

REAL ESTATE COUNSELING IN THE DEVELOPMENT PROCESS

More and more today's marketplace is requiring the Counselor's diverse and analytical skills for decision making.

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What Is Real Estate Counseling?

Real estate counseling is the business of analyzing specific real estate problems and needs for agreed fees, drawing conclusions, and making recommendations to a client. The nature of the consulting problem frequently calls for an objective, dispassionate, and professional solution, as in recommending whether to proceed with a total rehabilitation of a building. Another illustration is a study to help decide whether to develop, hold, or sell a specific site on which new zoning has been obtained and the price at which to offer it, if the sale decision is chosen. In these examples, the counselor is acting in a passive way on the client's behalf.

On other occasions, the real estate counselor may be engaged to act in an advocate's role, as in an arbitration of a real estate dispute. He may provide active services as a disposition counselor in the planned sale of a newly developed building. (For example, the author acted for Pan American World Airways as a consulting intermediary in the sale of the Pan Am Building to Metropolitan Life Insurance Company.)

A counselor may be an individual practitioner, a senior officer in a brokerage or investment company, or he may be with a company exclusively in the field of real estate consultation. Counselors' services are used by banks, insurance companies, pension funds, investment and development companies, individuals, and governmental agencies. Most counselors are skilled in virtually all property types, although there are many who specialize.

How Counselors Are Paid

Most counselors in the larger realty companies are paid on a salary basis and also receive an annual bonus for their production and ability to obtain new business. It has become a comparative rarity for a counselor to be paid by his company on a "piece-work" basis, i. e., a certain percentage of the gross fee earned by the company on each account. On the other hand, counseling fees payable by the client to the individual counselor or company are usually, but not always, agreed to in advance. If the counselor is engaged to study the feasibility of site development, he will make the study for a flat, agreed amount, or may identify a range of fees, with the final amount dependent on hours, changes in the scope of services, or unusual circumstances.

Sometimes monthly or quarterly retainers are negotiated where the services are long-range or varied as to scope, or both. Where retainers are employed, there is generally some arrangement for additional compensation based on hours, performance, or the success of the development effort. If the

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advisory services are of a nontransactional nature, the adjustment for compensation over the retainer is usually on an hourly basis. However, where a sale, purchase, lease, or financing is arranged, an agreed incentive fee above the retainer amount is generally paid. Thus, on a very carefully defined basis, a counselor may be engaged for a nonrefundable fee, plus a contingency fee for successfully arranging a sale, purchase, financing, or large-scale lease. The total fee is partially contingent, i.e., dependent on the counselor effecting a transaction on satisfactory terms for the client.

Some have criticized this method of charging on the ground that it smacks of pure brokerage. This is simply not the case. First, brokerage implies an open agency arrangement in which brokers compete with one another to effect a sale. A counselor would never accept business on an open agency basis. If there is a similarity, it is with the exclusive agent, who acts on behalf of a client on a fiduciary basis. The counselor, also exclusively engaged, is nevertheless still distinguishable from the exclusive agent. The former receives a retainer or other agreed fee in advance of services, and all marketing and promotional costs are usually borne by the client. Counselors are regarded as team players. They have a more professional philosophy in conducting their business, first because they tend to be salaried and share annual bonuses. Second, counselors are schooled by the American Society of Real Estate Counselors in offering more analytical, detached, and objective services.

The market realities also demand that counselors receive some type of success fee in a transaction. Otherwise, it would not be possible to attract the high-quality, educated, professionally motivated person to the counselor ranks. The professional mindset remains, however, because of the counselors' dedication to quality advisory services.

Can The Counselor Be Considered A Professional?

To what extent can a counselor consider himself to be a real estate professional rather than merely a businessman? At the moment, counselors lack professional standing because the group that represents them, The American Society of Real Estate Counselors, is a nonqualifying society that issues invitations for membership but imposes no formal educational or examination requirements. Its invitational standards are nevertheless very high. A person is invited only after extensive interviews, reference checks, and documentation concerning the provision of past counseling services for agreed fees, negotiated in advance of performing services.

