

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

It seems as if the economy has bottomed out and the “recession” or whatever you want to call our economic situation over the past 2 years may soon be behind us. But we will probably be faced with slow growth over the next few years instead of a quick turnaround. Hotels, hospitals, developers, office buildings, and the retail sector are not performing as well as seniors' housing right now, which itself has been affected mostly in the form of lower occupancy numbers, but it looks like consumer confidence, rising unemployment and the housing market may finally be stabilizing. Occupancies across the seniors' housing sectors are converging in the low 90 percent range, which is an indication that demand may be starting to stabilize and the market is positioned for a recovery. And the long-term good news for our industry is that the world's 65-and-older population will triple by mid-century to one in six people, according to U.S. Census Bureau estimates.

2009 Overview of Assisted Living Report

- 45% of responding communities offer tiered pricing for bundled services vs. 51% in 2006
- 24% offer one all-inclusive rate vs. 22 % in 2006
- 91% provide three meals as part of basic rates and 48% also include assistance with the activities of daily living (ADLs) in the rate, while 52% charge extra for ADL assistance
- Nearly all communities include wellness and social/recreational activities in the rate
- The average age of residents in 2009 is 86.9 years, whereas in 2006 it was 85.3
- Female residents outnumber male residents by almost 3 to 1
- Residents' median annual income is \$18,972 vs. \$15,668 in 2006
- 97% of communities conduct a formal functional/physical assessment prior to a resident moving in
- 94% create a formal written service or care plan for residents
- Virtually all communities have smoke detectors in resident rooms and all have smoke detectors in common areas
- About 97% have sprinklers in resident rooms and common areas
- 97% conduct a criminal background check on every employee prior to hire

Assisted Living Costs

The average monthly revenue has climbed 5.2 percent to \$3,612 per occupied unit in the past 12 months and average revenue growth was 3.7 percent for dementia care units or \$5,409 per month per occupied unit. The cost for assisted living care is

forecast to exceed \$220,000 in 40 years, when the youngest baby boomers will be in their mid-80s, as reported by the National Center for Assisted Living.

Occupancies

According to NIC MAP data, occupancies for the aggregate "Seniors Housing" properties, which include all age restricted and service enriched properties that have a majority of independent living, assisted living or memory care units, was at 89.2% in the 1st quarter of 2009. This is down 60 basis points (bps) from 89.8% in 4Q08 and 200 bps from 91.2% in 1Q08. Some assisted living facilities have struggled, as more unemployed workers have taken over care responsibilities of their parents to save costs. In the past 12 months, occupancy in the assisted living segment dropped 170 bps to 93.8 percent. Over the past 12 months, occupancy in the Dementia Care segment has declined 260 bps to 93.8 percent.

Investors Favor Assisted Living

According to the "Seniors Housing Research Report: First Half 2009" by Marcus & Millichap, the investment arena in the assisted living segment was mixed in 2008, as few listings met the goals of buyers. Most investors were seeking top-tier assets for long-term hold strategies, though owners of these properties are waiting out the downturn. As a result, a greater proportion of lower-tier assets changed hands last year, pushing the median price down 30 percent to \$98,400 per unit. Average cap rates for assisted living deals advanced 80 bps to the low-9 percent range in the most recent 12-month period due to the change in the property mix. Average cap rates in the dementia care sector are in the mid-10 percent range. Going forward, most investors will favor the assisted living sector over other types of seniors' housing for the rest of 2009 and beyond, as government regulations in the segment are not nearly as stringent as in skilled nursing facilities, and assisted living properties are less susceptible to changes in demand. In fact, the cohort of retirees that needs assistance with no more than two activities of daily living (ADLs) is growing, which should support long-term operations.

Alzheimer's Disease Update

The first test to detect Alzheimer's disease in its early stages could be available in 12 to 18 months. The test could also help physicians monitor treatment effectiveness through periodic retesting. Currently, diagnosis of early Alzheimer's often is wrong, reports the Associated Press, because it's based on evaluating behavior. The new test works by detecting the abnormal function of a protein,

taken from a small sample of cells removed from a person's skin, which has been shown to be involved in memory storage. Today, more than 5 million Americans are living with Alzheimer's disease and about half of people over age 85 have dementia. By mid-century, someone in the 65+ population will develop Alzheimer's disease every 33 seconds, nearly doubling the current diagnosis rate.

Adult Day Health Care

There are approximately 4,000 adult day health care centers in the U.S., according to the National Adult Day Services Association. The average daily cost for this type of care is \$53.59 nationally, or \$12,862 per year, assuming five days per week of care.

What Other Experts Are Saying

"There is an attitude shift among lenders of late, which bodes well for senior housing going forward. In contrast to the lull of the last 6 - 8 months, bankers are picking up the phone and returning calls again. There's a glimmer (of hope) in the capital markets."

– Randy Buford, Pres. & CEO of Trilogy Health Services

"In the last six months, the economy was basically falling off the cliff. Now, instead of falling off the cliff, it is just rolling down the hill."

– Hamid Moghadam, CEO AMB Property Corporation

"What worked five or ten years ago absolutely does not work today. There is more competition, greater financial challenges, and more options in general for seniors and their families. Our industry must have sales systems in place that help them to find needs, build value and get people excited about moving now, not later! We are nowhere near our capacity, and that must change."

– Traci Bild, Health Care Sales & Customer Service Expert

"When you come to the fork in the road, take it."

– Yogi Berra

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