Industry Report: Housing Market Continues to Make Gains, But Permits Are Not Keeping Pace

By Jeff Hanley, IMPACT Editor

WASHINGTON, D. C.

In what was termed by building and realty industry officials as "a further sign that the housing sector is continuing to gain momentum," nearly 300 markets nationwide posted an increase in economic and housing activity from the first quarter to the second quarter, an industry study recently reported.

The assessment was contained in the National Association of Home Builders (NAHB)/ First American Leading Markets Index (LMI). The report was released on Aug. 7.

The LMI measures current home price, permit and employment data to plot the economic health of an individual market. Based on the 337 markets tracked by the index, nationwide markets are now running at an average of 102 percent of normal housing and economic activity, the study said.

The report added, however, that individual components of the LMI are at different stages of recovery. While employment has reached 98 percent of normal activity and home price levels are well above normal at 152 percent, single-family permits are running at just 54 percent of normal activity, the study stressed.

"This report shows that the housing and economic recovery is widespread across the nation and that housing has made significant gains since the Great Recession," said NAHB Chairman Granger MacDonald. "However, the lagging single-family permit indicator shows that housing still has a ways to go to get back to full strength."

NAHB Chief Economist Robert Dietz said that the overall index is running above 100 percent of the normal level, largely due to healthy home price appreciation.

"At the same time, the reason why single-family permits are barely halfway above normal is because builders continue to face persistent supply-side headwinds, including rising material prices and a shortage of buildable lots and skilled labor," Dietz said.

Moving Ahead

Despite these challenges, the report said, the housing market continues to gradually move forward. The LMI shows that markets in 196 of the 337 metro areas nationwide returned to, or exceeded, their last normal levels of economic and housing activity in the second quarter. The figure represents a year-over-year net gain of 68 markets, the study added.

"With 89 percent of all metro areas posting a quarterly increase in their LMI score, this is a strong signal that the overall housing market continues to make broad-based gains," said Kurt Pfotenhauer, vice chairman of First American Title Insurance Company, a co-sponsor of the LMI report.

The study said that Baton Rouge (La.) continues to top the list of major metros on the LMI with a score of 1.76, or 76 percent better than its historical normal market level. Other major

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Reinvestment Act. There were other reasons cited, as well. The fiscal restraints created by the state's property tax cap, the rising costs of construction materials and the ever-growing frequency of severe weather-related storms that divert capital spending funds to storm recovery and cleanup, were cited by municipal officials as additional reasons for the decline in focused infrastructure spending.

Taxes, Debt Service (Bonds) and Federal Aid

A closer reading of the report reveals the political and fiscal conundrum facing public officials on how to find the best "blend" of funding the repair and/or replacement of necessary infrastructure.

Municipal bonds (debt issuance) continues to be the primary source of funding for infrastructure projects. In 2012, local governments reported to the Comptroller's Office the issuance of $4.4 billion in new debt for capital expenditures. State and federal aid, by contrast, accounted for approximately 1/6th of that amount, $748 million.

Taxes are the least favorite or resorted-to method to fund capital projects and improvements. The tax cap and the pervasive aversion to paying any more in taxes has negatively affected the amount of funds available to a municipality to pursue infrastructure projects. It is certainly the weakest link in the infrastructure funding chain.

On the Federal side, given the uncertainty in Washington D.C. and the numerous distractions from the original plans that the Trump Administration had for the nation's infrastructure (including the unprecedented string of recent natural disasters, hurricanes and massive fires), the federal role/contribution to infrastructure funding is in question.

The Comptroller notes in his report that the burden on municipalities to service their bonding debt has not increased appreciably, given the fact that the past several years - since the Recession of 2008 - interest rates have remained at, or near, historic lows. However, DiNapoli warned that local governments will find it more difficult to use public bonding to finance capital projects going forward, as interest rates will undoubtedly rise, if for no other reason than in response to stated Federal Reserve policy.

Recommendations

In light of the pressure experienced by municipalities to address their critical infrastructure issues, DiNapoli made a number of recommendations to help local governments prioritize and tackle their most pressing projects:

- Identify short-term and long-term infrastructure needs;
- Prioritize;
- Work with the applicable state agencies for help to address your priority needs;
- Seek help and funding from Federal agencies;
- Explore potential public-private partnerships where they might be most applicable and useful.

