

Editor's Note

BY PETER C. BURLEY, CRE



*“Little Darling, I see the ice is slowly melting.
Little Darling, it seems like years since it’s been clear...”*

—GEORGE HARRISON

THE TRUTH IS THE WINTER OF 2011–2012 DIDN'T AMOUNT TO much. It was pretty mild, relatively dry, and, in some quarters, downright disappointing. At my little apartment in Washington, we had two mornings with just the slightest dusting of snow. February was among the warmest on record at both Reagan National and Dulles, according to the National Weather Service. In Colorado, my wife reported just a single blizzard at the old homestead (lucky for me, because I would have heard shoveling horror stories to be sure).

I am thinking that, perhaps, the weather serves as an apt metaphor for our lives and our businesses. Perhaps, things aren't as dismal, cold and barren as we had thought. Maybe that stupid bird, singing in the courtyard outside my little apartment all day and all night long for the past six weeks, has it right: The ice is melting. It has been for a while. We just haven't been paying attention. Or, perhaps we have just been afraid to think that things might be getting...well, better.

So far, in 2012, the economy appears to be (ever so slowly) improving. Employment figures are on the mend. Consumer spending is stable. Housing markets, according to a number of analysts, have finally found a bottom. Stocks have had a wild, if largely upside, ride, hitting levels not seen since before the crisis.

Of course, there are hazards aplenty. And, there is still a heap of uncertainty out there. As of this writing, considerable turbulence continues in the EU, with future bailouts and austerity measures—even a whole currency—in some doubt. Tensions have increased across a large swath of the Mideast, and oil prices have responded with a volatile climb to some of the highest levels we have seen in late

winter. Dodd-Frank is still coming as new regulations slowly make their way onto the books in ways that will have sweeping implications across the financial and investment landscapes. Debt issues—personal, corporate and governmental—continue. Those distressed properties are still out there. And, of course, election-year antics in the U.S. have pushed political and policy agendas to and fro across this town and the rest of the country, as the Republicans seek a single voice behind which to rally and as the Democrats seek simply to be heard.

It does seem like years since we've been here. And, maybe that's why we're not fully confident about the strength or stability of the recovery. But, according to the Conference Board's Index of Consumer Confidence, while the Index dipped a tad in March, people feel marginally better about current conditions and slightly better about future conditions, including jobs and incomes. On the business side, *Moody's Analytics* reports that businesses are slightly more confident so far this year, while expressing some caution in hiring and investment. Maybe, we've just been beaten up with so much bad news that we refuse to see the smiles returning to the faces.

Real Estate Issues is pleased to offer a number of articles to ease our colleagues into spring, to stimulate the mind, to get the sap running, as it were.

While winter was a fairly mild affair across much of the country, my wife reports that it has been unusually windy in Colorado, with the month of March one of the driest but windiest on record there (she is learning to retrieve and stow susceptible outdoor items). Ironically, just as I heard that report from home, which is one of the hot spots for the wind energy industry, **Barton DeLacy, CRE**, submitted

his article “Renewable Energy: Headwinds Ahead?” which focuses on the interrelationship of fuel, power generation and real estate. DeLacy asserts that the relatively mature wind energy industry is in crisis mode in 2012, as government subsidies expire. Without those subsidies, he notes, large scale wind energy projects will no longer be feasible. He tells us “In the end, energy is a commodity whose availability and cost can dramatically affect facility location and overall economic growth.” He reviews the fundamentals of power generation to illustrate the real estate implications for energy markets—which “involve locations, connections and space.” Renewable portfolio standards (RPS), which require power suppliers to purchase a minimum quantity of renewable energy (wind, solar) along with federal tax policies and maturing technologies, may promise to realize the ambitions of the environmental movement for a “greener” America. But, not without roadblocks and limitations, which DeLacy discusses further in the article.

