

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #27
November 16, 2007

Rick Wajda- (800) 377-6334- rick@buildindiana.org
Gretchen White (800) 377-6334 gretchen@buildindiana.org
Roger Stephens- (800) 377-6334- rogers@bagi.com

House of Representatives- (800) 382-9842
Indiana Senate- (800) 382-9467

HIGHLIGHTS/NEWS

INDIANA TAX COURT DISMISSES PROPERTY TAX LAWSUIT

An Indiana Tax Court judge has dismissed a class-action lawsuit brought by ten taxpayer organizations and several taxpayers challenging the constitutionality of the state's property tax system. The groups say they will now take their property tax battle to the Indiana General Assembly.

INDIANA RANKS NINTH IN FORECLOSURE

Indiana had the country's ninth highest foreclosure rate in the third quarter, with one filing for every 196 households, matching the national average, according to Irvine, California –based RealtyTrac. The state ranked eight in the prior quarter. The state's third-quarter filings are 10.2 percent higher than the year-ago period.

MORTGAGE LOAN APPLICATIONS UP

The pace of mortgage loan applications was up 3.8% as rates on 30-year mortgages fell to their lowest since early May, according to the Mortgage Bankers Association. Refinancing accounted for 49.6 percent of all loans, up 9.2%. Rates on 30-year loans fell to 6.15% and to 5.79%, from 5.86% on 15-year loans.

NEW FORECLOSURE HOTLINE TO HELP HOMEOWNERS STATEWIDE

The Indiana Housing & Community Development Authority launched a new website and hotline to assist homeowners before they are forced to lose their homes. The confidential help-line will be available 12 hours a day, 7 days a week at no cost to the consumer. This service is operated by the non-profit organization Momentive Consumer Credit Counseling Service. It will be available daily from 8 a.m. to 8 p.m. Whenever possible, counselors will assist homeowners over the phone. If more extensive assistance is needed, the counselor will refer the homeowner to a certified foreclosure intervention specialist. Also, the website www.877GetHope.org will be available 24 hours a day, seven days a week. The hotline number is 877-Get-Hope.

BAYH, U.S. SENATORS PRESS FOR PROPERTY TAX RELIEF

Indiana Senator Evan Bayh and 15 of his Senate colleagues have sent a letter to the State Finance Committee urging them to include property tax relief for non-itemizers as part of federal tax legislation currently being considered. Senator Bayh calls to provide property tax relief to 32

million homeowners across the country who do not itemize their federal tax returns by allowing them to deduct their state and local property taxes.

THE ECONOMY DISPLAYS REMARKABLE RESILIENCE

The U.S. Economy is showing remarkable resilience in the face of the stunning housing downswing that's taking a heavy direct toll on economic growth and job formation while disrupting financial markets –via the abrupt decline in mortgage credit quality –in the process. So far, the much feared “spillover” effects on other key sectors of the economy have not been serious enough to threaten the overall economy. Real gross domestic product (GDP) grew at a robust 3.9% annual rate in the third quarter –according to the “advance” report from the Commerce Department –following 3.8% growth in the second quarter of the year.

THE FED EASES MONETARY POLICY AGAIN

The Federal Reserve enacted quarter-point cuts in short-term interest rates (both the federal funds rate target and the discount rate) at the conclusion of the Oct. 30-31 meeting of the Federal Open Market Committee (FOMC). These cuts follow half-point reductions that were enacted at the Sept. 18 FOMC meeting, positioning the funds rate at 4.50% and the discount rate at 5.00%. The bank prime rate now stands at 7.50%.

ANOTHER WISE MOVE BY THE FEDERAL RESERVE

The quarter percentage-point reduction will help housing and the economy by stabilizing financial markets and increasing liquidity in credit markets. In an official NAHB statement released on the day of the Fed's announcement, NAHB President Brian Catalde noted that “By moving for the second time in as many months to ease its monetary policy, the Fed is taking prudent action to help American consumers and business.” At a time when the housing and financial sectors are under duress, the Fed made the right decision to lower borrowing costs, he added. “This will bolster consumer confidence, keep the economy on a positive track and have the housing market begin to recover next year.”

