

Welcome to the first-ever newsletter for the NAIOP Arizona Developing Leaders! *The DL* will be a quarterly e-newsletter publication that will be distributed via email each quarter and will also be posted on our website and Linked-In page. *The DL* is designed to be another valuable informational and networking resource for our Developing Leaders, providing keen insight from industry leaders and peers; pertinent market, economic and legislative information; event and program updates; and other resourceful tidbits of information. I hope you enjoy this first edition of *The DL*. If you have any suggestions for future content or improvements, please feel free to contact me.

All my best,
Jaime Northam, *The DL* Editor

"On behalf of the NAIOP-AZ Board of Directors, we would like to congratulate the DL Committee for the production of this first-ever electronic newsletter. From their educational forums, mixers and hands-on philanthropic activities like Habitat for Humanity and Feeding the Homeless at CASS, our DL Committee has helped to re-invigorate our Chapter. It's easy to see why DL involvement is our fastest growing membership segment. For a mere \$200 annual membership fee - the networking, services and programming members 35 years of age and younger receive is the best value in the industry. Please tell a friend that involvement in our Developing Leader program is not only fun but also helpful in advancing their career as the contacts they make may last for more than a generation. Much thanks."

-Tim Lawless, President NAIOP-AZ

Q&A with an Industry Leader - pg 2

Mike Haenel Responds

11. What is your most significant professional accomplishment?

"Most significant or gratifying accomplishment has to be the opportunity I had being the Tournament Chairman of the Phoenix Open in 2006."



Developing Leader Spotlight - pg 7

Megan Creecy Responds

5. Where do you see yourself in five years?

"Continuing my efforts to cultivate a long and successful career in commercial real estate, while gaining the respect and admiration of my peers."



The DL Research Sponsor:



The DL Graphic Sponsor:



1Q 2010 MARKET REPORT - pgs 4-5
CoStar Group, Inc.

PROJECT PROFILE - pgs 5-6
Freeport-McMoRan Center
Musical Instrument Museum



FEATURED EVENT - pg 8
Habitat for Humanity 2010



NAIOP-AZ CALENDAR - pg 8

PUBLIC POLICY UPDATE - pg 9

LEGAL MATTERS - pg 9
Arizona Anti-Deficiency Statutes

EDITOR'S CORNER - pg 10
This Quarter's Topic: CHANGE

DL DealS - pg 10

ON THE NATIONAL FRONT - pg 11
A Look at NAIOP Nationally

BOMA EDUCATION SCHEDULE - pg 12

NEW DL MEMBERS - pg 12

THE DL CONTRIBUTORS:

- Jaime Northam
Editor
- Carmen Cordova
Jones Lang LaSalle Americas, Inc
- Sean Cummings
McShane Development Company
- Eric R. Wolfe
CoStar Group
- Ray Pine
RAY PINE DESIGN, LLC

FEEDBACK OR COMMENTS:
EMAIL - JNORTHAM10@GMAIL.COM
PHONE - 480-363-2750



Q&A with an Industry Leader

Name: Michael Haenel

Company: Cassidy Turley | BRE Commercial

Position: Executive Vice President , Industrial Group

Years in Commercial Real Estate: 25



Mike Haenel, Executive Vice President for the Industrial Group at Cassidy Turley|BRE Commercial, is currently the Vice Chairman for NAIOP's Arizona Chapter, next year's Chairman. Mike has over 25 years of experience in the sale and leasing of industrial and back-office buildings. Mike and his partner Andy Markham have been recognized as the NAIOP Industrial Broker of the Year on three separate occasions. Mike is well recognized and respected for his active involvement not just in the real estate community, but also sits on the Board of Directors for Brophy College Preparatory, The Crossroads and Lodestar Day Resource Center, both charitable organizations serving the needs of people in recovery and homelessness.

1. Being in the industry as long as you have, what advice can you give to Developing Leaders who are looking to succeed, given the volatility of the marketplace?

The best advice that I can give is "not to give up" and "work harder". In 1991 the commercial real estate market conditions were comparable in terms of velocity and I was tempted to leave the commercial real estate business (after 7 years) and sell pharmaceutical supplies. Thank goodness I listened to JimWentworth who told me to "stay with what I knew best". Jim was the manager at Grubb & Ellis and hired me back after I had left Grubb & Ellis 4 years earlier to get into the development business. Bottom line is, I gutted it out for the next 2-3 years and capitalized on a couple of boom cycles. Ironically, my business plan today is similar to the plan I had in 1991.

2. How has your involvement with NAIOP assisted with your career?

I've been a member of NAIOP for 20+ years. NAIOP has provided an opportunity for me to create and strengthen relationships. The more involved I became on a committee and/or board level, the stronger those business relationships have evolved. Volunteering your time always puts you in a position to meet someone new and get to know someone that much better. Given that NAIOP is one of the largest commercial real estate organizations, it is no secret that most of my business is done with NAIOP members and/or people connected with the organization. Today, being exposed to public policy initiatives and various commercial real estate issues has broadened my knowledge base which allows me to communicate these issues with my clients.

3. How are you shifting your strategy in this down cycle?

Good question. It's "back to the basics", which includes cold calling, updating and creating new database, paying closer attention to old relationships and creating new relationships, focusing on renewals, chasing emerging industries such as alternative energy companies, bank-owned properties, data centers and government related growth.

4. What are some key practices or habits that have helped you succeed along the way?

I was lucky enough to start my career working for Bill Gosnell and Charley Freericks in 1984. It was equivalent to getting an MBA in commercial real estate. In terms of habits and/or practices, working long hours was at the top of the list. Hours spent at the office, meeting with customers and/or generating new business translates into better service for your clients and gives you the upper hand on your competition. The amount of time spent working directly affects the commission dollars you earn. I can't tell you how many weeknights we were in the office well past 10:00 P.M.!

5. What is your work philosophy?

Customer service is at the top of the list. We're better prepared to provide our clients with the best advice if we have market information. There is no better way to obtain market information than "grinding it out".

6. What are your core values?

My core values are pretty simple:

1) Do the right thing 2) Do what you say you're going to do 3) Treat others the way you'd like to be treated.

