

REAL ESTATE



The Market's Back. Now What?

By Jay Martinez

Last year at this time, no one knew where the bottom of the commercial real estate market would fall. Sellers were fielding offers that were half the listing price of assets, sometimes even less than that. Banks were not lending and it was not unusual for motivated sellers to carry the buyer's loan in order to secure a deal.

We are no longer seeing any of those dynamics in today's market. Sales activity began to pick up about six months ago, and as more transactions took place, we not only began to see new pricing levels re-set, we also saw consensus between buyers and sellers about where the market has settled. Meanwhile, bank officers are pounding the pavement looking for lending opportunities.

These changes have driven more buyers into the market either again or for the first time, and they have made sellers more confident about listing their properties for sale. Bottom line, the cycle is back on the upswing, but if the market is not behaving like it did a year ago, it is also nothing like what it was three years ago before the recession hit.

Here are some of the dynamics that have changed and what buyers and sellers need to know about the changes:

- **Financing:** Every lender, whether community, regional or national banks, is making a concentrated effort to originate loans. While this means that underwriting has loosened up, it's important to remember that the criteria banks are using looks nothing like the lending that occurred back before the recession hit. Banks are scrutinizing the asset and the lender far more closely than any

of us remembers, and buyers will need to have all their ducks in a row to obtain financing, and they will face stiff competition from all-cash buyers for smaller properties.

- **Pricing:** The uptick in transaction activity has given us data points by which to determine the market value of an asset. But a review of the comparables we have in the market today shows that there is still a significant spread between the listing price and what a property actually trades at. Sellers should be aware that even the most motivated buyers are not likely to pay the asking price for a property, and they should give themselves a cushion when taking a property out to market. On the other hand, buyers who think they will get screaming deals will be sorely disappointed. In general, we are seeing assets trade at 10 percent - 15 percent below the listing price.

- **Inventory:** With more activity and price stabilization we are certainly seeing more sellers willing to move forward. And banks are no longer holding onto foreclosed properties, hoping for prices to recover. But that doesn't mean the market is flooded with inventory. While there is more inventory available than we saw during the credit crunch, the number of properties coming onto the market is tempered by several things. First, banks are actively working out troubled loans, so we are not seeing the flood of foreclosures we had anticipated. Second, the Los Angeles North region in particular has not been as hard hit by the recession as some other areas of California. Yes, some businesses were deeply affected by the recession, but many more have come through the cycle. The truth is, you have to work really hard to find a good deal, and by good deal we are referring not just to price but also to the quality of the asset.

- **REOs:** We are seeing a trend among savvy investors to work directly with lenders and buy the notes on troubled properties. What's important to note about this trend is that it is actually taking REOs off the market. Investors who purchase these notes are often moving to stabilize the property with plans to hold it for several years before marketing it for sale.

While the market has stabilized, we are still months, if not years, away from any strong growth spurt so the dynamics we are seeing in the market today are likely to remain with us for some time. If you already own commercial real estate, this may be a good time to get an opinion of value on your asset to assess your equity position and your net worth. Those who acquired their properties in the 1990s or earlier, may find the current market offers an opportunity to pull equity out. But even if you bought later and have no interest in selling your property, it makes sense to take stock now that the dust has settled.

If you are a seller, be mindful that, while buyers are back in the market, they are far more judicious about evaluating assets. Your broker should give you a pre-market checklist to prepare your building for sale. The cost is minimal, but attending to details like power washing your windows and cleaning up your lobby can mean the difference between selling your property or watching it languish on the market for months.

Jay Martinez is a Principal and Special Assets Advisor specializing in investment sales at Lee & Associates-LA North/Ventura, Inc. He was just honored as one of the company's Top 10 producing brokers.

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REAL ESTATE

Invest in Your Own Stimulus Package

By Craig Newton

April 15 is right around the corner. And if you are one of the lucky ones receiving a tax refund from the government this year, why not make that money work for you? A modest investment in some basic home improvements can dramatically enhance your equity and make your home for comfortable and functional. Here are some of the best home improvements you can make that will give you the most bang for your buck!

1. Replace Your Windows – Windows upgrades are often more of a “have-to” than a “want-to” item. But, new windows can make a big difference both aesthetically and functionally. And there are many energy efficiency tax rebates that will help you get an even bigger return next year!

