June 2020 | Volume XXXII No. 6

Workforce & Mixed Income Housing

Tax Credit Advisor

PUBLISHED IN ASSOCIATION WITH THE NATIONAL HOUSING & REHABILITATION ASSOCIATION

The "Everything" Building

Seattle Hospital Provides Workforce Equity

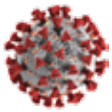
COVID Response: Resident Involvement

425 Grand Concourse, The Bronx, New York

Rendering courtesy of Dattner Architects

JUNE 2020

Workforce and Mixed-Income Housing



COVID-19 Response Report

Also:

Monthly Features

Story Architects

Thom Amdur (*New Developments*, p. 5) is the president and executive director of the National Housing & Rehabilitation Association, associate publisher of *Tax Credit Advisor* and has been the leader in the creation and presentation of the Preservation Through Energy Efficiency program.

Scott Beyer (*Housing USA*, p. 11) is a cross-country traveler covering U.S. urban issues. For three years, he circled America to live in 30 cities for a month each, starting in Miami and ending in New York City, the purpose of which is to write a book about revitalizing cities through Market Urbanism. You can find more about him on his website, Bigcitysparkplug.com.

David A. Davenport (*Year 15 Disputes Continue*, p. 26) is a trial lawyer with the law firm of Winthrop & Weinstine, P.A., which is located in Minneapolis, MN. Since 2013, Davenport has led litigation and other efforts for general and managing partners in disputes in 17 states in more than 40 cases and other matters that have involved over 100 LIHTC developments.

Mark Fogarty (*Impact Equity*, p. 22 and *Member Spotlight*, p. 29) has covered housing and mortgages for over 30 years. A former editor at *National Mortgage News*, he has written extensively about tax credits. He has also had pieces published in the *Chicago Tribune* and *Miami Herald*, among others.

John W. Gahan II (*OZones During COVID*, p. 9) is an attorney for Sullivan & Worcester LLP with extensive experience in complicated financing structures, including syndication of State and Federal Low Income Housing Tax Credits, State and Federal Historic Credits, New Markets Tax Credits, Brownfields Credits, energy related credits and other state credits. He currently serves on the Board of Directors of Preservation Massachusetts and the National Housing & Rehabilitation Association and assisted in drafting laws and regulations dealing with affordable housing properties to better facilitate the advancement of his clients' projects. He is also co-chair of the Sullivan Opportunity Zone Group.

Darryl Hicks (*Talking Heads*, p. 14) is the vice president, communications for the National Reverse Mortgage Lenders Association and a 21-year veteran of associations managed by Dworbell, Inc, the management company of NH&RA.

Mark Olshaker (*Resident Outreach*, p. 10 and *The Everything Building*, p. 18) is a best-selling author of fiction and non-fiction and an accomplished researcher in the areas of crime and medicine, as well as a documentary film writer and producer. Olshaker has written 16 books, including *Law & Disorder* with former FBI Agent John Douglas and *Deadliest Enemy: Our War Against Killer Germs*, with Dr. Michael Osterholm. His latest book with Douglas, *The Killer Across the Table*, was published by Harper Collins in 2019. Their book, *Mindhunter*, is the basis for the current Netflix series.

David A. Smith (*The Guru Is In*, p. 6) is chairman of Recap Real Estate Advisors, a Boston-based real estate services firm that optimizes the value of clients' financial assets in multifamily residential properties, particularly affordable housing. He also writes Recap's free electronic periodical *State of the Market*, available by emailing dsmith@recapadvisors.com. TCA

Tax Credit Advisor
June 2020
Vol. XXXII No. 6
ISSN 2324-6111

Publisher: Peter Bell
Associate Publisher: Thom Amdur
Editor: Marty Bell
202-939-1745 • mbell@dworbell.com
Managing Editor: Jessica Hoefer
Staff Writers:
Scott Beyer
Darryl Hicks
Mark Fogarty
Mark Olshaker
Advertising: Natalie Matter Bellis
717-580-8184
natalie.matterbellis@theygsgroup.com

Subscriptions are $329 per year.
Special rates are available for community-based nonprofit groups; call 202-939-1790.

Address correspondence to:
Circulation
1400 16th Street, NW, Suite 420
Washington, DC 20036
Tel 202-939-1790, Fax 202-265-4435
www.housingonline.com

Editorial office at same address as above.

BLUEPRINT FOR JUNE

By Marty Bell

Building As a Foundation of Hope

In these darkest of times, this month's *Tax Credit Advisor* devotes our pages to hope.

In two of the lowest income per capita zip codes in our nation 3,000 miles apart, two new multi-dimensional, mixed-income projects are underway that demonstrate the unique potential of affordable housing-oriented development to pump hope and energy into a community and its city and bolster the opportunities of residents of both the new buildings and their surroundings. These are developments that, as Thomas Brown of Trinity Financial says, "Get every inch of public good out of the space," and make you proud to be a participant in this industry.

In the Bronx in Upper New York City, Trinity is part of an unusually large team constructing 425 Grand Concourse, a beautiful and an imposing 22-story tower that includes varied housing options for those from 30 to 130 percent of area median income as well as a community college, medical center, grocery store that the area vitally needs, a rooftop garden, a cultural center and an adjacent park. The building sits on a site formerly occupied by PS 31, a Collegiate Gothic-style structure nick-named "The Cathedral of the Concourse" whose demolition caused resentment among some long-time community residents. But, as staff writer Mark Olshaker reports, the services provided by this complex will fill many lingering voids in the neighborhood. (*The "Everything Building,"* p.18)

In the southeast corner of Seattle, WA, a site community members have named the Othello Square campus will comprise four separate buildings, including a charter school, an opportunity center, a children's clinic, a tiny tots development center, a 68-unit home ownership project and the Orenda, an eight-story residential building with 176 units of housing for renters between 65 and 120 percent of area median income. Staff writer Mark Fogarty reports on the unique public/private funding apparatus that included support from Seattle Children's Hospital and Los Angeles Clippers owner Steve Ballmer. (*Impact Equity*, p. 22)

Sparks of hope also are featured in our second monthly *COVID-19 Response Report* (starting on page 5), as each of our regular columnists muses about the post-lockdown landscape. Guru David A. Smith predicts practices that will become extinct, as well as innovations and reforms we might see in the wake of the pandemic. *Housing USA* columnist Scott Beyer looks at the impact on the housing market. And NH&RA President Thom Amdur thinks about laying the groundwork for a community approach to development that may grow out of what we have learned during the stay-at-home period.

Also, in this issue, you will find a report from attorney David A. Davenport on three recent court decisions that involve disputes between developers and investors as they try to complete Year 15 exit transactions. (*Legal Matters: Year 15 Disputes Continue*, p. 26)

Stay hopeful. Stay determined. Stay well. Stay here.

Marty Bell, *Editor*

COVID-19 Musings

A Few Things I Think I Think


Thom Amdur

As I write this column, it's mid-May and the two-month tally of new unemployment claims now exceeds 36.5 million. What is worse: this staggering total is likely an under-count since many state agencies responsible for processing claims have not been able to keep up with applications. A recent Federal Reserve survey found that 39 percent of households that were working in February and were earning less than $40,000 a year lost their jobs in March or the beginning of April. Given these statistics and the target demographic, owners and managers of affordable housing have been preparing for dramatic declines in rental revenue.

Based on admittedly anecdotal reports from conversations with NH&RA members, rent collections are certainly declining, but not yet in proportion to the number of jobs lost. Expanded unemployment benefits and other temporary government and charitable assistance are helping cushion the blow for the short-term. I contend that the investments NH&RA members have made in resident service programs have built critical infrastructure that facilitate the ability of many residents to identify and access critical benefits. Proactive social programming at a property level has been critical to helping vulnerable residents stay safe, access healthcare and nutrition and pay rent.

In a perfect world, Return on Investment (ROI) would not be the sole deciding factor on whether or not we provide resident services for vulnerable populations. Like puppies, BBQ and fine art, resident service programs are good in and of themselves. But I also think that when the dust settles from the coronavirus, data will show that properties with resident service coordination will have better resident outcomes and will have performed better financially than those without it. If you want information about implementing a best-in-class resident service coordination program during COVID-19, I encourage you to watch our May 14 Member Town Hall (available on housingonline.com). You will be inspired and your portfolio and residents can benefit.

On a different note, I think housing affordability and affordable housing providers may find unusual new opportunities as the economy realigns in the post-COVID-19 world. For example, as major employers get more comfortable with larger portions of their workforce working remotely on a permanent basis (e.g., On May 13, Twitter announced it will allow remote work…forever.), demand for real estate in the most expensive downtown markets may radically shift. In time, this may drive down the cost of land (or at least the acceleration in the increase) enough to allow affordable housing and workforce housing developers to compete more equally with luxury and commercial developers.

Additionally, hospitality, commercial, retail and/or student housing real estate transactions that have gone south because of COVID-19 could be reborn as community development transactions. While this may take some visionary zoning changes, creative architecture and outside-the-box financing strategies, where there is disruption there is also opportunity, be it a new source of permanent affordable or workforce housing or temporary housing for the homeless. We are still early in the crisis and it will take time for deals to actually unravel and for these opportunities to present themselves. We would do well to start thinking now about what policy solutions would be necessary to facilitate the transition of at-risk properties in high-opportunity jurisdictions into their 2.0 lives as affordable housing and community development projects.

Three months in, we are still very much at the beginning of the COVID-19 pandemic. Once the critical health crisis is addressed, there is likely to be a long economic tail.

In the meantime, we want to do more than just survive (literally and figuratively) the virus; we also want to lay the groundwork for new ways of doing business and be nimble enough to act on the opportunities that result from the fall-out. I think these are ideas for us to noodle over, at least until things change again (as they inevitably will). I would love to hear what you think you think. TCA

Extinction, Innovation and Reform

"The lesson that health authorities took away from the catastrophe [the 1918 Spanish flu] was that it was no longer reasonable to blame an individual for catching an infectious disease, nor to treat him or her in isolation [from community health]."

