

REAL ESTATE DECISION MAKING - ADVOCACY

Professor: Greg Smersh, Ph.D., Guest Speaker: Lacey Willard

OK. Once again, we have Lacey Willard here. This time to talk about advocacy and public support for various things.

Absolutely.

And thank you very much for your input.

Thank you, and advocacy is such an interesting approach for commercial real estate, because there's so much that impacts it. Up to 25% of the bills that are filed in Florida every single year, have some sort of an impact on commercial real estate. I mean, it's a real volume that we're tracking. And it's anything from taxes to insurance, codes, sustainability-- we talked about that in another segment.

All of these types of items that we'll take a look at are huge impact. And you see a lot of industry supports or industry organizations, and you see a lot of firms who are out there talking about these issues. And first and foremost, and depending upon when they show, hopefully TRIA will be solved. I'm saying that with a level of certainty. It's a terrorism risk insurance.

After the terrorist attacks in New York on September 11, there was a realization that the reinsurance was unable to take care of terrorism risk insurance. So the government came in with a subsidy that provided that reinsurance program. So it comes up at the end of this year. It allows developers to undertake large-- and we're in a development class here-- so undertaking very large developments come up and rub up against those sort of the tree of limits. It's extremely important.

There are some private groups and private industry reinsurance companies who can support this, but TRIA is incredibly important. It's the number one issue that we're tracking. We've been up to the Hill several times talking about it, and everybody knows about it that it is a big issue. It's funny, because commercial real estate isn't always about subsidies. We're not always going on talking about that. But in this particular case, when we don't see that the marketplace is able to ascertain the true risk involvement they will have to take, this has to come about, and being such a sensitive topic as terrorism in the United States.

And so TRIA is definitely the number one issue that we've been tracking in 2014, hand-in-hand with another sort of tax insurance issue. You'll see down here under tax reform, leasehold depreciation. They're talking in another segment about the fact that, in the US, buildings are not depreciated on a seven to 10 year cycle. It's much longer.

But if you take a look at leasehold depreciation. This is when a tenant occupies a space, there's a build-out that is done, and there is a depreciation of that over shortened period, because it's a lease. And right now it's 15 years. Now I always tell, if we have a broker in our office that every single time they sign a lease, it's 15 years, we would have two brokers in our office. There would be

so much turnover, because if those are the type of commissions that they're getting all the time, I mean, 15-year leases, it's just-- maybe in some components in order to secure lower rates during the recession.

But what we really want to make sure is that there is a recognition that-- a lot of times tenants are going to third, fourth generation space. So new construction that we saw on stats earlier, 4.5 million square feet, you're not seeing the new construction. You're seeing tenants reoccupying existing buildings, which is third, fourth generation. And that reoccupancy, the landlord's still depreciating on the five year lease that was 10 years ago, and the five year lease that was five years ago. And it's still over a 15-year period.

And so that becomes a true impact on the tax structure. It's listed last here, but if you take a look at Pricewaterhouse, they do surveys of investment funds. What are you most worried about? It's optimizing tax structure and making sure that we have tax reporting compliance. Going back to tax reform 1031 exchanges, like kind exchanges, you may have heard them, because they've been around, like the 1920s.

It is basically protecting the value for reinvestment in another asset of like kinds. And so, that is looking like there might be a challenge there. And, again, a challenge, because it's perceived as a loophole, not as a benefit to redevelopment and reinvestment. And so that's certainly something that we'll be watching closely. Tax incentives for things like fire sprinklers, roofing, always something that we want to take a look at, because those are big capital projects. And those tax incentives really help, again, going to the optimized tax structure.

And carried interest-- oh, this has gotten some flak over the years, mostly because hedge funds were able to take advantage of it. And Obama's been actually quoting, talking about the carried interest, and how it is this big loophole. But real estate organizations take advantage of that in order to make sure that they are investing under the appropriate guidelines, reinvesting, and growing.

And so the carried interest component, we've been up to Hill several times on that as well. So I'm not going to hit on all of these, not to worry. But so many of these are decision makers in real estate. And so the FASB-- and I'm guessing a part of the component of the MBA classes that has some accounting standards in it, I believe. And so the FASB will be a familiar term.

