

A Look at the Election Results

By Michael J. Novogradac, CPA

On November 4, as we all waited anxiously to hear who would be elected president of the United States, as well as which legislators would serve in the 111th Congress, we could only imagine what a new president and a new Congress might mean for the affordable housing industry. Now that the results of the 2008 election are in, we are beginning to get some small indications of how the new administration will address the problems that the country and its citizens are facing.

Senator Barack Obama, upon winning at least 364 electoral votes, was elected to serve as the country's 44th president. During the transition period from the Bush administration, the manner in which President-elect Obama is responding to plans for a proposed short-term stimulus tax package is providing some hint of the incoming administration's tax policy. Obama has said that a fiscal stimulus plan is a top priority, one that will jump-start long overdue economic growth. "We should get it done," he said.

Obama has also said that he wants the stimulus package to come sooner rather than later. "If it does not get done in the lame-duck session, it will be the first thing I get done as president of the United States," he said.

At a press conference shortly after the election, Obama reiterated his oft-stated tax plan, noting that it represented a net tax cut, provided for substantial middle class tax cuts, that 95 percent of working families would receive them, and that it would provide cuts in capital gains for small businesses, and additional tax credits, all designed for job growth.

"My priority is going to be how do we grow the economy? How do we create jobs? I think the plan that we put for-

ward is the right one, but obviously over the next several weeks and months we're going to be continuing to take a look at the data and see what's taking place in the economy as a whole," he said. "But understand, the goal of my plan is to provide tax relief to families that are struggling but also to boost the capacity of the economy to grow from the bottom up."

Illinois Congressman Rahm Emanuel, who will be Obama's White House chief of staff, reinforced his new boss's comments about an economic stimulus plan when he said that the new administration aims to push another stimulus package in January, this one containing a tax credit for the middle class and job-creating construction projects. He declined to say whether Obama would still pursue a tax increase for the wealthiest Americans. Estimates of Obama's stimulus proposals have been estimated to cost close to \$200 billion.

There is much speculation too about who will be appointed to various Treasury positions and how those appointments will affect efforts to advance the administration's tax agenda. As the Journal of Tax Credit Housing went to press, it was thought that Obama could announce his selection for Treasury Secretary before Thanksgiving. There also is much conjecture about other administration posts critical to the affordable housing industry, including Secretary of Housing and Urban Development.

Congressional results

Even though there has been tremendous national interest in the presidential race, the importance of the congressional elections should not be underestimated. The 111th Congress, which will convene on January 3, will see a significant change in its composition. The Demo-

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crats, who regained control of the House in the 2006 elections, gained a net of at least 19 additional seats this year, further expanding their control of Congress. In the Senate, 35 of the 100 seats were being contested. As of November 12, Democrats held 57 seats, gaining 18 of the 35 seats that were up for election. Republicans won 14 of the contested seats for a total of 40 seats. Three Senate races — in Minnesota, Alaska and Georgia — were still undecided when we went to press but it was considered unlikely that Democrats could achieve a filibuster-proof 60 percent majority in the Senate. The Democratic gains build on the 36-seat majority the party had in the House and will greatly aid the president-elect's ability to advance his agenda in Washington.

Going into the 111th Congress, relatively few changes are expected for the House Ways and Means Committee. Chairman Charlie Rangel of New York is expected to continue in that post; however, Select Revenue Measures Subcommittee ranking member Phil English, R-Pa., and Rep. Jon Porter, R-Nev., were defeated in their re-election bids. Further changes on the Republican side of the

aisle are reflected in six retirements at the end of the 110th Congress.

Of the 24 Democratic committee spots, all 22 members seeking re-election won their races. Social Security Subcommittee Chairman Michael McNulty, D-N.Y., will retire at the end of the 110th Congress, and there is one vacancy due to the death of Ohio Representative Stephanie Tubbs Jones last summer. Additionally, the seat held by Emanuel became available when he accepted the offer to be Obama's chief of staff.

In the Senate, the Finance Committee will gain one Democratic seat to reflect the party's new majority of at least 55 seats. Republican Finance Committee members John Sununu of New Hampshire and Gordon Smith of Oregon lost their bids for re-election. Sununu's seat will not be replaced. Senate Finance Committee Chairman Max Baucus of Montana won his re-election bid along with committee members Pat Roberts, R-Kan., and Jay Rockefeller, D-W.Va., and John Kerry, D-Mass.