Catastrophe is both precondition for and stimulus of three things – sudden extinction, explosive innovation and enduring reform. As all three happen speedily, each vies with the other two for primacy. As we look at the post-lockdown landscape to which we will emerge in our individual communities, counties and states, we may find these changes:

Sudden extinction. Catastrophe can wipe out incumbent species and systems that were hanging on via the advantages of incumbency, but whose monopoly on the ecosystem the catastrophe disputes. Among the extinction risks relevant to us are:

1. ***The traditional 9-to-5 daily commute.*** We'll work earlier, later, location-flexibly and possibly location-agnostically.
2. ***Shopping malls.*** Already wheezing from oxygen-deprivation caused by Amazon and others sucking up wallet share, and with their internal symbiotes like movie theaters and food courts short-lived, they'll go dark for some time.
3. ***For-profit nursing homes.*** If customer anxiety doesn't take away their healthier residents, tort litigation will drive so many of them into bankruptcy it's hard to imagine the survivors constituting an industry.
4. ***Zoning.*** A century-old invention created when real estate had only two dimensions (pre-elevators) and most properties only one use, zoning has long been a force for exclusion and stasis instead of inclusion and change. As WFH is redefined (see no. 8), it'll be cracked apart everywhere like a lobster carapace.
5. ***The office audio telephone system***. Immovable, impersonal, unportable, expensive and now a stranded cost.
6. ***'Wet signatures' for legal documents.*** Including leases, property inspection forms and resident notices.

Explosive innovation. In disruption, speed, confidence and clarity win, and in such environments bold entrepreneurs flourish. Among the real-estate-related property types and business models that must explosively innovate or perish may be:

1. ***Campus-centric university education.*** The bottom quartile in value proposition will disappear – fast. Everyone else will scramble to solve the student-housing conundrum without vaporizing their revenue models.
2. ***Universal home-centric information technology***. Digital exclusion now means health exclusion, and for that, omnipresent reliable intra-property broadband is a necessity. And to be effective, it'll need to be free-to-consumers: paid within the rent, funded via property-based or person-needs-based grant, mandated by the provider's involvement in a government program, or otherwise.
3. ***Fixed-flow federal funding silos.*** Until we have stabilized in the new normal, agile immediate human-centric response requires flexible and adaptive budget reallocations within and among housing, health, education and employment.
4. ***Smart tech pervasive in the home and workplace.*** Ceiling thermometers, air quality monitors, and possibly adjustable negative-pressure rooms will soon be retrofit accessories, then necessities.
5. ***Legacy public housing.*** Physical obsolescence will now be seen as a major health risk, and that will be litigation-liability-intolerable.
6. ***Rent payment mechanisms for the unbanked (and potentially the undocumented).*** It'll have to go electronic and phone-based, and that involves tech, network and personalized app-downloading support.
7. ***Elevator travel.*** The vertical utility is now health-dangerous unless and until new protocols and new technology (say, complete air filtration and every-cycle aerosol sanitization of the cab interior) are retrofitted into the building's systems.
8. ***A monopoly on the concept of WFH.*** Once it meant workforce housing, now it means work-from-home, and everything in between. Likewise, office buildings (especially vertical ones) may reinvent their floor plates or even many of their floors to accommodate an intra-building multi-floor lifestyle; shop on one, work on five, exercise on fifteen, sleep on ten.

Fundamental and enduring reform. This rise of humanity can be traced by the emergence of ever more

complex structures (buildings, cities and political bodies) and infrastructure systems to support them (transportation, water, sanitation, power and now information). No matter the scale to which it is initially built, infrastructure gradually becomes overloaded, and when an overloaded system is hit with a sudden and far-reaching shock, catastrophe is the result. Because infrastructure is always established top-down (starting with the richest first), the fallout is worst among the poorer and poorest, and in the aftermath society as a whole realizes that what once was optional infrastructure is now a universal necessity in community health self-defense. This is going to compel fundamental and enduring reform in these areas:

1. ***Information and financial infrastructure.*** Ever since Roman emperors made water free to all citizens, post-catastrophic governments have expanded infrastructure, made it universally available, or created it anew. As COVID-19 demonstrates that lack of access to broadband or to electronic finance is a health risk or worse, look for government to mandate it, with or without subsidy or concessionary financing.
2. ***Employer-employee relationships.*** When every customer-employee relationship is viewed through the lens of potential disease transmission, the relationship between employer and employee will blend professional and personal issues and redefine boundaries of trust, testing and disclosure.
3. ***Medical-related tort liability.*** When doing nothing does harm, the precautionary principle needs rebalancing, and when every choice an employer or landlord makes leads to a class action suit, tort liability needs to be circumscribed by nationally enacted safe harbor compliance policy principles, laws, regulations and operating procedures.

Fundamental reform that is begotten of catastrophe always starts with sweeping overreaction before eventually settling down to accepted and unobtrusive modi vivendi. Just as the 2008 meltdown begat Dodd-Frank and the Consumer Financial Protection Bureau, COVID-19 may beget a Health Secure Housing certification; a new C-suite executive, the Chief Health Officer; and an employer-supported Health Reinvestment Act. TCA

COVID-19 Response Report

Actions & Policy

FEDERAL

House Democrats Introduce $1 Trillion HEROES Act

House Democrats have unveiled the Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES Act) and summary. While the House passed this $3 trillion bill, it is unlikely to become law, at least not in its current form. The bill is largely a messaging document that lays the groundwork for negotiations between the Senate and Republicans. Republicans dismissed the bill even before the text was public, calling it a Democratic wishlist that would go nowhere in the GOP-controlled Senate. Senate Majority Leader Mitch McConnell (R-KY) has indicated that he will push for liability protections for businesses that reopen during the pandemic in exchange for aid for state and local governments. He and several other Republicans want to wait to see the impact of the current relief measure before passing any other relief and are indicating that future spending may need to be offset by budget cuts.

The bill notably does not include the ACTION Campaign priorities to fix the four percent credit rate or lower the 50 percent test. Congressional staff indicated that the HEROES legislation is still viewed as a response bill and our asks are likely to be included in a later recovery bill.

We're still working our way through the more than 1,800 pages, but below are a few highlights related to housing, assistance to the populations we serve and your businesses.

Housing

- $100 billion in rental assistance through the Emergency Solutions Grants;
- $75 billion for direct assistance to homeowners struggling with mortgage payments, property taxes, property insurance, utilities and other housing related costs;
- $11.5 billion in homeless assistance grants;
- $5 billion in Community Development Block Grants;
- $4 billion for emergency home internet connectivity needs;
- $4 billion for Tenant-Based Rental Assistance;
- $2 billion for the Public Housing Operating Fund;
- $1.7 billion for Section 202 Housing for the Elderly;
- $1.5 billion for the Low-Income Home Energy Assistance Program;
- $1 billion for emergency vouchers for people experiencing or at risk of homelessness and survivors of domestic violence;
- $1 billion for Community Development Financial Institutions (CDFI);
- $750 million for Project-Based Rental Assistance;
- $750 million for rural rental assistance;
- $200 million for Section 811 Housing for Persons with Disabilities;
- $100 million for Violence Against Women Act programs;
- $100 million for Housing Counseling Assistance;
- $100 million to address overcrowding in native American housing;
- $15 million for Housing for Persons with AIDS;
- An extension and expansion of the eviction moratorium for 12 months after enactment; and
- An expansion of CARES Act federally-backed mortgage forbearance to include all multifamily mortgages, regardless of federal backing.

Household Resources

- Another round of Economic Impact Payments to all Americans with the same $2,400/$1,200 for married couples and individuals, with increases to the dependent amount from $500 to $1,200 per dependent (up to three) and retroactively increases the dependent age from 17 to 24 for full-time students;
- $10 billion to Supplemental Nutrition Assistance Program (SNAP);
- $1.1 billion for Special Supplemental Nutrition Program for Women, Infants and Children (WIC);
- Expands eligibility and funding for the Earned Income Tax Credit;
- Increased the Child Tax Credit to $3,000 per child and makes it fully refundable for 2020;
- Requirement that states and utility companies receiving federal aid maintain water and electricity services through the duration of the pandemic; and

- Extends the July 31, 2020 cut-off for the additional $600 federal pandemic unemployment compensation through January 31, 2021.

Business Resources

- Increases the percentage of qualified wages reimbursed through the employee retention credit from 50 to 80 percent and increases the wages per employee from $10,000 per year to $15,000 per quarter, with a maximum of $45,000 per calendar year;
- A requirement that all forbearance and repayment options maintain the same payment schedule by extending the maturity by the same period of time payments were suspended;
- A Federal Reserve System lending facility for Residential Rental Property Owners to make long-term, low-cost loans to temporarily compensate for documented financial losses caused by reductions in rent payments and a deferral of loan payments for six-months after enactment;
- 50 percent refundable payroll tax credit equal to the applicable percentage of the qualified pandemic-related employee benefit expenses;
- Payroll tax deferral for businesses for recipients of Paycheck Protection Program loans;
- Paycheck Protection Program (PPP)
  - Extends the covered period from June 30, 2020 to December 31, 2020;
  - Extends eligibility to all nonprofits of all sizes and clarifies the eligibility of housing cooperatives;
  - The lesser of 25 percent or $10 billion set-aside for CDFIs, Minority Development Institutions, SBA microlenders and SBA Certified Development Companies; and
  - Clarifies that business can use both the PPP and the Employee Retention Tax Credit. TCA

OZONES DURING COVID

In regulations, words matter

By John Gahan

With regard to Opportunity Zone regulations in the midst of our nation-wide health emergency, specific language, intended to be instructive and, in my opinion, helpful, can leave lawyers in knots when the text is susceptible to being interpreted in more than one way.

Two of the Federal OZone regulations (Treasury §1.1400Z2(d)-1(d)(3)(v)(D) and §1.1400Z2(f)-1(b)(2)), implemented prior to the arrival of the pandemic, appear to provide additional time for funds and businesses faced with critical deadlines. While the intent of these regulations, as described in Treasury's comments, is to grant extensions for performance of time-sensitive obligations when delays are "due to a federally declared disaster," critical sentences depend upon the words "may receive" and "up to." What exactly do they mean?

Does "may receive" grant permission/authorization automatically? If so, wouldn't it have been clearer to say "the __ days within which to do xyz has been changed to __ days"? If the point of the regulation is to change a numerical test from one number to another, why not just change the number? Instead, we find ourselves debating whether "may receive" implies that one might (or might not) get extra time, and if that is the correct interpretation, it begs the question of who decides and on what basis.

Similarly, "up to" suggests that the length of the additional time is not a finite number. Does "up to" mean that you can have all of the additional time or only some of it; or that you can have it if you need it; or that you can have it if someone with authority decides you deserve it? Who decides and on what basis?

Most lawyers seem to be advising clients that, while not absolutely clear, the most likely intent is the grant of an extension.

Following release of the regulations, in Notice 2020-23, Treasury addressed, ". . . relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency . . ." While granting certain extensions, Treasury this time stated, "This relief is automatic. Affected taxpayers do not have to call the IRS or file any extension forms or send letters or other documents to receive this relief."