And so leasehold accounting is looking to be overlapped right now with the IASB. And they're looking at one of two approaches, or a coupled approach, that may be detrimental to the industry. So we haven't seen finality on the rule-making there. We've had several, I guess, testimonies offered there, but that's a moving piece. That's definitely a moving piece of where that leasehold accounting-- is it going to be a balance sheet issue? Or where does it have to be recognized? Where does it have to be disclosed for tenants when disclosing publicly? Is this a-- what type of a leasehold interest is this, and where is it carried? Huge, huge impact on the balance sheet.

We were in San Diego at a conference about a year ago, and we were sitting around a big-- well-populated. Every single time we have a government affairs meeting, we have to bring in more chairs. And so we always consider a couple of topics, and immigration came up. And so commercial real estate, I mentioned there's a lot of-- with 25% of the bills in Florida, we have a huge amount of bills that were dealing with. Does immigration impact commercial real estate? And that was the question.

Should we be taking a stance here? Where does the impact come? And what we were able to hammer down to is that, of course, it does. If you take a look at the partner organizations that commercial real estate is engaging with, the services, immigration is a big issue, the services to commercial real estate.

And so we did take a stance that we should-- nothing on border protections-- outside the purview of something we take a look at. It's certainly not where we want to focus. It's more making sure that there is a clear and transparent expectation of employers when approaching the immigration. So it's amazing how you can see some of these topics impacting the decision making.

Patent trolls? So we're sitting in the meeting, and I said I'm sorry, can we-- this is the whole thing. I said, are we talking about those crazy-hair little things, and are we offending someone by calling them a troll? So I got a couple laughs. I was being serious, little did they know.

These are actual people who troll, so it's like an action. They are trolling for patent issues, knowing that they can likely win through a settlement of the case. And so we're looking at national legislation. We're going to be looking in Florida this year, so if you see patent trolls out and about in the gubernatorial discussions, you'll know that's something we brought up.

But certainly, it's something that is a big concern without some sort of a prerequisite or notice requirement. And a great example is a security system that's installed in a building, and three cells later, they don't have the original software patent. And so the annual fees for that are then accelerated, and so there's a suit for that. So there are companies who actually troll for that.

Open internet. I don't know if you guys are watching this in academia. Oh, this is a tough, tough question, because some of the internet service providers are looking at dedicating a fast lane to people who will pay more for that. So it's dedicating the bandwidth that is available to people who pay more, leaving probably less for others.

And so, we were in the meeting, and I said, I might sound a little bit like a capitalist. I don't know. I don't know, but isn't that just if people are willing to pay more for certain aspects, isn't that just kind of how it goes? And so if this is a monopoly, if this is where we're looking into anti-competitive ranks, or where this is being regulated, there's going to be some sort of a suit from the appropriate DOJ or FTC regulatory or whoever it is. And so, this open internet question is something to watch closely, because if, in fact, there is going to be this fast lane where you can have faster surfing and

faster access, and the company's web pages are taking advantage of it and others are not, what does that leave sort of the competitive? So certainly an unopened question there.

The next set of items are examples of rule making that are going on perhaps without the appropriate, what we believe, amount of public comment. And so, FAA, zoning, energy legislation, storm water, and not the appropriate [INAUDIBLE], but we we're waiting for the commentary to come in.

Weapons in the workplace. Such a, I mean, this is what commercial real estate is thinking about this week, Ebola. This is what we're thinking. I know the university is thinking about this, too. What are we doing with this? What are we doing with these social issues, and how are we, as a building, going to respond to that? How are we going to respond to weapons? How are we going to respond to possible disease? How are we going to respond to a terrorist attack? I mean, this is where people are. And so these are big questions that on an international or federal level, that we really are kind of watching closely.

