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In this Issue...

- [RECon Attracts Record Number of Cities, Public Officials](#)
- [Election 2008: Congressional and Gubernatorial Races](#)
- [DOJ Issues ADA Notice of Rulemaking](#)
- [Global Warming Debate Heats Up](#)
- [USCM Votes Not to Support HR 2421](#)
- [California Mall Access Bill Fails](#)
- [New Jersey Permit Extension Act Considered](#)
- [Georgia Stormwater Permits Up for Re-Issuance](#)

RECon Attracts Record Number of Cities, Public Officials

More than 2,500 public officials attended the annual ICSC RECon in May. Nearly 50 cities were featured in a public sector showcase located in the Trade Expo while 109 cities hosted booths in the Leasing Mall.

RECon also featured an ICSC-hosted Public Sector Lounge where public officials were invited to hold business meetings while attending the world's largest retail real estate convention.



Election 2008: Congressional and Gubernatorial Races

In November, in addition to the Presidential race, elections will be held for the entire House of Representatives, one-third of the Senate, and 11 Governorships. In the Senate, the election winners will serve six-year terms from January 2009 until January 2015. The current composition of the Senate consists of 49 Republicans, 49 Democrats, and two independents (Bernie Sanders of Vermont and Joe Lieberman of Connecticut, who both caucus with Democrats). Of the seats up for election in 2008, 23 are held by Republicans and 12 by Democrats.

In the House, all 435 seats will be up for election. Those elected will serve in the 111th United States Congress from January 2009 until January 2011.

States holding gubernatorial races this year include Delaware, Indiana, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Utah, Vermont, Washington and West Virginia.

With the large number of open Congressional seats, ICSC's political candidate interview program will be rolled out shortly. The program offers an opportunity for ICSC volunteers to interview candidates and make funding recommendations to the ICSC PAC.

DOJ Issues ADA Notice of Rulemaking

On June 4, the U.S. Department of Justice (DOJ) Civil Rights Division issued a "Notice of Proposed Rulemaking" to the Americans with Disabilities Act (ADA) on new guidelines dealing with public accommodation. There will be a 60-day comment period and one public hearing, which will likely be held in Washington, D.C. in mid-July. This long-awaited step is the latest development in an administrative rulemaking process that began more than three years ago.

In May 2005, ICSC, the U.S. Chamber of Commerce and several other business associations, including the National Restaurant Association and the American Hotel and Lodging Association, provided comments to the DOJ and raised concerns about the costs and benefits of the new proposals. The proposals impact many features of shopping centers, including ADA-accessible entrances, public restrooms, merchandise racks, food courts, parking garages and public parking spaces. According to the June release, the DOJ will also adopt a policy regarding the use of Segways in public places. ICSC is analyzing the proposed changes and will keep members apprised accordingly.

Global Warming Debate Heats Up

Debate began in the U.S. Senate in June over S. 3036 (The Lieberman-Warner Climate Security Act of 2008). Although the bill is expected to fail, observers believe that the debate will establish the starting point for next year's more serious effort to pass climate change legislation. The central goal of S. 3036 is to establish a "cap-and-trade" system for greenhouse gas (GHG) emissions. S. 3036 would also require a significant improvement in the energy efficiency of commercial buildings. This would be accomplished by requiring the model building codes developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) to become 30% more energy efficient by 2010 and 50% more efficient by 2020.

Given that the regular updates conducted by ASHRAE are already based on current technology and commercial feasibility, ICSC believes this proposal is unrealistic.

USCM Votes Not to Support HR 2421

At their annual meeting this month, the U.S. Conference of Mayors (USCM) voted to postpone further consideration of a resolution supporting H.R. 2421 (The Clean Water Restoration Act of 2007). The resolution, however, may be reconsidered and adopted at the USCM meeting in January 2009.

H.R. 2421 would expand federal jurisdiction to all wetlands and adjacent properties by eliminating the originally required connection to "navigable" waters.

ICSC opposes H.R. 2421 and believes the proposed language radically changes the original Clean Water Act's federal-state jurisdictional boundaries. In addition, the change guarantees multiple legal battles as developers and environmental groups argue over exactly what the new language means and which activities it covers.

California Mall Access Bill Fails

California A.B. 2616 failed to meet the May 30 chamber of origin deadline, and will no longer be considered during the 2008 California General Assembly Session. Considered by proponents to be a "free speech" bill, A.B. 2616 would allow unfettered public access to private retail property for petition gatherers, protesters and demonstrators. While A.B. 2616 will not advance in 2008, it will likely be reintroduced in the 2009 Session. ICSC has long advocated that it is a fundamental right of property owners to maintain control of their premises in order to regulate public activity in the interest of tenants and customers. Disruption of the retail consumer's shopping center experience by unwanted solicitations can deter consumers from visiting shopping centers, thus hurting the local economy.

New Jersey Permit Extension Act Considered

The New Jersey Permit Extension Act of 2008 (A2867/S1919) was recently approved by the Assembly 70-9 and the Senate by a vote of 33-2. The bill has been sent Governor Corzine for his consideration. The bill would extend all permits approved by state, regional, county and municipal agencies from January 1, 2006 through to December 31, 2011. The bill is vital to the economic stability of the retail real estate industry because it prevents the expiration of permits and protects the industry from re-appraisals and loan reclassification on approved projects which can lead to instability in the banking system.

Georgia Stormwater Permits Up for Re-Issuance

The three NPDES (National Pollutant Discharge Elimination System) General Permits for Storm Water Discharges associated with construction activity are up for re-issuance. A re-issuance stakeholder group was formed to address changes that need to be made in the permits. ICSC and the development industry were well represented in the process and numerous topics have been proposed for revision. One notable area of substantive change is that projects within a 1-mile radius of an impaired waterway will be required to implement additional Best Management Practices. A public hearing is scheduled for July 11 at EPD's Tradeport offices, with the final deadline for public comments on Monday, July 14, 2008. To view the proposed changes, go to <http://www.georgiaepd.org/npdes/>