The society has both a Code of Professional Ethics and Standards of Professional Practice. The society is insistent on the counselor establishing his contractual relationship and method of compensation before taking any overt action on the client's behalf. It also vigorously opposes conflicts of interest and compels its members to disclose to all parties such a possibility and to obtain their consent prior

to providing services. The society constantly seeks to attract, then qualify, and finally invite those who spend a portion or all of their time on counseling assignments.

At this stage of its history, the society appears content to be considered a business organization with high professional motivations. It shows no disposition to align itself with appraisers, agents, or managers. It considers itself an elite organization representing the very best in real estate. What role then can the counselor play in assisting a principal in a development capacity? Where do counselors fit into the various stages of the development process?

Defining The Development Process

Real estate development is the process of purchasing, or leasing land for a long term, for the immediate or ultimate purpose of constructing an appropriate building improvement on the site, subject always to the local zoning ordinance. A developer is generally the principal, or one of a number of principals, commonly referred to as investors, who has or have invested capital in the form of equity and debt to cover the estimated total development costs.

The principals may designate one of their group to serve the critical role as coordinator of the development. Carrying out a development plan is an involved, detailed, multiphase activity. The control of the sequential process is essential if the finished product is to be completed within the construction budget. The elimination of waste, duplication, and inadequate planning requires an experienced and alert person.

The principal acting as developer does not necessarily accomplish every step in the construction process. He frequently subcontracts many of these steps to realtors, construction contractors, construction managers, and others. However, the total role of the real estate counselor in the development process is presented here to provide insights into his ability to assist development planning and effectuation. The experienced real estate counselor can even assume entirely the role of the managing principal. Alternatively, he can serve in any number of capacities.

EXAMPLE: The author served in the place of his principal, Commercial Union Assurance Company, in the construction and development of One Beacon Street, Boston, Massachusetts, an office tower and underground garage of about 1.2 million square feet.

Acting without discretionary authority, i.e., with his actions always subject to approval by the principal, the author and an associate assembled nine parcels of land comprising an area of some 60,000 square feet, engaged the architect, the construction company and construction manager, the rental and managing agent, and the public relations counsel, and coordinated the entire development process to a successful conclusion very close to budget.

In this case, the author was acting as a real estate counselor for agreed monthly fees during the entire process of site selection, assemblage, planning, lease marketing, and field construction. He had no financial investment in the development nor was he offered any by his client. He received no bonus or award for being substantially within budget. However, he was amply compensated in relation to the development cost and considered that he had acted as a fiduciary, albeit without discretionary authority. The counselor was not qualified in actual construction, but his advice to the client to engage Turner Construction Company as general contractor and construction manager was heeded. This was a significant appointment in terms of the overall success of the project because of Turner's recognized capacity to complete institutional construction on budget in a timely manner.

The counselor's major contributions were (1) a basic understanding of the construction and development process; (2) selection of the site and solution of any assemblage problems; (3) marketing of the space; and (4) subjecting the investment (which was planned for 50 percent owner occupancy) to the discipline of an investment analysis that insisted on the probable net operating income (including the rental value of the owner's space) bearing a reasonable relationship to development cost. In other words, the counselor was determined, within market limitations, that the owner would receive an adequate return on his equity investment. A considerable amount of the construction cost was reduced by use of alternate materials or systems, by elimination of certain items as extravagances; or by the transfer of certain "tenant installation" costs to a tenant cost account, so that they would not be a burden assigned to the real estate development costs.

Thus, it may be seen that the real estate counselor may indeed have the capability of assuming responsibility for the A to Z process of real estate development.

Counselor's Role In Site Selection And Assemblage

The real estate counselor is uniquely qualified by a background in all phases of real estate. One of the most vexatious problems developers face is the need to assemble quietly, without the affected owners or lessees knowing of the developer's interest in acquiring the overall tract. If the developer is completely candid, he runs the risk of escalating his land costs beyond what can reasonably be afforded.

