

# 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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## The Industry Today

The nation is hemorrhaging jobs, the value of the family home has plunged, retirement plans are shrinking like ice cubes on a hot stove, and economists are telling us that we have been in a recession since December 2007. While credit markets remain tight, investment activity in seniors' housing is expected to remain on hold for at least the next few months and new development will be slow for at least a few years. A handful of traditional lenders have exited the seniors' housing market for now and as most

of us know, financing and refinancing are scarce. However, seniors' housing is faring better than other real estate segments and its prospects look better going forward since the elderly population will continue to grow, there is greater acceptance and desirability of this product type by both seniors and their adult children as a viable living alternative, and inventory growth in the seniors' housing sector continues to remain in check. The favorable demand drivers combined with rational supply growth create a sector with high occupancy rates and consistent rental increases. Rising unemployment will help keep facility wage increases in check and provide a larger pool of available workers. Declining fuel prices and lower inflation should also help reduce operating costs. Owners and operators should be focusing on resident satisfaction, aggressive marketing and bottom-line performance.

## Seniors' Housing Cap Rates, Occupancies & Revenue Growth from 2Q07 – 2Q08

*Independent Living*    Cap Rates = 8.4%                      Occupancy = 94.1%

Average Costs = \$2,471/occupied unit/month

*Assisted Living*            Cap Rates = 8.7%                      Occupancy = 94.3%

Average Costs = \$3,031/occupied unit/month

*Dementia Care*            Cap Rates = 10.0%                      Occupancy = 94.4%

Average Costs = \$5,343/occupied unit/month

North Dakota has the lowest average monthly base rate for assisted living at \$1,980 and Southern Maine has the highest at \$4,708.

## New Construction Breakdown

According to ASHA and NIC, of the 45,019 seniors housing units/beds under construction in the 100 largest metropolitan areas as of March 31, 2008, the breakdown is as follows:

Independent Living	37%	Nursing Care	11%
Senior Apartments	29%	Memory Care	6%
Assisted Living	17%		

## Combined Seniors' Housing Real Estate Values

Independent Living	\$86 billion
Assisted Living	\$63 billion
Skilled Nursing	\$86 billion
CCRCs	\$94 billion
Total	\$329 billion

## Favorable Seniors' Housing Trends

According to the Census Bureau, the number of people over 85 is expected to nearly quadruple to 21 million in 2050 from 5.3 million in 2006 and the aging baby-boomer continues to age with 13% of the US population now over 65 years old.

Industry-wide seniors' housing occupancies are hovering around 90% today versus the low 70% plus metric of six years ago.

There is no discernible supply of purpose-built communities under development today versus the tidal wave of supply that existed six years ago.

## Alzheimer's Update

Approximately 5.2 million Americans have Alzheimer's disease with as many as 10% diagnosed under the age of 65 – the definition of early onset, according to the Alzheimer's Association. Approximately 3 million will wander away at some point. As the population ages, the number of individuals with Alzheimer's is expected to hit 7.7 million in 2030. There are no Alzheimer's cures now on the market. Current medications mitigate some symptoms but don't slow or halt the disease's progression. Pharmaceutical companies are working on new therapies that reduce or remove amyloid, a sticky substance in the brain thought to play a role in the disease. There are more medicines in development for Alzheimer's than any other neurological disease (except pain) and it will likely be years before a new generation of drugs makes it to market.

## Seniors' Home Sales

Notwithstanding the fact that some potential seniors' housing residents are reluctant to sell their homes in the current market, the American Senior Housing Association (ASHA) released a survey in the Spring of 2008 that found that most senior homeowners possess a selling advantage over the public at large. Substantial home equity and a lack of a mortgage provide them with pricing flexibility. People who are at least 75 years old have lived in their homes for an average of 25 years, and 74 percent reported having paid off their mortgages.

## Men in Seniors' Housing

US Census Bureau statistics show that men are living longer than in the past, mainly due to lifestyle changes that embrace a well-balanced diet, regular physical activity, major advances in medicine and medical technology. This in turn is resulting in increased male move-ins at senior living communities – a trend care providers should monitor as they continue to hone their services to meet the changing needs of their residents.

## What Other Experts Are Saying

"I think cap rates are going to rise. The universe of qualified buyers has shrunk. But I also think that the banks still need to do business, and seniors housing remains a bright spot in their portfolios."

– *Eric Mendelsohn, SVP of Corporate Development at Emeritus*

"With the capital situation the way it is, there is very, very little construction taking place."

– *David Schless, Pres. – American Seniors Housing Association*

"You monitor expenses closely and control them."

– *John Cobb, Pres. & CEO of Senior Lifestyle Corp.*

"Seniors housing communities are frequently integrated into mixed-use projects, as city councils and zoning boards look favorably on the property type. It's like Mom and apple pie."

– *Mel Gamzon, Pres. of Senior Housing Investment Advisors*

"If you were my husband, I'd poison your tea. And if you were my wife, I would drink it."

– *An exchange between Winston Churchill and Nancy Astor, the 1st woman to sit in the English House of Commons*

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