NYSCAR News

Winter 2007

New York State Commercial Association of REALTORS®, Inc.

NAR: Commercial real estate sectors are strong and improving

Commercial real estate sectors are on solid ground with generally tightening vacancy rates and sound fundamentals, according to a commercial market update and forecast by the National Association of REALTORS®.

Lawrence Yun, NAR senior economist, said the expanding economy is pulling up commercial sectors. "Commercial real estate is fundamentally sound with growing jobs and expanding businesses," he said. "We're seeing record levels of mergers and acquisitions, and institutional investors have returned in a big way."

Commercial lending volume is up, and delinquencies are down. High construction costs are holding speculative activity in check, but the value of newly finished construction is running nearly 10-percent above a year ago. Imports and exports remain at high levels, sustaining demand in warehouse and distribution facilities. Corporate profits are strong, providing the wherewithal for businesses to expand. Hotel occupancies have been rising this year and are the highest since 9/11.

"Nearly 4 million new jobs have been created in the past two years, which in turn is creating need for additional commercial space, notably in the office sector," Yun said. "Wage growth is picking up, household net worth has reached a new high and oil prices have been falling - all providing a nice backdrop for continued expansion in the commercial sector."

The commercial property rate of return has averaged in the range of 3.5 to 4.0 percent in 2006, according to the National Council of Real Estate Investment Fiduciaries, with a weaker performance in the retail sector.

While the present forecast is positive, potential risk factors for the future include oil prices, interest rates and higher construction costs resulting from global economic expansion; all are being closely monitored for any market impact.

Office market

With healthy job growth, office market vacancy rates continue to fall in most major markets and are expected to average 13.0 to 12.0 percent in 2007 - a steady downtrend since exceeding 16.0 percent in 2004. After falling in the first part of the decade, average office rents are projected to grow 7.5 to 8.5 percent next year, while new office completions are forecast in the range of 35 to 40 million square feet.

Industrial market

Trade and distribution continue to drive the industrial real estate market with a lack of suitable inventory in traditional and inland ports fueling build-to-suit facilities. A low inventory-to-sales ratio, and a low wholesale inventory-to-sales

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President's Message

The National Association of REALTORS® held its annual conference and expo in New Orleans in mid-November. This annual conference is always a terrific opportunity to network with other commercial practitioners from across the country.

In addition to networking, some issues of interest that I would like to report - the REALTORS® Commercial Alliance Membership Recruitment proposal, which has the goal of attracting real estate professionals exclusively engaged in commercial activities into REALTOR® membership. The work group's task is to develop a "value proposition" for commercial real estate practitioners consistent with the RCA business plan, recognizing larger commercial brokerage firms as having different needs than smaller firms or individuals practitioners.

The work group identified the primary obstacle to recruiting and maintaining commercial membership as the Designated REALTOR® dues formula. Any change in NAR policy could impact other areas, hence, the work group put together a motion that a formal NAR work group be formed to address: adherence to the DR dues formula and a commercial member's inability to maintain REALTOR® membership when they move from a REALTOR® office to a non-REALTOR® office, and any other pertinent issues.

David M. Dworkin

Please review the changes to the NAR Code of Ethics approved during the meetings, which are outlined on page 6.

The NYSCAR board will meet on January 31 in Syracuse to discuss various programs for the upcoming year. Please take note that June 11-13 is the Sixth Annual New York State Commercial Real Estate Conference, sponsored by NYSCAR, the New York State Chapters of CCIM and SIOR and the Society of Exchange Counselors. The conference will be held at the Turning Stone Resort and Casino in Verona, NY. The marketing session will run one and a-half days this year as requested by the members. Take this opportunity to network with your colleagues, hear top-rated instructors, earn continuing education credit, golf and do some business!

Best wishes for a happy, healthy and prosperous New Year!

Sincerely,

David M. Dworkin
President

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ratio, means there is a need to restock, creating the demand for more space. In addition, orders for durable goods are rising. Some urban industrial properties are being redeveloped for mixed-use and residential purposes.

