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PERSPECTIVE

A BIMONTHLY PUBLICATION OF THE SOUTHERN NEVADA CCIM CHAPTER

December 2011

PRESIDENT'S MESSAGE



Bobbi Miracle, CCIM
 2011 Southern Nevada CCIM Chapter President

I have been truly honored to represent this Chapter in 2011 and cannot thank you all enough for the opportunity. It has been an amazing year! We rounded out with just over 180 chapter members and 32 sponsors! We welcomed four new CCIM DESIGNEEs, awarded four chapter scholarships and a UNLV Foundation Scholarship. Our events were top notch from our five education courses, to the sponsor appreciation event, luncheons, newsletters, member events and our infamous wine soiree, all because of the help of our committees! I have

learned a lot from all of you this year and your support has been much appreciated. The CCIMs in this town are making a difference and I am so proud to be a part. Lastly, I would like to give a round of applause and a huge THANK YOU to my amazing board of directors, you are an integral part of this chapter's success and all of you made it a wonderful experience. We have seen our ups and downs throughout this year as a community, and I am positive that our future is headed in the right direction! I wish you all the best of luck!

CHEERS TO A PROSPEROUS 2012!

We rounded out with just over 180 chapter members and 32 sponsors! We welcomed four new CCIM DESIGNEEs, awarded four chapter scholarships and a UNLV Foundation Scholarship.

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DEALMAKERS!

LEASES:

Dana Berggren, LEED AP, CCIM of Cushman & Wakefield / Commerce Real Estate Solutions, represented Inru Corporation in a lease of a 2,500 square foot office property located at 3900 Paradise Road, Suite 155, Las Vegas, NV with a value of \$90,000.00.

Liz Clare, CCIM of Cushman & Wakefield / Commerce Real Estate Solutions, represented 2010-1CRE-NV, LLC in a lease of a 3,803 square foot retail property located at 6415 South Fort Apache Road, Suite 155, Las Vegas, NV with a value of \$244,343.00.

Liz Clare, CCIM of Cushman & Wakefield / Commerce Real Estate Solutions, represented 7591 & 7595 W. Washington Ave., LLC in a lease of a 2,274 square foot retail property located at 7595 West Washington Avenue, Suites 140-150, Las Vegas, NV with a value of \$217,326.00.

Liz Clare, CCIM of Cushman & Wakefield / Commerce Real Estate Solutions, represented 2010-1CRE-NV, LLC in a lease of a 1,737 square foot retail property located at 2470 East Pebble Road, Suite E-F-104, Las Vegas, NV with a value of \$118,602.00.

Liz Clare, CCIM of Cushman & Wakefield / Commerce Real Estate Solutions, represented 61, 72, 76, 81 W. Horizon Ridge Pkwy. Holdings, LLC in a lease of a 1,600 square foot retail property located at 72 Horizon Ridge Parkway, Suite 120, Las Vegas, NV with a value of \$62,880.00.

Michael Dunn, CCIM, SIOR of Cushman & Wakefield / Commerce Real Estate Solutions, represented Westcore Westcliff, LLC in a lease of a 1,198 square foot office property located at 6900 Westcliff Drive, Suite 504, Las Vegas, NV with a value of \$80,326.00.

Michael Dunn, CCIM, SIOR of Cushman & Wakefield / Commerce Real Estate Solutions, represented Westcore Westcliff, LLC in a lease of a 538 square foot office property located at 6900 Westcliff Drive, Las Vegas, NV with a value of \$11,944.00.

Soozi Jones Walker, CCIM, SIOR and **Bobbi Miracle, CCIM** of Commercial Executives, represented Beltway One Development Group, LLC in a lease of a 5,427 square foot office property located at 9121 West Russell Road, Suite 120, Las Vegas, NV with a value of \$649,937.52.



Dana Berggren, LEED AP, CCIM



Liz Clare, CCIM



Soozi Jones Walker, CCIM, SIOR



Devin Lee, CCIM



Bobbi Miracle, CCIM

Soozi Jones Walker, CCIM, SIOR and **Bobbi Miracle, CCIM** of Commercial Executives, represented Phoenix Plaza Holdings, LLC in multiple leases of 7,535 square foot office and retail properties located at 6370 & 6480 West Flamingo Road, Las Vegas, NV with a value of \$333,400.00.



