My View  FROM KIM HERMAN, EXECUTIVE DIRECTOR

Housing agendas for the 2009 legislature: Working to create a healthier environment for affordable housing

What should we do in the next legislative session to help Washington State housing markets regain their equilibrium? And what can be done to create more affordable housing opportunities for people at the lower end of the income spectrum?

To answer these questions, I’ve interviewed leaders from six housing industry groups and homeless and low-income housing coalitions in our state. Whether nonprofit or for-profit, their constituents’ interests are not as divergent as you might think. The ideas and agendas they are bringing to the 2009 legislative session are strongly focused on proposals to help keep housing affordable—and available—to all Washington State residents.

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Some 50 members of the Washington Low Income Housing Alliance (WLIHA) met in Seattle on November 11 to work on the Alliance’s 2009 Legislative Agenda. Pictured beside Kim Herman at bottom left are Nick Federici, WLIHA lobbyist, and Megan Hyla of King County Housing Authority, who serves as WLIHA’s State Legislative Committee Chair.
Setting priorities during a period of shrinking state revenues

According to recent estimates, Washington State is facing a budget shortfall of between $5 and $6 billion for the 2009-2011 biennium. As we go to press this week of December 15, Governor Gregoire is submitting her budget for the biennium; she has challenged lawmakers and citizens to essentially rethink the role of state government. She has invited ideas for reforms that will provide services more efficiently and cost-effectively, along with solutions that will help grow the economy and create jobs.

A healthy housing market is critical to a healthy economy. During this current sea change in our financial markets, the entire country has learned that lesson the hard way. The message our state’s housing organizations are bringing to state government is: Let’s pay adequate attention to what needs to be fixed in the housing arena, and it will help all sectors of the economy.

As we all know, during tough economic times we have to prioritize what matters most. All of the leaders I’ve spoken with, from the Building Industry Association of Washington (BIAW), the Seattle Mortgage Bankers Association (SMBA), the Washington Association of Realtors (WAR), the Washington Low Income Housing Alliance (WLIHA), the Washington Mortgage Lenders Association (WMLA), and the Washington State Coalition for the Homeless (WSCH), are mindful of this. Their approach is twofold: Short-term solutions to help ease the pain for those most hard-hit, but importantly, long-term policies to help create a healthier environment for housing now—and in the decades to come.

Agendas for nonprofit affordable housing advocates

Washington State Coalition for the Homeless: A focus on the hardest-hit

When talking about her organization’s funding priorities for the 2009-2011 biennium, WSCH Executive Director Mia Wells points to the mandate passed by the legislature in 2005 to cut homelessness in half by 2015. If the budget doesn’t at least maintain current funding levels for homeless-elimination programs, she notes, the critical efforts of this landmark legislation will be undermined.

“Realistically,” she says, “our top priority is to make sure that those programs currently in place to address homelessness don’t get cut. But we also want to present the need to legislators—we have so much more to do. And so another of our major messages this year is that, in difficult economic times, investing in housing and social services for the homeless is a much better investment, rather than ultimately paying more for its impacts in terms of emergency systems like emergency rooms and hospitals, as well as the criminal justice system.”

Mia believes that Washington State’s legislators “get it”—that they understand, for example, that adequate housing for a homeless person exacts less of a cost to a community in the long run.

That’s why one of WSCH’s funding priorities for the legislature is to maintain funding for the current two-year pilot program administered by CTED, the Offender Re-entry Transitional Housing Program, which ends in June 2009. The program works with a relatively small number of the state’s offenders who are provided with housing and services rather than being discharged into homelessness; preliminary data indicate that the majority of Re-entry Housing Pilot Program (RHPP) participants have successfully complied with the terms of their supervision following discharge from a correctional facility. But RHPP needs more time to follow outcomes to be able to evaluate results.

“RHPP needs to get refunded this session, or else it’s over,” Mia explains.