This is clearer than the regulations. But, at the same time, it leads to more brain cramps, as some lawyers now speculate that the absence of a "relief is automatic" declaration in the previously cited federal regulations could be interpreted to mean that the additional time relief is not automatic.

Hopefully, Treasury will issue clarifying guidance. Deadlines have meanings; missing them has consequences. Words matter! TCA

Resident Outreach

Basic necessities, resource packages and other adjustments

By Mark Olshaker

While the COVID-19 pandemic has imposed unprecedented stresses and challenges on all levels and aspects of society, affordable housing owners and operators are quickly having to find new ways to manage their properties, interact with residents and meet their variety of special needs. The NRP Group of Cleveland, OH is one company that has come up with some innovative approaches, not only trying to keep residents safe and well, but also to bring some joy to their lives during this trying time.

"Our primary concern out of the gate was our at-risk component," says Erick Waller, an NRP principal and president of NRP Management LLC. "That was primarily seniors; seniors were Focus Number One, that they had all the resources available to them. We also have a large affordable component in our portfolio, as well as market rate, so we've been trying to hit a little bit of everything." Founded in 1994, NRP has developed over 40,000 residential units in 16 states and currently manages 134 properties in 11 states.

"We put together a task force," Waller continues. "We created resource guides with links to all of the city food banks, health services and other useful information. We gave our senior residents packages containing basic necessities like toilet paper and rubber gloves. The biggest number of requests we're seeing is to help with [getting vital] information and after that, supplies like masks, gloves and sanitizers. Our managers are also coordinating services for our seniors, such as food deliveries. If necessary, they will also call food banks or other social services. In San Antonio, TX, managers coordinated regular meal deliveries.

"Property by property, our managers have a pretty good relationship with residents; they wear several different hats. In addition to managing the properties, they act like therapists, life coaches and family. For instance, Donna in rural Ohio coordinates grocery deliveries to almost every senior resident. We've been overwhelmed by the number of calls from residents and emails from their families we've received."

With social distancing imposed or recommended, many of the normal social services and community functions have been cancelled, and business centers at the various locations have had to be closed down. Robust protocols have been established, such as suspending package acceptance services, so that packages are delivered directly to the residents' doors; only emergency work orders, such as dangerous situations or leaks, are being addressed and a call center is aggregating and keeping track of requests. Staffing is kept at skeleton levels to limit personal interaction. "We're still paying our employees for a 40-hour week, but we're having them work three days," Waller explains. "And we've closed the offices on Sunday so they can be with their families. We have had employees, unfortunately, who have gotten sick, which is very challenging. When that happens, we backfill from the corporate level and/or try to manage remotely." To the extent possible, NRP has switched to electronic and digital communication among both staff and residents. Waller says, "Our CEO David Heller has instituted regular company-wide, around-the-horn updates in which we cover what we're doing for residents."

"The residents themselves have been very creative," says Shanice Settle, NRP's senior communications manager. "In Indiana, the residents themselves wanted to see each other, so they established outside check-in times to get together at a distance." Residents at various NRP properties have coordinated to all watch the same movie at the same time, organized livestream yoga instruction and "patio parties."

"During happy hour," Waller explains, "the manager drives around in a golf cart, playing dance music, and everyone dances on their patios. The staff can have conversations with each resident to see how they're doing and help them with whatever they need."

"It creates a sense of joy and community," Settle says. "Our market-rate properties don't need as much from us, but we have teams trying to get creative and have at least two events a month for them."

Waller adds, "It's pretty compelling and impressive to me that everyone in our industry has been sharing information about what we all need to get through this."

David Leon, a partner at the Nelson Mullins law firm in Orlando, FL, who specializes in affordable housing and tax credits, agrees. "The entire community has pulled together, openly and voluntarily. We all have to survive as an industry, and it's all about our tenants. This is a really good message to get across." TCA

The Housing Market in the Age of Coronavirus

There are plenty of things for people to worry about from coronavirus: the health of themselves and their family; the wellbeing of medical workers; and the economic impact of a prolonged shutdown. The housing market may not be a primary concern, but it's still serious – a collapse in home prices and construction activity could tank municipal tax receipts, worsen already-high unemployment, bankrupt developers and compromise financial markets.

A sub-level concern is the affordable housing industry, which plays by slightly different rules. If the pandemic worsens, how will it affect state-level bond caps, Low Income Housing Tax Credit allocations and the desirability of four and nine percent credits to investors? How will management of affordable housing projects change, with new protocols in place about social distancing, workplace safety and rent payment obligations?

Recently, I've read and spoken with people who are immersed in these questions, to examine possible scenarios.

The broader housing market

One way to grasp the housing market's current health is to view the immense real estate info coming from Redfin's Data Center. Right now in the U.S., things don't look totally horrible.

Home listings plummeted by nearly 50 percent from early March to mid-April, but have steadily ticked back up, and by May 7 were at 72,000, 78 percent of their pre-COVID figure. Median listing prices also sunk dramatically along this timeline, but are now back to $322,000, which is close to normal. The same goes for home sales.

Issi Romem, a Fellow at the Terner Center for Housing Innovation at U.C. Berkeley, says this actually isn't surprising for a pandemic. People aren't putting homes on the market due to the health risks of giving tours and the prospect of selling at lower prices. So, inventory levels and home prices remain stable.

The bigger question is how the market will look months or a year from now, when we may have endured an extended period of high unemployment, low consumption and poor investor confidence. Zillow wrote a report that describes three separate scenarios.

Scott Beyer

The optimistic scenario is positive home growth in Q4 (back to 90 percent levels of Q4 2019), and a one to two percent home price dip, before recovering in 2021. Zillow's pessimistic scenario is a "short-term recession, reflecting slower reopening, a possible second wave [of coronavirus], and/or stronger economic spillovers." The anticipated price drop would be three to four percent and continue through 2021. The medium scenario is a short-term recession and two to three percent price drops. Romem had a similar view as Zillow, viewing coronavirus as something that might hurt the housing market slightly, but not destroy it.

The optimistic scenario is positive home growth in Q4 (back to 90 percent levels of Q4 2019), and a one to two percent home price dip, before recovering in 2021.

"In past pandemics, such as SARS in Hong Kong, there was a freeze period," he says. "Then once things were back to normal, housing prices picked up where they left off. That could be the case now."

Other commentary has taken a doomsday tone, but I've found it comes more from pundits than analysts actually viewing the data (one example was celebrity historian Niall Ferguson, who asked on Twitter, "Is this the end of the megalopolis?").

One of their common talking points is that dense cities like New York will be less desirable since they may be more prone to infectious disease. But again, the data shows that, like elsewhere in the country, New York's home sales, listings and median prices are rebounding despite dropping dramatically in March.

The affordable housing market

The segment of the market that may get hit worse is rentals, which may include affordable housing rentals. Romem noted that homeownership caters more to wealthier demographics, who haven't been as financially

Housing USA, continued on page 12

Housing USA, continued from page 11

hurt by coronavirus since they more often work remotely. Maybe that's one reason the sales market remains relatively unchanged, and why some impending crash or mortgage meltdown seems doubtful.

But renting caters more to low-income demographics who've been financially hit by coronavirus. (It should be noted that dense U.S. cities have higher percentages of renters, which may cause their recoveries to be slower).

It's not that the need for apartments has declined amid coronavirus; but demand, in the technical sense, has declined. People are unemployed and earning less. Their stimulus checks have been late to arrive or inadequate at covering their needs. And now there are calls for a "rent strike," with some federal legislators trying to make that policy into law. This could all present major cash flow problems for landlords, who could potentially default on their mortgages, or developers, who will see less of an incentive to build new apartments.

Production could be even more tenuous for multi-family rentals that fit specifically in the affordable housing policy space. A lack of tax receipts into local, state and federal coffers will reduce the amount of money going for different housing programs—including LIHTC—denying developers of the financing they'd use to complete affordable housing projects. Even when credits are allocated, they may not sell for as much. As Richelle Patton, founder of Collaborative Housing Solutions, a BMR consultant and developer in Georgia, explains, "Many syndicators and investors are on the sidelines waiting to see what will happen in terms of investor appetite for tax credits. They're making less money, so of course their tax liability will be less. The demand for sheltering income through tax credits will very likely go down. So what does that mean then for pricing?"

Another negative factor, she says, is that project costs could go up, as developers and managers must deal with COVID-related measures, like social distancing for workers, late rent payments, supply chain issues and other things that make project execution more complicated.

The ultimate effect coronavirus has on the housing market—for single-family or multifamily, buying or renting and market-rate or affordable—depends on factors beyond the industry's control.

One factor is how contagious and deadly the virus itself becomes. The other will be how governments respond. There's an ongoing debate on whether to reopen or continue closing the economy, with politicians balancing health versus business interests. It's a debate that, in true federalist style, is now being tested differently across 50 states. The decisions these governors make will determine how quickly the economy rebounds, which in hand will determine the same for the housing market. Right now, it's anyone's guess. TCA

STORY CONTACTS:

Issi Romem
Fellow, Terner Center for Housing Innovation at U.C. Berkeley
issi@metrosight.com

Richelle Patton
Founder, Collaborative Housing Solutions
richelle@collaborativehousingsolutions.com

Talking Heads

Anthony Tarter, Executive Vice President and Director of Agency Workforce Housing & Social Impact for Bellwether Enterprise

Workforce Housing Is Slowly Getting the Attention It Deserves

By Darryl Hicks

Bellwether Enterprise, a subsidiary of Enterprise Community Partners, is a major lender of affordable multifamily housing, amassing a $26 billion servicing portfolio. Over the past year, the company has made a major push into workforce housing including opening an office in Dallas devoted exclusively to this market and hiring Anthony Tarter to run it.

Tarter has more than 17 years of experience in the real estate finance industry having originated over $5 billion in conventional, workforce and affordable multifamily loans. Prior to joining Bellwether Enterprise, Tarter served in various roles at PGIM Real Estate Finance (formerly known as Prudential), Arbor Commercial Mortgage, PNC Real Estate and PNC's predecessor ARCS Commercial.

Tax Credit Advisor sat down with Tarter to discuss the workforce housing market and Bellwether's plans and strategy.

***Tax Credit Advisor:* What motivated Bellwether Enterprise to launch a separate workforce housing division?**

Anthony Tarter: Over the past three to five years, workforce housing has really become this hot word in the housing market. Workforce housing is not affordable in the sense that it doesn't have subsidies or tax credits, but it's "naturally occurring affordable housing." If you know the mission and history of Enterprise and Bellwether, it made sense to start doing and promoting workforce housing. Whether it's mandated affordable or naturally occurring affordable, it's still affordable and meshed with our DNA. Enterprise and Bellwether live by the slogan, "Capital on a Mission," so it made sense to start doing workforce housing.

