



The Housing Advisory Group (HAG) held its annual Affordable Housing Congressional Forum in Washington, DC on June 10, 2009. The Forum was attended by over 90 HAG members and guests representing state housing agencies and the development, investor, syndication, accounting and legal spectrums of the affordable housing industry. The engaging and informative event included remarks by Senator Jack Reed (D-RI) and Jon Sheiner, Legislative Counsel for House Ways and Means Committee Chairman Charles Rangel (D-NY). Attendees had the opportunity to hear from a panel of senior congressional staff, including Lauren Bazel, Senior Advisor for Tax Policy to Senator Maria Cantwell (D-WA); Kathleen Black, Tax and Finance Advisor to Senator Olympia Snowe (R-ME); John Hughes, Senior Policy Advisor to House Majority Leader Steny Hoyer (D-MD); and Melissa Mueller, Tax Counsel for the House Ways and Means Committee and Representative Richard Neal (D-MA). A panel of housing professionals shared insights on the state of affordable housing and prospects for the industry's future. Panelists were Beth Mullen, Reznick Group; Pat Nash, JP Morgan Capital Corporation; Mike Novogradac, Novogradac & Company; Pat Sheridan, Volunteers of America; and Deborah VanAmerongen, Commissioner of the New York State Division of Housing and Community Renewal. Moderating the panels were Bob Moss, Chairman of HAG and Bob Rozen of Washington Council Ernst & Young.

At a reception following the meeting, HAG members had the opportunity to speak with a number of legislators, including Senate Majority Leader Harry Reid (D-NV), Senator Maria Cantwell (D-WA), Senator John Kerry (D-MA), Senator Frank Lautenberg (D-NJ), Senator Jeanne Shaheen (D-NH), Representative Richard Neal (D-MA) and Representative Mike Capuano (D-MA). Also attending the reception were John Phillips, Legislative Director for Senator John Kerry; Kathy Kerrigan, Tax Counsel for Senator John Kerry; Jairo Lamatina, Legislative Assistant for Congressman Devin Nunes (R-CA) and John Richter, Chief of Staff to Senator Olympia Snowe (R-ME).

Bob Moss opened the Forum by noting the importance of consensus among the diverse interests of the affordable housing community. Consensus was to be a theme of the Forum, and almost every speaker after Bob mentioned the need for cooperation and coordination. Bob emphasized that the many stakeholders in the Low-Income Housing Tax Credit (LIHTC) program need to work together to advocate for legislative priorities. Bob noted that he believed the LIHTC community reached a consensus earlier in the year regarding proposals for the stimulus bill. As others did, Bob also noted the many challenges facing the affordable housing industry, including major shortfalls in equity and debt providers.

The importance of consensus and prioritization was the main theme of the discussion with congressional staff. Lauren Bazel noted the importance of coming to Congress with a consistent message and a uniform voice on affordable housing priorities. Ms. Bazel told Forum attendees that during negotiations on the stimulus bill, the affordable housing community had consensus on policy choices but lacked consensus on the prioritization of those proposals. Kathleen Black and Melissa Mueller agreed with Ms. Bazel, with Ms. Black noting that a clear, singular message from the affordable housing community was of utmost importance in lobbying Congress. Ms. Mueller noted the importance of having state housing administrators play a lead role in communicating with Congress.

In moving forward, the panel offered several pieces of advice for communicating with Capitol Hill. First, panelists emphasized the importance of coming to Congress with data and making legislators aware of the affordable housing situation in their respective states. Ms. Black explained that data motivates members of Congress and is helpful when legislative proposals are presented to the Joint Tax Committee. Second, the panelists recommended that the LIHTC community come to Congress only with vetted housing proposals that are politically and fiscally realistic. Ms. Black noted that it is unwise to make extraordinary policy requests in the midst of budget deficits. Third, and most importantly, the panel emphasized that HAG members must stay together on the issues and prioritize legislative requests.

The panel commented that consideration of affordable housing proposals will have a difficult time in the current legislative environment. Ms. Mueller noted that there is a sense of "stimulus fatigue" on Capitol Hill and that legislators may want to take a 'wait and see' approach with the exchange program before making any major changes to the exchange program or the LIHTC. Ms. Bazel pointed out that Congress is consumed with health care reform and will consider climate change legislation next. There is very little current discussion regarding moving other tax legislative proposals. The panel did note, however, that there likely will be a tax bill toward the end of the year that will address expiring provisions.

HAG members received positive feedback from the congressional staff for their success in gaining strong support for the LIHTC among members of Congress. Ms. Mueller noted that there are strong advocates of the LIHTC on Capitol Hill who are very protective of the program. While recognizing this, Mr. Hughes noted that it is still important for HAG members to continue to provide information to Congress and to keep the LIHTC program on the radar screens of legislators.

The panel briefly addressed the current lack of investor interest in affordable housing. Ms. Bazel said that Congress needs to address the issue and noted that Senator Cantwell was the lead sponsor on the LIHTC accelerator proposal.

The panel spent a significant amount of time discussing the prospects for the new exchange program and the future of the LIHTC. Ms. Bazel, while calling the exchange program innovative, told Forum attendees that the Senate is more cautious about it because of the precedent of converting tax credits into grants. Mr. Hughes said that, while he has not heard any legislators support the proposition, there is an idea that direct spending on housing may be preferable to the current system of tax credits and private capital. Mr. Hughes anticipates that legislators will ask states whether or not the exchange program should be extended and predicted that Congress might extend the exchange program for another year. Mr. Hughes reminded the Forum that House Financial Services Committee Chairman Barney Frank (D-MA) has said he is much more interested in the end result of producing affordable housing than in maintaining a funding process or pleasing certain interests in the affordable housing community. Ms. Bazel responded that the HAG can play a crucial role in helping legislators understand why the credit is the best program to meet America's housing needs. The panelists noted the downsides to direct housing spending, including navigating the tough annual federal budget appropriation process and administration through the Department of Housing and Urban Development. Ending this portion of the discussion, Ms. Black assured the Forum that the LIHTC not only works, but that it has a very large base of political support in the Congress.