Vacancy rates in the industrial sector should average 9.7 to 9.0 percent in 2007, a steady downtrend since early 2004 when they were close to 12 percent. Rents are expected to increase 3.5 to 4.0 percent in 2007, while new industrial space coming online is estimated at 155 to 160 million square feet and net absorption of space has been trending up all year.

Retail market

Regional shopping centers have been impacted by vacancies resulting from the merger of Federated and May department stores, and consumer confidence - which has been fairly steady but iffy - is dampening retail leasing. On the upside, personal income is rising and retail sales have been healthy to date.

Retail vacancy rates are likely to rise to an average of 7.8 to 8.2 percent in 2007. After dropping about 1.5 percent in 2006, average retail rent is forecast to increase 2.5 to 3.0 percent in 2007 with 20 to 25 million square feet of new space coming online.

Multifamily market

The apartment rental market - multifamily housing - is strengthening as potential home buyers remain in rental housing. New supply is matching absorption, keeping vacancy rates fairly flat. In 2007 they are projected to average 5.2 to 5.3 percent. Average rent should rise 4.5 to 5.0 percent in 2007. Between 220,000 and 225,000 new units are likely to come on the market next year.

Not surprisingly, the highest demand is in areas where population growth is greatest. Institutions are very active in acquiring investment grade apartments, and condo conversions have almost completely stopped.

Foreign investment

The Association of Foreign Investors in Real Estate, which consists of about 180 large foreign institutions located in 17 countries, conducted a survey that evaluated foreign investment in U.S. commercial real estate. The survey examined who's buying and areas of greater interest to foreign investors.

The survey showed that the mean investment by respondents in the U.S. commercial market was $3.7 billion. "In looking at portfolios held by global commercial real estate investors, by far the most popular region for investment is North America, followed by Western Europe and the United Kingdom," said CEO James Fetgatter. "Smaller investment shares go to Australia, Japan, Eastern Europe and Asia."

In 2005, $494 million was invested by survey respondents in the United States out of a global total of $801 million; in 2006 the same investors planned to invest $444 million in the United States out of a global share of $943 million.

"Although the United States remains the most popular country for foreign investors, they are diversifying globally and the market share is down this year," Fetgatter said. "Even so, the U.S. is still favored around the world for depth and stability, and other sources show the total amount invested this year [2006] will be higher than 2005. Most of the investment is from private equity, and foreign investors are now doing more development and also are more active in the second home market."

The most popular commercial property types for foreign investors are office, hotel, retail, industrial and multifamily. In looking at overall portfolio holdings, 52 percent are in office, 26 percent retail, 12 percent multifamily, 5 percent industrial and 3 percent hotel - the rest are other types.

The most popular cities for global investors are London, Washington, New York City, Paris and Tokyo. Los Angeles was tied for sixth, San Francisco was eighth and San Diego was tenth. This is the first time since 2001 that London surpassed Washington as the most popular investment market. Other U.S. cities receiving favorable rankings include: Chicago, Boston, Miami, Seattle, Austin, Phoenix and Orlando.

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Capital Region, Long Island hold NYSCAR chapter meetings

The Capital Region NYSCAR Chapter held its annual meeting and marketing session on November 7, 2006, at the Italian Community Center in Albany. There were 55 registered attendees from across New York and New England. Prior to the marketing meeting, the chapter held elections for officers and governors. Elected were President Richard Ferro, CCIM, from Prudential Blake Atlantic REALTORS®; Vice President Gordon Fulani, CB Richard Ellis; Treasurer Walter Lotz, Jr., CCIM, Foresite Realty Advisors; Secretary Peter West, CCIM, Premier Realty Concepts; and Governor Steve Powers of Nigro Realty.

