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UB Law Forum

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Law School Report

CLINICS: IMPACTING THE COMMUNITY

Sharing ideas at the fourth annual Affordable Housing Conference

The innovative visions of Arshile Gorky, Clyfford Still and Sam Francis mingled with the life-changing ideals of decent, low-cost housing at the fourth annual Upstate Affordable Housing Conference, held Sept. 25 in Buffalo's Albright-Knox Art Gallery. Co-sponsored by UB Law School as part of its celebration of Affordable Housing Month, the conference drew about 325 attendees – from attorneys to financiers, developers to government regulators.

According to Dean Nils Olsen, the work of the UB Law School's Affordable Housing Clinic is part of the UB 2020 emphasis on civic engagement and public policy, which is focusing University-wide intellectual strengths on understanding and finding solutions to social problems that are confronted by the community.

Other sponsors included the state Division of Housing and Community Renewal, the New York State Association for Affordable Housing, and the New York State Bar Association.

Six breakout sessions covered such topics as tax-exempt housing bonds, low-income housing tax credits, a case study on funding, a roundtable on the Qualified Application Plan by which the state allocates funding, "green" building in upstate New York, and the challenges of resyndicating "year 15" deals.

UB Law Clinical Professor George M. Hezel, longtime director of the school's Affordable Housing Clinic, which is marking its 20th year, greeted the attendees and noted that the organizers chose the art gallery for this year's conference as a result of suggestions from those attending last year's gathering.

Deborah VanAmerongen, commissioner of the Division of Housing and Community Renewal, congratulated the UB Law clinic on its anniversary and "all the good work you have done in the Buffalo area." She also addressed recent revisions in the Qualified Allocation Plan, which is the document the state uses to set out priorities for funding affordable housing. The revisions, she said, seek to provide more flexibility, renew emphasis on a project's community impact, and draw new attention to the need for historic preservation.

Priscilla Almodovar, president and CEO of the New York State Housing Finance Agency and the State of New York Mortgage Agency, reviewed recent initiatives in her agencies, including introduction of a new housing preservation program and a plan of



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—Sam Magavern, an instructor in the Affordable Housing Clinic

collaboration with sister housing agencies in the State.

Highlights from a few of the breakout sessions:

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"Using Tax-Exempt Bonds and DHCR's Homes for Working Families Program – A Case Study: Olean":

Roger W. Brandt Jr. of Rochester's Cornerstone Group described two projects in Olean, in the Southern Tier of New York, both of which demolished antiquated public housing units and built family homes "scattered" and integrated into the neighborhoods. They were difficult projects, he said, complicated by a new set of wage rates issued in Monroe County and a "meteoric" rise in the prices of building materials, which led to funding shortfalls for the devel-

opments; tax credits made it possible to proceed.

Former Rochester Mayor Bill Johnson lamented the problem of keeping up with deteriorating housing. Urban mayors, he said, face three intractable challenges: escalating crime, diminishing school performance and deteriorating housing. "The general public is most focused on crime and school problems," he said. "These are issues that almost invariably make their way to the front pages of newspapers and onto newscasts. For the general public, there is less of a concern and recognition of the housing problem. Unless you happen to be living in a neighborhood that is overtaxed and overwhelmed by deteriorating housing, you will not make it into the news."

Lenny Skrill, upstate director of capital development for the Division of Housing and Community Renewal, talked about how DHCR seeks to "motivate developers to use tax-exempt bond financing as a way to pay for affordable housing." Niall Murray of Rockabill Advisors detailed the "jigsaw puzzle" of funding the Olean projects. "We had to fit the pieces together to complete the puzzle," he said. And Darryl Seavey of WNC & Associates noted that the financing for the project was turned around in just 38 days.

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"Green Building in Upstate New York":

Sam Magavern, who teaches in the Affordable Housing Clinic, gave a run-down on a report that grew from his "Green Cities" class in the spring 2007 semester, detailing the environmental costs of housing. "Green housing is housing that lessens its negative impact on the environment," he said. "All housing has a negative impact, but the issue is how we lessen that impact." The average U.S. home causes 24,000 pounds of greenhouse gas emissions each year, Magavern said.

Additionally, "the type of housing we are producing and the emissions it causes hurt poor people the most, both on a local level and on a global level." For example, he said, rising ocean levels because of global warming

threaten hundreds of millions of people in low-lying coastal areas worldwide, many of them poor. "The ironic situation," he said, "is that if we do not pay very close attention to how we are doing our affordable housing, if we do not use green techniques, we are inadvertently going to be causing homelessness even as we try to overcome it."

Walter Simpson, UB's energy officer, warned that much higher prices are coming for gasoline, natural gas and electricity. And, he said, citing a NASA expert, "we are on the brink of catastrophic global warming. To address this, he said, builders must seek low-carbon solutions for affordable housing, such as active and passive solar and photovoltaic energy, wind energy, biomass and biofuels, and hydroelectricity.