***TCA:* How many workforce housing deals has Bellwether Enterprise closed to date? What does your pipeline look like in 2020 and 2021?**

AT: The company was involved in financing workforce housing before I came on. We have $26 billion in our portfolio and I would say 20 percent is workforce housing. Pre-Corona we had about $300 million in acquisitions in the pipeline spread across the country. When Corona hit, they all faded. Not because they were workforce housing, but because of the financial markets. Equity providers, bridge lenders, they all pulled out. We had a mass exodus of acquisitions. Right now, we're probably working on around $150 million in deals that are mostly refinances and a few acquisitions. It's going to be slow for a few months, but we expect business to pick up in Q4.

Anthony Tarter

***TCA:* How do you define workforce housing?**

AT: The workforce is people who make too much money to live in subsidized housing but not enough to afford higher-end market-rate housing. Many are hourly-waged workers, people who work at Walmart or other retail, for example. They live paycheck to paycheck and pay anywhere from 30 to 50 percent of their income towards housing. If the average median income needed to live in tax credit housing is $30,000 for a family, then a family living in workforce housing makes just over that amount where they don't qualify for subsidized rent from government programs, but still need an affordable place to live. Workforce housing in Dallas is not the same as workforce housing in Los Angeles. In many markets, it's people who make 60 to 80 percent of area median income, but in LA, New York, Seattle, San Francisco, it's people making 100 to 120 percent of the AMI.

Talking Heads, continued on page 16

Talking Heads, continued from page 14

TCA: Do you find workforce housing more challenging to finance compared to affordable housing? What are some of the key differences between the two from a lender's perspective?

AT: I don't want to say it's easier, it's just different. There are no tax credits or project-based vouchers. However, financing workforce housing comes with its own complexities in a variety of different structures. According to a report published at the end of 2018, 53.1 percent of all multi-family rental housing in the United States qualifies as workforce housing. Much of workforce housing is not new construction, but rather urban and rural properties built in the 60s, 70s, 80s and maybe even the early 90s. Values at workforce housing properties are generally determined by actual income and expenses at the property, without any kind of subsidies or abatements taken into account. With most workforce housing, you're buying an asset at a lower replacement value. On a new construction, for example, it may cost $150,000/unit, whereas our valuations are anywhere from 50 percent to 75 percent of that number.

TCA: What are the key financing sources available for workforce housing?

AT: Pre-Corona, everybody: Fannie, Freddie, Federal Housing Administration (FHA), Commercial Mortgage-Backed Securities (CMBS) issuers and life insurance companies. Currently, we are in an interesting climate that's somewhat stagnant. Not everybody is showing their colors and their cards. CMBS issuers are on the sidelines. Fannie, Freddie and FHA are all still very active. Is that because the government is guaranteeing these loans? Yes, probably. The government is trying to stimulate the economy and increase liquidity. Fannie and Freddie are heavily involved with most asset classes, including affordable, workforce and Class A. Interest rates are probably at least 75 to 100 basis points lower compared to this time last year. The drop in interest rates has promoted an influx of refinance requests that we are seeing, allowing owners to put new attractive debt on their properties while giving them the opportunity to put some cash in their pockets. Most workforce housing has some form of interest-only (IO), which FHA doesn't offer, but Fannie and Freddie do. The IO terms can be anywhere from two years to half and full-term, which helps boost returns for investors.

TCA: Given the growing importance of workforce housing are you seeing more states and cities providing subsidies or other incentives to spur development?

AT: Yes, it is something we are seeing. In high-cost markets, like Austin, San Francisco, Seattle and New York, you have Class A housing that doesn't have any government subsidy, then you have Big A true affordable with tax credits. But there's the working class. Where are they living? In Texas, we worked on some workforce housing projects where the developer went into an area that was impossible to build without any government assistance. One option that developers like this have been exploring is a Public Facility Corporation (PFC). This is essentially a program that includes a ground lease for 75 to 100 years that says if you maintain half of the units at 80 percent of area median income (AMI), you don't have to pay real estate taxes. The PFC structure can be seen as an alternative to using tax credits where you are not having to pay taxes which is generally one of a property's largest expenses. The PFC structure is generally used on new construction, not on preservation of existing properties. I wouldn't say they're super common, but they're happening more often in larger metropolitan statistical areas (MSAs). It's certainly something we need to see more of especially on new construction properties.

TCA: What's your process for determining which projects qualify as workforce?

AT: The first thing we do is pull a rent log to analyze the local rents. Then we use census data to gather average median incomes in the specific submarket. Those are the main calculations for determining whether a project qualifies as workforce housing. A project could be naturally occurring at 80 percent AMI, 100 percent AMI or in some cases 60 percent AMI. These calculations tell us whether a property qualifies as workforce housing and the extent to which percentage of units at the property qualify at varying levels of affordability, depending on the submarket that the property is in. When I say naturally occurring, I mean the owners did not force rents to be at those levels. Rents are naturally occurring at those levels within that submarket. The owners did not reduce rents from $800 to $600 to make that happen. In most cases, owners would increase rents if they could to 100 to 120 percent AMI, but then their property's occupancy could decrease as they increase rents. To stay in line with their competitors,

they charge rents that keep the place full. That metric is very important for us to analyze because the bulk of our business is financed through Fannie and Freddie and per their regulator, they want this type of business.

TCA: What are the emerging hotspots where you are seeing more workforce housing deals?

AT: Every market in the country has workforce housing. I am seeing areas where it's becoming much more prevalent. Atlanta, Kansas City, Orlando, Tampa, the outlying suburbs of Washington, DC. Places in Virginia, like Hampton, Fredericksburg and the capital of Richmond, where we're seeing a ton of workforce housing. Probably where you're not seeing much workforce housing is in high-cost markets like LA, San Francisco and New York. We are seeing a lot of these workforce housing properties in lower-cost areas, just outside of the major metropolitan area. This trend is no different than a single-family home. As you get further away from the major metropolitan area, homes get cheaper and you start to see more workforce housing properties. When developers look at a deal and say, 'we may as well scrap this and develop something new,' most don't think about the people who are living there now and where they're going to go. If you build a new Class A property, they can't afford to live there. If you build tax credit/truly affordable property where there is an income limit to qualify to live at the property, they may not qualify to live there. This leaves an abundance of the population, such as teachers, retail workers, firefighters, police officers, etc. who need to find an affordable workforce housing property to live in. A lot of the times it is a place located further away from their workplace or family. This is why we emphasize the need for more workforce housing for the common blue-collar worker.

TCA: What other important trends are you seeing in the workforce housing market?

AT: Social impact is key. I work with a nonprofit called Veritas Impact Partners, which pre-Corona was focused on offering after-school programs for children living at workforce housing properties, financial literacy and health education programs. Tenants are more interested in amenities and programs that impact and better their lives than they are about a bigger fitness center or a nicer pool. These programs that Veritas is implementing are focused on helping tenants with childcare, or even their nutrition. Due to the hardships the people of this country have been facing during the COVID-19 pandemic with businesses being shut down and health concerns at an all-time high, Veritas Impact Partners has formed the Veritas Relief Fund. The Veritas Relief Fund is focused on providing resources and financial support to residents who are suffering the financial and social impacts of this pandemic. Relief initiatives include grants for tenants who need assistance paying rent, 24/7 access to virtual healthcare through Teladoc, additional health services, access to food, job placement and other resources including financial education. TCA

The "Everything" Building

It Took Eight Separate Condos to Finance Bronx Mixed-income Project

By Mark Olshaker

Rendering courtesy of Dattner Architects

425 Grand Concourse boosts an underserved Bronx community.

"One thing about our company is that we don't shy away from difficult projects," says Thomas Brown, vice president of Trinity Financial, Inc. of New York. The proof of that assertion is 425 Grand Concourse, going up on the corner of East 144th Street in the Mott Haven neighborhood of the South Bronx. The 26-story high-rise, slated for mid-2022 occupancy, will comprise 277 units of permanently affordable housing for several distinct income tiers, on-site education and medical facilities, retail and cultural space and an adjacent public park with a new comfort station. So complex was the deal structure that it incorporates eight separate condominium structures within the 310,500-square foot building. It will also be one of the tallest passive houses ever constructed, projected to consume 30 percent of the energy of a typical building of similar size.

Thomas Brown

"After 32 years in this business, I thought I had seen everything, but there are still things you can learn," says James Keefe, Trinity founder and principal.

More than 50 percent of the apartments will be two- and three-bedroom units, and the income levels of residents will range from 30 to 130 percent of area median income (AMI), with a special emphasis on housing the previously homeless.

And from the top floors, Brown promises, residents and guests "absolutely" will be able to see Yankee Stadium.

"A True Collaboration"

The project's origin story goes back five years, but not nearly as long as the history of the 29,000-square foot site itself. "Back in 2015, the city of New York issued a Request for Proposal to redevelop the site for affordable housing," Brown relates.

"It had been PS 31, a very, very well-known school that some famous Bronxites had attended. It was a landmark site [built in 1899 in the 'Collegiate Gothic' style and long referred to as 'The Castle on the Concourse'] but it had fallen into extreme disrepair over the years and

"Everything" Building, continued on page 20

"Everything" Building, continued from page 18

the city decided to demolish it. We put together a plan, picked a very local partner, and as a company we make sure to bring in a team of partners to develop the best product possible."

The local nonprofit development partner was MBD Community Housing Corp., originally formed in 1974 ("the 'Bronx is Burning!' days," says Brown) from nine local organizations dedicated literally to saving their community and calling the new coalition Mid Bronx Desperadoes. Dattner Architects designed the new building; TD Bank is both the Low Income Housing Tax Credit and conventional non-LIHTC equity investor; Redstone Equity Partners syndicated the tax credits, which were allocated by the New York City Department of Housing Preservation (HPD); and the New York City Housing Development Corporation (HDC) issued the tax-exempt bonds, as well as capital funding for the $178 million project.

"We could not have done this without the participation of all of these folks," Keefe declares.

"This is a true collaboration," Brown adds. "We sought out a coalition of the best and the brightest in the city and spoke to local stakeholders. We cobbled together concepts to see what worked. And I think we dealt with almost every agency in the city. We put our heads together for a plan for the best use for the site. We always like to get the maximum out of every public development; we try to get every inch of public good out of the space."