At the luncheon, Mary Jo Valentine, CPA, of Clough Harbour Associates, LLC, presented updated information on the application and benefits of "desegregated component cost recovery (depreciation)" as currently allowed by the Treasury Department. A person can elect to change the cost recovery method to be applied retroactively for up to 10 years, thus providing for a more rapid application of cost recovery. Clough Harbour Associates offers a full service to clients

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Dworkin appointed to New York State Real Estate Board

NYSCAR Treasurer Michael A. Johnson, President David M. Dworkin and Governor/2007 NYSAR President Max Wm. Gurvitch take time at the NYSAR September Business Meetings to pose for a picture.

New York State Commercial Association of REALTORS® (NYSCAR) President David Dworkin has been appointed by Senate Minority Leader David Paterson to serve a two-year term on the 15 member New York State Board of Real Estate. Dworkin is a partner at Rochester-based LLD Enterprises.

With the exception of matters delegated specifically to the secretary of state, the NYS Real Estate Board has general authority to promulgate rules and regulations affecting real estate brokers and salespersons in order to administer and effectuate the purposes of Article 12-A of the Real Property Law.

The board is specifically authorized to prescribe the content of courses of study for the examination and education of real estate brokers and salespersons. In addition, it may advise the secretary of state on policies governing the administration of examinations. The board is specifically authorized to establish rules and regulations for schools that offer or conduct courses for qualifying and continuing education.

The board shall study the operation of the laws and regulations affecting real estate brokers and shall make recommendations on related pending or proposed legislation, except legislation and regulations related to non-solicitation orders and cease-and-desist orders.

It is also responsible for submitting an annual report to the Senate and Assembly Judiciary Committees, which contains a description of the types of complaints received, the status of cases, and the length of time from the initial complaint to any final disposition.

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having an interest in arranging for "segregated cost recovery" analysis whether it be for new properties or presently owned properties for owners desiring to make a change in the application of cost recovery.

The marketing session began with a "cash segment" for attendees with buyers who want to acquire commercial investment properties. This segment was led by Bob Giniecki, CCIM, SEC of Albany and Joel Dropkin of Goshen. This was followed by moderated transactions moderated by Ed Berlinski, CCIM, SEC from Rochester; Corey Bishop of North Adams, MA; Joe Deegan, CCIM of Kingston; Mark Difranco, CCIM, SEC from Springfield, MA; Paul Manza, SEC of Goshen; Don Welch, SIOR of Albany; and Peter West, CCIM from North Adams, MA. Following the formal moderated presentations, a "have/want" marketing segment was held. Bob Giniecki served as the overall marketing facilitator for this event.

Newly elected officers for the Metro Long Island Chapter of NYSCAR. From left to right: Mathew Horn, treasurer; Leonard Primack, secretary; Sharon Langdon, president and Jack Britvan, SIOR, vice president.

The Metro Long Island Chapter of the New York State Commercial Association of REALTORS® recently elected their 2007 officers.

Elected were President Sharon Langdon; Vice President Jack Britvan, SIOR; Treasurer Mathew Horn; and Secretary Leonard Primack. Also serving on the 2007 board of directors are: Alan Hendrickson; Gail Gladstone; Harvey Kolin; Jerry Norton, CCIM, SIOR; John Malone; Michael O'Brien, SIOR; Paul Fetscher, CCIM; and Ed Smith (immediate past president).

The latest meeting of the Metro Long Island Chapter of NYSCAR featured two speakers: Board member Paul Fetscher, CCIM, demonstrated the use of the APOD Form and Chuck Merritt from Merritt Engineering Consultants gave a seminar on the new environmental regulations that took effect on November 1, 2006.

Chuck Merritt of Merritt Engineering Consultants talks to members of the Long Island Chapter of NYSCAR about new environmental regulations.

The Western New York Chapter of NYSCAR

6th Annual Awards and Installation Dinner
Thursday, Feb. 8,

The Buffalo Chop House in Buffalo, NY.

Summary of the REALTOR® Code of Ethics changes

Effective upon publication of the 2007 COEAAM in January 2007

Every May and November the National Association of REALTORS® approves and implements changes to the REALTOR® Code of Ethics. This year's changes reflect REALTORS®' increasing reliance on the Internet as a transactional and marketing tool.

