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Panelists Explore Issues at 14th Annual Affordable Housing Conference

By Anne Townsend, Staff Writer, Novogradac & Company LLP

Low-income housing tax credit (LIHTC) experts reviewed a series of important issues, including the current equity market, Year 15 issues and strategies for handling NIMBYism, at Novogradac & Company LLP's 14th Annual San Francisco Affordable Housing Conference, held October 4-5 in San Francisco, Calif. Panelists discussed the latest developments and current trends, and shared advice and predictions for the coming months.

Equity Matters

The price of LIHTCs is expected to continue dropping through the middle of 2008, according to panelists Jeff Butcher of WNC & Associates Inc; Greg Judge of MMA Financial Inc.; Richard Shea of PNC Multifamily Capital; Tom Stephens of Sonnenschein Nath & Rosenthal LLP; and panel moderator Pat Nash of JPMorgan Chase. During the session "Equity Matters: The State of the Market," the experts examined changes afoot in the LIHTC industry in the next six to 12 months.

Judge described the current market as stabilized compared to the market two years ago, when business was booming. "Now we're seeing more deals than we have capital, and we have to raise yields in order to create demand," he said. "What is that yield that is going to attract that capital back into the market?"

Shea agreed that the market had stabilized, while noting that the PNC had its best year last year. "I think there is recognition that, as [Judge] pointed out, there are some issues out there in terms of investor demand," he said.

Despite the more difficult conditions, it's possible to get deals done. "We feel like the pricing matrix right now is conducive to us being in the market right now," Shea said.

When asked if underwriting had changed in light of the market, Judge noted that MMA is being more careful with new business relationships. "As it gets harder to raise money, there are lines outside the investors' door, [of institutions] looking for money," he said. "[Investors] have a lot of options and they're looking for the best portfolios, so you want to make sure you have good transactions in your portfolio."

With this shift in supply and demand, Butcher said certain details have become more important to WNC's syndication group, including those tied to the population and the location of certain deals, and the ratio of 4 percent to 9 percent deals within a portfolio. "How important are those underlying issues?" he asked.

Nash responded that the reality of a multi-investor fund is that investors have to take the deal or leave it. "Sponsorship on the lower tier is key," he said, noting that pricing, supply and demand influence the selection process. He cited location and size as two important details when choosing deals.

Nash asked the panelists to provide predictions of where they see yields and price per credit at the lower tier by the middle of 2008. "I would not predict that pricing, from a pure dollar standpoint, will go up anytime soon," Shea said. "From a middle of the road prediction, I think you're going to see a stable to (maybe) rising yield curve in our market, which is going to push prices somewhat ... in California in the 90s by mid-08. I don't think you're going to see a ton of dollar stuff unless you have a ton of soft money sitting around."

"In our pipeline there isn't much that's over a buck," said Judge. "I would guess, nationally, that if prices are low 90s now, they're going to be mid-high 80s,

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and yields are going to be about six or a bit north of six.” He agreed with Shea that pricing in California by mid-2008 would be in the mid 90-cent range.

“Prices — we can now unequivocally say — have gone down,” said Butcher.

Year 15

Renee Beaver, a partner in Novogradac & Company LLP’s Cleveland, Ohio office, moderated the panel “Year 15: A Time of Tough Decisions,” which included Paul Patierno of AIMCO; John Bradenberg of Enterprise Community Investments Inc.; Paul Buckland of Wachovia Securities; Steven Stogel of DFC Group Inc.; and Jeff Weiss of Alliant Asset Management Company LLC.

Patierno provided an overview for properties approaching or entering Year 15, explaining the popularity of the LIHTC program and looking at some of the primary issues that have a negative effect on exiting a property. These include: exit taxes, the refinancing or restructuring of existing debt, and funding needed repairs. He advised the audience to plan ahead, and noted that AIMCO analyzes properties three years before the Year 15 mark. “To really get a dedicated and a very qualified person to get to know the property from every aspect — a solid understanding of the deal — will really allow you to plan and have the best strategy to deal with the property upon Year 15,” he said.

He also addressed the recent changes proposed to the qualified contract regulations by the Internal Revenue Service (IRS). “I think that they are favorable,” Patierno said. “Namely allowing land at its actual value that was not at its calculation before. You can do more with the property with a higher value by going through the process.”

