

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

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**HOUSING STIMULUS BILLS**

Congressional efforts to quickly pass a housing stimulus bill were stymied this week when President Bush announced his opposition to a Senate tax bill and House Democrats unveiled an alternative package that takes a very different approach. The \$14.5 billion Senate measure, S. 3221, which passed yesterday, has been widely criticized for providing more relief to home builders and lenders than to families facing foreclosure. The rival House tax bill, which was marked up by the Ways and Means Committee on Wednesday, makes an effort to balance tax incentives for first-time house buyers with an expansion and improvement of the Low-Income Housing Tax Credit (LIHTC).

The Senate bill includes a \$6 billion provision allowing some money-losing companies to get refunds of taxes paid since 2004, a new standard property tax deduction (\$500 for single filers, \$1,000 for joint filers) for homeowners who do not itemize their federal taxes, and a \$7,000 tax credit to buyers of foreclosed houses. NAA/NMHC have actively opposed the home buyer tax credit as unnecessary and counterproductive.

Thanks to criticism by us and others, legislators trimmed the original proposal from a \$15,000 credit to a \$7,000 credit and instead of applying it to newly built houses and foreclosed houses applied it only to foreclosed houses. Legislators also wisely rejected a proposal to reduce or eliminate the downpayment requirements for FHA-insured loans. NAA/NMHC have lobbied against federally insured no- and low-downpayment mortgages since the measure was first proposed in 2004.

Although NAA/NMHC strongly oppose the homeownership incentives in the Senate bill, it does contain several NAA/NMHC-supported elements, such as a \$10 billion increase in the cap for mortgage revenue and multifamily bonds; at NAA/NMHC's urging, a provision exempting interest from those bonds from the Alternative Minimum Tax (AMT); and NAA/NMHC-supported language blocking the U.S. Department of Housing and Urban Development (HUD) from increasing the multifamily mortgage insurance premium (MIP) until October 1, 2009, something the agency has unsuccessfully tried to do for the past two years.

The \$11 billion House bill, meanwhile, is more favorable to rental housing interests. It would increase funding for the LIHTC program for two years to \$2.20 per capita (from \$2). It would also make NAA/NMHC-supported technical corrections to the program and allow the LIHTC to offset AMT; exempt the interest on tax-exempt housing bonds from the AMT; and increase the cap on mortgage revenue and multifamily bonds by \$10 billion in 2008. NAA/NMHC have sought many of these changes to address the credit crisis in the tax credit program. It also includes a number of provisions long sought by NAA/NMHC related to Real Estate Investment Trusts (REIT). More information on the bill is available at <http://tinyurl.com/52gkf6>.

The House bill also includes NAA/NMHC-opposed homeownership incentives, including a property tax deduction for non-itemizers and a one-year, refundable first-time home buyer tax credit of up to \$7,500. The impact of the tax credit is mitigated by the fact that taxpayers are required to repay the credit over 15 years, and higher-income households are not eligible to claim it. The final form of any federal housing response may not be known for several weeks. NAA/NMHC will continue to press legislators to enact a balanced stimulus package that also addresses the nation's rental housing needs.

**REPORT: INCLUSIONARY ZONING NOT A PANACEA**

The Center for Housing Policy and New York University's Furman Center for Real Estate and Urban Policy have released a new research report examining the effects of inclusionary zoning (IZ) policies. The report refutes the claims that IZ policies can cause significant decreases in housing production or increases in housing prices. However, it also finds that IZ policies have only produced a modest number of affordable housing units, echoing NAA/NMHC's longstanding claim that IZ by itself is not a panacea for a community's affordable housing challenges.

The report also reinforces the two key messages NAA/NMHC continue to deliver to policymakers considering IZ policies. First, IZ policies must include incentives to offset the cost to the developer of producing such housing. But what is a sufficient cost offset varies from community to community and over time as market cycles change. IZ policies need to be reviewed over time to ensure they remain effective. Our second message is that not all cost offsets work. In many areas, developers are unable to

use density bonuses offered because of neighborhood opposition, local regulatory barriers or the economics of a given property. The full report, which can be valuable for firms facing IZ regulations in their areas, is available online at [www.nhc.org/housing/iz](http://www.nhc.org/housing/iz).