Ultimately, she says, WSCH’s objective is for the Department of Corrections and other state partners like DSHS to comprehensively address the problem of releasing people formerly housed in state institutions like prisons.
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My View from Kim Herman, Executive Director

December 2008

Washington Low Income Housing Alliance: Low-income families are struggling

Mia and WSCH are working closely with WLIHA in support of a number of policy and funding priorities for affordable housing. Rachael Myers took on the executive director’s role of WLIHA this fall. She’s done a magnificent job of pulling together this organization’s membership in prioritizing issues to bring to the legislature. She has been successfully reaching out to engage more people and organizations that share WLIHA’s aims.

WLIHA has set out four lead items that it will bring to Olympia, with a number of other priorities brought by other organizations that it will work to support. “With the revenue shortfall forecasts, it’s of great concern for everyone who cares about programs that serve low-income people,” says Rachael.

“We’re going to work very hard to make sure the message gets across to legislators that, even though the state is struggling and doesn’t have the resources that it’s had in the past, neither do families in Washington.”

These are WLIHA’s lead items:

- **Maintain the Housing Trust Fund (HTF) at $200 million for the biennium.** WLIHA is also pushing for increased funding for the HTF’s operations and maintenance (O&M) account—by approximately $10 million. “We believe that this O&M increase is critical,” says Rachael.

  People who live in HTF-funded homes pay approximately 30% of their income in rent. For programs that serve people who are making, say, 60-80% of their area’s median income (AMI), rents provide enough funding to maintain and operate the housing. But for those who earn less, the amount paid in is smaller. “It’s almost impossible for housing providers to be able to serve people at 30% or lower of AMI unless they have other subsidies,” says Rachael. “O&M is that other state subsidy to ensure that HTF units can help people at the very lowest income levels. And currently, the state’s O&M account is over-subscribed.” WLIHA is also asking legislators to approve the use of some of the HTF’s capital dollars for administering the HTF.

- **Prohibit source-of-income discrimination for renters, and ensure accuracy and fairness in tenant screening reports.** The intent of this agenda item is to improve access to housing for low-income people by barring discrimination against legal sources of income, including government and nonprofit subsidies. Currently, landlords can refuse to
rent to people with Section 8 vouchers, for example. And establishing fair and consistent “rent-worthiness” screening criteria would also help prevent discriminatory practices; and, mandating that screening reports are portable for a given time period will ensure that low-income tenants can reduce their out-of-pocket costs when seeking housing.

**Increase homeownership opportunities for low-income families.** This agenda item offers two policy solutions:

- Providing tax relief to low-income families by giving an exemption to real estate excise taxes to nonprofit organizations and housing development agencies. “The details are still being worked out,” says Rachael, “but approximately $6-8 thousand would be removed from the price of the house, making it more affordable for a low-income family. This is intended to spur sales of homes in areas where we’re starting to see growing numbers of vacant, foreclosed homes.”
- Expanding the resources available to prevent foreclosures. “The legislature wants to work on this, and there is some federal money allocated to the state,” Rachael explains. “We want to help come up with solutions, whether they be extra notifications, or counseling requirements—so there’s more done to try to work something out with homeowners.”

**Ensure that transit-oriented communities include housing affordable to low-income individuals and families.** WLIHA is supporting several approaches:

- **HEFT (Housing Everyone Financing Tool).** WLIHA is working with the City of Seattle and Futurewise on transit-oriented communities legislation that supports affordable housing in growing areas. This legislation would ensure the continuing development and maintenance of lower-income housing close to transit.
- **Technical revisions to the state’s affordable housing incentive zoning law that will support local governments’ affordable housing efforts.**
- **An infrastructure fund for affordable residential development close to transit.** Jurisdictions that prioritize affordable housing that is close to transit stations or transit lines could apply for funding that would support residential infrastructure for an entire area. WLIHA is proposing that the funding would come out of a special set-aside from the real estate excise tax pool—created in years when the economy is strong and taxes collected rise above an established baseline.

