

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required To Complete This Page

1. Registrant Name International Council of Shopping Centers			
2. Address <input type="checkbox"/> Check if different than previously reported 1033 N. Fairfax Street, Ste. 404			
3. Principal Place of Business (if different from line 2) City: Alexandria VA 22314 State/Zip (or Country)			
4. Contact Name Judy E. Laniak		Telephone (703) 549-7404	E-mail (optional) jlaniak@icsc.org
5. Senate ID # 19935-12		6. House ID # 19935	
7. Client Name <input checked="" type="checkbox"/> Self			

8. Year 1999 Midyear (January 1-June 30) OR Year End (July 1-December 31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report ⇨ Termination Date _____

11. No Lobbying Activity

INCOME OR EXPENSES - Complete Either Line 12 OR Line 13

<p>12. Lobbying Firms</p> <p>INCOME relating to lobbying activities for this reporting period was:</p> <p>Less than \$10,000 <input type="checkbox"/></p> <p>\$10,000 or more <input type="checkbox"/> ⇨ \$ _____ Income (nearest \$20,000)</p> <p>Provide a good faith estimate, rounded to the nearest \$20,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).</p>	<p>13. Organizations</p> <p>EXPENSES relating to lobbying activities for this reporting period were:</p> <p>Less than \$10,000 <input type="checkbox"/></p> <p>\$10,000 or more <input type="checkbox"/> ⇨ \$ <u>\$120,000</u> Expenses (nearest \$20,000)</p> <p>14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.</p> <p><input checked="" type="checkbox"/> Method A. Reporting amounts using LDA definitions only</p> <p><input type="checkbox"/> Method B. Reporting amounts under section 6033(b)(6) of the Internal Revenue Code</p> <p><input type="checkbox"/> Method C. Reporting amounts under section 162(e) of the Internal Revenue Code</p>
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Signature Rebecca M Sullivan

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Registrant Name Centers Client Name self

Information Update Page - Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City _____ State/Zip (or Country) _____

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

ELLEN MARSHALL
REGINA SCHOFIELD

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name	Address	Principal Place of Business (city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Name	Address	Principal place of business (city and state or country)	Amount of contribution for lobbying activities	Ownership percentage in client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

Signature Rebecca M Sullivan Date 8-11-99

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

International Council of
Registrant Name Shopping Centers Client Name self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code bnk (one per page)

16. Specific lobbying issues

please see attached

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. House of Representatives
U.S. Senate
E.E.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	Yes
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature Rebecca M Sullivan Date 8/11/99
Printed Name and Title Rebecca M. Sullivan Staff Vice President, Government Relations

International Council of
Registrant Name Shopping Centers Client Name Self

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15. General issue area code bud (one per page)

16. Specific lobbying issues

please see attached

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	Yes
Wayne Mehlman		<input checked="" type="checkbox"/>
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Rebecca M. Sullivan		<input type="checkbox"/>
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		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

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International Council of
Registrant Name Shopping Centers Client Name self

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15. General issue area code caw (one per page)

16. Specific lobbying issues

please see attached

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. House of Representatives
U.S. Senate
Army Corp of Engineers

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	Yes
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

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Printed Name and Title Rebecca M. Sullivan Staff Vice President, Government Relations

International Council of
Registrant Name Shopping Centers Client Name Self

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15. General issue area code eng (one per page)

16. Specific lobbying issues
please see attached

17. House(s) of Congress and Federal agencies contacted Check if None
U.S. House of Representatives
U.S. Senate
Department of Energy

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

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Signature Rebecca M Sullivan Date 8/11/99
Printed Name and Title Rebecca M. Sullivan Staff Vice President, Government Relations

International Council of
Registrant Name Shopping Centers Client Name Self

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15. General issue area code any (one per page)

16. Specific lobbying issues

please see attached

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	Nov
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
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Registrant Name Shopping Centers Client Name self

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15. General issue area code res (one per page)

16. Specific lobbying issues
please see attached

17. House(s) of Congress and Federal agencies contacted Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	Rev
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

Signature Rebecca M Sullivan Date 8/11/99
Printed Name and Title Rebecca M. Sullivan Staff Vice President, Government Relations

Form 1 D-2 (Rev 6/98)

International Council of
Registrant Name Shopping Centers Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code tax (one per page)

16. Specific lobbying issues

please see attached

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. House of Representatives
U.S. Senate
Department of Treasury

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	Net
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

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Check if None

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International Council of
Registrant Name Shopping Centers Client Name self

