2020 SPECIAL ISSUE:
PART TWO

The COUNSELOR® & REAL ESTATE ISSUES®

Published by The Counselors of Real Estate® | *The professional organization for the most trusted advisors in real estate.*

The Road Ahead

How the real estate industry is addressing the COVID-19 pandemic.

IN PART TWO

CRE®
THE COUNSELORS OF REAL ESTATE®

www.cre.org

The
COUNSELOR®
&
REAL ESTATE ISSUES®

To Our Readers:

Turbulent times produce uncertainty and fear of the unknown. A cloudy crystal ball can not only fuel apprehension but also increase the potential for irrational decision making.

As the COVID-19 pandemic continues to upend the daily lives of people and wreaks havoc on business operations and financial markets around the world, real estate investors, financiers and public and private sector decision makers need seasoned advice and guidance concerning the pandemic's immediate and lingering effects - what to look out for; what to do; and how to avoid the pitfalls and seize the opportunities that will most certainly emerge.

As the world's foremost real estate thought leaders, members of The Counselors of Real Estate (CREs) have been tenaciously evaluating circumstances and devising strategies to solve problems and capture opportunities for their clients and communities throughout the world amidst unprecedented turmoil.

As a premier forum for the discussion of innovative ideas, novel strategies, and intriguing commentary, *Real Estate Issues*, in tandem with its sister publication *The Counselor*, has prepared this joint edition posing a few salient questions to a panel of experts from various disciplines to brainstorm on the quandaries that we face. The result: readers gain perspective and insight from their collective experience as the world begins to seek a gradual return to normalcy and reopen for business.

Humanity has encountered seemingly insurmountable obstacles in the past, and yet, through ingenuity and resilience, has persevered. Our prediction: the same will be true post-COVID-19.

The Counselor and *Real Estate Issues* each pledge to continue our pursuit and publication of relevant and astute information, assisting our readers in surviving and thriving during challenging times ahead.

John J. Hentschel, CRE®, MAI, FRICS
Executive Editor and Publisher
Real Estate Issues

Deborah C. Nisson, CRE®
Editor-in-Chief
The Counselor

Photo: ffikretow@hotmail.com/Shutterstock.com

THE ECONOMY

The U.S. Economy was in the tenth year of recovery and there were signs of some loosening of standards reminiscent of behavior prior to the Great Recession. Now, the economy and that recovery have been turned upside down. We asked **Doug Poutasse, CRE**:

How do we restart the economy - locally, nationally, and globally? What percentage of the workforce will return to a brick and mortar office? Is this truly the end of the retail mall?

Rebuilding the Economy

By Douglas M. Poutasse, CRE®
Head of Strategy and Research | BentallGreenOak

First, it is important to acknowledge how fortunate we are that this pandemic did not occur during a time of financial or economic distress. Imagine how different the prospects would be if this were April 2009 in the middle of the Global Financial Crisis or April 2012 as the follow-on Eurozone debt crisis was in full flower. The United States was in its tenth year of recovery, the longest period without a month of job loss in history, and some form of correction was inevitable. Wise investors had already shifted to defensive postures. We may not have anticipated this specific Black Swan, but we were prepared for some event or combination of events to bring an end to what was clearly a great party for real estate investors.

Clearly the virus provides unique challenges to restarting the economy, for which none of us have any significant experience or expertise. It will thus inevitably be a period of trial and error. In this respect it is not unlike the sputtering recovery from the GFC, where Central Banks and elected officials kept experimenting until they found the policy solutions which brought stability. The rapid and powerful policy responses in the past two months demonstrate how much we are already benefitting from the GFC experience. My crystal ball is no clearer than anyone else's but I will share what I see, much of which is undoubtedly obvious to you as well.

The Paths to Reopen

Restarting the economy is not a United States question or a North American question; it is a global question and we are already seeing multiple experimental approaches. Some will work better than others and we should be carefully searching for best practice lessons.

BUT one size definitely does not fit all; the American lockdown has not been the same as the Chinese lockdown or even the French lockdown. In fact there isn't even an American lockdown, but rather a crazy quilt of at least 51 different state and even more local versions. The same already clearly applies to the paths to return.

Opening up Manhattan and Brooklyn is a very different exercise than opening up Wyoming. Social distancing a dense population whose primary means of movement is public transportation is much more difficult than a rural population with a private vehicle per adult. It is not coincidental that the worst outbreaks have been in densely populated major urban areas.

Returning to the Office

Unfortunately, these same densely populated major urban areas are also the centers of the global economy, so truly getting the economy "going again" will need to involve getting them restarted. If herd immunity is effective, the good news is that these areas are well advanced in developing such immunity.

I'm typing this from my recliner in my "man cave" where I have been working since March 10th. This week I was involved in more internal and external meetings than I can recall in any given week in the past several years. BentallGreenOak and firms like us don't have to get "back to work", we have been working at a very high level throughout the crisis. This is very important to remember.

