

## Tax Credit Housing and the Obama Administration: What Lies Ahead

By Michael J. Novogradac, CPA

Great expectations abound that the Obama Administration will bring with it a new direction and a way out of the economic morass in which the country finds itself. The tax credit housing industry can play a vital role in economic recovery and is striving to be a significant part of any economic recovery package.

As an example, the National Multi Housing Council (NMHC), as part of a broad coalition, is working with lawmakers to stimulate investment in the LIHTC program. The coalition has called on the Treasury Department to use some of the remaining Troubled Asset Relief Program (TARP) funding to purchase mortgage-backed securities guaranteed by Fannie Mae, Freddie Mac or Ginnie Mae that are backed by loans on properties assisted by the LIHTC program.

Industry observers warn, however, of the large and difficult task ahead of the Obama White House and the 111th Congress. "In the context of economic recovery, everybody is throwing everything up against the wall," Benson "Buzz" Roberts, of the Local Initiatives Support Corporation and a regular contributor to this Journal, told those gathered at a recent Novogradac & Company conference in Miami Beach. "Take it, multiply it or take it to a higher order of magnitude to get sense of what's going on in the transition. It's not just about housing. It's about every part of the government and interest group trying to make a case that they need this economic recovery money because they are most shovel-ready and the most job producing. So it's not one housing program vs. another housing program, it's housing vs. highways, housing vs. environment, housing vs. everything else."

Nonetheless, President Barack Obama during the transition from the Bush Administration appeared to have housing in mind, at least peripherally, with many of his appointments.

Rahm Emanuel, Obama's choice for White House chief-of-staff, is familiar with urban issues, and Roberts notes, "generally familiar with tax credits." Obama's choice to run his economic team, Timothy Geitner, was recently head of the New York Fed and was involved deeply in the financial services issues of the bailout. Valerie Jarrett, Obama's senior advisor, has been CEO of a real estate development company and has run housing developments.

Perhaps most encouraging is the choice of Shaun Donovan to head the U.S. Department of Housing and Urban Development (HUD). Donovan receives high marks from industry professionals. As New York City Housing Commissioner, Donovan developed the largest affordable housing plan in the nation and spearheaded solutions to build and preserve more than 80,000 affordable homes in neighborhoods throughout the city. During his time as deputy assistant secretary for multifamily housing at HUD, he pioneered new tools for preserving and improving more than two million affordable apartments.

"[T]hose of us who have known Shaun know he's terrific," said Roberts. I think it's safe to say that the city of New York over the past 15 years has had consistently the most aggressive and proactive, and best funded housing programs in the country."

Fellow panelist Sheldon Schreiber of Pepper Hamilton agreed. "He's one of the smartest people I've met.... The fact that Obama had the nerve to take him and move him all the way up to the top job is just a remarkable comment about the quality of people he's taking," said Schreiber. "He took perhaps the brightest, most knowledgeable, concerned guy there is in the whole damn country about housing and it's just a remarkable appointment."

In a separate interview, Schreiber said Donovan "under-

*(continued on page 2)*

# What Lies Ahead

(continued from page 1)

stands tax credits; no one there [at HUD] has understood the credit in very long time. His staff will know the credit," said Schreiber.

The wide and high respect for Donovan stretches beyond individual admiration. President and CEO Doris W. Koo in a statement from Enterprise Community Partners, says her organization has witnessed Donovan's leadership firsthand on several major affordable housing initiatives. "His vision and leadership have been the driving force behind Mayor Michael Bloomberg's 10-year, \$7.5 billion New Housing Marketplace Plan, which is the largest municipal housing plan in the country and a model for how to create and preserve affordable housing for cities across the country," Koo said.

Michael Bodaken, president of the National Housing Trust (NHT) in December called Donovan, an NHT board member, "simply right person for the job."

What might the future look like for affordable housing and the tax credit industry? According to Roberts, a lot

depends on congressional support. "Part of what makes tax credit policies difficult is that you have to have not just Obama team support, not just Democratic congressional support but also some Republican congressional support or at least acquiescence. It's all part of a package and it all interconnects. This is what makes it complicated," he said.

It is widely known that the Obama Administration wants to work closely with all of Congress, not just Democrats, says Roberts, because once past economic recovery, the president will have a really large, difficult and aggressive agenda around health care, education, global climate change and energy, among other things. "He can't do that unless he has a bipartisan process and he's not going to have the longer-term bipartisan process if he jumps out with an economic recovery bill and jams it through the Congress with no consultation with Republicans," Roberts said.

As for HUD, Schreiber and his colleagues at Pepper Hamilton say HUD's mission needs to be "narrowed

(continued on page 3)

## Journal of Tax Credit Housing Editorial Board

**Publisher** ♦ Michael J. Novogradac, CPA

**Editor** ♦ Jane Bowar Zastrow

**Managing Editor** ♦ Alex Ruiz

**Staff Writer** ♦ Jennifer Dockery

**Technical Editor** ♦ Robert S. Thesman, CPA

**Contributing Writers** ♦ Mark Shelburne, Brandi Day,  
Brendan Kelly, Buzz Roberts

**Production** ♦ James Matuszak

## Journal of Tax Credit Housing Advisory Board

**Frank Baldasare** ♦ CW Capital

**Bud Clarke, MAI** ♦ MMA Financial

**Jana Cohen Barbe** ♦ Sonnenschein Nath & Rosenthal LLP

**Tom Dixon** ♦ Boston Capital

**Wendy Dolber** ♦ Standard & Poor's Corporation

**Rick Edson** ♦ Housing Capital Advisors Inc.

**Anthony Freedman** ♦ Holland & Knight

**Richard Gerwitz** ♦ Citi Community Capital

**John Lisella** ♦ SunAmerica Affordable Housing Partners Inc.

**Philip Melton** ♦ Grandbridge Real Estate Capital

**Stephen Ryan** ♦ Cox, Castle & Nicholson LLP

**Sheldon Schreiber** ♦ Pepper Hamilton LLP

**Arnold Schuster** ♦ Sonnenschein Nath & Rosenthal LLP

**Rob Wasserman** ♦ U.S. Bancorp Community Development Corp.

## Journal of Tax Credit Housing Information

Address all correspondence and editorial submissions to:

Jane Bowar Zastrow

Telephone: 415.356.8034

Address inquiries regarding advertising opportunities to:

Carol Hough

Telephone: 415.356.8040

Editorial material in this publication is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding the low-income housing tax credit or any other material covered in this publication can only be obtained from your tax advisor.

© Novogradac & Company LLP, 2009 All rights reserved.

ISSN 1940-4980

The Journal is printed using non-toxic soy-based ink. Novogradac & Company LLP encourages readers to recycle

Novogradac & Company LLP  
246 First Street, 5th Floor  
San Francisco, CA 94105  
E-mail: cpas@novoco.com



# What Lies Ahead

*(continued from page 2)*

and returned to its original strength as a positive partner, provider for housing and a pro-active helper, not as a regulator or a stopper.” Schreiber says that strong consideration should be given to splitting single-family off to its own assistant secretary. Schreiber also says HUD’s reliance on contractors should be reduced.

In a Pepper Hamilton memo that outlines the previous actions, Schreiber and colleague Gerald Salzman observed that President Obama takes office facing two wars, an economy in recession and a country saddled with a multi-trillion dollar debt. “Therefore,” say the authors, “to suggest new housing programs is a nonstarter, and it distracts from the seriousness and credibility of our proposals to fix HUD’s multifamily insurance and subsidy operations. There are numerous proposals which we strongly believe do not require funding increases or legislative change, but rather, leadership.”

The memo also urges HUD to continue the moves it started recently in response to the Housing and Economic Recovery Act (HERA) legislation that would remove impediments between HUD and Treasury-run LIHTC programs. “If there is a conflict between HUD programs and the tax credit, let the tax credit prevail,” said Schreiber, adding his confidence that Donovan will make HUD production programs work with the tax credit program, particularly on preservation deals because there are so many older HUD properties being rehabbed and repositioned with tax credits.

## What’s being done

The National Low Income Housing Coalition (NLIHC) and others in a sign-on letter to Congress urged that funds for housing programs beyond foreclosure mitigation be included in the economic recovery package. The letter, being circulated in the industry, suggests that \$45 billion in recovery money, \$5 billion of it to be used for stalled LIHTC projects, would be for low-income housing programs to prevent a surge in homelessness; provide construction, rehabilitation and related jobs in the housing industry; and contribute to the “green” agenda, with low-income housing leading the way in energy efficiency and environmentally friendly building and operation.

With many of the largest investors withdrawing from the LIHTC program resulting in plummeting tax credit prices, developers and state agencies with projects that are not financial viable are left with little recourse than to return credits. Under the NMHC proposal mentioned earlier, Treasury would agree to buy the Fannie Mae, Freddie Mac or Ginnie Mae loans at a 4.5 percent note rate, which would reduce debt service costs and allow a number of these developments to be financially feasible in the face of lower tax credit prices. Construction lenders have indicated that they will make capital available for the projects if such a guarantee purchase program is in place.

In a separate letter to the House Ways and Means Committee, NMHC and others suggested several other priority actions that would restore liquidity to the program. Recommendations include: allowing carryback of LIHTC for up to five years; providing additional funds to state agencies to be used to provide gap financing for certain LIHTC developments; permanently expanding the offset to rental real estate activities for LIHTC investors from \$25,000 to \$200,000; and changing the 30 percent present value credit to a fixed 4 percent.

We couldn’t agree more with the NLIHC and others who in their letter to Congress noted that: “A decent and stable home is so fundamental to each person’s well-being that any economic recovery plan without housing would be inadequate. Success at employment and education are not possible in the absence of decent and stable homes. Good health requires a decent and stable home as much as it requires proper nutrition and accessible, affordable health care.”

Those of us in the multifamily tax credit housing industry as individuals and through our industry organizations must continue to speak out to the new administration and Congress, urging them to tackle not only the failure of the U.S. single-family housing market but also the problems of the multifamily rental market. Substantial investment in both is crucial to solving our most serious housing problems. ❖

*(continued on page 4)*

# What Lies Ahead

*(continued from page 3)*

*This article first appeared in the February 2009 issue of the Novogradac Journal of Tax Credit Housing.*

*© Novogradac & Company LLP 2009 - All Rights Reserved*

*Notice pursuant to IRS regulations: Any U.S. federal tax advice contained in this article is not intended to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties under the Internal Revenue Code; nor is any such advice intended to be used to support the promotion or marketing of a transaction. Any advice expressed in this article is limited to the federal tax issues addressed in it. Additional issues may exist outside the limited scope of any advice provided – any such advice does not consider or provide a conclusion with respect to any additional issues. Taxpayers contemplating undertaking a transaction should seek advice based on their particular circumstances.*

*This editorial material is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding property compliance or any other material covered in this article can only be obtained from your tax advisor. For further information visit [www.taxcredithousing.com](http://www.taxcredithousing.com).*