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15. General issue area code tec (one per page)

16. Specific lobbying issues

please see attached

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. House of Representatives
U.S. Senate
FCC

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Wayne Mehlman		<input checked="" type="checkbox"/>
William Hoffman, III		<input checked="" type="checkbox"/>
Rebecca M. Sullivan		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature Rebecca M. Sullivan Date 8/11/99
Printed Name and Title Rebecca M. Sullivan Staff Vice President, Government Relations

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Government

Cost Recovery of Leasehold Improvements

Issue

One of the most important obligations of shopping center owners is providing modern, efficient, and environmentally sound retail space for their tenants and the public. Owners must continually refurbish and replace many structural components of their buildings--such as internal walls, ceilings, partitions, plumbing, lighting, floor coverings, electrical and communication outlets, and computer data ports--in order to meet the specific needs of their tenants and to respond to new regulations imposed at all levels of government.

Unfortunately, current law dictates that these modifications--commonly referred to as "leasehold improvements"--be depreciated over 39 years. Most leasehold improvements, however, have a much shorter economic life.

Background

Before 1981, building owners could recover the costs of leasehold improvements over the term of the lease to the tenant. The rationale behind this reflected the fact that leasehold improvements for one tenant are rarely suitable for another, and when a tenant leaves, it is usually necessary to destroy or abandon such improvements and rebuild for a new tenant.

The *Economic Recovery Act of 1981* set aside this principle of matching income from the lease with the costs of leasehold improvements. A single depreciation life of 15 years was established for all buildings and all improvements made within. Since then, the recovery period for nonresidential real property has been lengthened to 18 years, 19 years, 31.5 years, and finally, under the Omnibus Budget Reconciliation Act of 1993, to 39 years. Thus, the new treatment for leasehold improvements

has changed from a system that matched income and related expenses to one that dictates depreciation over 39 years, even though this time period does not relate to the useful life of such improvements.

The *Small Jobs Business Protection Act of 1996* allows owners to expense the unrecovered basis of leasehold improvements in the year that they are destroyed or abandoned. Previously, only tenants who made improvements could do so. Unfortunately, leasehold improvements must still be depreciated over a 39-year recovery period while they are in place.

Legislation

On February 24, 1999, Representative Clay Shaw (R-FL) reintroduced legislation (H.R. 844) that would reduce the depreciation period for leasehold improvements from 39 to 10 years. The lower recovery period would only apply to improvements made at least three years after the underlying building is placed in service. Companion legislation (S. 879) was recently introduced in the Senate by Senators Conrad (D-ND), Mack (R-FL), Nickles (R-OK), Baucus (D-MT) and Robb (D-VA).

ICSC Position

ICSC advocates shortening the depreciable lives of leasehold improvements so they are more closely aligned with their economic lives. We strongly support H.R. 844 and S. 879 and believe that their passage would encourage shopping center owners to invest more of their resources into leasehold improvements.

For More Information Contact Wayne Mehlman, ICSC's Director of Economic Issues, at 703/549-7404, ext. 225.

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Government

Taxation of Internet Purchases

Issue

The Internet is rapidly becoming America's new marketplace. Consumers are now able to browse and shop for a variety of consumer goods at the touch of a button. Tax policy should not discourage consumers from exploring this new marketplace. However, it should not favor Internet purchases either. Instead, tax policy should provide equity between Main Street businesses and mail order and computer-based merchants.

As we approach the new millennium, federal, state, and local governments must work together to formulate a sales tax system that is uniform, equitable and streamlined. This new system should reduce administrative costs and burdens for all businesses and consumers. Adopting an efficient sales tax system will not only preserve the sales tax base of state and local governments, but it will promote fair trade among all sellers of consumer goods.

Background

Throughout the years, Congress and the courts addressed the issue of state-imposed sales taxes on remote sellers as it applied to mail-order merchants. However, the advent of Internet commerce brings a new focus and sense of urgency to this issue. The Internet marketplace is rapidly expanding, yet it remains mostly untaxed. The current dilemma facing all levels of government is whether taxing goods purchased on-line would slow Internet growth, or if the Internet's tax-free status gives it an unfair advantage over Main Street businesses.

Legislation

Last year, Congress incorporated and enacted, the *Internet Tax Freedom Act* into its year-end budget bill. The legislation imposes a three-year moratorium on the implementation of new, multiple or discriminatory taxes

on Internet companies and Internet access. In addition, it establishes an Advisory Commission to examine Internet taxation and interstate sales. The Commission is to deliver non-binding recommendations to Congress within eighteen months.