The urban developer has the most difficult task. Commercial tenants may have long leases that do not include possession on sale or demolition clauses. Frequently, they must be bought out at high prices, which, when added to the underlying land cost, increases development cost. It is obvious that careful planning of the land acquisition must be made, even if it means engaging others to assist in the acquisition process. Concealing the purchaser's identity

in order to effect an assemblage is now frowned on by some courts, especially in New York where one cannot deny representing an assemblage buyer. New York in effect compels the assembler or his agents, including consultants, to reply to a direct question about representation by responding, "no comment."

Both the counselor and the broker are well qualified to assemble plots. The counselor is frequently engaged by the developer as the manager of the assemblage process. The counselor, by agreement with his developer-client, may engage real estate brokers, attorneys, accountants, or others to assist him in the purchase of the various individual plots that will ultimately compose the total buildable plot. The counselor may participate directly himself in the negotiation for purchase of individual plots, or he may delegate this to others while limiting his own role to conceiving strategy, engaging others to carry out the tasks, and supervising the entire procedure. Discretionary authority on prices to be paid typically remains with the developer. In special instances, usually involving institutional or industrial corporation requirements, the counselor may be granted discretionary authority.

The counselor can be extraordinarily helpful to a developer in organizing and planning an assemblage. If he is empowered to engage others, the counselor can be especially creative in concealing the developer's identity to the extent the laws and the courts allow. Even if the proposed site is an adequately sized plot for development, the developer is well-advised to consider the engagement of a counselor to act as a screen between the client-developer and the site owner. Further, the counselor may have special skills in persuading the seller to take back a subordinated or even partially subordinated second mortgage loan. The counselor may also be able to convince the seller to delay closing until suitable development financing is arranged or on some other contingency. It may even be possible to negotiate a purchase option that would give the counselor's client the choice of purchasing the property at an agreed price at a future time or of "walking away" from the purchase simply by failing to exercise the option.

Planning And Zoning And The Counselor

There is no more emotionally charged issue today than the planning and zoning of land use. It has reached the frantic stage, where critical decisions on land use that should be calmly and professionally considered by interested parties are being subjected to local referenda for essentially uninformed or at least emotionally derived reasons.

No responsible developer or real estate counselor today is opposed to reasonable land use restrictions. Everyone recognizes the need to restrain development until a community or a county can first provide the infrastructure essential to development, such as roads, water, and sewers. Everyone is also deeply committed to maintenance of the natural environment, especially but not limited to coastal areas where marshes, estuaries, and rivers offer unique

breeding grounds for primary forms of life and provide sanctuaries for birds and animals.

On the other hand, the pressure of population growth is ever on us. How can this growth be accommodated without ravaging the countryside and without yielding to the slow growth or no growth extremists? The developer becomes somewhat a victim of these opposing forces. It is perplexing and difficult for him to confront the polemicists in a calm and reasoned manner. The developer is really troubled by the ultimate absurdity of a diversion of industrial and population growth to states that take a kindlier view of land use problems. The developers would like to develop where they are best known and their skills more widely recognized. How can this be accomplished?

The real estate counselor can provide a calming influence on a potentially explosive situation by acting on behalf of a client developer in planning and zoning matters. The presentation on a land use plan to a local planning board, especially when the plan requires certain zoning modifications, can sometimes be effectively accomplished jointly by a developer and a real estate consultant, together with all the other specialists. Since the counselor is not a principal, he may convey a sense of professional detachment and may make a positive impression on the planning board. The presumption is the counselor would not subscribe to the plan if he did not believe it met the highest standards of land use.

The Real Estate Counselor's Role In New Building Planning

The counselor by education and training is adept at assisting a developer in deciding the best use of a site, i.e., that use estimated to produce the highest possible residual net income to the land, subject always to zoning limitations. The counselor may be employed even prior to the selection of an architect at a time when the development is in an embryonic stage. In this instance, the counselor works mainly from a knowledge of the bulk, floor area, and height that the zoning permits, in addition to the parking requirements.