Douglas M. Poutasse, CRE®, is Managing Director, Head of Strategy and Research at BentallGreenOak, with overall responsibility for overseeing the strategy of U.S. and Canadian investments and directing the research teams. He serves on the US Management Committee and US and Canadian Investment Committees. Doug has over 35 years of experience as an economic analyst and forecaster. Doug holds a BA from Harvard University.

If businesses which have been functioning successfully remain out of their offices, this will give more space (literally) for those who can't do so to be in the first wave of return. Just as we learned to not all rush to the grocery store first thing in the morning, those of us who don't need to be on the subway to get to work should defer to those who do.

Seemingly everyone is developing protocols for social distancing in offices. I am sure this work is well-meaning but I am also quite sure that within a few days of putting 100 people back in a 20,000 square foot office space the conversations will cease to be at six feet. So, firms should not put all their workers back together; shifts limit the risk of office wide infection and isolation.

(*Continues on **Page 7***)

INFRASTRUCTURE

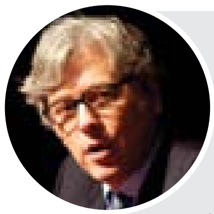
The current crisis makes the need for vast improvements to infrastructure even more evident.

We asked **Franc Pigna, CRE®**:

How has the current health crisis made glaringly apparent the need for vast improvements to infrastructure and the supply chain in the United States?

America – *Quo Vadis?*

By Franc J. Pigna, CRE®
Managing Director | Aegir Port Property Advisers



Franc J. Pigna, CRE®, is the Managing Director of Aegir Port Property Advisers. Aegir is a pioneer property consultancy specializing in meeting the many unique real estate related challenges faced by ports and associated maritime and logistics industries. Aegir is allied with London based DrewryMaritime Advisers, a globally recognized international shipping, ports and related maritime supply chain consultants and publishing house. Mr. Pigna has been meeting property challenges worldwide on behalf of clients in port, shipping, related logistics, financial, infrastructure, corporate and institutional investment sectors for decades.

I was asked to write an opinion piece on infrastructure. Considering where we find ourselves as a country, I decided to present a more central question, not only for infrastructure, but for our collective future.

As a young man, I read *The American Challenge*, by Jean-Jacques Servan-Schreiber. The book was meant to be a 'call to action' for Europeans to meet the global commercial onslaught and overwhelming, at the time, political influence of America. As an American, it left me with an unintended and lasting question, until now - would the day come when we would face a similar challenge. It has and we are.

While in the succeeding decades Europe achieved certain success in meeting the American Challenge, in my opinion, it generally failed to meet what Servan-Schreiber thought possible, not because of the external 'American Challenge' but because of choices made that led to internal failings. Unfortunately, we have followed a similar path for decades and are now dangerously near the point of no return. Infrastructure, or lack thereof, has and will play a major role in where we go as a country, but this will not be the only thing.

Our infrastructure system was designed and built decades ago when we had half of today's population. Most of our infrastructure is far surpassing capacity, life cycle and is dangerously pushed beyond design limits. As an example, while the U.S. has, by far, the most air travel of any country in the world, according to our DOT, we typically run delays in arrivals/departures of around 20 percent per annum, costing us over $35 billion a year in lost productivity. We have come to accept this as normal. It is not.

Another example is found in our maritime infrastructure. We effectively have four 'coasts' – East, West, Gulf and 'Inland'; the latter being our inland waterway system with the Mississippi as the main artery and supply route for most of our exported commodities. Would you be surprised to learn that we still use a system of locks, some of which were built at the end of the 19th Century and most in the 1950s? Do not be.

Figure 1 (see page 7) is the latest American Society of Civil Engineers (ASCE) report card (2017) on U.S. infrastructure. It is a dismal, self-explanatory snapshot of an unsustainable situation for a global leader and for an efficient, productive nation.

We are a young country and an ongoing social and political experiment the likes the world has never known. Our history is not based on following, but in leading, through innovation, commerce and, most importantly, on the ideal of freedom.

The coronavirus brought into clear focus the crossroads we find ourselves in now and has shown us that the path forward cannot be the one we have followed the last few decades. If 'our day in the sun' has passed, it will not be because of an external challenge, like China, that defeated us, but an internal one - us, and the choices we made and those we did not pursue.

(*Continues on **Page 5***)

Figure 1: Infrastructure Report Card

Category	1988*	1998	2001	2005	2009	2013	2017
Aviation	B-	C-	D	D+	D	D	D
Bridges	–	C-	C	C	C	C+	C+
Dams	–	D	D	D+	D	D	D
Drinking Water	B-	D	D	D-	D-	D	D
Energy	–	–	D+	D	D+	D+	D+
Hazardous Waste	D	D-	D+	D	D	D	D+
Inland Waterways	B-	–	D+	D-	D-	D-	D
Levees	–	–	–	–	D-	D-	D
Ports	–	–	–	–	–	C	C+
Public Parks & Recreation	–	–	–	C-	C-	C-	D+
Rail	–	–	–	C-	C-	C+	B
Roads	C+	D-	D+	D	D-	D	D
Schools	D	F	D-	D	D	D	D+
Solid Waste	C-	C-	C+	C+	C+	B-	C+
Transit	C-	C-	C-	D+	D	D	D-
Wastewater	C	D+	D	D-	D-	D	D+
GPA	**C**	**D**	**D+**	**D**	**D**	**D+**	**D+**
Cost to Improve**	**–**	**–**	**$1.3T**	**$1.6T**	**$2.2T**	**$3.6T**	**$4.59T**

