HOUSING INDUSTRY UPDATE

2025 Mid-Year Report

Ballard Spahr LLP

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HOUSING ON THE HORIZON: 2025 MID-YEAR INDUSTRY UPDATE

OFFICE TO RESIDENTIAL CONVERSION: A TALE OF THE CITY AND THE SUBURBS

By Tina R. Makoulian

Across the United States, empty office buildings have become a common sight. According to Moody's Analytics, office vacancies are at their highest since the 1990s. The COVID hangover has left us with an abundance of vacant or mostly vacant office buildings in cities and towns across the nation. At the same time, the country is experiencing an ongoing housing shortage due to years of failing to meet demand.

The solution seems obvious: convert the empty office buildings into apartments. It is not so easy, however, and much has been written about the challenges of office to residential conversion. The practical challenges include adapting structures for safety standards, deep floor plates that make it difficult to bring in sunlight, immovable load-bearing walls, the need to install proper ventilation systems for air circulation, and ensuring that accessibility requirements are met. Still, many developers have successfully converted office buildings into apartments with the help of creative architects, skilled engineers, and in some cases, the government.

The vast majority of office to residential conversions have taken place in downtown areas or areas adjacent to the city core—not in the suburbs. This article explores the key reasons for that disparity.

The first reason, as is often the case in real estate, is location. Office buildings located in high-density city areas are typically near stores, public transportation, restaurants, and entertainment venues. In essence, the "neighborhood" already exists. A suburban office park, with buildings surrounded by parking fields, is not as attractive for residential use because it lacks proximity to these features. While amenities can be added, such as fitness rooms and accessory retail, it is difficult to compete with an established neighborhood offering a broader mix of easily accessible options.

The second reason is zoning. The majority of zoning codes, in both large cities and small towns, follow a basic principle: only one type of use (*e.g.*, residential, commercial, industrial) is permitted in a particular area. Larger cities, however, are more likely to include mixed-use zoning districts in their zoning codes. Philadelphia is a good example, where a building in a mixed-use district could be used for either offices or apartments. Without mixed-use districts, an office to residential conversion would require a change in the zoning district or a use variance—often a lengthy and costly proposition with no guarantee of success.

The third reason is the greater availability of government incentives, which can play a critical role. Compared to the suburbs, cities more often provide incentives to support adaptive reuse, such as density bonuses and local tax abatements. Many cities across the country have provided specific incentives for office to residential conversion. For example, earlier this year the Seattle City Council passed legislation allowing for the deferral of sales and use taxes on construction costs for eligible projects. Suburban municipalities, by contrast, are generally less able to provide the same level of incentives because they rely more heavily on their commercial tax base, making them less inclined to support conversions that could reduce their revenue base. This trend may shift, however, as the tax assessments on vacant office buildings get challenged.

While conversion of suburban office buildings to apartments is possible, and is being done in some areas, it remains more challenging due to these factors. Still, as the stock of urban buildings suitable for conversion is depleted and the housing shortage continues, we are likely to see more creative solutions emerge to make suburban conversions both feasible for developers and more attractive to residents—whether through creative financing, public-private partnerships, or updates to zoning and planning practices.

STUDENT HOUSING: A RESILIENT ASSET CLASS IN A SHIFTING MARKET

By Sara A. McCormick

Despite broader economic headwinds and a slowdown in new development, student housing remains a resilient and attractive asset class. The past year has seen notable portfolio transactions, reflecting investors' continuing interest in student housing. Developers are also active and adaptable, targeting new markets and diversifying the types of projects they bring to market.

Purpose-built student housing is a growing focus. Students today are savvy, socially conscious real estate users looking for more than just a room to sleep in; they seek communities that enhance their student experience and wellbeing. Many institutions and developers are revisiting their housing strategies, leaning towards sustainable, tech-enabled, and community-oriented living spaces. There has been an expansion of mixed-use development, integrating residential units with retail, dining, and recreation spaces, as well as wellness amenities and programming. Students today are also concerned about sustainability and environmentally responsible features have become standard expectations. To stand out in this competitive asset class, it is essential to listen to and understand the values of today's students.

Affordability is a critical issue for all stakeholders, including developers facing higher and unpredictable construction costs, universities confronting uncertain economic challenges, and students navigating rising living costs. While many students seek rich amenities, there is also a significant category of students looking for affordable housing due to current economic challenges faced by many families.