2. Upgrade Your Kitchen – There is a truth to the common wisdom that a kitchen sells a house. As the heart of the home, most of your family’s time is spent there. So, why not improve it now? Simple steps such as updating tile, changing the hardware or refinishing the cabinets can make a great impact. Have a little more money in your return? Upgrade those appliances!

3. Put Up Some Trim – What makes a room go from dull to dramatic? Attention to detail. Adding crown molding, casing and decorative base boards can dramatically change the look of an area with little investment. Have an outdated fireplace? Trim it out with decorative wood and tile for a whole new look!

4. Change Up Your Color Scheme –

Nothing freshens up a room like color. Painting is relatively inexpensive and anyone can do it. For 2011, muted base colors such as light yellows, blues and greens, with poppy accent colors in pinks, brown and purple tones are popular.

5. Update Your Bathroom – Bathrooms are the second most used rooms in the house after the kitchen and have become a new showplace of design and comfort. Don’t have enough in your return to completely gut the room and rebuild? Try some smaller fixes such as updating the lighting with a chandelier or two-in-one can/ventilation lights, put up a new mirror in a dramatic frame or invest in a self-closing toilet seat – you will wonder how you ever lived without one!

No matter how large or small your tax return, reinvesting it back in to your home makes sense (and dollars too!). And even if Uncle Sam didn’t bless you with a refund this year, well thought out home improvements can help ensure he will be a little more giving next year.

Craig Newton, owner of CRN Construction, is a licensed, bonded, insured and RRP Certified general contractor. Specializing in residential remodeling, door and window installation, kitchen and bath renovation, interior trim and more, Craig brings over 15 years of industry experience to each project and personally supervises every job, delivering unmatched quality and craftsmanship. For more information, please visit CRNConstruction.com.

Rigorous Scrutiny of Environmental Regulators: 2011 Decisions

By Stephen T. Holzer, Esq.

Perhaps it’s the economy. Perhaps it’s just the normal ebb and flow of case law. Perhaps it’s just coincidence.

Whatever the reason, three recent decisions show greater willingness by the judiciary to scrutinize environmental regulators.

For example, San Francisco Superior Court Judge Ernest H. Goldsmith may reject California’s sweeping plan under Assembly Bill 32 (the “Global Warming Solutions Act of 2006”) to regulate greenhouse gases with a cap and trade system. (Association of Irrigated Residents, et al. v. California Air Resources Board, et al., Case No. CPF-09-509562). Judge Goldsmith found that California Air Resources Board (“CARB” or “ARB”) failed to consider alternative implementation strategies as required by the California Environmental Quality Act (“CEQA”).

Six environmental justice community groups and seven individuals represented by the San Francisco-based Center on Race, Poverty and the Environment filed suit against CARB. These plaintiffs argued that CARB’s cap-and-trade system under the Act was unfairly implemented and could pollute impoverished communities.

The system is designed to set an overall

cap on emitted greenhouse gasses. Companies discharging less gas than the maximum permitted could sell “carbon credits” to businesses that exceed regulatory limits. Plaintiffs claimed the net effect of this system allows high-polluting companies – often with factories located in low-income areas – to continue polluting at high levels, allegedly befouling the local air even if carbon emissions in the State are reduced. The Court said the Act cannot be implemented as intended by CARB without a full environmental study in accord with CEQA.

In Judge Goldsmith’s words, “ARB seeks to create a fait accompli by premature establishment of a cap-and-trade program before alternative[s] can be exposed to public comment and properly evaluated by the ARB itself.”

Following this February decision, a Sacramento Appellate Court dealt State regulatory enforcers a second blow (Thomas Bollay and Nancy Bollay vs. CSLC & OAL). The Appellate Court invalidated State Lands Commission regulations which prohibited beachfront private property owners from building on public tidelands. The Commission implemented the regulations without public hearings under the Administrative Procedure Act, contending

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Affordable Housing Provides Bright Light in Dismal Housing Picture

Although there are indications the economy is gaining strength, America's housing sector is expecting 2011 to be another difficult year according to recent data from the U.S. Commerce Department. Foreclosures and falling home prices combined with anemic job growth have depressed the majority of the national housing market. One silver lining, however, comes in areas with affordable housing programs which have been shown to actually stabilize pricing across entire neighborhoods. The Center for Housing Policy, the research arm of the National Housing Conference, recently aggregated several studies evaluating affordable housing programs across the nation and found that affordable housing may actually increase property values in the surrounding communities.