Source: https://www.infrastructurereportcard.org/making-the-grade/report-card-history/

**The first infrastructure grades were given by the National Council on Public Works Improvements in its report Fragile Foundations: A Report on America's Public Works, released in February 1988. ASCE's first Report Card for America's Infrastructure was issued a decade later.*

***The 2017 Report Card's investment needs are over 10 years. The 2013 Report is over eight years. In the 2001, 2005, and 2009 Report Cards the time was five years.*

Our challenges ahead are complicated, big and seemingly impossible e.g., re-starting the economy, the national deficit, state of infrastructure, education, competitiveness, re-establishing our manufacturing base and in turn, growing our middle class that has been decimated over the decades, and on and on.

Supporting innovation, protecting intellectual property rights, truly levelling the international playing field, developing new and innovative public private partnerships, fiscal responsibility, expanding world class education and research and above all else, using common sense and allowing American ingenuity to flourish will form part of the solution in meeting the challenges we face this century.

Before the virus, some held the opinion that certain things like re-shoring manufacturing here would be seemingly impossible, that 'those days' were, for all practical purposes, long gone. Well ladies and gentlemen, we have recently faced the fact why this, going forward, for us is not an option. We need a diversified, strong economy and infrastructure is and will be a cornerstone of fomenting and maintaining this.

We are Americans. We take on complicated and big and when told 'seemingly impossible', all we 'seem' to hear is 'possible'. This is what we do. This is who we are. This is our DNA.

As a nation, once again, we are at a crossroad. The path we take will define us for decades, if not centuries to come. Where are we going and how will we meet the 21st Century American Challenge?

To use an American baseball idiom, 'It's time to step up to the plate America!' Let's make sure 'we knock it out of the park'. •


Photo: muratart/Shutterstock.com

DENSITY AND MULTIFAMILY LIVING

Multifamily properties, particularly multi-story elevator buildings, are densely populated and pose a potential problem for those people trying to physically distance and avoid contamination in the COVID-19 era.

We asked **Kim Betancourt, CRE®**; **Paula Munger, CRE®**; and **Scott Muldavin, CRE®**:

How can the multifamily sector survive and thrive? What solutions and technology can help residents and employees optimize healthy living—both environmentally and socially? Are there any particular problems for affordable housing projects?

How the Multifamily Sector Can Survive and Thrive

By Kim Betancourt, CRE®
Director of Economics and Multifamily Research | Fannie Mae

Kim Betancourt, CRE®, is the Director of Economics and Multifamily Market Research at Fannie Mae. She manages a team of real estate economists that focus exclusively on the multifamily sector. Ms. Betancourt is responsible for analyzing current economic conditions at both national and local levels, determining their impact on the multifamily sector, and identifying future trends.

We expect the multifamily sector to be impacted in 2020 from rising vacancy rates and declining and negative rent growth. Nevertheless, we expect the sector to weather the COVID-19 storm better than other commercial real estate property types, most notably hotel and retail, since there still is a shortage of all housing across the nation, in particular affordable housing. The current crisis is likely to exacerbate that shortage over the short-term. With some new construction projects delayed due to local health and safety limitations, in addition to supply chain disruptions and the ongoing labor shortage, we expect new multifamily deliveries will decline quite a bit this coming year.

How can the multifamily sector survive and thrive? In my personal opinion, the best way forward is for multifamily property owners and residents to work together, and there have already been early signs that this is occurring. A number of professionally managed multifamily rental properties have been reaching out to residents to see who might need a rent repayment plan or assistance filing for unemployment benefits. Many property management staffs continue coming to work each day, albeit sometimes on a reduced schedule, to fulfill emergency maintenance requests, including checking on the general safety of the residents or addressing other questions from residents. As a result, many property owners are already taking positive and effective action, including: showing concern for their residents; building a sense of good will with the property management staff and the residents; and, perhaps most importantly, maintaining a safe and healthy home and workplace for both the residents and staff. I can't think of a better "strategic plan" than that.

Some old sectors had already been revived over the past few years, including the development of micro-units with large, open public spaces and co-living properties. Now, perhaps those concepts might be reassessed. Residents that live in small micro-units might prefer to have segmented public spaces to work from home to better provide privacy. Similarly, the concept of living in close quarters with other strangers in a co-living property is not quite the same as having one or two roommates that you know well sharing your apartment. Multifamily property owners will need to remain nimble and agile to identify trends that develop after the current crisis has passed and best practices should it ever re-occur.