According to statutory guidelines, the 19-member Commission is to be comprised of eight state and local government representatives, eight business and consumer representatives (including a representative from a local retail business) and three representatives of the federal government. In December 1998, leaders of the Senate and House of Representatives appointed their designated representatives.

Initially, state and local governments were not adequately represented on the Commission, prompting the U.S. Conference of Mayors and the National Association of Counties to file a lawsuit to prevent the Commission from meeting until its membership composition meets statutory guidelines. However, on April 27, Senator Trent Lott (R-MS) replaced a business representative with a local government representative. The related lawsuit has since been dropped. Unfortunately, a local retail representative has still not been appointed to the Commission.

ICSC Position

ICSC believes that tax policy should be consistent and equitable for all forms of consumer purchases-whether they take place in shopping centers, via mail order, or over the Internet. This will help insure that Main Street merchants and state and local governments are not penalized by the explosive growth of Internet commerce. The Advisory Commission needs to consider the economic impact of the Internet on Main Street businesses and state and local governments

For More Information Contact Wayne Mehlman, ICSC's Director of Economic Issues, at 703/549-7404, ext. 225.

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Government

Bankruptcy Reform

Issue

Unfortunately, an increasing number of financially healthy companies are filing for bankruptcy as a business tool to break leases. Because businesses do not have to be insolvent to declare bankruptcy, more and more solvent companies are reorganizing under Chapter 11 of the Bankruptcy Code in order to break their leases and restructure themselves. Bankruptcy no longer carries the stigma it once did, and is viewed by many as an efficient way in which to reorganize. As a result, shopping center owners are losing control over their properties, neighboring tenants are losing business and revenues, retail employees are losing their jobs, and the economic health of local communities is being damaged.

Background

Congress has addressed the issue of bankruptcy reform for decades. In 1994, Congress created the National Bankruptcy Review Commission to investigate and study issues relating to the Bankruptcy Code. As a part of its review, the Commission analyzed Chapter 11 of the Code, including provisions in Section 365 that affect shopping center leases. In 1997, the Commission submitted a report to Congress that contained a detailed statement of their findings and conclusions, along with recommendations for legislative and/or administrative action.

ICSC has called for several critical provisions to be included in bankruptcy reform legislation. These provisions include: (1) an expedited time period for the assumption or rejection of leases by tenants in bankruptcy; (2) greater access for shopping center owners to be on creditors' committees; (3) reimbursement to owners for re-leasing expenses if a lease is rejected; and (4) assurance that all defaults, both monetary and nonmonetary, are cured prior to the assumption and assignment of a lease.

Last year, the House of Representatives and the Senate overwhelmingly passed their respective versions of consumer and business bankruptcy reform legislation. The conference report that was agreed to by House and Senate negotiators included a 180-day deadline for the assumption or rejection of leases, as well as provisions relating to creditors' committees and nonmonetary defaults. While ICSC supported the 180-day deadline, we preferred that it be limited to 120 days. Unfortunately, the Administration viewed the consumer portion of the legislation as unacceptable, and threatened to veto the legislation. Although the House overwhelmingly approved the conference report, the Senate failed to act on the measure before the 105th Congress adjourned.

Legislation

Congress is currently considering the Bankruptcy Reform Act of 1999. On May 5, the House of Representatives overwhelmingly passed its version of the bill (H.R. 833) by a 313-108 vote. The Senate is expected to debate its version (S. 625) later in May.

H.R. 833 would require tenants in bankruptcy to assume or reject their leases within 120 days, with an additional 120 days granted "for cause". Any additional time would require the lessor's consent. S. 625 would require tenants to assume or reject their leases within 120 days. Any extensions would require the lessor's consent. H.R. 833 would also treat future rents as an administrative priority for one year when a tenant assumes and subsequently rejects its lease. Both bills would also allow shopping center owners greater access to creditor committees.

These provisions may change as the Senate and future conferees address the legislation.

ICSC Position

ICSC believes that solvent companies should not be able to use the bankruptcy system to break lease agreements, and that decisions on whether to assume or reject leases should be made within a fixed period of time. We believe that companies faced with financial catastrophe should be able to reorganize under Chapter 11 of the Bankruptcy Code. However, the bankruptcy laws need to be strengthened to protect all creditors and to prevent companies from abusing the bankruptcy system. Bankruptcy should be the *final* option, not the preferred option of businesses.

