Miscellany

Exclusionary Rule Streak Down in Connecticut

After four years of litigation, the Connecticut Supreme Court recently struck down an East Hampton, Conn. law that required all new homes to be a minimum of 1,300 square feet. The suit, first filed by a private party, was joined by the Connecticut Homebuilders Association, and it received support and funding from the NAHB in Washington, D.C.

Bill Ethier, litigation counsel for NAHB, followed the case closely. "At NAHB," he explained, "our number one issue is affordable housing, and we are happy to work for the defeat of any unnecessary regulations, because all they do is increase housing costs.

"People in East Hampton expected that the minimum-square-footage exclusionary rule would protect the value of existing homes, but as any economist will tell you, that isn't true. Instead, these kinds of laws just drive up the cost of new homes beyond the financial means of many home buyers."

Ethier points out that this ruling caught the attention of land-use attorneys nationwide, because Connecticut localities are notorious for similar exclusionary laws, and this ruling could be precedent setting.

The Connecticut Supreme Court ruled in favor of abolishing the law because the town of East Hampton was unable to convince the court that its minimum square footage requirement protected the health, safety, and welfare of the occupants of the home. Ethier explains, "people do need a minimum-square-foot requirement to ensure their health and safety, but it is not as high as 1,300 square feet. There are nationally recommended minimums, but it is somewhere between 500 to 700 square feet per occupant."

Because of this ruling, any square footage requirements in Connecticut must now have an occupancy-based component. This means public health officials will have to tie future regulations to the health of the occupants, and these regulations can't be arbitrarily set by individual communities. Beyond nationally recommended minimum-square-foot requirements, it is now unlawful in Connecticut to set any other limits.

—John Wagner

Low-Interest Mortgage Program Gets One More Year

Congress recently voted a one-year extension of a program that has helped many low- and moderate-income families buy their first home.

Known as the mortgage-revenue-bond program (MRB), the program authorizes state housing finance agencies (HFAs) across the country to issue tax-exempt bonds to fund low-cost home mortgage programs. This authority was slated to expire on December 31, 1988.

Congressman Brian Donnelly (D-Mass.), in his efforts to save MRBs said, "Extension of the MRB program will help keep homeownership within the reach of low- and moderate-income families—particularly those who live in regions of the country, like New England, where economic growth is being accompanied by skyrocketing housing costs."

In Massachusetts, MRB proceeds allow the Massachusetts Housing Finance Agency (MHFA) to offer loans with interest rates 2 percent lower than conventional rates, with terms ranging from 26 to 30 years. In addition, the mortgages usually require down payments of only 5 percent. The Massachusetts program has helped 19,000 residents.

MRBs, in general, received high grades in a report entitled Who Benefits From Single-Family Housing Bonds? and written by Margaret Wrightson, a Georgetown University professor with the university's Graduate Program in Public Policy.

In her study, Wrightson concludes that the MRB program outperformed all federal and non-federal programs in serving targeted low- and moderate-income first-time buyers. State housing agencies used more rigorous and effective targeting methods, as evidenced by the fact that buyers who received Federal Housing Administration (FHA) or Veterans' Administration (VA) loans tended to have higher incomes. For example, while 60 percent of first-time buyers among MRB beneficiaries had incomes below $30,000, only 39 percent of FHA first-time buyers had incomes below this level, as did only 33 percent of VA first-time buyers, and 31 percent of conventional first-time buyers. The report also notes that "MRB mortgages are used to finance substantially more modest homes than the other programs."

The MRB extension was included in the 1988 Technical Corrections Bill, which amended the 1986 Tax Reform Act. It authorizes the use of MRBs for affordable mortgage programs through December 31, 1989, and has been signed into law by President Reagan.

According to MHFA Executive Director Marvin Siflinger, the extension makes it possible to continue the Homeownership Opportunity Program (HOP), which uses MRB proceeds, state funds, and local resources to increase the supply of affordable housing in Massachusetts.

Also included in the legislation are new income restrictions on mortgages funded through MRBs. Generally, these guidelines emphasize qualifying families with children, rather than single-person or two-adult households.

In addition, Congress voted to defer for two years a provision in the legislation that provides for the recapture, at resale, of the interest subsidy borrowers receive through tax-exempt MRB financing. ■

The above was adapted with permission from an article appearing in the November, 1988 edition of the MHFA Newsletter, published by the Massachusetts Housing Finance Agency.

McHouse: An Affordable Alternative?

This prototype of the World House was erected last year, with volunteer labor, as part of a demonstration project for the United Nations. The materials cost $2,500, according to inventor Walter Feuchs.

Using cost-saving techniques and mass production, a Florida developer claims he can produce finished, furnished houses for as little as $10,000 each.