And for a while now, we've been watching the Affordable Care Act, and the implementation of that. And I think we're about 10 million, 10 million adults that have come into the subscription. And really, we've seen competition, and so the whole rising of the policy rates hasn't occurred. So that's something that's out there, too. How's this going to impact? We receive notice on every one of our security guard contracts in commercial real estate that pricing was going up, because of having to abide by the Affordable Care Act. So those are some issues that are going on the federal side, and it's not like it's any better on the state side.

Minimum wage is something that a lot of states are dealing with now, or going to have to deal with soon. It is a campaign trail type of issue. We haven't taken a stance on this. It's something that we're watching closely, but rest assured, this is out there and will impact business. And it has come up in the last couple meetings very consistently.

Mandatory benchmarking, this ties back to another segment of our discussion today as it relates to energy. So should a municipality or jurisdiction mandate the reporting of your Energy Star score when you do a lease, or lease on a certain amount of square footage? I don't know. So big question.

Licensing of trades and contractor retainages, TIF financing. I don't think we need to-- I mean, the fracking bans, I'm not sure that we see that here in our area. But this is a great survey-- public/private partnerships. It's come up quite frequently here in the Tampa, sort of our regional area as well, changes to doc stamps.

Duty of care to trespassers? What? Who thought of that? Prop 13, if you go to California, most of that's coming from California, I think. And so a plumbing fixture prohibition if it has a low efficiency. I mean, again, tying into some of the sustainable topics, this mandatory component of it, and where we're talking about some of the states who are bringing that encouragement through codes.

And then you see, again, the landlords are making the decision to invest in those particular markets, because they believe in those codes, and the occupiers who are going there. This is all kind of coming together in a really-- we see recycling under the same topic there. So this is just a survey of the state issues that are out there, and a lot of states are dealing with as it relates to advocacy matters.

And then in Florida, in Tampa Bay, the main issue that commercial real estate-- and we have seen commercial real estate over the past five, 10 years come together as an industry on two issues, thus far. The first was Amendment Four, a couple of years ago, not the last one on tax caps, but the one before, Hometown Democracy. Extremely interesting concepts that St. Pete implemented, so that any type of a change to comprehensive plans would require a referendum vote. Going to vote every single time there's a Walmart that wanted to go down the street.

So it's taking the decision-making from the planning commission. And so the industry came together and said, wait a second, that's going to absolutely stop development. It's going to put every jurisdiction into a challenge, and you're going to pay legal fees for the rest of our lives. So that was luckily defeated at vote.

And the other issue that we came together on, and we've come together, and we'll continue, is sales tax on leases. Florida is the only state, that statewide, imposes a sales tax, sales and use tax, on leases. So if you sign a lease, you are paying your rent, and you're paying a sales tax on that rental amount, whatever your sales taxes is here. In Hillsborough County, it would be the 7%. And so Arizona used to have it. They phased it out. New York has it. There's a gross tax in Hawaii that has it.

But this is really a competitive issue for the state of Florida. How do we compete across that long border that we have up in the Panhandle for headquarters, because there's a 7% differential for any tenant who's coming here with the landlord and relocating. Immediately, it's the 7%. It's also applied to some components of rent. And so operating expenses are subject to it, and so this sales tax on leases is a wonderful item to see collaboration within the industry. Everybody's like, wait a second, what are we doing? No, the state is doing this.

Another item that we're watching very closely is third-party inspection at authorities having jurisdiction. So fire marshals are hiring firms to convert to electronic reporting the fire inspections. And so, basically, they're funding it on the backs of property owners without any type of-- they're taxing us without representation.

So I was just in a meeting down in-- our annual meeting that we have down in Naples, and I said, get out your teabags everybody, because this is taxation without representation. That's exactly what this is. This is a due process question that we've brought up, and it needs to be addressed with some consistency and clarity.

Orlando is doing one thing, and the cost to property owners is an entire FTE. It is it a full time equivalent. It is an employee in a year that would've been funded had this not been passed through. So this is a big issue that we're watching. And several other states are picking this up. And again, we're doing patent trolls, E-Permitting. Electronic is great, I mean, electronic it is very good, but the E-Permitting system, there's still a stamp that's required that we have to pay for, even though doing E-Permitting. There's a paper stamp of the signed and sealed drawings. So how do we get that in electronic, and how do we get an acceptable format for that?