Additionally, while not specifically a student housing phenomenon, we continue to see consolidation in the higher education industry. As institutions face financial pressures, many are reevaluating their real estate portfolios and exploring ways to monetize underutilized assets, reduce overhead, or align holdings with shifting enrollment and academic priorities. Depending on the structure employed, these transactions can impact university-owned and university-adjacent real estate, including student housing. We anticipate more of this trend over the coming year.

From a legal perspective, there are increased complexities surrounding student housing development and management. Universities and developers must navigate a host of regulatory issues. The rise of purpose-built student housing developments has led to more detailed lease agreements and increased attention to the legal nuances surrounding rental agreements, liability, and student privacy.

Amid these trends, universities are navigating increasing uncertainty in today's political climate. Shifting public funding priorities, policy debates over higher education, and heightened scrutiny of institutional decision-making are creating new challenges for long-term planning. These dynamics may influence housing strategies, public-private partnerships, and the overall stability of the student housing market. As these factors unfold, adaptability and sound legal guidance will remain essential for stakeholders across the sector.

LEGAL AND LEGISLATIVE CHALLENGES TO LANDLORDS' USE OF ALGORITHMIC PRICING GAIN TRACTION

By Callie Castillo, Jessica M. Rizzo, and Edward D. Rogers

Algorithmic pricing software monitors real-time market conditions and recommends real-time adjustments based on data-driven insights. These tools are used across industries, including rental housing, hospitality, ridesharing, air travel, live entertainment, insurance, and e-commerce to enhance efficiency and improve decision-making.

In the multifamily housing sector, algorithmic pricing software is widely used to help assess potential rent prices and manage occupancy rates. While many property owners and operators view these tools as essential for improving transparency and operational efficiency, some critics argue that the tools could facilitate rent inflation by aggregating and potentially sharing proprietary pricing, occupancy, and inventory data among competitors. With lawsuits and ordinances mounting nationwide, the role of algorithmic pricing in housing hangs in the balance. At the center of much of the litigation is RealPage, a leading provider of rental pricing software widely used across the multifamily housing industry. Yardi, another prominent property management and pricing platform, has also been named in similar legal challenges.

Dozens of lawsuits have been filed by putative class representatives challenging the use of RealPage's software under federal antitrust laws. These cases have been consolidated in the Middle District of Tennessee as a multi-district litigation captioned *In re RealPage, Inc., Rental Software Antitrust* Litig. (No. II), No. 3:23-md-03071.

In November 2023, the Department of Justice (DOJ) filed a statement of interest in the RealPage case. The following year, the DOJ—along with multiple state attorneys general—filed *United States v. RealPage, Inc.*, No. 1:24-cv-00710, in the Middle District of North Carolina. Other states, such as Kentucky, have filed their own lawsuits. Meanwhile, another class action, *Duffy v. Yardi*, No. 2:23-1391, in the Western District of Washington, makes similar claims against landlords and property managers who use Yardi's algorithmic pricing software. In March 2024, the DOJ also filed a statement of interest in the Yardi case.

At the heart of these lawsuits are allegations that landlords and property managers are using algorithmic pricing software to engage in unlawful price-fixing by pooling nonpublic, competitively sensitive information—a possible *per se* violation of Section 1 of the Sherman Act. Treble damages and attorneys' fees would be awarded to successful antitrust plaintiffs. Defendants in each of the cases deny any wrongdoing and maintain that their use of the software complies with the law and provides significant benefits to the housing market.

In parallel with the litigation, cities are taking legislative action. Municipalities are passing legislation banning the use of algorithmic pricing tools, with ordinances going into effect in San Francisco, Berkeley, Philadelphia, Minneapolis, San Diego, and Seattle between 2024 and 2026. Philadelphia's ordinance, for instance, bans software that facilitates landlord "price coordination" through the collection of nonpublic pricing, supply, and occupancy data and the generation of rent recommendations. Similar to antitrust laws, Philadelphia's ordinance creates both a public and private cause of action and allows for treble damages and attorneys' fees for private plaintiffs. RealPage is fighting back against Berkeley's law. In April 2025, the company filed a complaint challenging the city's ordinance on First Amendment grounds.

RealPage and Yardi maintain that algorithmic pricing software benefits both property owners and renters by increasing market efficiency and improving pricing transparency. RealPage explains that its software is designed "to optimize revenue—not to maximize rents. It makes rental price recommendations in all directions: higher, lower, or at the current rent price."