7. When do you think the commercial real estate market will start to make a turn towards recovery?

In general, industrial brokers will generate more income over the next 3 years than the previous 3 years solely due to an increase in leasing activity and building sale transactions. Industrial rates will continue to decline, albeit at a slower rate than the previous 18 months, and should stabilize after the distressed industrial real estate moves through the system. Investment and user building sales will increase; land activity will be limited to the user market. It's hard to predict when the in-

dustrial market will recover. We're looking for a sustainable increase in GDP, job growth and a significant increase in consumer spending. As this unfolds, and it will, commercial real estate will stabilize and expand once again.

8. What is your most memorable career experience/moment?

That's easy. In my second year in the business, I felt like I was starting to understand the business and actually felt pretty good about my game when my boss (Bill Gosnell) told me to go get his car washed, pick up his laundry and then pick up his son at school later that afternoon. It was a humbling, but needed, experience.

9. What is the most important thing you've learned in your career?

Tough question, because I've learned so much and I continue to learn daily. For me today, I need to continue to get out of my "comfort zone" and do the things that I might not necessarily like to do like cold calling, making the tough phone call, having the difficult meeting, checking off those items on my "to-do list" that are continually pushed to the next day. It's important now more than ever to "check your ego" at the door.

10. What is your most significant professional accomplishment?

Most significant or gratifying accomplishment has to be the opportunity I had being the Tournament Chairman of the Phoenix Open in 2006. I could not have put in the time to accomplish this without my partner, Andy Markham. Having Andy as my partner has allowed me to do some things that I normally would not have been able to take advantage of and I'm grateful for that. It was also significant because our clients understood the time commitment and supported us throughout the year. This support and trust further strengthened these valuable relationships.

11. What are your favorite hobbies/non-work-related interests?

I love to golf, run, hike, do hot yoga, horse racing, cards, and ping-pong. I like action and it's an added bonus if a family member is involved

12. Any reading materials or books you recommend (and why)?

I read most of the real estate periodicals throughout the week and skim the Arizona Republic and the Wall Street Journal daily. So, I like to enjoy a good fiction book just to escape the reality of war and the drama of politics, Tiger Woods, and Hollywood. My favorite books within the past year include Stieg Larsson's two books, "The Girl With The Dragon Tattoo" and "The Girl Who Played With Fire". I'm currently reading Michael Connelly's book, "The Scarecrow", which is solid and fun to read.

13. How do you like to de-stress?

A good long run on the canal. I also like to write 3 things I'm grateful for each day. Being grateful puts me in the right frame of mind compared to complaining about the commercial real estate market and the overall economy.

14. What are you grateful for today?

Friday, beautiful weather, family and friends.

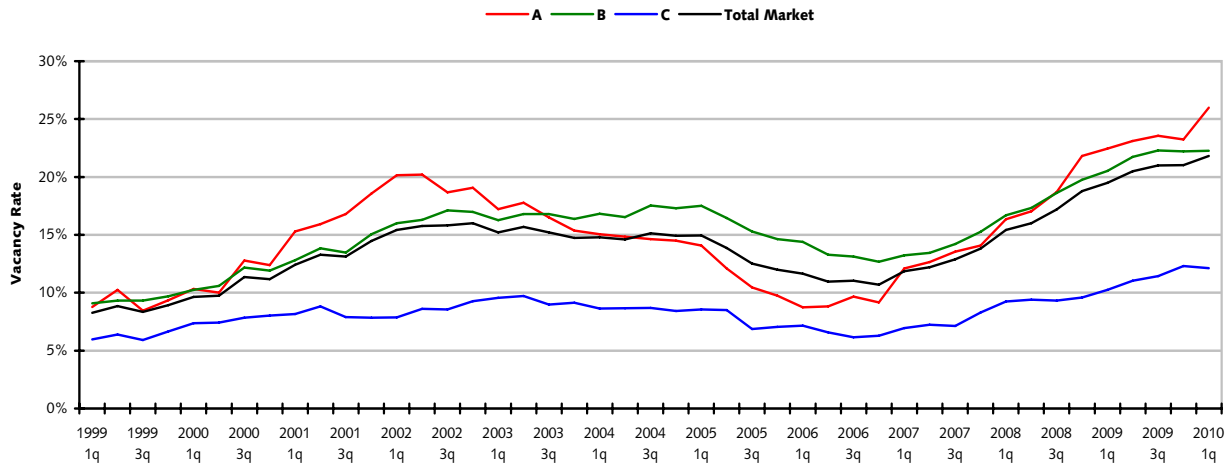
Contact: Michael C. Haenel T. 602.224.4404 E. mhaenel@brephoenix.com

1Q 2010 Market Report

By: Eric R. Wolfe

Metro Phoenix Office Market Statistics

VACANCY RATES BY CLASS 1999-2010



Source: CoStar Property®

Total Inventory:

154,394,344 SF in 7,884 buildings

Construction Activity:

Six buildings totaling 1,465,804 SF were completed

384,114 SF of office space was under construction at the end of the quarter

Notable deliveries include:

CityScape, 1 E Washington St - a 550,000-SF facility now 57% occupied, and Freeport-McMoRan Tower, a 480,000-SF building now 38% occupied

Absorption, Vacancy and Rental Rates:

Net Absorption of **negative (98,708) SF**

Vacancy Increases to 21.8% from 21.0%

Rental Rates Decrease to \$22.48 PSF/yr from \$23.01 PSF/yr

The largest lease signings occurring in Q1 2010 included:

103,671-SF lease signed by Grand Canyon Education, Inc. at 2411 W Peoria Ave in the Northwest Phoenix market; Todd Noel and Keith Lambeth with Colliers International represented the Tenant; the Landlord, Piedmont Office Realty Trust, was represented in-house by Damian Miller

84,810-SF deal signed by Early Warning Services LLC at 16552 N 90th St in the Scottsdale market; Samuel Murik and Michael Beall with Cushman & Wakefield, Inc. represented the Tenant; Brad Anderson, Bryan Taute and Chris Grogan with CB Richard Ellis represented the Landlord