The Florida Building Commission, able to issue advisory opinions, came through this year. We're extremely excited to see that approved. So that, again, gives consistency and clarity. So there's a great organization called the Florida Tax Watch. They have, like a round table, they have discussions. And this came up. The question was, where's the next Detroit? What?

I was just in Detroit for mid-year meetings, and I was there for several days. And the pension concept is what's coming in here. Where in Florida are we seeing very similar pension issues that could drive us into the definition of where's the next Detroit? And so that is a very big concern for municipalities on the pension question. I mean, that's a heavy question to be talking about in the state of Florida.

VAB reform, value adjustment boards, there's a lot of great folks working on that. And so here's just a recap of where we've had wins on the different issues-- taxes, insurance, ad hocs, and some on title insurance, so subsurface rights with title insurance and condo associations. Growth management, some of the most comprehensive changes to growth management happened a couple of years ago under Senator Bennett. The most comprehensive changes since Lee Moffitt was Speaker like 20 years before. I mean, these are big changes, and they're still being tested, because we haven't had the new construction coming out.

So we'll be watching all these again, and what's going to be coming up. And so that kind of brings us to Tampa, and what's going on in Tampa. Transportation. Anybody in Pinellas? Any Pinellas folks? No. Greenlight Pinellas is a big question right now. And so they're looking to install-- they're going to be going to vote here pretty soon, rail. It's a rail system for Pinellas. And there's a concept that would be a feeder system to a rail system that would maybe even come here in the Tampa area to USF and the airport in the future.

And so if you take a look at millennials, if you take a look at some of the cities that are looking forward to that, these transportation issues are going beyond consideration of the vehicle. It just is. And so that's a big, big, big concern for us as to what's going on with transportation.

And then code officials, which kind of takes us to the last one of advocacy efforts. So the ICC, which is the International Code Conference. They go through these incredibly boring meetings, probably-- it's just-- I've been through them, and it's just incredibly dense information that they are ticking through. And so what they're going to do is electronic voting. And so, instead of voting in person,

they are able to extend voting to every single fire marshal, anyone who's registered to vote with the ICC.

And so what that does, is it brings our advocacy efforts to a much sort of local point. So we're getting those relationships, and the discussion on if you should vote this way or this way, I mean, of course, that's what advocacy is. Please vote this way, because of this. And so those relationships are being built throughout the United States now because of this electronic voting. So highly supportive again of electronic and that support. But how that changes our conversation, it's just amazing. Who's having that conversation?

Merger of codes, it's no surprise that we're going back to a lot of these concepts pretty consistently. We're going back to millennials driving workplace, driving technology, and acceptable concepts. We're going back to sustainability. These are trends that are extremely pervasive throughout so many aspects of commercial real estate. And the merger of green codes, building again that expectation of what is green and defining it, and making sure that the policy meets the code, and they come together as a single component. That's the expectation and the progression that we're seeing.

And so, I always put this up. So the code issues that we're watching in the past. This year, the ICC had a conference down in Boca, Fort Lauderdale I think it was. And it was just a couple of weeks ago. They did solely green. But before that, they were talking about 500 year flood zone; radon testing; bicycle parking; electric vehicle charging; exterior shade; air barrier testing; post occupancy commissioning. Right?

And the one that everybody always pauses on is, the bird collision avoidance. I mean, a bird collision avoidance system. These are proposals, though, that come up. And so these are the types of things that now we're not having the conversation in person, we're having the bird collision avoidance discussion. It's so many points, at tenfold the number of points that we had before.

And so what is that? And so all of these advocacies. Where does this kind of come together? Where does this come together in sort of the concept? So what do tenants want? So much of what we're doing is for the benefit of landlords and their value of the property. And the value of the property is driven by the revenue, rents coming in, and by the expenses, reducing consumption of energy or other green inefficiency.

And so how do I get the better rents? And this is what tenants say. It's customer service; skilled and communicative property management; maintenance and engineering services; leasing. So it's this sort of the customer service interaction, communicative collaborative-- it's kind of getting to that, financials. But we want that interaction.