*For More Information Contact Wayne Mehlman, ICSC's Director of
Economic Issues, at 703/549-7404, ext. 225.*

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Government

Deregulation of Telecommunications

Issue

The provisions of the Telecommunications Act of 1996 deregulate and promote competition in every segment of the communications industry. As a result, shopping centers and their tenants will be presented with the choice of a variety of new providers of telecommunications services that are in competition with the existing service providers and each other.

Background

Some issues shopping center owners and managers may face include the management, control, and cost of the provision of telecommunications, including those involving space, security, liability, control of service facilities and personnel, and compliance with laws and regulations. A major concern is whether any and all telecommunication service providers, in the name of encouraging competition, would be granted guaranteed access to private property without the permission of the property owner.

Regulation

1) Federal Communications Commission (FCC)

The FCC has statutory authority over aspects of the activities of various telecommunication providers, including telephone companies and cable operators. Under the new law, the FCC is responsible for deregulating and bringing competition to these and other areas. It is through these new regulations that private property owners face the threat of the required access of telecommunication providers to their property without their permission. Through ICSC lobbying effort, the FCC has become educated on the intricacies facing the commercial real estate industry in this matter. We have made it clear that deregulation of the telecommunications industry should not lead to increased regulation of the shopping center

industry.

The FCC issued a proposed rule regarding the installation of satellite dishes on shopping centers and other buildings. ICSC actively lobbied for changes from the original rule, which would have allowed any tenant to put up a dish. The rule adopted by the FCC allows shopping center owners to continue to solicit bids and choose satellite service providers for their centers, with input from their anchor tenants.

2) States

Under the new law, the states retain the right to regulate the access of service providers to private property, consistent with fundamental state and federal laws. There is pressure in the states, often generated by a coalition of alternative telecommunications providers (cable and newspapers), to provide for forced entry to private property for telecommunications providers. These efforts have manifested themselves in two forms of legislation. The first would impose such requirements legislatively. The second would grant the state Public Utility Commission (PUC) the authority to deal with the issue with the view that the PUC would impose such requirements.

ICSC Position

ICSC believes the right of property owners to maintain their property is paramount. This issue has proven to be extremely complex and will pose many opportunities and challenges as we continue to lobby and monitor its impact on our industry. ICSC will act at both the federal and state levels to promote and protect the interests of our members. ICSC believes that state laws and regulations will determine the direction ICSC members take in creating telecommunications-related opportunities in their individual centers.

For More Information Contact William H. Hoffman, III, at 703/549-7404, ext. 224.

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Government

Superfund Reform

Issue

In 1980, Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as "Superfund," to address the problem of inactive hazardous waste sites. During its 16 years of existence, CERCLA has proven to be complicated, bureaucratic, and costly in implementation. The Act imposed unfair burdens on private citizens and companies, retroactively, without regard to their negligence, fault, or failure to exercise due care. Superfund has proven to be an expensive failure and needs to be substantially revised and reformed.

Background

When enacted in 1980, Superfund was a five-year program with a \$1.6 billion budget. In 1980, approximately 400 toxic waste sites were to be cleaned up under Superfund. To date, the federal government has spent \$30 billion and cleaned up only 125 hazardous waste sites, with 1,200 sites awaiting action. The average Superfund site takes around 12 years to complete, at a cost of over \$25 million. Nearly half of every Superfund dollar (47 cents) has been wasted on non-cleanup related activities, such as litigation and negotiations, rather than cleanup.

The Superfund is actually a "fund" created by a tax on polluters. Superfund by itself does not cover the entire cost of cleanup. The federal government, polluters, insurance companies, and states share the actual cost of cleanup. The main principle behind the establishment of Superfund was that the polluter should pay to clean up hazardous waste sites. The major problem with Superfund is that it has resulted in endless litigation over who is actually responsible for the cleanup.

Under the current system, an owner or operator is held liable regardless of whether he or she was involved in the handling or disposal of a hazardous substance.

Legislation

In the first session of the 106th Congress, the issue of Superfund reform along with the companion issue of reforming the ability of state and local governments to develop former industrial sites (Brownfields) has been the subject of much speculation. In the Senate, Sen. Frank Lautenberg (D-NJ) introduced S.20. This bill would assist the states and local governments in assessing and remediating brownfields sites and encouraging environmental cleanup programs.

In the House, Rep. Sherwood Boehlert (R-NY) introduced H.R. 1300. This is a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, and to reauthorize and reform the Superfund program.

