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Legislation Could Strengthen the LIHTC, Relieve Affordable Housing Shortage

By Michael J. Novogradac, CPA

Early last month it was reported that the nation is losing approximately 200,000 rental housing units each year due to demolition. This, according to BuildingOnline, is having a significant effect on the ongoing housing affordability squeeze gripping millions of families.

The online news service reports that new research on rental housing market dynamics from Harvard University's Joint Center for Housing Studies finds that while the Low-Income Housing Tax Credit program and other initiatives contribute more than 100,000 new units of affordable rental housing each year, this is still less than the number of low-rent units that are disappearing. "We are taking one step forward and two steps back as gentrification in some neighborhoods and continued deterioration in others leads to the removal of vitally needed lower-cost rental housing," notes Nicolas P. Retsinas, director of the Joint Center.

The study, America's Rental Housing: Homes for a Diverse Nation, found that renters in the middle and lower sectors of the rental market are feeling increasingly squeezed. Researchers found that the median asking rent rose from $734 in 1994 to $974 in 2004 and overall rents stand at record levels. During the same period, monthly renter income grew a mere $76, from $2,272 to $2,348 and 70 percent of the nation's 7 million lowest-income renters pay more than half of their income for housing. The study finds that it is a lack of adequate funding that makes it difficult to preserve, let alone expand, the existing stock of subsidized housing inventory. (More information about the study is featured in the April issue of *The Valuation Report*.)

Tax Credit and Bond Legislation

It is in such a market that it is gratifying to see that several members of Congress have introduced and are sponsoring bills that would aid in the production and rehabilitation of rental apartments.

H.R. 2681, introduced last May by Rep. William Jefferson, D-La., would double the amount of tax credits available for the construction of low-income housing, bolstering what is widely regarded as the most successful housing program in the nation. Rep. Stephanie Tubbs Jones, D-Ohio, joined Jefferson as an original cosponsor of the bill. Both are members of the House Ways and Means Committee. Tubbs Jones, speaking to a gathering of tax professionals at the law firm Baker & Hostetler's annual tax conference on March 15, told her audience that H.R.2681 should pass: "affordable housing advocates, investors, syndicators, and developers believe that there is more than enough capacity in the market to effectively use the additional credits. In fact, the need for affordable housing throughout the country virtually assures the continued success of this program. And the legislation is a jobs creator," she said. She added that about 130,000 new affordable housing units come on line every year because of the LIHTC.

"The redirection of capital to affordable housing through a tax incentive creates net economic efficiencies because the housing credit more effectively marshals private sector capital than would be accomplished through any direct spending program," Tubbs Jones told the audience of lawyers, accountants and other tax professionals, noting that the program is unparalleled in contributing to the revitalization of distressed neighborhoods, and catalyzing partnerships between public, private, and community entities concerned about blight.

H.R. 2681, the Affordable Housing Tax Credit Enhancement Act of 2005, would double the current LIHTC from $1.85 per capita to $3.70 per capita beginning in 2006, a rate that Tubbs Jones said she estimates will yield twice the number of affordable housing units annually. The bill would also rename the LIHTC as the Affordable Housing Tax Credit to remove any negative connotation.

In another move to encourage investment in affordable housing, Rep. Jim Ramstad, R-Minn., on March 2 introduced H.R. 4873, a bill that would amend the Internal Revenue Code of 1986 to provide such encouragement for investment in affordable housing. The measure would make several changes to the low-income housing tax credit (LIHTC) program, including

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renaming it the Affordable Housing Tax Credit, modifying the rules for determining applicable percentage, providing an increase in credit for buildings in state designated areas, modifying the scattered site rule and allowing tax credits for Section 8 moderate rehabilitation developments. H.R. 4873 would also make several changes to the rules governing mortgage revenue bonds and qualified residential rental project exempt facility bonds.

Then, on March 3, Sen. Blanche Lincoln, D-Ark., introduced S. 2366, the companion bill to H.R. 1468, introduced last year by Rep. Nancy Johnson, R-Conn., which would replace the recapture bond provisions included in the low-income housing tax credit (LIHTC) program. The legislation would repeal the requirement under Section 42(j)(6) of the Internal Revenue Code that requires an investor seeking to dispose of an interest in an LIHTC property within the initial 15-year compliance period to post a surety bond in order to avoid future tax liability, provided the property was reasonably expected to remain a qualified low-income development for the remainder of its compliance period. This proposed legislation deserves our support as it works its way through committee hearings.

Community Development Block Grants

It is not only important that rental housing remains a viable housing alternative but that the communities supporting that housing are healthy and safe places to live. Individuals need to get and keep jobs, remain physically and psychologically healthy and children need to learn – all of which require that the basic needs for a roof over our heads and a place to call home are met.

A program with a long history of fulfilling these needs, the Community Development Block Grant (CDBG) program, works largely to ensure decent affordable housing for all, and to provide services to the most vulnerable in our communities, to create jobs and expand business opportunities. Begun in 1974, the CDBG has become an important tool in helping local governments tackle the most serious challenges facing their communities.

Now, however, the CDBG faces the prospect of having its funding cut by $1 billion The Bush administration in its budget proposal for fiscal year 2007 requested the cut, leaving the program with about $2.8 billion. However, congressional proponents have rallied their support and, according to Reuters news service, a majority of U.S. senators signed a letter on March 13 demanding a $500 million increase in funding for the Community Development Block Grant (CDBG) program. Reuters reported that it had obtained a copy of the letter, signed by 53 senators — 38 Democrats and 15 Republicans – which was sent to the Senate Budget Committee's Republican chairman, Judd Gregg, and ranking Democrat, Kent Conrad.

In the letter, the senators opposed the White House's proposed 25 percent cut in CDBG formula grants, saying it would bring total program cuts in the past three years to more than a third, and leave some communities "devastated."

"In light of these drastic cuts, communities have struggled to continue their programs and have discontinued critical projects for low-and moderate income persons. We therefore ask you to reject the proposed cut and ask you to support $4.3 billion in funding for the CDBG program," the senators said in the letter, written by Sens. Norm Coleman, R- Minn. and Patrick Leahy, D-Vermont.

In an indication of strong bipartisan support for the CDBG program, the Senate letter was matched by a similar letter signed by 177 members of the U.S. House of Representatives, urging that the House provide "full funding for CDBG, at a level adequate to meet the important and growing needs of our communities." Last year Congress rejected a plan to eliminate the program and distribute a reduced amount of community development funds through the Commerce Department.

Conclusion

Each day we read about the lack of affordable housing and the ill effects that lack is having on our citizens, communities, states and the nation. The sponsor of the Harvard report, the MacArthur Foun-

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dation, hopes to shed some light on ways to preserve affordable rental housing across the nation. It is undertaking new research that seeks to promote the preservation of affordable rental housing across the country through a $75 million initiative to facilitate new ownership, call attention to the importance of rental housing, and stimulate new policies that preserve and expand the nation's stock of affordable rental units. "Preserving affordable rental housing is sensible public policy. On average across the country, it costs half as much to acquire and improve an existing rental apartment than to build a new one," said MacArthur President Jonathan Fanton.

With the definition of affordable housing changing, it's not just a matter of serving the very poor, everyone has a stake in building more affordable housing. We in the affordable housing industry must continue to lead the way, strive to ensure that everyone has a decent, safe, and affordable place to call home and to provide an environment in which individuals and families can thrive.