

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 U.S. economy is barely purring, in a credit crunch, undergoing economic contraction, and continues to shed jobs. Notwithstanding all of the “pessimism porn” – titillatingly bleak media reports on the state of the economic collapse, much like my opening sentence above – prices of seniors' housing facilities remained somewhat healthy in a terrible market environment. However, most people believe that the seniors' housing market will continue to stumble through 2009 much like it did in 2008. Everyone with a stake in the business recognizes that we're in a deep recession and that property values probably need to fall further to wring out the excesses of the last boom.

Prices, Cap Rates & Occupancy

The average price per unit for assisted living facilities in 2008 tumbled by 21% to \$124,900, after hitting a record average price of \$159,100 per unit in 2007. The median price dropped by 30% to \$98,400 per unit. The culprit, according to the SeniorCare Investor, was a lower quality of assets sold in a very thin market. Assisted living cap rates rose to 9.0% in 2008 because of more expensive and limited capital, which made buyers more conservative in their bidding, as well as fewer “Class A” properties on the market. Average independent living facility prices plunged by 32% in 2008 to \$118,100 per unit. The median price for independent living facilities dropped by just 6% to approximately \$137,000 per unit. Independent living cap rates increased by 50 basis points (bps) to 8.6% in 2008. The average assisted living occupancy rate in stabilized properties rose 10 bps in 4Q 08 to 89.4% from 89.3% in 3Q 08, while it declined 100 bps in the prior two quarters. The average independent living occupancy rate in stabilized properties fell 20 bps from 90.4% in 3Q 08 to 90.2% in 4Q 08, while it declined 170 bps in the prior two quarters, so this modest decline was a substantial slowing in the rate of descent.

A Permanent Ellipse

According to Sue Halpern, author of “Can't Remember What I Forgot: The Good News From the Front Lines of Memory Research,” no disease is more feared by more people than Alzheimer's. It tops cancer and heart disease on the anxiety scale, even though both are more prevalent. This may be because Alzheimer's is primarily a disease of old age, and we are an aging nation. With 10 million baby boomers expected to develop Alzheimer's in their lifetimes, with one new case every minute or so, the numbers are wickedly inclusive. But it cuts

deeper. We all have an inkling of what it might be like to have this disease because we know what it's like to forget a name or lose a word, and the mind, envisioning its own demise, is quick to parlay those lapses into something bigger: a permanent ellipse where words once were or a string of unremembered faces that eventually come to include the face we see in the mirror.

The Eight Principles of Outstanding Memory Care

According to the NIC 3rd quarter Executive Circle call on "Best Practices in Memory Care: What the Experts Are Doing Differently," the following eight principles are the foundation that distinguishes the truly excellent provider of dementia care from the average provider:

- The owners, executive director, RN and care team are sincerely passionate about serving people with dementia and view it as a special calling.
- There is a documented system to select, hire, train, reward, motivate and continually educate all team members in the diseases of dementia and how this translates into caring practice.
- The management of care is directly supervised by a specially trained RN and there are licensed nurses on all shifts with an outcomes-based approach to care that minimizes psychotropic drug use.
- The day-to-day care plan for each resident is truly individualized through careful understanding of the person and maximizes dignity, choice and respect – while providing many enriching, personalized opportunities.
- The focus of all team members is on the person's remaining abilities and uniqueness as a person, despite the severity or stage of the disease.
- Team members are continually trained in redirecting skills, "living in their world" skills and on how to analyze causes of unusual or aggressive behaviors to minimize or avoid such behaviors.
- The family is educated and treated as part of the care plan and as partners in the care plan.
- The physical environment has been planned to minimize physical risk and maximize tranquility through a secured approach, including an outside wandering area, memory aids outside of one's room and other approaches.

What Other Experts Are Saying

"My sense is that performance varies by project and by market and, in general, assets with a higher degree of dependence on the sale of a home (CCRC, IL) have been the most impacted by slower-than-anticipated absorption. This is likely to be exacerbated in the most challenging housing markets and in markets where the economic outlook is bleak. I do believe that having the right team of professionals on the ground with a comprehensive marketing program is a strong mitigant to the current market challenges, regardless of the market."

– **Angela Mago**, SVP & National Manager
Key Bank Real Estate Capital – Healthcare Group

"Communities have to be responsive to the needs of the local market."

– **Granger Cobb**, Pres. & Co-CEO, Emeritus Corp.

"Genuine antique person, been there, done that, can't remember."

– **Author Unknown**

In answering a question about what the smart plays are if you have cash to invest in real estate: "It's risky – who knows what Obama's going to do? But I would look at areas such as nursing homes and assisted living. They are going to continue growing, particularly as the baby boomers continue to retire."

– **Steve Forbes** – media magnate

And since the new Yankee Stadium just opened: "Always go to other people's funerals; otherwise, they won't come to yours."

– **Yogi Berra**

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