## FINAL LEAD-BASED PAINT RENOVATION AND REPAIR REGULATIONS ISSUED

On March 31, the U.S. Environmental Protection Agency (EPA) announced a final regulation imposing new requirements on anyone engaged in renovation, repair and painting activities, including apartment maintenance workers, that disturb lead-based paint in housing built before 1978. Congress mandated that the rule be published in 1994; EPA's failure to publish it has been the subject of lawsuits and continued Congressional inquiry over the years.

NAA/NMHC have been actively involved with the EPA and other federal agencies on the proposed rule. The rule, which does not go into full effect until 2010, requires workers who disturb lead-coated surfaces to complete an EPA-certified training course on lead-safe work practices. Workers must also verify that the work site was appropriately cleaned based on EPA standards.

In a move that will surely cause confusion among property owners, the rule diverges from the previously established standard of when such requirements kick in. All other lead-based paint regulations are triggered when work disturbs more than two square feet of painted surface. This latest regulation is not triggered until six square feet of painted surface are disturbed. The final rule creates other inconsistencies. For instance, the existing federal regulations explicitly prohibit dry sanding of lead-coated surfaces; this rule would permit renovators to use this practice.

Several advocacy groups that previously sued the EPA for failing to promulgate the regulations have criticized the final rule and are contemplating legal action. NAA/NMHC are reviewing the proposal and will seek interpretive guidance from the EPA on a series of questions raised by the rule. The rule is available at [www.epa.gov/lead/pubs/renovation.htm](http://www.epa.gov/lead/pubs/renovation.htm). NAA/NMHC will publish additional guidance on the rule pending clarification from the EPA.

## FEDERAL TRANSLATION REQUIREMENTS: LAWSUIT UPDATE

On March 28, the U.S. District Court for the District of Columbia dismissed the NAA/NMHC lawsuit seeking to block the U.S. Department of Housing and Urban Development's Limited English Proficiency (LEP) Guidance. (Civil Action No. 07 0815 National Multi Housing Council, et al vs. Alphonso Jackson, Secretary of HUD.) The LEP Guidance, which went into effect on March 7, 2007, requires federally funded apartment owners to translate a broad array of documents in multiple languages and to provide verbal translations for those who do not read in their native language.

NAA/NMHC filed a lawsuit last May to have the rule overturned, arguing that the policy was illegal, unduly burdensome and exceeded HUD's statutory authority. In its ruling, the court granted HUD's request to dismiss the case, saying that NAA/NMHC did not have standing to bring the suit and that the issue is not ripe for review yet because HUD has not taken any action to enforce the policy, since there is no plaintiff who has suffered damages trying to comply or for failing to comply.

Although the court dismissed our suit, the ruling stated that the LEP Guidance is a non binding, malleable standard that imposes no requirements on housing providers. In other words, it is a guidance document and not a new regulation. Both the ruling and statements made by the judge during oral arguments last October would undercut any attempt by HUD to pursue enforcement actions based solely on the Final Guidance. The court's ruling as well as a memo analyzing the decision and its impact on NAA/NMHC's members is available at [www.naahq.org/govern\\_affairs/](http://www.naahq.org/govern_affairs/).

## MISCELLANEA

- **NMHC 50.** The 2008 NMHC 50, our annual ranking of the 50 largest apartment owners and 50 largest apartment managers is now available at [www.nmhc.org/goto/4552](http://www.nmhc.org/goto/4552). In addition to the rankings, this special report includes analysis of the results and profiles of some of the more interesting stories to come out of this year's survey. Among other things, the 2008 survey documents the growing concentration among apartment management firms and the emergence of powerful national property management firms.
- **Compensation Survey.** NMHC's 2008 National Apartment Survey of Compensation and Benefits Practices is now underway. The survey is open to all apartment firms. Companies that complete it before May 9 will be eligible to purchase the final report at a substantial discount. The survey is posted at [www.nmhc.org/goto/08CompSurvey](http://www.nmhc.org/goto/08CompSurvey).

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