Walter Feuchs, founder of World Housing, Inc. in Boca Raton, is exploring marketing techniques for quantity sales of his "World House."

The $10,000 basic price does not include the cost of the site, site improvements, foundation, or utility hookups. It is also a very small house by modern U.S. standards—less than 600 square feet of living area.

However, larger versions can be produced, and Feuchs says his design can be used for a finished, furnished house of any size at a cost of $17 per square foot of living space.

A key to cost saving in the "World House" is the use of structural foam panels—oriented-strand board (OSB) laminated on both sides of an expanded polystyrene (EPS) core. The panels are used for all exterior walls and roofs. There are no studs, rafters, timbers, or trusses. The exterior finish is a sprayed-on stucco material. The same coating is used on the roof, eliminating the need for any other roofing material.

Instead of drywall, a thick textured paint material is sprayed on the interior surfaces. Feuchs says the OSB is fire- and termite-resistant, so the product can meet code requirements without drywall. All wiring is covered by molding, then sprayed with the same textured paint.

The roof pitch is shallow—1 in 12. Heating is electric. Feuchs concedes that electricity is more expensive than other fuels, but says the lower initial costs and relative lack of maintenance more than offset the added fuel costs. And, he adds, the use of structural foam panels makes the World House energy-efficient.

Hot water is provided by "instant" water heaters. All appliances and other features make efficient use of space, so that a family's need for living space can be condensed into a very small area.

The houses have a contemporary style. Feuchs says this is essential in order to sell units throughout the world. "A contemporary house fits in anywhere," he says. "There are some parts of the world where a Cape Cod house would look pretty funny." Feuchs emphasizes that the structural foam panels and other features are all "proven technology and proven products," although the World House contains several unique innovations, such as the exterior and interior coatings, and non-metallic fasteners for the panels. Because of the economies of mass production, Feuchs is currently negotiating for projects in parts of the world that need large amounts of affordable housing fast—including areas that have suffered from earthquakes and other disasters. His longer-range plans include distributing the houses through U.S. dealers, who will assemble the homes on-site. But he says dealers will have to be content with standardized houses, in order to maintain quality control. His business model is the McDonald's hamburger chain. "If you buy a hamburger from McDonald's in Maine, it's the same hamburger you'd buy in Texas," he says. In order to hold down prices and maintain quality, the same consistency will be needed for World Houses.

—Steve Carlson

From What We Gather

The average price of a new single-family home has risen from $100,000 to over $140,000, according to Commerce Dept. data. The cost of land, up 40 percent, since 1982, is a major contributor to the steep hike.

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Mobile home builders can crack new markets with a new wooden carriage system under development. The new transportation frame is made of laminated wood beams and trusses, and complies with HUD's requirement that the transportation frame stay with the manufactured home. Source: Manufactured Housing Institute.

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Last year, wood windows overtook aluminum in both new construction and remodeling, according to a study done for the Architectural Aluminum Mfg. Assoc. (AAMA). The AAMA study also shows a steady increase in sales of vinyl replacement windows, which still fell far behind wood in that market.

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Earthquakes aren't such a rare event in the East as we'd like to think, recent rumblings have reminded us. In fact, we get a quake in the magnitude 5 to 6 range every 20 to 40 years. Experts agree that a magnitude 7 quake cannot be ruled out here. New England regions most at risk of damage, according to John Ebel, of Weston Observatory, in Weston, Mass., are: central Conn., eastern Mass., Narragansett Bay, and coastal and central Maine.

Tax Talk:
The New 1988 Tax Law

By Irving Blackman

On November 10, 1988, President Reagan signed his last tax hurrah—the Technical and Miscellaneous Revenue Act of 1988. Here's a summary:

Taxpayer's bill of rights. The new law contains a series of provisions meant to protect you against abusive action by the IRS. Some of the more important ones: The IRS is prohibited from imposing production quotas on employees involved in the collection process; taxpayers, in general, must receive a more complete explanation of why they are being assessed tax or penalties; taxpayers can tape their interview with the IRS; taxpayers can suspend an interview to consult with his or her representative; and taxpayers can recover legal fees if the IRS's position is not substantially justified.

Section 89 rules eased. Starting in 1989, Section 89 of the tax code requires all employers to apply a complex set of nondiscrimination tests to each of their benefit plans. The rules are designed to discourage companies from favoring highly compensated employees. For example, a plan would be discriminatory if it provided free annual physicals only for the top executive group of the company. Under Section 89, the company could still deduct the cost of the physicals, but the value of the benefit would no longer be tax-free to the executive.

New rate on accumulated earnings. For tax years starting after December 31, 1987, the accumulated earnings tax on corporations is a flat 28 percent. Under the old law, the tax was 27-1/2 percent on the first $100,000 of accumulated taxable income and 38-1/2 percent on the excess.