The Information Age is here to stay. The high-tech sector is needed now more than ever, enabling us to all work from home, connect with friends, shop, and conduct our business. The metros that boast high-tech employers are perhaps likelier to fare better than others over the short term, but as the high-tech sector matures, it is likely to expand to many other metros across the country. While we may not end up with jetpacks or flying cars – at least, not yet – we should all benefit from other high-tech improvements that help us work more efficiently – and, more importantly, live healthier, longer, and better lives. •

(*Density and Multifamily Living continues on Page 7*)

Innovations in Property Management

By Paula Munger, CRE®
AVP, Industry Research and Analysis | National Apartment Association

Paula Munger, CRE® is responsible for leading research efforts on topics of importance to the industry. She gathers, analyzes and synthesizes data and information to arrive at the most meaningful and relevant insights. Paula's research aids NAA members in their business initiatives, as well as NAA advocacy and public relations efforts.

For larger, institutional, professionally managed properties, actions taken to date will need to become a regular part of operations. This includes, but is not limited to: increased cleaning and sanitizing (one high-rise operator with 900 residents is sanitizing the elevator after each use), especially access points, common areas and amenity spaces; hand sanitizers and disinfectant wipes in common areas; virtual tours for prospective residents, current residents using the community website, resident portal and email for service requests and rent payments; and leasing/renewal process online and limits on elevator capacity.

Markers and arrows on floors help guide movement and remind residents about social distancing. More than 50 percent of apartment properties in the construction pipelines are mid-rise (typically 4-8 stories) so social-distancing markers/signage should be included in stairwells.

Buildings can implement mandatory scheduling for shared spaces to keep capacity levels lower. Shared amenity spaces set up with virtual participation can give residents the option of attending an event in person (with social distancing) or from afar. Since "sense of community" is so important for residents and events have become an integral part of apartment living, more virtual events will help keep them engaged and feeling part of the community. Examples include online book clubs, fitness challenges, virtual happy hours, photo challenges (pets, kids), trivia night, and sharing recipes for a community cookbook.

In the long term, multifamily buildings can utilize technology to maintain community health. Generally, buildings can create more of a hands-free environment. Voice-command elevators can minimize touching, in addition to using apps and other touchless systems for opening mailboxes, doors to shared spaces and other spaces with high-frequency touchpoints. Apps could also be used for measuring distance to others.

The technology of self-sanitizing rooms already exists in the hotel industry, which could be utilized in fitness centers and other shared spaces. •

(*Density and Multifamily Living continues on **Page 10***)

THE ECONOMY (Continued from Douglas M. Poutasse, CRE®, on **Page 3**)

Where work can be done remotely, this does not impair output. Where it cannot, output recovery will lag. Workers in industries deemed essential are already working at or above capacity. Again, it is important to remember that the shutdown has only been in certain segments. But these workers will need a break: output in these industries will likely drop this summer as workers and managements recharge.

Leisure, Travel, and Restaurants

Looking beyond office workers and essential industries, there are the severely impacted sectors of non-food retail, restaurants, hospitality, entertainment, tourism and travel. Most of the demand for these sectors comes from discretionary spending, both domestic and foreign.

Discretionary spending will not magically "snap back"; we are in the midst of a serious global recession and I believe the combination of income loss and weakened "animal spirits" will materially limit consumer spending.

It is hard to envision any material return to foreign leisure travel until there is a vaccine. While for me this means our bike trip to Slovenia has been cancelled, for restaurants, hotels and other tourism businesses around the country and the world this means a prolonged downturn. Some of us will travel and spend more in-country, but tourism is a powerful export industry for much of the world.

Restaurants - yes, we all miss going out for a nice dinner, but how many of us are going to rush back out to be seated two feet from people we've never met and served by someone who has closely encountered 50 people in the hour before we were seated? That is the demand side.

Restaurant supply side: sit-down restaurants are always fragile businesses and now they all need to effectively start from scratch. Deep cleaning and then restocking kitchens, rehiring kitchen staff who are making more with supplemental unemployment than they were previously paid, and having "cold re-openings" simultaneously with lots of competitors. Just as it took a decade to get there, it will be years before we get back to the 2019 level.

I will conclude this less than cheerful view of the reopening with one final bittersweet thought: perhaps I will not have to watch my New England Patriots slog along without Tom Brady this year. While we all want to be optimistic about the return of our favorite sports teams, large crowds in arenas and stadiums will be among the last parts of the recovery. •