Bradenberg echoed Patierno’s advice to plan ahead and then explored the transfer of properties to not-for-profit organizations. He shared three disposition cases and then looked at lessons learned.

“There really is no cookie cutter process,” he said. “There are a variety of alternative approaches that need to be reviewed on a deal-by-deal basis.” These include the sale of the interest for fair market value (FMV), the bargain sale concept, early dispositions, the qualified contract process, refinancing prior to disposition, resyndication, or staying in the deal and capturing the value later. He also mentioned foreclosure as a viable exit strategy, as a means to reposition a property to get rid of soft debt and restore it to an appropriate value.

Buckland spoke about the reasons why general partners may resyndicate Year 15 properties, under the assumption that the lower-tier partnership has been resolved, the general partner and the limited partner

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intend to move to a new partnership, and the state will allow the deal to have acquisition credits. The economic benefits of resyndication include taking the developer fee, and taking a long-term residual note for the projected amount of the cash flow for the deal.

In his discussion of qualified contracts, Weiss said, "The state housing agency has one year to present to you a contract, or to find a buyer for your property. The failure of the agency to do that results in the extended use agreement being terminated. The questions you really need to look at are: 1) Is the project worth more without Section 42 restrictions? and 2) Is the project's value with those restrictions less than the qualified contract price? If both are the case, then qualified contract might be an option for you."

He looked quickly at the formula for both 100 percent affordable projects and those projects with market rate units. "There are not a lot of qualified contracts happening," Weiss said. This is due to the trend in waiving rights to the contract, as well as ongoing discussions of the contract price.

Stogel provided an example of an exit strategy in which affordable rental units were converted to affordable, for-sale condominiums. This Missouri-based deal was made possible due to Private Letter Ruling (PLR) 200703024. This ruling is based on the tenants' right of first refusal, and on the premise that the IRS has no jurisdiction beyond Year 16.

Major guidelines of the ruling, which was implemented by the Missouri Housing Development Commission (MHDC), state that the formula for setting the for-sale home's price is drawn from the maximum affordable rent, that tenants cannot be displaced after the conversion process starts, and that the extended use period will be extended from 15 years to 30 years.

Sales prices include \$79,000 for one-bedroom units and \$89,000 for two-bedroom units; mortgage payments are lower than the cost of the maximum affordable rents.

NIMBY to YIMBY

Solutions do exist for those who wish to confront "not-in-my-backyard" (NIMBY) attitudes in communities, according to a number of panelists who have dealt first-hand with — and overcome — such attitudes. The panel, "The Path from NIMBY to Y(es)IMBY: Strategies and Services that Lead to Community Approval and the Advancement of Not-For-Profits' Mission to Provide Affordable Housing" featured Diane Spaulding of Non Profit Housing Association (NPH) of Northern California, Jeff Loustau of the California Housing Consortium/CHC Institute, and Eric Kjeldgaard of Opportunity Builders. Diane Rubin, a partner in

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Novogradac & Company LLP's San Francisco office, moderated the panel.

After examining the necessity of affordable housing in California, the work of NPH and the some of the causes behind NIMBYism, Spaulding provided a series of examples of affordable housing properties in the Bay Area that had pushed past NIMBYism and became welcome additions to each community. She also spoke about solutions to combat NIMBYism, including community outreach, emphasizing sustainable design and good management, and busting myths that surround affordable housing. She also said that providing tours of affordable housing can personalize affordable housing and change minds.

"We have found that if you go out early, and you talk to people, and you address their concerns and you integrate their ideas and suggestions into the design process, you can really mitigate a lot of NIMBYism," Spaulding said.

Loustau, who examined affordable housing production throughout the state of California,

addressed three key ways CHC combats NIMBYism on a state-level: sustaining catalytic public funding, promoting regulatory reform and encouraging sensible land use planning.

"[Changing minds and promoting state-level change] is going to be necessary to accommodate more growth in California," he said.

Kjeldgaard shared specific examples of how he as a developer combats negative attitudes toward affordable housing development. He urged the audience to research the community in which the project will be built.

"When I go into a community, I want to know who the state reps are, who the city council persons are," said Kjeldgaard. "I want to understand the transportation system, I want to understand the vernacular of where I'm going ... the more I sound like a local, the more I am going to be accepted." He suggested making trips into and spending time in the community in order to learn more about the local economic needs and attitudes toward housing. ❖

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