As to whether solar energy can work in frigid Buffalo, Simpson showed off photos of his own house, equipped with passive solar heating, solar hot water and solar electric generation. "The electric meter runs backwards," he said. "National Fuel owes us at this point."

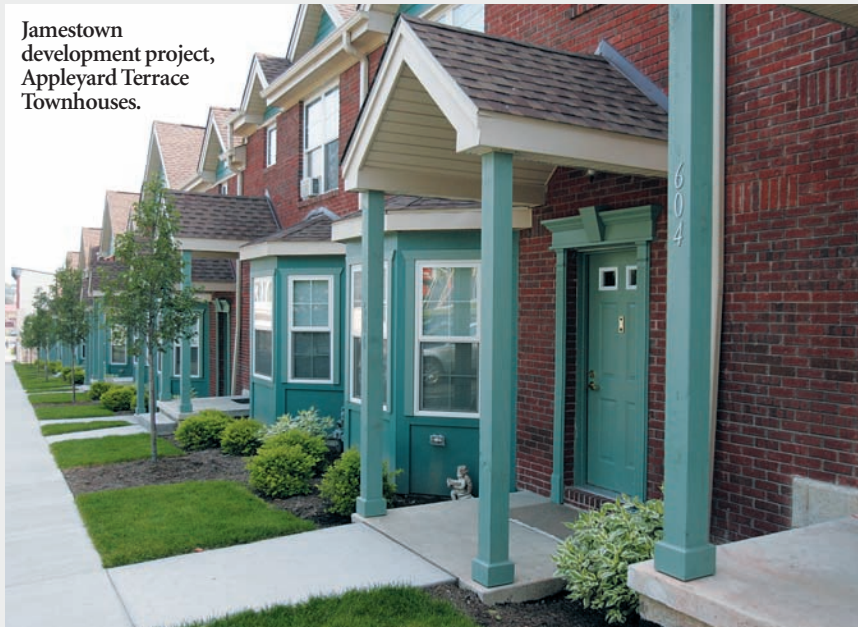
E.L. Andrew Padian of Steven Winter Associates, an energy consultant to architects and builders, spoke about the relative energy efficiency of multifamily buildings, saying they use energy at five times the rate of the average American home.

Even simple design changes, he said, can mean big savings on energy costs. He pointed out a newly built home in Rochester that, with a \$175 investment in energy efficiency improvements, reduced its utility costs by a staggering 35 percent. "Stay away from the energy bling," he advised, "and just do the nuts-and-bolts stuff."

Finally, Michael Colgrove of the New York State Energy Research and Development Authority introduced a new Multifamily Performance Program designed to help builders create affordable housing that is energy-efficient. "Our vision across the state is to help New Yorkers in all sectors save energy," he said.

"You are all bringing preconceived notions, and a lot of this is hearsay, to the table when you think about green energy efficiency. The incremental cost is really your inexperience. It is your learning curve. Once you learn how to do it, it will cost you less to build good solid energy-efficient buildings than the ones you are building today. I guarantee it."

Jamestown development project, Appleyard Terrace Townhouses.



Jon Elder

"Introduction to Low-Income Housing Tax Credits":



Chadakooin Center, in Jamestown

Hezel gave a brief history of the tax credit program and highlighted three remarkable program characteristics: flexibility of use for large and small, rural and urban developments; adaptability to other streams of financing from the federal, state and local governments; synergy resulting from yoking the drive and discipline of the for-profit sector with the mission direction of the not for profit housing agency. To illustrate these characteristics Hezel showed off photos of three successful developments in Jamestown: the newly constructed 20-unit Appleyard Terrace Townhouses; Euclid Gardens, a successful rehab of a long-vacant school; and Chadakooin Center, an elegant downtown building rescued from a 1950s modernization effort, which Hezel said resulted in "a horrendous piece of junk."

Steven Weiss '91, of Cannon Heyman & Weiss, gave an overview of how tax credits produce the money that is needed to fund construction of affordable housing. "The government allocates tax credits that can be turned into cash, and the cash goes to fund the development," he said. "In general, the economics work very well in these transactions. The default rate on these transactions is extraordinarily low, there have been very few foreclosures on these transactions, and the risk is generally low."

Sebastian Corradino of RBC Capital Markets/Apollo Equity Partners, a tax credit syndication firm, spoke of the role of the investor in this process. The biggest investors in low-income housing tax credits, he said, are banks and insurers, because such investment fulfills their Community Reinvestment Act mandate. "There is so much room in these things that can go wrong that it is remarkable how well they go, and that is a testament to the lawyers who put these things together," he said.

And Arnon Adler, representing the New York State Division of Housing, spoke about the Qualified Allocation Plan and how the agency's scoring system determines how to disburse its finite resources. Among the requirements, he said, is that the proposed housing units are restricted to tenants earning no more than 60 percent of the area's median income.