Susan Best, CCIM



Michael R. Dunn, CCIM, SIOR



Jarrad Katz, CCIM



Andrew Levy, CCIM

Soozi Jones Walker, CCIM, SIOR and **Bobbi Miracle, CCIM** of Commercial Executives, represented Nancy Preston's Class Act, Inc. in a lease of a 4,200 square foot retail property located at 405-496 East Silverado Ranch Boulevard, Suites B145 & B150 Las Vegas, NV with a value of \$131,808.00.

Soozi Jones Walker, CCIM, SIOR and **Bobbi Miracle, CCIM** of Commercial Executives, represented MERP Joint Ventures in a lease of a 1,305 square office property located at 2655 South Rainbow Boulevard, Suite 105, Las Vegas, NV with a value of \$78,316.00.

Soozi Jones Walker, CCIM, SIOR and **Bobbi Miracle, CCIM** of Commercial Executives, represented MERP Joint Ventures in a lease of a 1,240 square foot office property located at 2655 South Rainbow Boulevard, Suite 405, Las Vegas, NV with a value of \$45,864.00.

Jarrad Katz, CCIM of NAI Las Vegas, represented NLV-Zim, LLC in a lease of a 9,893 square foot medical office property located at 2055 North Las Vegas Boulevard, North Las Vegas, NV with a value of \$3,215,481.36.

Jarrad Katz, CCIM of NAI Las Vegas, represented Firefly Henderson, LLC in a lease of a 4,732 square foot retail property located at 11261 South Eastern Avenue, Suite 200, Henderson, NV with a value of \$876,900.00.

Jarrad Katz, CCIM of NAI Las Vegas, represented Storkie Express in a lease of a 2,960 square foot office property located at 1050 East Flamingo Road, Las Vegas, NV with a value of \$129,500.00.

Andrew Levy, CCIM of Realty Executives of NV, represented American Family Insurance in a lease of a 1,833 square foot office property located at 7312 West Cheyenne Avenue, Las Vegas, NV with a value of \$142,405.00.

TO MAKE A DEALMAKERS SUBMISSION CONTACT:



Gary Banner, CCIM
Newsletter Director

*Publications are limited to designees who are Chapter and Institute members in good standing. Announcements are for publication in The Perspective, but submissions may also appear on the website. All parties are aware that space is limited and are accepted and published by largest dollar volume within each submission section. Please contact Gary Banner, CCIM for the submission form at gary.ganner@colliers.com or 702-736-7500

DEALMAKERS!

... Continued on Page 10 ...



COUNCILMAN ROSS' FORECLOSURE REGISTRY: A BOON TO BOTH THE RESIDENTIAL AND COMMERCIAL INDUSTRIES

You may have read about the new ordinance that was passed unanimously by the City Council sponsored by Councilman Steve Ross to combat blight associated with vacant homes and commercial properties. The ordinance requires banks to register foreclosed properties and maintain them to community standards. What you may not have read about was the behind-the-scenes involvement of Sean Fellows with Carrara Nevada, on behalf of the GLVAR (Greater Las Vegas Association of Realtors) and CALV (Commercial Alliance Las Vegas) that helped to shape the ordinance.



By Hayim Mizrachi, CCIM
NAI Las Vegas

Why was Mr. Fellows' work so significant?

This ordinance spawned largely from the surge of residential foreclosures. Pursuing a blanket solution meant potentially arriving at an ordinance with unintended consequences for commercial property. Residential and commercial properties do not function the same. Generally speaking, the borrower and management profiles are different, but perhaps the biggest distinction; the foreclosure activity is different.

In many cases the pre-foreclosure activity for residential creates a period of limbo from when the borrower stops paying and vacates the property, to when the lender recaptures ownership. This period can take up to 400 days. In that time, the borrower cancels utility services and upkeep on the home ceases. The lender technically can do nothing until they foreclose. Once they do foreclose they are faced with a backlog of

Recognizing vacant properties would be an ongoing issue Councilman Ross set out to find a solution. One of the first actions he took was to invite the experts to weigh in on the outcome. Originally, the ordinance was to include all vacant commercial and residential properties. That would have included even performing assets that were vacant.

CONT'D ON PAGE 10

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The advertisement features a large, detailed graphic of a human eye. The iris of the eye is replaced by a grid of small, colorful portraits of people, symbolizing a collective or diverse perspective. To the left of the eye, a smaller image shows the cover of the 'Nevada Business' magazine, which features a man in a suit. The text 'Nevada Business' is written in a large, blue, sans-serif font at the top of the eye graphic. Below it, in smaller text, is 'the decision maker's magazine'. In the bottom right corner of the eye graphic, the text '20 VISION' is visible. At the very bottom right, there is a small logo for 'Southern Nevada Business Tour'.