Once promoted as tools for efficiency and market responsiveness, algorithmic pricing systems have become flashpoints in a growing legal and policy debate. As critics warn of their potential to enable price coordination through shared access to sensitive, nonpublic data, the outcome of ongoing litigation and legislation will likely shape the future role of pricing technology in the rental housing market.

SOLVING FOR THE MIDDLE-INCOME HOUSING GAP

By Kimberly D. Magrini

Workforce housing (also referred to as middle-income or essential housing) is becoming a central focus for communities across the country. Whether you're a city, town, village, housing authority, developer, or part of the workforce, providing or finding a safe, habitable, and affordable place to live is a paramount concern.

The industry is increasingly focused on finding innovative, practical solutions to support individuals and families earning between 60% and 120% of the area median income (AMI), particularly in high-cost regions like resort towns or major metropolitan areas, where wage growth fails to keep pace with the rising cost of living.

In addition to traditional affordable housing tools—such as Low-Income Housing Tax Credits (LIHTC), tax-exempt bonds, loans, and federal subsidies—market participants are turning to creative financing models to bridge the gap. These include public-private partnerships between cities or local housing authorities and developers, governmental ownership, and 501(c)(3) ownership structures.

One standout example is California's Joint Powers Authority (JPA) model, which allows local governments to issue tax-exempt governmental bonds to acquire and own multifamily apartment complexes. Under this model:

- The JPA partners with a private development company and property management company.
- Income restrictions (ranging from low to middle income, with some market rate units) are voluntarily applied for 15 years.
- A mortgage can be granted on the property as security for the financing.

At the end of the 15-year period, the city or local agency can:

- Pay off the outstanding debt and take ownership, or
- Wait for the bonds to mature and have the property revert automatically to the agency.

In either case, the city or agency retains flexibility to maintain the existing income restrictions or reconfigure the property to fit future housing needs.

Financing is only part of the puzzle. Forward-thinking organizations are also exploring new construction technologies to lower costs and scale production, as seen in a few examples described below.

Modular Housing: These homes are constructed off-site, assembled on location, and can reduce labor and material costs while accelerating timelines. Developers and local agencies are increasingly partnering to bring modular homeownership options to high-cost areas.

3D-Printed Housing: Advances in technology are creating opportunities for alternatives to the traditional brick and mortar. Using concrete or wood residuals, these homes are built layer by layer with industrial printers. A 3D-printed neighborhood is currently underway in Austin, Texas, and in places where populations are expected to grow rapidly (or already have housing shortages), this technology could help address housing shortages.

As the housing crisis continues to challenge municipalities and working families alike, the combination of innovative financing and cutting-edge construction may be key to expanding workforce housing. From reimagined ownership structures to next generation building techniques, public and private stakeholders are finding new ways to minimize the housing gap and build a sustainable future for the working middle class.

The following two case studies highlight how Ballard Spahr helps bring forward-thinking strategies to life across a range of housing challenges—from middle-income solutions to broader affordability needs.

CASE STUDY: FULCRUM COMMUNITIES PILOT PROJECT – PARKER, COLORADO

By Peter Lam

As part of Colorado's broader efforts to close the middle-income housing gap, Fulcrum Communities, a Colorado nonprofit, launched a pilot project using an innovative financing model to deliver workforce housing more quickly and efficiently. Ballard Spahr represented Fulcrum in structuring and closing the transaction.

With the state's new Middle-Income Housing Authority (MIHA) still in its early stages, Fulcrum partnered with the Colorado Housing and Finance Authority (CHFA) to issue 501(c)(3) tax-exempt bonds. The proceeds financed the acquisition of a three-bedroom townhouse in Parker, Colorado, which will be leased to middle-income tenants earning between 80% and 120% of AMI.

By acquiring turnkey properties instead of building new units, Fulcrum's model provides a faster path to occupancy—bypassing delays and risks associated with construction or major rehabilitation. With Colorado declaring that there is an acute shortage of affordable middle-income housing, CHFA, which approved the financing, recognized Fulcrum Communities' potential and capacity to lessen the state's burden in providing such affordable middle-income housing. The bond documents developed in this transaction were designed with scalability in mind, enabling Fulcrum to pursue similar acquisitions across Colorado.

Ballard Spahr attorneys worked closely with CHFA and its bond counsel to execute this first-of-its-kind structure. The firm's team was led by Peter Lam of the Public Finance Group, with support from Real Estate Department Chair Amy McClain and Associate Alejandro Monarez.

