

**AIMS Washington Update
NAA/NMHC Joint Legislative Program**

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STATE OF THE NATION'S HOUSING

The near term outlook for homeownership is grim, according to the State of the Nation's Housing 2008, the annual report by the Joint Center for Housing Studies of Harvard University. Among other things, the report documents a larger than expected growth in renter households, worsening housing affordability conditions and the degree to which minorities and single-person households will dominate new household formations in the coming years. The full report is available at <http://tinyurl.com/6oyot8>.

Rental Housing. According to the report, the national homeownership rate peaked in 2004 and has since retreated below its 2003 level. In contrast, there were two million new renter households created from 2004 to 2007. Exploring the rental housing sector, the report finds that more than a quarter of rental households surveyed in 2005 had lived in their current apartment homes for five or more years, and that more than 45 percent of long-term renters live alone. Among renters who had moved into their apartments within the prior two years, one in five were starting out as new households, two-thirds came from other rentals and one in seven moved from units they owned. In fact, just under a quarter of owners who relocated in 2003-2005 rented their next home.

Construction of new rental units declined for the seventh consecutive year in 2007, with completions of for-rent units in multifamily structures totaling just 169,000, down 15 percent from 2006 and down 38 percent from 2000. The rental share of all multifamily completions dropped below 60 percent for the first time in the 43-year history of recordkeeping. The report also explores the aging rental stock, noting that one-fifth of the rental inventory was built before 1940 and that older units outnumber those constructed since 2000 by about four to one.

Demographics. The report explores the changing demographics of our population and the implications they have on housing providers. According to the research, minorities contributed over 60 percent of household growth in 2000-2006. Minorities now account for 29 percent of all households, up from 17 percent in 1980; they are likely to reach 35 percent by 2020, with Hispanic households leading the gain. Looking forward, minorities are expected to account for more than two-thirds of the net increase in households over the next decade, with the foreign-born alone contributing at least one-third of the gains. The size of our households is also changing dramatically; persons living alone are expected to account for 36 percent of household growth between 2010 and 2020.

Affordability. The report documents a growing shortage of affordable housing and notes the degree to which affordability problems now affect middle-income households, not just low-income households. It says the widening mismatch between housing costs and incomes reflects the growing number of low-wage jobs and the rising costs of operating and maintaining housing. It also notes that local development restrictions in many areas make it impossible to construct

affordable housing. The situation is exacerbated by decreasing federal housing budgets; only a quarter of eligible renter households receive housing subsidies.

Rent vs. Own. The report includes useful data that rental housing providers can use to advocate on behalf of rental housing, namely the degree to which homeownership is often a risky financial investment. The recent drop in house prices has canceled out all the appreciation recorded since 2003 (or earlier) in 16 metro areas. Prices have fallen back to 2005 levels in another 35 metro areas and 2004 levels in 19 metro areas.

Noting that such price drops are not historically unusual, the authors say that of the 139 metro areas that saw their nominal house price index values fall in the late 1980s and 1990s, 18 took 10 years or more to return to peak prices, another 56 took five to nine years and 31 took three to four years.

HOUSING STIMULUS BILL MOVES FORWARD

After procedural objections by Senator John Ensign (R-NV) that delayed passage for two weeks, on Friday, the Senate passed a sweeping mortgage reform and housing aid bill (H.R. 3221). The package includes a \$300 billion foreclosure prevention measure, FHA reform, GSE reform and a package of housing-related tax incentives. The House passed its version of the bill (H.R. 5380) on May 8. Lawmakers are under election year pressure to “do something” about the housing downturn.

House and Senate leaders had hoped to “pre-negotiate” a compromise version of the legislation behind the scenes before the Senate considered the measure, but differences still remain between the two measures. Most importantly, House lawmakers want the tax breaks included in the bill completely paid for, but the Senate measure falls \$2.4 billion short of that goal. (The partisan stalemate over whether tax law changes should be paid for has also ensnared efforts to extend several expired and expiring tax incentives of interest to real estate. See the June 26, 2008 *Washington Update*.)

It remains to be seen whether lawmakers can successfully negotiate a compromise before they adjourn in September. If enacted, however, the measure contains a number of apartment-related provisions and it balances homeownership-related provisions with incentives for rental housing. A summary of the key elements in the package follows.

Foreclosure Prevention

Both measures would refinance \$300 billion of at-risk mortgages into FHA-insured mortgages and both Houses have agreed to the Senate provision that would pay for the program using fees generated by the GSEs as part of a new Affordable Housing Trust Fund. (After the first two years, the fees would be redirected to create affordable housing for very low- and extremely low-income households, with 70 percent allocated to rental housing.)