The condition of the property. If we're looking at the condition, again, it's going to the indoor air quality. It's going to the amount of light and the daylighting that is available. Health and hygiene,

the touchless features. I don't know if you go to the airport and they don't have it, you're like-- what year was this built? So the touchless features for the health and hygiene.

Amenities is becoming huge, especially for downtown. There's a premiere property program that we're implementing. It has a concierge. It's a concierge system with the ability for electronic. I mean, these amenities that they're bringing in-- conference centers, health clubs, fitness, partnering with USF Health and Wellness to come into buildings to say how do we offer this is an amenity?

And then tell us what's trending? As a tenant, this is what I want. Tell us what's going on with our competitor over here. So let's have that conversation. So this is such a great sort of wrap-up of where advocacy-- why we're doing this, is because we're getting the information to have educated discussions with tenants and with owners.

And so, what's really next, and where does this take us? All this effort that we're doing of tracking 2,812 bills and 25% of this effect us. And where does this all go? And so it's encouraging the continued mixed-use development. We've talked about that a little bit earlier, about the live, work, play. And you have this overlap of the mixed-use, and it's because we're seeing a demand on that front from millennials.

We're seeing, again, going back to transit and decision making on transit, SunRail, All Aboard Florida, Greenlight Pinellas, three great examples of sort of this public and private. How is that going to be overlapping? And then on-demand office space and co-working, the liquid space, the collaborative space, that's sort of the overlapping there.

And so it is becoming such a important question, especially as we look at generations in the office. Generations interacting, and how they interact, and how they like it. And how you use that is not only productivity, but retention. How do you attract people to a live, work, play building? How do you brand that? And so this is really exciting of what are the drivers here?

And it's, again, going back to the space is a choice. And an office space, a retail location, it's all coming back to choice. Understanding some of the fundamentals, the stats that we talked about early on. And then understanding what the trends are such as the green and sustainability, and densification, tapping into millennials, and technology, and how this all kind of driving in together. And it comes together for a pretty good story for real estate these days.

I would love to open it up for any other questions on this particular topic. I can certainly go back and delve into some of the advocacy, if anybody had an interest in one of those sub-points.

Well, I would like to ask you, I know that BOMA has a Career Day.

Yes.

Is it the same time every year? Can you tell us a little bit about that? And some students might be interested in that.

So we have a couple of different opportunities for students to engage in. And so Career Day is always held at the International Convention. And the International Convention moves all the time. Last year, it was at Orlando, and so we had just a great turnout. And actually, one of the students from UCF who attended is now interning with us. And so, it's just a great story.

This year it's in LA. Wonderful, wonderful city, and their Career Day is going to be-- we have an entire day that we dedicate to this. So I was co-chair this particular year with Laura Reagans, and she's on the nominating committee for BOMA International, so just a wonderful presence. And it was really exciting.

So we plug-in what we call BOMA Fellows. These are, they've either been past chair of our International Organization, and they come and spend the day with students, the entire day. I mean, it's amazing what we're able to orchestrate in this mentorship kind of environment. And so this year, it's in LA, and would love to encourage anybody who can-- it's a couple hour flight. I don't know. Just a couple hours. But LA, and so if it's coming back this way, I'll certainly keep you updated.

We also have the engagement for our internship every semester. And so depending on if we're in session-- our lobbyist is Lee Moffitt. He has a little bit of real estate around these parts. And he's been a lobbyist for 22 years, and so he is just excellent. And to go up to Tallahassee with Lee, and to talk advocacy. Everyone of our interns engages in that discussion, especially during sessions. So what a great opportunity.

And then we hold other conferences, and students are members of our organization. We have student chapters in real estate, and certainly can help to support that. So thank you for asking, because that's an important component of-- and what we call, and really, I'll tell you, I don't know if it's crass or not, but it's fresh talent. This is first access to fresh talent. People who were interested and wanting to engage in commercial real estate, understand it from the academic perspective, and want to translate that immediately to a career in real estate. So it's worked very well.