

LEGAL NEWS ALERT

Ruskin Moscou Faltischek's Seniors' Housing Capabilities

- Licensing Applications and Regulatory Matters
- Real Estate, Construction and Financing
- Contract Drafting and Reviews
- Counsel and Advice on Third Party Deals
- Project Related Litigation
- Compliance Audits
- Fostering Alliances Between Housing and Healthcare Providers
- Exit Strategies
- Facility Sales and Refinancing
- Evaluating Model Types for Developers
- Federal and State Legislation
- Employment Matters
- Occupational Safety and Health Administration (OSHA) Regulations
- Antitrust Regulations
- National Labor Relations Act
- Copyrights and Trademarks

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Wayne L. Kaplan

The Industry Today

The seniors' housing deal factory that churned out record numbers over the past 3 years hasn't shut down completely, but financing terms have become increasingly difficult as lenders and investors alike retool their expectations amid the credit crunch. Most of the deals that are going through today are getting re-priced downward, and sellers are starting to face that reality. On the other hand, with more discerning residents, longer life

expectancies, growing acceptance by consumers and an outdated supply, players will be able to capitalize on the need for quality independent living, assisted living and continuing care retirement communities. Cap rates will rise in the second half of 2008, partly because of the liquidity issues in the capital markets and less aggressive bidding. As a result of that, sales of the higher-end properties that tended to have the lowest cap rates will not be as prevalent as in the past few years.

Consolidation Is Coming

Ninety percent of senior housing will be owned by institutional investors by 2015, a reverse from the current 90% mom-and-pop ownership structure of today, according to a recent report by Jones Lang LaSalle Capital Markets.

Senior Housing Will Boom

The Wall Street Journal reports that senior housing is set to boom in the next 20 years, and with the increasing older demographics, there will likely be a big shift in senior housing ownership. According to the US Census Bureau, the oldest baby boomers will turn 65 in 2011, and the senior population is expected to double between 2010 and 2030 from 35 million to 72 million. To put the influence of older Americans into perspective, while the total US headcount is projected to go up by 18% between 2010 and 2030, the older population will rise 78% during that same period. As a result, one in five Americans will be 65 or older in 2030. Those 85 or older are also projected to grow from 4.2 million in 2000 to almost 10 million by 2030 and 21 million by 2050.

Assisted Living Rents Increase

The average assisted living resident pays \$3,008 per month for housing and services, according to a recent national study by Genworth Financial. That figure is up 25% from \$2,397 per month in 2004. The higher end costs topped

\$4,900 per month in New Jersey, while the lower end is about \$2,000 per month in Arkansas.

10 Million Baby Boomers Face Alzheimer's

One of every eight baby boomers, which translates to 10 million people, will develop Alzheimer's disease in their lifetimes, according to a recent study by the Alzheimer's Association. According to an ALFA Update, these findings are particularly significant for assisted living providers who provide dementia care services. The study also notes that the age of highest risk for Alzheimer's starts at 65.

Slowdown In Independent Living

Independent living (IL) and CCRCs have seen a slowdown in the absorption of their IL units. This slowdown is related to both the extended days on the market necessary for the sale of the residents' homes and lower sales prices (potentially a large part of their retirement assets), the proceeds of which may be utilized for the entrance fee deposit and for the monthly rent/service fees, according to HTG Consultants. For both existing and proposed facilities, this may also mean residents that previously placed deposits are now walking away entirely. This results in a longer absorption period for proposed facilities and a potentially significant increase in pre-marketing and marketing costs over those initially budgeted. It is expected that assisted living and nursing facilities will experience a less-direct impact from this crisis than the IL communities, since they are a more need-based product.

What Other Experts Are Saying

"Lenders won't underwrite properties with negative net operating income. Previously, loans were written on a pro forma basis using estimates of future revenues. Lenders are not buying future promises anymore. They are buying present-day reality. The underwriting criteria is stricter today than it has been in 30 years."

– **Michael Berne**, Managing Dir. Seniors Housing Group, Jones Lang LaSalle

"Seniors housing fundamentals are strong and health care is recession resistant. We expect continued interest in seniors housing, especially compared to the risk and return profile of alternative investments."

– **Ray Braun**, President of Health Care REIT

"If you look at new projects today, they don't look anything like the ones we saw 20 years ago, and the ones 20 years from now aren't going to resemble the current crop. That's the natural evolution in a free market in which companies compete to serve customers. If you pay close attention, you'll benefit from that evolution."

– **Michael B. Lanahan**, Chairman of Sunrise's Greystone Division

"I think you've got some deals out there that aren't going to get done, but I don't know if the sellers are going to be able to react and be acquisitive with lower prices, because I think it takes them a while to work through the system and kind of understand that the market might be moving south in terms of valuation, and cap rates may be driving up and so forth."

– **Randy Bufford**, President & CEO of Trinity Health Services

"The bottom line is, there's only one thing to do when riding a down cycle, and that's to keep peddling."

– **Cynthia J. Hoffman**, Editor of Real Estate Forum

"Every morning in Africa, a gazelle wakes up. It knows it must run faster than the fastest lion or it will be killed. Every morning a lion wakes up. It knows it must outrun the slowest gazelle or it will starve to death. It doesn't matter whether you are a lion or a gazelle. When the sun comes up, you better start running."

– **An African Proverb**

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