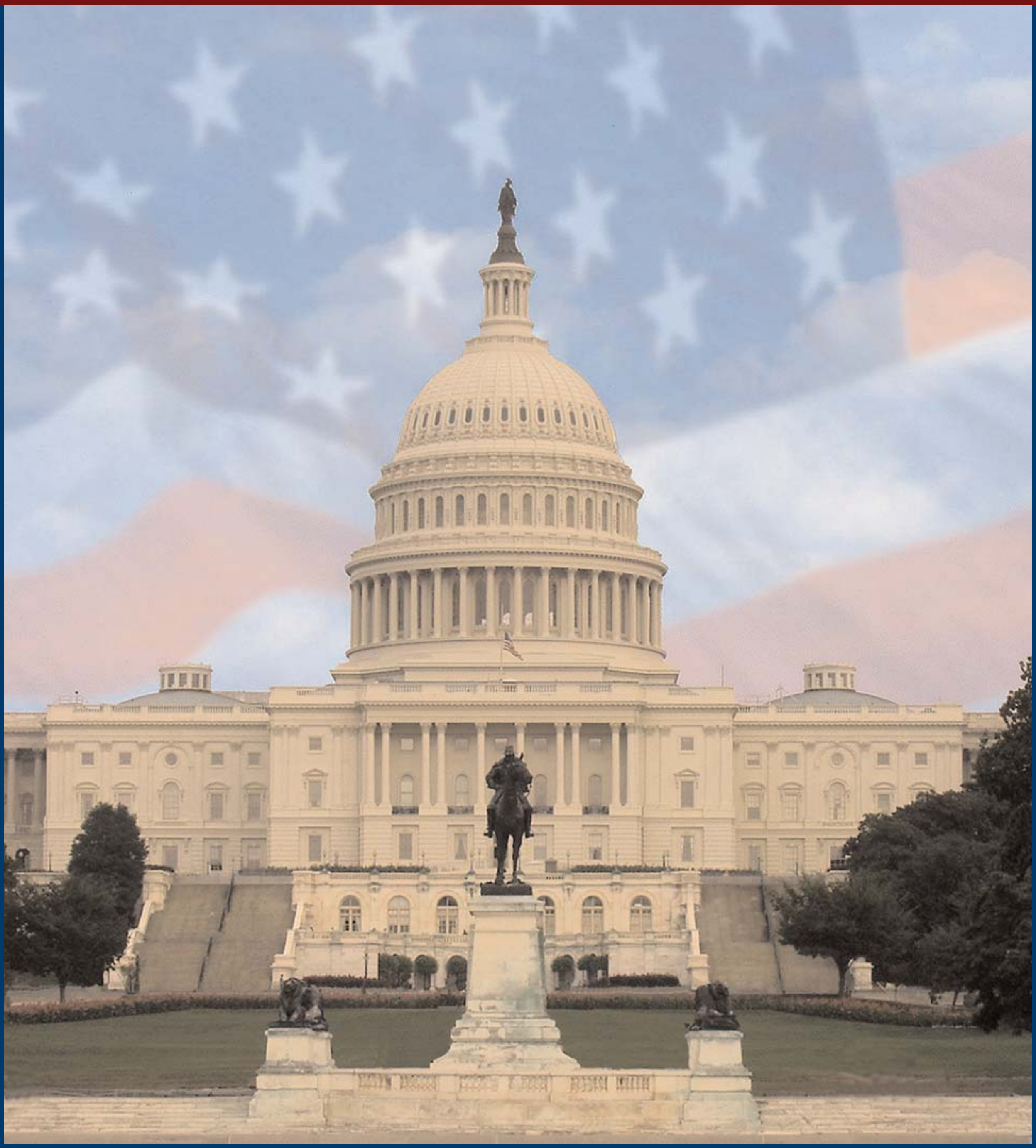
Legislative & Regulatory
PRIORITIES



National Apartment Association • National Multi Housing Council

JOINT LEGISLATIVE PROGRAM

2008

NAA/NMHC JOINT LEGISLATIVE PROGRAM

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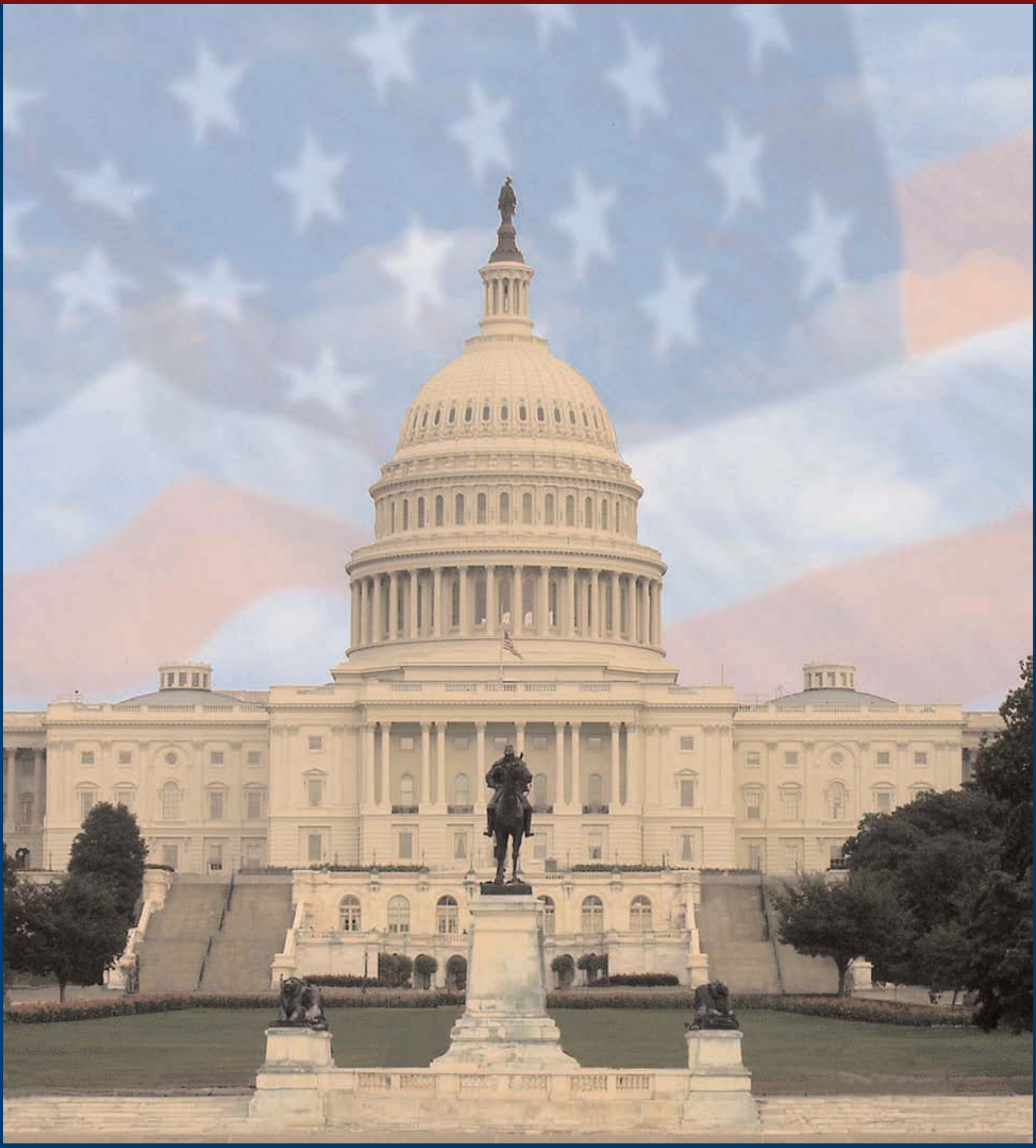


2008

NAA/NMHC JOINT LEGISLATIVE PROGRAM

A Unified Voice for the Apartment Sector

In a unique relationship, the National Apartment Association (NAA) and the National Multi Housing Council (NMHC) have joined forces for more than a decade to form a Joint Legislative Program. This partnership creates a clear, consistent voice for the apartment industry on Capitol Hill.

The NAA/NMHC Joint Legislative Program ensures that apartment firms are able to engage government officials in constructive, ongoing dialogues and participate in policy decisions affecting their ability to provide housing to millions of Americans.

Additionally, the Joint Legislative Program, in concert with 10 other national real estate organizations, is actively involved with the Congressional Real Estate Caucus (CREC) on Capitol Hill.

The Joint Legislative Program will remain in the vanguard of bringing key issues before legislators and regulators in the ongoing debate over the federal government's role in supporting apartment living.

The National Apartment Association

The National Apartment Association (NAA), based in Arlington, VA, is the leading advocate for quality rental housing. NAA is a federation of nearly 200 state and local affiliated associations representing more than 50,000 members responsible for more than 6 million apartment homes nationwide. It is the largest broad-based organization dedicated solely to rental housing. NAA members include apartment owners, management executives, developers, builders, investors, property managers, leasing consultants, maintenance personnel, suppliers and related business professionals throughout the United States and Canada. NAA strives to provide a wealth of information through advocacy, research, technology, education and strategic partnerships. NAA provides six national designation programs; publishes UNITS magazine and other industry publications; holds an annual Education Conference and Exposition; and promotes industry professionalism. For information, call 703/518-6141, e-mail information@naahq.org or visit www.naahq.org.

The National Multi Housing Council

Based in Washington, D.C., NMHC is a national association that advocates on behalf of the apartment industry and the nearly 16 million American households who live in an apartment community of five or more units. NMHC's

members are the principal officers of the larger and more prominent apartment firms and include owners, developers, managers and financiers. The Council's legislative and regulatory agenda targets a wide variety of issues, including housing policy, multifamily finance, environmental affairs, tax policy, fair housing, building codes, technology, human resources and rent control. In addition, NMHC conducts apartment-related research, encourages the exchange of strategic business information and promotes the desirability of apartment living.

The Congressional Real Estate Caucus

The Congressional Real Estate Caucus (CREC) was formed in May 1998 at the Real Estate Summit on Capitol Hill organized by the NAA/NMHC Joint Legislative Staff. Representatives Michael Turner (R-OH) and Richard Neal (D-MA), the former mayor of Springfield, Mass., serve as co-chairs. A Senate Real Estate Caucus has been formed with Senators Mary Landrieu (D-LA) and Johnny Isakson (R-GA) serving as co-chairs. The CREC is endorsed by national real estate groups representing 2 million members and companies that own, build, manage and finance real estate. CREC serves as a forum for members of Congress and real estate professionals to discuss federal policy and its impact on the nation's real estate industry.

