

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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The Industry Today

The bad news is that the health of the U.S. economy can still be summed up in a single word: fragile. The recovery is definitely underway, but it's still touch and go. It still faces serious challenges, including a limping housing market, potential spillover from Europe's financial woes and stubbornly high unemployment, which sits at 9.8%. A number of

factors – including the ongoing credit crunch and changes that owners made during the recession to stay afloat – are all contributing to business owners' restrained approach to hiring. But for many investors, the dual components of real estate and need-driven services give seniors' housing properties a unique resiliency, combining the benefits of real estate investment with the strength of the healthcare industry. This resiliency was evident during the real estate downturn of 2008-2009, when seniors' housing and care properties outperformed other commercial real estate property types in terms of investment returns, rent growth and loan performance.

The good news for existing owners/operators is that new construction activity in the seniors' housing sector has slowed to a crawl over the past year and is even slower when compared to two years ago. The drop was due to tepid demand and the skittish capital markets. Of the new construction projects under way, about 31% are classified as senior apartments; 30% are independent living communities; 20% are assisted living facilities; and 19% are nursing homes.

And the better news is that the seniors' housing industry is entering its prime time, thanks to an expected influx of Baby Boomers. But the full brunt of that growth is still another decade away, at least.

Occupancy, Rent Growth & Absorption

The average occupancy rate at assisted living facilities rose 40 basis points in the 3rd quarter of 2010 over the prior quarter to reach 88.7%. The average occupancy rate at independent living facilities fell 30 basis points during the same period to 87.1%. Annual rent growth at assisted living and independent living facilities in the 3rd quarter was 0.7% compared with 0.8% in the prior quarter. While rent growth remains positive, it has slowed in recent quarters, reflecting the challenging leasing environment facing operators today. Annual rent growth in the 3rd quarter of 2009, by contrast, was 2%. Annual absorption at assisted living and independent living properties rose 1.2% in the 3rd quarter, down from 1.7% in the 2nd quarter. Still,

that's a big improvement over an extended soft patch stretching from the first quarter of 2008 to the 4th quarter of 2009 when the annual pace of seniors' housing absorption was below 1%. The 3rd quarter marks the third consecutive quarter that annual absorption has been above 1%.

More Elderly Worldwide

For the first time in human history, people aged 65 and over are about to outnumber children under 5. In many countries, older people entitled to government-funded pensions, health services and long-term care will soon outnumber the work force whose taxes help finance those benefits. This demographic shift also means that the number of people living with dementia, whose treatment is estimated to cost \$604 billion worldwide this year, is expected to more than triple to 115 million by 2050 according to a report this year by Alzheimer's Disease International, a group representing 73 alzheimer's associations around the world.

The State of New York

Here is one of the (many) reasons owning/operating assisted living facilities in New York State can make you crazy. Governor Cuomo has talked about reducing and streamlining Albany's rambling bureaucracy. There are 1,000 state agencies, many of them created by the legislature and many of which end up doing nothing, but never die. He cites the NYS Department of Health as part of the "bureaucratic tangle" with 46 councils, 17 boards, 6 institutes, 6 committees, 5 facilities, 2 task forces, 2 offices, 2 advisory panels and 1 work group – 87 entities in all, and without new legislative authority, he can't merge or shed any of them.

Other Tidbits

In 2011, the first baby boomers will become senior citizens (age 65). This largest defined demographic set of the population will create an increasing demand for seniors' housing accommodations and services/healthcare over the next several decades. A 6.9% increase in the current population of seniors is more than the total existing supply of professionally managed seniors' housing units. The seniors population is estimated to increase by over 36% over the next 10 years.

What Other Experts Are Saying

"If our thinking is right, cap rates have peaked and the ubiquitous "pricing disconnect" in the market that we have heard so much about for the past two years may be slowly dissipating."

– **Steve Monroe**, The SeniorCare Investor

"It appears that the assisted living sector – really for the first time in several years – has switched into a recovery mode a little bit, while the independent living sector is still searching for a bottom."

– **Michael Hargrave**, VP of NIC's Market Area Profiles Data & Analysis Service

"We see seniors housing as a growth business. The country's aging population and the strong performance of Freddie Mac's existing senior housing portfolio bode well for the sector going forward. Freddie Mac's current seniors housing portfolio is just under \$6 billion and has no foreclosures."

– **Steven Schmidt**, National Director of Freddie Mac Seniors Housing Finance

"The 85-and-over demographic is the fastest-growing segment of the US population. If you look at seniors housing right now, you'd see there was very limited new supply, particularly in assisted living, and there is an inexorable growth in the 85-plus population, which is the user of those communities."

– **Deborah A. Cafaro**, Senior Vice President, M&T Bank

"In recent years, the Minnesota Vikings (one of football's hardest-luck teams, having reached 4 Super Bowls without a win) have refashioned themselves as a state-of-the-art assisted living home, offering seniors the chance to prolong their golden years through rigorous exercise. Well, at least one senior: Brett Favre..."

– **Jason Gay**, The Wall Street Journal

"Me personally, I know there are three signs of old age. The first is loss of memory. The other two I forgot."

– **Cindy Adams**, New York Post – 11/5/10

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