Much has been written about the ramifications of the Kelo decision by the Supreme Court 2005 [*Kelo v. City of New London*, 125 S. Ct. 2655; 162 L.Ed. 2d 439 (2005) (Kelo)]. In “The Evolution and Consequences of *Kelo v. City of New London*,” Jeffrey D. Eicher, J.D.; Jerry D. Belloit, Ph.D.; and C. Frank Shepard, Jr., J.D., give us a comprehensive review of the decision, discussing the background, the action, the consequences and responses to the now infamous decision. But, Kelo paved the way for jurisdictions to take private property if there were a *belief* that future development might generate a public benefit (i.e. new tax revenues), without necessarily demonstrating the *need* for the property or the benefit of its condemnation for public use. As they put it, “The purpose of the Bill of Rights is to protect the individual from the power of government, and in theory, from the will of the majority by protecting individual liberty.” The New London Development Corporation had taken private properties based on a concept of “public purpose” that was not fully articulated and that was predicated on the development of a facility that never came to fruition. The Supreme Court determined that “public use” could be interpreted as “public purpose” and that the concept of “public purpose” refers to *perceived* public needs in justifying the use of the takings power of the Fifth Amendment. Reaction has been mixed over the past several years, with a number of states and other jurisdictions considering—and some implementing—legislation that limits ‘takings’ to very specific purposes.

In “An Analysis of New Markets Tax Credits,” authors J. Russell Hardin and Thomas Nolan offer us a detailed picture of the program that is designed to “encourage investors to make investments in impoverished, low-income communities that traditionally lack access to capital.” The New Market Tax Credit (NMTC) program, which was established as part of the Community Renewal Tax Relief Act of 2000, has financed a wide range of projects, from urban supermarkets to schools, health centers, solar companies, and a number of revitalization projects. An extensive review of projects at the local and the state level provide examples of the program’s broad array of projects, most of which are focused on extremely disadvantaged communities. Variations on the theme at the state level are also explored. According to the authors, demand for NMTC far exceeds availability, and Community Development Entities have requested more than seven times credit availability. With successes in bringing additional funding into distressed communities, in bridging funding gaps and in achieving strong returns to investors, extension of the NMTC program at the federal level has been requested for 2012 by both the Administration and members of Congress.

“Inflation is among the worst nightmares depriving investors of peaceful sleep,” says Martha Peyton, CRE, as she examines the inflation protection offered by commercial real estate in her article, “Is Commercial Real Estate an Inflation Hedge?” Peyton’s article reviews recent inflation trends along with the risks that monetary or fiscal policies might stimulate in an overheated economy, resulting in inflationary conditions. She then looks at commercial real estate performance relative to inflation and the elements of real estate that offer protection from inflation. While a simple correlation analysis between commercial real estate returns and inflation is “rather low compared with a perfect inflation hedge, it beats the correlations between inflation and every other asset type.” And, by simulating portfolios of commercial real estate, Treasuries, stocks and bonds over five-year investment horizons, Peyton finds that commercial real estate returns beat inflation in 84 percent of the cases. The exception is during periods with excessive supply or a collapse in demand. While Treasuries and corporate bond portfolios might beat inflation more frequently than commercial real estate, they do so with smaller degrees of outperformance. Stock portfolios beat inflation less frequently, but when they do beat inflation, they do so by a larger degree.

Back in my early days of economic and demographic analysis, census data came in print (books!) or on large tape reels that were stored at a few data centers scattered around the country. To inquire into the data in any detail, one needed to write a program (in FORTRAN or PL/1 or SAS or SPSS—on punch cards, no less!) and then wait for the data to spill out onto sheaves of wide, green barred paper. OK, OK, so the Web has changed a lot of things and, yes, now one can access census data on *American FactFinder*, the U.S. Census Bureau’s website for tracking down just about any data series the agency produces. The latest version of *AFF*, which officially replaced the previous version in January, is now where one goes to access U.S. Census data, and **Mary Bujold**, CRE, our esteemed associate editor, offers us her review of the new site in her Web Review, “The New American Factfinder.” Bujold tells us, “When first faced with the daunting task of trying to navigate the new *AFF*, I, a seasoned customer of the old website, tried valiantly to get into the head of the individual(s) who designed it so I could figure out how this new website was supposed to be so much “easier to navigate.” In fact, she continues, “The interface of

the old *AFF* was definitely more user friendly.” *AFF2* has its advantages, including a “Quick Search” feature, and easy retrieval of basic data for most geographies. But, Bujold advises, “if you want to aggregate different geographies or search on multiple topics, it becomes very complicated from this point on.” After spending “almost an entire afternoon figuring out how to obtain a modest amount of data, which under the old *AFF*, took only a few minutes,” Bujold offers her suggestions for accessing needed data.

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