



ACRE NEWSLETTER

PRESIDENT'S COLUMN

By: David Brennan, *CB Richard Ellis, 2011 ACRE President*

This year went by extremely fast. Although the market was challenging this year, ACRE had a successful year. On behalf of the ACRE Board of Directors, I would like to thank you all for your help in making that happen. As I reflect on our major events and luncheons, all were very successful with an overall increase in attendance and sponsorships over the previous year. I have been involved with ACRE for many years and believe strongly that ACRE provides a unique opportunity in our regions professional commercial real estate community for education, communication, networking, and charity involvement. To that end, one of my goals as ACRE President was to increase membership and help create added benefits to joining ACRE. I am happy to report that as of December 2011, ACRE membership increased substantially by 100 new members, the majority of them are brokers. In addition, ACRE added a new benefit to our membership; the ability to purchase medical insurance.

The 2010 Broker of the Year awards event was received extremely well with. Thank you, Bob Dean of Grubb & Ellis for returning to host another successful BOYA. Our charity for this year and next is Jenna & Patrick's Foundation of Hope. A special thanks to all our guests for helping us raise over \$285,000. Our luncheons went very well. Jason Goff, ACRE Program Director, worked hard to assemble the following guest speakers at our luncheons this year: John Pappas, Owner of Pappas Investments and their People's Choice award winning project team; Dan Corfee, President & Co-founder of Preferred Capital Advisors; David Taylor, President & Founder of David S. Taylor Interests, Inc.; Mid-Year Brokers Update team which included, Bill Niethammer, Cornish & Carey Commercial Newmark Night Frank, Rob Cole, CB Richard Ellis, Guy Spitzer, Cornish & Carey Commercial Newmark Knight Frank, Amy DeAngelis, CB Richard Ellis, Rick Martinez, CB Richard Ellis and Dean Bagneschi, TRI Commercial Real Estate;

and Christopher Cabaldon, Mayor of West Sacramento. The 2011 golf tournament held at Whitney Oaks, sold out in a record 7 days. A special thanks to Colleen Mains, Royal Electric and Jenny Benkosky, Tecta America for chairing this event. Congratulations again to the winners and our golf charity, First Tee of Sacramento. A special thanks to Jason Goff and Jenny Benkosky, ACRE 2011 Board Directors, for creating a hugely successful new event called "Speed Networking" which we hope to repeat in 2012.

Congratulations to Becki Roberts and Bill Andrews for another outstanding Developer Showcase at the Hyatt Regency. They moved the event to a Friday and added an After-Party at Mix to keep the party going. At over 900+ in attendance the numbers speak for themselves. This event created an environment that despite the current economy, the Sacramento region of commercial real estate could gather and strengthen our community bond.

I would like to thank our board of directors and committee members for donating their time to Sacramento's premier commercial real estate organization. The successful events above cannot be held without the many hours devoted by all the individuals involved. A special thanks to Debbie Uhrenholt, ACRE Executive Director, who keeps ACRE flowing smoothly and makes my job easy. Brandon Williams, ACRE board director, for putting together our educational seminars and last but certainly not least, special recognition to Julie Sherry, ACRE Newsletter Special Director, for her creative flair and work on creating a fresh look to our newsletter.

Please continue to support ACRE and renew your membership as it comes due. Also, please encourage everyone you know in the industry to join.

Happy Holidays and here's to a successful 2012.



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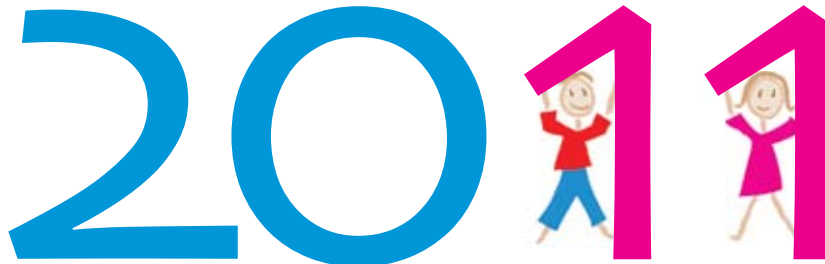
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ASSOCIATION OF COMMERCIAL REAL ESTATE



BROKER OF THE YEAR AWARDS

THURSDAY, MARCH 22, 2012
Hyatt Regency Sacramento



Location: Hyatt Regency (1209 L Street, Sacramento)
Cocktail Hour: 5:00 p.m. • Program Begins at 7:00 p.m.