The exercise is by no means a simple task. The developer and his counselor must consider the quality level of construction, the mechanical and electrical systems, and the general layout and design necessary to achieve the highest rent levels consistent with the commercial district or neighborhood. No doubt the developer will ask the counselor to estimate the anticipated building revenues, real estate taxes, and operating expenses so that some idea of the probable net operating income may be gained. The profit potential can then be determined by subtracting the development costs from the capitalized value of the net operating income.

Frequently, the developer engages a counselor to provide some preliminary ideas about project feasibility. He may not have any immediate plans to proceed with development. These early studies may

also convince the developer that he will need to obtain zoning changes in order to be better assured of a successful project and in order to obtain a higher land price if he sells the land or develops it at a later date.

When the developer engages an architect, it is a reasonable assumption that construction is at least impending, if not imminent. The architect, frequently working with the assistance of a counselor, will prepare design sketches with elevation drawings and floor layouts. The architect may proceed as far as design development, in which the basic mechanical, electrical, and other systems are incorporated in the drawings. Thus, the design development stage provides the developer with a detailed set of drawings that, while far from working drawings, can serve as a basis for estimating construction and development costs and supply more accurate and comprehensive insights about project feasibility. The real estate counselor can provide valuable advice and counsel to the architect by interpreting the tastes and preferences of the renting public about design features, equipment, and exterior appearance. Thus, a coordinated effort by the developer, architect, and counselor can produce better development results.

Marketability And Feasibility Studies

The developer typically relies on mortgage financing to cover a major portion of development costs. In these cases, the mortgagee may demand at the developer's expense a marketability or feasibility study in addition to the conventional appraisal. These analysts and counselors are frequently named by the mortgagee but paid for by the mortgagor. On other occasions, the developer will submit a marketability or feasibility study by an acknowledged person or company with outstanding credentials as part of his mortgage application.

Many financiers now consider the marketability and feasibility study as more important than the appraised value itself. This is especially true in an oversupplied market or a market characterized by demand retrenchment and recession. The developer then must rely to a far greater extent on outside consultative help; the lender will regard the developer's own estimates as too self-serving to be truly credible. The counselor is in an unusual position to fill this void.

The formal marketability study analyzes the economic base of a metropolitan area and the neighborhood in which the project is to be located. It examines all the real estate market factors affecting the existing inventory and its characteristics, as well as current and anticipated supply and demand factors. It then seeks to estimate the probable rent or sale levels and the absorptive capacity of the real estate, i.e., the time required to achieve normal rent or sales levels. Essentially, the real estate counselor must be able to estimate that portion of the total market demand within the market area that may be ascribed to the project. This is a difficult estimate at best. There are no mathematically precise ways

in which the relative marketability can be calculated. Contemporary real estate counselors are developing mathematical correlations derived from economic base factors such as disposable personal income, employment and job growth, personal consumption expenditures, and others, and drawing relationships to real estate demand based on the current real estate market. These methods, however, are still considered experimental and not necessarily conclusive. The judgment and knowledge of the real estate counselor become all important.

The feasibility study is a logical extension of the marketability study. It is concerned not only with the revenue levels and the timing of the receipt of these revenues; it also establishes the relationship between projected net income and development cost. Stated differently, it provides both the developer and the mortgagee with a professional estimate of the probable return on investment after detailed consideration of revenues, operating expenses, real estate taxes, and financing charges.

Methodology is changing somewhat. Analysts now place less reliance on the so-called land residual capitalization method in deciding feasibility. They are beginning to prefer the discounted, internal, after-tax rate-of-return technique because it establishes the long-term return on the estimated investment cost rather than relying on the difference between cost and value as the major measure of success. New computer software programs have been devised that, at minimal cost, allow analysts to make numerous forecasts each based on small changes in estimated variables and projections. Sensitivity analysis techniques can be used that greatly enhance the valuation and investment analysis results. For example, numerous analyses may be made, each assuming different data for rent levels over the absorption period, or each assuming absorption periods of different length.¹

The aspect of the new building planning process vulnerable to the greatest margin of error is the estimation of the absorption period for a particular project. Analysts and developers alike tend to be too optimistic about the share of the total market allocable to the planned property. A professional sense of detachment is extremely important. The counselor can temper the developer's natural exuberance and provide the project credibility that the lender or buyer now demands. This advance in the level of professional assistance provided by the counselor gives a lender or equity partner greater confidence about the overall chances of project profitability. It is a welcome relief from the "back of the envelope" approach used by many developers in years past.