Although there is still some talk about the possibility of full-scale reform of the entire Superfund program, it seems more likely that if any legislation is passed, it will likely be a more focused effort concerned with promoting brownfields redevelopment.

ICSC is working with others in the real estate community who share our concerns to advocate these types of reforms so that innocent developers are able to develop their properties and contribute to the redevelopment of currently abandoned brownfields sites.

ICSC Position

All reform efforts must adhere to the principles that responsibility for environmental cleanups should be fault-based and that the system should be designed to exempt truly innocent persons from liability.

ICSC will be supportive of any legislation that provides a clear definition of an innocent landowner and that repeals joint and several liability. An innocent landowner can be briefly defined as an owner or operator who did not cause the release of hazardous substances at the vessel or facility. This language will protect owners who lease to tenants that can potentially cause contamination. Under current law, a tenant can cause contamination but the owner can be held financially responsible -- a fault-based allocation system would reform that law.

For More Information Contact William H. Hoffman, III, at 703/549-7404,

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Government

Indoor Air Quality

Issue

Indoor air quality (IAQ) legislation providing for research, dissemination of information, and other non-regulatory initiatives has been considered during the past several Congresses. The Occupational Safety and Health Administration (OSHA) is the primary agency responsible for developing indoor air regulations and is currently doing so. Indoor air legislation may not be necessary, and such legislation could detract from an appropriate response to potential IAQ problems.

Background

Over the years, the federal government has been driven to react toward complaints regarding IAQ. Based on the experience with asbestos, we found that government actions, in conjunction with public reaction, triggered unnecessary and counter-productive responses to the presence of asbestos. The shopping center industry is concerned that IAQ will be handled in the same fashion.

Marketplace demands require state of the art management practices in today's buildings. Due to these demands, we support a balanced approach to solving IAQ problems, including proper heating, ventilation, and air conditioning system (HVAC) operation and maintenance; source reduction inside and outside buildings; and additional research by OSHA, other federal agencies, and private groups.

ASHRAE

In 1996, the American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc. (ASHRAE) proposed a new ventilation standard, BSR/ASHRAE 62-1989R. ASHAE received 8,500 comments-most were unfavorable-on the proposed standard. Typically, once a standard setting organization, such as ASHRAE, develops a

standard, it is often universally accepted-even by many government agencies. In this instance, due to the volume and nature of the comments, the proposed standard was pulled. Instead, ASHRAE decided to place 62-89 on a continuous maintenance. Continuous maintenance means that the standard will undergo periodic maintenance and changes will be incorporated as needed.

Recently, ASHRAE approved five addenda for public review, including 62h. Addendum 62h established requirements for isolating areas where smoking is permitted. According to addendum 62h, rooms in which smoking is permitted must be identified by appropriate signs and must also contain a warning light to notify occupants when the supply and exhaust systems are not operating properly. When the system does not operate properly, smoking will not be allowed. The addendum would also require solid walls, floors, ceilings, and doors equipped with automatic closing mechanisms to separate smoking and nonsmoking areas. Addendum 62m stresses that the standard applies to new buildings and not to existing buildings, except under certain conditions. All additions to existing buildings shall meet the requirements of the standard, except when an existing ventilation standard is extended to serve the addition.

ICSC is working with ASHRAE on this and other proposed standards, as they relate to the shopping center industry.

ICSC Position

- ICSC supports improved efforts to educate building owners, managers, and HVAC system operators through additional research and information dissemination by the Environmental Protection Agency (EPA), other federal agencies, and private groups and increased voluntary efforts of source reduction inside and outside buildings.
- ICSC believes that the efforts of the federal government regarding the problems of IAQ should focus on the advancement of scientific knowledge regarding indoor air quality, the dissemination of such knowledge and information, and the encouragement of the private sector and state and local governments in their efforts to deal with indoor air quality problems.
- Demands of the marketplace-quality -- conscious tenants, competition, and cautious lenders and insurers -- require that state-of-the art management practices be employed in ventilation standards.

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Government

Wetlands/Clean Water Act

Issue

Presently, most shopping center developers use a Nationwide Permit 26 (NWP 26) for their wetlands permit under the Clean Water Act (CWA). The U.S. Army Corps of Engineers (Corps) is preparing final replacement activity-based permits to replace NWP 26. The proposed changes to the Congressionally mandated streamlined permitting process for minimal impact projects under the Clean Water Act 404 permit program would not only compound the Corps' already serious workload while adding little environmental value, but also would prove harmful to the business community, state and local governments and other public agencies.

