• Update on Key NAIOP Issues

• Congress

• Presidential Race
Section 1031 Like Kind Exchange:

Capital gain taxes can be deferred in cases of exchanges of property held for productive use in a trade or business or for investment, provided the properties exchanged are comparable ("of like kind").

Tax Reform proponents want to eliminate Section 1031
Impact?

• Would severely undermine modern commercial real estate markets, threatening liquidity and efficiency and reducing investment and transactions.

• Existing rules help avoid “lock-In” effect that results from owners unwilling to sell properties with substantial past depreciation.

• Would remove incentive to own and repair distressed properties, making it more difficult for real estate to be acquired by owners who have ability and intent to invest and upgrade.

• Existing rules facilitate investment in real estate improvements, promoting job growth.
A "carried interest" (also known as a "promoted interest" or a "promote" in the real estate industry): a financial interest in the long-term capital gain of a development, given to a general partner (GP), usually the developer, by the limited partners (LPs), the investors in the partnership.

- Compensation to the general partner of a partnership which is tied to the ultimate success of the venture – aligns investors interests with developer.

- Traditionally viewed and taxed as capital gains – not at higher ordinary income rates.

- Identified in the public view as a loophole for rich, Wall Street hedge fund managers.

- Proposals have been advanced to eliminate capital gains treatment for carried interest.

- Approximately 46% of all partnerships in America are real estate related partnerships.
“Give Donald Trump credit for this: The Republican presidential candidate has done more to put a stake in the heart of the carried-interest tax loophole in the last month than the Obama administration has in the last six and a half years.”

New York Times, September 17, 2015
EPA’s “Wetlands Rule”

- At issue:

  Definition of what are “waters of the United States” ("WOTUS")

  “Significant nexus” means a water, either alone or in combination with other similarly situated waters in the region, that significantly affects the chemical, physical, or biological integrity of a WOTUS.”
Tulsa World Editorial, November 7th, 2015:

Inhofe leads battle against EPA's Waters of the United States rules

“...would extend the agency’s oversight of water quality without legislative authority all the way to farmers’ stock ponds with a predictable impact on the price of food. . . .

...a measure that would stop WOTUS and instruct EPA to rewrite the regulations within clear boundaries failed on a procedural vote in the U.S. Senate. Inhofe was the floor manager of the proposal, which received 57 votes. Sixty were needed to move ahead.”
What safeguards did NAIOP get in the current rule?

- Ditches that do not flow year round and are not created in a wetland, drain a wetland or relocate a tributary of a navigable water.

- Settling basins used during construction activities.

- Erosional features that do not have a bed, bank and ordinary high water mark.

- Stormwater control features (constructed to convey, treat or store stormwater) that are created in dry land.

- Low impact development features, such as rain gardens.
Not WOTUS:

**Stormwater control features**

- Stormwater management ponds (dry or wet)
- Rain gardens
- Bioswales
A New Day in Congress?

Paul Ryan (R-WI) becomes Speaker of the House

Promised a more inclusive legislative process
Kevin Brady (R-TX) Chairman, Ways & Means

- Strong supporter of NAIOP agenda
- Fought for a real estate “carveout” from a carried interest tax hike
- Priority for this year is passing a “tax extenders” bill
- Wants to make some extenders permanent
The Republican primary . . .
Trust in government?
NAIOP Tulsa Trends 2015

The Outsiders . . .
“The downfall of The Donald? Attack on McCain may be Trump’s Waterloo.”

Dan Balz, The Washington Post

“The real story is the collapse of Trump in this debate.”

Charles Krauthammer

“This is the beginning of the end of Donald Trump.”

Lindsay Graham, presidential candidate

“GOP Frontrunner’s Jab at Megyn Kelly May Be Beginning of End.”

The Guardian

“If anything, establishment attacks on a demagogue only stiffen the loyalties of his subjects, proving to them that he is telling truth to power.”

Jack Schafer, Politico
“A national McClatchy/Marist poll released Monday shows Ben Carson leading Donald Trump 24-23% in the GOP primary, followed by Rubio at 12% and Ted Cruz and Bush at 8% each. The bad news is for Trump and Bush. The poll shows the more voters hear about them, the less they like them.”

National Journal
QUESTIONS?