Policy Landscape and Apartment Industry Update

February 27, 2014

Where We are Today

- **2014 is an election year** with a short window for policymaking.

- Congress will likely **recess in early October** for elections.

- Despite legislative challenges, it is crucial to be engaged.
  - Today's proposals will be tomorrow's laws.

Looking Back to 2013

- **First government shutdown since 1995** and historic lows in bills passed.
- Congress reaches a **2-year budget agreement** for 2014 and 2015.
- Following the budget agreement, **Congress passed an Omnibus Appropriations Bill** for 2014.

Apartment Industry Footprint

- **Why should Congress care about apartments?**
  - 35 million residents
  - $1.1 trillion contribution to national economy
  - 25.4 million jobs supported

- **State and Congressional District economic impact sheets on:** http://weareapartments.org/map

- **Please bring those sheets to your visits!**

The 2014 Agenda

- **Must-Pass Legislation:**
  - Debt ceiling already extended through March 2015
  - Appropriations under development

- **Prospects Uncertain for Other Issues (but today's proposals are tomorrow's laws):**
  - GSE Reform
  - Immigration Reform
  - Tax Reform

Housing Finance Reform

Presented by:

Dave Cardwell
Vice President of Capital Markets

Housing Finance Reform

What's on the Agenda and Why?

- Congress is seeking **a long-term solution** to reform our nation's housing finance system.
- For the **first-time** since the Housing and Economic Recovery Act of 2008 was enacted we have a confirmed Federal Housing Finance Agency director.
- Since being placed into a conservatorship, Fannie Mae and Freddie Mac are generating **significant revenues** beyond federal contributions received.

Housing Finance Reform

Why Reform Matters?

Our Residents

- **Getting housing finance reform right** is critical to the 35 million Americans who rely on the apartment industry for their home.
- An estimated **300,000 to 400,000** units a year must be built to meet expected demand, but just **185,800** apartments were delivered last year.

Housing Finance Reform

Why Reform Matters?

Refinancing and Private Capital

- **Preserving liquidity** for multifamily is about more than just building new apartments
- It is estimated that nearly **$690 billion in mortgages will refinance** over the next four years, and how private capital will serve all of these owners and their properties is critical.

Housing Finance Reform

Why Reform Matters?

Multifamily Approach

- **A separate solution for multifamily** is essential to reform legislation.
- Multifamily and single-family **operate differently**, have **divergent performance records** and **require distinct reform solutions**.

Housing Finance Reform

Why Reform Matters?

Multifamily Approach

- A failure to approach multifamily separately could result in capital market failures that put **millions of renters**, and the **$908 billion multifamily debt market**, at risk.

Housing Finance Reform

Why Reform Matters?

Federal Guarantee

- Housing finance reform must maintain an explicit federal guarantee to ensure **sufficient capital for all apartments in all markets**.
- Without a federal guarantee, the industry would be **forced to rely entirely on private capital** which:
  - Tends to oversupply top-tier markets.
  - Never has sufficiently supplied smaller markets, older properties or smaller (50 units or less) properties.

Housing Finance Reform

Why Reform Matters?

Keep What Works for Multifamily

- Housing finance reform should **build on and retain the successful components** of the existing multifamily programs in whatever succeeds them.
- The existing **GSE multifamily programs are profitable** and did not contribute to the housing crisis.

Housing Finance Reform

U.S. House of Representatives

Path Act

- **NMHC/NAA oppose the PATH Act (H.R. 2767)** passed by the House Financial Services Committee because:
  - **It does not maintain the government guarantee** for multifamily mortgages; or
  - **Recognize critical distinctions** between single-family and multifamily.

Housing Finance Reform

U.S. House of Representatives

Our Message

House members should **urge the**

Financial Services Committee to revise the PATH Act

to include a government guarantee.

Housing Finance Reform

U.S. Senate

Bipartisan Legislation

- The Senate Banking Committee is currently **drafting bipartisan legislation to overhaul the GSEs.**
- **NMHC/NAA support this effort** because it is expected to address our industry's unique needs by **preserving the government backstop** for the multifamily lending industry.