Background

The environmental importance of the nation's valuable wetlands is widely known, and the continuing decline of that resource base is a legitimate national concern. However, the federal "wetlands program" in effect today under Section 404 of the Clean Water Act is not the product of a carefully considered and fully debated legislative policy. The Clean Water Act is not a wetland protection law; it is a water quality law that has been used to attempt to achieve wetland protection, a goal for which it was not designed. As a result, current federal wetland policy is actually little more than the accumulation of two decades worth of administrative conflicts, bureaucratic decisions, and judicial rulings.

Nationwide Permits are expressly authorized by CWA section 404(e) as streamlined general permits to authorize minimal impact activities in wetland areas. Primarily to replace NWP 26, in 1998 the Corps proposed six new "activity-specific" NWPs, with many broad conditions and restrictions (e.g., buffer requirements, water quality restrictions, flow requirements, etc.) that duplicate existing federal and state programs. These proposals are in clear violation of the streamlined permitting intent of the CWA.

Issue Impacts

The Army Corps of Engineers proposals would prohibit the use of most NWP's: within the 100-year floodplain, as defined by the Federal Emergency Management Agency; within "critical resource waters" and their adjacent wetlands; and in "impaired" waters. The proposed exclusions to the general permitting process will result in applications being transferred to the individual permitting process. Having to operate within the new permitting scheme will, according to the Corps' own data, result in costly time delays for permit applications to be acted on.

The current drafts of the proposed replacement permits provide for one general permit, which could be available for shopping center development-the so-called "Permit A" which would cover residential, commercial, and institutional development. Permit A would include, but not be limited to, expansion of an existing facility, grading, re-channelization, erosion, and building in accordance with the "Notification" general condition. Under this proposal, the discharge must not cause a total loss greater than 3 acres of wetlands and any loss above 1/3 acre would require notification of the Corps District office.

ICSC Position

- Appropriate implementation of existing local, state and federal laws should replace blanket prohibitions and limits in the replacement permit package. Conditions in the proposal as currently drafted are overreaching, redundant and unnecessary and result in little or no measurable environmental improvement.
- Substantial reforms should be made to take into account the value and functionality of wetlands, to limit the demands of federal agencies for disproportionate amounts of mitigation based on the value and function of the wetlands, and to define circumstances, through Congressional action, where the landowner would be entitled to compensation when a permit is not obtained.
- There are serious questions concerning the legality of the new permitting procedures, the lack of supporting data to justify the changes and the ability of the Corps to adequately handle the increased workload resulting from these changes. The Congress must use its oversight and appropriations powers to mandate increased study of these issues before any changes are made. Further, Congress should direct the Corps to

extend the existing NWP 26 until sufficient data is provided to justify the proposed changes.

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Government

Electric Utility Deregulation

Issue

Some ICSC members have electric utility bills that are larger than those of some industrial companies, while others have bills that are smaller than the bills of some residential customers. ICSC believes that deregulation of the electric utility industry could benefit its members. ICSC will follow the developments, both nationally and in each state, to provide information to its members and to participate in the formulation of policy and regulation.

Background

The process of deregulating the United States electric utility industry began with the passage of the Energy Policy Act of 1992. Because of this historic change, electric utilities, their customers, and energy service providers have begun to reexamine their relationships.

These changes have presented a number of questions for ICSC members to consider. For instance, how will building owners, each with varying degrees of sophistication and size, choose their electric utility suppliers? Who will those suppliers be? What will electric utility deregulation cost? How will deregulation affect the tenants/occupants and their relationship with landlords and owners? How will successful ICSC members choose energy providers and stay profitable in a free market environment? And how will the benefits of competition-customer choice, alternative energy suppliers, new energy management services, and new technology-improve the bottom line of ICSC members?

The thrust of federal regulations, so far, has been to require deregulation to happen by a date certain. In this manner, the marketplace can and will determine competition and will potentially ensure a level playing field. Major issues of concern to legislators and the utilities are stranded costs and load aggregation. Stranded costs is a term used to define existing investments undertaken by electric utility companies to fulfill obligations to

serve all customers within a geographic area no matter what the financial costs. Some utility companies are concerned that competition will benefit mostly urban and suburban customers and that costs will rise in rural areas, but the marketplace will not allow them to recoup the full costs of serving those customers. Stranded costs should be equitably split between customers and utilities. Load aggregation involves combining electric utility consumption among multiple users. ICSC believes that shopping center owners with multiple locations should be able to aggregate power among their various locations without regulatory restrictions. This might allow multiple operators to be more resourceful in bargaining for lower operating costs. A national framework should be developed to reduce the confusion being generated by the state-by-state deregulation effort. The framework should incorporate elements of successful deregulation programs already adopted by states. Over a dozen states have approved legislation, regulations, or pilot access programs and more than thirty other states have pending proposals or ongoing investigations.