Selecting The Architect And Engineers

The typical developer will reserve for himself the task of selecting the correct architect for a planned project. Rarely is a real estate counselor engaged to assist in architectural or engineering selection for a speculatively built project, or even one in which significant preleasing has already occurred. However, there is one outstanding exception to this general practice.

In the instance of planned owner occupancy of buildings where the owner is not in the real estate

development business and lacks the staff to accomplish the corporation's real estate purposes, the non-profit or for-profit corporation may engage a real estate counselor to administer phases of or even the entire project.

EXAMPLE: Landauer Associates has acted as an overall counselor for development projects as diverse as the Commercial Union Life Assurance Building at One Beacon Street in Boston and the famed St Peter's Church in the Citicorp complex in midtown Manhattan.

In the St. Peter's development, the real estate counselor participated actively in the architectural selection process and jointly decided with Citicorp, with the concurrence of the church board, on Hugh Stubbins & Associates of Boston. This involved many reviews of and meetings with outstanding architects before a choice was finally made. The real estate counselor also initiated a search for the best architect to plan the Commercial Union building in Boston. After many meetings between executives of Commercial Union and Landauer, the firm of Skidmore, Owings & Merrill was finally selected.

The Consultant has a critical interest in the actual design and supervision experience of both the architect and his subcontractor specialists. The developer should not only interview architects, he should have them submit a list of their designs, together with locations, descriptive data and graphics of their work. He must then visit a sufficient number of completed buildings to gain insights into a preferred architect's design ability. The depth of an architect's staff is another significant consideration. Particular attention must be paid to the architect's capacity to offer working drawings that are errorless and complete, leaving little to the general contractor's imagination.

Once the architect is chosen, he must start the process of evolving a design that not only reflects the client's needs but also follows the market and investment recommendations of the marketability and feasibility consultants. For example, if the marketability and feasibility analyses resulted in recommendations for a lower height building with larger floor areas as most marketable, the architect cannot attempt to persuade the developer to erect a tall tower with small floors. Similarly, the interior finishes and mechanical systems must be commensurate with the client's needs and desires as well as the dictates of the feasibility study.

From the teamwork of various professionals, there evolves a design concept that satisfies the developer, architect, engineer and real estate consultant. Every possible factor must be thought of and considered for its influence on the final design. The schematics that the architect finally creates must be sufficiently detailed to enable the costing process to begin.²

Few architectural firms are vertically integrated to the extent of having structural and mechanical engineering capacity on their staff. Most architects prefer to engage the necessary structural, mechanical, and electrical engineering help with the developer or owner's consent. Experience has clearly demonstrated that the specialized engineering firms perform best and have more generalized access to new methods and procedures and know ways to economize on cost. The real estate consultant must rely on the advice of the architect for this specialized professional assistance and not attempt to make such engineering selections by himself.

Selecting The General Contractor

Perhaps the most critical need that first confronts

the developer or owner is the selection of the general contractor. When a real estate consulting company is also involved in this choice, the counselor will want to assure himself of the basic experience and integrity of the contractor in order to avoid cost overruns, costly delay, or equipment mistakes. A real estate counselor should not presume to make this decision unless he has one or more senior associates with direct construction experience and, preferably, personnel on the staff with engineering and construction education and licenses.

It is extremely important that the real estate consulting company not undertake an assignment for which it is not qualified. Since the construction process involves countless details and interactions and customary practices differ from region to region, the consultant must either have staff expertise or engage specialists with the owner's knowledge and consent. Real estate counselors must be ever conscious that they are acting in a fiduciary capacity. Otherwise, they subject themselves to the possibility of liability actions and place their net worth in jeopardy. The cardinal rule is not to presume non-existent qualifications. Knowing the methods of general contractors is especially important. Consider the many questions and problems noted in the author's description of the selection process in an earlier article on the subject.