For Trinity, the project was predicated on two principles. "Our company stresses total inclusion, as does the city now," Brown says. "We also believe in deep affordability. This zip code is one of the lowest per capita in the nation." But it is also, he notes, "In an emerging borough, with proximity to Manhattan, just across the Harlem River. But here, the upper tier rents won't yet support truly market rates." So, one of the aims is "to keep Bronxites who grew up here, based on educational opportunities and other services, so they aren't forced to relocate. That's one of the things we wanted to address."

The vision for 425 is no distinction in the quality or finishing of the apartments, from the homeless set-asides, up through the affordable, mixed- and mid-income tiers, nor are there separate entrances or any attempt to concentrate residents within any given income tier together. All Brown will say is, "We wanted a fair amount of workforce level." In New York City, it is a constant challenge for that demographic to find adequate housing. For a family of four, an $86,000 annual income places it in the 80th percentile of AMI.

Public School 31, once the "Castle of the Concourse," now site of 425.

Education and Health

The educational component, a branch of Hostos Community College of the City University of New York, is, according to Brown, "a huge economic driver of the project." It qualifies as a Community Service Facility, which means it is located in a Qualified Census Tract, is designed to serve primarily individuals whose income is 60 percent or less of AMI, will improve the quality of residents' lives and must be affordable to them. "What this enabled us to do was it allowed us to take about $17 million in project costs and move it into the LIHTC side and include it all in basis," Keefe explains. "That brought about $7 or $8 million in tax credit equity into the project. And the rent deal with CUNY helped the overall economics."

"The area had a lack of affordable healthcare," Brown says, "so we looked at bringing in a healthcare partner." This is also where the energy efficiency and environmental control factors in. "The city of New York has undertaken initiatives to reduce greenhouse gasses 80 percent by 2050. A benefit of being the first high-rise passive house is there is no passive loss of heat, and air is filtered within the building. This is important to us because the South Bronx has a high level of asthma. We hope other developers behind us can learn from our experience." There will also be a vegetated roof deck, solar panels and cogenerated heat and power.

"Another need was an affordable grocery store. The Bronx is a food desert. We saw a number of residents unable to get fresh produce, so we incorporated a relatively small space into the building that will focus on affordable grocery operators."

Recreation and Transportation

A 1,200-square foot space has been set aside, which Brown says, "We will open up to a local nonprofit for cultural programming. And next to the building site, between the Grand Concourse and Walton Avenue, lies Garrison Playground, which has been closed and in disrepair. As part of the 425 development, Trinity will rehab the park and build a comfort station. "The park needed to have a restroom, if just for sanitary and health purposes," Brown says. "This will enable the Parks Department to fully staff the park, which means it will be well-maintained. And we agreed to fund part of the salaries for maintenance of the park."

Given the area demographics, one of the most attractive aspects of the location was the access to public transportation. "Four New York City subway lines are nearby," Keefe says. "Two on the East Side and two on the West Side."

"Our office is on 34th Street, across from Macy's," says Brown. "I can take the 2 Train and be up at the site in 15 or 20 minutes."

It's Complicated

"This really is a 'Tale of Two Projects.' The key was incorporating the non-LIHTC and non-residential components. Part of the complexity of the deal is we were building two separate projects in one building – on top of community space." Trinity divided the residential portion of the deal into two silos, generating LIHTC on the 167 apartments at or below 60 percent of AMI. Brown details, "Each use we split out into its own condominium. We have eight separate condos within this project." Though they will work together, each one will operate as an independent condominium association. Technically, for the associations to be legally established, they each have to have a defined space, so Trinity had all of the parties, including the residential portions and each of the community components, agree to the setup. Once the construction is completed in 2022 and the spaces physically defined and separated, the condos will be formed and registered.

There are separate issues affecting the LIHTC and non-LIHTC equity sides of the deal. "One thing that doesn't get enough attention," Keefe comments, "is that in private [investment] transactions, you've got to have an exit strategy. You have to be able to have, at some point, a way to cash in on the investment in order to get the return you were hoping for. So, how do you exit these transactions when there is so much subordinate debt? How do you incorporate this in your agreements with your subordinate lenders to facilitate that?"

"Coming in was not the problem," Brown agrees. "The exit was. We had to calibrate the non-LIHTC investment so TD Bank could secure a market rate of return. It also helped that they were an investor on the LIHTC side [and would receive CRA credit]. We worked with HPD's Mix & Match program, which is designed to bring private equity into projects on pubic sites." The program funds new construction of mixed-income multifamily rental projects in which 40 to 60 percent of the units are at rents affordable to households earning up to 80 percent of AMI and the other 40 to 60 percent have rents affordable to moderate- and middle-income households earning up to 120 percent of AMI, so 425 fit in perfectly.

"We were able to modify city documents to allow exit in Year 10 for the non-LIHTC. I think we had about five separate legal firms working with us and we had to make sure none of the loan terms conflicted with each other. The closing call [in late December 2019] had more than 40 people on the line, and these were not passive parties." Keefe shows a chart that compares the non-LIHTC investment cash-on-cash returns, with and without a built-in ten-year refinancing. The refinancing proceeds, together with cash flow, amount to a 19.56 percent internal rate of return, versus a negative 0.68 percent with no refinancing proceeds.

The project is in an Opportunity Zone, but as Brown says, "It is not underwritten with OZone equity. With everything that was going on, tying into an OZone timeline with five or six other timelines would have been difficult. But we structured things so we can revisit that at some point.

In the current COVID-19 environment, he points out, "The combination of services is very timely in terms of housing, sheltering-in-place, food, education and healthcare. I think the takeaway is that nowadays, all affordable housing developers have to wear many hats and be responsive to the changing environment on funding and community needs. Collaboration is the key. And I think we came up with a pretty good idea." TCA

STORY CONTACTS:

Thomas Brown, *tbrown@trinityfinancial.com*

James Keefe, *jkeefe@trinityfinancial.com*

Impact Equity

Investment by Children's Hospital Enables Seattle Workforce Housing

By Mark Fogarty

Planning a workforce housing development at 65 to 120 percent of area median income ordinarily might mean cutting it off from the possibility of equity investments, since Low Income Housing Tax Credit equity eligibility generally tops out at 60 percent AMI, absent income averaging. But a project going up in Seattle has gotten around that by attracting private equity of up to $8 million from a Seattle hospital.

The investment by Seattle Children's Hospital is doubling the number of units available for those at or under 80 percent AMI at the Orenda Apartments, a mixed-use development that is the first of four buildings to break ground for an ambitious complex in Southeast Seattle called Othello Square.

Orenda is part of the multifaceted Othello Square in Southeast Seattle.

Orenda also will include an Odessa Brown Children's Clinic run by Seattle Children's, and a 7,000 square foot Tiny Tots Development Center. The two will take up the first two floors of the building, a joint venture private/non-profit project with Laird Norton Properties and Spectrum Development Solutions. The 35,000 square foot clinic will include pediatric, medical, dental and mental health services. Services will be offered regardless of ability to pay.

The hospital called its investment "impact equity," meaning "intended to generate a positive social or environmental impact along with a financial return." This project will be its second Odessa Brown clinic.

Philanthropic Support

The clinic has also received a $20 million donation from Connie and Steve Ballmer, the former chief executive of Microsoft and owner of the NBA's Los Angeles Clippers.

Other substantial contributions have come from community leaders Jim and Jan Sinegal, Scott and Laurie Oki and Delta Dental of Washington.

Spectrum principal Jake McKinstry says Spectrum has had a long relationship with Children's Hospital. "One of the things that's exciting about this project is that Children's and the Odessa Brown clinic approached us and said they had been looking at Othello Square" since they needed to move closer to the population they serve in South Seattle.

Joint venture partner Laird Norton Properties is a unit of Laird Norton, an interesting family-owned company that dates back seven generations to 1855, starting out as a lumber company in Minnesota owned by two brothers and a cousin. It moved into Seattle about 1950 and expanded into the real estate sector about 2010. McKinstry praises the firm for its long-term focus, "a key part of the success of the campus."

Construction on Orenda started in the fall of 2019 and hit a momentary snag when the City of Seattle halted all construction projects after the onset of the Coronavirus pandemic, says Kaitlin Boyce, Spectrum development manager. But the firm got the city to classify Orenda as an essential project and work has resumed. Originally completion was set for 2021, and construction delays from the

Housing sits adjacent to a charter school and opportunity center.

market disruption are expected to be minor, she says.

Construction managers are implementing social distancing protocols, Boyce says. "We can foresee a ten to 20 percent delay due to COVID, but we are still targeting a fall 2021 completion," she says.

The other three buildings at Othello Square (a master development of Seattle nonprofit HomeSight Community Development) will be an opportunity center, a charter school and a 68-unit homeownership project, she says. The development is on 3.2 acres of what has long been an empty lot.

McKinstry said Spectrum specializes in workforce housing, a niche he said is much needed in the expensive housing market of Seattle, especially in a diverse working class/low income neighborhood like the one around Othello Square (a place he grew up just to the north).

"It's a really incredible area of Seattle, really diverse," he says.

The Missing Middle

He called workforce housing "the missing middle" between low-income and market-rate in housing, and says "a really big focus of our company has been serving this missing middle niche."

Orenda units will be studios and one-, two- and three-bedrooms. Seventy-two units in the seven-story structure will go to those earning 80 percent or less of AMI (which ranges from $56,000 to $80,250), with the balance of 176 units going to those at less than 120 percent AMI.

McKinstry said the three-bedroom units at 65 to 80 percent AMI fit a real need as those are very expensive in the Seattle market.

The project is a transit-oriented development, designed for "equitable access for getting to jobs" for residents, he says. Orenda is directly across the street from the Othello Link Light Rail station.

McKinstry says funding for the project, besides the hospital equity (which ended up netting about $5 million) came from a $41 million construction/permanent HUD 221(d)(4) loan. The project also received a multifamily tax exemption from the city, Boyce says.

According to McKinstry, the 221(d)(4)s are "a lot of brain damage to do" but "they allow us to get better leverage on the financing and further the equity investment with our partner." The Children's Hospital equity was structured like "dequity," he adds, at a fixed rate of return for 20 years.

McKinstry expects "a mix" of people from both within and without the immediate neighborhood to become tenants at Orenda.

350 Jobs to Be Created

HomeSight said the 40,000 square foot commercial Opportunity Center is designed to "increase access to economic opportunity, STEM education, small business incubation, cultural celebration and preservation and financial services." It is also developing the affordable housing units and expects 350 jobs to be created by the project. "Step-up" apartments will be part of the mix.

The affordable housing units will be open to residents earning 80 percent or less of AMI. According to HomeSight, "This five-story mixed-use residential development will have 25 one-bedrooms, 35 two-bedrooms, and eight three-bedrooms, underground parking, bike storage and unit storage spaces. All units will be equipped with water and energy efficient fixtures and appliances, including in-unit washers and dryers."