SECURING THE LEASING AGENT'S COMMISSION

When a commercial property is in foreclosure, a receiver may be appointed by a court to collect rents and otherwise operate the property. The receiver may hire a leasing agent to secure tenants for vacancies in the commercial property. The leasing agent, of course, will expect a commission or other fees. The agreement for payment of the commission should be in writing, approved by the court and put into a court order at the onset of the agent's services.

The Receiver

The receiver is generally appointed by the court and acts as an officer or arm of the court. The role of the receiver is to act as a fiduciary representing the court and all parties in interest. Generally, a receiver will not be appointed where the receiver's personal interest would substantially conflict with his or her unbiased judgment and duties as a receiver. The receiver is generally someone that is familiar with the ownership of commercial real estate and the management and business practices of such ownership. The various responsibilities of the receiver concerning the particular commercial real estate are set forth in the court order ap-



By April N. Bonifatto, Esq.
Marquis Aurbach Coffing

pointing the receiver. The court order may be in place long before the receiver approaches a leasing agent. The leasing agent would be wise to review the court order to make sure the receiver has authority to contract with a leasing agent.

The Agreement

The purpose of the agreement from the leasing agent's perspective is to make sure that the services and payment are properly documented so that if a tenant is secured, the commission will be paid. The agreement with the receiver for the listing of the commercial property for lease is not that much different than an agreement with an owner. The difference is that the agreement with the receiver should be approved by the court. The court order approving the agreement generally provides that the court will support the obligations made by the receiver to the leasing agent. Providing the receiver executes a contract under the authority of the appointing court, the acts of the receiver are acts of the court and thereby upheld by the court. Therefore, to have the court support the receiver's obligation(s), it is crucial to have the agreement approved by the court and expressed in a court order.

CONT'D ON PAGE 9



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Getting Paid

In most cases, the receiver will follow the agreement with the leasing agent and pay the agreed upon commission when a tenant is secured for the commercial property. However, in the event that the receiver does not pay, the court order provides a mechanism of security to the agent. The agent has the right to file a motion with the court to remedy the breach pursuant to the court approved agreement and order (rather than filing a lawsuit). In absence of an agreement and court order, the agent will have a difficult, if not futile, time securing the commission or fees in the case of a breach. The reason being is that receivers initially begin at an advantage in litigation because there is a presumption they are acting in good faith. The burden of proving otherwise is upon the agent – meeting the burden becomes more challenging when the agent presents an unapproved agreement to the court which may fall outside the purview of the receivership’s purpose and scope.

Ratification of an Existing Agreement

In the event an agent is performing services to procure tenants under an agreement but a court has not approved the agreement, the court has the authority to ratify the agreement. The ratification of the action by the court makes it legal and binding as if the contract had been authorized in advance. This avenue does not guarantee the payment of an agent’s commission because a court may or may not ratify the agreement.

Conclusion

The journey of an agent securing his or her commission

begins early when contracting – or thinking to contract – with a receiver. The first step is for the agent to take notice of the receiver’s authority as defined by the court. Second, any agreement negotiated between the receiver and the agent must be approved by the court. Last, and most importantly, the agent should make sure that the court enters an order concerning the terms of the agreement. Following these steps provides a leasing agent a better chance of getting paid the commission and provides a reliable means of legal recourse in the event that a commission is not paid. **CCIM**

April N. Bonifatto is an associate with the Las Vegas law firm of Marquis Aurbach Coffing. She can be reached at (702) 382-0711 or visit the firm’s web site at www.maclaw.com.

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inventory, so the home can sit vacant for several more months before an ultimate sale.

Most commercial properties operate at a more sophisticated level than a residential home. If the borrower defaults, there are usually tenants that provide traffic for the property leading to some degree of upkeep. Even in the cases where a building is 100% vacant, the lenders holding commercial notes face far less volume than their counterparts in the residential departments and can manage their portfolios proactively. Additionally, some commercial buildings are strategically vacant. Their owners would prefer not to lease them for various economic reasons.