Until recently, general contractors, in addition to dealing with the various subcontractors, have performed one or more of the trades themselves. The general contracting organization might itself have undertaken excavation, foundation and concrete work, or carpentry, plastering, painting, and plumbing, or any combination of these. This type of general contractor has been largely superseded by a broker type (also called a construction manager) that performs no trade work itself. Instead, it estimates costs by inviting all the trades to submit bids for their respective specialties. It maintains a staff of cost estimators, purchasing agents and construction superintendents, in addition to necessary support personnel. This relative handful of personnel exerts profound influence on the efficiency of the construction process.

Traditionally, it has been the practice of developers to invite competitive bids from at least three, sometimes more, general contractors, based on a complete set of working drawings. This is still the practice of government bodies and many large industrial corporations. Competitive bidding can also work well on smaller projects. However, in major U.S. cities, especially New York, Chicago and Los Angeles, the bidding system has yielded to a new procedure. Now the developer/investor selects a construction manager carefully and requests that it prepare cost estimates based on design development drawings. Developer and contractor negotiate a contract based on the contractor's estimates. These negotiated contracts are especially effective in labor-short or high-salary markets where the premium is placed on obtaining the most skilled labor. The proficient general contractor knows all the trades and can bargain effectively with subcontractors. When choosing the general contractor, the developer relies heavily on the contracting firm's record of performance, and he may reward a past record of excellence even if he must pay a higher price.³

The development process is made more manageable for the real estate consultant when the client decides to adopt the negotiated bid method. The only danger is the possibility of cost overruns resulting mainly from changes in design or materials that were made subsequent to the preparation of the outline

specifications. This rarely happens when an experienced general contractor acts as a construction manager.

The negotiated contract makes good sense for large commercial developments in the major cities. Under this arrangement, the general contractor is a member of the development team. He is an ally rather than an adversary. He will work hard to bring in prices from all the trades that are as low as feasible.

Another important reason for the popularity of the negotiated contract is that it permits the involvement of the general contractor in the architectural and engineering planning. The organization's input on materials, design, equipment and even layout can be invaluable. The experienced general contractor is conversant with the latest innovations in energy conservation, in improved heating and air conditioning design and equipment, in better lavatory equipment and in a host of other areas. The general contractor can help to restrain the architect's tendency to overdesign and overspecify. His expertise in material selection is especially useful. Last, his ability to purchase by negotiations with the subcontractors such critical items as steel, elevators, and HVAC plays a pivotal role in keeping costs at the lowest possible levels.⁴

The Counselor's Role In Space Marketing

The term "marketing" for real estate development purposes is a more all-inclusive concept that embraces yield analysis, leasing, promotion, public relations, and advertising. The entire gamut of marketing must be covered. This by no means minimizes the critical role of space leasing performed by the brokers. Obviously, the direct, personal leasing effort is the most important and most effective way of achieving results. The agent or counselor must also plan for, and expect, substantial support from a public relations firm, from outstanding marketing materials, and from a carefully planned advertising program.

Traditionally, the responsibility for space marketing is contracted by the developer to a local brokerage acting as an exclusive leasing agent. Commissions are usually paid in one of two ways:

- The agent is authorized to split one full commission by agreement on the dollar amount with the outside broker who was the procuring cause of the lease. Of course, the agent would earn the full commission if he were successful in producing a tenant or tenants. The brokerage is expected to solicit tenants directly and should not depend solely on outside brokers.
- The agent is authorized to offer a full commission to an outside broker who is the procuring cause of a lease. In this instance, the agent would receive an override commission that could vary between .125 percent and .5 percent of the full commission.

Where an exclusive agent is named, the developer usually reserves the right to designate the public relations and advertising agencies.

In recent years, counselors have also begun to serve as exclusive marketing counselors for developers on a modified basis. The principal difference between the agent and the counselor is that the counselor generally does not do any direct leasing solicitation himself. Rather, the counselor manages

the entire marketing effort for the developer and is empowered to engage brokers on a nonexclusive basis with the promise of a full commission at rates then prevailing in the market. In a sense, the counselor serves as the marketing representative for the developer. He can also be very effective in helping the brokers close lease transactions.