Ms. Bazel noted that it is important for the HAG to help legislators understand how the LIHTC affects their communities. It is important to emphasize the difference between cost and value. Ms. Bazel pointed out that the tax credit saves money on the services that the government would have to provide if affordable housing was not available.

Pat Nash, who is also President of the Affordable Housing Investors Council, asked the panelists for their thoughts on a five-year credit carryback proposal with a reinvestment requirement. Mr. Nash acknowledged that the primary beneficiary of this policy would be large financial institutions which currently are not favored on the Hill, and asked how to position the proposal in that environment. Mr. Hughes responded that Congress knows that it cannot get out of the current financial turmoil without the help of financial institutions. Ms. Bazel cautioned that financial institutions do have a public relations problem on Capitol Hill and noted that financial institutions, along with their lobbyists and communications staff, need to have well-planned communication and legislative strategies. Ms. Black directed the Forum's attention to Senator Snowe's bill, S. 823, which permits carryback of net operating losses five years, but excludes TARP recipients. Ms. Bazel commented that there may not be an appetite to do both the carryback of general business credits and the carryback of NOLs, and also noted that the NOL provision is in the President's budget.

Mr. Sheiner spoke briefly about the difficulty of making major progress on housing programs in the current legislative environment. He emphasized that health care reform and climate change are currently at the top of Congress's agenda and that housing policy is not, for the moment, an immediate priority. Mr. Sheiner also emphasized that there is not much revenue left over for major programming changes in affordable housing. Mr. Sheiner said that it is very unclear which affordable housing policy options are now viable. Nonetheless, he predicted that Congress will extend the exchange provisions for one more year and perhaps make minor changes to the housing provisions passed last summer and winter. He commented that the Congress will want to consider expiring provisions and address the estate tax but predicted such a bill will not be passed until the end of the year. Mr. Sheiner also noted that a credit carryback proposal costs money, and given the current budget situation and a pay-as-you-go environment, there will be little leeway to do anything.

Senator Reed was introduced by Jack Manning, President and CEO of Boston Capital. Senator Reed began his remarks by noting the major problem for the LIHTC: investors have lost their appetite for tax credits. Senator Reed called the LIHTC "ingenious" in tapping private resources for governmental efforts to keep people well housed. He noted that there are a number of proposals to make the LIHTC more attractive to investors that might be considered later in the fall. Mr. Nash inquired about the outlook for the five-year carryback proposal, and Senator Reed responded that the proposal is on the table, but cautioned that the carryback will cost money. Senator Reed noted a growing sense on Capitol Hill that, along with the need to reinvigorate the economy, there is also a need to pay for new programs. In response to a question about opening up investment opportunities for Subchapter S corporations, Senator Reed said there would be no ideological opposition to the proposal, but that Congress would need to find a way to pay for it.

The industry panel was very helpful in analyzing the state of the affordable housing industry. Mr. Nash noted that he, as an investor, is worried about stress on syndicators and the viability of the syndicator industry. Beth Mullen echoed that she is seeing more developers work around the syndicators and talk directly to investors. Commissioner Deborah VanAmerongen shared a more positive outlook and reported that New York is still able to attract investors and syndicators for deals, even if it means harsher deal terms. Pat Sheridan said that as a developer, he is not completely changing his business plan in the current environment, but is being more cautious. Mr. Nash also expressed an interesting concern about a hypothetical backup in affordable housing deals. He explained that if deals back up at the end of the year, there may be enough capital to invest, but too little time to do the projects.

Ms. VanAmerongen mentioned that she does not want to utilize the exchange program. New York does not have any 2008 credits to exchange and Ms. VanAmerongen is hopeful that she will not have any 2009 credits to exchange. Ms. VanAmerongen believed that the exchange program does not help the long-term health of the LIHTC, which she called a very successful model. She expressed concern that the exchange program plays into the hands of LIHTC opponents.

Returning to a topic discussed throughout the Forum, Mr. Novogradac spoke briefly about possible carryback provisions. He noted that a five-year credit carryback would generate even better revenue dynamics than the five-year net operating loss carryback, which recoups 75% of its costs.

The panel briefly discussed guidance issued by HUD and Treasury. Ms. VanAmerongen is impressed with the flexibility that HUD gave to states in administering TCAP. Mr. Novogradac mentioned that he is surprised that the initial IRS guidance did not allow for loans. He commented that the IRS may now allow loans. The issue of whether or not grants of exchange funds are taxable income to the recipients was discussed. It was noted that the statute does not address this issue but the legislative report states that it is not taxable income. There was discussion regarding the implications for state income tax purposes, and comments were made that it would be a state-by-state determination depending on whether or not states piggyback on the federal income tax code or do their own calculations of income.

The 2009 Affordable Housing Congressional Forum was a great success. In closing the Forum, Bob Moss reminded HAG members of the need to come together and work collectively on affordable housing issues. The Housing Advisory Group, as Bob noted, must be the collective voice of the LIHTC.

Please take a moment and let us know what you thought of the meeting, reception and dinner by completing and returning to us this [Evaluation Form](#). Please email your completed form to [Allison Marino](#) or fax to (617) 624-8789. If you have any questions, please contact Allison at (617) 624-8678. Thank you.

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