CREC seeks to ensure implementation of federal policies that further real estate's contributions to national, state and local economies. Real estate accounts for a quarter of every tax dollar, constitutes half the nation's domestic investment and is responsible for 12 percent of the nation's gross domestic product and an estimated 8.9 million jobs. Thus, protecting and promoting a healthy real estate sector can only serve to strengthen the nation's economy.

A BALANCED HOUSING POLICY NEEDED

For decades, the U.S. has pursued a "homeownership at any cost" based housing policy. Policy makers assumed that universal homeownership would solve all of our housing challenges and aggressively pushed families into houses they could not afford. Now the nation is paying the cost for this misguided policy. People are losing their houses, communities are struggling with plummeting tax revenues, blight and crime, and our national economic growth is at risk.

If there is a silver lining in this tragic, but preventable, situation it is the hope that we can learn from our mistakes and finally understand that housing our diverse nation requires having a vibrant rental market along with a functioning ownership market. The time has come to adopt a balanced housing policy that doesn't measure success solely by how much homeownership there is.

America Needs Apartments

If America wants to create strong and healthy communities, apartments must be part of the mix. Why?

- Apartments help create vibrant live/work/play neighborhoods. The biggest housing success story of the last 10 years is arguably the downtown revivals taking place from Philadelphia to San Jose. Decaying and abandoned city centers are being transformed into dynamic neighborhoods with new restaurants, shops and cultural attractions. These stories owe their success not to new home ownership initiatives, but to apartment developers who took a chance and created new upscale housing downtown.
- Apartments are the smart affordable housing solution. It now costs an average of $648 less per month to rent than buy. Apartments offer moderately-priced housing so vital community workers can live where they work.
- Apartments are more environmentally sustainable. Apartments are more resource-efficient and energy-efficient than other housing types. They help preserve open space, protect natural resources and reduce air and water pollution. Experts now say that more compact development patterns, such as apartments, could do as much to lower greenhouse gas emissions as many of the climate policies being promoted by state and national politicians.
- Apartments reduce infrastructure costs. The U.S. will need 60 million new housing units by 2030 to accommodate population growth. We can save $100 billion in infrastructure costs if we pursue more compact forms of development that include apartments.
- Apartments are a national resource in times of need. When Hurricane Katrina destroyed nearly 417,000 houses, apartments offered disaster officials with a source of immediate and affordable housing that cost less than half of the average hotel rent paid by FEMA.

America Wants Apartments

America is changing, and there is a fundamental mismatch between our housing stock and the new demographic realities. Only 20 percent of our households are married couples with children. The fastest growing groups in our population—the Baby Boomers and their children—are at life stages that favor renting. These households are choosing apartments for the conveniences, amenities, superior locations and financial freedom they offer.

America's tagline may be "a nation of home owners," but one third of our citizens are renters, and 40 percent surveyed report that they prefer to rent, even though they could afford to buy.

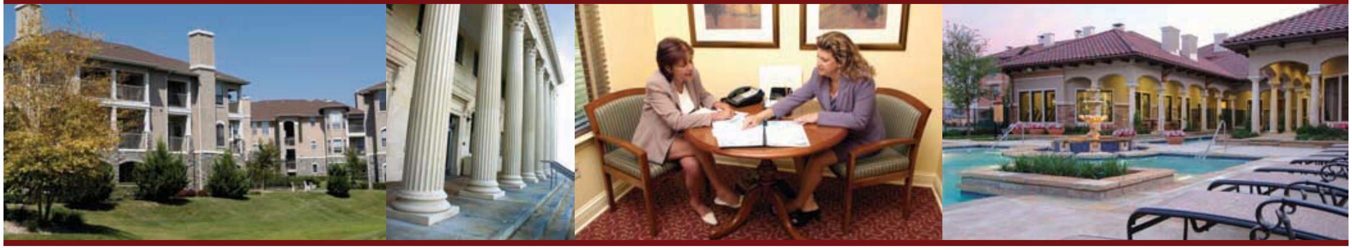
The New American Housing Policy

Homeownership will always remain an important part of America's housing system, but the new American housing policy should recognize that not everyone wants to own a house; not everyone has the means to own a house; and trying to create a nation of homeowners will ultimately harm not only many of those owners, but also our local communities. For many of our most pressing challenges, apartments are a better solution.

That's why Mayors and congressional commissions agree that our top housing priority should be creating more rental housing. We need to rebalance our policies and our allocation of resources. Despite the many advantages of rental housing, more than three-quarters of our 2006 federal housing subsidies targeted homeowners, with most of that going to high-income owners.

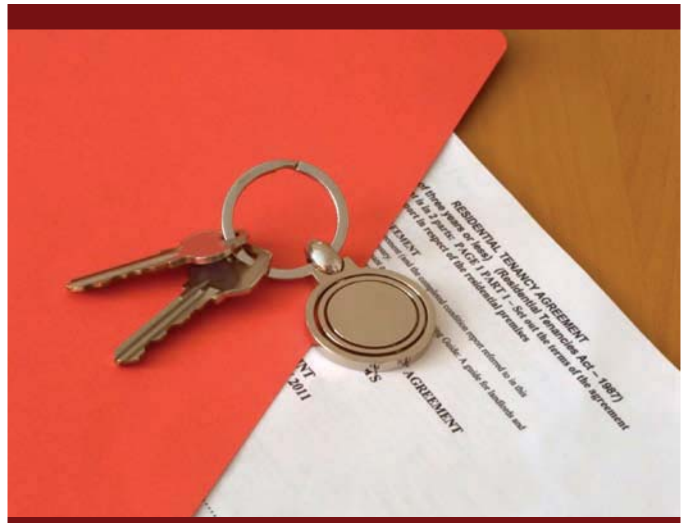
The National Apartment Association (NAA) and the National Multi Housing Council (NMHC) urge decision-makers at all levels of government to work with the apartment industry to craft a smarter housing policy that meets these five principles:

- Ensures that everyone has access to decent and affordable housing, regardless of his or her housing choice;
- Respects the rights of individuals to choose the housing that best meets their financial and lifestyle needs without disadvantaging, financially or otherwise, those who choose apartment living;
- Promotes healthy and livable communities by encouraging responsible land use and promoting the production of all types of housing;
- Recognizes that all decent housing, including apartments, and all citizens, including renters, make positive economic, political and social contributions to their communities; and
- Balances the expected benefits of regulations with their costs to minimize the impact on housing affordability.



AFFORDABLE HOUSING SOLUTIONS

Production and preservation of affordable multifamily housing continues to be critical to remedy the shortage of decent and affordable housing for low- and moderate-income families. Additionally, the shortage of rental housing for those above the typical subsidy level of 60 percent of area median income has also become acute. Seeking programs that will help with the development of housing for families in the income range of 60 percent to 120 percent of area median income has also become critical to meet the growing demand for affordable housing for many families, especially in high-cost markets. Meanwhile, most current subsidies are targeted to provide housing only for low-income families at or below 50 percent of area median income. Because there are not enough resources to serve the full range of families that need housing at affordable levels based on their income, a growing number of families in need remain in inadequate or substandard housing. Mixed-income housing is another means to expand the reach of rental housing to a broader range of low-income, moderate-income, and working families.



ISSUES

Section 8 Housing Choice Vouchers

Issue Discussion: Our federal efforts in 2008 take place amid a bigger policy shift as the federal government continues its effort to transfer responsibility for affordable housing to state and local governments.

For decades, Section 8 vouchers have provided housing assistance to struggling families. But the program has been plagued with inefficiencies and onerous bureaucratic requirements that discouraged private owners from accepting vouchers. As a result, many vouchers went unused, which allowed Congress routinely to rescind money from the program to fund other operations. In the late 1990s, some program reforms were implemented that made the program more attractive to private apartment owners, and voucher utilization rates rose. NAA/NMHC and others have spent several years working with the U.S. Department of Housing and Urban Development (HUD) to identify additional programmatic reforms to raise utilization even higher to serve more people.

NAA/NMHC believe that if the housing needs of America's low- and moderate-income families are going to be met, it is imperative that we improve the Section 8 program. NAA/NMHC believe that more apartment owners would participate in the Section 8 program if the costs of renting to voucher residents were more comparable to the costs of serving unsubsidized residents. In other words, the program must be more "transparent" to the market. But NAA/NMHC urge Congress and HUD to reform the existing Section 8 program instead of turning the program into a block grant.

Legislation introduced in the 110th Congress called the "Section 8 Voucher Reform Act of 2007" (H.R. 1851) provided meaningful steps to improving the program and has the support of NAA/NMHC. The bill overhauls the program's burdensome and duplicative inspection standards—a priority for NAA/NMHC—and permanently fixes the flawed voucher renewal funding formula. It also streamlines the process for calculating income and rent and implementing changes that would make the program more consistent with the Low-Income Housing Tax Credit (LIHTC) program so the two can be used together more effectively. It also requires HUD, rather than apartment owners, to translate both its own official vital documents and selected non-HUD property documents into any language the Department identifies as necessary, and to provide a HUD-funded and HUD-administered toll-free telephone number for oral interpretation needs.

NAA/NMHC commend both Houses of Congress for their efforts to provide adequate funding for the Section 8 Housing Choice Voucher program. As owners and developers of affordable housing in the private sector, we know first-hand how successful vouchers have been in providing housing opportunities to eligible families. And NAA/NMHC urge Congress to pay particular attention to the issue of how vouchers are allocated to local communities and wish to express our concern with regard to the funding for the project-based Section 8 program. NAA/NMHC believe that the funding mechanism which bases agencies' budgets on their leasing and costs from the most recent 12 months, is sound and will lead to the most efficient and stable results for residents, program administrators, and owners.

It is imperative that the funding for the project-based Section 8 program include full funding on a 12-month basis, to make sure that the lapse in payments that occurred in the summer of 2007 does not happen again in 2008. Congress needs to reassure owners and lenders who invest private capital in affordable housing that the government will fulfill the contracts that are currently in place.

Against the backdrop of these funding challenges, several states and localities have attempted to address their affordable housing shortages by forcing housing providers to accept Section 8 vouchers. Some jurisdictions have even made families and persons receiving housing assistance payments a protected class under state civil rights laws, making it a civil or even a criminal violation to opt out of the Section 8 program. These efforts go against the principles on which the Section 8 program was created. The program's creators recognized that participants would bear additional administrative and regulatory costs above and beyond those necessary to serve as conventional market housing providers. Thus, they implicitly preserved the right to participate or not participate. They failed to make this distinction explicit in the federal law, however, and several state legislatures have considered measures to effectively mandate participation in the Section 8 program.