“We’ve been very cautious about asking for new money. Any new funding hasn’t got much of a chance, which is why our agenda this year is mostly about policy changes rather than funding requests. But this is not the time to reduce investment in housing and we’re going to have to be diligent in telling that story well to legislators,” Rachael concludes.

**Agendas for Home Builders, Mortgage Lenders, Realtors**

**Washington Association of Realtors: Stimulating the housing market**

In late November, I took part in the Economic Stimulus Presidential Advisory Group forum sponsored by WAR. Leading economists, state officials, leaders in the real estate and lending industries, and both residential and commercial Realtors were invited to bring ideas on what can be done to stimulate the housing market. The big-picture objective is to increase homeownership for first-time homebuyers, which in turn will help stimulate the state’s economy.

I spoke with Brian Wahl, WAR’s government affairs director, following this meeting to hear about the priorities he and WAR will be taking to Olympia. “Obviously, housing has been a fundamental factor in our economy’s current downfall, and to be able to get the economy back on track, we need to get housing back on track,” Brian emphasizes. Here are the priorities that he and WAR will be looking to advance with the legislature:

- **Opposing increased taxes on homes, businesses, and services that would hurt home sales.** “This is a huge concern for us,” says Brian. “Particularly the real estate excise tax, sales taxes on services, and business taxes.”

- **Opposing amendments to the GMA that would add addressing climate change as a mandatory objective.** “We support measures that encourage affordable housing choices and the infrastructure needed to provide more homes near job centers to
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positively address climate change,” Brian says. “But we are concerned about the impact, in terms of the raising the cost of housing and limiting housing availability, that other climate change measures would entail.”

Supporting consensus legislation to remedy unintended consequences of HB 2791, the Distressed Property Law.

Similar to the mortgage bankers’ experience with new legislation that Don Burton of W MBA describes on pages 7 and 8, a law passed during the 2008 session unintentionally prevented real estate professionals from being able to assist in the foreclosure process. “The problem HB 2791 addresses is related to foreclosure scams,” Brian explains. “We absolutely agree this practice needs to stop. But the language of the bill created some severe challenges for the real estate market and real estate professionals. We’ve worked with DFI (Department of Financial Institutions), legislators, and others to remedy the language, while at the same time protecting consumers and preserving the intent of the law.”

Increasing first-time homebuyer downpayment assistance (DPA) programs to help stimulate the housing market. During the last month’s forum, recommendations were put forward with the goal of increasing buyer confidence and alleviating buyers’ “access to credit” concerns. These proposed remedies include:

- Providing DPA through a temporary program to incentivize home sales, financed through the state’s general fund revenues.
- Using the state’s $28 million HUD Neighborhood Stabilization Program grant for DPA.
- Expanding the Commission’s debt limit and bond capacity to fund DPA programs.

On average, Brian explains, 40% of home purchases are made by first-time buyers. “One of the concerns right now is—particularly with first-time buyers—people aren’t pulling the trigger. We’ve seen the numbers of first-time buyers drop dramatically. That’s why we’re focusing our efforts there. It’s the first-time purchaser who sets off a chain reaction: The person selling the home then makes a purchase, and on and on.”

And lastly, Foreclosure prevention efforts, including a requirement for reasonable loss mitigation efforts before foreclosure action can be filed, and extending and increasing the state’s homeowner security counseling program. “Preventing foreclosures will help homeowners,” Brian says.

“It will also help to balance the supply of housing with demand, help to stabilize prices, restore consumer confidence—and help housing markets get healthy again.”

