



SENIORS' HOUSING ALERT

November 2002

Ruskin Moscou Faltischek, P.C.

Counselors at Law

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ROSY OUTLOOK FOR GROWING SENIORS' HOUSING INDUSTRY



Wayne L. Kaplan

Knowledgeable industry insiders are saying that over the next few years the outlook for new construction in the seniors' housing industry looks most favorable for independent-living facilities, new seniors' housing campuses that blend congregate and assisted living, and condo and coop ownership projects. The troubles

that plagued the industry in the past - such as considerable overbuilding and underperformance in the assisted-living sector -- seemed to have cleared the way for these new opportunities.

Marcus & Millichap's October 2002 Seniors Housing Research Report reported that:

- The construction financing that flooded the market during the late 1990s has nearly dried up.
- Seniors' apartments and independent living facilities account for nearly half of all seniors' housing units under construction, illustrating the trend away from high-acuity facilities.
- Assisted living investment activity has been slowed by a lack of capital and a large disparity between buyers' and sellers' expectations, particularly for non-performing assets.
- Effective cost control has allowed many regional management companies to acquire distressed properties, mainly from national companies that are emerging from bankruptcy.

• Continuing Care Retirement Communities (CCRCs) are the only seniors' housing product type that has seen an increase in new construction.

However, profitability has suffered due to rapidly rising operating expenses and stagnant rent growth.

• Traditional financing is still available for well-managed, stabilized properties, while private equity firms account for most distressed property acquisitions.

Notwithstanding this report, several funding sources are still out there, even if not as readily available as in the past. Opportunity funds, pension funds, venture capital funds and real estate investors are lining up capital for the market. Alliances with non-profit sources such as hospitals, universities, religious organizations or public/private partnerships with municipalities are other avenues for funding in today's climate.

According to the just-released *2002 Lender Survey* conducted by NIC and CBIZ Valuation Group, the number of loan providers to the seniors' housing industry is down by 25% from 2001, and by 33% from the number active in the late 1990s.

However, the amount of debt capital provided is increasing. Expect more than \$7 billion before 2002 is out, compared with \$ 6.5 billion last year. In addition, required capitalization rates have declined along with interest rates and yields.

SENIORS' HOUSING OPTIONS DWINDLE IN NYS:

Moderate-income seniors in New York are facing an increasingly small pool of options when it comes time to find long-term care, according to a recent article in the Rochester Business Journal. Since 1990, operators in NYS have shut down approximately 30 adult care facilities -- most of which were nonprofit - losing 1,243 beds. Wealthy residents are being lured away by upscale assisted

living facilities, while poorer residents wind up in skilled nursing facilities for lack of other options. Since most residents in adult care homes don't receive Medicare or Medicaid benefits, once their private funds are exhausted, the facility must either rely on Supplemental Security Income (SSI), which generally does not even cover half of a resident's cost of care, or commence termination and eviction procedures.

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WHAT THEY'RE SAYING:

"Alterra is a classic example of growth getting way ahead of its ability to successfully operate at the local level, and we can all learn from some of the mistakes."

Stephen Monroe, Partner - Irving Levin Associates, Inc.

"The trend towards specialization is a normal progression in the growth of the industry. The first phase for assisted living was a rush to development. Now we're in phase two, where operators have to understand that no one size fits all consumers, then find their niche and effectively communicate that to the marketplace."

Robert G. Kramer, Executive Director, National Investment Center for the Seniors Housing and Care Industries (NIC)

"A lot of small and mid-size operators probably are approaching realizing they will not be able to grow and they've got to decide if they're content at that size or want to fold their portfolio into another operator's. A lot of people will have to struggle with that choice in the next couple of years."

Phil Anderson, COO of Retirement Properties, CNL Financial Group

"Instead of looking for building opportunities in underserved regions, developers say the lesson of the slowdown has been that money can be made anywhere in this maturing industry - as long as the project is backed by a smart, disciplined business plan. By building in markets that have high barriers to entry, focusing on the quality of the asset, marketing the project correctly and working on upping its occupancy quickly, developers feel they can generate value on any facility."

David Bodamer, Commercial Property News - August 2002

"You see evidence of lenders and equity investors both being more cautious as they evaluate risk versus return. For instance, you're seeing more money floating toward CCRCs by percentage, compared to one to two years ago. There's still more money overall going to assisted living facilities and skilled nursing facilities, but in terms of new developments and the interest of lenders - where they would like to put money - it's ALFs and CCRCs."

Robert G. Kramer, Executive Director, National Investment Center for the Seniors Housing and Care Industries (NIC)

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- * Licensing Applications and Regulatory Matters
- * Real Estate, Construction and Financing
- * Contract Draft 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

Wayne Kaplan is a Partner at Ruskin Moscou Faltischek, P.C., one of New York's leading health-care and business law firms, and is head of the firm's Seniors' Housing Group. Wayne was one of the founders and General Counsel of Kapson SENIOR QUARTERS Corp. and is currently Chairman of the Legal Committee and Ex-Officio member of the Board of Directors of the Empire State Association of Adult Homes & Assisted Living Facilities. He can be reached at 516-663-6553 or wkaplan@rmfpc.com. ~ ~ ~



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