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Affordable Housing *by Carl Wagner & Ginger McGuire*

Owners, Developers Feel "Cautious Optimism"

Ginger McGuire and Carl Wagner gathered developer sentiment and explored legislative options at the January Council for Affordable and Rural Housing conference. They offer a summary of their experiences and learnings from the developers and owners in attendance.

The Council for Affordable and Rural Housing (CARH) is a nonprofit trade organization that brings rural owners, developers, service providers and lenders together to discuss the rural market. CARH is active in the battles for legislative remedies to help rural developers and owners finance their projects.

Affordable housing developers who have been in the business since the 1980s are feeling a sense of déjà vu in today's tax credit market. During the January CARH meeting, many reminisced about the creativity required to get credits sold and deals done when tax credit buyers were unaware of or less comfortable with an equity strategy that had only recently come about.

More than 20 years later, they find themselves in a similar situation, as many investors in tax credits are no longer buying because of the uncertain economy. Standard buyers such as Fannie Mae and Freddie Mac, and larger banks hit hard by the sub-prime mortgage crisis, don't have income to shelter this year, eliminating a major incentive to invest in the credits. A panel of experts at CARH agreed that it will take a long time to entice traditional investors to return to the equity market, and normal transactions may look more like they did when the tax credit was first introduced, with multiple layers of financial sources.

Finding new investors is an absolute necessity these days, as most tax credit developers will attest. As one seasoned developer from New York put it, "We need to go back to our 1986 experiences and educate a new group of investors about affordable housing and LIHTCs as an investment."

Local rural and community investors are potential resources in this search for a new pool of tax credit purchasers, and discussions at CARH indicated that the primary targets appear to be community banks, individuals and local companies that are still profitable. The strategy is to find investors looking for the opportunity to support the community and still get a healthy return on their investment.

Tax credit syndicators, at least those who haven't pulled back and remain dedicated to the business, are actively making these non-traditional contacts and seeking new investors. In addition, several owners at CARH indicated that they are working on a deal-by-deal, community-by-community basis to explain the opportunities

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in LIHTC to profitable local businesses.

On a national level, some LIHTC enticements and other funding-related elements were included in the recently passed stimulus package, following input from the broader low-income housing tax credit industry. Included among the solutions were:

- \$2.25 billion in HOME funds to provide recently awarded projects the necessary gap funding to make up for lower tax credit prices
- Allow state allocating agencies to return a portion of their 2009 LIHTC allocation and unused 2008 credits to the Treasury in exchange for grant funds at 85 cents per dollar of credit.
- \$250 million in grants or loans for energy retrofits and green investments in HUD assisted multi-family and public housing properties (Section 202, Section 811 and Section 8 properties).

The bill did not, however, include the discussed provisions to allow investors to carry back the benefits of the credit to prior years, or to temporarily allow LIHTC investors to accelerate their tax benefits to the first few years of the 10-year period.

Further aid is expected. House Financial Services Committee Chairman Barney Frank announced that he and Congressman Charlie Rangel, Chairman of the Ways and Means Committee, plan to introduce a bill later in the year to address tax credit issues that are not resolved in the stimulus package. A one-two punch from these key legislators may help get the industry back on track and get housing built for lower-income renters.

Though the weakened economy has delayed or derailed many projects, these potential stopgaps and new resources helped create a general feeling of cautious optimism at the January CARH conference. For the near future, deals that make it to closing will have to be creative and may take more



effort and underwriting time, and a lot of patience and head-scratching.

We at Lancaster Pollard will continue to work on creative, multi-source financing options and pay attention to the market and government activity. Until the market improves, we will gather as much information as we can and listen for the drum beat from the housing industry, investors and Capitol Hill. The market will improve eventually, and we look forward to communicating further with you on your upcoming and ongoing projects as we track these changing opportunities and work to continue to complete projects already under way.

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