The three-story charter school is a project of Washington Charter School Development, Seattle.

The other three buildings (opportunity center, charter school, affordable housing) are projected to be completed in 2021 and 2022, Boyce says. In all, more than 20 groups have been involved in the project. TCA

STORY CONTACTS:

Kaitlin Boyce, *Development Manager*
Spectrum Development Solutions, Seattle
info@spectrumdevsolutions.com

Jake McKinstry, *Partner*
Spectrum Development Solutions, Seattle
info@spectrumdevsolutions.com

Corporate Tax Credit Fund Watch | *June 2020*

EY Building a better working world

Sponsor (1) Investor Contact Acquisition Contact	CURRENT MULTI-INVESTOR LIHTC CORPORATE FUND Fund Name Geographic Focus	Amount of Equity Raised to Date for Fund	Expected Size of Current Fund	Average Net Tax Credit Price	Cash Needs Basis IRR	# of Properties Specified	% of Gross Proceeds (2)	Estimated Front End Expense Load (3)	All LIHTC Equity Raised & Closed by Syndicator in 2020
Alliant Capital Sharon Goldstein (310) 740-0502 Jen Erixon (303) 916-6311	***Alliant Tax Credit Fund 102*** National	$150,000,000	$150,000,000	$0.91	Tiered; Economic 5.50% to 6.00% CRA 4.00% to 5.00%	14	95%	N/A	$6MM
Boston Capital Thomas Pereira (617) 624-8510 Brenda Champy (617) 624-8874	***BCCTC Fund XLIX*** National	N/A	$100,000,000	$0.91	Tiered	12	100%	6.50%	$301MM
Boston Financial Investment Management Todd Jones (502) 450-9951 Sarah Laubinger (617) 488-3230	***BFIM CRA Fund*** National	$65,000,000	$125,000,000	N/A	N/A	3	38%	N/A	$117.3MM
Cinnaire Marge Novak (517) 364-8929 Susan Frank (302) 655-1420	***Cinnaire Fund for Housing LP 35*** IL, IN, MI, MN, WI	$80,000,000	$100,000,000	N/A	N/A	N/A	N/A	N/A	$34.5MM
	Cinnaire Mid-Atlantic Capital Fund 5 LP DE, MD	$6,000,000	$17,000,000	$0.938	3.50%	2	36.2%	N/A	
CREA, LLC Tony Bertoldi (617) 892-6071 Charles Anderson (317) 808-7365	***CREA Corporate Tax Credit Fund 79, LLC*** National	$200,000,000	$200,000,000	N/A	Tiered; 5.60%	24	100%	7.35%	$152MM
	CREA Corporate Tax Credit Fund 80, LLC National	$200,000,000	$250,000,000	N/A	Tiered; 6.00%	19	100%	7.35%	
Enterprise Housing Credit Investment Danielle Hammann (410) 772-2765 Scott Hoekman (410) 772-2508	***EHP 33*** National	N/A	N/A	N/A	N/A	N/A	N/A	N/A	$224MM
	EHCF VII California	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Massachusetts Housing Investment Corp. Peter Sargent (617) 850-1027 Kathy McGilvray (617) 850-1008	***MHEF XXVI*** Massachusetts	$8,000,000	$50,000,000	$0.95	4.00%	2	25%	5.00%	$19.2MM
Midwest Housing Equity Group, Inc. Becky Christoffersen (402) 334-8899 Tom Stratman (402) 334-8899	***MHEG Fund 52, LP*** Midwest	N/A	$200,000,000	N/A	5.35%	N/A	N/A	7.25%	N/A
National Development Council Mike Griffin (216) 303-7175 Jim Poznik (216) 303-7179	***NDC Corporate Equity Fund XVII*** National	$30,000,000	N/A	N/A	4.25%	12	80%	6.50%	$30MM
Ohio Capital Corporation for Housing Jonathan Welty (614) 224-8800 Merydith Greene (614) 224-8800	***Ohio Equity Fund for Housing XXX*** KY, OH, PA, WV	$230,000,000	$280,000,000	$0.92	Tiered; 4.25% to 5.30%	31	86%	5.20%	$114.8MM
PNC Real Estate Megan Ryan (202) 835-5965 Gayle Manganello (603) 387-6205	***PNC LIHTC Fund 79, LLC*** National	N/A	$175,000,000	N/A	Tiered	N/A	50%	Up to 7.00%	$122.6MM
R4 Capital LLC Jason Gershwin (646) 576–7661 Marc Schnitzer (646) 576-7659	***R4 Housing Partners XIV LP*** National	$254,500,000	$254,500,000	N/A	Tiered	28	100%	N/A	$92.3MM
	R4 California Housing Partners VI LP California	N/A	$75,000,000	N/A	Tiered	7	100%	N/A	
Raymond James Tax Credit Funds, Inc. Steve Kropf (800) 438-8088 James Horvick (800) 438-8088	***RJTC Fund 46*** National	$160,000,000	$250,000,000	N/A	Tiered	24	100%	7.00%	$840MM
RBC Capital Markets Tammy Thiessen (216) 875-6042 Kathleen Calvert (213) 608-5590 Tony Alfieri (216) 875-6046 Craig Wagner (980) 233-6459	***RBC Community Investments Fund - 30*** National	$175,760,286	$175,760,286	$0.8862	Tiered; 5.50%	29	100%	N/A	$280MM
	RBC Community Investments CA Fund - 6 California	$47,000,000	$70,000,000	$0.9979	Tiered; 4.75%	5	100%	N/A	
Red Stone Equity Partners Stephanie Kinsman (212) 225-8295 Rob Vest (704) 200-9505	***Red Stone Equity - Fund 78 LP*** National	N/A	$125,000,000	$0.89	Tiered; 6.00%	17	N/A	N/A	$142MM
Regions Affordable Housing LLC Jon Burckin (516) 869-7410 Dominic Buffa (516) 869-7440	***Regions Corporate Partners Fund 57 LLC*** National	N/A	$110,000,000	$0.8675	Tiered; 4.65% to 5.75%	2	16%	N/A	$136MM
The Richman Group Affordable Housing Corporation Stephen Daley (203) 413-0387 David Salzman (203) 413-0333	***U.S.A. Institutional Tax Credit Fund CXXX, LP*** National	$120,000,000	$120,000,000+	N/A	Tiered; 4.50% to 6.20%	15	100%	N/A	$90MM
WNC & Associates Christine Cormier (949) 236-8233 Anil Advani (949) 236-8247	***WNC Institutional Tax Credit Fund 49, LP*** National	N/A	$110,000,000	$0.8836	5.00% for $15M+ investments and and 5.45% for $30M+ investments	18	99%	N/A	$218.5M

1) All data has been provided directly by the fund sponsors. Accordingly, neither Ernst & Young LLP nor *The Tax Credit Advisor* take any responsibility for the accuracy of the data or any calculations made by the sponsors. 2) The gross equity needed for properties for which an executed syndication contract is in place, as a percentage of total expected gross proceeds, assuming all single-payment cash investors. 3) The estimated expense load is the percentage of gross proceeds the sponsor expects to expend for offering costs and expenses, acquisition fees and expenses, brokerage commissions and all other front-end costs (other than working capital reserves) assuming all available units are sold to single-payment cash investors. If you would like to have a fund listed in the next edition of *The Tax Credit Advisor*, call Jillian Flynn, Tax Credit Investment Advisory Services, Ernst & Young LLP, at Jillian.Flynn@ey.com, 617-375-3796. There is no charge for a listing.

LEGAL MATTERS:

Year 15 Disputes Continue

Developers Defend Their Rights

By David A. Davenport

Litigation surrounding Year 15 exit issues continues to be on the rise and Low Income Housing Tax Credit (LIHTC) developers must take care to fully understand their rights. Two important Treasury regulations provide information about recent cases in which aggregators attempted to monetize positive capital account balances in violation of agreements governing LIHTC partnerships.[1] To support their initiatives, arguments were offered to suggest that Treasury Regulation 1.704-1 mandates such an outcome by requiring partnership dissolution and liquidation assumptions, regardless of the parties' written agreements. In each instance, the courts determined that the terms and conditions of the parties' partnership agreements prevailed, hypothetical dissolutions and liquidations were *not* proper, and capital accounts had *no* bearing on the applicable fair market value determinations necessary to consummate the Year 15 transfers.

Treasury Regulation 1.704-1 addresses the substantial economic effect of how partners agree amongst themselves to allocate, for tax purposes, items of income, gain, loss, deduction and tax credits, as such allocations, which are effectively bookkeeping entries for tax accounting purposes, directly impact the tax revenues received by the federal government. The regulation does not have the power to amend the plain and unambiguous distribution agreements reached between parties to a LIHTC partnership. How partners agree to distribute dollars received

amongst themselves is subject to their own, private agreements. As a result, the regulation does *not* serve to negate agreed upon sharing arrangements in LIHTC partnerships. Additionally, Treasury Regulation § 1.704-1(b)(2)(ii)(b)(5) provides that, so long as a partnership agreement provides for the determination and maintenance of capital accounts, the substantial economic test is *not* violated if all or part of the partnership interest of one or more partners is purchased by one or more partners pursuant to a negotiated, arm's length agreement.[2] These are two important regulations to keep in mind when considering Year 15 transactions, and they may serve a general partner well if faced with arguments like those offered in recent court cases.

Recent Florida Ruling

For context, in February 2018, the general partner of Berkshire Club Partners, Ltd., who developed a 288-unit affordable housing complex in the Orlando area more than 15 years ago, exercised its option to purchase the limited partner interests in a LIHTC partnership pursuant to a contractually mandated process providing for a formulaic option price at fair market value. At the time, ownership and control of the limited partner interests had changed from what it was initially when the project was financed, thus the general partner was dealing

[1] An Aggregator has acquired limited partner interests in the LIHTC partnership, or may have obtained management control of those interests or an Upper Tier LIHTC partnership. Thus, the Aggregator is someone new to the general partner, who was not part of the initial transaction that led to the partnership. See *Year 15: Facing Off with the Aggregator, Tax Credit Advisor* (May 2019) and *Beware the Aggregator, Tax Credit Advisor* (April 2018). Aggregators often use economies of scale and litigation, or the threat of it, in hopes of leveraging windfall financial outcomes at year-15. *Nonprofit Transfer Disputes in the Low Income Housing Tax Credit Program: An Emerging Threat to Affordable Housing*, Washington State Housing Finance Commission (September 2019), http://www.wshfc.org/admin/Reporton-15YearTransferDisputes.pdf.