A CHARITY EVENT TO BENEFIT



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IN JANUARY AT:
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BROKER OF THE
YEAR AWARDS
NOMINATION
DEADLINE:
FRI., JANUARY 13
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Nomination
forms go online
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621 Capitol Mall,
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Kimberly Ayers

New Business Marketing
Representative
Carson Landscape Industries

**What was your first job?**

I worked as “gopher” for an eccentric architect outside Washington D.C. Answering phones, making copies, brewing coffee, researching old doorways, and making more copies.

What do you like to do for fun?

I enjoy cooking, movies, books, gardening, road trips, botanical gardens, historic places, walks along the river, and time with family.

Who would you most like to have dinner with?

Thomas Jefferson.

What would your friends be surprised to find out about you?

I have a “thing” for trees and attended high school and college outside Washington D.C., in Virginia. My mother owns a Bed and Breakfast there.

Brett Lovell

Vice President
Wells Fargo

**What was your first job?**

My first “payroll” job was for Long’s Drugs ... waaaaaay back before bar-code scanning. The cash registers weren’t even digital; they were mechanical. GREAT place to work - plenty of fun and learned a lot.

What do you like to do for fun?

Anything with my family except for trying to pick a place to have dinner. Otherwise, crafts (woodworking and modeling ... as in trains & tanks, not GQ or Esquire) and sports (golf, snow skiing, fishing, shooting) and hanging out with my two dogs.

Who would you most like to have dinner with?

Besides my family? Perhaps Abraham Lincoln. What a wonderful example of a person withstanding the tests of the human spirit and adversity. I’m sure I could learn a thing or two.

What would your friends be surprised to find out about you?

My real friends probably already know more than they should. As for everyone else? While I may wear a tie to work most days, I’m really more comfortable dressed in grubbies and swinging a hammer or saw in the off-time. There’s nothing more satisfying than making/building something.

Tom Standish

Sales Associate
*Cornish & Carey Commercial
Newmark Knight Frank*

**What was your first job?**

Gainfully employed at age 14 working for a local bike shop in Folsom.

What do you like to do for fun?

Ski, and anything that brings me outdoors.

Who would you most like to have dinner with?

Donald Trump... Wouldn’t that be a wild ride?

What would your friends be surprised to find out about you?

I am a creative cook and like to relax by fixing gourmet meals.

Bill Donovan

Placer County Manager
Placer Title Company

What was your first job?

Radio Shack at the age of 13.

What do you like to do for fun?

Boating

Who would you most like to have dinner with?

Sammy Hagar.

What would your friends be surprised to find out about you?

Played in a Rock and Roll band.





2011 DEVELOPER'S SHOWCASE





HYATT REGENCY SACRAMENTO



LEGAL TIPS

BUZZ KILL: IMPACT OF FEDERAL GOVERNMENT CRACKDOWN ON MEDICAL MARIJUANA TENANTS

By: Winnifred C. Ward, Esquire, *Downey Brand LLP*, wward@downeybrand.com



Loose enforcement of California's "medicinal marijuana" laws, coupled with the federal government's initial laissez faire approach to enforcement of federal drug laws, allowed not only legitimate purveyors of medical marijuana, but also sellers who were engaging in illegal trafficking of marijuana, to flourish. Given the recent federal crackdown on medical marijuana providers, and the landlords who leased space to them, many landlords are now wondering if such leases are a viable alternative in the increasingly difficult leasing market. The long-term answer to that question will depend upon how the current federal enforcement effort plays out.

In 1996, through the initiative process, California voters passed the "Compassionate Use Act" (California Health & Safety Code section 11362.5). The stated purpose of the act is "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief." Under federal law, marijuana remains illegal and is classified as a Schedule I drug under the federal Controlled Substances Act of 1970. As such, federal law prohibits the possession, usage, purchase, sale, and/or cultivation of marijuana.