Building Industry Association of Washington: Tread carefully with regulation

In speaking with the representatives of our state organizations that represent, primarily, the for-profit housing industry in building, financing, and selling homes, I took away one overarching theme. That theme was aptly summed up by BIAW Legislative Affairs Director Brian Minnich: “First, do no harm.” Many who are involved in the business of housing are apprehensive that the current economic crisis will inspire a well-intended but ultimately overly harsh slate of
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Here are some of the chief “tread carefully” agenda items for BIAW:

Don’t increase taxes. Brian points out that since most residential builders are sitting on the sidelines right now, higher taxes wouldn’t yield much. BIAW’s membership is hoping that the legislature will see, now that it has shrunk, how much tax revenue construction has provided, including the real estate excise tax dollars that have gone into the state’s general fund. “When things were going well two or three years ago,” Brian points out, “home construction was putting a lot of money into the budget’s general revenue, which allowed the state to do a lot of things.”

Don’t pass a home warranty bill. The result, says Brian, would drive insurance companies that provide contractor liability insurance out of the market. In the case of nonprofit housing developers and builders in our state, for example, the high cost of this insurance can add about seven to nine thousand dollars per unit—and makes it that much harder to build affordable homes.

Move carefully on global warming and greenhouse reduction legislation. BIAW’s concern is that this kind of legislation would create a scenario of never-ending litigation, tying up the courts, adding significant costs to housing, and making it more difficult for both nonprofit and for-profit builders to build homes. “We need a national and regional approach to this issue,” says Brian. “Creating legislation state by state is not the answer.”

Business floats our economy’s ship—and generates tax revenues

In terms of specific legislation they’d like to see passed, two bills BIAW’s membership will be supporting focus on the issue of fair taxation; the third focuses on the costs of existing legislation:

Eliminate the current 30-day reciprocal agreement between Washington State and our bordering states for workmen’s compensation taxes. Currently out-of-state contractors can work within Washington’s borders for 30 days without contributing to Workmen’s Compensation. Our contractors don’t get the same treatment. “We look at it from a fairness perspective,” Amy says. “You work, you should pay taxes.”

Eliminate owner exemption from Workmen’s Compensation taxes in the drywall industry. “Right now, if you’re a sole proprietor, you are exempt from paying Workmen’s Compensation taxes in Washington,” Amy explains. “Many people in the construction industry feel that this is an invitation to fraud—everyone becomes a sole proprietor to avoid these taxes.”

Add a new section to Washington State’s current construction storm water law that will require a full analysis of the costs it imposes. “This legislation is very expensive to builders—the National Association of Homebuilders told us that ours is the most stringent in nation. Who pays for it ultimately? The owner of that property,” Brian says. BIAW’s contention is that these costs, which include other local and federal mandates, are much higher than the Department of Ecology’s estimates.
“Again,” Brian sums up, “much of our emphasis at BIAW is going to be on what can our government do to help the housing industry—without compromising safety or environmental protection—to help reduce regulatory burdens.”

Brian’s hope is that the legislature stays focused on the long-term consequences of policies. “Eventually what’s going to float the ship again is business—and a healthy housing industry. Our hope is that the legislature looks to the future and asks: What can we do to help spur the economy? Because the future is tax revenues. We all depend on them.”

Washington State Mortgage Lenders: Cultivate a level playing field

Like BIAW, WMLA and Seattle Mortgage Bankers Association (SMBA) are strongly advocating for policies that protect consumers, while also allowing the economy room to right itself. In the case of the mortgage industry, that includes not excessively constraining state-chartered lenders’ ability to lend, which gives an unfair advantage to federally chartered institutions that are not subject to the same regulations. WMLA primarily represents lenders that are state-chartered depository banks, as well as mortgage bankers that are non-depository direct lenders. SMBA is the Seattle-area chapter of WMLA.

Dean Dardzinski, president of SMBA and Pacific Northwest sales manager, Mortgage Guaranty Insurance Corporation (MGIC), puts it this way: “We’ve seen instances across the U.S. where some state legislators have been regulating the mortgage industry quite heavily. And that’s prompted businesses to say they’ll no longer lend in that state. We want to be able to protect the consumer, so they can be confident that they’re working with a professional organization that’s doing the right things. But we also want to make sure that new regulations are keeping the business environment safe as well.”