This project reflects a growing trend: public and nonprofit partnerships using tailored legal and financial strategies to address the "missing middle"—those earning too much for traditional subsidies but too little to afford housing near job centers.

CASE STUDY: INNOVATIVE AFFORDABLE HOUSING FINANCING IN FAIRFAX COUNTY, VIRGINIA

By Jeffrey S. Ballard and Andrew T. Wang

A major affordable housing development underway in Fairfax County, Virginia, is setting a new precedent for large-scale, multi-phase transactions in high-cost suburban markets. Located adjacent to the County's Government Center, the 279-unit project now under construction combines layered financing and public land reuse in an innovative way to deliver affordable multifamily housing for residents earning up to 70% of AMI, including units set aside for households earning between 40% and 60% of AMI or less.

The development, known as Residences at Government Center II, is being constructed on underutilized but centrally located parking lot space leased from the County. The developer, Lincoln Avenue, expects that many residents will be county government workers.

On the equity side, the financing involved the use of a "quadruplet" structure, closing two twinned 4% and 9% LIHTC transactions simultaneously. This strategic move maximized tax credit equity, minimized risk, and supported efficient construction of shared assets like the parking garage.

On the debt side, tax-exempt bonds were issued by the Fairfax County Redevelopment and Housing Authority (FCRHA) to finance the 4% components of the project.

The construction-to-permanent bond financing involved a new hybrid structure whereby the security for the bonds converts from cash collateral during construction to a Freddie Mac credit enhancement agreement during the permanent phase.

Ballard Spahr served as bond counsel to FCRHA for the financing. The team included Jeff Ballard, Peter Lam, and Andrew Wang.

Additional project financing was provided by Capital One and the County.

The project demonstrates how public assets and creative financing tools can be leveraged to advance affordable housing goals in high-cost markets.

SHAPING THE FUTURE OF AFFORDABLE HOUSING: KEY TAKEAWAYS FROM THE 2025 ABA FORUM

By Jennifer McMillan Beyerlein, Amy M. McClain, Mary Grace Folwell, and Angela M. Christy

The 2025 ABA Forum on Affordable Housing & Community Development Law Annual Meeting, held in late May, brought together leading attorneys, policymakers, and housing advocates to examine how the new administration may shape national housing policy. The event reaffirmed the Forum's focus on advancing solutions to today's most pressing affordable housing challenges. Ballard Spahr attorneys Jennifer Beyerlein, Angela Christy, Mary Grace Folwell, and Amy McClain served as moderators and/or panelists across several sessions. Below are highlights from the insights they shared.

Heard From the Hill on the Department of Housing and Urban Development (HUD)

HUD and the Federal Housing Administration (FHA) are adapting to operational challenges. While no sweeping structural reforms have been announced, important tactical changes are underway that signal a more nimble, responsive agency posture.

Key Takeaways:

- **Streamlined Decision-Making:** The FHA is reviving the single-underwriter model to accelerate loan processing and improve efficiency amid staffing constraints.
- **Focus on Flexibility:** Local HUD offices are making efforts to be more responsive and adaptable, even as personnel shortages persist.
- **Private Sector Opportunity:** With federal leadership focused on incremental improvements, there's a unique opportunity for private-sector partners to offer input and help shape more consistent, coordinated processes across regions.

These changes indicate HUD's current emphasis on operational responsiveness over structural overhaul—and signal that developers and practitioners have an active role to play in shaping the agency's evolving practices.

Tribal Lands

Recent federal policy updates are expected to significantly enhance the financial viability of affordable housing projects in rural and tribal communities, areas long challenged by limited capital and high development costs.

Notable Insights:

- **Permanent 30% Basis Boost:** LIHTC developments in rural and tribal areas will now benefit from a permanent 30% basis boost, improving deal feasibility and unlocking stalled projects.
- **50-35% Bond Test Preserved:** Maintaining this bond financing rule ensures continued access to critical private activity bond volume, supporting a broader range of tax credit deals.
- **Corporate Tax Rate Holds Steady:** By keeping the corporate tax rate unchanged, Congress has preserved investor interest in tax credit equity, offering much-needed stability in a volatile market.

Together, these measures mark a step forward in addressing persistent housing gaps in underserved geographies, particularly on tribal lands where capital has historically been the hardest to secure.