Taking all of this into account, the ordinance was modified as follows: "Vacant Property" was carved out from the registry and only requires property that is truly bank

owned or REO. The registration fee went from being annual to onetime per beneficiary. Banks are required to hire a Nevada based property management company post foreclosure. This helps CALV and GLVAR members and the State economy to keep and even create jobs. The registry requires that properties must be maintained and utilities kept on. The counterargument is keeping power and water on at vacant properties encourages squatters. Consider the alternative, which is occurring. Las Vegas Metro Police arrive to a home or vacant bank owned commercial building. The occupant presents a falsified lease. The officers have no choice but to move on. The registry will allow police offers to have a list of properties of interest to thwart squatters using falsified leases.

Councilman Steve Ross set out to solve a problem in the community. He had the foresight to include industry experts who understand the moving parts to a complex puzzle. In this case, he knew to turn to Sean Fellows as representative of the CALV and GLVAR. That is credit to our steadfast accomplishment of organizing as a unified front. We look forward to expanding our efforts in the New Year and years to come. Happy Holidays!! 

Hayim Mizrahi, CCIM, is Managing Director of NAI Las Vegas. He can be reached at (702) 853-1844 or hmizrahi@nailasvegas.com.



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CCIM DEALMAKERS!

SALES:

Dana Berggren, LEED AP, CCIM of Cashman & Wakefield / Commerce Real Estate Solutions, represented M/Fadden Charitable Foundation in a sale of an 8,966 square foot office property located at 6180 West Viking Road, Las Vegas, NV with a value of \$730,000.00.

Susan Borak, CCIM of Cashman & Wakefield / Commerce Real Estate Solutions, represented Talco 7 Properties, LLC in a sale of a 14,143 square foot property located at 7544 East Sunset Road, Las Vegas, NV with a value of \$806,151.00.

Liz Clark, CCIM of Cashman & Wakefield / Commerce Real Estate Solutions, represented Bank of America in a sale of a 238,225 square foot mixed-use, community center located at 9325-0400 West Sahara Avenue, Las Vegas, NV with a value of \$17,500,000.00.

Janet Katz, CCIM of NAI Las Vegas, represented VAC, LLC, in a sale of a 4,803 square foot medical-office property located at 3150 West Charleston Boulevard, Las Vegas, NV with a value of \$1,775,000.00.

Janet Katz, CCIM of NAI Las Vegas, represented Futura Furniture, Inc. in a sale of a 12,304 square foot industrial property located at 2502 Coleman Street, North Las Vegas, NV with a value of 740,000.00.

Janet Katz, CCIM of NAI Las Vegas, represented MAJ Investments, LLC, in a sale of a 8,000 square foot office property located at 6029 Fort Apache Road, Las Vegas, NV with a value of \$541,800.00.

Janet Katz, CCIM of NAI Las Vegas, represented both the seller, US Bank, and the buyer, Senior Care Health, in a sale of a 6,228 square foot office property located at 713 5th Street, Las Vegas, NV with a value of \$450,000.00.

Janet Katz, CCIM of NAI Las Vegas, represented N.V.-Dm, LLC in a sale of a 8,893 square foot medical-office property located at 2065 North Las Vegas Boulevard, North Las Vegas, NV with a value of \$440,000.00.

Devin Lee, CCIM of NAI Sauter Companies, represented KS Servicing, LLC in a sale of a 192-unit multi-family property located at 2200 East Bonanza Road, Las Vegas, NV with a value of \$4,405,000.00.

Devin Lee, CCIM of NAI Sauter Companies, represented CRV Classic Properties, LP in a sale of a 70-unit multi-family property located at 320 Boston Avenue, Las Vegas, NV with a value of \$1,085,000.00.

Devin Lee, CCIM of NAI Sauter Companies, represented CRV Classic Properties, LP in a sale of a 12-unit multi-family property located at 320 West Chicago Avenue, Las Vegas, NV with a value of \$180,000.00.



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**Southern Nevada CCIM Chapter
 Mission Statement**

"Position the Chapter as the premier commercial real estate organization for Southern Nevada by enhancing the value of the CCIM designation and increasing the number of designees and candidates through professionalism and educational excellence."

"The Commercial Real Estate Voice For Southern Nevada"



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Which is why, even in current market conditions, our members have the strength, smarts, and skills needed to get deals off the ground. And why, on average, CCIM members earn 79% more than non-affiliated professionals*. All together, it's a force that propels properties, and careers, to new heights.

What can Pin Power can do for you? Find out about the benefits of membership and how working with a CCIM designee can elevate your next deal at www.ccim.com.

*NATIONAL ASSOCIATION OF REALTORS® 2009 Commercial Member Profile



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