Action Requested: NAA/NMHC strongly advocate reform of the current Section 8 housing choice voucher program to make the program more transparent and to reduce burdensome regulatory requirements. To that end, we urge that the Senate pass H.R. 1851 the "Section 8 Voucher Reform Act of 2007." In addition, we urge Congress to provide sufficient funding for all authorized vouchers and project-based Section 8 contracts. We urge Congress to reject efforts to turn the program into a state-based block grant. Finally, we urge states to respect the federal preemption of state and local laws intended by the program to keep participation voluntary.

FHA Multifamily Mortgage Insurance Premium

Issue Discussion: On January 9, 2008, the U.S. Department of Housing and Urban Development (HUD) canceled its plan to increase the FHA multifamily Mortgage Insurance Premium (MIP) by more than 35 percent for selected multifamily mortgage products. NAA/NMHC along with many housing and finance organizations sought this action, following the increase announcement in October 2007. HUD had planned at that time to increase the multifamily mortgage insurance premium from 45 basis points to 61 basis points as of December 1, 2007 for mortgages used to purchase, refinance, build or significantly rehabilitate unsubsidized rental properties.

HUD claimed the increase was necessary due to increased administrative costs for the popular FHA multifamily financing programs. However, it failed to provide evidence of these higher costs. The premium increase would have affected the Section 221(d)(4) new construction program and the 223(f) and 223(a) acquisition and refinance programs. NAA/NMHC and a coalition of organizations mobilized to oppose the premium, resulting in a letter signed by 117 members of the House and 38 Senators opposing the premium increase. NAA/NMHC will continue to oppose any premium increases not based on actual cost increases.

Action Requested: NAA/NMHC urge Congress to require HUD to conduct a program assessment associated with any change in the multifamily mortgage insurance premium.

Exit Tax

Issue Discussion: Before 1986, the tax code encouraged limited partner investors to provide equity to multifamily properties in exchange for tax savings. The Tax Reform Act of 1986 removed the ability of most investors to deduct losses generated by their properties from otherwise taxable income, which greatly reduced investors' economic interest in apartments.

Under current tax law, when owners/investors sell a property, they must pay capital gains tax and depreciation recapture taxes on any gain. Many properties cannot generate a high enough sales price to cover these "exit taxes." This places properties with lesser economic value at risk of deterioration because the owners have no incentive to invest additional funds in a property with little or no cash-flow. As a result, many owners simply opt to hold on to the properties until their death, at which point no taxes will be assessed on the depreciated gain (and the possible capital gain above that) because the property's basis will be "stepped-up" at death to the current market value.

In 2003, the congressionally chartered Millennial Housing Commission recommended that Congress pass exit tax relief for owners who transfer affordable housing properties to entities that agree to preserve the properties and keep them affordable. Legislation based on this recommendation is currently pending in both the House and Senate (H.R. 1491 and S. 1318).

Action Requested: NAA/NMHC urge Congress to approve legislation to preserve affordable housing by providing broad "exit tax" relief to owners of apartment properties who transfer their properties to new owners with the capital and the commitment for renovation and modernization.

Capital Gains/Depreciation Recapture

Issue Discussion: In 1997, when Congress reduced the maximum tax rate on long-term capital gains to 20 percent (for assets held more than 12 months), it imposed a 25 percent depreciation recapture rate on the portion of the gain assigned to the depreciable portion of a property. Thereafter, the capital gains tax rate was further reduced to 15 percent (through 2010), but the depreciation recapture rate was left unchanged. Imposing such a high depreciation recapture tax on apartment properties that have been depreciated from original cost fails to recognize the unique nature of commercial real estate property. It also discriminates against real estate in favor of other asset classes.

In 1999, Congress approved a tax bill that reduced both the capital gains and the depreciation recapture rate, but the measure was vetoed. More recently, in January 2004, the Treasury Department recommended simplification of the calculation of capital gains depreciation recapture on certain types of assets, including real estate, by eliminating the special 25 percent rate and replacing it with a new "blended" rate based on a combination of ordinary income and capital gains tax rates.

Action Requested: NAA/NMHC urge Congress to repeal the 25 percent depreciation recapture rule established in 1997.

Depreciation

Issue Discussion: Current tax law allows apartment properties to be depreciated over a 27.5-year period, but a 2000 study by NAA/NMHC suggests that may be too long. NAA/NMHC research showed the true useful life of an apartment property is probably closer to 20 to 25 years.

In July 2000, the U.S. Treasury Department released its initial report on depreciation and called for further study. There was no legislative follow-up until 2005, when legislation was introduced and a Senate subcommittee held hearings to evaluate the entire depreciation system with a particular orientation toward equipment and intangible assets.

Action Requested: NAA/NMHC encourage Congress to continue efforts to overhaul the existing depreciation system and urge the U.S. Treasury Department to reinvigorate its study of useful depreciation lives so that tax law will reflect economic reality.

Utility Adjustments for Tax Credit Properties

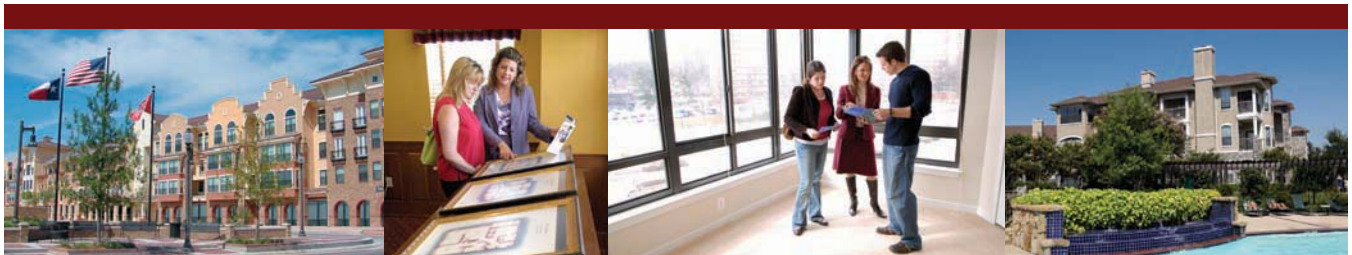
Issue Discussion: NAA/NMHC strongly advocate changing Section 42 of the Internal Revenue Code to create alternative methods for establishing utility allowances for low-income housing tax credit (LIHTC) properties. Based on recommendations from NAA/NMHC the IRS issued proposed regulations in July 2007. NAA/NMHC provided comments to the IRS to strengthen the methodology provisions and also testified at the October 10, 2007 public hearing on the matter.

Generally in favor of the proposed regulations, NAA/NMHC see the change as critical to maintaining the integrity of LIHTC-financed properties that provide safe and decent rental housing to millions of low- and moderate-income families. The changes are needed to offset the decline in rents due to inaccurate adjustments for resident-paid utilities. It is estimated that these adjustments can be up to twice as large as needed to provide needed relief to residents under the law. The NAA/NMHC approach allows for greater flexibility to property developers and owners to establish accurate utility cost estimates while preserving current methods.

Internal Revenue Service (IRS) rules require rents at LIHTC properties to include a utility allowance for resident-paid utilities. However, the methods currently used to estimate those costs tend to overestimate actual resident utility cost, which, in turn, reduces the gross rent received by property owners.

NAA/NMHC created an industry coalition to seek appropriate changes. The IRS will issue a final set of regulations in 2008.

Action Requested: NAA/NMHC urge the IRS to promptly release final regulations on alternative procedures to estimate LIHTC utility allowances for review and comment.



HOUSING POLICY

NAA/NMHC will continue to advocate for a more balanced housing policy that effectively addresses our nation's most pressing housing needs, and one that explicitly recognizes the importance of apartments in the nation's future growth plans. And NAA/NMHC will oppose efforts to direct even more of our limited federal housing resources toward homeownership at the expense of critical rental housing programs.

ISSUES

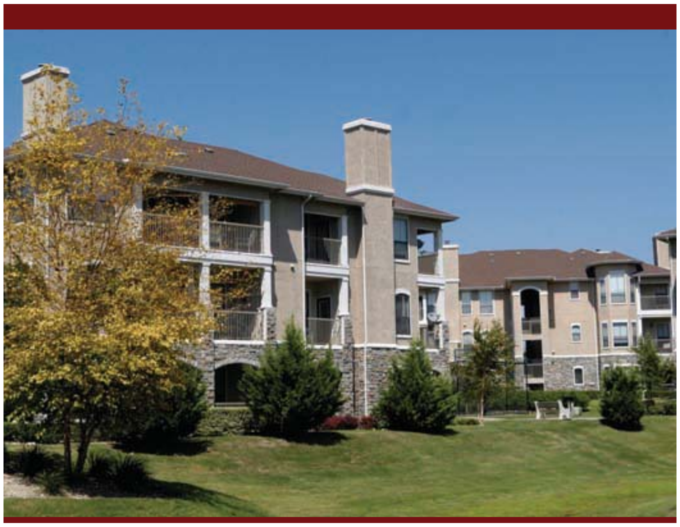
Barriers to Multifamily Development

Issue Discussion: Apartments are a vital, but often overlooked, part of the community development toolbox. They are more compact and less sprawling so they use municipal infrastructure more efficiently and preserve greenspace. They create vibrant, walkable neighborhoods, which helps reduce auto traffic and air pollution. They provide homes within reach of municipal employees, such as police officers, teachers and nurses. And they improve economic prosperity by providing much-needed housing for the employees local businesses need. If the United States is serious about wanting to change the future and create healthier and stronger communities in this country, Americans have to think about apartments in a more positive way.

The U.S. population is growing faster than many people realize. By 2030, there will be 94 million more people in the country than there were in 2000. All of these people need somewhere to live, somewhere to work and somewhere to shop. The only way communities can accommodate this kind of population growth without sacrificing quality of life is to embrace higher-density, mixed-use development that integrates homes, schools, shopping, jobs and entertainment into our neighborhoods. High-quality apartments are an important part of this future growth plan.

Unfortunately, many Americans oppose apartment construction because of outdated fears about rental housing. Local governments, eager to retain the support of voters, erect barriers to apartments. Even worse, many of the country's zoning laws are more than 50 years old and actually prohibit the kind of vibrant, walkable communities that citizens today want.

NAA/NMHC's outreach, seeking a more level playing field between rental housing and homeownership, has produced numerous successes, including the U.S. Department of Housing and Urban Development's (HUD) effort to remove barriers to multifamily housing through its Regulatory Barriers Clearinghouse.



Action Requested: NAA/NMHC strongly support legislation to fund research, identify model programs, analyze the economic and social benefits of a balanced approach to housing and revise outdated laws that increase the cost of providing affordable housing.