50,400-SF signed by Arizona Public Service Company at 2225 W Peoria Ave in the Northwest Phoenix market. Steven Corney, Bill Honsaker, Jason Van Arsdale, Pat Williams and John Wyss with Jones Lang LaSalle represented the Tenant; Tim Whittemore with Cushman & Wakefield, Inc. represented the Landlord

Sales Activity:

17 office transactions closed (min. \$500,000) totaling 377,754 SF

Total volume of \$46,364,040

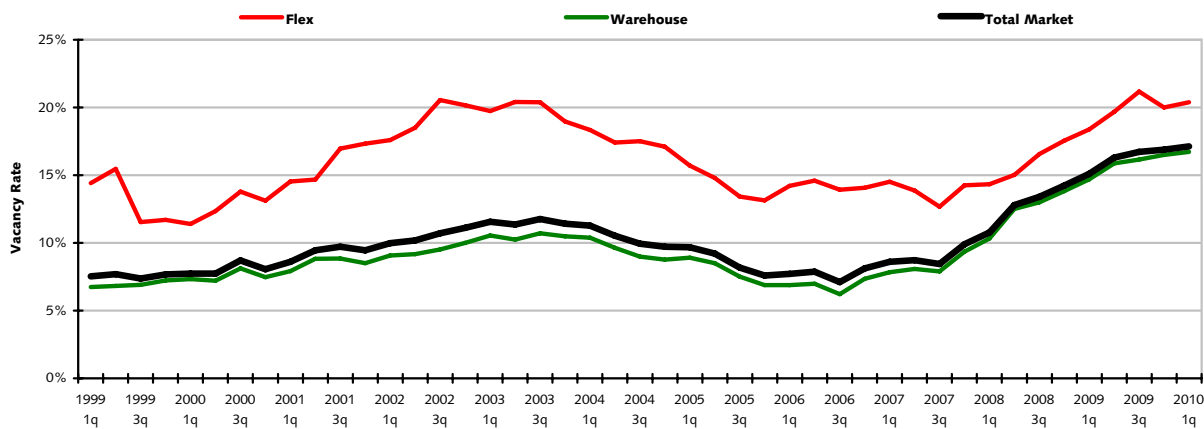
The average price equated to \$122.74 PSF



1Q 2010 Market Report Continued

Metro Phoenix Industrial Market Statistics

VACANCY RATES BY BUILDING TYPE 1999-2010



Source: CoStar Property®

Total Inventory:

283,523,261 SF in 9,463 buildings

Construction Activity:

One building totaling 100,000 SF was completed at 5757 W. Lower Buckeye 613,903 SF of industrial space was under construction at the end of the quarter

Absorption, Vacancy and Rental Rates:

Net Absorption of **negative (625,216) SF**
Vacancy Increases to 17.1% from 16.9%
Rental Rates Decrease to \$6.60 PSF/yr from \$6.72 PSF/yr

The largest lease signings occurring in Q1 2010 included:

296,829-SF lease signed by Staples at Westside Business Park - Bldg 4 in the Southwest market Patrick Feeney, Dan Calihan and Rusty Kennedy* with CB Richard Ellis and David Ginther of Fischer & Company represented the Tenant; Allen Lowe and Matt Hobaica with Lee & Associates represented the Landlord

216,845-SF lease signed by Philosophy, Inc. at Buckeye Logistics Center – Bldg 2 in the Southwest market; Patrick Harlan with Cushman & Wakefield, Inc. represented the Tenant; Steve Sayre, Darren Tappen and Kyle Westfall* with Cushman and Wakefield, Inc. represented the Landlord

133,475-SF lease signed by International Bedding at Ancona Tolleson Center – Phase I in the Southwest market Bo Mills with Cushman & Wakefield, Inc. represented the Tenant; Bob Beardsley with Southwest Commercial Brokerage represented the Landlord

Sales Activity:

37 industrial transactions closed (min. \$500,000) totaling 1,195,813 SF

Total volume of \$63,241,838
The average price equated to \$52.87 PSF

*Developing Leader



Project Profile - Freeport-McMoRan Center



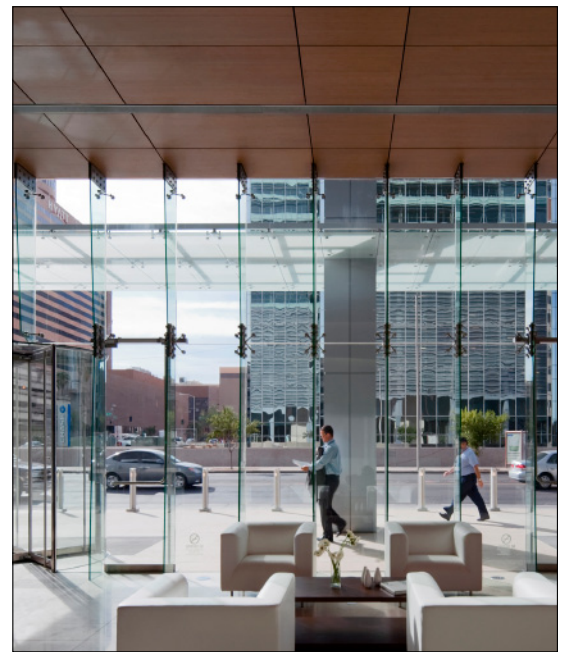
Project: Freeport-McMoRan Center (formerly One Central Park East)
 Location: 333 N. Central Avenue
 Ownership: Central Park East Associates LLC
 Developer: Mesirow Financial Real Estate, Inc.
 Contractor: Holder Construction Company
 Architect: SmithGroup Inc.
 Size: 800,000 square feet (26 stories)
 Completed: November 2009 (Core & Shell)

Summary

Freeport-McMoRan Center is a 26-story mixed use development consisting of Class A office (floors 20-26), hotel (floors 11-19), parking (floors 2-10), and retail (ground). The project is owned by Central Park East Associates, LLC ("CPEA") an entity solely controlled by the National Electrical Benefit Fund ("NEBF"). Located in the heart of Downtown Phoenix at the northeast corner of Central Avenue and Van Buren Street in downtown Phoenix, Freeport-McMoRan Center is adjacent to the Arizona State University's new downtown campus and close to numerous walkable amenities including restaurants, theaters, convention center, civic park, and the new light rail system and other modes of transportation.

