

## MUSIC LICENSING

### ***NAA/NMHC Viewpoint***

***NAA/NMHC support music licensing and copyright reforms that aim to improve efficiency, transparency and reduce burdens for apartment communities caused by a duplicative licensing administration system.***

Like many American businesses, apartment communities play musical works in common areas, such as reception areas, foyer or lobby spaces, leasing offices or elevators. Music is also commonly played or provided around pool facilities, in dining areas, along walking paths, in on-site fitness centers and clubhouses, or similar social spaces. In accordance with existing copyright law, the playing of music in these areas is considered a “performance” of such work, which may require owners and operators to obtain licenses from Performing Rights Organizations (PROS), including ASCAP, BMI and SESAC.

In exchange for a licensing fee, PROS grant the apartment owner or operator the right to play copyrighted music legally in apartment community public spaces. Over the past decade, activity by the PROs to collect licensing fees from apartment communities and other end users has increased substantially. NAA/NMHC responded by providing guidance to members on the basics of federal copyright law and how to evaluate whether or not licensing fees are required. Further, NAA/NMHC partnered with copyright experts to clarify music licensing requirements in some critical, specific scenarios such as music or televisions in fitness centers and on treadmills.

***Music licensing obligations must be made clearly understandable to apartment owners and operators, in order to effectively determine when a license might be required, and what type of license is appropriate for the apartment community.***

Despite rigorous work on the part of apartment owners and operators to understand and comply with copyright law, there remains a lack of transparency in the current marketplace for music. Reliable ownership information is sparse and not readily available on who owns the music and to whom the licensing fees should be paid. This creates a duplicative licensing administration system. Additionally, there is a strong need for more specificity in the law about what might trigger music licensing requirements at an apartment community. Finally, there exists consent decrees governing music societies which are critical to ensuring a competitive marketplace for musical works, facilitating delivery of licenses in a predictable manner and providing for fair treatment of end-users.

The apartment industry urges Congress to do the following:

- Enact copyright and music licensing reforms to reduce compliance burdens for apartment communities and enable greater transparency in the ownership of musical works so that end-users are clear about who they must pay.
- Define the space within apartment communities where played music requires licensing as only those areas not designated for residents only.
- Preserve the existing consent decrees governing ASCAP and BMI and continue the fair competitiveness of the music marketplace.