Homeownership Incentives

Issue Discussion: NAA/NMHC recognize the importance of homeownership to America; however, there is a dangerous and growing disconnect between housing policy and housing needs. Mayors and congressional commissions agree that our top housing priority should be creating more rental housing, yet every year more of our limited resources are diverted to homeownership at the expense of other critical housing needs. NAA/NMHC believe that a "homeownership above all else and at any cost" policy is unwise. Trying to create a nation of too many homeowners will ultimately harm not only many of those owners, but also our local communities.

Rising foreclosures not only hurt working families, they also hit local communities hard. When families default and abandon their houses, property values decline and neighborhoods can spiral downward. Cities, counties and towns lose tax revenue and incur higher costs associated with vandalism and other social problems.

The conventional wisdom that home ownership is good for owners and their communities is coming under intense scrutiny in the press as the subprime meltdown spreads. Despite the obvious flaws in our homeownership tax policy, the mortgage interest deduction remains the largest housing-related tax expenditure according to new estimates by the

Joint Committee on Taxation. Between 2007 and 2011 it will cost the government $430.2 billion in lost revenues. The deduction for property taxes will cost an additional $87.1 billion over the five-year period, and the exclusion from taxation of capital gains on owner-occupied houses will cost $153.5 billion. This compares to $28.7 billion for the Low-Income Housing Tax Credit, $27.4 billion for the depreciation of rental housing in excess of an alternative depreciation system and $4 billion for the exclusion of interest on state and local rental housing bonds.

Action Requested: NAA/NMHC urge Congress to fully consider the nation's most pressing housing needs and the needs of working families before advancing any additional homeownership incentives.

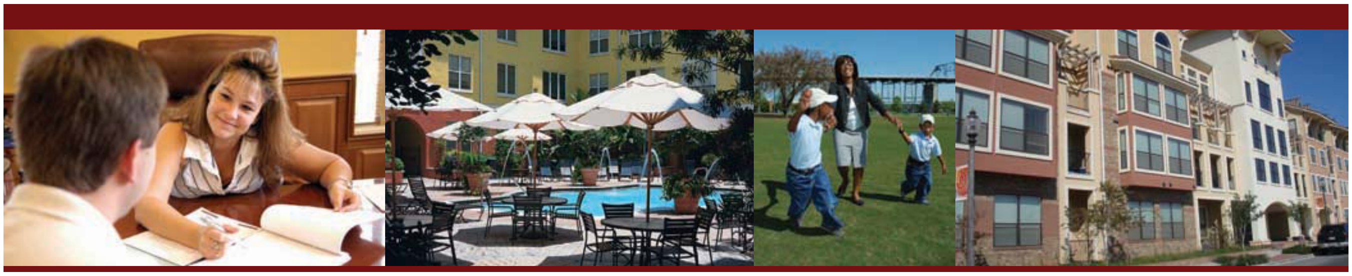
Military Housing

Issue Discussion: NAA/NMHC encourage the development of programs to create public/private partnerships with regard to military housing, as well as programs that will privatize housing for the changing needs of the U.S. military.

Private rental housing has outpaced on-base military housing, leaving U.S. service members to live in housing that is below contemporary standards. America's military needs more affordable quality housing. NAA/NMHC strongly supports the privatization of military housing and understands the importance of adequate, affordable and safe housing. This housing needs to be developed and managed in a manner that will accommodate the needs of America's military and can be financed by private lending sources.

NAA/NMHC have been urging Congress to pass legislation excluding the Basic Allowance for Housing (BAH) provided to soldiers from calculations of income for purposes of determining the servicemember's eligibility for various federal rental housing programs, including the LIHTC. The Senate passed a bill (H.R. 3997) containing the provision last year, however, it was omitted from the version of the bill passed by the House. On December 19, 2007 the Senate reinserted the BAH language and again passed the bill by unanimous consent. As Congress begins debate in 2008 this discussion will continue.

Action Requested: NAA/NMHC urge Congress to develop programs that will create public/private partnerships, as well as private housing initiatives for U.S. military service members. NAA/NMHC also request that federal laws and regulations that might deter such housing from being developed be eliminated. NAA/NMHC will continue to work with military housing leaders to identify those conflicts in an effort to make a more positive impact on the quality of life for military families. In addition, NAA/NMHC urge congress to pass legislation excluding the Basic Allowance for Housing (BAH) from the soldier's income calculation so that they can more easily qualify for federal housing programs.



ENVIRONMENT

Congress continues to be focused on several hot-button energy issues including global climate change, the availability of foreign oil and domestic energy production. Energy efficiency is a legislative and regulatory priority and NAA/NMHC will be closely monitoring developments that affect apartment owners, managers and developers.

ISSUES

Energy Efficiency and Green Building

Issue Discussion: NAA/NMHC support the development of federal policies to encourage property owners to incorporate energy-efficient building technologies, renewable energy sources and conservation measures into their buildings and communities. Advances in building science have resulted in the development of new materials and systems that make buildings highly efficient. Existing buildings with less efficient technologies represent an opportunity to make improvements in energy and water consumption. Changing out building systems requires an understanding of how the building systems work together. A one-size-fits-all legislative approach that would require the existing building stock to meet a certain energy performance level is unworkable and will have the direct consequence of exacerbating the shortage of safe, affordable apartment housing.

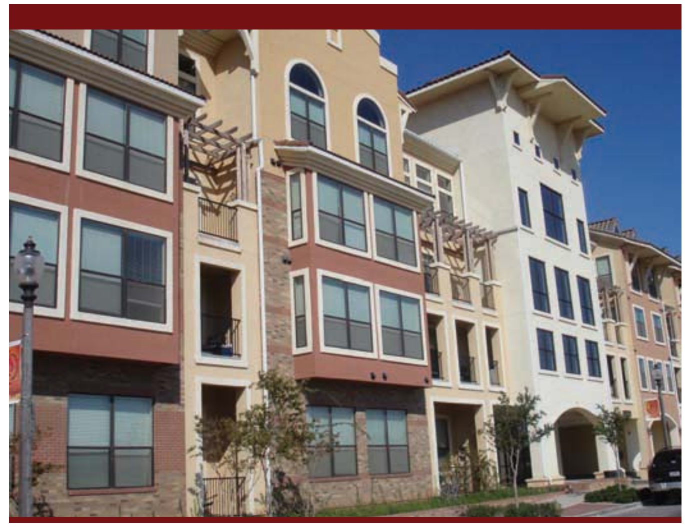
An increasing number of state and local governments are actively promoting energy efficiency and green building. Some far-reaching plans may prove problematic for the apartment industry, however. Numerous jurisdictions have proposed and enacted legislation that would require new public and private construction to meet certain third-party proprietary green building standards that were not developed to address the low and mid-rise multifamily construction. NAA/NMHC members are engaged in sustainable development practices and have developed a variety of green buildings using several practice guidelines.

Action Requested: (1) Congress should incentivize energy-efficiency and green building through an expansion of the tax provisions enacted in the Energy Policy Act of 2005 and pass legislation that would accelerate the depreciation schedule for certain building systems so that owners of existing property will be encouraged to replace functional building systems with advanced technologies that are more energy efficient. (2) Congress should fund new and existing education and research efforts, like the federal Energy Star and weatherization programs to spur energy efficiency and conservation. (3) NAA/NMHC encourage the voluntary use of practical, proven and cost-effective energy-efficient and green building principles in new and existing projects.

FINANCE

Given the capital-intensive nature of the apartment industry, finance is a key issue for NAA/NMHC. The current success of the multifamily housing debt and equity markets underscores both the legacy of federal housing finance programs and their continuing importance to the apartment sector. Given the turmoil in the capital markets as a result of the single-family mortgage crisis and the impacts upon the banking, insurance and investment market place, NAA/NMHC remain focused on the issues affecting apartment developers and owners to secure equity and debt.

NAA/NMHC will continue to work toward establishing a wider availability of capital for all phases of apartment activity—new construction, refinancing, rehabilitation and sale. NAA/NMHC will also continue to work to improve the efficacy of financing programs that produce high-quality rental housing for everyone from lower-income families to the millions of moderate-income families who are not eligible for government subsidy, but who are nevertheless struggling to cover the cost of their housing.



ISSUES

Regulatory Oversight of Fannie Mae and Freddie Mac

Issue Discussion: On May 22, 2007 the House of Representatives passed NAA/NMHC supported legislation (H.R. 1427, the "Federal Housing Finance Reform Act of 2007") to create a new regulator for Fannie Mae, Freddie Mac and the Federal Home Loan Banks. Among other things, the bill tightens Fannie and Freddie's affordable housing goals by only counting mortgages purchased on homes or rental units that are affordable to families making 80 percent or less of area median income, down from 100 percent. This will likely increase the Government Sponsored Enterprises (GSEs) incentives to expand their multifamily housing lending, which already accounts for approximately 30 percent of their qualified "affordable" activities. Much of this capital would be targeted for the development of rental housing for low- and moderate-income families. Supported by the apartment industry, this bill calls for the establishment of a world-class regulatory body and among other things, establishes a housing trust fund that would be financed in large part by Fannie Mae and Freddie Mac.

Legislation passed by the House of Representatives underscores the push by Congress to establish a new GSE regulator. A key provision supported by NAA/NMHC calls on the newly formed regulator to monitor and evaluate the need for limits on the investment and size of the portfolios held by Fannie Mae and Freddie Mac. Unlike past Senate Banking legislation that would set statutory limits, this provision calls on the regulator to make such decisions based on market and capital standards and needs on and ongoing basis. This provision is important to the multifamily housing industry because much of the mortgage finance provided by the GSEs is through mortgage purchases held in their portfolio. NAA/NMHC oppose legislation that places restrictions on multifamily housing mortgages eligible to be held in the portfolios of the GSEs (often referred to as the retained portfolio). In NAA/NMHC's view, such limitations would be overwhelmingly damaging to the multifamily housing industry and could lead to higher-cost loans, less flexible loan terms and a reduction in their conventional lending. There is a push to have Fannie Mae and Freddie Mac sell mortgages purchased through the secondary securities markets, which has not been the process for multifamily mortgages. Because multifamily housing mortgages have prepayment protection to the security holder and generally are more complicated than single-family mortgages, the two mortgage giants have generally held the mortgages in their investment portfolios or purchased the securities as they would other investments.

The Senate has not taken up the GSE legislation to date, but pressure is mounting for action. Late in the first half of the 110th Congress, Senate legislation was introduced addressing the affordable housing trust fund component to the House action, but no legislation has been introduced on the overall regulatory front. Senate Banking Committee Chairman Christopher Dodd (D-CT) has indicated he will take up the issue early in 2008. NAA/NMHC are optimistic that the House and the Senate can work toward the creation of a regulator that would be given sound direction but would be allowed to make its own decisions. NAA/NMHC are encouraged because both the Treasury Department and the White House have indicated support for this approach.