Design

Designed by local architects, SmithGroup, this striking office tower is comprised of a curtain wall of articulated glass and steel containing 9-foot, floor-to-ceiling vision glass, affording dramatic views of the Phoenix skyline and surrounding mountain ranges. Designed to meet LEED standards, the project offers large efficient floor plates with column free space, state-of-the-art elevators, mechanical/electrical systems, and building automation, providing a truly unique experience in a Class A office setting. The tower contains an on-site parking garage comprising floors 2-10, while the ground floor will contain a hotel lobby entrance and supporting retail.



Freeport-McMoRan Center has been the recipient of the following awards that included the AIA Western Mountain Region Design Citation Award, the Downtown Phoenix Partnership's DREAMR (Downtown Revitalization Effort Awards of Merit and Recognition) Award for Project of the Year, and the RED (Real Estate and Development) Award for Best Office Project by Arizona Real Estate Magazine

Tenancy

Freeport-McMoRan Copper & Gold, Inc., the building's anchor tenant, is an international mining company, and one of the world's largest producers of copper, gold and molybdenum. The tenant will occupy the top six floors of the building totaling 185,000 square feet for use as its new corporate headquarters beginning in May 2010. The remainder of the building, floors 11-19, will be a Westin hotel by Starwood offering 278 upscale business class suites. CPEA has invested an additional \$30 million in the \$175 million building to build hotel rooms, construct a hotel entrance and create a pool deck. Starwood Hotels & Resorts Worldwide Inc. will operate the hotel under a management agreement with ownership, CPEA.

Project Profile - Musical Instrument Museum

Project: Musical Instrument Museum (“MIM”)
 Location: 4725 East Mayo Boulevard
 Leadership: Bob Ulrich, MIM Founder and Board Chairman
 Billie (Bill) R. DeWalt, Ph.D., President and Director
 Developer: Ryan Companies
 Contractor: Ryan Construction
 Architect: RSP Architects, Minneapolis and Phoenix
 (Richard Varda – Project Lead Design Principal)
 Size: 190,000 square feet, two floors
 75,000 square feet exhibition space
 299-seat music theater
 Website: www.themim.org
 Completed: April 2010



Summary

This Musical Instrument Museum was the vision of former executive and retired CEO of Target stores, Bob Ulrich. The inspiration for the museum came to Mr. Ulrich while on a trip in Belgium after visiting the Musical Instrument Museum (part of the Royal Museum for Art and History and renowned for its collection of 1,500 instruments). Mr. Ulrich decided to construct a museum in the US on a slightly grander scale, with instruments from all over the world, and thus the concept was created. The MIM is the first truly global museum of its kind totaling 190,000 square feet containing exhibition space, a music theater (hosts regular concerts), galleries and public spaces, including exhibition installation of the Geo-Galleries, five expansive galleries that focus on different regions of the world, and the Artist Gallery, where unique stories of musical icons will be told through their instruments.

MIM will celebrate music by exhibiting instruments from every country in the world. The museum has already acquired more than 12,000 instruments and objects for its core collection, representing musical traditions and cultures from around the world.

Grand in scale and scope, the \$250 million dollar project is already a significant presence in Phoenix. In materials and configuration, the new museum building is evocative of the desert landscape as well as MIM’s international focus. An ideal showcase for MIM’s diverse collections, which will be installed on two floors of spacious, light-filled galleries, the new building will also will feature a classroom, garden courtyard, performance hall, recording studio, restaurant, café and store.

Design

Designed by the Minneapolis and Phoenix offices of RSP Architects, the MIM features a distinctive architecture that evokes the topography of the Southwest, suggests the museum’s international scope, and expresses the universal role of music across all cultures. The façade of the museum features a richly textured Indian limestone known as “teak stone” which complements and blends with the surrounding desert colors. Desert plantings and arroyo environments will surround the museum, creating a serene and welcoming oasis. The desert theme was carried throughout the inside of the museum as well. The two-story structure includes a 450 foot long flowing river-like corridor called “El Rio” that creates the spine of the museum. Wall finishes in Venation plaster create patterns that evoke geological striations of the Arizona cliffs and canyons and allude to the rhythms of musical composition. Diffused daylight illuminates the galleries and public spaces through a ribbon of windows and skylights that will glow and animate the building at night, in an abstract pattern much like piano keys.



Hours: Monday through Wednesday 9 am – 5 pm
 Thursday and Friday
 9 am – 9 pm

Saturday 9 am – 5 pm
 Sunday 10 am – 5 pm

Admission: Adults (18-64), \$15.00
 Seniors (65+), \$13.00
 Children (6-17), \$10.00
 Children under age 6, free

Contact Info: 4725 East Mayo Boulevard
 Phoenix, Arizona 85050
 480-478-6000
 www.themim.org



Developing Leader Spotlight

Name: Megan Creecy
Company: EJM Development Co.
Position: Leasing & Development Manager
Age: 28
Years in Commercial Real Estate: 7 +



1. How has your involvement with NAIOP and the Developing Leaders program launched you to where you are today?

Although I have only been a member of NAIOP for six years, both my national and local involvement with NAIOP have provided me with countless networking opportunities, which have allowed me to establish a large base of industry peers and contacts which would have otherwise taken twice as long to establish.

2. What are the primary benefits of the NAIOP Developing Leaders program and how does it differ from other commercial real estate young professional groups?

One of the major benefits of NAIOP's Developing Leaders program is the peer-to-peer networking opportunities it provides. Locally, the Arizona DL program differs from other young professionals groups by making all of its events free to attend. As far as I know, every other local industry group for young professionals charges not only a membership fee, but an additional fee just to attend their events. One of the priorities of the Arizona DL group's Steering Committee since its inception last year has been to provide events for DL members, free of event charges.

3. You spearheaded the implementation of NAIOP Arizona's local Developing Leaders program. What were your initial goals for the program? How would you rate the success of the program in its first year? How does NAIOP Arizona's Developing Leader program differ from other Chapters across the nation?

