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Housing Advocates Warn Of Budget Language On Valuations

More than 150 groups are sounding the alarm about a Senate budget provision they contend would reduce affordable housing opportunities across the state.

The two-year spending outline (**HB 110**) language requires federally subsidized residential rental property to be valued for tax purposes based on its market rent without factoring in governmental actions such as rent subsidization.

Tony DiBlasi, executive vice president of operations and asset management at the Ohio Capital Corporation for Housing, told members of the **Senate Finance** Committee that the upper chamber's insertion of the language amounts to "bad public policy." He added it "would position Ohio as having one of the most draconian valuation methods for affordable housing in the nation."

"These provisions would have an absolutely devastating impact on affordable housing properties across Ohio, resulting in a doubling or tripling of the real estate taxes, as this proposed language would require that affordable housing properties be valued as if they were able to charge market rate rents – which to be clear: they are prohibited from doing so, per their deed restrictions," Mr. DiBlasi said.

"These affordable housing assets – by virtue of being involved in federally-sponsored housing programs – are encumbered with a restrictive covenant – often times for 30 years or longer – where the rents the owner is permitted to charge is almost always below market."

Don Boyd, vice president of government relations and general counsel at the Ohio Bankers Association, also spoke out against the budget provision.

He called the valuation of Low-Income Housing Tax Credit projects "complex" but said a series of Ohio Supreme Court decisions over the past decade "recognized the unique situation these projects present for taxing."

"Through these cases, LIHTC projects have been valued taking into the economic realities imposed on the properties. Generally speaking, these properties can only be rented to a small subset of the population and are only able to generate limited rental income due to restrictive covenants imposed by the government," Mr. Boyd wrote in testimony. "Thus, the true value a buyer would be willing to pay for the property is less than one would pay for an unencumbered, non-LIHTC, property."

He went on to say that the budget language could result in as much as 35% of current LIHTC properties being placed "under extreme financial distress."

"This would increase the number of potential defaults and place the banks who hold the mortgages on, or invest in, these properties at great risk of financial loss. Banks and lenders could see significant financial losses for the existing affordable housing stock as well as put any future affordable housing developments at risk as they would become economically impracticable," Mr. Boyd wrote.

"Consequently, inclusion of this amendment would be extremely detrimental to Ohio's banking industry and economy. Affordable housing stock in Ohio is already facing a severe shortage. This amendment would create a disincentive for investing in affordable housing, at the exact time we need more investment."

Marcus Roth, communications and development director for the Coalition on Homelessness and Housing in Ohio, said in an email that prior to the COVID-19 pandemic, more than 400,000 Ohio households were spending more than half their income on rent.

He said the past year has exacerbated the affordable housing shortage.

"The last thing we need is a tax increase that threatens affordable housing properties that are home to so many low-income seniors, Ohioans with disabilities, and single parents working to provide a better life for their children," Mr. Roth added.

The Legislative Service Commission in its **analysis** of the budget provision concluded local governments could be in line for a "substantial" influx of revenue, but also deemed that possibility "uncertain" due to the fact that in 2018 the state's high court **affirmed** the use of contract rents in tax value determinations for certain properties.

The budget language is identical to a bill (SB36, 133rd General Assembly) introduced by Senate **President Matt Huffman** (R-Lima) in the last legislative session.

In sponsor testimony, he said the high court's 2018 decision "sets a dangerous precedent." (See **Gongwer Ohio Report, February 27, 2019**)

"Essentially, it allows property owners to lean on government subsidies to dramatically deflate their property values, even when permitted construction investments and true market rental rates would have that value calculated much higher," he told members of the **Senate Ways & Means** Committee.

Sen. Huffman went on to explain that he believes developers of low-income housing are "making a lot more than they should."

The measure received just three hearings before dying in committee.

The bill's revival as a budget amendment came as a surprise to Hal Keller, former CEO of OCCH and now a policy advisor for the Ohio Housing Council. He said the language was dropped as negotiations were ongoing between the County Auditors' Association of Ohio and the Ohio Housing Council on the valuation of low-income property.

"This just came out of the blue," he said in an interview.

In a **letter** signed by 169 organizations opposed to the amendment, the groups said significant progress had been made in the negotiations, including the implementation of a pilot program.

"This controversial budget amendment has not been fully vetted in the Senate and not at all in the House; enacting it now would preempt the working group's consensus solution," they wrote in the letter delivered to senators Friday.

Mr. Keller said low-income properties could double in valuation, putting the existing stock in financial distress and providing a disincentive for developers to enter the market.

He is hopeful the language will be stricken from the bill next week when the upper chamber unveils its omnibus amendment to the budget either Tuesday or Wednesday.

"I get the sense that there might be dissenters that would like to see it stripped out of the budget bill," Mr. Keller said.