Terminating a pension plan becomes more costly. It has become fashionable for a business to terminate its pension plan. The surplus assets in the plan, after required distributions to employees, are returned to the employer. The amount of such asset reversion to the employer was taxed at a 10 percent nondeductible penalty. The new law balloons the penalty to 15 percent of the surplus assets. The higher penalty hits any employer receiving the reversion after October 20, 1988.

Telephone Deduction Tightens. Up until now, business people and investors could deduct the business use portion of local telephone service in their residence. The new law knocks out any deduction for the cost of local telephone service starting in 1989. The new rule only applies to the first telephone line in your residence. The best bet is to have two lines come into your home: one to be used for nondeductible personal purposes and the second for 100 percent business use, which will be fully deductible.

The new rules do not affect deductions for the cost of long-distance telephone calls, equipment rental, additional telephone lines, or other optional services used for business purposes.

Targeted Jobs Credit Extended. Congress has extended the targeted jobs credit for one year to employees who begin work in 1989. The credit was scheduled to expire at the end of 1988. Under the old law and the extension, an employer can claim a tax credit if he hires employees who are members of any of nine targeted groups. In general, the credit allows a dollar-for-dollar reduction in the employer's tax liability up to 40 percent of the first $6,000 of salary paid to each qualified new employee during the first 2 months he or she works.

For 1989, the age range has been changed from 18 to 22 on the date of hire for qualifying economically disadvantaged youths. The age spread was 18 to 24 under the prior law. There is one more change: The credit for hiring economically disadvantaged summer workers, aged 16 or 17 on the hiring date, will be 40 percent (reduced from 85 percent in 1988) of the first $3,000 of wages paid for services during any 90-day period between May 1 and September 15.

Business Meal Deduction Changed. The 1986 Tax Reform Act generally disallows any deduction for business meals unless the taxpayer or the taxpayer's employee is present at the meal. The new law allows the IRS to authorize two additional exceptions to the general rule. First, a business could deduct reimbursements made to job applicants who eat alone while traveling to a job interview. Second, a new rule would permit deductions for the cost of meals paid by your family while moving to your new job location, even though you traveled at a different route or method. The effective date of the new rules goes all the way back to January 1, 1987.

Of course, only 80 percent of the meal is deductible. Under the new law, the employer, retroactive to 1987, can deduct 100 percent of the reimbursement. The employee who receives the reimbursement for the job-related moving expense can only deduct 80 percent of the meal. The net result is that for each dollar the employee is reimbursed, he or she will receive 20 cents of income.

Other changes. Lots of other changes were incorporated in the new 1988 tax law, including some new breaks for college boosters and supporters, a one-year extension of the research tax credit, relief for children with investment income, and finally, protection from penalties if the new law results in an underestimation of tax owed. ■

Irving Blackman, CPA, J.D., is with Blackman, Kallick, Bartlestein, Chicago, Ill. He specializes in closely-held businesses. For more information on how to take advantage of areas in the old law that were not changed, send for How To Take Money Out of Your Closely-Held Corporation and A New Tax Superstar…S Corporation. Cost is $25 for one or $39 for both from Blackman, Kallick, Bartelstein, 300 South Riverside Plaza, Chicago, IL 60606.

Hold On to Your Siding

Thieves have discovered a new target: aluminum siding. It started in Detroit, when, according to a recent article in Time magazine, "aluminum rustlers" were removing the siding from abandoned houses in the city's crime-ridden East Side. Lately, the thieves have taken to removing the siding from the garages of occupied houses. According to the article, even lawn chairs aren't safe.

The thieves take the siding to scrapyards, where increased interest in recycling has driven the price per pound for scrap aluminum up to 45 cents a pound. ■

High-Tech Gas Heat Questioned

The newsletter Energy Design Update reports that this past October, "an unexplained malfunction of a Heatmaker gas boiler, manufactured by AMTI Heating Products Inc., of Randolph, Mass., resulted in the hospitalization of a Cleveland couple with acute carbon monoxide poisoning." The incident has led to questions regarding the ability of HVAC contractors to handle the new high-tech equipment.

The owner reported to EDU that the boiler was installed four years ago and performed satisfactorily at first. Later, however, it began to suffer several mechanical problems, and on a repair call, a service contractor apparently installed an oversized gas orifice that did not correctly match the combustion-air supply orifice. According to Bertrum Walters of AMTI, this could have resulted in starved combustion and the formation of carbon monoxide.