My initial goal for the DL program was really just to provide our members 35 and under with a program geared specifically toward their interests, and thereby create a sustainable asset for our Chapter. Due to the amount of time and effort put into the program by the 2009 DL Steering Committee last year, the success of the program far exceeded my expectations. I would give it a 10 out of 10. The Arizona DL program is similar to other programs around the Country in that it offers networking, and educational events, but our focus on Community Outreach really sets us apart.

4. What has been your favorite DL event so far and why?

My favorite Arizona Chapter DL event was actually the most recent event, where the DL's volunteered with Habitat for Humanity of Central Arizona. One of the underlying themes of the Arizona Chapter DL group is to "improve the communities in which we develop, build, and broker commercial real estate", and I think "hands on" volunteerism is one way we will achieve this goal.

5. Where do you see yourself in five years?

Continuing my efforts to cultivate a long and successful career in commercial real estate, while gaining the respect and admiration of my peers

6. What are your core values? Simply put: trust and loyalty.

7. What is your most memorable career moment and why?

Actually, I have three. To-date, receiving the 2009 NAIOP National Developing Leader Award, my appointment as the 2010 Co-Chair of NAIOP National's Developing Leader Diversity Task Force, and my election as an Arizona Board of Directors member, have been my proudest career achievements, because all three are direct results of my hard work for the organization.

8. Who is one person you admire in this industry and why?

Although it might sound trite, Fred Stiles, who has been not only my boss, but my mentor over the past seven years. Very few people have been fortunate enough to work so closely with such a successful industry leader over such a long period of time. Fred really has taught me everything I know about commercial real estate, and I believe that having someone who has cared enough about my career development to spend so much time teaching me will have a very positive long-lasting effect on my career.

9. How are you making your mark in this industry?

Over the past year and a half one of my main focuses outside of the office has been NAIOP. Back in the Summer of 2008, when I considered helping to launch our local DL Group, I considered the type of market cycle we were entering into, and I knew that putting the time and effort into NAIOP could provide something positive for my career in what I knew could be an immensely challenging time for our industry. As an example, my work with our Arizona Chapter DL group last year helped me win the National Developing Leaders Award. And, the exposure I received from that Award helped me to be selected by NAIOP National as Co-Chair of the first ever National Developing Leaders Diversity Task Force, and also receive a position on the NAIOP National Board of Directors. My efforts with NAIOP have afforded me not only local, but National exposure. I would highly encourage every Arizona Chapter DL to put as much time and effort as possible into the organization.

10. What do you do for fun?

Travel, spend time socializing with my friends (several of whom I have met through NAIOP), and play with Sophie, my Welsh Terrier puppy.

11. Any reading materials or books you recommend (why)?

Yes, I am currently reading SuperFreakonomics, the follow-up to the best seller, Freakonomics, in which the authors explore the hidden side of everything through economic theory. It is a very interesting, yet educational read.

Contact: Megan Creecy T. 480-948-7880 E. mcreecy@ejmdevelopment.com

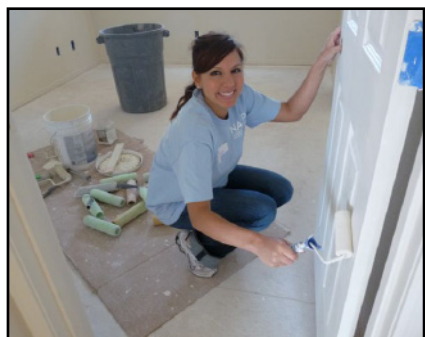
Featured Event – Habitat for Humanity 2010

Our most recent community outreach event took place March 27th, 2010 at the Johnson Townhome project in Surprise, Arizona, with Habitat for Humanity of Central Arizona. Thirty of our NAIOP Developing Leaders donated their Saturday to help construct the Habitat for Humanity project, which is a 48-townhome “green” building project utilizing 6” walls, energy-efficient insulation, communal walls and desert landscaping.

The Developing Leaders Group spent the day helping to construct the project which will provide affordable



homes for working families who wish to purchase their first home, but who cannot qualify for traditional home loans. Our NAIOP Arizona Chapter Developing Leaders Group hopes that through helping to build housing for some of those who are less fortunate than ourselves, we will be making a long-lasting impact on their lives and our community.



NAIOP-AZ Calendar

May 20th, 2010

Night at the Fights XIV “Havana Nights”
6 pm – 10 pm
The Phoenixian

June 10th, 2010

Continuing Education Class and Day at the Ballpark with BOMA – Chase Field

June 24th, 2010

DL Educational Event and Mixer**
“The Arizona We Want: A Realistic Picture of What Citizens Think About Life in Arizona Communities, What They Want for the Future, and How We Can Work Together to Achieve a Common Set of Goals”
Presented By Dr. Lattie F. Coor
Location and Time TBD

July 2010

NAIOP Member Mixer
4pm – 6pm
The Merc Bar

August 2010

DL Community Outreach Event: Feed the Homeless BBQ**
Central Arizona Shelter Services (CASS)
Time TBD

September 2010

Thursday Night Live
6pm – 10pm
Location TBD

October 21, 2010

MonteCarlo Night
5:30pm - 9:00pm
Talking Stick Resort
Scottsdale, AZ

*Dates and times are subject to change. Please refer to www.naiopaz.org for continued updates

**Indicates DL only event

Legal Matters

Arizona's Anti-Deficiency Statutes

by: Pele K. Peacock

This memo is an overview of Arizona's mortgage deficiency statutes. The content of this memo is intended to provide a general overview of Arizona's anti-deficiency statutes and its implications in certain situations. It is not the intent of this memo to address every possible scenario, and should not be used as a substitute for obtaining competent legal advice regarding the specific scenario one may be facing.

Arizona's Anti-Deficiency Statutes are primarily covered by A.R.S. §33-729(a), which applies to judicial foreclosures, and A.R.S. §33-814(G), which applies to foreclosures by trustees' sale. Arizona's anti-deficiency statutes prevent a lender from suing a person for any losses on a home after foreclosure. A person may not be sued by his or her lender if the property is located on 2.5 acres or less and is a single family residence or duplex and the loan foreclosed is a purchase money loan.

