

# Katrina and What it Means for Housing

By Michael J. Novogradac, CPA

Introducing speakers at the opening general session at the 12th Annual Affordable Housing Conference in San Francisco last month, I spoke to the fact that the country's housing agenda had changed dramatically in the previous three weeks, all due to the devastating effects of Hurricane Katrina (see related story on page one).

Since the beginning of the year the industry and its leading organizations had been focusing its efforts on issues such as federal tax and government sponsored entity (GSE) reform, budget appropriations and the homeownership/rental housing balance. But, in the waning days of August, the scale had begun to tip, and tip dramatically.

"Two and a half weeks ago, [the industry was] in a defensive position but due to the catastrophe, the industry is now playing offense," said David Gasson, of Boston Capital. He added that the industry is no longer a "bull's eye" for reducing tax incentives, noting that in the wake of Hurricane Katrina, the Bush Administration now is looking to tax incentives as a means to rebuild the Gulf Coast.

According to Francine Friedman, of Hunton & Williams, who represents the Affordable Housing Tax Credit Coalition (AHTCC) and who had met with the tax committee staff of both houses two days previous to the conference, everyone on Capitol Hill realizes that the affordable housing industry can bring solutions. "We're trying to respond to the needs and how we can be part of the rebuilding," she said.

Friedman has seen first-hand how the destruction of so much of the Gulf Coast has Congress turning to the affordable housing industry for guidance and how the industry is sharing its ideas on Capital Hill. "We're listening to Congress on how to find ways to get people to come back to the area," said Friedman, adding the focus is: "Not just \$1 million homes first [but] more mixed-income" and "let's not abandon anyone, anywhere."

AHTCC has proposed several adjustments to

the low-income housing tax credit and multifamily bond programs. These proposals are available at [www.taxcredithousing.com](http://www.taxcredithousing.com) by clicking on Disaster Relief Information ([www.novoco.com/disaster\\_relief.shtml](http://www.novoco.com/disaster_relief.shtml)).

The almost hourly changes that were taking place in the second and third weeks after the storm had many in the industry reeling. Observers were warning that things were moving too quickly. "The rebuilding train is moving too fast," said Friedman. "Let's step back, give us a week."

Some, like Jeffrey Lesk, of Nixon Peabody's Washington, D.C. office, urged the industry to "start dealing with situation as it is today." He suggested that there should be a distinction between assistance to areas and assistance to victims and that both long- and short-term strategies for rebuilding needed to be put in place. "We can't waive things that are in the statutes but we have to move beyond temporary fixes," he said.

Citing Revenue Procedure 95-28 and its recapture rules on buildings being restored in a reasonable amount of time after a disaster, defined in IRC Sec. 42 as being no longer than two years, Lesk said even if rebuilding started that day there would be difficulties in getting supplies and workers into the area and in housing and feeding those workers. To expect tax credit properties to be restored by 2007 and not face recapture of tax credits would be close to impossible, he said. "Rules are rules and reality is reality," he said. "Two years is probably not reasonable."

## Off the Table – For Now

Legislative agendas laid out the first of the year by the Senate and House leaders set up Congress' key issues for the year. Usually very little changes that procedure – that is until something like Katrina happens.

Vice-chairman of the President's Advisory Panel on Federal Tax Reform, former Sen. John Breaux, D-La., said that now is not time for tax reform – a sentiment that was shared by the Republican members of the panel. Gasson noted that since the hurricane tore through the Gulf Coast, not only has nothing been

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heard about tax reform, nothing has been heard about Social Security. "Only the things that expire this year will be addressed. Everything else is off the table," he said. "There is no way to take up tax reform now – it's a poison pill."

The tax reform panel's recommendations, initially scheduled for release on July 31 and then pushed to September 30 have been set back to October 31 and all meetings have been canceled.

In place of these issues, President Bush on September 2 signed H.R. 3645, a \$10.5 billion supplemental relief bill and on September 8 Congress approved an additional \$51.8 billion for the Gulf Coast communities hit by the hurricane. Treasury and the IRS have designated all Louisiana parishes as eligible for tax relief, as well as 52 Mississippi, six Alabama and three Florida counties. Additionally, the IRS issued formal guidance on September 9 giving state housing credit agencies the authority to suspend some requirements for LIHTC projects. Notice 2005-69 suspends income limitations and non-transient requirements and, according to the National Multi Housing Council and National Apartment Association (NMHC/NAA), at their request also eliminates restrictions not included that would otherwise prohibit evacuees from living in first-year credit properties.

While Notice 2005-69 suspends the income requirements for LIHTC projects the IRS has not waived income restrictions for developments financed with tax-exempt bonds (see related story in the October Housing Bond Report). However, a letter to U.S. Treasury Secretary John W. Snow and Housing and HUD Secretary Alphonso Jackson, the NMHC/NAA requested a temporary emergency waiver of all program requirements for LIHTC properties; properties funded with the proceeds from multi-family tax-exempt bonds; properties financed by the Federal Housing Administration (FHA); and properties that receive HUD subsidies. As we went to print, this request had not been answered.

As we went to press, Stephanie Tubbs Jones had introduced the Katrina Assistance Tax Relief

Incentives for Necessities Act of 2005, which would make more affordable housing units available in hurricane devastated areas. H.R. 3769 has the support of AHTCC and the National Council of State Housing Agencies.

For full coverage of Hurricane Katrina Relief information, please visit [www.taxcredithousing.com](http://www.taxcredithousing.com).

## Looking Ahead

Most tragic after the loss of lives is the loss of homes for the hundreds of thousands of victims of Hurricane Katrina.

While efforts are being made to house these people, many of whom are among the poorest in our country, many are only a temporary fix. With an estimated 1 million people displaced by the storm, Congress must wrestle not only for short-term fixes but long-term solutions. While the more than 100,000 mobile homes and travel trailers that FEMA provided are good for the short-term, they do not provide safe, decent and stable housing for the long term.

And the \$3.5 billion in additional Section 8 vouchers provided by Congress in early September, fully funding 360,000 vouchers for six months, is a quick and short-term solution. However, tension exists among the many who are on voucher waiting lists — the U.S. Department of Housing & Urban Development has asked local housing agencies nationwide to move Katrina victims to the top of their waiting lists.

There are also signs of strain as Washington debates the value of providing rental or homeowner-ship options to those displaced by Katrina. President George W. Bush in a speech in New Orleans on September 15 suggested the creation of a new Urban Homesteading program. Under the program, those displaced by the hurricane would be given federal land on which they, winners of a lottery, would pledge to build a home using either a favorable rate mortgage or help from a charitable organization like Habitat for Humanity and sweat equity. Unfortunately, many of those left homeless by the hurricane have so little that this is not a feasible option for them.

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So while the dynamic in Washington has changed, and Congress is considering billions of dollars in subsidized rental housing and grants unparalleled in recent history, there remains a critical need for the industry to mobilize. We in the industry have an opportunity to show Washington how the affordable housing industry can help and how the LIHTC program and other related subsidy programs can provide safe, decent and stable homes for those who lost so much in one of the nation's most catastrophic natural disasters. ❖