The Counselor is usually compensated by monthly retainer, with incentive fees based on the performance of the brokers the counselor has engaged. It is not good marketing practice for a counselor to invade a broker's commission. Instead, the counselor privately negotiates his own fee structure, and the various brokers are not privy to the arrangement. The brokers deal with the counselor as if he were a principal.

Why would a developer or owner/occupant engage a counselor rather than an exclusive agent to rent a building? The primary reason is that the developer does not want to single out any one agent in the market area because of conflicts of interest the agents have, but wishes to deal equally with all. Another reason exists when the counselor has served previously in the development process and the owner wants to maintain the relationship. A further reason is the perception that the counselor provides an overall more carefully planned marketing campaign in which he recommends the engagement of the public relations and advertising agencies that thereafter report to the counselor in a coordinated manner. Finally, the counselor may be better equipped to negotiate national or international leasing transactions because he may have created a more widespread geographical practice than the broker, who generally practices within his own city or metropolitan area.

The exclusive marketing counselor is an important member of the development team. His leasing skills and knowledge of tenant prospects are critical to the project's success. Most developers select an agency or consulting firm to be responsible for rentals, although some developers believe in direct employment of renting personnel. Developers considering agencies or consulting companies find it easy to identify those with a proven record of success. It is also easy to discover which companies have the depth of staff that is essential to success. All too frequently, the powerful personality of the agency head is not sufficiently backed up by a proficient staff. Thus, the wise developer interviews all those who will be involved in the rental effort. Another factor that the developer must consider when rating candidates for lease marketing is the number of competitive buildings that an agency may be simultaneously renting. Problems of overextension of staff and conflicts of interest must be avoided. It is sometimes rewarding to select a younger or lesser known counselor who will exert an extra effort and has no conflicts. However, such a firm is likely to have fewer high-level tenant contacts than an experienced agency. The choice is never an easy one.

Since commission rates are not regulated, they must be negotiated between developer and counselor. Obviously, the relative size, experience, and market positions of the parties will affect their negotiating clout. It is good procedure to engage the marketing counselor before schematic design starts. It can then join the general contractor, the developer, the engineer, and the architect in working on the best possible design for the office floors. The counselor can also aid the developer in establishing the rent schedule.

It is the counselor's responsibility to plan the total marketing campaign. This includes the constant monitoring of investment return as leases are made, the preparation of a brochure, compilation and dissemination of mailing lists, devising of an advertising budget, and planning of a promotional and publicity campaign. The counselor and the developer must agree on the sales tactics to be employed in the leasing effort. The counselor also assists the developer and his attorney in formulating the work letter, i.e., the document setting forth the standard finishes to be provided for a commercial tenant's space. He is instrumental as well in recommending the business provisions of the lease.

Conclusion

There is a distinct, ever-growing trend in real estate services toward a more professional approach in providing for the needs of the client. Only recently, the head of a national real estate agency privately stated that the agency business was moving toward the counselor's methods. Surely, the market place is witnessing more extensive study and analysis, better-arranged documentation, more precise approaches, and an improved understanding of market phenomena. The counselor is in the forefront of this trend. Their professional mind-set, the depth and diversity of their staff, or their capacity to attract skilled subcontractors, and the very nature of the contractual relationship with the client all lead to a better coordinated result.

Developers, industrial corporations, nonprofit institutions, and co-venture financiers can profit from the special skills that counselors can provide in the various stages of the development process. Those companies that have no real estate or development expertise in their primary operations can especially benefit from the engagement of an experienced, skilled, and educated realtor who provides counseling services for agreed fees. Yes indeed, the counselor can build buildings. The counselor has proven his ability in this respect. The real estate investment also gains because clients now have an additional means of attaining their objective of developing real estate for investment or occupancy through the services of the real estate counselor.

NOTES

1. White, "How to Plan and Build a Major Office Building," *Real Est. Rev.*, Spring 1980.
2. *Ibid*
3. *Ibid*
4. *Ibid*