[2] Treasury Regulation 1.704-1(b)(2)(iv)(l) provides that the capital account of the transferor that is attributable to the transferred interest carries over to the transferee partner upon the transfer of transferor partner's interests, allowing for this. With this transfer, economic effect is maintained in such a manner that there is no avoiding of the transferee receiving the economic benefit or bearing the economic burden of allocations from the partnership.

with someone whom they had not worked with when the agreements were negotiated and finalized (i.e., an aggregator). Despite the general partner's full compliance with the partnership agreement and option process, the limited partner refused to accept the tendered proceeds, claimed that a positive capital account balance of more than $5.3 million must be included in the purchase price, and later declared alleged defaults under the partnership agreement to support an initiative to remove the general partner from the partnership in order to prevent the acquisition of the limited partner interests. Prior to this time, the general partner had never been accused to be in default of its obligations, never had any performance issues raised, and had diligently served as general partner for more than 15 years, delivering the anticipated tax and other benefits to the preceding limited partner. To support its efforts to increase the purchase price by more than $5.3 million, the limited partner argued that "industry standards," as well as certain Treasury regulations, mandated such an outcome.

On summary judgment, the Florida Circuit Court held otherwise, finding that the parties' agreed upon option process and formulaic fair market value option price would be enforced, as written and agreed upon more than 15 years ago by the original participants in the LIHTC partnership. The court also held that there were no grounds to remove the general partner from the partnership and that the option purchase price is determined "as if there were a hypothetical sale of the Project, not as if the Partnership were being dissolved or liquidated" as the limited partner argued.[3] As a result, the court rejected the limited partner's arguments that the price must include credit for a capital account balance because there was no need to consider capital account balances in the hypothetical sale used to determine the purchase price since the option agreement did not involve a dissolution of the partnership or liquidation of its assets. The limited partner's alleged defaults, lodged to remove the general partner and prevent the option, were also found to be "baseless and intended to deprive" the general partner of its rights; and the court ordered the immediate transfer of the limited partner interests to the general partner, reserving jurisdiction to later enter a damages order and an award of attorney's fees.

The LIHTC industry continues to face significant Year 15 disputes and challenges. It is incumbent upon the general and managing partner community—for the preservation and sustainability of affordable housing—to remain diligent in pursuit of their Year 15 rights.

Two Similar Decisions

This decision came after two other cases reached similar outcomes in recent months. Earlier this year, in the case of *Centerline/Fleet Housing Partnership, L.P. et. al v. Hopkins Court Apartments, L.L.C. et. al*, Hopkins Court Apartments secured a summary judgment decision in Buffalo, NY, which provides that the exercise of a general partner's option to acquire a limited partner's interests in a LIHTC partnership does *not* trigger a dissolution or liquidation of the partnership; and, thus does not require consideration of positive capital account balances in the hypothetical sale used to determine the fair market value option price.[4] And, in the matter of *Centennial Partners, LLC v. ORC Tax Credit Fund 10, LLC and SCDC, LLC*, a summary judgment decision in Milwaukee, WI, confirmed that the purchase of the investor limited member's interests in the LIHTC company was not a capital transaction and did not require consideration of a positive capital account balance when determining a fair market value purchase price. Following this decision and the subsequent jury trial, Centennial Partners was awarded damages and ultimately acquired the limited member interests for less than $6,000, rather than the more than $1.7 million sought by the aggregator. Like in the Florida case, the limited partners in these cases relied on Treasury Regulations to advance arguments contrary to the parties' agreements but failed.

The LIHTC industry continues to face significant Year 15 disputes and challenges. It is incumbent upon the general and managing partner community—for the preservation and sustainability of affordable housing—to remain diligent in pursuit of their Year 15 rights. TCA

[3] 2020 WL 1856259 (Fla.Cir.Ct. 2020).

[4] 2020 WL 201150 (N.Y.Sup 2020).

NH&RA News

Information on NH&RA and its councils is available online at http://www.housingonline.com

Asset Management Conference Goes Virtual

Join us, virtually, for our asset management conference on June 16 and 17. As affordable housing and multifamily rental portfolios experience new disruptions and challenges as a result of COVID-19, it is clear that the discipline of asset management is more important than ever. Don't miss this opportunity to learn from leading asset management executives from around the country. Register at www.housingonline.com/events.

Tax Credit Advisor/NH&RA Editor Search

NH&RA is looking for an editor for our monthly *Tax Credit Advisor* magazine. Send your resume, three writing samples, and an indication if you are interested in a part-time, contract or full-time role to jobs@dworbell.com to be considered for this opportunity. The full listing is available online at: https://www.housingonline.com/job/editor/

NH&RA Controller Search

NH&RA is looking for a Controller who is excited to maintain and establish new financial policies, procedures, controls and reporting systems for an organization that engages and educates smart, entrepreneurial housing and finance professionals about critical matters impacting their industries. Ideal candidates have eight or more years of relevant experience at a membership association. Previous role as controller or assistant controller and an active CPA license and/or CMA is required. Please send your resume, cover letter and how you heard about the posting to Monica Stone at mstone@stonealliancegroup.com. The full listing is available online at: www.housingonline.com/job/controller-3.

COVID-19 Town Halls

NH&RA hosted COVID-19 Town Halls on the following topics and plans to continue hosting townhalls for our members during this crisis.

- May 7: Equity Roundtable;
- May 14: Resident Services;
- May 21: HEROES Act and HUD Updates; and
- May 28: Lawyers Roundtable.

To view recordings from the townhalls, please visit www.housingonline.com/events/webinars/. TCA

Member News

NH&RA Welcomes Two New Members in April

NH&RA recently welcomed Housing Colorado and The Cornerstone Group to its membership.

Housing Colorado is an industry resource for all aspects of affordable housing, including professional advocacy, issue expertise and networking opportunities.

The Cornerstone Group is a mission driven, values led real estate company that utilizes a triple bottom line approach to build strong communities and create and cultivate thriving places that contribute to the wellbeing of people.

WinnCompanies' CONNECT Platform Helps Residents Navigate Available Resources

The WinnCompanies created a CONNECT platform for residents to navigate needed resources on their own as needed. There are a lot of resources out there right now to help renters and their families during the COVID-19 crisis but finding them can be tough. Use CONNECT to search for free and reduced cost services like food, healthcare, job opportunities, benefits enrollment, rent assistance and more. For more information on CONNECT, visit https://connect.winncompanies.com/.

Regions Affordable Housing Names Phillip Mullins as Vice President and Relationship Manager

Regions Affordable Housing announced Phillip Mullins has been appointed to serve as vice president and relationship manager in the division's Originations Group. Mullins, a longtime Regions Bank associate, is based in Regions' Atlanta offices and will focus on sourcing and originating affordable housing transactions throughout the Southeast.

Mullins brings close to nine years of Regions experience to the Affordable Housing team. He previously worked as deal manager within Regions' Real Estate Capital Markets division, where he covered FNMA, HUD and CMBS opportunities for clients in Alabama, Mississippi, Louisiana and Tennessee. He also served in various risk management roles, including vice president of Capital Markets Anti-Money Laundering (AML) Compliance, Strategic Compliance Management and International BSA/AML EDD Analyst.

Member News, continued on page 30

MEMBER SPOTLIGHT:

Rose Companies Plan "Communities of Opportunity" on West Coast

By Mark Fogarty

There is a "tremendous need" to preserve existing affordable housing in California, according to Jonathan F.P. Rose of the Jonathan Rose Companies. "California has recently lost one of its most important preservation tools," Rose says, "which is the use of the four percent tax credit and tax-exempt bonds, because the state agency has said it is going to allocate this all to new construction because the need for new construction is so great."

Preservation is cheaper than new construction in the hugely expensive California market, Rose says, and a developer can move fast on preservation. "We actually do need to also build new, but it's cheaper to preserve existing housing and one can move quickly, and one needs to move quickly because when existing affordable housing enters the market it should be bought and put into good preservation hands."

Rose says his company has a tool, which should prove to be a sweet spot for doing affordable preservation. "We combine private equity with Fannie Mae, Freddie Mac or Federal Housing Administration debt and so we can move very, very quickly."

He says, of the expansion, "We think there's space for it and a need for it," which will focus on affordable and mixed-income housing. "We are focused in places that have the highest demand for affordable housing, and the greatest need," says Rose.

Rose's California/West Coast effort will use a holistic view of helping residents he calls Communities of Opportunity.

"Yes, it's critical," he adds. "Every single project we design is a Community for Opportunity, whether it is a renovation of existing housing or development of new construction."

The company's philosophy "is to integrate, on the physical side, things like a health exam room, social services room, a library, community room, exercise room, community garden: the physical infrastructure that allows us to add health and social infrastructure that can help our residents move forward with their lives and add to their wellbeing."

New York-based Rose recently opened a new office for his company in Oakland and has hired Yusef Freeman, formerly of PGIM Real Estate and McCormack Baron Salazar to manage the new California office. Freeman's background is in affordable housing preservation acquisitions and new construction.

"We'll cover the whole West Coast, from Seattle to San Diego," Rose says, focusing on places with the greatest affordable housing need, like Seattle, Portland, the Bay Area of California, Los Angeles, San Diego and the Silicon Valley.

Freeman's experience is as a developer of affordable and mixed-income housing. And though Freeman is kind of a one-man show at the moment, Rose plans to give him support through people at his New York headquarters.

Jonathan Rose

Yusef Freeman

California's Challenges

Freeman acknowledges the challenges in the California market. "Land is expensive, and so are construction costs. "It's a challenge for developers, whether you're doing straight market rate across the spectrum to 100 percent permanent supportive housing for the homeless. That's why partnerships are so critical in this line of work. As with various public and private landowners across the state. We've been able to look at a pretty broad spectrum of opportunities that fit all the tools we bring to the table."

And the opportunities available in California? The

Member Spotlight, continued on page 30

Member Spotlight, continued from page 29

state's priority on using four percent money for new construction opens the door for those kinds of projects, he feels. Paired with state credits, "that makes affordable housing doable without soft money."

Though the Oakland office has only been running for a matter of weeks, Freeman says there are projects already in the pipeline, mentioning surplus land and early phases of design. "We are actively competing in public/private partnership deals both in northern and southern California," he says.

Freeman says Rose will use a variety of finance sources on its projects, including Low Income Housing Tax Credits, state credits, state bonds, traditional debt and private equity.

Need for Affordable/Mixed Income

The sweet spot Rose sees is his firm's specialty in both affordable and mixed-income housing, something he thinks is underused in the California market.