MORTGAGE LENDING STANDARDS TIGHTEN SUBSTANTIALLY

The Federal Reserve's October Senior Loan Officer Opinion Survey (SLOOS) documented systematic tightening of home mortgage lending standards at commercial banks during the August to October period. This round of tightening was on top of earlier rounds that had started in the first quarter of the year when the subprime market began to melt down. In the October survey, about 40% of banks making prime loans had tightening standards (on top of 15% in the July survey), 60% of those making “nontraditional” loans had tightened (on top of 40% in July) and 55% had tightened standards on subprime mortgages (on top of a similar percentage in July).

MORTGAGE CREDIT TIGHTENING TAKES A TOLL ON HOMEOWNERSHIP

The turmoil in mortgage credit markets put a heavy hit on sales of new and previously owned homes in August and September, and sales cancellations moved up aggressively during these months as well. Builders report that the virtual shutdown of the subprime and Alt-A mortgage sectors disrupted sales and closings not only in the entry-level market but also up the ladder in trade-up segments. They also report that the freeze in jumbo mortgage securities market seriously damaged the high end of the housing market.

BERNANKE OFFERS IDEAS TO RESOLVE SUBPRIME MORTGAGE CRISIS

The spillover from the housing to the economy still appears to be limited, Federal Reserve Chairman Ben Bernanke said in testimony before the congressional Joint Economic Committee. From now until the end of next year, “nearly 450,000 subprime mortgages per quarter are scheduled to undergo their first interest rate reset.” To help resolve the subprime crisis, Bernanke called for enactment of FHA modernization pending in Congress and he also floated an idea that would allow Fannie Mae and Freddie Mac to purchase home loans above the current conforming loan limit of \$417,000, suggesting that the federal government could guarantee the increased loan amount. He added that any such move should be temporary.

SLOWER ECONOMIC GROWTH AHEAD

Looking ahead, the Federal Market Open Committee (FOMC) saw signs that the economy would be slowing in the final months of the year. “Indicators of overall consumer sentiment suggested that household spending would grow more slowly, a reading consistent with expected effects of higher energy prices, tighter credit and continuing weakness in housing,” Federal Reserve Chairman Ben Bernanke said. “Most businesses appeared to enjoy relatively good access to credit, but heightened uncertainty about economic prospects could lead business spending to decelerate as well,” Bernanke said.

LEGISLATIVE

LEGISLATOR RESIGNS

The legislator who spearheaded the drive to bring a casino to French Lick has resigned. State Representative Jerry Denbo (D-French Lick) says he’ll seek an official role in the development that the French Lick Casino has brought to Orange County.

NEW LEGISLATOR SWORN IN

Greg Simms (D-Valparaiso) has been sworn in as the newest state representative for House District 10. Simms replaces Representative Jack Clem, who passed away earlier this year after former Representative Duane Cheney resigned his position.

LEGISLATIVE COMMISSION PRESENTS PROPERTY TAX PROPOSAL

A bipartisan legislative commission led by Senator Luke Kenley (R-Noblesville) voted on a property tax proposal that could cut homeowners bills in half. The plan approved by the State Tax and Financing Policy Commission would still have to be approved by the Indiana General Assembly before it could take effect. Like the Governor, the plan calls for abolishing township assessors and taking schools and child welfare off the property tax. The plan suggests that the state could impose a smaller sales-tax hike, while expanding the tax to cover services. The plan endorses Daniels’ proposed constitutional amendment to create a permanent cap on tax bills. The commission stopped short of specifying how much the cap would be.

SENATOR LINDEL HUME OFFERS PROPERTY TAX PROPOSAL

Senator Lindel Hume (D-Princeton) offered a plan to provide property tax relief for Indiana residents through a complete elimination of the Homestead tax. According to Hume’s plan, the state would pay the property tax levy on homeowners’ behalf for all primary residential properties. Aspects of the plan include:

- Raising Indiana's income tax rate from 3.4% to 5.0%;
- Raising sales tax by a penny to 7%;
- Converting state's renter's income tax deduction to an income tax credit of 8 percent of rent paid during the tax year;
- Schools and other local unit revenue would be left alone;
- A Local Government Security Trust Fund would be established to capture income and sales tax revenue above the amount required for Homestead tax replacement.

HOUSE AND SENATE TO HOLD EARLY HEARINGS ON PROPERTY TAX PLAN

Indiana House of Representatives and Indiana Senate plan to begin hearings on the property-tax relief plan next month. The Senate plans to break Governor Daniels' tax-relief package into 10 separate bills while the House will present it as one bill. Both the House and Senate will hold committee meetings in December, a month before legislators usually start work.