The Delegate Body made changes to the Preamble to the Code of Ethics by defining "electronically," "electronic means," "technology," and technological means."

Standard of Practice 1-2 amended - As it now reads: The duties imposed by the Code of Ethics encompass all real estate–related activities and transactions whether conducted in person, electronically or through any other means.

A New Standard of Practice related to Article 9 - When electronically assisting or enabling a client in establishing a contractual relationship (e.g., listing and representation agreements, purchase agreements, leases, etc.), REALTORS® shall make reasonable efforts to explain the nature and disclose the specific terms of the contractual relationship being established prior to it being agreed to by a contracting party.

Standard of Practice 12-5 amended - REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise listed property in any medium without disclosing the name of that REALTOR's® firm in a reasonable and readily apparent manner. (Adopted 11/86). Amended 5/2006.

New Standard of Practice related to Article 12 - REALTOR® firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner. Websites of REALTORS® and non-member licensees affiliated with a REALTOR® firm shall disclose the firm's name and that REALTOR's® or non-member licensee's state(s) of licensure in a reasonable and readily apparent manner.

New Standard of Practice related to Article 12 - The obligation to present a true picture in representation to the public includes information presented, provided or displayed on REALTOR® websites. REALTORS® shall use reasonable efforts to ensure that information on their websites is current.

New Standard of Practice related to Article 12 - REALTORS® intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner.

New Standard of Practice related to Article 12 - REALTOR® obligation to present a true picture in their advertising and representation to the public includes the URLs and domain names they use, and prohibits REALTORS® from:

- Engaging in deceptive or unauthorized framing of real estate brokerage websites.
- Manipulating (e.g. presenting content developed by others) listing content in any way that produces a deceptive or misleading result.
- Deceptively using metatags, keywords or other devices/methods to direct, drive or divert Internet traffic, or to otherwise mislead consumers.

New Standard of Practice related to Article 15 - The obligation to refrain from making false or misleading statements about competitors' businesses and competitors' business practices includes the duty to not knowingly or recklessly repeat, retransmit or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g. the Internet), or by any other means.

Standard of Practice 17-4 amended - Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid

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Thirty-one percent of respondents thought investment opportunities in the U.S. were much stronger than in other parts of the world, and 34 percent said they were somewhat stronger. Even so, 52 percent said it was very difficult to find attractive investment opportunities in the U.S., and 43 percent said it was somewhat difficult. Three-quarters said top competitors in acquiring U.S. properties include domestic pension funds and advisors, and 42 percent identified domestic real estate investment trusts (REITs).

The U.S. was ranked the most stable and secure real estate investment by 74 percent of respondents followed by the United Kingdom at 9 percent. The United States also was ranked as the best opportunity for capital appreciation by 39 percent followed by China at 12 percent.

The most active foreign buyers in the United States are from Germany, followed by Australia and the Middle East, with the latter two rising in market share and Germany declining.

The AFIRE survey, conducted in 2005, generated 70 usable responses from 148 major foreign investors, with a response rate of 47.3 percent.

Chapter Meeting Schedule

Hudson Valley: Meets the second Tuesday of each month. Call John Lavelle at 845/744-2095 for details.

Metro Long Island: Call Sharon Langdon at 631/424-0776 for details.

Southern Tier: Meets the first Friday of each month. Call Doug Rein at 607/785-8326 for details.

Western New York: Meets the third Thursday of each month. Call Kristen Badger Bach at 716/880-1901 for details.

Rochester: Meets the second Thursday of each month. Call Dorian Chapman at 585/670-0440.

Greater Capital: Call Richard Ferro, CCIM at 518/464-0870 for details.

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to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction.

Mark your calendar now for the Sixth Annual New York State Commercial Real Estate Conference

June 11-13
Turning Stone
Resort and Casino
Verona, NY

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