Affordable new homes are less likely to go into foreclosure because affordable housing organizations regulate the mortgages and residents' incomes are closely monitored to make sure they are not paying more than they can afford. In Pacoima, Habitat for Humanity San Fernando/Santa Clarita Valleys is building the final phase of a 61-home community. In the first 37 homes, there have been no defaults because no family pays more than 30% of their monthly salary for their mortgage, HOA dues, taxes and insurance so that they can afford other daily needs. The Habitat program allows qualifying appli-



cants to earn their down payment by contributing 500 hours of sweat equity; families then receive a 30-year mortgage at 0% interest.

Steve Lavaeddin, Senior Vice President and Regional Manager at First Private Bank in Encino, is the newest member of the board for the Habitat affiliate serving Northern Los Angeles City and County.

"Although we have many foreclosed homes sitting vacant, they are financially out of reach for many families," said Lavaeddin, "Loans are still hard to come by for the less fortunate and many do not possess the 'life skills' to sustain themselves through the challenges and responsibilities of homeownership."

Habitat for Humanity SF/SCV determined that families needed more services than the traditional model of home owner

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Environmental Regulators

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that the regulations were exempt from the Act's notice requirements because they simply enforced the unambiguous mandate of State statutes.

The Third District disagreed, noting that the very definition of publicly-owned tidelands requires interpretation, thereby subjecting the proposed regulations to public comment. Pending properly following required notice and comment rules, the Court said the regulations cannot be enforced.

Finally, a 9th Circuit Court of Appeals panel held that a timber company could challenge an Environmental Protection Agency (EPA) decision to keep a creek near Eureka, California listed as an "impaired water body" under the Clean Water Act (Barnum Timber Co. v. United States Environmental Protection Agency, et al., Case No. 08-17715; (2011) --- F.3d ---; 11 Cal. Daily Op. Serv. 1629; 2011 Daily Journal D.A.R. 2013). The timber company contended that public perception of EPA's "onerous regulation" of the company's property in the impaired water body area lessens the land's value, because EPA restrictions threaten the use of the creek to transport timber from the property.

The timber company filed an expert declaration: "The public has ready access to the Section 303(d) listings, including the listing of Redwood Creek. When a listing occurs, the public perceives—whether accurately or not—that the subject property will be subject to additional and onerous regulation. . . . In this case, the market reaction is such as to deem [the company's] property to be devalued because of

the § 303(d) listing."

The District Court rejected this "market devaluation" argument; but the Appellate Court found the argument legally sufficient to allow the company to challenge the EPA. Thus, the 9th Circuit potentially opened the door wider than before to challenges to EPA regulation under the Act.

What do these decisions signal for business community property owners? Although the Courts continue to give regulatory agencies such as CARB, the State Lands Commission and federal EPA wide latitude in the substance of their regulations, the decisions signal that the regulators need to follow procedural due-process requirements.

Challenging agencies in Court remains expensive, and even if the challenge is successful on procedural grounds, there is no guarantee the agencies will not reach the same substantive decisions after doing things "right." Nonetheless, the Courts now indicate that businesses can expect well-crafted procedural due process challenges to environmental agency regulations.

Stephen T. Holzer, Esq. chairs the Environmental Litigation and Transactions Department at Lewitt, Hackman, Shapiro, Marshall & Harlan in Encino, California. You can learn more about Mr. Holzer's experience with environmental law for businesses at www.lewitthackman.com.



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Home Staging: Do it Right and Reap the Benefits

By Jill Milligan

Savvy homeowners and real estate brokers know that in this slow market, having a home staged by a professional is the quickest way to a sale. Anybody can throw a couple of couches, coffee table and a dining room set into a house, but does the buyer get a "warm & fuzzy" feeling when they walk in the door? Not likely.

Statistics show that the two most important factors in selling a home quickly for the asking price or more is A) curb appeal; and B) the buyer's first impression when entering the house.