Post-Closing and Construction Concerns

This panel offered practical insights into the legal risks that developers, lenders, and property owners face related to construction issues before and during a project, as well as obligations after loan closing—particularly in affordable housing projects. Using a hypothetical development scenario, panelists walked through typical pitfalls in construction contracts and how they can escalate costs or delay timelines, and how to contract around certain risks.

Highlights:

- **High-Risk Contract Clauses:** The discussion focused on common areas of exposure in construction agreements, including tariffs, *force majeure*, consequential and liquidated damages, prompt payment and retainage, and jurisdictional issues like choice of law and anti-forum statutes.
- **Risk Management Emphasis:** Presenters emphasized the need for proactive risk management to address rising construction costs and project delays in today's volatile development environment.
- **Protective Revisions:** Speakers recommended updates to standard construction contract forms to better safeguard both owners and lenders, highlighting strategies to minimize disputes and mitigate financial exposure.

Overall, the session reinforced the importance of careful contract drafting and negotiation post-closing to preserve project viability and financial integrity.

SENIOR HOUSING LEGAL AND POLICY HIGHLIGHTS FROM THE 2025 LEADINGAGE OREGON ANNUAL CONFERENCE

By Gabriela Sanchez

The senior housing and long-term care sector is navigating a wave of legal, regulatory, and funding changes in 2025. These developments carry significant implications for operators, developers, and housing professionals serving aging populations. At the LeadingAge Oregon Annual Conference, Ballard Spahr attorneys Gabriela Sanchez and Jeff Duncan shared key legal and regulatory developments shaping the future of the senior housing sector. The highlights below reflect insights from their session.

National Updates

SNF Admission Agreement Restrictions: The Centers for Medicare & Medicaid Services (CMS) has clarified that admission agreements at skilled nursing facilities (SNFs) may not include third-party payment guarantees. Even indirect language that could imply personal financial liability for a resident's representative is considered noncompliant.

CMS Staffing Rule Challenges: The CMS staffing mandate (requiring 3.48 nursing hours per resident per day and 24/7 RN coverage) was vacated by a Texas federal court on the grounds that it exceeded congressional authority. However, in a separate case, an Iowa court declined to block the rule, indicating ongoing legal uncertainty. The rule's future remains in flux and merits close monitoring.

SNF Revalidations Deadline: All SNFs participating in Medicare or Medicaid must meet new ownership and control disclosure requirements by August 1, 2025. As of May, only about 20% of facilities had completed the process, signaling the need for urgent compliance efforts.

Affordable Housing Funding Uncertainty: The current federal administration has proposed substantial cuts to HUD programs, including a 44% reduction in overall funding and reduced support for fair housing initiatives and staffing. While similar proposals in the past were blocked by Congress, the renewed uncertainty has created planning challenges for affordable housing providers.

Oregon-Specific Updates

CBC Facility Oversight: Oregon's Department of Human Services (ODHS) has increased enforcement under Home- and Community-Based Services privacy standards, including requirements for bathroom locks and updated evacuation protocols. In some cases, facilities report being cited for violations before investigations are complete. ODHS has also begun offering "Letters of Agreement" in lieu of formal license conditions (enforceable but not subject to hearing or appeal).

HB 3838: This legislation would establish a new board with broad powers to set minimum pay, benefits, and training requirements for community-based care workers. It also introduces a private right of action for violations, which could increase compliance risks for providers.

SB 228: This bill affirms the right of memory care residents and their families to form independent family councils. Facilities would be required to provide space and a liaison, and to respond to council concerns in a timely manner.

SB 739: ODHS would be required to initiate an on-site investigation within 24 hours (or the next business day) for complaints involving death or serious harm. The bill includes additional procedural steps, such as notifying residents and designated contacts in the event of substantiated findings and clarifying steps for facilities to demonstrate compliance.

This evolving landscape reflects both heightened federal scrutiny and increased state-level regulation. Senior housing stakeholders, especially those operating across jurisdictions, should keep a close eye on further developments in staffing, compliance, and funding policy throughout the remainder of 2025.

WASHINGTON'S 2025 LEGISLATIVE SESSION: NEW TOOLS FOR HOUSING PRODUCTION AND REFORM

By Grant S. Degginger

Washington State continues to advance efforts to address both housing supply and housing costs. The 2025 legislative session delivered a suite of bills aimed at limiting the rate of rental cost escalations, increasing housing production, streamlining permitting, and clarifying legal processes for local jurisdictions and developers. Below is a summary with links to the full bill texts.