Action Requested: NAA/NMHC urge Congress to establish a strong regulator without specific requirements about the type of investments that can be held in portfolio, leaving specific decisions to the regulator.

APARTMENT MANAGEMENT

Apartment management is affected by numerous government regulations and actions. Government action or inaction on key issues can adversely affect apartment operating costs, increase liability or create legal ambiguity relative to property management. Although many important decisions affecting both large and small stakeholders in the residential property management industry are matters of state law, federal legislation and regulations can significantly affect day to day operations for market-rate and subsidized apartments alike.

ISSUES

Accessibility

Issue Discussion: Disability advocates and the federal government continue to turn up the heat to enforce the Fair Housing Act's (FHA) Design and Construction requirements on the apartment industry. Since 2005, many NAA/NMHC members have been challenged with lawsuits over their alleged failure to comply with the accessibility requirements of the law. The FHA imposes specific accessible design features on properties that meet certain criteria. Unfortunately, guidance from the federal government has been confusing and therefore largely misunderstood by the industry. NAA/NMHC have been working to identify and create educational opportunities to help the industry comply with the often ambiguous provisions of the law as well as to seek a long-term solution to help mitigate the threat of litigation. This combined educational and advocacy initiative is being developed with the help of legal and building industry expertise to ensure a comprehensive approach.

NAA/NMHC continues to support the industry in its legal challenges through "friend of court" briefs when appropriate. NAA/NMHC will continue to educate policymakers and regulators about the ongoing efforts to combat discrimination in housing, especially for the disabled.

Action Requested: Policymakers and regulators need to know the challenges facing the multifamily housing industry as it seeks to comply with interpretations of law that often present difficult targets because of numerous revisions. NAA/NMHC will seek opportunities for clarifications and relief if appropriate.

Immigration Reform

Issue Discussion: Congress must enact comprehensive immigration reform to strengthen national security and address the country's current and future economic needs. The combination of our need for workers and an inadequate immigration infrastructure has caused an unacceptable status quo. Workforce needs alone generate more demand on the deficient system than can be handled, let alone the many other categories of immigrants pushed through the inadequate structure. Experts estimate there are more than 12 million undocumented workers throughout the country performing work that most Americans will not do themselves. Regardless of whether they seek permanent or temporary status, immigrants applying for legal residency under the current system are faced with overly complex procedures, inflexible regulations and unreasonable delays. By failing to create adequate legal avenues for hiring foreign workers and not addressing the status of workers already here, Congress and the administration are not fully safeguarding either the economy or U.S. borders.

The vast majority of businesses want to obey the law but the system currently in place lacks an accurate and efficient means of verifying the immigration status of prospective employees. Even the most diligent employers have difficulty identifying forged documents. Careful employers should not be penalized when they implement proper screening techniques. Employers currently have voluntary access to the federal government's E-Verify electronic/telephonic employment verification system to ensure that all employees are authorized to work, but this formerly experimental program has an unacceptably high error rate. Nonetheless, both the U.S. House of Representatives and Senate have passed various measures that would mandate employer participation in the error-fraught E-Verify program. Effective employee screening and workplace enforcement are essential, but those components must be accurate and efficient, and they are only one part of meaningful comprehensive reform.

U.S. immigration laws must be reformed to attract immigrants that our economy needs, but the answer does not lie in new laws that solely involve employers. Improving national security does not simply require better employment verification enforcement, but a more rational, comprehensive immigration policy. Specifically, a comprehensive immigration reform package should improve border security, include a temporary guest worker program that would allow employers to hire certain pre-screened foreign workers and address the status of the undocumented individuals currently in the country.

Apartment owners are particularly concerned about the failure of Congress to enact comprehensive immigration reform because that inaction has encouraged state and local governments to pass draconian measures that, if enforced, would require apartment owners to act as de facto immigration police. In most cases these laws would bar apartment owners from renting to undocumented individuals and require them to screen all prospective or even current residents for their immigration status. Without Congressional action, it is expected that state and municipal governments will continue to approve these measures, which are extremely problematic on legal and practical grounds.

Congress has faced increasing pressure to address immigration reform in the 110th session, but heightened factionalism within each party and among party leaders have stalled meaningful consideration of this issue. The intensified focus on the wars in Iraq and Afghanistan by Congress, as well as pressures relating to the upcoming presidential election, have further fueled discord over comprehensive reform.

Action Requested: NAA/NMHC strongly urge Congress to approve rational legislation that includes an accurate, cost-effective employment verification system as part of a comprehensive package that addresses national security and also includes a temporary worker program and deals with the undocumented workers currently residing in the country. NAA/NMHC also urge Congress to preempt state and local efforts to create immigration policy by reserving for the federal government the authority to enact and enforce immigration policy.

Telecommunications Policy

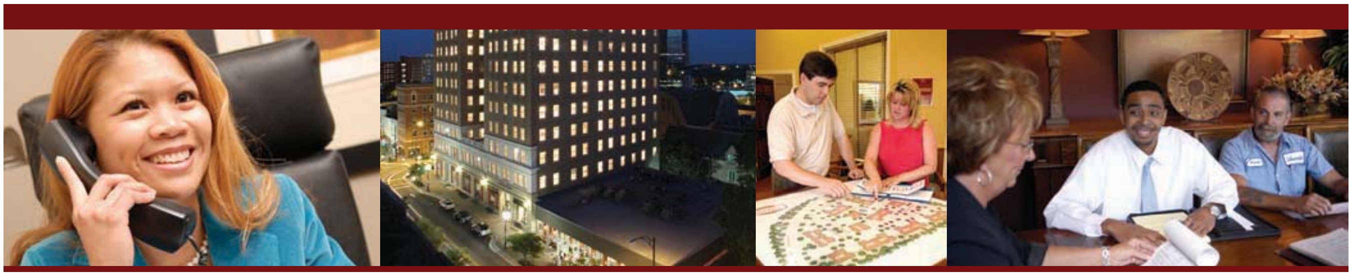
Issue Discussion: NAA/NMHC strongly favor a robust, competitive telecommunications industry that reliably and cost-effectively meets the needs of apartment residents. Federal telecommunications policy should be based primarily on a free and open market philosophy, without legal restrictions and requirements that impair the management of an apartment property.

Telecommunications services are in great demand, and today's apartment residents require newer, faster and more sophisticated telecommunications capabilities. Therefore, apartment owners rely on advanced telecom systems and services to satisfy residents' needs and to establish an edge in real estate's highly competitive market place. Those needs can only be met when telecommunications providers compete in a freely operating market. Such competition has spurred the development of new technologies and higher quality service.

New technology such as Fiber to the Premises (FTTP), Voice Over Internet Protocol (VOIP), Wireless (WiFi), and Broadband over Powerlines (BPL) have changed the way that voice, video and data services are provided to multifamily housing properties. At the same time, the Incumbent Local Exchange Carriers are still responsible for providing Carrier of Last Resort service for land-line phone system hook-up. As a result, some telecom providers have sought permission at both the state and federal levels to bypass the traditional negotiations for service that must take place between property owners and providers and gain mandatory access to multifamily properties for provision of any or all types of service.

Efforts by federal and state governments to mandate access to various telecommunications technologies, presumably in the interest of individuals who reside in apartments, more often than not result in less competition, higher prices, and decreased service standards and product offerings because the larger companies eventually prevail in the tight multifamily market and drive out competitors. Many apartment communities can only support one type of voice, video or data service. If a large provider can threaten to come onto a property to overbuild, smaller competitors will stay away from that property because of a lack of economic incentive caused by their inability to obtain an exclusive agreement for a limited period of time to recoup their investment. A misguided effort to increase competition by banning various types of exclusive agreements will unfortunately result in less competition and higher costs for residents, especially in moderate-income apartment communities. In addition, forced acceptance of particular technologies that may soon become obsolete could impose further costs and disruption to apartment owners and residents.

Despite NAA/NMHC's strong effort against federal regulation, the Federal Communications Commission (FCC) has retroactively banned the enforcement of exclusive building



access clauses in agreements between apartment owners and many video service providers. NAA/NMHC have filed an appeal of the FCC ban in federal district court on the grounds that the FCC lacks the requisite legal authority to regulate in this area, and that their decision was based on incomplete market data and erroneous assumptions about the multifamily video market. The FCC is also seeking to regulate exclusive marketing agreements and bulk billing arrangements under the erroneous belief that this will encourage market competition and broadband deployment.

Action Requested: Members of Congress should reject efforts by telecommunications providers who seek legislation that grants them special access privileges to private property. The FCC should refrain from regulating in this area because NAA/NMHC believe it lacks legal authority to do so, and there is no market failure warranting federal intervention.

Translation Requirements

Issue Discussion: Executive Order 13166, issued by the White House in 2000, proposing improving access to services by persons with Limited English Proficiency (LEP), requires federal agencies "to prepare a plan to improve access to … federally conducted programs and activities by eligible LEP persons." HUD subsequently proposed a plan that would require any apartment owner that participates in federal housing programs, including accepting Section 8 vouchers, to translate vital documents, i.e. leases and all types of notices, and offer oral interpretation services free of charge to residents with LEP.

NAA/NMHC do not oppose the objectives outlined in the Executive Order or HUD's attempt to implement that Order except for the provision of services by and at the expense of the apartment owner. While some apartment owners and managers might be fluent in certain languages and dialects other than English, imposing a translation burden on all apartment owners nationwide is costly, unworkable and an unfunded federal mandate. It should not be the responsibility of apartment owners to provide translation and oral interpretation services directly to the LEP population and to assume the responsibility for the associated costs, the accuracy of translated documents and the competency of interpreters. NAA/NMHC strongly believe that it is the duty of the government to incur the cost and burden of document translation for persons with LEP and to set up programs that will achieve such guidance.

Action Requested: NAA/NMHC have called on HUD to revise its proposed implementation by recognizing that it is the responsibility of the government to implement an LEP program and we urge Congress to see that HUD does not impose an unfunded federal mandate on apartment owners. Finally, NAA/NMHC support legislation (H.R. 1851) that requires HUD to translate both its own official vital documents and selected non-HUD property documents into any language the Department identifies as necessary, and to provide a HUD-funded and HUD-administered toll-free telephone number for oral interpretation needs.

Catastrophic Property Insurance

Issue Discussion: While natural catastrophic disasters occur infrequently, they will become a greater challenge going forward and given the increases in development, losses are expected to escalate. Insurance affordability and availability has been the recurring theme on state and federal legislative agendas the last few years. The storms of 2005 had a devastating impact on the 2006 property insurance market in many states across the country, and is still being felt today. Property owners with catastrophic exposure such as severe wind and earthquakes experienced significant cost increases and reduced policy limits. The mild hurricane season of 2006 and 2007 unfortunately did not reverse this trend and experts predict that the best policyholders can expect to see in the foreseeable future is a stabilization of market conditions at current levels.