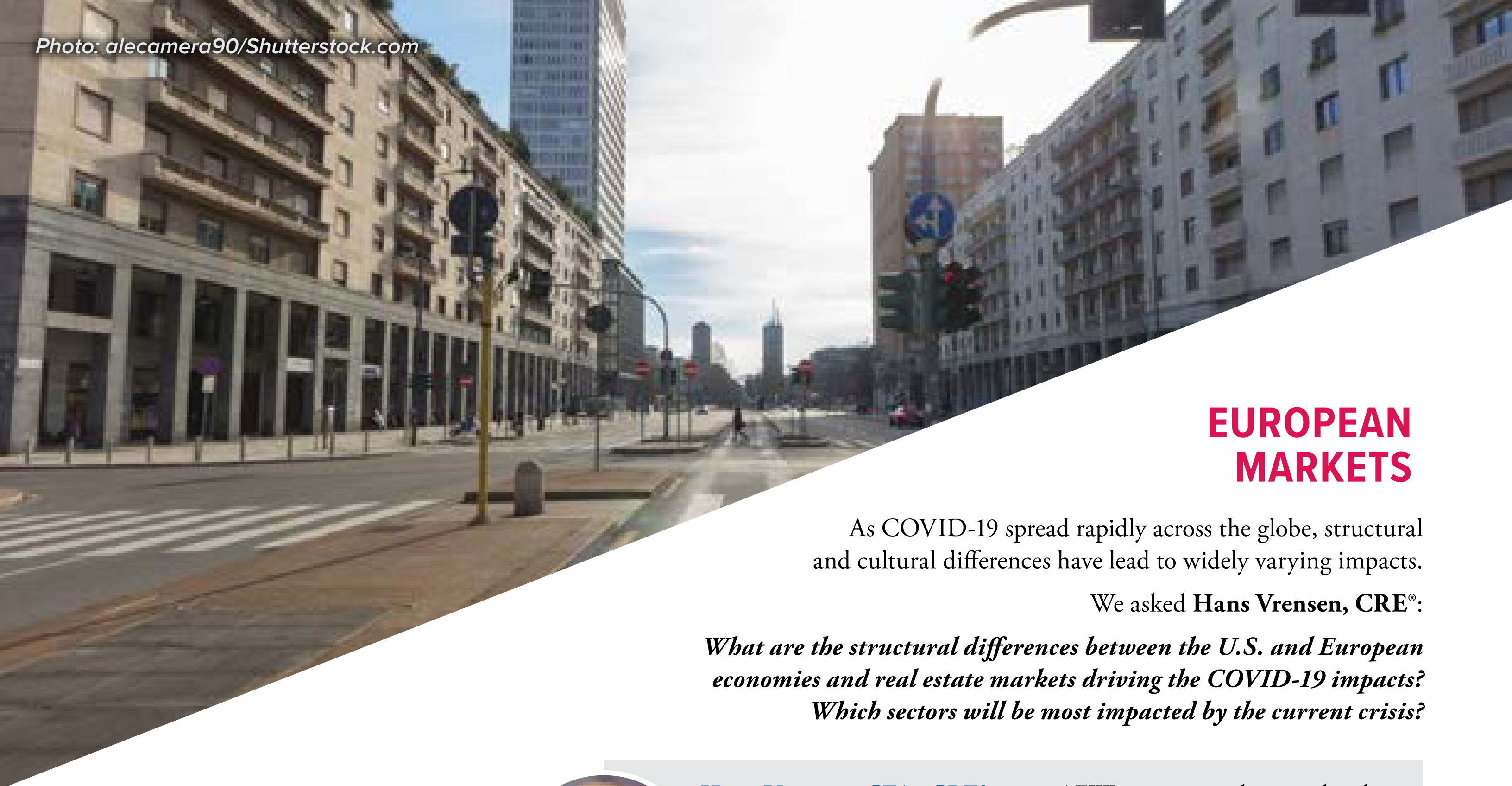


Photo: alecamera90/Shutterstock.com

EUROPEAN MARKETS

As COVID-19 spread rapidly across the globe, structural and cultural differences have lead to widely varying impacts.

We asked **Hans Vrensen, CRE®**:

What are the structural differences between the U.S. and European economies and real estate markets driving the COVID-19 impacts? Which sectors will be most impacted by the current crisis?

European Recovery

By Hans Vrensen, CFA, CRE®
Head of Research and Strategy | AEW Europe LLP

Hans Vrensen, CFA, CRE® is an AEW managing director heading the European Research & Strategy team and a seasoned analyst in the international commercial real estate and capital markets with nearly 30 years of experience. Hans is focused on applying innovative data methodologies and alternative data sources for debt and equity strategies.

Structural Differences Between the U.S. and Europe

There are a number of structural differences between the U.S. and European economic and market structures that will drive the speed and depth of the COVID-19 impacts.

European labour market laws and some recently announced measures protect workers against unemployment more than in the U.S. Unemployment and health care benefits are more generous in Europe, potentially limiting the short term impact on consumer spending and economic growth.

European banks are providing more credit to companies and consumers compared to the U.S., where bond markets play a relatively bigger role. This might leave Europe more exposed to this traditional single source of funding. Despite remaining NPL exposures, stricter capital reserve regulations put in place after the Global Financial Crisis should better protect European banks from credit risks in the aftermath of the current COVID-19 linked economic downturn.

U.S. commercial real estate markets have typically been more aggressively levered and have a more active speculative development pipeline than European markets, which might lead to more severe short term stress. However, U.S. markets have proven to be more able to re-price during previous down cycles and react more pro-actively than European markets.