Housing Finance Reform

U.S. Senate

Our Message

Senators should continue the bipartisan approach on legislation that **maintains a government guarantee** and **addresses the unique needs of the multifamily industry**.

Immigration Reform

Presented by:

Kimble Ratliff
Director of Government Affairs

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NAA NATIONAL APARTMENT ASSOCIATION

Immigration Reform

What's on the Agenda and Why?

- The outcome of the 2012 presidential election and shifting electoral demographics have **reignited debate** over federal immigration policy.
- Current policies don't address **today's economic or security** issues.
- **Federal law previously updated in 1986**

Immigration Reform

What's on the Agenda and Why?

Congressional Action

- The Speaker of the House John Boehner recently released **The Standards for Immigration Reform** and is considering a number of individual bills.
- The Senate has passed a **bipartisan comprehensive approach** to reform (S. 744).

Immigration Reform

Why Reform Matters?

Our Residents

- **One in five renter households is headed by an immigrant.**
- Among immigrants who have been in the U.S. for 5 years or less, **73% rent**. For immigrants here 10 years or less, **68% rent**.
- Immigrants play an important role in building and operating rental apartment communities, and make up **22% of the construction workforce**.

Immigration Reform

Why Reform Matters?

Our Message to Congress

- **Economic benefits** of comprehensive reform are widely supported.
- Immigration policy is the **responsibility of the federal government**, not state and local officials.
- **Consistency and legal certainty** is good government and good for businesses.

Immigration Reform

Why Reform Matters?

Our Message on Employment Policies

- **Employee screening program** must be reliable, efficient and protect businesses.
- **Temporary worker visa programs** should address business needs without arbitrary limits.

Immigration Reform

Why Reform Matters?

Objective: Comprehensive Immigration Reform

- **Employee screening system** to verify legal status to work
- **Temporary worker programs** to respond to labor needs
- **Workable plan** for those without documentation
- **Border security** improvements

Disparate Impact

Presented by:

Jeanne McGlynn Delgado
Vice President of Business Operations and Risk Management Policy

Why HUD's Disparate Impact Rule Matters

Legal Theory for Proving Discrimination

- Used when **a business practice or policy that is neutral** on the surface can be measured statistically to demonstrate to have a **discriminatory effect**
- **Departure from "intentional"** discrimination

Why HUD's Disparate Impact Rule Matters

Broad Reach of Rule Creates New Uncertainty and Potential Liability

- Formalizes HUD position that liability may be established under the **"disparate impact" theory**; and
- Establishes **uniform standards** for determining when a **real estate practice or policy** violates the Fair Housing Act, or burden shifting, test.

Why HUD's Disparate Impact Rule Matters

Apartment Practices and Policies at Risk

- Of specific concern is the **use of criminal background screenings** of resident applicants
- Under certain circumstances, the **denial of a rental application** may be viewed as discriminatory
- Other potential risk areas: **Section 8 voucher policies**, **credit scores**, **eviction policies**, etc.

Why HUD's Disparate Impact Rule Matters

Burden of Proof Falls to Owner

- Establishing a "prima facie" case can be a **low threshold for the complaining party**, but could cause a **significant diversion of resources** to defend otherwise legitimate and non-discriminatory practices.
- No proof of **discriminatory motive** is necessary.

Why HUD's Disparate Impact Rule Matters

HUD Guidance Sought by NAA/NMHC

- Regulatory clarification to **relieve industry of new liability** created by this rule
- **Legitimate and non-discriminatory screening** practices and policies are **protected** from legal scrutiny
- **Educate policymakers about the regulatory uncertainty**

Capitol Hill Meetings

Presented by:

Cindy Chetti
Senior Vice President of Government Affairs

2014 NMHC/NAA Priorities

APARTMENTS
WE LIVE HERE

APARTMENT INDUSTRY 2014 POLICY PRIORITIES

The apartment sector is a competitive and robust industry that helps **35 million renters** live in a home that's right for them. It's also an important economic driver, contributing **$1 trillion to the U.S. economy annually and supporting 25.4 million jobs**. We stand ready to meet the growing demand for rental housing, but we need public policies that don't impede our ability to do so.

