

# New Home Sales Fall 5.5 Percent in September As Affordability Issues Linger, Industry Report Says

By Jeff Hanley, IMPACT Editor

WASHINGTON, D. C.

Sales of newly-built, single-family homes fell to a seasonally adjusted annual rate of 553,000 units after downwardly revised August, July and June reports. That assessment is part of newly-released data by the U.S. Department of Housing and Urban Development (HUD) and the U.S. Census Bureau that was contained in an Oct. 24 report from The National Association of Home Builders (NAHB).

The report added that the data confirms the lowest sales pace since December of 2016. But, the study stresses that on a year-to-date basis, sales are up 3.5 percent from the same time in 2017.

"New home sales activity slowed this summer as housing affordability remains a serious issue," said Randy Noel, chairman of NAHB. "However, sales are up from this time last year and builders continue to report consumer interest in housing."

NAHB Chief Economist Robert Dietz said that home price gains and rising interest rates are slowing down the housing market, specifically in high-cost areas and among entry-level buyers who are sensitive to price increases.

"Builders need to provide homes at different price points to address these affordability concerns," Dietz said. "Meanwhile, overall job and economic growth should help support the housing market in the months ahead as it adjusts to higher mortgage interest rates."

The report said that a new home sale occurs when a sales contract is signed or a deposit is accepted. The home can be in any stage of construction - not yet started, under construction, or completed.

The study added that, in addition to adjusting for seasonal effects, the September reading of 553,000 units is the number of homes that would sell if the reported pace continued for the next 12 months.

The inventory of new homes for sale was 327,000 in September. The median sales price was \$320,000. Meanwhile, the median home price in September of 2017 was \$331,500, as the market has shifted to lower-cost homes, the report said.

The study said that regionally, new home sales rose 6.9 percent in the Midwest. Sales fell 1.5 percent in the South, 12 percent in the West and 40.6 percent in the Northeast. On a year-to-date basis, home sales are higher in all regions except the Northeast, which has registered a 16.5 percent decrease in sales volume.

## A Regional Look

Albert Annunziata, executive director of The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region, said that the sales decreases cited in the report for the Northeast are not surprising.

"The factors for the decreases that are contained in the NAHB study are accurate and pertain to the Northeast, as well as to our region," Annunziata said. "As for the Westchester and Mid-Hudson area and the development of much-needed single-family homes in our area, the consistent negatives facing our builder members continue to remain - the lack of land, anti-industry regulations and labor shortages. They continue to provide obstacles that thwart the development of single-family homes. Some areas in our region have seen specific levels of activity, while many other areas have not."

## Building and Realty Report: Builder Confidence in the 55+ Housing Market Drops in the Third Quarter

By Jeff Hanley, IMPACT Editor

WASHINGTON, D.C.

Builder confidence in the Single-Family 55+ Housing Market dropped seven points to 60 in the third quarter, according to a recently released building and realty industry report.

That assessment is part of The National Association of Home Builders (NAHB) 55+ Housing Market Index (HMI). The study was released on Nov. 1.

The report said that, although the index declined, it is still in "positive territory." The index stressed that a reading above 50 means that more builders view conditions as good than poor.

The 55+ HMI measures two segments of the 55+ Housing Market: single-family homes and multifamily condominiums, the study said. Each segment of the 55+ HMI measures builder sentiment based on a survey that asks if Current Sales, Prospective Buyer Traffic and Anticipated Six-Month Sales for that market are good, fair or poor (high, average or low for traffic).

"Although various headwinds are starting to have an impact on the 55+ Housing Market, there are many parts of the country where the market is still doing well," said Chuck Ellison, chairman of NAHB's 55+ Housing Industry Council. "In some places, it is becoming a challenge for builders to provide housing at prices their customers can afford."

When compared to the previous quarter, all three single-family components of the 55+ HMI saw a decline: Present Sales dropped seven points to 66; Sales Expected in the Next Six Months fell 12 points to 65; and Traffic of Prospective Buyers dipped four points to 43, the report said.

The study added that the 55+ Multifamily Condo HMI dropped 13 points to 44. All three 55+ condo HMI components decreased as well in the third quarter: Present Sales and Traffic of Prospective Buyers both fell 13 points to 48 and 31, respectively, and Sales Expected in the Next Six Months dropped 10 points to 53.

All four components of the 55+ Multifamily Rental Market went down in the third quarter: Present Production and Demand Expected in the Next Six Months both fell 11 points to 54 and 64, respectively; Production Expected in the Next Six Months dropped 12 points to 56; and Present Demand for Existing Units edged down nine points to 63, the report said.

"The decline in the single-family 55+ HMI is consistent with the recent weakness in new and existing home sales," said NAHB Chief Economist Robert Dietz. "The high readings seen in the previous three quarters are not sustainable with high construction costs and rising interest rates."

The index said that the full 55+ HMI tables can be seen at [www.nahb.org/55hmi](http://www.nahb.org/55hmi).