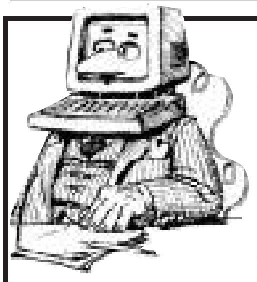
Although Walters claims that the equipment was not at fault, he did express concern about whether the average residential HVAC contractor can deal with high-efficiency furnaces, despite AMTI's intensive training efforts. He also pointed out that the company has only received two such complaints (including this one) in more than 16,000 installations. ■

Affordable Comfort Conference Held

More than 600 weatherizers, builders, agency representatives, energy auditors, utility managers, inspectors, researchers, and activists made it to the Affordable Comfort Conference held in Pittsburgh in late November. Experts provided practical tips on achieving comfort without great expense, and for spending the money still available from oil overcharges. The blower door found support from a lot of quarters, both to diagnose problems, and to solve them (including justifying the expenditure of weatherization money). The same was true for thermography equipment, and the use of both together was promoted as an effective strategy.

The third annual conference was presented by ACTION-Housing and the Pennsylvania Energy Office. For information about proceedings for this and previous conferences, contact ACTION-Housing at 412/392-1958.

—Frazer Dougherty



Computer Bits:

How much insulation should you install? Customized estimates for any location in the United States is available with ZIP Version 1.0. Keyed to the first three digits of a location's zip code, the program is described in a report from Oak Ridge National Laboratory, P.O. Box 20008. Building 3147, MS 6070, Oak Ridge, TN 37831-6070. Ask for ORNL/TM-11009-ZIP.

New directory out... is devoted exclusively to contractors. The 1988-89 CCAD lists over 1000 products. Costs $45 from Construction Industry Press, P.O. Box 9838, San Rafael, CA 94912; 415/927-2155.

IBM and Mac index for builders and remodelers... is a disk-based database of citations in the light-construction building and remodeling fields. Building and Remodeling Index (BRI) abstracts approximately 1,400 articles and research reports per year from various sources. Startup package, including all citations from 1984 to present, costs $99 (IBM) and $129 (MAC). Quarterly update subscriptions cost $69/yr.

Software selling at building supply stores... to reach contractors. Bird Construction Software has placed a free-standing kiosk at lumber dealers that promotes their products, and connects the potential buyer or current user by direct-link phones to sales and technical support. Bird Construction Software, Washington Street, East Walpole, MA 02032; 617/668-2500.

Hard-drive diagnosis aimed at non-technical IBM users... promises to predict and prevent hard disk problems before they happen. "Disk Technician Advanced," $189.95, is available from Prime Solutions Inc., 1940 Garnet Avenue, San Diego, CA 92109; 619/274-5000. ■

Future Homes Shaped More By Economic, Legal, Social Factors

"The shape of the house of the 90s may be determined less by technology than by social, political, legal, and economic factors," according to Brian Percival, New York architect and internationally-acclaimed teacher.

Although most builders and architects agree that several advances will occur on the technological front—particularly centering around computerized controls and appliances—these changes are likely to affect them less than other, more far reaching factors.

One of these is the host of new state and federal laws requiring communities to set aside areas for middle- and low-income housing—regardless of the communities' existing character.

Designed to battle racial discrimination, the new laws will eventually change the character of thousands of suburban towns across the U.S. Towns now zoned for mansions on minimum lots of five acres or more will have to rezone for low-cost apartment projects, cluster housing, and middle-income single-family homes.

"The trend could produce a vast migration of upper and upper-middle income families out of the suburbs, back to the city," said one New York-area builder. "Owners of big mansions on huge estates may find it more profitable to sell to developers who could convert the houses into condominiums for lower income families and build middle-income housing on the rest of the land."

The inevitability of mixed housing in the suburbs is evident everywhere in the metropolitan New York area. Following a key legal decision on housing in Mt. Larel, N.J., New jersey's courts have ordered every community in the state to set aside about 20 percent of their lands for low-cost housing and to begin building such housing immediately. Property values have tumbled 20 percent on average throughout New Jersey, including the prestigious suburban communities near New York City.

In addition to the effect of these legal changes, the economic environment will be shaping housing in the future.

The failure of middle-income family income to keep pace with rising interest rates and the cost of housing itself, will mean a trend toward smaller homes, according to David Leinonin, an architect-builder from Seattle, Wash., and now president of Jackson Hole Builders in Wyoming.

"Cluster housing is an interesting concept for middle-income families," says Leinonin, "because of the savings achieved with common walls, grounds, and recreational facilities. But what we're finding out is that many families don't know how to live in such housing. It doesn't offer the privacy of free-standing single family homes, and people in cluster housing aren't quite sure how to use common areas. They seem to yearn for their own small piece of ground.

"Rather than cluster housing, I think we'll see a return to the small row housing of the British suburbs. Although each house stands against the walls of its neighbors, each also has a small yard of its own...walled in carefully to give each owner his own 'castle'."

—Harlow Unger