

Introduction

It seems a day doesn't go by without someone asking me, "What's happening in the real estate market?" As a commercial real estate attorney with a broad range of clients in many real estate disciplines, people justifiably believe that I may have a meaningful view of where the real estate market is and where it is heading. Recognizing that perception, I have generally made it a practice to talk to my clients about their impressions of the market. I also regularly attend relevant seminars and read materials regarding the market. Ultimately, however, my answer often reflects my personal activity level based on the work which my clients engage me to perform on their behalf.

At the beginning of 2011, rather than simply relying on the volume of work generated by my clients, I decided to send out a survey with the goal of using that survey to develop a more thoughtful understanding of the state of the real estate market. I circulated the survey to clients involved in retail, office, industrial and multi-family real estate. Most of my clients are, were, and/or aspire again to be, buyers and developers of income-producing real estate.

The questions in the survey focused on my clients' perception of prospects for the real estate market in 2011. The following is a description of the results of the survey and the conclusions that I have drawn from those results. I believe the results, while unscientific, are reflective of the current state of today's real estate market.

Question 1: Did you see any activity or trend in the fourth quarter of 2010 which led you to believe that the volume of real estate transactions would materially increase in 2011 and, if so, what were those trends?

The respondents almost unanimously felt that 4th Quarter 2010 activity indicated increased volume for 2011. Some of the contributing factors cited for the positive trends or activities were: (i) the aggressiveness by lenders in resolving troubled loans and ultimately bringing properties to market, (ii) greater availability of conduit lending and equity capital; (iii) the threat of rising interest rates, which would keep cap rates from additional declines; and (vi) the increasing number of bidders on various properties.

Question 2: Do you believe the real estate assets are currently realistically priced in today's market?

The responses to this question were generally negative. Respondents felt that pricing depended on the quality of the market and the type of asset, but that there is still a disconnect between the bid and the ask and that sellers are not adequately taking into account the difficulty of obtaining reasonable financing. Respondents also felt that historically low interest rates may be artificially inflating asset values. Interestingly, those who did believe that assets are correctly priced cited the availability of the same low interest loans as justification for that pricing.

Question 3: Do you believe that prices for income-producing real estate will decline, increase, or remain stable in 2011?

There was no real consensus on this question. Those who believed that prices will decline in 2011 cited the possibility of rising interest rates, additional bank sales and difficulties in the capital markets. Those who thought that prices will increase were almost exclusively in multi-family and believed that increasing demand and the absence of new construction will fuel price increases. The absence of a consensus on this issue could also be attributable to a bifurcated market in which well-located properties may appreciate, but marginal properties in the same market may see price declines.

Question 4: Do you see increased leasing activity and/or higher occupancy and rentals for 2011?

While there wasn't a consensus on increased leasing activity, the majority of respondents anticipated greater occupancy, stable rents, and fewer concessions. Once again, those in the multi-family segment believed they will experience greater rental increases than other segments of the real estate market.

Question 5: Do you believe that financing and/or real estate equity will be more available on terms that will facilitate real estate transactions?

Here there was a consensus that financing is more available, although on historically difficult terms that require more equity and more patience to get to closing. Similarly, the consensus was that equity is much more available, but the equity sources are imposing new rules and requirements on the transactions that will make them less profitable and more difficult for the developer/promoter side of the transaction.

Question 6: Do you have any general comments or thoughts about the current state of the real estate market?

I thought some of the following comments were indicative of the state of the real estate market:

- (i) One respondent expressed a macro concern about the ongoing impact of technology on office and retail real estate demand, believing that businesses will require less office space as consumers increase their on-line buying.
- (ii) One respondent reiterated a common lament that the multitude of real estate opportunities (i.e. as seen in 1992-1996) that were anticipated to arise out of the "Great Recession" have yet to present themselves.
- (iii) One respondent recognized that low interest rates essentially saved the real estate market and are probably largely responsible for the absence of a total collapse as well as the absence of the much anticipated opportunities.
- (iv) One respondent simply stated that his strategy is to "outlast the bastards".

Conclusion:

The results of the survey reinforced my general perception of the market. Specifically, I believe that the real estate industry is generally on the upturn, but the extent of that upturn will largely depend on the specific type of real estate and the market in which that real estate is found. Furthermore, although real estate in general is stabilizing or even improving, there are still a multitude of factors conspiring against a meaningful short term increase in the volume of transactional deals in the market.

Accordingly, as of the date of this article, when I am asked, "What's happening in the real estate market?", my response for now will be that the market will be improving in 2011 for those who own or are trying to invest in real estate, but it doesn't look like anyone (including the lawyers) is going to get rich yet.

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