Most Impacted Sectors

Based on our scenario analyses across the prime European markets, high street retail and shopping centres will be most negatively impacted by the current COVID-19 crisis. Even before COVID-19, limited retail rental growth was projected. Their high level of historical rental growth sensitivity to GDP growth leaves these retail segments much more vulnerable than offices and logistics sectors. This is also confirmed by the increased speed of e-commerce penetration since the COVID-19 lockdowns and the evidence on rent concessions sought and obtained to date by retail tenants when compared to office and logistics occupiers. In our most current downside scenario, we see a limited impact on offices and logistics returns. This is mostly due to less declines in future market rents, fewer COVID-19 concessions and less widening of cap rates, compared to retail. Across Europe, we expect government bond yields to remain lower for much longer and supportive for the relative value of real estate. •

Header Photo | *Milan, Italy, 8 March, 2020: Victor Pisani Street in Milan. Northern Italy Locks Down To Try Prevent The Spread Of Coronavirus.*

PROPERTY OWNER RIGHTS


Photo: MIND AND I/Shutterstock.com

With 42 U.S. states having issued statewide stay at home orders and many municipalities declaring their own restrictions on business operations, questions have arisen over the power to make these mandates and what constitutes an “essential business”.

We asked **Anthony DellaPelle, Esq., CRE®**:

How do you counsel a client who believes their rights are being violated?

What Are My Rights During a Pandemic?

By Anthony F. DellaPelle, Esq., CRE®
Shareholder/Partner | McKirdy, Riskin, Olson & DellaPelle, P.C.

Emergency declarations and executive orders have been entered during the COVID-19 pandemic by the President, by many Governors, and at other local and regional levels of government. Most of them state that the government agencies may "commandeer" private property and may deprive citizens of other liberties and rights, the like of which has not happened in our country's history, except perhaps in times of war. Any true emergency may empower government to undertake action(s) that would not be authorized in non-emergency situations. But emergencies do not create government power, nor do they diminish limitations on that power.

Lawsuits have recently been initiated in different parts of the country challenging government shutdown or "stay at home orders". Faced with the prospect of more similar actions in the future, and a possible prolonged state of emergency, how can our citizens measure whether these governmental actions and mandates are, in fact, lawful?

To answer this question, we must remind ourselves that all government power in our country emanates from the United States Constitution, which *was written during a state of emergency and because of that state of emergency*. It purposefully established:

(a) a system of checks and balances with three branches of government;

(b) the principal of federalism, which creates and recognizes two sovereign powers, the federal and state governments; and

(c) a Bill of Rights which further specified the limitations of the government's powers.

The U.S. Constitution imposes limits by dividing government against itself — both by giving different branches of government separate functions and by forcing different governments to share power.

With this in mind, we then consider which branch of government has acted in order to determine whether that branch possesses the power to act in that fashion. For instance, under our system of government:

(i) the legislative branch creates or makes the laws;

(ii) the executive branch administers the laws; and

(iii) the judicial branch reviews and interprets the laws, including the actions of the other two branches of government.

Anthony F. DellaPelle, Esq., CRE® is a shareholder in the law firm of McKirdy, Riskin, Olson & DellaPelle, P.C., in Morristown, New Jersey. He is a Certified Civil Trial Attorney by the New Jersey Supreme Court. He has represented property owners in eminent domain, redevelopment and real estate tax appeal matters for more than 30 years. He received a B.A. degree in Economics and English from Franklin & Marshall College, and his J.D. degree from the Seton Hall University School of Law.

So how can an executive like the President, a Governor, a regional or county leader, or a mayor, therefore sign an "executive order" which authorizes the government to seize or "commandeer" private property, or to "shut down" certain businesses and liberties and not others?

These questions can be answered by determining whether those executive actions or mandates fall within or exceed the power vested in the executive branch, As an example, President Trump's March 12 emergency declaration refers to the powers created by Congress in 1988 legislation known as the Stafford Act, and his declaration administers those powers mainly through the Federal Emergency Management Agency.

(*Continues on* ***Page 10***)

Healthy Living in Multifamily and Affordable Housing

By Scott R. Muldavin, CRE®
President | The Muldavin Company, Inc.

Scott R. Muldavin, CRE®, has been a leading investor, consultant and nonprofit leader in the real estate industry for over 35 years, authoring over 225 articles and books. For the past 13 years, as Founder and Executive Director of the Green Building Finance Consortium, he has led the movement to integrate sustainability, health, and wellness into real estate investment decisions.

In the emergency phase, key actions include closing non-essential amenity areas; placing hand sanitizers and masks in all key high traffic areas; limiting the number of people in elevators, laundry rooms and other essential areas; controlling access to buildings by managing food deliveries and packages; enhancing sanitation and cleaning protocols and implementing virtual leasing. Hopefully, in advance, an emergency communications plan has been prepared that can be implemented to educate and inform residents and staff of new rules and procedures.

Many new and established technologies can also help: virtual leasing, video call technology for tenants and visitors, technology-enabled elevator and amenity area access, remote sensors, and most important of all, affordable high-speed internet service. Technology enhanced signage and lobby communications can also be helpful.