GSE Reform

The package also includes comprehensive GSE reform that has been underway for more than six years. Like the FHA reform bill, GSE reform has twice passed the House of Representatives, but has never reached the Senate floor. While there are still some provisions to be worked out between the House and Senate bills, they primarily involve the single-family sector.

Both bills would create a single new regulator with authority over both the GSEs' financial safety and their affordable housing mission. The new regulator would have authority to set limits on

Fannie and Freddie's combined \$1.4 trillion portfolio based on safety and soundness operations, but not on a stricter standard that would have considered the GSEs' systemic risk to the U.S. economy.

They would allow the new regulator to set higher capital requirements for the GSEs, including temporary increases due to specific market or other conditions. The Senate bill would also require the GSEs to seek approval by the regulator before offering any new product; the House bill would not. Thanks to NAA/NMHC's efforts, the bill does not contain onerous provisions included in earlier versions that would have severely restricted the GSEs' ability to purchase multifamily loans.

FHA Reform

The package includes a comprehensive FHA reform measure that has passed the House twice but has repeatedly stalled in the Senate. Of interest to apartment firms, both bills reject a multi-year effort to create FHA-insured zero-downpayment mortgages. Instead, the measure actually increases the downpayment requirement from three percent to 3.5 percent.

The measure also bans NAA/NMHC-opposed seller-financed downpayment "gifts" such as the ones offered by AmeriDream and the Nehemiah Corporation. The FHA has twice attempted to ban the programs through regulatory action, and the Internal Revenue Service has called them "scams." The FHA reports that these programs have accounted for 30 to 50 percent of FHA purchase loans in recent years, and that they are three times as likely to go into foreclosure.

HUD officials repeated their calls that the final housing bill ban the programs, saying that without such a ban, the financial viability of the FHA program is threatened because defaults on these loans are costing the agency billions in losses. The House bill would continue the downpayment program.

Finally, the measure includes an NAA/NMHC-supported provision preventing HUD from increasing the multifamily mortgage insurance premium (MIP) without data supporting the need for such increases. In recent years, HUD has twice tried to increase the multifamily mortgage insurance premium in an effort to generate revenue.

Tax Incentives

NAA/NMHC have pursued an aggressive lobbying effort for the past four months urging lawmakers to adopt a tax package that balances any homeownership incentives with incentives for rental housing. Thanks to our efforts, the homeownership incentives have been greatly trimmed down from earlier versions that passed key committees. The bill also balances these incentives with several important rental housing provisions. Summaries of the Senate and House tax bills are posted at <http://tinyurl.com/4y4cl2> and <http://tinyurl.com/46kewx>, respectively.

- *Homeownership Provisions.* Lawmakers dropped a controversial change to net operating loss (NOL) tax laws that was heavily criticized as a giveaway to the home building industry. Lawmakers also rejected a proposed \$15,000 tax credit (later trimmed to \$7,000 after objections by NAA/NMHC and others) for anyone who purchases a foreclosed property. Instead, the Senate measure now offers an income-restricted \$8,000 credit that applies only to first-time house buyers and that, beginning two years after purchase, must be repaid to the government over 15 years. House leaders are expected to adopt this change as well. As a result of these changes, the credit is not expected to have a meaningful impact on apartment demand.

Both bills also provide a one-year standard deduction for property taxes paid by non-itemizers. To help pay for the new incentives, however, the bill eliminates some tax

breaks currently allowed for owners of second houses.

- *Rental Housing Provisions.* Both measures increase the annual per capita cap for the Low-Income Housing Tax Credit (LIHTC) from \$2.00 to \$2.20 in 2008 and 2009 and help to restore liquidity to the LIHTC program by allowing the credits to offset Alternative Minimum Tax (AMT) liabilities. The measures will also make several NAA/NMHC-supported technical corrections to the program to simplify it. The Senate bill increases the tax-exempt private-activity bond cap for multifamily and mortgage revenue bonds by \$11 billion for 2008 (\$10 billion in the House) and exempts the interest on tax-exempt housing bonds from the AMT.

Finally, the Senate bill contains a change long sought by NAA/NMHC and other housing advocates that excludes the military's Basic Allowance for Housing (BAH) when determining a servicemember's eligibility for the LIHTC program. The rule would apply for servicemembers renting in an LIHTC property near a military installation that has seen at least a 20 percent increase in troop levels over the past several years.

- *Other Provisions.* Both bills include a number of provisions long sought by the REIT industry, including increasing the allowable size of taxable REIT subsidiaries and clarifying rules related to foreign currency. The Senate bill also includes a \$1.3 billion extension and expansion of certain Gulf Opportunity (GO) Zone incentives, including adding new counties to the GO Zone and providing a waiver of the deadline for construction.

