

WASHINGTON UPDATE



APRIL 3, 2009

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SUSTAINABILITY/GREEN PRACTICES

Weatherization Program Becomes More Accessible to Apartment Properties

The U.S. Department of Energy (DOE) has issued new guidance making it easier for apartment properties to access funds in the Department's Weatherization Assistance Program. The economic stimulus bill enacted in February (P.L. 111-5) provided \$5 billion for the program and made significant changes to it that could benefit the apartment sector. Among other things, it expanded income eligibility requirements from "150 percent" to "200 percent" of the federal poverty level and raised funding limits from \$2,500 per dwelling unit to \$6,500 per unit.


Most importantly, however, DOE has changed its policy on multifamily eligibility. The guidance directs state and local weatherization offices to review all policies that establish greater qualification or application requirements for multifamily buildings than those required by DOE. NAA/NMHC first raised this issue with DOE in 2006 and has long pressed the department to offer guidance to the states about streamlining their application process. This would increase multifamily participation in the program. More information about the Weatherization Assistance Program can be found at <http://apps1.eere.energy.gov/weatherization/>.

In addition, DOE and the Department of Housing and Urban Development (HUD) have created a joint task force to better coordinate efforts and provide additional guidance on weatherization and energy efficiency retrofits for existing housing. See the March 19 AIMS Washington Update for more information.

HUD/Department of Transportation Announce Sustainable Communities Initiative

The White House's emphasis on sustainability was the focus of a March 18 hearing before a House Appropriations subcommittee when federal officials announced a new partnership aimed at promoting sustainable communities. HUD and the Department of Transportation announced the creation of a new interagency task force that will be charged with coordinating transportation and housing investments to provide more choices for affordable housing near employment opportunities, more transportation options, and better coordination of transportation and land uses.

The task force seeks to have every major metropolitan area in the country conduct integrated housing, transportation and land-use planning and investment in the next four years. HUD says it will offer grants to metro

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areas to facilitate these efforts under its Sustainable Communities Initiative.

The departments will also work jointly to develop an "affordability index" that will calculate the cost of living in a neighborhood based on both housing and transportation costs. The index is aimed at those who have moved to cheaper housing outside city centers only to see jumps in their transportation costs.

HUD Secretary Shaun Donovan promised an "intensive review of programs to ascertain how to support the marriage of housing and transportation, and to emphasize location efficiency in all that we do." HUD's statement on the interagency partnership is available [here](#). Testimony from the hearings is posted [here](#).

Residential Development Shifts Toward Urban Centers

Across the country, many urban neighborhoods are experiencing dramatic transformations. Parking lots, underused commercial properties, and former industrial sites are being replaced by condominiums, apartments, and townhouses. The U.S. Environmental Protection Agency (EPA) has produced new research examining whether these examples add up to a fundamental shift in the geography of residential construction.

According to their findings, the distribution of residential construction has significantly changed over time in many regions. In more than half of the largest metropolitan areas, urban core communities have dramatically increased their share of new residential building permits. In more than 15 regions, the central city has more than doubled its share. They also report that data from 2007 show the trend continuing in the wake of the real estate market downturn. Residential Construction Trends in America's Metropolitan Regions is available [here](#).

GOVERNMENT AFFAIRS

NAA/NMHC-Opposed "Card Check" Legislation in Doubt

Prospects for swift enactment of the controversial Employee Free Choice Act (EFCA), also known as "card check," disappeared last week when Senator Arlen Specter (R-PA) announced that he will vote against bringing the union-backed bill to a vote in the Senate.

His move means Senate Democrats, who hold 58 seats, lack the 60 votes needed to overcome a filibuster threat. In 2007, Specter was the only Republican to vote to cut off debate on the measure; without his support the measure as proposed seems unlikely to pass in this Congress.

The legislation was reintroduced in the House and Senate on March 10, and labor leaders had expected fast action on the measure in return for the millions they spent to help get Democrats elected last November. Already, however, support for the measure appears to be wavering among some House and Senate Democrats.

Specter, who faces re-election in 2010, had been heavily lobbied by business and union groups and his vote was the source of much speculation. In announcing his position on the Senate floor, he cited the bad economy as an important reason for opposing it, leaving open the

possibility of reconsidering if the economy recovers.

NAA/NMHC applauds Specter's decision, and we will continue to work to oppose the measure and educate members of Congress about how it would erode the fundamental tenets of the collective bargaining process.