In order to qualify for the anti-deficiency protection, several determinations must be made. First, a protected dwelling is limited to real property of "2.5 acres, or less," and that is "limited to and utilized" as a "single-one-family or single-two-family dwelling." For example, a single deed of trust encumbering four single family condo units would not qualify, nor would property intended for use as a dwelling but never lived in. The focus is on the type of property protected, not the type of borrower protected. Therefore, as the law presently stands, investors and builders owning qualifying residential properties being used as a dwelling will be protected from deficiencies.

Next, a determination must be made whether the mortgage loan is purchase money (i.e., 80/20 loan) or non-purchase money (i.e., home equity line of credit used for purposes other than purchase). A mortgage loan is considered purchase money even if less than 100% of the loan monies are used to purchase the real property. A mortgage loan is considered non-purchase money if the funds are used to purchase something different than the secured residence such as a vacation home. If the loan is a purchase money mortgage loan it is entitled to deficiency protection. In the case of a second mortgage that is a purchase money mortgage, the foreclosure by the senior secured lender will eliminate the security of the second and no deficiency is allowed. However, a non-purchase money mortgage is not entitled to deficiency protection. In the case of a second mortgage that is a non-purchase money mortgage, the junior lender can waive its security and sue the homeowner directly. A typical refinance loan does not lose its character as a purchase money loan. However, if the refinance adds funds to the original loan and cash is received, the deficiency protection may not be available or may be limited.

A majority of the residential foreclosures currently occurring in Arizona are Trustee's Sales involving loans secured by deeds of trust on single-family residences on 2.5 acres or less. Under this scenario, once the lender concludes the Trustee's Sale, it may not obtain a deficiency judgment against the borrower. There are also many pending foreclosures involving loans secured by deeds of trust on vacant land. Under this scenario, once the lender concludes the Trustee's Sale, it may bring suit against the borrower within 90 days after the date of the foreclosure sale for a deficiency judgment.

Pele Peacock is an associate attorney in the law firm of Alvarez & Gilbert, PLLC, where her practice emphasizes in real estate, construction, and commercial law. Pele Peacock can be reached at ppeacock@alvarez-gilbert.com.

For more information about the firm, please visit www.alvarez-gilbert.com or call (602) 263-0203.

Public Policy Update

by Rusty Kennedy, DL Public Policy Chair

Over the past several weeks, Arizona has emerged as the center of numerous political debates and controversy. Among the most public debates is the Immigration Bill that is being debated by everyone who has an opinion about everything in local politics. This has made us the brunt of numerous jokes nationally and it will be interesting to see how it unfolds over the next few days and weeks.

As for issues that more directly affect NAIOP and the business men and women in commercial real estate are the Jobs Bill (HB 2250) and the sales Tax Proposition (Prop 100) that are being reviewed and voted on in the AZ Legislature in less than a month. It appears as though the Jobs Bill, both the House's version and the Governor's edited version, will die and not become law. Of interest to us, the modifications to current legislation that have been turned down thus far are the lowering of corporate income taxes; lowering of capital gains taxes; the state equalization property tax repeal and, in addition, on the docket are the largest sales tax and property tax increases in history. Many people were concerned that K-12 spending will suffer if these business tax cuts would have been pushed through. Some facts to think about are that Phoenix has the 3rd highest commercial property tax rates in the country (New York City and Detroit are higher) and AZ has the 5th highest commercial property tax rates in the country. Not to mention, since 2000, the average funding per student (with adjustments made for inflation) has increased from \$6,497 - \$7,809 annually. The view of many commercial real estate professionals is that if we lower commercial property tax rates, it will encourage businesses to move to the valley thus strengthening the economy as a whole which will in turn strengthen our school funding through more tax payers - businesses and personal. An idea that has been discussed that still has some momentum is the expansion of enterprise zones.

Obviously, this is an oversimplified snapshot of the issues, but hopefully it calls attention to some things that will affect our business today, tomorrow and in the future, regardless of what side of the issues you support.

Editor's Corner

Our topic for our first edition is a very timely and relevant one for Developing Leaders. We are in one of the worst recessions of all time and have young careers in one of the most volatile industries. Many of us have lost our jobs... or have seen colleagues or mentors who have. Many haven't signed a deal in months. Many have had to get second jobs. Some are contemplating leaving the industry altogether. We've all been forced to confront it – now more than we've ever had to before. CHANGE. The sooner we embrace it and find the opportunity that exists within CHANGE... the better off we will be and the more we will be able to grow and succeed. Be Patient with it, Positive about it and Persistent to it.

On CHANGE....

Change is inevitable - except from a vending machine.
~Robert C. Gallagher

If you're in a bad situation, don't worry it'll change. If you're in a good situation, don't worry it'll change.
~John A. Simone

Continuity gives us roots; change gives us branches, letting us stretch and grow and reach new heights.
~Pauline R. Kezer

Our only security is our ability to change.
~John Lilly

There are three constants in life...change, choice and principles.
~Stephen Covey

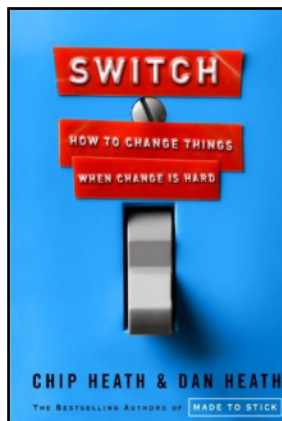
Some people walk in the rain, others just get wet. ~Roger Miller

DL Recommended Read

Switch: How to Change Things When Change is Hard
by Chip Heath and Dan Heath
A New York Times Bestseller

The Heath brothers (coauthors of *Made to Stick*) address motivating employees, family members, and ourselves in their analysis of why we too often fear change. Change is not inherently frightening, but our ability to alter our habits can be complicated by the disjunction between our rational and irrational minds: the self that wants to be swimsuit-season ready and the self that acquiesces to another slice of cake anyway. The trick is to find the balance between our powerful drives and our reason. The authors' lessons are backed up by anecdotes that deal with such things as new methods used to reform abusive parents, the revitalization of a dying South Dakota town, and the rebranding of megastore Target. Through these lively examples, the Heaths speak energetically and encouragingly on how to modify our behaviors and businesses. This clever discussion is an entertaining and educational must-read for executives and for ordinary citizens looking to get out of a rut. (Mar.)