"Based on the continuing dialogue we have recently had with our members, the findings of the NAHB report are very accurate, and some of the report's components are prevalent in some areas of our region," said Albert Annunziata, executive director of the Builders Institute (BI) of Westchester and the Mid-Hudson Region. "High construction costs and the increases in interest rates are definite negatives for our industry, as well as for our region."

## Counsels' Corner

### Proposed Legislation by Westchester County Affects the Cooperative Application Process

By Kenneth J. Finger, Esq., Carl L. Finger, Esq. and Daniel S. Finger, Esq., Finger and Finger, A Professional Corporation, Chief Counsel, Builders Institute (BI)/Building and Realty Institute (BRI)

WHITE PLAINS

The Westchester County Board of Legislators' Committees on Legislation and Labor and Housing have held a Public Hearing on two important legislative initiatives that impact the application process for cooperatives.

If this Local Law is passed, and it appears that it will, the first major legislative change is the new requirement that establishes time limits for application processing. Thus, initially, after receipt of an application submitted by a prospective shareholder, the Board of Directors is required to either acknowledge to the prospective purchaser within 15 (calendar) days of receipt of the application that the Board is in receipt of a "properly completed application" or alternatively, advise the prospective purchaser that there is a defect in the application.

What is a defect? - we interpret that to mean either the application is incomplete, incompletely filled out, missing required documentation or missing required information. Once the "defect" is cured and the application is properly resubmitted, once again the Board has 15 days to acknowledge receipt of the completed application or, once again, to notify of any "uncured" defects. We suggest that all notifications be by certified mail, return receipt requested.

Although the legislation states that it is to be the "governing board" that has to acknowledge the receipt of the application or advise of the "defects," it is understood that this notification can be accomplished by the recipient of the application, which in many cases is either the managing agent, or the attorney, i.e., the party that is in charge of the processing of the application.

### Time Factors

Once the completed application is received, a second time limit kicks in. That time limit is that the Board of Directors has 60 (calendar) days after receipt of the completed application to either approve or reject the application.

If the application is rejected, a copy of the rejection letter must be sent (although not required, we again recommend that it be sent by certified mail, return receipt requested) to the Westchester County Human Rights Commission within 15 days of the notice being provided to the prospective purchaser.

This latter notice requirement is a major change in the initially proposed legislation, which required that the "reason" for the rejection be provided - a suggestion that was adamantly opposed by the majority of the cooperatives, their Boards of Directors and their shareholders, with the fear that it would lead to increased litigation, greater insurance costs and the wholesale resignation of Directors, among other things.

Moreover, the purported rationale for the giving of 'reasons,' i.e., that it would increase the transparency of alleged action by various Boards in acting in a discriminatory manner, was belied by the fact that there are already multiple agencies, on the federal, state and county levels, that are fully equipped to deal with alleged discriminatory rejections. The steadfast opposition of many cooperatives, boards and shareholders led to a negotiated settlement and compromise with the "notice" legislation substituted in place of the "reasons" legislation.

One issue that was raised and remains open is the possibility that additional information may be required once a completed application is received or the interview discloses the need for same. If this need arises and the time limit is near, we suggest that either the parties agree (in writing) to extend the time for the submission of the additional information for a finite period of time (say 15 days after receipt of the additional information) or, alternatively, if that is not an option, that the application be rejected (with the corresponding delay and cost).

A rejection is to be avoided under those circumstances and we believe that a good faith effort to act within the 60 days might in most circumstances be sufficient or alternatively to have the parties agree to extend the time limit should be sufficient. However, we cannot state with certainty if a mutual delay is statutorily permissible under this legislation.

### Key Opposition Efforts

The Building and Realty Institute of Westchester and the Mid-Hudson Region, Inc. (BRI) and its component council, The Cooperative and Condominium Advisory Council (CCAC) led the efforts in opposition to the "reasons" legislation and proposed that a compromise be reached whereby The Westchester County Human Rights Commission could see whether or not there was actually a problem, or if this legislation was merely "a solution in search of a problem."

Thus, it was also agreed that this legislation would have a three-year "sunset" provision during which period The Westchester County Human Rights Commission would have the opportunity to review the submissions and see whether or not there really were issues and problems and, if there were, what steps could be taken to effectuate a solution thereof, of whether there in fact was no problem.

The BRI and CCAC have stated that they will publicize the various obligations of cooperatives, and in fact this article is the first step in doing so. The CCAC will also conduct seminars, if required, and take whatever action is necessary to make its constituent members aware of their obligations under this legislation.

Finally, and perhaps most importantly, it is noted that it was through the almost unanimous support and action of the various members of the CCAC in opposition to the legislation originally proposed, as well as the various meetings that the CCAC had with local legislators, Mayors and elected officials, that brought about the final resolution and compromise. The hundreds of cooperatives and their Officers and Boards are to be complimented as to their participation in this process.

**Editor's Note:** Dorothy M. Finger, Esq., of Finger and Finger, A Professional Corporation, also contributed to this article. The authors are attorneys with Finger and Finger. Finger and Finger, based in White Plains, is Chief Counsel to The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region.



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