NAA/NMHC-Endorsed Estate Tax Proposal Moves Forward

NAA/NMHC's efforts to permanently freeze the estate tax at 2009 levels are gaining headway. Earlier this year, President Obama included such an approach in his FY 2010 budget blueprint. Last week, Senate Finance Committee Chairman Max Baucus (D-MT) also adopted that approach in legislation (S. 722) he introduced to make permanent some of the tax cuts enacted by President Bush in 2001.

Without Congressional action this year, the estate tax will be temporarily repealed in 2010 and then will return to its pre-2001 rates (\$1 million exemption per individual and a 55 percent tax rate). We have urged lawmakers to adopt this approach rather than pursuing full repeal of the estate tax because most proposals to fully repeal the estate tax have also eliminated "stepped-up" basis. Under such plans, heirs of commercial properties would avoid the estate tax only to find themselves owing substantial capital gains and recapture taxes.

Under both proposals, the estate tax would be set at 2009 levels of a \$3.5 million per individual exemption and a 45 percent maximum tax rate.

The bill would also make lower income and capital gains tax rates permanent for individuals making below inflation-indexed \$171,500 (\$208,850 if married filing jointly), make permanent marriage penalty tax relief, and enact permanent changes to the Alternative Minimum Tax (AMT). Notably absent from the bill are proposals to prevent increases in income, capital gains and dividend taxes for those taxpayers making above inflation-indexed \$171,500 (or \$208,850 if married filing jointly).

NAA/NMHC will continue to work closely with lawmakers as they tackle tax reform measures that could impact apartment firms.

NAA/NMHC Campaign Opposes Carried Interest Tax Increase

NAA/NMHC have rolled out an aggressive lobbying campaign to oppose proposed changes in the taxation of carried interest (i.e., "the promote") after President Obama's budget blueprint proposed a 160 percent tax increase on carried interest beginning in 2011—increasing the tax from the current capital gains rate of 15 percent to ordinary income tax rates, which are proposed to increase to 39.6 percent.

In recent weeks we have met with several lawmakers, targeting both leadership and rank-and-file members of the House and Senate, explaining that not only is such a tax law change inappropriate, but it would also have numerous unintended consequences, including exacerbating the nation's affordable housing shortage.

The proposal passed the House of Representatives (but not the Senate) on a largely party-line vote in both 2007 and 2008. In an encouraging sign, both Chairman Max Baucus (D-MT) and Ranking Member Charles Grassley (R-IA) of the Senate Finance Committee recently expressed their belief that the current economic climate will make passage of the proposal

in 2009 less likely. The Obama Administration, however, continues to express its plans to push for swift enactment of the proposal.

Research

Compensation Survey Underway

NMHC's National Apartment Survey of Compensation and Benefits Practices is now underway. Firms that complete the survey by May 8 can save up to 78 percent on the final results. Now, more than ever, it is imperative to have a competitive compensation program. Benchmark yours against your industry peers and save significantly by participating in NMHC's 10th annual survey, the only source for critical market-level data. NAA members receive NMHC member-level pricing to purchase the final report.

The 2009 Survey will provide comprehensive compensation data on 65 positions from top executives to leasing consultants on a national, regional, sub-regional, state and metropolitan level. It will also cover employee turnover, profit-sharing, bonus and commission plans, benefits and leave policies and more.

To participate, [click here](#).

NMHC 50 Top Owners and Top Managers Released

The apartment industry was buffeted by crosswinds in 2008 according to the 20th anniversary of the NMHC 50. The bursting of the housing bubble continued to pull house prices downward and teach Americans that homeownership is anything but a "can't miss" investment. But offsetting that pro-renting effect is one of the nation's worst economic and financial market crises since the Great Depression.

Despite the turbulent economic environment, there were fewer changes in this year's NMHC 50 than anticipated. This is partially explained by the credit crisis and its impact on property sales as overall transaction volume was down more than 60 percent last year.

Nevertheless, with almost \$38 billion in apartment properties changing hands in 2008, there were some notable changes in this year's rankings. For the first time in 11 years, AIMCO was neither the largest, nor the second-largest, apartment owner, having slipped to No. 3 after net sales of 38,208 apartments. MMA Financial is now the nation's largest apartment owner. The St. Paul, MN-based firm owns 186,459 apartments.

On the management list, after seven years in the No. 3 slot and one year at No. 2, Pinnacle finally moved into the top slot. Riverstone Residential moved up a slot to No. 2 this year after adding more than 26,000 units to its portfolio.

For the first time in 12 years, there are only two public real estate investment trusts (REITs) among the top 10 owners. There are now 11 REITs in the top 50 owners, down from a high of 14 in 2005, and their total apartment holdings have slipped to the lowest share of the overall market since 1997.

The full rankings and an analysis of the results are available [here](#).

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