EXCERPT

NOVOGRADAC
Journal of Tax Credits™

May 2024 • Volume XV • Issue V

Published by Novogradac

Affordable Housing Developers Facing Increased Development Challenges
Developers face rising construction costs and operating expenses, volatile interest rates and more.
Page 4

Unprecedented Challenge, Extraordinary Response
How state housing finance agencies are filling affordable housing construction cost gaps.
Page 14

Fannie Mae, Freddie Mac Make Great Sources of Gap Financing for OZ Projects While Preferred Equity Comes at a Cost
Opportunity zones developers find creative gap financing solutions amid rising financing costs.
Page 11

Bridging Grants as a Source of a Leverage Loan in NMTC Transactions
Structuring challenges and solutions for NMTC bridging grants.
Page 52

Insights on Affordable Housing, Community Development, Historic Preservation and Renewable Energy

Unprecedented Challenge, Extraordinary Response: How State Housing Finance Agencies are Filling Affordable Housing Construction Cost Gaps

STOCKTON WILLIAMS, NATIONAL COUNCIL OF STATE HOUSING AGENCIES

State housing finance agencies (HFAs) in recent years have taken extraordinary steps in response to unprecedented cost increases in affordable apartment construction. They have helped secure billions in additional funding from the federal government and many state legislatures, created an array of new gap-filling programs across the country and provided substantial cost-saving regulatory and administrative flexibilities to developers and their properties.

HFAs' efforts have saved countless developments from "falling through the cracks" and ensured delivery of thousands of affordable apartments during a period of worsening housing needs for millions of low-income renters.

The interrelated drivers of cost increases–first, the supply chain and workforce disruptions of COVID-19, then inflation and higher interest rates, exacerbated by spiraling insurance premiums–created compounding challenges for almost every agency, as well as many developers. Unexpected gaps in development budgets need to be filled quickly, demanding flexible subsidies, often from programs that have to be created from scratch. Previously approved developments need to be re-underwritten and reapproved, which in many states trigger public disclosure requirements, agency board sign-off or the blessing of the state Legislature. Future development pipelines need to be reassessed–as Peter is sometimes robbed to serve Paul–with the escalating resource needs to preserve existing properties, as well as fund new deals, coming into ever-clearer view. And through it all, HFAs must balance the brutal economic realities developers are facing, through no fault of their own, with the agencies' statutory obligation, often under heavy political scrutiny, to stretch every affordable housing dollar they control as far as it can possibly go.

The Need for More Funding

The National Council of State Housing Agencies (NCSHA), the HFAs' trade association and representative in Washington D.C., has been focused on securing more federal resources to arm the agencies for these challenges. In 2022, NCSHA commissioned Abt Global (formerly Abt Associates) to produce the first independent national evaluation of the extent of the problem. The firm's report found that agency-approved developments had experienced unexpected cost increases over the prior 18 months averaging 30% and more than that in a number of cases.

In a representative example, the report found that 39 of 42 developments one HFA recently approved needed additional funding to close, with gaps ranging from $145,000 to $5.7 million. The agency said that, while pre-COVID-19 development costs averaged $150,000 per unit, they had risen to more than $200,000 per unit–a 33% increase – in a matter of months.

American Rescue Plan Funding and Other Federal Assistance

By mid-2022, states had begun to commit some of their share of fiscal recovery funds provided by the America Rescue Plan of 2021 to address the issue. NCSHA identified a flaw in the Treasury regulations for the program that would have severely limited their efficacy for plugging development cost gaps. The organization's advocacy with the Treasury Department and members of Congress from both parties led to policy changes that unleashed a massive amount of new funding. In January, U.S. Treasury Secretary Janet Yellen, speaking to the U.S. Conference of Mayors, said: "In 2022, Treasury put out new guidance giving greater flexibility for funds to be used for long-term affordable housing. Communities have since increased the funds budgeted for housing stability, preservation and construction by 59%, representing a total of $18.5 billion as of last fall."

More than 20 states have used recovery funds to fill development cost gaps, according to NCSHA survey data. One example is Florida, where the Housing Finance Corporation was quickly able to get 65 developments, with more than 4,600 apartments, over the finish line in 2022–then leveraged the success to secure another $100 million from the state Legislature that ensured completion of thousands more in 2023 and this year.

State HFAs are also applying focus and creativity to use other pandemic-era programs for new gap-filling purposes, such as the Emergency Rental Assistance program. As a result of HFA advocacy, the Treasury Department now allows agencies that have met program benchmarks for delivering rental aid to repurpose remaining funds for development purposes. As of this month, more than a dozen HFAs to date are doing so, such as the Michigan State Housing Development Authority, which has earmarked $76 million for targeted transactions.

State Funding

HFAs have also been instrumental in securing funds from their state legislatures to support new rental development. At least 15 states–red and blue and in all parts of the country–have made unprecedented commitments over the past few years. They range from Arizona to Florida to Maine to Wisconsin to Washington, among others. And, as readers of this publication are aware, more states have authorized state housing tax credits as yet another new gap-filler.

Increasing Efficiency

HFAs have also worked to reduce regulatory and administrative requirements in order to save developments time and money. According to Abt Global's analysis: "All the allocating agencies examined are working collaboratively with developers, offering flexibility in a credit award and execution process: allowing timeline extensions; waiving penalties for returning unused credits; and allowing changes to some aspects of the development, such as the number of units, amenities, and community space."