Housing Finance Reform: Lawmakers should enact housing finance reform legislation that ensures capital is available in all markets at all times and includes a federal guarantee for multifamily mortgages, whether or not Fannie Mae and Freddie Mac are maintained.

Tax Policy: As lawmakers consider tax reform, we urge them to enact pro-growth reform that does not disadvantage apartment owners and renters relative to other asset classes.

Dodd-Frank Law: Policymakers should work to eliminate the unintended consequences of the Dodd-Frank law that would impede the flow of capital to apartment firms.

Immigration Reform: Immigration is a significant driver of rental housing demand. Congress should enact comprehensive reform to address the current patchwork of state and local laws that impose additional responsibility on apartment firms to verify the immigration status of employees and apartment residents beyond federal requirements.

Fair Housing: The apartment industry is committed to equal housing opportunity for all. However, HUD's 2013 disparate impact rule is unworkable and puts housing providers at risk of inadvertently violating the Fair Housing Act for legitimate multifamily practices that ensure safe and decent housing for residents.

Military Housing: To keep from undermining the long-term stability of the Military Housing Privatization Initiative, the Department of Defense should avoid reducing the Basic Allowance for Housing.

Wetlands: Lawmakers should reject any overly broad expansion of the Clean Water Act that would subject property owners to onerous federal regulations that could increase costs and undermine the supply and affordability of rental housing.

Flood Insurance: Congress should delay the National Flood Insurance Program reform implementation until an adequate assessment is made relative to rate changes and mapping to ensure the program remains viable for the long term.

Terrorism Insurance: The Terrorism Risk Insurance Act fills a critical insurance need and provides stability in the marketplace, but it is scheduled to expire at the end of the year. Congress should pass pending bipartisan legislation that would extend the program and prevent unnecessary market disruption.

U.S. Postal Service Reform: Postal Service delivery policies should recognize the effects on apartment communities and their residents.

Lead-Based Paint: Congress should use its oversight authority to insist that the Environmental Protection Agency evaluate existing regulatory programs and industry practices that address potential lead-based paint hazards before carrying out wide-ranging, duplicative programs.

Energy Policy: Our national energy policy should reflect the energy-efficient nature of apartments, limit reliance on inflexible codes and mandates, and support new research, incentive-based strategies and trusted energy and building technology programs.

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Key Congressional Committees

- **Housing Finance Reform:**
  - Senate Committee on Banking, Housing & Urban Affairs
  - House Committee on Financial Services
- **Immigration:**
  - Senate Judiciary Committee
  - House Judiciary Committee
- **Disparate Impact:**
  - Senate Committee on Banking, Housing & Urban Affairs
  - House Committee on Financial Services

Key Members of Congress

- **House of Representatives Republican Leadership**
  - John Boehner, Speaker of the House
  - Eric Cantor, Majority Leader
  - Kevin McCarthy, Majority Whip
  - Cathy McMorris Rodgers, Republican Conference Chairman
  - James Lankford, Republican Policy Committee Chair
- **House of Representative Democratic Leadership**
  - Nancy Pelosi, Democratic Leader
  - Steny Hoyer, Democratic Whip
  - James Clyburn, Assistant Democratic Leader
  - Xavier Becerra, Democratic Conference Chair

Key Members of Congress

- **Senate Democratic Leadership**
  - Harry Reid, Majority Leader & Democratic Conference Committee Chair
  - Dick Durbin, Majority Whip
  - Chuck Schumer, Democratic Conference Committee Vice Chair & Policy Committee Chair
  - Patty Murray, Democratic Conference Secretary
- **Senate Republican Leadership**
  - Mitch McConnell, Minority Leader
  - John Cornyn, Minority Whip
  - John Thune, Republican Conference Chair
  - John Barrasso, Republican Policy Committee Chair
  - Roy Blunt, Republican Conference Vice Chair

Questions or Comments?