It is estimated that catastrophic losses will double every decade or so due to growing residential and commercial density and more expensive buildings.

While the record losses of 2005 are largely to blame, it is only part of the story. There are several key factors driving the higher prices and diminishing capacity. First, insurers rely on loss modeling to underwrite risks. However, these models significantly underestimated the losses of 2004 and 2005, thus necessitating a rework of the models and forcing insurers to take a more conservative view of their results and allocating their capacity more carefully in catastrophe-prone areas. Second, the insurance company rating agencies have revised their criteria to more closely scrutinize exposures in catastrophe-prone areas, thus forcing some carriers to reduce the number of policies they write. Third, and probably the most direct link to the price increases, is the decision of re-insurers to provide less coverage to their insurers and at much higher prices, thus impacting the insurer's ability to offer coverage to its policyholders with some carriers pulling out of markets altogether or limiting business to renewals only.

While there are strategies that policyholders should employ to manage the impacts of hardening markets, many believe there is also a role for the federal government to play to ensure adequate capacity in times of severe weather events such as earthquakes and hurricanes that cannot be accommodated by the private market alone.

Several pieces of legislation were introduced in the 110th Congress to address the property insurance crisis. Congress will also consider legislation to reform the National Flood Insurance Program (NFIP) to ensure its continued and future soundness and solvency.

Action Requested: Congress has an obligation to hold hearings, assess the market conditions and take steps to enact a reasonable legislative solution that will ensure policyholders can obtain affordable and adequate coverage when the private market is not able to accommodate them. Full consideration should be given to such proposals as: the establishment of a Commission on Natural Catastrophe Risk Management to fully assess the problem and recommend action, a low-interest federal loan program for states impacted by severe natural disasters, reinsurance for state catastrophic funds, and the pooling of risk that can be transferred to the private market through the use of catastrophic bonds. It is likely that relief will not come from any one proposal but from a patchwork of legislative proposals.

National Flood Insurance Program

Issue Discussion: For the past 40 years, the NFIP has enabled property owners and renters in participating communities to purchase insurance protection that was otherwise unavailable in the private market. The insurance is underwritten by the Federal Emergency Management Agency and policies are sold through insurance companies. NFIP reform legislation is currently moving through Congress. In addition to reauthorizing the program which is set to expire September 30, 2008, lawmakers are looking to return the program to its intended self-sufficient status and ensure long-term viability. Currently the program is $20 billion in debt largely due to the devastation of the 2005 hurricanes. In short, the legislative proposals aim to shore up the program by increasing the number of policyholders and eliminating many of the program subsidies. Other key components include reviewing and updating the flood plain maps, creating financial accountability of the program, increasing coverage limits, including business interruption coverage, and raising the annual cap on premium increases. Of specific concern to the apartment industry is the proposed phasing out of subsidized insurance rates for "commercial properties (including multifamily housing properties), while retaining them for primary residences." NAA/NMHC successfully lobbied to amend this provision in the House bill, H.R. 3121, to preserve subsidized insurance rates for multifamily properties, noting that apartments serve as renters' primary residences. NAA/NMHC also cited the adverse affect increased NFIP premiums would have on the already shrinking supply of affordable housing. The Senate bill has not yet been amended.

Action Requested: NAA/NMHC urge the Senate to amend its bill, S. 2284 to recognize that apartments serve as the primary residence for a third of the population and reject the subsidy phase out provisions for multifamily housing properties.

Homeland Security

Issue Discussion: NAA/NMHC strongly support ongoing efforts to enhance homeland security while taking appropriate measures to ensure such actions do not unnecessarily interrupt or significantly burden the business operations of the apartment industry. In the post-September 11 world, the business community, including the apartment industry, is being confronted with what seems like daily doses of new government initiatives to protect the country against terrorism. Apartment firms now screen residents and employees against terrorist lists and report large cash transactions to federal counter-terrorism officials. They are also complying with enhanced lease termination rights enacted in 2003 for deploying servicemembers.

On August 3, 2007 President Bush signed into law legislation implementing the remaining recommendations of the 9/11 Commission (P.L. 110-53). Among other things, the law calls on the U.S. Department of Homeland Security (DHS) to work with the private sector to develop preparedness best practices and to create a voluntary private sector preparedness accreditation and certification program. NAA/NMHC support a voluntary approach since it would be difficult for any single standard, to adequately address the diverse range of property types, locations and security risks in the private sector. It is far more rational to encourage a voluntary approach to instituting emergency preparedness plans and to tailor each plan to the specific business needs and capacities of the firm.

Action Requested: NAA/NMHC will continue to work with our real estate partners through the Real Estate Information Sharing and Analysis Center (ISAC) to coordinate efforts to improve the communications from the U.S. Department of Homeland Security on threats and warnings as well as policy and planning activities.

Small Business Health Plans

Issue Discussion: Many individuals who own or who are employed by small businesses lack health insurance because they cannot afford to purchase coverage. Unlike the market for medium- and large-sized employee-sponsored health benefits, there is virtually no competition among insurers that cater to small purchasing groups. This is a major contributing factor to the inaccessibility of affordable coverage for small businesses.

Small business health plans (SBHPs) are one approach to improving access to affordable health insurance for employees of small businesses. Allowing groups of small businesses to join together through an association would enable such groups to enter the larger, more competitive market for health insurance. SBHPs would create greater bargaining power, administrative efficiency and reduced premiums. According to Congressional Budget Office estimates, SBHPs would make possible average premium reductions of 13 percent for participating employers.

The U.S. House of Representatives passed a bipartisan bill (H.R. 525) addressing this critical issue in July 2005. In the U.S. Senate, proposed legislation (S. 1955) failed in May 2006 in a cloture vote when it garnered 55 votes but not the 60 votes necessary to proceed.

Action Requested: NAA/NMHC urge Congress to adopt legislation to improve access to affordable health insurance coverage for millions of small business owners and employees through SBHPs.

Federal tax policy should reflect the economic nature of investments in the financing of real estate and discourage laws causing an outflow of capital from real estate to other investments or distortions in the flow of capital to selective real estate sectors.

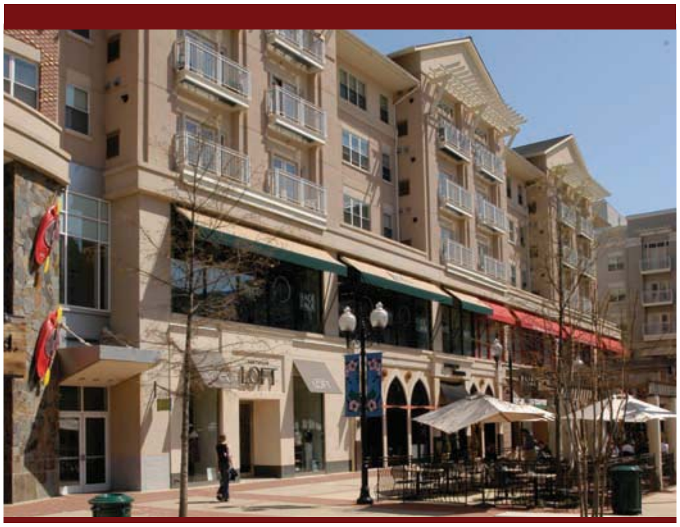
ISSUES

Carried Interest

Issue Discussion: NAA/NMHC strongly oppose proposals to change the current law governing the tax treatment of carried interests. A carried interest, which has been a fundamental part of investment partnerships for decades, is an interest in the capital gain of the partnership when it sells its property. Investing partners grant this interest to the general partners in recognition of the risk the general partner takes and the value he or she brings to the venture. The distribution of funds when a partnership is terminated come from the sale of capital assets.

In 2007, the U.S. House of Representatives passed legislation, based on H.R. 2834, which would have increased the tax on the “carried interest” or “promote” received by a general partner in a partnership from the current 15 percent capital gain tax rate to ordinary income tax rates, which are currently as high as 35 percent. The original focus of this tax change was apparently the Wall Street private equity and hedge funds. The version of the legislation passed by the House, however, would have had a broad reach, with industry estimates indicating that about a third of the impact of the legislation would be on the real estate industry alone. Such a change would have imposed the most sweeping and potentially most disruptive new tax on real estate since the Tax Reform Act of 1986, which contained the passive loss limitation rules.

NAA/NMHC was very pleased that the carried interest proposal was not enacted in 2007. NAA/NMHC’s efforts, along with those of other real estate groups and other industry representatives, have been successful in raising concerns among Senators and Congressmen about the impact of the provision on the real estate industry and the economy generally. However, the carried interest issue is likely to continue to be examined in 2008 and subsequent years. NAA/NMHC will continue to work to educate Congress and to urge that any proposals in this area be examined fully to ensure that any changes reasonably address possible abuses without having unintended consequences on legitimate real estate transactions and arrangements.



Action Requested: NAA/NMHC urge Congress not to implement tax changes that will harm the partnership arrangements that utilize carried interests. Capital gains is the proper tax treatment for the carried interest received by real estate general partners not merely due to the “sweat equity” involved in these deals but also because of the risk that general partners are undertaking. Inappropriate tax increases will make many projects unprofitable and the unintended consequences of imposing new tax rules on the real estate industry will be felt throughout the country, including underdeveloped areas in need of affordable housing.

Federal Estate Tax

Issue Discussion: In 2001, Congress passed legislation to eliminate the estate tax by reducing the tax rate and increasing the size of estates excluded from taxation during 2002 to 2009. Then, for one year in 2010, the estate tax will be fully repealed. On December 31, 2010, however, the law reverts back to the higher rates and smaller exclusions that were in place in 2001.

In addition to repealing the estate tax for the year 2010, the measure also repeals ”stepped-up basis” for that year. This will result in thousands of estates avoiding the estate tax, but instead heirs will find themselves with substantial capital gains tax liabilities that they would not owe under current law. Currently, when someone inherits property or a stock, the property’s tax basis is stepped-up to its market value at that time. Without stepped-up basis, as will be the case in 2010, the tax basis of the inherited property is the original purchase price paid by the donor minus various basis adjustments. This can result in quite a low basis if the property has been depreciated over a number of years. It is this potentially low basis that can result in an heir owing a large capital gains tax if he or she decides to sell the property after it is inherited. Because of the negative impact of the repeal of the stepped-up basis provision in 2010, commercial property owners will fare better by the retention of the estate tax law as it will exist in 2009 than they will fare under the full repeal of the estate tax in 2010. The 2009 law provides: (1) asset basis is stepped-up to fair market value at the time of the donor's death; (2) the first $3.5 million of a taxable estate is generally excluded from taxation; (3) for estate assets in excess of the excluded $3.5 million, a maximum 45 percent tax rate is applied to the net fair market value (value minus debt); and (4) heirs may re-depreciate the property granted them using fair market value (stepped-up basis). The House and the Senate appear to be moving toward adopting a compromise reform package containing many of the principles which NAA/NMHC have been advocating for several years.