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Election topics

Renewable energy was a hot topic in this year's campaign and the result may be some momentum in Washington that could benefit the renewable energy tax credit community. It's been reported that Obama may pursue legislation early next year to speed a transition to an economy fueled by renewable energy sources. Senate Energy Committee Chairman Jeff Bingaman, D-N.M., said in a recent interview that he would develop bipartisan energy legislation early next year. Both Obama and Bingaman have advocated for longer extensions for renewable energy tax credits.

While housing quickly became a key topic in this year's presidential and congressional campaigns as a result of the subprime loan meltdown and stock market collapse, the more targeted topics of affordable rental housing and community development were largely left out of this year's campaigns. Nonetheless, the results of this election will have an impact on those fields.

For example, Sens. Smith and English who lost their bids for re-election were strong supporters of affordable housing, new markets and historic tax credits. However, and more significantly, other supporters who were re-elected, such as Congressman Barney Frank, D. Mass., will remain vital to protecting and improving those programs. Frank is chairman of the House Financial Services Committee and he recently announced his affordable housing legislative priorities for the 111th Congress. Speaking at the National Housing & Rehabilitation Association Fall Developers Forum, Frank emphasized that an affordable housing preservation bill, including exit tax relief, which has always been a key item for many in the affordable housing community, will be a top priority when Congress reconvenes in January.

"First we're going to deal with [affordable housing] preservation," he said. "Any owner of subsidized affordable property who would like to keep those units in the inventory will get full cooperation from the law. We'll do exit tax relief. We'll do whatever it takes. Because if you're trying to keep an inventory of affordable housing, preserving what we have makes so much more sense

than letting that go out of the inventory and starting from scratch."

Frank also emphasized the importance of maintaining the affordable rental housing sector, noting that the country was in its worst economic situation since the Depression "in substantial part because it became the philosophy in America to denigrate rental housing and to assume that only if someone owned his or her own home, could that person live decently. Going forward there is now a recognition that homeownership is a good thing for many people, but there are tens of millions of Americans for whom homeownership is not economically or, in some cases, socially, appropriate — that the alternative has to be decent, affordable rental housing."

These comments have spurred considerable hope among those in the LIHTC community that additional positive enhancements to the LIHTC are coming. In that same vein, the Affordable Housing Tax Credit Coalition (AHTCC), in a memo to its members noted that it has been holding meetings with House Speaker Nancy Pelosi's office and other key congressional members to encourage the inclusion in any stimulus package considered this year a tax title that could include the following housing credit proposals:

- A temporary reduction in the credit period from 10 to five years, in essence allowing 10 years worth of credits to be claimed over five years.
- Permit the carryback of the housing credit for as many as five years and allow these carried back housing credits to offset alternative minimum tax.
- Allow housing credit allocating agencies an additional year to make housing credit allocations before having to return unused housing credits to the national pool.

The AHTCC says that one of the results of the subprime mortgage crisis is that the need and demand for rental housing is increasing and is likely to increase further in coming years. However, the housing credit industry is experiencing its own crisis, which threatens its continued success.

The major problem is an inability to attract sufficient investor capital to finance the housing credit properties

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that have received low-income housing tax credits (LIHTC) from state housing agencies. AHTCC notes that the economic downturn has dramatically reduced investor demand for housing credit investments, particularly in the financial services sector, which has provided a substantial majority of the capital for this program for years. The result of the lack of equity capital is that thousands of critically needed affordable rental units that have been awarded LIHTCs will not be built or preserved and lower income families and seniors will find it more difficult or impossible to find the decent, safe and sanitary housing

produced by the LIHTC program.

Just as we all waited anxiously to learn who would lead the country through these troubled times, we continue to wait expectantly that the Obama Administration and the 111th Congress will not only address the general economic climate and the plight of those whose homes are at risk but also follow through on the promise to “boost the capacity of the economy to grow from the bottom up” by providing remedies for those who would provide the country with affordable rental housing. ❖

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