

# SENIORS' HOUSING LEGAL NEWS ALERT

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- Exit Strategies
- Facility Sales and Refinancing
- Evaluating Model Types for Developers
- Federal and State Legislation
- Employment Matters
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- National Labor Relations Act
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Wayne L. Kaplan

## THE INDUSTRY TODAY

The seniors' housing industry during the last several years deflected the full brunt of the financial meltdown by emphasizing rigorous operational discipline and fortifying its capital position. Today, while other real estate sectors are licking their wounds and regrouping, senior living is on solid ground and ready to push forward to take advantage of low cost funding, attractive returns, greater investor interest, and compelling growth prospects. The seniors' housing industry is positioned for robust performance throughout the coming years and decades. There are less than 1.5 million investment grade seniors' housing units in the U.S. today, and by 2015 there will be 22.4 million people over 75. The demographics will continue to drive growth and the industry continues to gain traction.

1Q11 occupancy was 87.9%, an increase of 20 basis points from 4Q10 when occupancy was 87.7%. Occupancy has risen for 4 consecutive quarters and is now 60 basis points above its cyclical low established one year ago. This is a result of slower inventory growth coupled with increased absorption during the past year. Demand for dementia care beds is high, as relatives have few alternatives for their stricken family members, while the risk of dementia doubles every five years after age 65. Over the past 7 years, generally need-based seniors' housing properties have outperformed the National Property Index published by NCREIF. Total returns were 11.2% vs. the Index of 7.3%. Seniors' housing was the only major property sector to report an increase in rental rates from 2009 to 2010 and has experienced the smallest decline in occupancy through the recession. However, we still have to deal with a constrained credit market, high unemployment, the suspended animation of distressed-asset resolution, the choppy housing recovery and record national debt.

## THE AGING OF AMERICA

We all know – and some of us may feel it in our own bones – that the population is aging. Still, a look at the raw numbers of America's graying can be startling. In 2011, the first of the Americans born from 1946 to 1964 (the baby boomers who make up a quarter of our population) started turning 65. The number of births peaked in 1957, but the 2nd half of the boomers is a much larger group than the first half. Consequently, the big wave of people who might need assisted living services is still 30 years away. As a 2010 Pew Research Center study of this group put it, "Every day for the next 19 years, 10,000 more will cross that threshold." That's tens of millions of others in this generation. By 2030, at least 18 percent of the population of the United States will be 65 or over. The 75+ sector of the population is expected to increase by 22.4% over the next decade, an increase of more than 4.2 million seniors. The consensus is that senior living providers can expect to see a more diverse, better educated group of elderly moving into their facilities who will demand more choice and more value for their money.

## 10 EMERGING SENIOR LIVING TRENDS FOR 2011

According to the Mather LifeWays Institute on Aging, they are:

1. Senior living residents are choosing to "age in place."
2. Health and wellness programs and services are top priorities.
3. Technology will be key to promoting and sustaining independent lifestyles among senior living residents.
4. Resident programs must focus on meaningful activities and intellectual stimulation.
5. Senior living providers will provide services "beyond" their four walls.
6. Long-term care is transforming to support person-directed care and meaningful relationships.

Living. He can be reached at (516) 663-6553 or [wkaplan@rmfpc.com](mailto:wkaplan@rmfpc.com).

7. Residents are demanding "customized services," driving the need for senior living providers to offer a customer-driven portfolio of services and programs.
8. Language, perceptions, and attitudes of care providers must be updated to reflect the changing needs and expectations of older adults.
9. The senior living industry may become a hotbed for job creation.
10. Above all, consumers want choices and value.

## WHAT OTHER EXPERTS ARE SAYING

"... Both the analysts and the investors out there find the industry attractive from a historical standpoint and they find the industry attractive on a go-forward basis with all the compelling dynamics as you look at the demographics and just the amount of capital being consumed by the elderly population today. It's almost mind-boggling. I'm not sure there's any real easy answer as to why it's exploded as much as it has, but it sure feels good."

– Arnold Whitman, CEO Formation Capital

"I think the independent living sector maybe has it the toughest because so much of the independent living sector is tied to the housing industry. And so, I think one of the questions is by the time seniors actually can sell their homes, they're not even going to qualify for independent living anymore. There were already occupancy problems there, where they just go straight to assisted living. I think assisted living facilities have to be really careful as acuity in nursing homes has increased; the acuity in assisted living has increased. And they're trying to operate in a way that allows people to age in place, and so, they're contracting out for all these supplemental services, rehab, hospice, home health, to keep people in assisted living. And there's a fine line there. I just think they need to be really careful."

– Rick Matros, CEO of Sabra Health Care REIT

"The fundamentals of this business could start to align over the next couple of years to an era that we haven't experienced in over a decade because virtually nothing is being built. We know demand is growing..."

– Larry Cohen, CEO Capital Senior Living

"No healthcare facility is any better or stronger or more competent than the direct-care worker between Saturday night and Sunday morning on an Alzheimer's unit."

– Larry Minnix, Pres. Leading Age

"The percentage of older people in the United States who live in assisted living facilities is only in the single digits, and yet it's a good business."

– Rob Bateman, CFO at Emeritus Senior Living

"Writing a check separates a commitment from a conversation."

– Warren Buffet

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