

# Community Connectivity Is Threatened

Proponents bill it as a win for apartment residents and owners, but apartment owners say the recently enacted San Francisco MDU ordinance ultimately creates more hurdles for delivering high-quality connectivity.

By Kevin Donnelly / *National Multifamily Housing Council*

**D**espite the success of broadband deployment across much of the multifamily rental market, policymakers in some jurisdictions have looked to upend existing telecommunications rules that have delivered that success. One such regulation is a recently enacted ordinance in San Francisco (Ordinance 250-16).

The ordinance sets up new rules for internet service providers (ISPs) to access multifamily properties and, in doing so, effectively allows any ISP access to privately owned apartment communities, regardless of how many providers already serve the property. Supporters of the ordinance say the new rules will improve access to broadband services while providing more consumer choice and transparency.

Although perhaps a well-intended effort, the ordinance has a number of shortcomings that will harm broadband deployment and access by raising rates for the city's apartment residents, slowing expansion and reducing investment in network maintenance, and degrading customer service. For these reasons, many in the apartment industry consider the ordinance an unnecessary hurdle rather than a win for residents, property owners and ISPs, as some proponents of the ordinance have suggested.

This is why the National Multifamily Housing Council (NMHC) takes issue with the

article, "San Francisco's MDU Ordinance Is a Win-Win-Win," written by Dane Jasper, CEO of Sonic, a large ISP, that appeared in the October 2018 edition of **BROADBAND COMMUNITIES**.

## COMMITMENT TO QUALITY BROADBAND

The apartment industry takes broadband issues seriously. Changing resident lifestyles and preferences have driven the industry to invest heavily in ensuring that residents have access to high-quality, high-speed internet services from multiple providers.

In fact, recent research shows that the desirability of an apartment community is directly linked to the quality and reliability of on-site internet. In the 2017 NMHC/Kingsley Apartment Renter Preferences Survey, high-speed internet ranked as the second most popular apartment feature after air conditioning in San Francisco, and of the 93 percent of apartment residents who said high-speed internet was important to them, 60 percent said they would not rent without it.

Needless to say, providing access to high-quality, high-speed internet is no longer a choice but a business imperative for apartment firms. Given the threat that the San Francisco ordinance poses to community connectivity, the apartment industry remains opposed to the new rule on several grounds.

## ACCESS VERSUS AFFORDABILITY

At the heart of the debate surrounding the ordinance is one number: 100,000. That's the number of people in San Francisco – 11 percent of a total population of 884,000 – who purportedly do not have internet service, as estimated by supporters of the ordinance. At first blush, that might seem like a big number, considering that the San Francisco area has become an important tech hub. However, there are a few things to consider when evaluating that statistic, not least that it tells us little about where those people live and why they don't have internet.

According to the Federal Communication Commission's Broadband Deployment report, more than 98 percent of people in San Francisco have access to broadband at speeds of at least 25 Mbps downstream and 3 Mbps up. Given that the infrastructure is there, the next question is service.

According to the most recent information from the Census Bureau, roughly 85 percent of San Francisco's residents pay for broadband service. For the 15 percent who reported not paying for broadband, the issue is more one of adoption than access. Those residents may be unwilling or, more likely, unable to pay for the service. And although broadband affordability is a serious problem, the ordinance does little to provide subsidies or other types of solutions to address that challenge.

If the ordinance cannot meaningfully improve broadband internet access to the 19 percent of San Francisco's population that lives in apartments, the real debate is about whether it can significantly improve transparency and choice for them.

## UNDERSTANDING CHOICE

When evaluating providers, apartment owners have a myriad of concerns. In addition to delivering quality, reliable internet service to residents, property owners also want to ensure that certain obligations are met for customer service standards, installations, network maintenance, upgrades and service;

otherwise, there could be damage to property and harm to the building's aesthetics or service interruptions that could ultimately affect the property's value and residents' connectivity.