STUDY: OWNING A HOME DOESN'T NECESSARILY BENEFIT FAMILIES

Homeownership advocates claim that ownership not only provides economic benefits for the owners, but also social benefits for society at large, including helping to create better-adjusted and more educated children. A body of research has been published over the years trying to "prove" that children of homeowners perform higher on academic achievement tests, are more likely to finish high school and have fewer behavioral problems than children of renters.

A new research report by NMHC member David Barker, Partner in Barker Apartments and a professor of real estate at the University of Iowa, and Eric Miller, an economist with the Congressional Budget Office, contradicts those findings and suggests that the \$100 billion a year in tax breaks and other subsidies the government spends promoting homeownership might not be good public policy.

Barker and Miller's analysis found that previous studies did not fully account for family characteristics, such as wealth, divorce, death of a parent and even vehicle ownership, as possible causes of the family benefits. When they factored these characteristics into the equation, the positive effects of homeownership disappeared. In other words, children raised in rental housing are not at a disadvantage compared with children raised in owner-occupied housing.

The research, "Homeownership and Child Welfare," will be published in a forthcoming issue of the journal *Real Estate Economics*. NAA/NMHC will also use the report as part of our balanced housing policy initiative to counteract the now largely discredited notion that if more people own houses, it would strengthen communities and families and lead to more responsible behavior. To request a copy of the paper, please e-mail David Barker at david-barker@uiowa.edu.

NEW LEAD-BASED PAINT LEGISLATION, REVISED REGULATORY REQUIREMENTS

Legislation. On June 24, the House Financial Services Committee passed a bill that would tighten regulations concerning lead-based paint in subsidized housing. Under current HUD regulations, if a child in a HUD-subsidized apartment is found to have an elevated blood lead level (BLL), the property owner and/or public housing authority (PHA) must undertake certain activities to evaluate and control the lead levels in that unit to ensure it is safe for continued occupancy. The proposed legislation (H.R. 6309) would lower the BLL at which such actions must be taken to meet the Centers for Disease Control's (CDC) "level of concern" of 10 micrograms per deciliter (ug/dL).

Based on concerted efforts by NAA/NMHC and others, the bill was expanded to authorize federal funds to pay for the required risk assessments. We also expanded the scope of the assessments to recognize other sources of lead poisoning, including lead in toys and other child-oriented consumer products.

The measure also directs HUD to report on its Big Buy program, which was launched in 2000 to help property owners pay for required lead inspections and risk assessments. Among other things, lawmakers want to know how the Department spent the \$120 million appropriated for the program. Less than one-third of the properties enrolled in the program were actually inspected, and HUD claims it has no funds left and will soon notify property owners that it is shutting down the Big Buy program. In FY08, NAA/NMHC worked with Congress to obtain an additional \$2 million for the stalled program. We will continue to monitor these bills, although they are not expected to pass this year given the tight legislative calendar.

New Brochure Requirement. In related news, the U.S. Environmental Protection Agency (EPA) has revised its Lead-Based Paint Pre-Renovation Education regulations to change the brochure that property owners must provide residents anytime the owner undertakes repairs or renovations in pre-1978 housing that may disturb more than two square feet of paint. Originally, the rule required property owners to give residents a copy of the EPA's *Protect Your Family* pamphlet. Under the revised rules, the EPA has published a new pamphlet titled *Renovate Right* that firms must start distributing no later than December 22, 2008.

Owners of pre-1978 housing are advised that they will still be required to distribute the *Protect Your Family* pamphlet to residents at the time of the lease signing to comply with separate federal lead-based paint disclosure requirements. The EPA has recently made available this brochure in several languages. More information on the change and copies of the brochure are available at www.epa.gov/lead/pubs/renovation.htm.

Litigation. Earlier this month, the Rhode Island Supreme Court unanimously overturned a landmark verdict against three former lead paint manufacturers; the state had successfully sued the firms for being "public nuisances" to try to force them to pay for lead clean-up costs in child-accessible buildings. The ruling is potentially bad news for several other states, including Ohio, Wisconsin and California, that are also suing lead paint manufacturers under public nuisance law. NAA/NMHC have been watching these cases closely because without being able to hold the manufacturers liable for the enormous cleanup costs associated with lead paint, governments turn to property owners to remediate lead-based paint. In fact, the Rhode Island ruling specifically noted that the state can seek damages from "landlords who allow lead paint on their property to decay."

AFFORDABLE HOUSING PRIZE

The Turner prize for leadership in affordable housing is now accepting applications. The award, which is administered by the Center for Community Innovation at the University of California at Berkeley, recognizes outstanding affordable housing developments. Applications can be submitted by anyone involved in the planning, development or operation of a development. First

prize is \$25,000. Five finalists will be awarded stipends of \$5,000 to spread the affordable housing message at conferences and seminars. Applications are due August 18 and can be downloaded at <http://tinyurl.com/5mu5x4>.

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