Legislation

In the 105th Congress, Rep. Dan Schaefer (R-CO) took the primary lead for electric utility deregulation. Toward the end of the session, there was a slate of legislation introduced by various Members in the House-all with the intention of laying the groundwork for the 106th Congress.

Senate Energy Committee Chairman Frank Murkowski (R-AK) held off requests from committee members to consider electricity legislation by declaring that he would not act until the administration comes forward with a legislative proposal. However, on June 26, the Department of Energy released a proposal that would provide a federal mandate for choice by January 1, 2003, and contained several environmental provisions. However, because of the transition in power between Secretary Pena and Energy Secretary nominee, U.N. Ambassador Bill Richardson, Sen. Murkowski declined to take any action. Secretary Richardson made a brief statement about the restructuring issue admitting he had no input in crafting the pending administration proposal but expressed his belief that the package achieved a "good balance."

ICSC Position

As an association representing a diverse membership, our main goal is to make sure benefits of electric utility deregulation will be realized by all ICSC members. Issues of concern to ICSC are:

- The private property rights of the landowner must be protected. Physical access and the control of distribution should remain with the landlord.
- Electric utility deregulation must be orderly and provide landlords with certainty and predictability for future pricing availability as well as reliability.
- Electric utility deregulation should be sooner rather than later.

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Government

Growth Management

Issue

Growth management and concern over urban sprawl have been topics of considerable debate for years and did not evolve in a vacuum. Local authorities have been working with their own communities and business on how best to continue population and economic growth. However, the past few years has seen a move away from local and state land use authority to an increasing federal involvement in these issues. The "Better America Bonds" program may likely result in federal agencies acting as a federal zoning board-determining how and where money can be spent, depending on their approval of any given project. Regional offices of the Environmental Protection Agency have already announced their plans to "aggressively use their (sic) authority" to promote smart growth initiatives, without adequately defining policy goals. It is apparent the growth management issue is the cornerstone of the Administration's environmental program for the current Congress and the details and policy goals of these programs must be fleshed out. Organizations such as ICSC must work to ensure that smart growth does not equate zero growth.

Background

In 1998, there were 240 state and local ballot initiatives pertaining to growth management, 70% of which passed creating an additional \$7.5 billion dollars for smart growth programs. In 1999, 32 governors have talked about land conservation, growth control, transportation mitigation or other sprawl concerns in State of the State addresses or budget messages. Federally, the President has proposed the creation of a "Better America Bonds" program, requesting \$700 million dollars in the 2000 budget and implemented over the next five years, managed by federal agencies such as the Environmental Protection Agency (EPA). These funds would be given to local communities to preserve green spaces, create urban parks, protect water quality and restore brownfields. In addition, a bi-partisan Senate Task Force on Smart Growth has been

formed. Aside from broad generalities, these programs have not been defined.

Legislation

Currently, there is no federal legislation pending on the smart growth issue. The Administration has requested funding for the "Better America Bonds" Program in its FY 2000 budget. These requests will be dealt with in the appropriations process. In addition, while no federal regulations on growth management are in the rule making process, it is clearly a priority within agencies such as EPA and their regional offices. These offices will have to be closely monitored to ensure that the agency does not act outside its statutory authority in implementing programs not prescribed by Congress.

ICSC Position

ICSC does not oppose sound, well thought out growth management planning. However, smart growth is inherently different than no growth. We will work to ensure, as ICSC members have always done, that we respond to the needs of regional populations in an environmentally and economically sound manner.

Development decisions are based on the demands of the market and should not be dictated or restricted by non-elected federal agencies. Local authority must be maintained in determining how communities choose to develop. Injecting federal agencies into the growth management process as a federal planning commission will create an overly bureaucratic, inefficient, and likely biased arbiter of development. Any regulation or legislation that limits local decision making directly or through the withholding of funds is wrong and counter productive.

ICSC has created a multi-disciplinary task force to address these growth management issues. Working with membership and with other organizations, ICSC will work to preserve local control over growth and development issues.

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Government

Private Property Rights

Issue

The "takings" clause of the Fifth Amendment to the U.S. Constitution states, in part, "nor shall private property be taken for public use without just compensation." Despite the protection of the Constitution, countless landowners have been deprived of their property, prosecuted, fined, or in some cases, jailed, because of wetlands and endangered species on their property.