Action Requested: With 2010 approaching, Congress should act to provide certainty and stability in the federal estate tax laws. NAA/NMHC urge Congress to concentrate on reform—rather than repeal—of the estate tax consistent with the principles articulated above.

Extension of Tax Cuts

Issue Discussion: In the past several years, Congress has enacted major tax bills that included temporary tax cuts. The 2001 Economic Growth and Tax Relief Act (P.L. 107-16) reduced marginal tax rates, reduced the marriage penalty tax and reduced and scheduled the elimination of the estate tax. The 2003 Jobs and Growth Tax Relief Act (P.L. 108-27) accelerated individual income tax rate reductions and reduced the tax on individual long-term capital gains and dividends to 15 percent. In 2004, Congress extended many of the individual tax cuts through 2010 in the Working Families Tax Relief Act of 2004 (P.L. 108-311). Most recently, in 2006, the 15 percent rate for capital gains and dividend income was extended through 2010 in the Tax Increase Prevention and Reconciliation Act (P.L. 109-222).

Action Requested: NAA/NMHC urge Congress to extend the tax reductions in a manner consistent with economic growth and stability.

Alternative Minimum Tax/Tax Reform

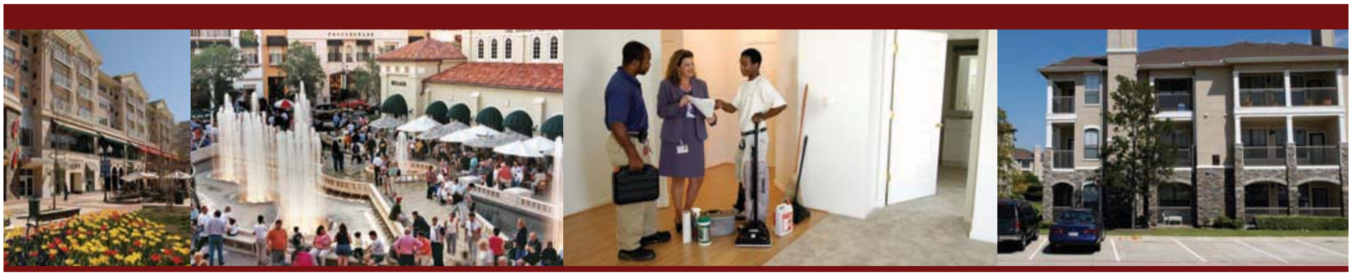
Issue Discussion: Although major tax reform is unlikely in 2008 due to the distractions of the pending Presidential and Congressional elections, consideration of large scale reform is all but guaranteed to take place in 2009 or 2010. This is largely because of the scheduled expiration of a number of tax cuts, first enacted in 2001 and 2003, at the end of 2010. If the 2001 and 2003 tax cuts are allowed to expire as required by current law, American corporate and individual taxpayers will see a tax increase in excess of $150 billion in 2011 alone—with this tax increase approaching over $300 billion annually by 2017. Those scheduled tax increases are in addition to the continually growing reach of the individual alternative minimum tax (AMT), which is estimated to affect almost 35 million taxpayers by 2011 if no permanent changes are made prior to that year.

Action Requested: NAA/NMHC urge the Administration and Congress to undertake tax reform initiatives carefully and to evaluate the practical implications of any changes in the taxation of real estate and rental housing on national housing policies. Congress should refrain from modifying the tax laws to increase the tax burdens on, or otherwise disadvantage, owners and renters of multifamily housing relative to other real estate and other asset classes.

Like-Kind Exchanges

Issue Discussion: Section 1031 of the Internal Revenue Code allows owners of commercial real estate to exchange properties without setting off a taxable event. Such tax-deferred exchanges enable an orderly flow of property ownership. Congress and the Internal Revenue Service are reviewing several aspects of like-kind exchanges as well as developments in the tenant-in-common marketplace.

Action Requested: Congress and the IRS should not alter the present like-kind exchange rules. Proposals to revise or restrict like-kind exchanges may have a significantly harmful effect on the value and trading of property.



BUILDING CODES

Model building codes and standards developed by the International Code Council (ICC), the National Fire Protection Association (NFPA) and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and their adoption at the local level provide a uniform basis for code enforcement across the country. The ICC codes and their references to standards developed by others provide the apartment industry with a uniform and consistent basis for construction nation wide. These standards, adopted and enforced at the local level allow the apartment industry a means to building cost effective, accessible and affordable housing without any reduction in the basic requirement for life safety.

NAA/NMHC has been involved in the code development process for more than 15 years as the leading advocate for code provisions directed at apartment construction, supporting provisions that work favorably for the industry and opposing those that would do damage. That effort has been instrumental in saving the industry more than $4,200 per new apartment unit.

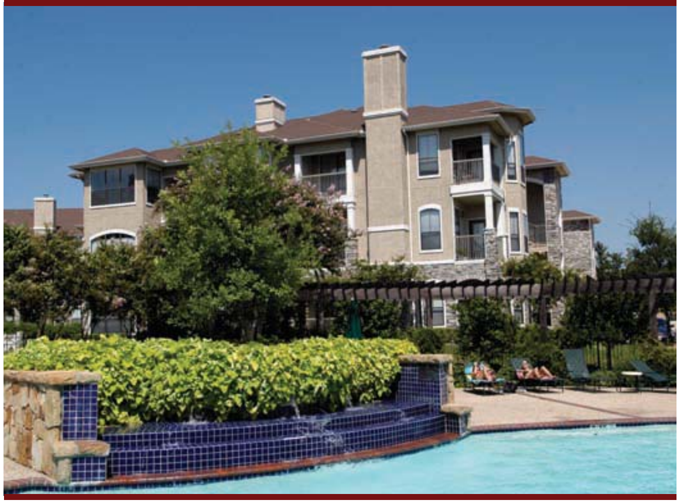
NAA/NMHC strongly supports the local adoption of the national codes and standards. "Mix and Match" codes, such as adopting the ICC's International Building Code (IBC) but then adopting the NFPA Uniform Fire Code (NFPA 1) in lieu of the ICC's International Fire Code or ASHRAE energy standards in place of the ICC International Energy Conservation Code can create situations in which the provisions from one code contradict the provisions of another code. In addition to creating confusion in the enforcement process the mixing of codes developed by different organizations usually means designing to the most restrictive provision resulting in an unnecessary increase in construction costs.

ISSUES

ICC Model Codes

Issue Discussion: NAA/NMHC support the adoption of the model codes developed and published by ICC over any other set of model codes. Created by the merger of the three model code organizations, ICC has more than 200 years of collective experience in code writing. The ICC model codes, developed with input from code and fire officials and industry, have proved to be a complete, comprehensive and coordinated set of codes that allow the apartment industry to build cost-effective, safe, affordable and accessible housing.

In addition to being the only set of model codes developed and published by a single organization, the 2000 IBC with the 2001 amendments, the 2003 IBC and now the 2006 IBC,



with the January 2006 erratum are the only model codes with the "Safe Harbor" designation for compliance with HUD Fair Housing Act Accessibility Guidelines (FHAAG). In the past several years the IBC codes have become the standard, with adoptions across the country. The NFPA 5000 building code has been adopted by only two small jurisdictions.

Although the NFPA 5000-2006 is somewhat better than prior iterations of NFPA 5000, it too is incomplete, unenforceable and technically unsound. It includes permissive language that does not specifically state basic code requirements, and it includes conflicts that do not clearly differentiate between prescriptive design requirements, performance design requirements, and the intent of the code to base requirements on the specific occupancy.

Action Requested: NAA/NMHC strongly urge local jurisdictions to adopt the full package of ICC construction codes and to reject the NFPA 5000 code. Although amendments made during the local adoption process may be necessary to respond to specific local conditions, NAA/NMHC discourage all unnecessary local amendments.

NAA/NMHC further urge localities not to "mix and match" codes, such as adopting the ICC's International Building Code (IBC) but then adopting the NFPA Uniform Fire Code (NFPA 1) in lieu of the ICC's International Fire Code. Not only do some of the code provisions contradict each other, but the dual adoption unnecessarily raises construction costs.

NAA/NMHC also urge local jurisdictions not to adopt the NFPA Life Safety Code (NFPA 101) for anything other than medical occupancies because the code has requirements for existing apartments that are not aligned with the requirements in the IBC.

Non-Metallic Sheathed Cable

Issue Discussion: NAA/NMHC strongly support the cost-effective, safe electrical wiring provisions in the 2003 and 2006 ICC codes and the 2002, 2005, and 2008 National Electrical Code. NAA/NMHC oppose any modifications to those provisions that raise costs without supporting technical justification.

For more than 15 years, NAA/NMHC have advocated widespread use of non-metallic sheathed cable (NM cable; also referred to as Romex) without consideration of building height. Earlier code requirements limited NM wiring to buildings with three or fewer stories, a costly and unjustified restriction.

During the 2001 code development cycle, the ICC removed all height limitations on the use of NM cable from the International Building Code (IBC). In addition, the 2002 National Electrical Code, published by the NFPA, revised its restriction to allow the NM cable in any building permitted to be of Types III, IV and V construction, allowing apartments up to five stories in height. The 2005 and 2006 NEC retain these changes.

Expanded use of NM cable saves apartment developers $50 million in annual construction costs, without compromising life safety. These savings allow apartment developers to construct new apartments and replace old housing in areas where they previously would not have been able to compete economically.

Action Requested: Local jurisdictions are urged to adopt the 2006 ICC codes and the 2008 NEC without any local amendments restricting the use of NM wiring.

Accessibility

Issue Discussion: NAA/NMHC support accessible building code provisions that are compatible with the provisions of the Americans with Disabilities Act and the Fair Housing Act. NAA/NMHC support the "Safe Harbor" designation by HUD for the 2000 IBC with the 2001 amendments, the 2003 IBC, and the 2006 IBC with the January 31, 2007 erratum. NAA/NMHC also supports the U.S. Architectural & Transportation Barriers Compliance (Access) Board's efforts to align the federal accessibility provisions with those contained in the model codes. We further encourage the Access Board to accept the American National Standard, ANSI A117.1-2003 Standard on Accessible and Usable Buildings and Facilities standard as the basis for accessibility technical requirements. HUD's acceptance of the ICC/ANSI A117.1 accessibility standard and the IBC as a safe harbor under HUD's FHAAG is a major step forward in the development of a single set of national accessibility standards. This, however, is only the first step because it is also necessary to secure the Department of Justice's (DOJ) involvement and determination on the building code provisions designed to be in compliance with the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

Action Requested: NAA/NMHC support the adoption of the accessibility provisions in the 2006 ICC codes.