New federal and state regulations implemented this past year are changing the regulations pertaining to education, licensing, and practices for loan originators and mortgage brokers. In late July, as part of the far-reaching federal Housing and Economic Recovery Act of 2008, the S.A.F.E. (Secure and Fair Enforcement) for Mortgage Licensing Act was passed to create a national licensing system and minimum standards of conduct for residential mortgage loan originators. Our state’s Department of Financial Institutions (DFI) has been developing language to meet the S.A.F.E. Act’s requirements, which must be passed by our legislature.

“We’re ahead of the curve in Washington,” Don Burton says. Don is president of the WMLA and founder and CEO of Evergreen Home Loans. “We’ve been working closely with DFI as well as the legislature, to make sure that consumers are protected by the new legislation that’s being passed, and also to make sure that we still find a balance that promotes a vibrant lending environment.”

Don is well aware of the unintended consequences that can ensue when all of the ramifications of new legislation aren’t considered. During the last legislative session, he notes, “two bills came through at the 11th hour, and we had less than 24 hours to review them.” These two bills, SB 2770 and SB 6471, were part of a much-needed series of bills that were passed and signed into law during the 2008 session that introduced measures,
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including legislative reforms in lending practices, to protect future homebuyers. Many of these measures were based on recommendations from the Task Force for Homeowner Security, which I discussed in the April 2008 issue of My View.

Unfortunately, what neither WMLA nor DFI caught then was language in these bills that unintentionally made it illegal for non-depository direct lenders to provide reverse mortgages to seniors. The intention was to prohibit negative amortization in lending, but the fact that reverse mortgages are negative amortizing loans was overlooked. The upshot, says Don, was that these bills resulted in higher licensing fees for state lenders—and the loss of the ability by many lenders to provide reverse mortgage products. DFI has recognized this and is working for passage of corrective legislation in the next session.

The WMLA membership wants the opportunity to review legislation under consideration, to ensure that local companies aren’t constrained by unrealistic and harsh fees and requirements—to which federally chartered companies are not subject. “We believe in a level playing field allowing more local lenders to compete. This provides greater consumer choice and saves the consumer money,” says Don.

Education, foreclosure counseling—and fighting misperceptions

Also on the agenda for WMLA and SMBA is the intent to work with legislators to support ways to help homeowners who are currently struggling with meeting their mortgage payments. These groups are part of an industry push to provide free foreclosure prevention assistance to homeowners through Hope Now, an industry alliance.

WMLA and SMBA strongly support first-time homebuyer education. “What we’ve seen is that those loans where borrowers have gotten homebuyer education, have performed quite a bit better,” says Don. Dean adds, “I speak for both the WMLA and the SMBA in saying it would be a great thing to require some type of pre-purchase counseling for all first-time homebuyers in the state.”

Both leaders stress that their membership continues to fight the misperception that this is a bad time to be buying a home. “Especially if you’re a first-time homebuyer,” Dean says, “you couldn’t have a better time to be a purchaser. This is a message that we all need to be getting out. There are plenty of products available, a tremendous amount of inventory to pick from, and incredible rates and negotiating power.”

Fair markets and affordable housing: Righting the balance

Governor Gregoire has challenged all of us to make hard choices as we face shrinking state revenues and a slowing economy. None of us envies the task that she and our state legislators face in balancing the 2009-2011 budget.

The leaders and legislative affairs directors I’ve interviewed, along with their constituencies, have worked hard to come up with answers that promote fairness and balance competing interests, protect our citizens, give support to those hit hardest by this downturn, give our economy and housing markets a fighting chance to get back on their feet—and meet the Governor’s requirements for fiscal discipline. All of this should make for an interesting—and impassioned—2009 session.