Together, these reforms reflect a deepening commitment by Washington lawmakers to unlock housing supply while maintaining transparency, affordability, and environmental stewardship. Most of the enacted bills listed below became effective in July 2025. As implementation unfolds, Ballard Spahr will continue to monitor local rulemaking and advise developers and municipalities on how best to navigate the evolving regulatory landscape.

ESHB 1217/SB 5222 - Limiting rent and fee increases, requiring notice of rent and fee increases, limiting fees and deposits.

This bill aims to offer greater stability and transparency for tenants while also providing clear enforcement mechanisms. It also outlines various tenant protections under the Residential Landlord-Tenant Act (RLTA) and the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA):

- **Rent Increase Limits**: Limits rent hikes to the lesser of 7% plus the Consumer Price Index (CPI) or 10% within any 12-month period under the RLTA, and 5% under the MHLTA. The rent increase limits do not apply to buildings less than 12 years old, buildings operated by public housing authorities, certain qualified low-income housing developments, or for tenancies in certain owner-occupied rentals.
- **Additional Tenant Protections**: Provides lease termination provisions, requires a 90-day notice for rent increases under RLTA, and places limits on move-in fees, security deposits, and late fees under MHLTA.
- **Enforcement**: Allows tenants or the Attorney General to pursue legal action for noncompliance with the bill.
- **Landlord Resource Center**: Establishes an online resource center for landlords.
- **Expiration**: The rent increase limit and related provisions of the RLTA will expire on July 1, 2040.

SB 5313 - Adds a list of provisions prohibited in rental agreements.

The measures aim to protect tenant rights and ensure transparency in rental agreements.

- **Prohibits waivers**: Tenants cannot be required to waive claims against landlords or their agents.
- **Bans non-disclosure agreements**: Prevents NDAs related to rental price, lease terms, deposits, and incentives.
- **No mandatory arbitration**: Prohibits requiring tenants to agree to arbitration provisions.

HB 1491 - Promoting transit-oriented housing development.

The bill aims to encourage sustainable, affordable development near transit hubs while providing financial incentives to cities for implementation.

- **City requirements**: Cities that plan under the Growth Management Act must allow new residential and mixed-use developments within station areas at specific transit-oriented development (TOD) densities.
- **Establishes affordability and tax exemptions**: Sets affordability requirements and provides a 20-year multifamily property tax exemption (MFTE) for residential and mixed-use buildings in station areas.
- **Reduces impact fees**: Cities must reduce certain impact fees by 50% for projects in station areas that qualify for the MFTE.
- **Grant program**: The Department of Commerce will manage a grant program to help cities with infrastructure, planning, and staffing needed to implement TOD requirements.

HB 1494 - Property tax exemptions for new and rehabilitated multiple-unit dwellings in urban centers.

Washington expanded its MFTE program to support affordable housing near high-frequency transit. Cities and certain counties can now offer 12- to 20-year exemptions for rental and ownership projects in designated areas, with updated income eligibility and anti-displacement requirements. New rules also introduce sliding-scale penalties for noncompliance, rather than automatic exemption loss.

A new MFTE authority is established:

- **Cities** with 15,000+ people and mandatory inclusionary zoning can offer a **20-year rental exemption** within one mile of high-capacity transit (running every 15 minutes or less).
- **Unincorporated Counties** with 170,000+ residents can offer:
  - A **12-year exemption** and a **20-year homeownership exemption** in urban growth areas (UGAs), if they meet certain criteria—such as having a college campus with 1,200+ residential students or promoting transit-friendly densities near frequent bus service (10+ times/day each direction).
  - Applies to Clark, Kitsap, and Snohomish Counties; Pierce and King counties maintain existing rules.
- **Program changes**:
  - Households can stay in MFTE housing until income exceeds 150% of the qualifying limit.
  - Owner-occupied projects using the 12-year exemption must have deed restrictions ensuring affordability.
  - Cities must ensure new residential targeted areas (RTAs) meet anti-displacement rules under the Growth Management Act (GMA).
- **Penalties**:
  - A **sliding scale penalty** may be imposed for noncompliance (*e.g.*, not providing the promised number of affordable units or failing to verify tenant income), rather than full cancellation of the exemption.

HB 1075 - Expanding housing supply by supporting the ability of public housing authorities to finance affordable housing developments.