–Excerpt taken from *Publishers Weekly*



DL Deals Q1 2010

Size: 117,853 SF
Tenant: Suntech Power Holdings Co.
Property: Goodyear Crossing
3801 S. Cotton Ln Goodyear, AZ
Lease Term: 10 years
DLs: Chris Burns, Duke Realty
Rusty Kennedy, CB Richard Ellis

Size: 48,000 SF
Tenant: B/E Aerospace
Property: 10 Chandler
SWC 54th St & Galveston St
Chandler, AZ
DLs: Cooper Sutherland, Lincoln Property

Size: 18,000 SF
Tenant: ITT Technical Institute
Property: West 101 Business Center
Phoenix, AZ
DLs: Andrew Cheney, Lee & Associates

Size: 17,350 SF
Tenant: Equiant Financial Services, Inc.
Property: Chaparral Business Center VI
5401 N Pima Rd Scottsdale, AZ
Lease Term: 5 years
DLs: Cooper Sutherland, Lincoln Property

Size: 13,033 SF
Tenant: Arizona's Family Florists
Property: Lincoln Sky Harbor
2050 S 16th St
Phoenix, AZ
Lease Term: 11 years
DLs: Cooper Sutherland, Lincoln Property; Rusty Kennedy, CB Richard Ellis

Size: 9,912 SF
Tenant: Sun Radiology
Property: 101 Medical Office Center
9250 W Thomas Rd Phoenix, AZ
Lease Term: 10 years
DLs: Sean Cummings, McShane Development Company

Size: 8,372 SF
Tenant: Net Flow Research
Property: 2515 W. Erie Dr Tempe, AZ
Lease Term: 4 years
DLs: Steve Larsen, Colliers International; Rusty Kennedy, CB Richard Ellis

To submit one of your deals for our next newsletter, please email info to jnortham10@gmail.com

On The National Front...

A Look at What's Going On with NAIOP Nationally

Time to step outside the beltway...

By Lawrence A. Pobuda, 2010 NAIOP National Chairman

Over the years, our industry has faced legislative challenges, many of which have been fought at the local and state level. It's easier to understand the issues that impact us in our backyard, yet a national battle is brewing that will impact everyone in the commercial real estate development industry – and it is coming at a time when our economy is struggling to create jobs and our industry is mired in a severe downturn. The battle is over carried interest.

If you aren't familiar with it, carried interest, also known as a "promote" or "promoted interest" is the interest on the long-term capital gain in a real estate partnership that is given to a general partner in return for the risk of pursuing and completing a real estate project. Proposed federal legislation – legislation that has been passed by the House of Representatives – would re-characterize these gains as ordinary income, increasing the tax rate from 15 percent up to 35 percent. Why is this so important to our business?

A general partner in a real estate venture is "at risk" for not only capital contributions to the partnership, but also for all partnership liabilities, such as environmental contamination and lawsuits. A commercial real estate development takes years – from initial concept to opening – and this makes compensation earned at the end of the project unlike a salary earned through regular employment. Today, it is a good bet that the general partner is also personally guaranteeing construction completion and payment of debts. Our current economy makes new development difficult – from securing new financing to securing tenants – never before have the risks been greater and the challenges more daunting. Adding an additional tax burden to an already stressed industry may be considered "low hanging fruit" inside the beltway, yet the real danger lies well outside the beltway – in our communities.

The commercial real estate community has a strong ally in the U.S. Conference of Mayors who recently adopted a resolution to keep the treatment of carried interest exactly as it stands today. Elizabeth Kautz, the president of the U.S. Conference of Mayors described the proposed legislation as "an urgent concern for all American communities". As Kautz stated, "Our objective is to make sure that our cities continue to be vital...we simply cannot have even more barriers created by Congress or state legislatures that impact the vitality of our communities. This legislation, if passed, would affect every industry cluster – from developers on down to building contractors, roofers, carpenters, plumbers, electricians...everybody."

I believe this is our "national call to action" as a commercial real estate community – to demonstrate the real impact that this change could have on the fundamental underpinnings of our industry, and our economy. We pride ourselves on the entrepreneurial spirit of risk taking and innovation that are central to long-term growth and prosperity. This proposed legislation would be a "body blow" when we can least afford it.

- I encourage you to "start local and head to the Senate". First, have a discussion with your local elected officials about this proposed legislation and the negative impact it will have on the commercial real estate community. NAIOP's Government Affairs team stands ready to help carry the message – feel free to contact Aquiles Suarez at NAIOP at suarez@naiop.org.
- Second, contact your U.S. Senator to let him/her know the impact this legislation will have on our communities. This legislation, while primarily targeted at hedge funds and private equity funds, has serious impact on our industry and future job creation. The unintended consequences are devastating.
- Finally, please consider a contribution to our NAIOP PAC. We have a talented and

well-respected team on Capitol Hill that has been advocating for all of us since this issue surfaced in 2007. Their on-going efforts require financial support.

The power of our national effort will be greatest when we all become involved in this issue – an issue that reaches well beyond the Washington beltway and lands squarely on Main Street.

For further information on NAIOP National visit www.naiop.org

NAIOP Establishes Developing Leaders Diversity Task Force

In response to shifting demographics among the commercial real estate industry, NAIOP has created a Developing Leaders (DL) Diversity Task Force. The group, led by co-chairs Megan Creecy of Scottsdale, AZ and Erica-Nicole Harris of Milwaukee, WI, will examine diversity's role in the development industry and how NAIOP can further expand its efforts in support of various initiatives towards its mission of advancing responsible commercial real estate development.

"NAIOP steadfastly supports diversity within our industry," said Thomas J. Bisacquino, NAIOP president. "We are committed to shining a spotlight on diversity and supporting women, minorities and younger generations as they increase in numbers and flourish in our industry. I'm proud of the work that the DL Diversity Task force is committing to this important business and cultural issue."

