...but for landlords with rent assistance households, eviction prevention financial assistance will remain an option through that program.

This will be paired with our long-awaited landlord engagement programming and financial incentives that will finally get off the ground this year (we were able to see that we hire dedicated staff for landlord engagement again this year, but are scaling the effort and have a framework for a team, instead of just one person).

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Second, the City's ZND Committee (Zoning, Neighborhoods, and Development) has again delayed any action on a proposed ordinance to require all rental properties to carry insurance.

I appeared at a hearing on January 31 to point out the flaws in this proposal. The Dept. of Neighborhood Services had reservations because of administrative costs.

Another drawback for the City is that Milwaukee would have to purchase insurance coverage for the approximately 300 rental units (non public housing) which it owns and manages.

Third, DNS (Department of Neighborhood Services) Commissioner Erica Roberts presented the outline of a pilot program to do targeted inspections for substantial health or safety issues in rentals in sub-neighborhoods of the 53206 zip code.

This would be legal if the inspections are limited but the cost of \$400,000 to hire two inspectors and clerical help could not be charged to owners. However, some money could be raised from noncompliance fees.

Fourth, the meetings with the County Court's eviction diversion liaisons are starting up again in February. We are looking at ways to promote early mediation.

II. State Scene

Gov. Evers will surely have a number of housing provisions in his budget proposal being announced mid-February. The Republican leadership in the Assembly and Senate is seeking input from owners and tenant advocates on issues which might get bipartisan support. We'll keep you advised of these developments.

III. National Scene

The big news was The White House Blueprint for a Renters Bill of Rights announced in late January. [A fact sheet can be found here](#). It sets forth five "Principles":

- Safe, Quality, Accessible, and Affordable Housing
- Clear and Fair Leases
- Education, Enforcement, and Enhancement of Renter Rights: Federal, state, and local governments should do all they can to ensure renters know their rights and to protect renters from unlawful discrimination and exclusion.

- The Right to Organize: Renters should have the freedom to organize.
- Eviction Prevention, Diversion, and Relief: Renters should be able to access resources that help them avoid eviction, ensure the legal process during an eviction proceeding is fair, and avoid future housing instability.

Various federal agencies such as Consumer Protection or the FTC will study and "promote renter protections" and set "limits on egregious rent increases."

On the topic of evictions they propose that 30 days notice should be given for nonpayment and that "eviction case filings should immediately be sealed." Tenants should have the right to counsel in all evictions. HUD is already awarding \$20M in 2023 for that purpose.

Bill to Increase Low-Income Housing Tax Credits

docs.legis.wisconsin.gov/raw/proposal/2023/-1587

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Housing and Economic Development Authority administers a low-income housing tax credit program.

Under that program, a person may claim as a credit against the person's income or franchise tax liability, or against the person's liability for fees imposed on an insurer, the amount allocated by WHEDA in an "allocation certificate" for a qualified low-income housing project.

The annual amount of tax credits WHEDA certifies under the program may not exceed \$42,000,000. The bill increases that annual cap to \$100,000,000.

The bill also requires that WHEDA, if possible, ensure that at least 35 percent of the tax credits it allocates each year under the program are for qualified low-income housing projects in rural areas in Wisconsin and removes the requirement that a qualified low-income housing project be financed with tax-exempt bonds.

Finally, the bill makes a technical change to the credit for insurers so that an insurer who is a shareholder of a tax-option corporation, a partner of a partnership, or a member of a limited liability company may claim the credit.

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Article Guidelines**

Would you like to submit an article for publication in the AASEW newsletter?

Here are the current submission guidelines:

Deadline for all submissions is the first of each month. The newsletter will be delivered electronically to the membership around the 10th of the month.

Limited print copies of the newsletter may be available at the General Membership Meeting following its publication.

We are happy to accept one article per author per newsletter. Please keep the article to approximately 500 words in length.

Any edits made to an article (generally for length) will be approved by the contributor before it is published.

All articles must be properly attributed.

The Editorial Staff reserves the right to select articles that serve the membership, are timely, and are appropriate.

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Using a Roth IRA to House Homeless Veterans and Refugees



John of Indianapolis has built a large portfolio of multi-family housing, much of it held in his Roth IRA. In the last 10 years, he has been housing homeless veterans in Indianapolis in properties he owns in his Equity Trust Roth IRA.

One of his most recent investments was a two-bedroom house that he acquired through a bank-owned auction. It was a two-bedroom, one-bath property on a quarter acre.

John's IRA bought the house for around \$60,000 and spent about \$17,000 in repairs, including a new furnace, flooring, paint, roof repair, and fence repair.

"We went back to our partner, HVAF (Helping Veterans and Families) and said, 'We've got this great house in a great neighborhood. Who do you have? Who are you looking to house?' And we were able to find a father and a son, the son had severe autism and they needed a safe environment. This had a fenced in backyard that we were able to get this veteran in. He did have a Section 8 voucher. And so actually we passed a Section 8 inspection, no problem. And they've lived there for quite a while now."

Widening his outreach

In October 2021, after the collapse of Afghanistan and the Taliban taking over, there were approximately 100,000 refugees looking for housing in the United States.

"Some of the same partners we had worked with (in veterans groups) had transitioned over to the refugee community and they called and said, 'Hey John, what apartment units you have? What houses? We have a lot of individuals, one and twosies, that need housing.'

"And so we started working with them and to date, we're probably at about 30, 35 individuals in house, from Afghanistan," John says. "Beyond that, we've connected these agencies with primarily 30 or 40 houses for other refugees to live in."