HB 1075 removes a prior restriction that capped rents at 15% of AMI for publicly financed developments owned by for-profit entities—unlocking more flexibility in how public housing authorities can partner with private developers.

SB 5529 - Amending the county population threshold for counties that may exempt from taxation the value of accessory dwelling units to incentivize rental to low-income households.

This bill extends property tax exemptions for ADUs to additional counties, provided the units are maintained as low-income housing, defined as serving households with an adjusted gross income below 60% of AMI.

HB 1757 - Modifying regulations for existing buildings used for residential purposes.

This bill aims to make it easier to convert existing buildings into housing by reducing regulatory barriers and easing energy code requirements for certain projects.

ESSB 5184 - Concerning minimum parking requirements.

This bill aims to reduce mandatory parking requirements to support housing development, small businesses, and walkable communities, while allowing exceptions for small cities, safety, and special use cases.

SHB 1061 - Provides additional parking flexibility in residential neighborhoods.

This bill aims to give residential property owners more flexibility with their driveways by allowing them to park—or permit others to park—across their own driveway entrances, with some restrictions.

ESB 5559 - Streamlining the subdivision process inside urban growth areas.

This bill aims to standardize and streamline the process for unit lot subdivisions in cities and towns planning under the GMA, supporting more flexible housing development while maintaining clear regulations and community notice. Cities are required to adopt unit lot subdivision ordinances within two years of the bill's effective date.

E2SHB 1096 - Increasing housing options through lot splitting.

This bill aims to simplify and expedite the approval process for lot splits by requiring cities to use a streamlined, administrative review based on clear and objective standards.

PHILADELPHIA'S H.O.M.E. PLAN: A NEW ERA FOR HOUSING POLICY

By Meredith St. Clair Trego

On April 14, 2025, the administration for Philadelphia Mayor Cherelle Parker unveiled a bold new housing blueprint—the Housing Opportunities Made Easy (H.O.M.E.) Initiative. With a goal of creating or preserving 30,000 affordable and workforce housing units in Philadelphia, the plan outlines a sweeping set of reforms and investments designed to modernize housing policy, unlock development, and stabilize communities across the City.

The H.O.M.E. Plan establishes seven "core pillars" for realizing this goal:

1. Prioritize preservation efforts
2. Invest in existing and new affordable housing programs
3. Increase development capacity, including by making it easier to identify land that can be developed into housing and growing the workforce that builds and repairs housing
4. Increase the operational effectiveness of City government
5. Address issues that contribute to housing instability and homelessness
6. Invest in programs that enhance the resiliency of housing
7. Reduce blight and vacancy across the City

The H.O.M.E. Plan's four-part implementation strategy focuses on improving processes related to housing, undertaking certain policy initiatives—such as zoning code and tax reforms, investing in new programs and expanding existing successful housing programs, and leveraging funding from federal, state, and local government with private and philanthropic investments to support affordable housing. Most notably, the H.O.M.E. Plan proposes that the Parker administration issue $800 million in housing bonds by the end of 2027.

In June, City Council passed a series of ordinances related to the H.O.M.E. Plan, including legislation authorizing the City and Redevelopment Authority to finance the H.O.M.E. initiative with $800 million in bonds. Additional ordinances approving changes to the Philadelphia zoning code aim to make the development of housing easier and less expensive. These include:

- Creation of a new zoning district permitting two-family (duplex) housing in rowhomes;
- Elimination of the off-street parking requirements for multifamily residential uses in the CMX-4 and CMX-5 districts, which are concentrated primarily in Center City Philadelphia; and
- Elimination of the Development Impact Tax on certain developments, including affordable rental housing projects funded by a loan or grant from the City and developments of owner-occupied affordable housing units on land provided by the City at a below market price.

Additional legislation related to the H.O.M.E. Plan is anticipated. This initiative marks a significant evolution in Philadelphia's housing strategy—pairing major bond investments with targeted zoning reforms to increase supply, reduce barriers, and promote housing stability. If fully realized, it could not only transform development across the City, but also offer a compelling blueprint for other municipalities confronting similar challenges.

More details, including the full list of policy goals, implementation strategies, and proposed investments, can be found in the City's official H.O.M.E. Plan overview: https://www.phila.gov/documents/mayor-cherelle-l-parkers-h-o-m-e-initiative

TOPA REFORM UNDER CONSIDERATION BY D.C. COUNCIL

By Kyle A. DeThomas

As Washington, D.C., continues to grapple with challenges to housing affordability and new development, lawmakers are weighing proposals to reform the Tenant Opportunity to Purchase Act (TOPA), a D.C. law enacted in 1980 that gives tenants a right of first refusal when their building is sold.