Statistics show that a properly "staged" home will sell within the first 12 - 18 days, where an "unstaged" or empty house will sit for over 3 or 4 months. Many times a staged home will bring in 8% - 10% over the asking price. Even in this slow housing market, a staged house is more likely going to sell quicker and for the price you want.

In the medium markets, why lower the asking price by \$50,000 - \$100,000 before you try staging it for \$3,500 - \$10,000? The beauty of staging is it works with a small single family home, condo, mobile-home or mansion. Home Staging does not discriminate with price range. Staging a \$200,000 or a \$25,000,000 home can definitely enhance and encourage a faster sale.

Jill Milligan, a local staging artist, has a talent for setting the scene, perhaps because of her background in theatre. Milligan owns and operates a West Hills shop, the Hidden Chateau & Gardens, housed in a historic landmark horse stable specializing in eclectic home décor where she displays much of her staging inventory. Unlike some stagers,

Milligan owns most of her pieces - from traditional to contemporary - thus saving her clients expensive rental costs.

What does staging cost? Fees vary depending on clients' needs, and range from a simple consultation with walk through to an entire full service staging from placemats to pianos. At whatever level you choose, real estate experts agree the money spent is well worth it. In fact, some buyers are so pleased with the staged décor, they have asked Milligan to provide the same or similar items for their new home.

Here are some staging tips:

1) Start on the outside. With everyone going to the Internet to view properties, the first look needs to be attractive. Jill has simple, low cost options to "upgrade" any exterior.

2) Create warmth and simplicity as you enter the house.

3) Paint the interior a simple, neutral warm cream-type color to open up the rooms.

4) If still living in the home, remove all family photos. They are distracting to a buyer trying to picture themselves living in the home.

5) Make sure the living room looks spacious and bright.

6) Clear all kitchen counters of appliances, spices, canisters, etc.

7) Set the dining room table with fine china dinnerware and centerpiece

8) In bathrooms, add matching towels, soap, & a simple floral piece.

9) Simplify the master bedroom with an airy ambiance

10) Stage the closets with a few hanging items on matching hangers appropriate to

the room.

11) Again if living in your home, de-clutter kids rooms.

12) Above all check the portfolio of the stagers you are considering for hire.

These are just a few of the secrets to utilizing effective staging to enable fast sales in a slow market. If you've ever walked into an open house and fallen in love with the décor, there's a good chance that the fabulous ambience wasn't created by the seller. Savvy homeowners know that in this slow

market, having a home staged by a professional is the quickest ticket to a sale.

Jill Milligan's Hidden Chateau & Gardens is located in the old Canoga Mission Gallery building at 23130 Sherman Way in west Hills, originally constructed as a horse stable in 1934 by silent movie actor, Francis Lederer. For more information, contact Jill directly at 818-610-3228 or via hiddenchateau@sbcglobal.net. Or visit www.hiddenchateau.com.

Affordable Housing

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and financial education and created a pilot Enriched Neighborhood program that combines permanent housing with social services such as tutoring and health screening as well as transitional services that impact the neighborhood at large.

"The goal is to create opportunities for people and give them the tools they need to escape the poverty cycle and thrive," says affiliate CEO Donna Deutchman. "Residents are also equipped to contribute to the community as a whole. During their sweat equity time, incoming Habitat homeowners actively build not only their own homes, but their neighbors' homes as well. This care for the community continues after the families move in. For example, last year 27 families volunteered to take a 7-day Community Emergency Response Teams (CERT) course from the Fire Department, so they are prepared to be first-responders if

there is a catastrophic event in their community, like an earthquake or fire."

"Affordable housing has a positive and measurable ripple effect throughout our entire economy," says Mr. Lavaeddin. "Without the availability of affordable housing, families may go homeless; our counties, schools, and roads would not benefit from property tax income; employment would suffer; construction businesses would suffer; communities will begin to decline and some will become ghost towns or over-run by gangs. Eventually, surrounding neighborhoods would also suffer a decline in home values. When a deserving, hard-working, appreciative, and community-minded family is able to afford a home - a home of their dreams - then we all benefit."

The Habitat San Fernando/Santa Clarita Valleys Enriched Neighborhood is demonstrating this is still true even in the toughest of economic times.

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