World Trade Center Disaster

Issue Discussion: NAA/NMHC support changes to the model codes that address technical issues identified in the National Institute of Standards and Technology's (NIST) investigation of the collapse of the World Trade Center that address design changes that need to be addressed because there is a better way to design a specific portion of a building. NAA/NMHC opposes any modifications intended to require high-rise buildings to be designed to withstand the impact of a large fuel-loaded airplane flying into the side of a building.

NIST's Final Report on the Collapse of the World Trade Center Towers, concerning the attack on the World Trade Center Towers on September 11, 2001, included 30 recommendations on items that NIST was concerned about in the design, construction and operation of very tall buildings. These recommendations are now being studied by a variety of groups responsible for the development of codes and standards that form the basis for the code provisions that establish the minimum building code requirements. Although there is a lot of work yet to be completed and some of the groups are still working to finalize and update various design options, proposals are coming forward and are being acted on by the model code development organizations.

Action Requested: NAA/NMHC support changes in the codes developed at the national level resulting from the detailed work of the committees working to better the national codes to address issues identified during the NIST investigations. NAA/NMHC members should also oppose any proposals for changes to requirements at the local level that have not been thoroughly discussed, acted on and approved during the national model code development process.

State Distribution of Apartment Renters in 2006 (Buildings with 2 or more apartments)

STATE	TOTAL RESIDENTS 2006 (IN THOUSANDS)	APARTMENT RESIDENTS 2006 (IN THOUSANDS)	SHARE OF STATE POPULATION 2006	OCCUPIED APARTMENTS 2006 (IN THOUSANDS)	OCCUPIED APARTMENTS 2000 (IN THOUSANDS)	CHANGE IN APARTMENTS SINCE 2000 (IN THOUSANDS)
Alabama	4,484	287	6%	243	236	7
Alaska	647	58	9%	54	52	1
Arizona	6,057	663	11%	399	387	12
Arkansas	2,733	157	6%	147	135	12
California	35,594	5,641	16%	3,240	3,234	6
Colorado	4,650	536	12%	356	352	5
Connecticut	3,392	317	9%	331	347	-16
Delaware	829	68	8%	46	49	-3
District of Columbia	546	175	32%	115	125	-10
Florida	17,678	1,989	11%	1,293	1,230	64
Georgia	9,091	948	10%	590	571	19
Hawaii	1,248	162	13%	101	99	2
Idaho	1,433	58	4%	70	61	9
Illinois	12,508	1,215	10%	1,065	1,160	-95
Indiana	6,135	470	8%	388	400	-12
Iowa	2,878	215	7%	192	188	4
Kansas	2,682	175	7%	163	166	-3
Kentucky	4,091	272	7%	261	253	8
Louisiana	4,165	261	6%	223	277	-53
Maine	1,284	85	7%	103	99	4
Maryland	5,474	718	13%	426	419	6
Massachusetts	6,221	703	11%	741	807	-66
Michigan	9,840	722	7%	596	637	-41
Minnesota	5,025	468	9%	348	377	-28
Mississippi	2,816	154	5%	129	128	1
Missouri	5,676	354	6%	371	378	-6
Montana	920	51	6%	54	51	3
Nebraska	1,716	162	9%	127	123	4
Nevada	2,462	356	14%	227	211	16
New Hampshire	1,278	114	9%	111	110	1
New Jersey	8,527	1,005	12%	837	858	-21
New Mexico	1,914	122	6%	104	94	10
New York	18,703	4,322	23%	2,769	2,882	-113
North Carolina	8,586	677	8%	509	455	54
North Dakota	608	67	11%	63	59	3
Ohio	11,170	922	8%	854	916	-62
Oklahoma	3,468	239	7%	194	188	6
Oregon	3,621	406	11%	305	286	19
Pennsylvania	11,985	740	6%	832	866	-34
Rhode Island	1,025	92	9%	125	136	-11
South Carolina	4,178	292	7%	209	196	13
South Dakota	752	65	9%	54	51	3
Tennessee	5,886	486	8%	381	376	5
Texas	22,914	2,949	13%	1,761	1,669	92
Utah	2,507	222	9%	151	132	19
Vermont	603	35	6%	47	48	-1
Virginia	7,408	783	11%	498	508	-10
Washington	6,255	762	12%	554	514	40
West Virginia	1,773	72	4%	81	79	2
Wisconsin	5,397	472	9%	484	487	-3
Wyoming	501	19	4%	29	27	3
United States	**291,333**	**32,303**		**23,351**	**23,485**	**-134**

Source: Census 2000 long form and 2006 American Community Survey (ACS). Figures from the Census 2000 long form and the ACS are estimates and are subject to sampling and nonsampling error. These population estimates do not include those living in group quarters. 2006 was the first year of full implementation of the ACS; as such these data are not entirely comparable with those collected prior years. More information is available at census.gov.

State Distribution of New Apartment Construction in 2007 (Year-to-Date as of 11/07)

(Apartment units include units authorized for construction in structures with two or more units)

STATE	NUMBER OF APARTMENTS	TOTAL VALUE (THOUSANDS OF DOLLARS)
Alabama	4,899	$336,853
Alaska	711	$98,613
Arizona	11,094	$1,079,428
Arkansas	2,847	$229,127
California	36,477	$4,533,228
Colorado	7,881	$897,654
Connecticut	2,044	$243,569
Delaware	703	$60,672
District of Columbia	1,322	$136,954
Florida	30,170	$3,863,317
Georgia	16,748	$1,516,185
Hawaii	2,330	$367,620
Idaho	2,105	$198,332
Illinois	16,294	$1,508,353
Indiana	4,577	$350,332
Iowa	2,261	$205,666
Kansas	2,315	$176,952
Kentucky	2,884	$174,909
Louisiana	5,701	$508,322
Maine	775	$67,897
Maryland	5,499	$640,462
Massachusetts	5,468	$657,162
Michigan	2,492	$223,171
Minnesota	3,375	$361,455
Mississippi	5,536	$355,351
Missouri	5,676	$386,463
Montana	1,078	$113,577
Nebraska	1,391	$99,832
Nevada	8,830	$1,543,677
New Hampshire	554	$56,049
New Jersey	11,256	$976,760
New Mexico	864	$82,324
New York	34,698	$3,162,488
North Carolina	14,075	$1,226,642
North Dakota	954	$73,252
Ohio	6,556	$455,505
Oklahoma	2,558	$132,891
Oregon	5,186	$527,401
Pennsylvania	5,615	$494,330
Rhode Island	472	$33,159
South Carolina	6,255	$620,775
South Dakota	1,415	$109,821
Tennessee	7,452	$595,097
Texas	52,236	$4,321,654
Utah	3,478	$440,325
Vermont	342	$34,319
Virginia	5,343	$530,746
Washington	14,721	$1,665,029
West Virginia	352	$26,571
Wisconsin	4,393	$449,046
Wyoming	292	$30,036
Totals	**372,550**	**$36,979,353**

Source: http://www.census.gov/const/C40/Table2/t2yu200710.txt

Characteristics of Rental Apartment Units, 2005
(units in thousands)

	ALL APARTMENT UNITS	BUILT 1990-2005	BUILT PRIOR TO 1990
TOTAL	**14,857**		
Number of bedrooms			
Zero	774	34	738
One	8,126	1,080	7,046
Two	7,327	1,255	6,071
Three +	1,315	316	999
Number of baths			
Zero	260	11	249
One	14,343	1,559	12,784
Two +	2,940	1,116	1,824
Amenities			
At Least One Working Elevator	3,125	355	2,770
With Central Air Conditioning	9,343	2,210	7,134
With Dishwasher	8,755	2,240	6,515
With Washing Machine	4,748	1,697	3,050
With Dryer	4,318	1,689	2,629
Apartment Units in Structure			
5 to 9	4,960	589	4,371
10 +	12,583	2,097	10,486
Structure Height			
One Story	920	160	760
Two Story	7,313	956	6,175
Three Stories	4,940	1,108	3,832
Four + Stories	4,552	462	4,089

Source: NMHC tabulations of the U.S. Census Bureau's 2005 American Housing Survey.

Notes: The data for apartment units includes only those units in structures with five or more units. Estimates are for units either renter occupied, rented but not yet occupied, or vacant and available for rent. Estimates are based on sample data and are subject to sampling and non-sampling error. Due to rounding and missing data for some variables, figures do not always total.

Percent Distribution of $642 Billion in Multifamily Mortgage Credit Outstanding in 2007 (Third Quarter)

Commercial Banks	20.1%
Savings Institutions	11.7%
Life Insurance Companies	5.7%
Fannie Mae	9.5%
Freddie Mac	6.0%
Mortgage Securities	33%
Ginnie Mae	4.5%
Fannie Mae	10.7%
Freddie Mac	2.8%
CMBS	15.1%
Individuals and Others	13.9%

Source: Federal Reserve Board

Renter Occupied Housing in 2007

U.S. Households: Renters & Owners

TYPE OF HOUSEHOLD	NO. OF HOUSEHOLDS (IN THOUSANDS)	% OF U.S. TOTAL	NO. OF RESIDENTS (IN THOUSANDS)
Renter Occupied Housing	36,756	32%	86,734
Owner Occupied Housing	79,285	68%	210,092
TOTAL	**116,041**	**100%**	**296,825**

Source: NMHC tabulations of the 2007 Current Population Survey, Annual Social and Economic Supplement, U.S. Census Bureau.

Apartment Construction in 2007 (through November 2007)

Apartments Authorized for Construction 372,550

(2 + units in structure; includes units for owner occupancy)

Source: http://www.census.gov/const/C40/Table2/t2yu200710.txt

Value of Apartments Authorized (in thousands): $36,979,353

Source: http://www.census.gov/const/C40/Table2/t2yu200710.txt

Federally Assisted Rental Housing: 2007

	NUMBER OF HOUSING UNITS INCLUDING VACANT
Public[1]	1,194,958
Section 8 Program	
Vouchers[1]	2,205,196
Moderate Rehabilitation[1]	28,790
New Construction and Substantial Rehabilitation	n/a
Section 236 Program[2]	325,870

Sources:
[1] http://pic.hud.gov/pic/RCRPublic/rcrmain.asp. Time frame covered is August 2006 through November 2007
[2] http://www.hud.gov/about/budget/fy06/cjs/part2/housing/hsgpayment.pdf. Estimate is for Fiscal Year 2005.

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