Building technology is also important. Certifications like the International Well Building Institute's Multi-family WELL Building standard are based on existing technologies that can improve air filtration and ventilation, as well as design, operations and product protocols for healthy entrances, easy to clean surfaces, and cleaning. Numerous new building related technologies to address COVID-19 are under development including COVID-19 specific sanitizers and UV lighting applications (which can kill the virus). Stay tuned.

Affordable multifamily confronts similar challenges to traditional apartments, but also faces unique COVID-19 concerns. Affordable buildings often do not have the budgets to implement helpful new technologies or operating procedures. Many affordable buildings have existing health problems that exacerbate COVID-19 concerns.

The Green and Healthy Homes Initiative has been working for years on the millions of homes that still expose children to lead poisoning, poor ventilation, and do not properly control leaks—which lead to high asthma rates, a critical problem in the COVID-19 era. People who make less also typically have a more difficult time working remotely and are under more financial pressure to continue to work to make ends meet, increasing their COVID-19 risk, and the risk to the places where they live. •

PROPERTY OWNER RIGHTS (Continued from Anthony F. DellaPelle, Esq., CRE®, on **Page 9**)

Similarly, most executive orders recently issued by various Governors to commandeer properties, or to shut down "non-essential" businesses, rely upon prior State legislation which already *made* the laws in question and the executive branch is now *administering or enforcing those laws.*

But when does an executive order, seemingly authorized by legislation, go too far? How can a Governor decide which businesses are "non-essential"? When do the government's actions, presumably undertaken under its police powers to protect the health and safety of its citizens, rise to the level of a compensable taking of private property, entitling the owner to just compensation which is guaranteed by the Constitution? For instance, while shutdown orders on properties such as golf courses and beaches have already been upheld by courts in Pennsylvania and Florida, a federal lawsuit challenging Mississippi's refusal to allow a church to conduct religious services through a "drive through" window has caused the U.S. Justice Department to intervene, suggesting that restriction on the First Amendment rights of the congregants may have gone too far.

The limits of executive power or legislative power are supposed to be reviewed by our courts. While courts generally give deference to government actions, and are likely to give greater deference to government actions undertaken during emergencies, if the actions violate other Constitutionally-guaranteed rights, the checks and balances should provide Americans with some assurance that the violation of their rights, even during our state of emergency, can be reviewed by our courts. And although individual rights may be deprived during the state of emergency, hopefully that deprivation will be temporary, the deprivation will not be so severe that it will cause irreparable harm to individual(s), and the state of emergency will be a distant memory by the time the deprivation can be reviewed by the judiciary in order to determine whether such deprivation entitles the deprived party to a viable remedy at law or in equity. •

CHANGES IN LIFESTYLE TRENDS

The changes in population growth, employment trends, and lifestyle choices as to "where" and "how" to live were recreating the landscape.

We asked **Paige Mueller, CRE®**:

Will these trends continue? How will mega cities recover? Will there be a flight to a simpler life? Will 2020 be the beginning of the next baby boom?

Trends to Watch

By Paige Mueller, CRE®
Managing Director, Eigen 10 Advisors, LLC

Paige Mueller, CRE® is a co-founder of Eigen 10 Advisors, LLC which provides real estate consulting services in the areas of market and investment analyses, capital formation, investor communications, asset and partner due diligence, portfolio strategy, and data analytics. She has more than 30 years of experience working with both LPs and GPs. She graduated with an MBA in Finance from Indiana University and is a frequent industry publisher and speaker.

Jobs!

Markets that come out of a recession first are those that create jobs. But keep in mind that the pandemic-related cause of this recession is different than the last which was a housing and capital market crisis. Thus, expect regional performance to vary from the 2008 crisis.

Entertainment oriented markets like Florida and Nevada are already posting large unemployment gains. On the positive side, the life sciences market, led by technological changes, is likely to be counter-cyclical as are data centers. San Francisco and Boston are life-sciences hubs while the Northeast in general has a high concentration of health services.

Demographics

While there are anecdotal stories of hospitals experiencing baby booms after natural disasters, numerous studies have found inconclusive results. Some theorize that the severity of the disaster is important. Others have found no relationship at all. One thing we do know is that there are two important differences now as compared to the last major Baby Boom that started in 1946.

First, as opposed to the dark times of a global pandemic, 1946 was a time of euphoria as WWII came to an end.

Secondly, the population is now much older. In 1946, 28% of the population was 45 years or older as compared to 42% now. Watch regional demographics which vary widely. While population growth in some markets is dominated by Baby Boomers (born in 1946 to 1964) and will struggle to grow over the next ten years, other markets like Austin, Dallas, Miami and Orlando will experience population growth through all age groups. Why? These areas have healthy job markets that attract people from other states, relatively low costs of living and often diverse population bases that have higher birth rates.