Continued Advocacy

HFAs recognize that even when they have been able to bring new funds and flexibilities to bear, developers also often make significant sacrifices to get to closing and ultimately completion. Leading firms joined NCSHA and the agencies in advocacy campaigns that have won more resources–advocacy efforts that must continue. For all the developments that have succeeded because of agency-developer cooperation, some have still failed or stalled–and countless others in the planning and predevelopment phases may face additional hurdles as the largely one-time federal and in some cases state appropriations are depleted.

Regrettably, the construction cost crisis shows few signs of abating and available resources for addressing it will likely tighten. HFAs and affordable housing developers–along with lenders, investors and syndicators–will need to redouble our efforts to do more with what we have and fight for more to accomplish the mission we all share. ❖

Stockton Williams is executive director of the National Council of State Housing Agencies.

© Novogradac 2024 - All Rights Reserved.
This article first appeared in the May 2024 issue of the Novogradac Journal of Tax Credits. Reproduction of this publication in whole or in part in any form without written permission from the publisher is prohibited by law.

Notice pursuant to IRS regulations: Any discussion of U.S. federal or state tax issues 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 discussion on tax issues reflected in the article are not intended to be construed as tax advice or to create an accountant-client relationship between the reader and Novogradac & Company LLP and/or the author(s) of the article, and should not be relied upon by readers since tax results depend on the particular circumstances of each taxpayer. Readers should consult a competent tax advisor before pursuing any tax savings strategies. Any opinions or conclusions expressed by the author(s) should not be construed as opinions or conclusions of Novogradac & Company LLP.

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.novoco.com.

NOVOGRADAC®

EDITORIAL BOARD

PUBLISHER
Michael J. Novogradac, CPA

EDITORIAL DIRECTOR
Alex Ruiz

TECHNICAL EDITORS
Chris Key, CPA
Michael Kressig, CPA
Diana Letsinger, CPA
Matt Meeker, CPA
John Sciarretti, CPA
Stacey Stewart, CPA

COPY

EDITORIAL AND DIGITAL MARKETING DIRECTOR
Teresa Garcia

SENIOR EDITOR
Brad Stanhope

SENIOR COPY EDITOR
Mark O'Meara

SENIOR WRITER
Nick DeCicco

CONTRIBUTING WRITERS
John DeJovine
Lily Gao
Cindy Hamilton
Heath Hawkins
Irvin Henderson
Art Momjian
Thomas Stagg
Sal Tarsia
Karina Vargas
Stockton Williams

ART

CREATIVE DIRECTOR
Alexandra Louie

GRAPHIC DESIGNER
Brandon Yoder

CONTACT

CORRESPONDENCE AND EDITORIAL SUBMISSIONS
Teresa Garcia
teresa.garcia@novoco.com
925.949.4232

ADVERTISING INQUIRIES
Christianna Cohen
christianna.cohen@novoco.com
925.949.4216

ALL MATERIAL IN THIS PUBLICATION IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSTRUED AS PROFESSIONAL ADVICE OFFERED BY NOVOGRADAC OR BY ANY CONTRIBUTORS TO THIS PUBLICATION.

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 AND/OR LEGAL ADVISOR.

ADVISORY BOARD

OPPORTUNITY ZONES

Dan Altman — SIDLEY AUSTIN LLP
Glenn A. Graff — APPLEGATE & THORNE-THOMSEN
Shay Hawkins — OPPORTUNITY FUNDS ASSOCIATION
Jill Homan — JAVELIN 19 INVESTMENTS

LOW-INCOME HOUSING TAX CREDITS

Jim Campbell — SOMERSET DEVELOPMENT COMPANY LLC
Tom Dixon — LUMENT
Richard Gerwitz — CITI COMMUNITY CAPITAL
Elizabeth Bland Glynn — TRAVOIS INC.
Rochelle Lento — DYKEMA GOSSETT PLLC
John Lisella III — U.S. BANCORP IMPACT FINANCE
Derrick Lovett — MBD COMMUNITY HOUSING CORP.
Rob Wasserman — HUNTINGTON NATIONAL BANK.

PROPERTY COMPLIANCE

Jen Brewerton — DOMINIUM
Kristen Han — WNC
Michael Kotin — KAY KAY REALTY CORP.

HOUSING AND URBAN DEVELOPMENT

Victor Cirilo — NEWARK HOUSING AUTHORITY
Flynann Janisse — RAINBOW HOUSING
Ray Landry — DAVIS-PENN MORTGAGE CO.
Denise Muha — NATIONAL LEASED HOUSING ASSOCIATION
Monica Sussman — NIXON PEABODY LLP

NEW MARKETS TAX CREDITS

Aisha Benson — NONPROFIT FINANCE FUND
Maria Bustria-Glickman — U.S. BANCORP IMPACT FINANCE
Elaine DiPietro — BLOOMING VENTURES LLC
Chimeka Gladney — ENTERPRISE COMMUNITY INVESTMENT INC.
Ruth Sparrow — FUTURES UNLIMITED LAW PC
William Turner — WELLS FARGO
Ashley Wicks — BUTLER SNOW LLP

HISTORIC TAX CREDITS

Heather Buethe — NATIONAL TRUST COMMUNITY INVESTMENT CORP.
Scott DeMartino — KUTAK ROCK
Cindy Hamilton — HERITAGE CONSULTING GROUP
Irvin Henderson — HENDERSON & COMPANY
Jessica Glynn Worthington — KLEIN HORNIG LLP

RENEWABLE ENERGY TAX CREDITS

Jim Howard — DUDLEY VENTURES
Forrest Milder — NIXON PEABODY LLP

© Novogradac 2024 All rights reserved.
ISSN 2152-646X
Reproduction of this publication in whole or in part in any form without written permission from the publisher is prohibited by law.