Starting small

While John's large portfolio of housing and network may seem intimidating to some, he says it wasn't always like this.

"I started like a lot of people, with a very small Roth IRA and I had to build it," he explains. "We found inexpensive opportunities, single family houses, some land, that we could quickly turn. You take \$20,000, you invest it, you rehab a house. With another 30, you profit 15 and you just keep growing it. And so we did that, I did that for quite a while. And then eventually we started finding apartment deals that we could tackle. Sometimes we tackled them by paying cash. Other times we would do a seller carryback. Occasionally we brought in a third party, non-recourse lender. And so now, that's pretty much all we buy are apartment buildings."

How he discovered the power of the self-directed IRA

John learned "the hard way" about the benefits of investing through a Roth IRA.

"It started with a \$6,000 loan. A friend did \$3,000, I did \$3,000, and at the end of the loan, we made about 15 percent on the \$3,000. At the end of the loan, he said, 'Enjoy paying tax on your proceeds.'

I said, 'What? How do you not pay tax?'

"And what he had done? He had used his Equity Trust self-directed IRA to contribute his \$3,000 as part of this deal. And I used cash because I didn't know any better. And it opened my eyes pretty quick. And this individual does larger real estate deals as well. At the time I had no clue that he used a self-directed IRA to do it. I'm very grateful I learned that."

Solid foundation

John already has a solid start toward a worry-free financial future.

"I've got a long way to go until I plan to retire, until I can use this money," says John, who recently turned 40. "But because of what I've been able to do within the Roth, I don't have to worry about any of that either. As long as we keep doing what we're doing, which I plan to, someday I'll be on that sailboat right there (points to a photograph behind him of a sailboat)."

John's advice to those who are hesitant to get started with a self-directed IRA: just take that first step.

Rental Property News from Around the Country



By Dawn Anastasi, AASEW Board Member

Washington D.C. -- The Urban Institute issued a 50-page paper titled "A Collaborative Framework for Eviction Prevention in DC". The overall goal of the Co-Leaders Group is to establish a cross-sector collaborative approach to prevent eviction and displacement of tenants in DC with low incomes and stabilize their housing for the future.

This framework is designed to ensure that:

- tenants will be educated about their rights under DC law and the services and public benefits available;
- tenants at risk of eviction will be connected to housing counselors, case managers, legal services providers, and social workers, as well as housing organizers for building-wide issues such as poor living conditions and displacement;
- tenants at risk of eviction for nonpayment of rent will have access to emergency rental assistance and other financial support, including public benefits, tax assistance, and employment enhancement services;
- tenants with vouchers or other housing subsidies will be able to retain them; and
- tenants facing or at risk of eviction will have access to legal services for evictions and other housing-related and economic security issues.

When you look at who was invited to participate, the only owner representatives were AOMA and the DC Housing Authority.

Continued on page 17

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Continued from page 16

Connecticut -- State officials have launched the "UniteCT Eviction Prevention Fund" which is a fund to assist tenants in preventing evictions. The \$12.5 million fund will offer \$5,000 per household to those tenants who already have evictions filed against them and cover back rent to April 1, 2020. Tenants are only eligible if they earn up to 80% of the area median income.

Connecticut had already spent its initial \$400 million from the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act, however the U.S. Department of the Treasury has been re-allocating rental assistance funds from states that hadn't spent all the money.

Pennsylvania -- The city of Philadelphia has created a Targeted Financial Assistance (TFA) component of the City's existing Eviction Diversion Program. In Philadelphia, a landlord is required to go through the Eviction Diversion Program before they can file an eviction in court.

The TFA has received \$30 million in funding. Participants can apply to receive a one-time payment from the city, paid directly to the landlord, to cover a tenant's rent arrears plus one month's rent.

New York -- The New York City Housing Authority collected only 65% of the rent it charged in the 12 months leading up to December 2022. New York City has one of the oldest and largest public housing systems. However, without receiving funds, the agency will no longer be able to keep up on needed repairs and handle emergencies. The shortfall is estimated at approximately \$500,000,000.

New York's mayor, Eric Adams, is proposing to place the city's housing developments under private management.

Rhode Island -- A landlord was recently shot and killed while attempting to evict one of the tenants living in her home. The suspect was waiting inside one of the apartments with an AR15 rifle.

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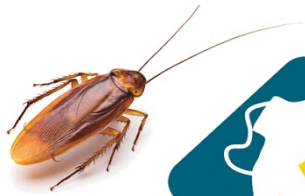
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www.aasew.org/Donate

If you know any rental property owners who are not already a member, please encourage them to join the AASEW.

Membership in AASEW provides networking, education and mentoring. In addition to these immediate benefits AASEW members believe that the greater value of the organization is the strength in numbers it brings.

Our community consists of over 40,000 landlords in Southeast Wisconsin, alone we cannot fight the great strength of the local and state government, but together we can. We encourage you to get active in the Association and help make Wisconsin a better place for landlords to do business.

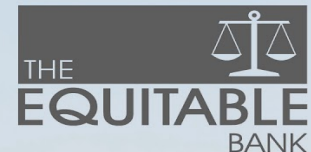
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[AASEW Lunch & Learn](#)

“How to Make Your First Million with Residential Real Estate”

March 17, 2023

11:30am - 3:00pm

[AASEW March Madness Event](#)

March 18, 2023

8:30am - 6:00pm

[AASEW Landlord Bootcamp](#)

For meetings and events questions or assistance, email us at admin@aasew.org or call (262) 893-8691

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