

# Editor's Note

BY PETER C. BURLEY, CRE



## What I Did on My Summer Vacation

I LOVE THIS JOB. As editor of one of the industry's finest professional journals, I get to read some of the most thought-provoking material written by some of the most distinguished thought leaders in the business. Even during this downtime, while I seek gainful employment, I get to remain grounded and connected to the biggest and best ideas, opinions and guiding principles in the industry. For me, it is a richly rewarding experience to participate in the production of the journal, fun to work with the Editorial Board and the staff, and a remarkable learning experience. And, it is my pleasure to pass along the "best of the best" of my summer reading to the readers of *Real Estate Issues*.

It is clear to me that, while the industry battles the demons of economic downturn and financial market upheaval, our work continues. Indeed, this is probably a singular moment for Counselors to be plying their diverse and various trades—research, advisory, consultative, appraisal, legal—in guiding the industry to safer, stronger, better shores. And, every corner of the industry would be well-advised to seek them out, ask for, and employ their advice, their expertise and their wisdom. Counselors make a remarkable difference.

Over the summer months, we have been blessed with a number of pieces, presented herein, that address issues we face daily, that affect our businesses, our communities and the quality of our lives. Questioning and confirming, addressing issues from their unique perspectives within and beyond The Counselors, the authors in this issue provide intelligent discourse and wise counsel for real estate, for policymakers and for the community at large.

We begin this issue with Dustin Read's "The Structure and Potential Economic Effects of Inclusionary Zoning Ordinances." Read offers an excellent review of the policies and practices of inclusionary zoning in balancing a community's need for affordable housing, the desire to promote economic growth, and the burdens placed on the private sector. Covering the strengths and weaknesses of inclusionary zoning practices, Read provides empirical findings that suggest mixed results with respect to supply, pricing and size of housing in some areas. He further suggests that the measure of success in inclusionary zoning requires a balance between the requirements made of the developer and the public rewards achieved.

The current housing market may open the door to some reconsideration of policy and market influences on housing affordability and on forms of housing other than continuously appreciating owner-occupied single-family units. In Owen Beitsch's discussion, "Not in Our Backyard: Plans, Planners, Regulators and the New Redlining," conflicting policy goals between programs designed to buttress home values and programs that are intended to make housing more affordable are addressed. Beitsch contends that federal intervention, in the form of the Neighborhood Stabilization Program, may result in the continuation of practices that actually limit and constrain the effectiveness of affordable housing initiatives. Beitsch says, "...(T)he need for affordable housing is not supported by the realities of regulatory controls, financial practices, lending policy..." or the consumer. He outlines several disconnects between affordable housing

policy and the need to preserve local housing values, and presents interesting financial, land use and market policies that discourage the availability of affordable housing in the marketplace.

In the last issue of *Real Estate Issues*, Joe Rabianski, et al., discussed financial and economic considerations of mixed-use development (“Mixed-Use Development and Financial Feasibility: Part I – Economic and Financial Factors”). In this issue, they present “Mixed-Use Development and Financial Feasibility: Part II – Physical, Phasing, Design and Public Policy Factors.” Many public officials view mixed use development as an answer to redevelopment issues and as a creative cure for underutilized infill sites. Developers view mixed use as a route to higher returns through higher density development. Since most zoning ordinances are written to allow a single use on a single site, mixed-use developments, “...often require exceptions to zoning regulations and adaptations of existing building codes.” The authors suggest that there is high potential for mixed-use development not only to create additional value but to outperform single-use development through synergies of use and the creation of attractive destinations. A variety of obstacles must be overcome, however, in design, in financing, and in management to achieve investor and community objectives.

“A counselor typically has enough initial available data on a proposed income-producing property or development to estimate initial feasibility (IF),” according to Donald Epley, in “Initial Feasibility as a Recommended Procedure.” And, with that information, one can decide whether or not to proceed with a more detailed examination of the market. Initial Feasibility is an essential tool and particularly important if the analyst has data that has not been collected through an extensive market analysis. Epley offers useful methods to approach IF with available data, particularly useful to determine whether more time and expense are justified to move forward.

Mark Levine offers food for thought to the appraisal community in “Appraisal Requirements for Charitable Contribution Deductions.” Levine discusses proposed regulations intended to clarify “fair market value” of charitable contributions, including real property (and, importantly, out here in the West, conservation easements). “Although Congress attempted to tighten restrictions of charitable contribution deductions...there continues to be additional concern with

such contributions and the determination of the fair market value of the gifts.” In proposed regulations, currently under review, come additional requirements for substantiation and support for those contributions. Notable are additional requirements and documentation as to what qualifies as a “qualified appraisal” conducted by a “qualified appraiser.”

In another note to the appraisers out there, Jan Sell and Thomas Hamilton offer “Use of the Income Approach in Valuing Sand and Gravel Property in a Condemnation Proceeding.” Pointing to condemnation proceedings, the authors carefully spell out various approaches to determining “Market Value” and “just compensation” for special-use or special-purpose properties, including properties owned or leased for sand and gravel operations. They carefully distinguish between the activity of extracting minerals from the property, the business operation, from the value of the income derived from the property, the income stream from procuring the minerals. “In such cases,” Sell and Hamilton conclude, “...the royalty income stream is both stable and directly attributable to the property itself, rather than from the business activity conducted on the property.”

So, what did *your* summer reading list look like? Maura Cochran and Peter Holland review two books produced by the Urban Land Institute: Gupta and Terzano’s *Creating Great Town Centers and Urban Villages*, and Peiser and Schmitz’ *Regenerating Older Suburbs*. Their review confirms that ULI produces publications that are not only well-presented but serve as useful tools to the active practitioner, his/her company and clients. Along similar lines, Steve Price reviews Tony Downs’ *Real Estate and the Financial Crisis: How Turmoil in the Capital Markets is Restructuring Real Estate Finance*. It’s not that I ignored the residential market, but I could have paid closer attention, as the influence of the residential for-sale market has been rather dramatic in the last couple of years as our assumptions of always-rising housing prices have been sorely tested. Downs’ assessment of current and future conditions is well worth noting, and the book well worth reading.

In looking at the current state of the economy, most of us are acutely aware of the significant regional differences in the depth and breadth of the downturn. In fact, recession and recovery are never uniform across the country. The editors of *Real Estate Issues* are reaching out to numerous academic institutions across the

country, to business schools, to real estate schools, and to economics departments for their keen observations of regional and local economic developments, conditions and trends. Perhaps we might hit on signs of recovery out there, even economic growth, as a result! Don Epley gives us his assessment of the (other) Coastal Economy in Southern Alabama. We hope there are other schools and departments out there who would like to submit their local view to REI in upcoming issues.

So, that's what I did on my summer vacation. And, I learned that business continues—life goes on—and that The Counselors are, indeed, out there making a marked and measurable difference in this business every day, regardless of the weather or the current economic climate.

I love this job. ■

A handwritten signature in black ink, appearing to read 'P.C. Burley', with a stylized flourish at the end.

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EDITOR IN CHIEF

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