Diversity and inclusion are significant to NAIOP members and the commercial real estate industry because:

- Diversity increases the ability to effectively compete and respond to the changing demographics of decision makers.
- Commercial real estate yields greater innovation with diverse teams.
- Greater diversity ensures that the future of commercial real estate will gain talented individuals representing a wide variety of backgrounds.
- Businesses need to reflect the global nature of today's commercial real estate industry.
- Clients are diverse themselves and thus value diversity from their vendors.

For further information about the DL Diversity Task Force and its work, please contact Sarah Milans, marketing manager, at (703) 904-7100 or milans@naiop.org.

BOMA Education Schedule

- Topic:** **Commercial Contracts (CE credit) - 3rd THURSDAY EVERY MONTH**
Dates: 5/20/10, 6/17/10, 8/19/10, 9/16/10
Times: 2PM – 5PM
Location: 3200 N. Central, Suite 1230, Phoenix, AZ 85012
Cost: \$35 Per Person
- Topic:** **Real Estate Investment & Finance**
Dates: 5/26/10 – 5/29/10
Times: 8AM – 5PM
Location: 3200 N. Central, Suite 1230, Phoenix, AZ 85012
Cost: Call BOMA Greater Phoenix 602-200-3898 or www.bomaphoenix.org
- Topic:** **Green Leases**
Dates: 6/2/10
Times: 2PM – 5PM
Location: 3200 N. Central, 8th Floor Conference Room, Phoenix, AZ 85012
Cost: \$100 per person with the Lease Guide, or \$60 per person without the book
- Topic:** **Commercial Fair Housing (CE credit) - 1st THURSDAY EVERY MONTH**
Dates: 6/3/10, 8/5/10, 9/2/10
Times: 2PM – 5PM
Location: 3200 N. Central, Suite 1230, Phoenix, AZ 85012
Cost: \$35 Per Person
- Topic:** **BOMA-NAIOP Event: Continuing Education Course and Day at the Ballpark**
Date: 6/10/10
Time: 8:30AM – 11:30AM
Location: Chase Field, Suite on the Insight Diamond Level, max of 40 attendees
 Description: BOMA is offering 3 hours of commercial contract law, which will be taught by Shelly Kramer from KW Commercial. After the class, the attendees are invited to stay for the D-backs baseball game vs. the Atlanta Braves. The game time is 12:40pm and we will be sitting in the Miller Lite Diamond Club. BOMA & NAIOP members can either attend both the CE class & game for \$65 or just the game for \$50 which includes a ticket to the Miller Lite Diamond Club and \$15 of Dbacks bucks.
- Topic:** **Green Industrial**
Dates: 6/16/10
Times: 2PM – 5PM
Location: 3200 N. Central, 8th Floor Conference Room, Phoenix, AZ 85012
Cost: \$50 per person..
- Topic:** **Commissioner's Standards (CE credit) - 2nd THURS DAY EVERY MONTH**
Dates: 8/12/10, 9/9/10
Times: 2PM – 5PM
Location: 3200 N. Central, Suite 1230, Phoenix, AZ 85012
Cost: \$35 Per Person

See the BOMA Phoenix Event Calendar for latest course information and to sign up for a course www.BOMAPhoenix.org/calendar.cfm

New DL Members

| | | |
|-------------|-------------|--|
| Ryan | Bartos | Cushman & Wakefield |
| Ryan | Bird | Almquist & Gilbert P.C. |
| Joel | Brown | Rider Levett Bucknall |
| Carmen | Cordova | Jones Lang LaSalle |
| L. | Correia | The Correia Group |
| Sean | Foley | Colliers International |
| Michelle | Gardner | Shell Commercial |
| Michelle | Goodlive | McCarthy Nordburg Ltd |
| Ryan | Hagadorn | ABC Scapes Inc. |
| Tiffany | Hanner | Holladay Properties |
| Marci | Hendrickson | Austin Commercial |
| Spencer | Jarvis | Ernst & Young LLP |
| David | Kinney | Cole Investment Advisors |
| Kevin | Lange | Colliers International |
| Mark | Larsen | Lawyers Title |
| Megan | Lowe | Univest |
| Christopher | Marchildon | CB Richard Ellis Inc. |
| Candace | Masangcay | Willmeng Construction Inc. |
| Kirk | McClure | |
| Tamar | Mizrahi | Tratt Properties, LLC |
| Michael | Norman | Cox Business Services |
| Seth | Philbin | Alerus Bank & Trust |
| Ray | Pine | Ray Pine Design, LLC |
| Delia | Stirling | Landmark TCN |
| Tyler | Strauss | Arizona Office Liquidators and Designs |
| Sven | Tustin | Trammell Crow Company |
| Veronica | Ward | McCarthy Nordburg Ltd. |
| Danny | Wasson | Wasson Commercial Contracting |
| Kyle | Westfall | Cushman & Wakefield |
| Eric | Wolfe | CoStar Group Inc. |

2010 DL STEERING COMMITTEE:

| | | |
|---|---|---|
| Steve Larsen, Chair Colliers International | Vanessa Westfall Membership Co-Chair Summit Builders | Andrew Cheney Lee & Associates |
| Joe Cryan, Vice Chair NAI Horizon | Tom Jarvis, Membership Co-Chair Willmeng Construction | Mac McKinnon ViaWest Properties |
| Megan Creecy, Immediate Past Chair EJM Development | Rusty Kennedy, Public Policy Chair CB Richard Ellis | Pele Peacock Alvarez & Gilbert |
| Jaime Northam, Communications Chair | Clay Wells, Executive Committee Co-Liaison McShane Construction | Cooper Sutherland Lincoln Property Company |
| Nic Fischer, Education Chair First Industrial | Alan Gillespie, Executive Committee Co-Liaison | |
| Lisa Alberti, Events Chair Small Business Finance | | |

THE DL CONTRIBUTORS:

Jaime Northam
Editor

Carmen Cordova
Jones Lang LaSalle Americas, Inc

Sean Cummings
McShane Development Company

Eric R. Wolfe
CoStar Group

Ray Pine
RAY PINE DESIGN, LLC