ORGANIZATION DAY TO SEE ACTIVITY

Organization Day is typically one of tradition by swearing in newly elected officials, outlining agendas, and announcing when session will begin before adjourning until January. Organization Day at the Statehouse is scheduled for Tuesday, November 20th and all indications suggest both the House and Senate plan to introduce Governor Daniels' property tax reform package and possibly other bills at this time.

IACT SETS ITS 2008 LEGISLATIVE AGENDA

The Indiana Association of Cities & Towns Executive Committee approved the 2008 IACT Legislative Initiatives during the IACT Annual Conference & Exhibition. IACT's 2008 legislative initiatives include:

- *Hometown Matters*
- *Protect Tax Increment Financing (TIF) Revenue:*
- *Automatic Levy Adjustment for Development within Municipal Limits*
- *Fair Distribution of MVH and LRS Revenue to Local Governments*
- *Expand Economic Development Tools*
- *Corrective Legislative Language to Planning and Zoning Statutes:* Three recent court case rulings are believed to have impact on planning commissions' authority in planning and development. These court rulings are affecting current projects and creating confusion for planning commissions. IACT supports corrective language in IC 36-7-4 that would authorize planning commissions full discretion to grant waivers from the subdivision control ordinance, provide findings for vacation of plats and covenants, define "public interest" to prevent questions of constitutionality and define the terms "commitments" and "conditions" in state law.

REGULATORY

PROHIBITION ON THE USE OF GOODS AND SERVICES AS GIFTS TO INDUCE TITLE INSURANCE BUSINESS

Some title companies have historically engaged in the practice of paying real estate brokers, real estate salespeople, mortgage brokers, and other settlement service providers to secure their title insurance business. A variety of products, services, advertising, and sponsorships have been

used as a pretense for the payment. If a Title Company pays or provides products, services, fees for unearned services, advertising, or sponsorships to a Settlement Service Provider as a pretense for payment for business, the Department of Insurance considers that to be an illegal inducement to secure title insurance business.

NAHB NEWS

BUILDERS WANT VOLUNTARY GREEN BUILDING CERTIFICATION PROGRAM

The vast majority of residential builders and developers -90 percent- are interested in participating in a voluntary green building certification program, according to the results of a survey by NAHB. “As confirmed by this survey, voluntary, market-driven programs are the best way to encourage the growth of green building,” said NAHB President Brian Catalde, a builder from Southern California. “More than 100,000 homes have already been built and certified by voluntary, builder-supported programs across the country.”

HOUSING VACANCIES ARE RIDING HIGH

Home builders reacted quickly to the third-quarter downshift in home sales, cutting back total housing starts to less than 1.3 million units (seasonally adjusted annual rate) and reducing single-family starts to 1 million –the slowest pace since the early 1990s. NAHB estimates that more than a million of these vacant units represent excess supply. That’s a heavy weight that must be whittled down substantially before housing production can return to healthy levels and house prices can resume a persistent upward trend.

HOME PRICE DATA SHOWS HOUSING SOLID LONG-TERM INVESTMENT

While the latest S&P/Case-Shiller home price statistics for 20 of the nation’s largest metro markets showed a 4.4% year-over-year decline, a closer examination of the data reveals that on average, these same markets appreciated in value by more than 50 percent over the past five years. “To argue that home values will continue to decline and never recover, somebody has to make a convincing case that it will cost less to build a new home five years from now than it does today –and that’s just not going to happen,” said Brian Caltalde, president of the NAHB and a home builder from El Segundo, California. “Homeownership as a long-term investment has a track record that is virtually unmatched by any other purchase in terms of its real benefits,” Catalde said.

CARRIED INTEREST PROVISION IN AMT BILL WOULD HARM HOUSING

Legislation approved by the House would provide temporary relief from the Alternative Minimum Tax, contains mortgage debt forgiveness provisions and extends dozens of expiring tax provisions, NAHB opposes the measure because a plan to tax “carried interest” to pay for the bill would impose a multi-billion dollar tax increase on real estate at a time when the industry is already experiencing a downswing. Though the bill was narrowly approved by the House, it is unlikely to be enacted into law as written. Further the White House has threatened to veto the proposed patch of the AMT, which would prevent an additional 20 million Americans from being captured under the tax, because it objects to the tax increases in the carried interest and other provisions to offset the cost of the bill.