Although all uses of marijuana remained illegal under federal law, so-called "medical cannabis" facilities sprung up throughout the State of California in response to passage of the Compassionate Use Act. These facilities provided not only medicinal marijuana, but also physicians who would write prescriptions for use of the drug. Because most of these facilities could not afford to own commercial space for their services, their operators sought to lease space from existing commercial landlords. The operators historically had found it difficult to lease space, given most landlords' legitimate concerns regarding the continued illegality of marijuana under federal laws, as well as issues regarding zoning (most cities and counties had strict and varying regulations regarding the location of such uses, as well as permitted requirements), security (many facilities actually had armed guards on the premises), insurance and liability (few insurers would provide insurance for such uses), and neighborhood/adjacent tenant complaints. As a result, even though the California law was in place, few of these operations actually

existed prior to the latter part of the last decade.

Two factors radically changed the landscape, causing medical marijuana providers to proliferate and spawn an industry estimated at \$700 million to \$1.3 billion per year. First, the commercial real estate industry experienced a significant slow down in 2008 following the world-wide financial crises, causing tenant vacancy rates to skyrocket and rents to fall. Second, in 2009, the Obama administration announced that it would not seek to arrest medical marijuana users and suppliers as long as they conform to state laws. As a result, thousands of medical marijuana facilities sprung up throughout the state, and local governments profited from the medical marijuana enterprises through special taxes and permitting fees. Some of these facilities were actually "fronts" for marijuana traffickers who provided the drug for recreational use and exported it to other states whose marijuana laws were more restrictive.

Virtually all of the medical marijuana activity (legal and illegal) came to a screeching halt in early October 2011 when federal prosecutors, in a coordinated offensive effort throughout the State of California, announced an aggressive crackdown aimed at shutting down drug traffickers using California's medical marijuana laws as a cover for their illegal operations. More troubling to landlords, the state's four U.S. attorneys general sent letters to landlords leasing property to medical marijuana tenants demanding that the landlords evict their tenant or face criminal charges and possible seizure of their assets. In light of these actions, many landlords are wondering what actions they should take if they currently lease space to medical marijuana tenants (whether or not they have received a letter threatening asset forfeiture) or are contemplating such a lease.

The reality is that based upon recent history, the risk of asset forfeiture proceedings against a landlord who is not the owner/operator of a medical marijuana facility is still relatively small. Still, given the risks involved, commercial property owners should take seriously the implications of leasing property to medical marijuana providers given the on-going tension between state and federal law. Property owners who currently lease to medical marijuana providers and receive any correspondence threatening asset forfeiture should consult with an attorney before responding to any such letter. Any type of "self help" or other extra-judicial

remedy to evict a tenant may result in a civil lawsuit for unlawful eviction, so it is best to proceed only after obtaining proper legal advice.

For owners who are considering leasing to medical marijuana providers, such leases are inadvisable unless the current federal enforcement effort is resolved in favor of better state oversight and regulation of medical marijuana providers. If that resolution occurs, landlords should consider the following factors before proceeding:

- Landlord termination right (upon as little as 15 days' prior written notice);
- Insurance (proof of insurance availability prior to entering into the lease);
- Location/zoning (proximity to schools/parks/residential areas may be prohibited);
- Security (use of private security guards and/or cameras provided by tenant);
- Permitting by local municipality (proof of valid operation prior to entering into lease); and
- Large security deposit (no restrictions on the amount of security deposits for commercial tenants in California).

As long as marijuana remains illegal under federal law, no landlord can be assured that his or her property will be protected from federal enforcement actions in connection with medical marijuana provider tenants. With proper safeguards, however, landlords can consider these types of leases as a possible source of future tenants, provided that the State of California can draft and enforce regulations designed to avoid use of medical marijuana facilities as a cover for illegal trafficking of drugs.

DISCLAIMER: This article does not constitute legal advice. Readers should consult with their own legal counsel for the most current information and to obtain professional advice before acting on any of the information presented.

BIOGRAPHY: Winnifred C. Ward is a partner in the Real Estate Practice Group of Downey Brand LLP. She specializes in office, retail and industrial commercial leasing, as well as real property acquisition and divestment. ward@downeybrand.com; 916-444-1000.

¹ According to the website for "Americans for Safe Access," an organization promoting safe and legal access to cannabis for therapeutic use and research (<http://www.safeaccessnow.org/>) ("ASA"), the federal government has not recently followed through on any of its threats against property owners. In fact, in the 16 years of federal opposition to medical cannabis, ASA is only aware of one instance in which the federal government has been even partially successful in an asset forfeiture case against a non-owner/operator landlord. (In that case, after the defendant raised a lack of proportionality defense, the government agreed to cease its attempt to seize the property in exchange for defendant's payment of a fine.)