The current disruption in the markets caused by Coronavirus hasn't really affected affordable housing in the state, though social distancing protocols may cause some delays, Rose says.

Rose has developed two different transit-oriented developments (TODs) around one SEPTA station in Philadelphia, for instance (*TCA*, April 2020). Paseo Verde is located one block east of Norris Homes, a Choice Neighborhoods Initiative, which also is a Department of Housing and Urban Development RAD (Rental Assistance Demonstration) project.

The firm owns or manages 15,000 units of multifamily real estate and has developed or acquired $2.5 billion worth of properties. In addition to California, Rose Companies has offices in New York, Connecticut, Colorado and Ohio.

Rose does have another operation in California, but it is in a different space than the new operation. Rose Community Capital, based in Manhattan Beach, is a Federal Housing Administration (FHA) underwriter, serving third parties, and has just launched a new partnership with a bridge capacity "so we can help people borrow immediately and then bridge to a FHA loan." The unit does business all over the country but has a big focus in California, Rose says.

Rose Companies also owns and manages five assets in southern California, all of them project-based section 8 senior affordable housing properties.

One of them, the Golden West Tower Apartments in Torrance, near Los Angeles, was just acquired this February in a joint venture. According to news reports, the 180-unit senior project was sold for $74 million and will be renovated for another $10 million. TCA

STORY CONTACTS:

Jonathan F.P. Rose
President, Jonathan Rose Companies, New York
jonathan@rosecompanies.com

Yusef Freeman
California Managing Director, Jonathan Rose Companies, Oakland, CA
yusef@rosecompanies.com

Member News, continued from page 28

Christine Lacy Joins Pennrose Property Management Leadership Team

PENNROSE
We Bring It All Together

Pennrose announced that Christine Lacy has joined the organization as vice president of operations. Lacy, an industry veteran with more than 30 years of experience, will provide property management leadership and oversight for properties in Pennsylvania, New Jersey, Connecticut and Massachusetts.

For the past 12 years, Lacy served as director of Inglis Housing Corporation where she developed and provided property management for housing communities for physically challenged adults. Her industry experience also includes urban planner, property manager, director and developer roles serving market-rate, senior, disabled and family properties.

Warren Horvath Joins CBRE Affordable Housing as Senior Vice President

CBRE

CBRE Group, Inc. announced that Warren Horvath joined CBRE Affordable Housing as senior vice president. Horvath will lead CBRE Affordable Housing advisory services, providing innovative capital solutions to affordable housing operators and investors, including sourcing of equity capital, recapitalization and restructuring and corporate-level strategic planning.

Horvath has more than 20 years of housing investment and finance experience, with broad expertise spanning debt and equity, as an operator and investor in affordable and conventional product, from both a transactional and corporate finance perspective. He has significant experience with the financial, tax, legal and regulatory implications of the multi-tiered financing of affordable housing, having successfully led or overseen more than $1.3 billion of transactions and over 34,000 units. TCA

State Roundup

More state qualified allocation plan updates, deadlines, and documents at www.housingonline.com/resources/facts-figures/qualified-allocation-plans/

Arizona Adds Subordination Agreement to Loan Documents

To standardize its lending practices, the Arizona Department of Housing has added a subordination agreement form to its loan documents. With the exception of agreements that have already been negotiated for pending transactions, the Department will use this form of subordination agreement. The document lays out the terms and conditions under which the Department will subordinate to any senior lender. Thus, the Department is sharing it, so that you may review and share it with your proposed lender as soon as possible to facilitate a smooth closing and avoid any adverse impact to your closing.

Report Finds California at Risk of Losing 31,821 Affordable Homes Over the Next Decade

The California Housing Partnership released the 2020 Affordable Homes at Risk report, which found that California has already lost 15,004 affordable rental homes and that another 31,821 affordable rental homes are currently at risk of market-rate conversion in the next decade.

At-risk homes are concentrated in Los Angeles County (34 percent), Orange County (11 percent), Santa Clara County (seven percent), San Diego County (six percent) and San Francisco County (five percent). When considering the number of at-risk homes relative to each county's total stock of affordable homes, Trinity County has the largest proportion of affordable homes at risk of conversion – 68 percent of the county's total affordable homes.

Colorado Launches PAB Website

The Colorado Housing and Finance Authority created a new landing page website specific to Private Activity Bond (PAB) volume cap availability, use and requirements for 2020. Should you have questions or comments, please contact Shannon Friel, Private Activity Bond manager, at sfriel@chfainfo.com or 303-297-7387.

Florida Housing Introduces to Procorem, An Online Collaboration Tool

Florida Housing recently launched a new collaboration tool called Procorem that will allow applicants, credit underwriters and Florida Housing to work together and share documents under one platform.

What is the Risk That LIHTC Properties in Massachusetts Will Convert to Market?

The Community Economic Development Assistance Corporation released a report, which explores the risk that Low Income Housing Tax Credit-financed properties in Massachusetts will convert to market-rate housing at Year 30. Roughly 86 percent of the 15,679 LIHTC units approaching Year 30 are subject to some form of longer-term affordability restriction and will not be at risk for market conversion before December 31, 2030. At least 13,466 of these LIHTC units will continue to be a resource for low-income families and individuals until sometime after 2030. Although most projects have no risk of loss of affordability through conversion to market-rate in the near future, the housing is approaching 30 years of age and will need funding for recapitalization. Therefore, it will be necessary for public agencies to continue capital investment in this housing stock.

Maine Legislature, Governor Approve State LIHTC

Maine Governor Janet Mills (D) signed H.P. 1180 to create a State Low Income Housing Tax Credit that is equal to the Federal LIHTC, beginning January 1, 2021. The Maine LIHTC will have a $10 million annual statewide cap, but unallocated funds can be carried forward to create a maximum $15 million per year. A minimum of ten percent of the credits must be allocated to rural development preservation projects and the legislative language calls for the tax credit allocation authority to seek to allocate at least 30 percent of the credits for senior housing. The credit will sunset at the end of 2028.

Virginia Increases Anticipated 2020 Credit Amount

The presentation at the Virginia Housing Development Authority's (VHDA) 2020 LIHTC workshops in January indicated an anticipated nine percent available credit amount of $15,751,701. Due to multiple deals returning allocated credits, the revised anticipated credit amount for the 2020 competitive round is $16,854,854. TCA

Bulletins

Breaking news from Washington and beyond

OCC Issues Final CRA Rule

The Office of the Comptroller of the Currency released its final rule on Community Reinvestment Act (CRA) Regulations and a non-exhaustive list of CRA activities. The proposed rule includes a doubling of credits for certain community development (CD) activities, including LIHTC investments, which raised concerns that banks could decrease their LIHTC investments and achieve the same CRA exam results. The final rule stipulates that a bank is not eligible for multipliers until the quantified dollar values of its current period CD activities are approximately equal to the quantified dollar values of CD activities considered in its prior evaluation period. The final rule also allows banks serving as syndicators or sponsors of LIHTC or New Markets Tax Credit (NMTC) projects to receive credit for the total dollar value of the fund in the year it was originated. The syndicating or sponsoring bank will also receive additional credit for the LIHTC or NMTC investment after the transaction is complete.

Senate Confirms Brian Montgomery as HUD Deputy Secretary; Advances Nomination for FHA Commissioner

The Senate voted 61-32 to confirm Brian Montgomery as HUD's deputy secretary. Montgomery has been serving as acting deputy secretary, as well as Federal Housing Administration Commissioner since former deputy secretary Pam Patenaude left in January of 2019.

In a hearing the Senate Banking, Housing and Urban Affairs Committee advanced the nomination of Dana Wade to be the Assistant Secretary for Housing and Federal Housing Commissioner at HUD. Wade previously served as Acting Federal Housing Commissioner and General Deputy Assistant Secretary for the Office of Housing.

HUD Corrects BBRA for PRAC Properties Memo

HUD reissued the Update on Budget Based Rent Adjustments (BBRA) for Properties Assisted under Project Rental Assistance Contracts (PRACs) memo with a correction to paragraph five. The original correspondence dated March 12, 2020, referenced monthly per-unit deposit levels rather than annual per-unit deposit levels, as was intended.

House and Senate Introduce Emergency Rental Assistance and Rental Market Stabilization Act

Senate Banking, Housing and Urban Affairs Committee Ranking Member Sherrod Brown (D-OH) and 25 co-sponsors introduced the Emergency Rental Assistance and Rental Market Stabilization Act, which would provide $100 billion in emergency rental assistance. House Financial Services Committee Chairwoman Maxine Waters (D-CA) and Rep. Denny Heck (D-WA) introduced a companion bill in the House of Representatives along with 131 co-sponsors. The $100 billion provided under the bill can be used for short- and medium-term rental assistance, as well as housing relocation and stabilization activities. Seventy percent of the funding is for very low-income households (50 percent of AMI), of which at least 40 must go to extremely low-income households (30 percent of AMI). The remaining 30 percent can be used to assist low-income households (80 percent of AMI). The funds can be used to reimburse grantees for eligible expenses incurred after March 27, 2020. NH&RA signed the National Low Income Housing Coalition letter supporting the bill. The bill is included in the HEROES Act.

PROVIDING TAX CREDIT EQUITY SINCE 1987

Aegon Real Assets

505 Sansome St., Ste. 1700
San Francisco, CA 94111

6300 C Street SW
Cedar Rapids, IA 52499

For Developers
Linda Hill - Vice President
415.983.5443
linda.hill@aegonusa.com

For Investors
Lynn Ambrosy - Managing Director
319.355.5871
lambrosy@aegonusa.com

For Asset Management
Blaine Shaffer – Vice President
319.355.5227
bshaffer@aegonusa.com

AEGON Asset Management

Dworbell, Inc.
1400 16th Street, NW, Suite 420
Washington, DC 20036

PRSRT STD
U.S. Postage
Paid
Permit No. 356
York, PA

Sharing Our Collective Wisdom

Our members have always been our greatest asset and this is especially true during these trying and uncertain times. No one has all the answers but our members willingness to share their experiences with others helps us all learn and adapt to the ever-changing circumstances. NH&RA created several forums for members to engage with each other on COVID-19 related topics including weekly Town Halls, a devoted COVID-19 news page and a members-only discussion forum. We hope you and your loved ones remain safe and healthy. To learn more about becoming part of the NH&RA community please visit: https://www.housingonline.com/about/nhra-membership/

housingonline.com/events/webinars/

housingonline.com/covid-19-news/

housingonline.com/about/nhra-membership/

housingonline.com/forums/

See pages 5-12 in this issue for the monthly Response Report