Introduced in March by D.C. Council Chairman Phil Mendelson, the RENTAL Act proposed key exemptions from TOPA for certain rental housing transfers, specifically, buildings newly constructed or substantially improved within the past 25 years, if rents exceed affordability levels for households earning 80% of AMI or above, and properties with recorded affordability covenants lasting at least 20 years.

In April, Councilmember Brianne Nadeau introduced the Common Sense TOPA Reform Amendment (CSTRA) Act. The CSTRA Act included an exemption for new construction for three years post-occupancy. Though intended to incentivize investment in housing, it is unclear how much that exemption would do so. Other provisions, such as mandatory public disclosure of TOPA settlement terms, restrictions on assigning rights, and expanded post-settlement oversight by the D.C. Department of Housing and Community Development, could raise other concerns from investors, such as potential transaction delays, loss of flexibility in settlement negotiations between tenants and landlords, and investment and personal privacy risks. Both bills were referred to the Committee on Housing (COH) for further review.

In July, Councilmember and COH Chair Robert White introduced amendments to the RENTAL Act (Amended RENTAL Act) that combined aspects of the RENTAL Act and the CSTRA Act. The COH approved the Amended RENTAL Act by a 3-1 vote. The Amended RENTAL Act includes a 15-year blanket exemption for new construction, as compared to the 25-year exemption originally proposed in the RENTAL Act. The Amended RENTAL Act includes an exemption for sales if the purchaser is willing to enter into affordable covenants restricting at least 51% of the units to households earning at or below 80% AMI for at least 20 years. It also includes some of the elements from the CSTRA Act, such as a new "TOPA Transparency Portal" and a 15-day "cooling-off" period during which the property owner (and affiliates) cannot negotiate with the tenants. These elements potentially could increase the disclosure and timing requirements for TOPA transactions.

The D.C. Council considered the Amended RENTAL Act at the July 14, 2025, legislative meeting; however, the vote was postponed until the next legislative meeting on July 28, 2025. If the Amended RENTAL Act is approved by the D.C. Council at the July 28 meeting by majority vote, it must be ratified at the next D.C. Council legislative meeting that takes place at least 14 days after the present meeting. As a result, the Amended RENTAL Act will not be passed before the summer recess. If the D.C. Council approves the Amended RENTAL Act at second reading, the bill is then sent to the Mayor, who has been critical of the COH amendments. It would also be subject to a 30-day Congressional review period before it becomes law.

As the Mayor and Councilmembers consider ways to sustain and attract investment in the District's housing stock at a time in which the District has more limited financial resources, it is critical that stakeholders and conveners, such as the District of Columbia Building Industry Association, provide input about ways meaningful TOPA reform could encourage housing investment by reducing uncertainty and delays.

For a detailed breakdown of TOPA reform efforts and stakeholder insights, read our recent client Alerts: June 3, 2025 | June 12, 2025 | July 2, 2025 | July 11, 2025.

BALLARD SPAHR CLIENT ADVISORY – TAX IMPACT OF THE OBBBA: WHAT THE NEW BUDGET LAW MEANS FOR HOUSING AND REAL ESTATE

President Trump's budget permanently extends numerous provisions of the Internal Revenue Code from the Tax Cuts and Jobs Act (TCJA) of 2017 scheduled to expire at the end of 2025 and includes several changes that will have significant tax consequences for housing and other sectors of the real estate industry.

READ THE ADVISORY

SAVE THE DATE: BALLARD SPAHR'S 20TH ANNUAL NATIONAL HOUSING CONFERENCE

Tuesday, October 7, 2025 - Wednesday, October 8, 2025
1201 Wilson Blvd., 29th and 30th Floors, Arlington, VA 22209

Ballard Spahr is excited to celebrate the 20th anniversary of our National Housing Conference. Don't miss this milestone event, as we revisit the last two decades of accomplishments together and look ahead to celebrating the next chapter in housing.

Please join us at state-of-the-art venue Convene as we bring together nationally recognized affordable housing leaders and changemakers for insightful discussions on the latest trends, innovations, policy developments, and the future of the industry. After day one's thought-provoking sessions, unwind at our networking reception—an opportunity to toast to our collective achievements and make new connections that inspire future collaboration.

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