2012 ACRE BOARD

Jason Goff, 2012 ACRE President, is pleased to announce the following Board of Directors slate for 2012. We look forward to your continued participation in the coming year.

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Julie Sherry, *JAS Marketing*

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Debbie Uhrenholt, *Executive Director*

² As of the publication date, five separate federal lawsuits had been filed against Attorney General Eric Holder, California's four U.S. attorneys and Director of National Drug Control Policy, R. Gil Kerlikowske. The suits allege violations of equal protection laws and states' rights, as well as violations of the protections for in-state commerce. While the outcome of the lawsuits is likely many months away, one possible result will be negotiations with the federal government regarding the standards for medical marijuana distribution, possibly along the lines of those in Colorado, which state has much stricter regulation of medical marijuana sales and distribution. Medical marijuana advocates also are drafting a ballot initiative for statewide regulation of California's medical marijuana industry in an effort to appease federal officials.

ACRE CALENDAR

ACRE End of the Year Party

Wednesday, December 7

5:30 - 9:00 p.m.

Location: Marilyn's on K Street

**ACRE Monthly Meeting**

Wednesday, February 15

11:30 a.m. - 1:00 p.m.

Location: Doubletree Hotel Sacramento

Broker of the Year Awards (BOYA) 2011

Thursday, March 22, 2012

5:00 – 9:00 p.m.

Location: Hyatt Regency Sacramento

ACRE Monthly Meeting

Wednesday, May 9

11:30 a.m. - 1:00 p.m.

Location: Doubletree Hotel Sacramento

ACRE Golf Tournament

Monday, June 18 (Tentative)

9:00 a.m. Registration

Location: TBA

ACRE NEW MEMBERS
SEPTEMBER 2011Rick Phillips, *TRI Commercial*Kimberly Ayers, *Carson Landscape***OCTOBER 2011**Tom Standish, *Cornish & Carey Commercial Newmark
Knight Frank*Tom Ford, *MarketOne Builders*Philip Kong, *Union Bank*Bill Donovan, *Placer Title Company*Brett Lovell, *Wells Fargo***NOVEMBER 2011**Deron Benvenuti, *Sierra Asset Management, Inc.*Lisa Bulaich, *JP Morgan Chase***2011 ACRE BOARD OF DIRECTORS****PRESIDENT**David Brennan, *CB Richard Ellis***PRESIDENT-ELECT/PROGRAMS**Jason Goff, *Jones Lang LaSalle***VICE PRESIDENT/MEMBERSHIP**Adam Nelson, *CB Richard Ellis***SECRETARY/TREASURER**John Shelby, *Union Bank of California***IMMEDIATE PAST PRESIDENT**Bill Angove, *Asset Preservation, Inc.***DIRECTORS AT LARGE**Bill Andrews, *The Evergreen Company*Cindy Condos, *Weintraub Gensbela Chediak*Mark Demetre, *Jones Lang LaSalle*Randy Dixon, *Colliers International*Jon Gianulias, *Retail West*Rick Haycock, *MACKIE Insurance Brokerage*Brandon Williams, *Downey Brand LLP***AFFILIATE DIRECTOR**Jenny Benkosky, *Tecta America Sacramento***SPECIAL DIRECTOR – BOYA**Winnie Ward, *Downey Brand LLP***SPECIAL DIRECTOR – DEVELOPER SHOWCASE**Becki Roberts, *Exchange Bank***SPECIAL DIRECTOR – NEWSLETTER**Julie Sherry, *JAS Marketing***EXECUTIVE DIRECTOR**Debbie Uhrenholt, *Executive Director*

REMINDER: If you have made any changes to your contact information please be sure to provide ACRE with those updates on our website to ensure that our on-line membership directory is kept current and accurate. Thanks!

The ACRE newsletter is published quarterly for the membership of the Association of Commercial Real Estate. ACRE works to promote high standards in the field of commercial real estate brokerage and affiliated business by fostering knowledge and ethical, profitable and efficient activities by the membership.

ACRE welcomes manuscripts and letters to the editor. Articles should deal with issues facing the real estate industry, may be edited and will be published based on appropriateness and space availability. For more information, please contact Julie Sherry, Editor, at 916-847-1179 or JASherry1@aol.com