Background

The enforcement of laws such as the Endangered Species Act (ESA) and Section 404 of the Clean Water Act (CWA) (the source of regulations limiting the development of wetlands) has driven down market value and often rendered private property useless for agricultural or development purposes. Government "takings"-the use of environmental regulations to define what uses of land shall be permitted-without compensation have grown dramatically with the increase of regulation and galvanized private property owners into action to defend their property rights.

The Fifth Amendment is being attacked, both legislatively and judicially. ICSC members ultimately want to be able to develop their land. Developers purchase land as an investment tool, not as an opportunity to seek compensation from any governmental unit.

The vast majority of land in America is privately owned. Regulators need to work with these landowners, not against them. Regulators and lawmakers should recognize the progress we have made since the '70s and encourage new and better ways to protect and enhance our environment.

Legislation

The outlook for significant reform being passed in the first session of the 106th Congress is mixed at best. Currently, one bill has been introduced in the House that would offer relief and compensation to landowners whose property was 'taken' as a result of federal action to establish or protect wildlife habitat. The bill, H.R. 1142, the "Landowners Equal Treatment Act of 1999" introduced by Rep. Don Young (R-AK), has 44 co-sponsors.

In the Senate, Sen. Chuck Hagel (R-NE) has introduced S.246, which would require Federal agencies to prepare private property taking impact analyses and would allow expanded access to Federal courts. Aside from being introduced, the bill has gone no where.

The political climate is such that the likelihood of either of these bills being passed by both the House and Senate is small. ICSC will continue to closely monitor all progress on this front and become strongly active should the opportunity present itself.

ICSC Position

ICSC believes that it is necessary to protect private property through the adoption of appropriate environmental legislation and regulation and supports action that:

- Provides standards by which the environmental value of property shall be established;
- Provides an efficient and fair system by which a property owner can seek timely redress for laws and regulations that result in a taking without compensation or that deny the economic benefits of the "highest and best" use of his property;
- Provides for responsible, responsive, and timely judicial review and/or regulatory rulings on development applications; and
- Incorporates an economic impact assessment of the imposition of legislation and resulting regulation.

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Government

Endangered Species Act

Issue

The Endangered Species Act (ESA) needs to be reformed. It has failed to conserve the species it was meant to protect and, in the process, has wreaked economic havoc and social distress on communities throughout our nation.

Background

The ESA is now being used by some people as a tool to curtail progress and growth. The ESA was first enacted in 1973 to protect species believed to be on the brink of extinction. When the law was enacted, 109 species were listed for protection. Today, almost 1,000 species are listed, with more than 400 additional candidate species. Only twenty or so species have been "delisted" or removed from the species list since 1973: seven because of extinction, six because of data errors in the original listing process, and only six officially declared as reaching recovery populations.

It is clear that the ESA does not work. According to the General Accounting Office, more than 90 percent of the species listed under the ESA rely upon private land for some or all of their habitat. The current system inadequately protects the environment and is often economically harmful. Updating the ESA must consider the social and economic consequences of listing a species—too often the rights of species are given more credence than the rights of citizens. In addition, species are listed without appropriate scientific peer review. In the early '70s, we needed the legislation that was passed. Now we need to acknowledge the progress we have made and push for reform that reflects that progress.

Legislation

The outlook for significant reform being passed in the first session of the 106th Congress is mixed at best. Currently, one bill has been introduced in

the House that would offer relief and compensation to landowners whose property was 'taken' as a result of federal action to establish or protect endangered wildlife habitat. The bill, H.R. 1142, the "Landowners Equal Treatment Act of 1999" introduced by Rep. Don Young (R-AK), has 44 co-sponsors. Obviously, the bill is geared toward specific instances where the ESA impacts private property - and does not address the inherent flaws of the ESA.

ICSC will continue to advocate for reform of the Endangered Species Act so that landowners are treated fairly and responsibly.

ICSC Position

ICSC believes that it is necessary to reform the Endangered Species Act through legislation and regulation that:

- Provides for responsible, responsive, and timely judicial review and/or regulatory rulings on development applications;
- Incorporates an economic impact assessment of the imposition of legislation and resulting regulation;
- Provides an efficient and fair system by which a property owner can seek timely redress for laws and regulations that result in a taking without compensation or that deny the economic benefits of the "highest and best" use of his property; and
- Provides standards by which the environmental value of property shall be established.

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