Policy

This is a wide-ranging topic with important implications. On COVID-19, *National Geographic* posted an interesting story showing differences in severity and length of the 1918 flu impact depending on metro area policy. Bottom line - faster shelter in place resulted in less impact and releasing shelter in place too soon resulted in a longer 4 to 6 month exposure. Watch cities for out-sized exposure to certain industries or employers who could be impacted by national policy changes, e.g., import-export activity, immigration policies, and such. Boom-bust mechanics in these markets will be amplified. National, state and local fiscal health will be stressed. Densely populated areas like New York, Chicago and Los Angeles were already losing population before COVID-19, while low-cost markets like Phoenix were gaining more educated job bases. On the other hand, the large cities may get some relief from competition to keep businesses, as fiscally healthy states like Tennessee, Texas and Indiana, which have made full use of incentives to attract new businesses, will need to assess fiscal impacts of this cycle. •

The Counselors of Real Estate forms *New* Specialty Interest Groups

The Counselors of Real Estate announces formation of **nine CRE Specialty Interest Groups**. These are interactive Business Forums providing Counselors invaluable opportunities to regularly collaborate, exchange information, offer perspective, and pose questions to CREs of similar specialty in an atmosphere of trust and cooperation.

Join the Conversation

Register to join one or more groups at https://www.cre.org/specialty-interest-groups/

This is **YOUR OPPORTUNITY** to take advantage of the incomparable CRE Network in ways specifically designed to strengthen and advance your particular business interests. Below is an overview of current CRE Specialty Interest Groups and their leaders. We look forward to your participation in the complex, opportunity laden Era of COVID-19... and Beyond:

Asset and Property Management

An interactive discussion of asset and property management issues. What are we up against? What are the possibilities and concerns that characterize today's marketplace and how do we address them?

John Viggers, CRE, *Cushman & Wakefield Iowa Commercial Advisors*
Bob Rajewski, CRE, *Temple University/ PGain LLC*

Finance/Investment

Borrowers are seeking debt restructure. Funds in distressed arenas are actively raising money. Where is future capital going to come from? What is the situation if you're a borrower or lender today and down the road?

Tom Fink, CRE, *Trepp, LLC*
Tom Curtin, CRE, *State Street Global Advisors*

Housing and Social Services

Will COVID-19 alter the rebirth of urban living which had been underway? Multifamily housing fundamentals are strong. Will that change? What will be the impact on senior housing? Student housing?

Brad Weinberg, CRE, *Novogradac & Company LLP*
Kim Betancourt, CRE, *Fannie Mae*

Infrastructure

Counselors play an important role advising on public sector infrastructure projects, designing solutions for complex problems, and often assembling public private partnerships on everything from roads to utilities to structures and more. How are these deals coming together? What is state-of-the-art? How do we overcome the unique challenges of these projects?

Marilee Utter, CRE, *Citiventure Associates, LLC*
Judith Amoils, CRE, *Thinking Strategy: New Paradigms, Inc.*

Leasing: Tenant Rep and General

CREs create solutions, especially in adverse situations. How are market participants reacting to market disruptions?

Valerie Pontiff, CRE, *Mohr Partners*
Martin Moore, CRE, *CBRE*

Legal and Insurance

So much has happened so quickly in today's convoluted and uncertain world that it is difficult to fully analyze and digest the vast number of issues relating to property rights and individual liberties that surface on a daily basis. Let's Talk.

Joanne Phillips, Esq., CRE, *Ballard Spahr LLP*
Leslee Lewis, J.D., CRE, *Dickinson Wright PLLC*

Prop Tech and Technology

An ongoing discussion of the foundational role of technology in real estate: transacting deals, making decisions, and operational risk management.

Tom Shircliff, CRE, *Intelligent Buildings, LLC*
Demetrios Louziotis, Jr., CRE, *Pavonis Group*

SALT: Tax and Local Tax Issues for Counselors

State and Local Taxes (SALT) materially impact all aspects of real estate feasibility, development, and sustainability. Counselors are regularly called upon to assist with government policy issues, taxable asset valuation challenges, and strategic investment considerations.

Todd Jones, CRE, *RealAdvice*
Anne Joyner Sheehan, CRE*, Real Property Tax Advisors*

Valuation/Appraisal

In this unusual time, how do you appraise commercial real estate properties? A new set of assumptions have emerged - and uncertainties abound. What will be the (new) normal now and in the future?

Don Bouchard, CRE, *Lincoln Property Company*
Andrew Nelson, CRE, *Nelson Economics*

ABOUT THIS ISSUE

2020 SPECIAL ISSUE: PART TWO

The
COUNSELOR® & REAL ESTATE ISSUES®

Share This Issue!

Share this Special Issue with a colleague, and encourage them to register for a **a free subscription** at CRE.org/subscribe.

FOLLOW US ON SOCIAL MEDIA

Don't miss an update!

@CounselorsofRE

CounselorsofRealEstate

TheCounselorsofRealEstate

TheCounselorsofRealEstate

THE COUNSELORS OF REAL ESTATE®

INTRODUCES A ***NEW*** WEBINAR SERIES

WHAT'S NEXT

for

Real Estate and the Life Experience

Session 2: June 11, 2020 | 2:00 PM Eastern Time

FREE and OPEN to all!

Register at CRE.org/Webinars

SPEAKER

Dr. Alexis Crow

Lead, Geopolitical Investing Practice

PwC