A choice in providers is the industry norm because it is good for residents and good for the attractiveness of the community. In the 2017 NMHC Telecom Survey, apartment firms reported that they had two or more service providers available at a substantial percentage of their San Francisco properties, and renters themselves acknowledge that choice exists. According to recent apartment renter preferences data, a greater share of San Francisco apartment residents have provider choice than other renters in California or even the United States as a whole. When asked in the 2017 NMHC/Kingsley Apartment Renter Preferences Survey whether they had more than one internet provider option, 69 percent of San Francisco respondents said yes, compared with 60 percent of California renters and 55 percent of renters nationally who said they had access to multiple providers.

Though nearly seven of 10 apartment renters in San Francisco already have a choice of internet providers, it is important to understand why some may not. A big part of the reason is the economics of the broadband business. Building and servicing broadband networks is very

expensive. Couple high costs with a highly competitive or fractionalized market, and it becomes difficult for providers to stay in business without a way to gain scale. This is why there are often more access issues and less competition in smaller or more affordable apartment communities.

## UNINTENDED CONSEQUENCES

The San Francisco ordinance falls short in delivering on its two main promises: accessibility and consumer choice. Data show that broadband affordability remains more of an adoption hurdle than access and that the majority of the city's apartment residents already have provider choice. Moreover, over time, apartment residents will lose, potentially paying more and/or receiving lower-quality service.

Given how closely connectivity is tied to community satisfaction, property owners have an inherent interest in working with the most reliable providers. Destabilizing partnerships between apartment owners and providers makes it more difficult for ISPs to become trusted, long-term partners and offers apartment owners little assurance of accountability when needs are not met.

With open access, incumbent broadband providers that have already invested in broadband infrastructure in apartment buildings have little

## FREE TO CHOOSE

Nearly seven of 10 San Francisco apartment renters say they have more than one broadband service provider at their communities, according to the most recent NMHC/Kingsley Associates Renter Preferences Survey. The survey is the largest renter survey in the industry, with responses from more than 252,000 apartment renters at 4,795 apartment communities. Here's how those numbers stack up.

**Q:** *Do you have more than one internet service provider at your community?*

	San Francisco	California	Total U.S.
Yes, I have more than one option.	69%	60%	55%
No, I have only one option.	31%	40%	45%

incentive to reinvest and maintain critical infrastructure they must share with competitors.

Though the ordinance gives new providers the benefit of demanding access wherever they want it, no corresponding obligation exists to offer competition where there isn't any. As providers look to maximize their returns, they will inevitably focus on serving high-end customers in high-end communities. This type of cherry-picking will leave smaller and more affordable properties with little to no competition and fewer service options, furthering the digital divide rather than improving connectivity.

## SHARED CONCERNS

Given that the ordinance ultimately delivers the opposite of what it promises – higher costs, more limited access, lower quality service, less reliability – the apartment industry continues to oppose the ordinance.

The existing rules of the road surrounding broadband infrastructure and deployment are working. Apartment owners and operators actively seek partnerships with providers to deliver a choice of high-quality communication services in all markets. The current regulatory framework allows these partnerships to exist because it has continued to be a proven model of success for deploying broadband and other communications services in an efficient, market-driven manner that delivers competition, a choice in providers, better prices, and a range of high-quality services for apartment residents.

The apartment industry is not alone in speaking out against the ordinance. Many broadband providers themselves, under the umbrella of the Multifamily Broadband Council (MBC), are some of its loudest critics and have filed a federal challenge to the law. MBC filed

a petition with the FCC that seeks to block the ordinance by arguing that it is federally preempted and conflicts with FCC regulations governing inside wiring, network sharing and bulk billing arrangements for broadband service to apartment communities.

NMHC, along with individual apartment owners and other real estate groups, has filed comments several times in support of the MBC's petition and urges the FCC to strike down the San Francisco ordinance and stop similar efforts in their tracks. The FCC has yet to decide on the petition. ❖

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