For a copy of the State Comptroller's report, visit:
www.osc.state.ny.us/localgov/pubs/infrastucture2014.pdf

Editor's Note: This article is one in an occasional series on the importance of Infrastructure and its many aspects, as it affects the county, the region, the state and the nation.

An IMPACT Staff Report

Counsels' Corner

The Legal Issues as to an Emotional Support Animal Request - Part Two


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WHITE PLAINS

In Part One of this three-part series, we discussed the issue of the first reaction to a request for permission by a tenant / resident / shareholder for an emotional support animal regardless of the prohibition against pets in a lease or a Proprietary Lease or House Rules.

In this segment, we will discuss The Westchester County Human Rights Law and The Westchester County Human Rights Commission.

Westchester County has its own Human Rights Law ("WCHRL") which is in addition to the State and Federal laws. The first inquiry engaged in by the Westchester County Human Rights Commission ("WCHRC") is whether or not there is a "disability."

A Definition

The WCHRL states, as to a disability, in Section 700.20, that a disability is:
"1. A physical, mental, psychological, or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which substantially limits one or more of a person's major life activities or prevents the exercise of an unimpaired bodily function, or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; 2. A record or history of a physical, mental, psychological, or medical impairment. The term "physical, mental, psychological, or medical impairment' means: (a) an impairment of any system of the body, including, but not limited to, the neurological system; ...or (b) a mental or psychological disorder includes, but is not limited to, depression, bipolar disorder, anxiety disorders, and schizophrenia; or ...."

The WCHRL then sets forth, in Section 700.21, that as to "Unlawful Discriminatory Real Estate Practice," that it is an unlawful discriminatory real estate practice for anyone... to: "With respect to persons with disabilities: (a) To discriminate in the transaction of, or to otherwise make unavailable or deny, a housing accommodation to any buyer, renter, lessee, sub-lessee, or assignee because of the disability of: Such ... renter...." For purposes of this subsection, discrimination includes: A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a housing accommodation including public or common areas (emphasis added).

Therefore, it appears from the WCHRL that not only must there be a proven disability, but the Complainant must also allege and prove that he/she is being denied the ability to "use and enjoy the housing accommodation."

An Example

There is a higher court case in New York that supports this language and dismissed a complaint where it was not proven that the resident was being denied the use and enjoyment of his apartment by the refusal to allow an emotional support dog.

If there is a formal complaint filed by the tenant, once it is filed with the Division of Housing and Community Renewal (DHCR), the claim is referred to and investigated by WCHRC and the parties have an opportunity to make submissions and participate in the process. Where there is a finding of probable cause for the administrative complaint, then the claim proceeds to an administrative hearing.

The WCHRC will generally invite the parties to a conference, take information from the parties as part of the fact-finding process and thereafter make an initial determination or investigate further. Cooperation is suggested as there are cases that are settled at this level without formal hearings or a formal complaint.

It should be noted, however, that the WCHRC takes the position that it is more lenient toward the alleged disabled person, than a strict reading of the various federal, state and county laws would appear to require if strictly construed.

In the third installment of this series, we will discuss some of the legal cases and decisions that impact on this issue.

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

Co-op and Condo Corner: Do Not Miss the CCAC's Membership Meeting of Nov. 14!, Continued from p. 2

◆ We realize that changes to Boards of Directors of co-ops and condos are inevitable. In order to keep your board updated on all of the meetings, seminars, initiatives and bulletins that the CCAC/BRI staff works on, please remember to send the contact information for your building's new board members to the CCAC offices. You may direct those changes to jeff@buildersinstitute.org, or to maggie@buildersinstitute.org (the e-mail address for Maggie Collins, director of membership for the BRI/CCAC).

◆ Please keep in mind that CCAC members may bring a prospective member to the membership meetings of the CCAC/BRI. Non-members are entitled to attend two free meetings to experience the many positives that membership in our associations can produce. Further information on membership in our organization can be obtained by calling the CCAC/BRI offices at (914) 273-0730. Ms. Collins will be happy to speak with non-members about our organizations!

All the best to everyone for the upcoming Holiday Season and New Year!

Do you have a topic that you like to see addressed at a future CCAC Membership Meeting? The Board of Directors of our association would love to hear from you. Please send your suggestions to jeff@buildersinstitute.org. Or, you can Jeff Hanley, associate executive director of the BRI/CCAC, at (914) 273-0730 with your comments.