RCA Report

REALTORS® Commercial Alliance

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IN THIS ISSUE

How will a sagging economy and war on terrorism impact the office market? Will the real estate industry's legislative priorities take a back seat in 2002? Plus, find out what the REALTORS® Commercial Alliance and NAR's commercial affiliates are doing to help you succeed in your business.

Terror impact, market slowdown, silver lining

Office markets: what now?

The terrorist attacks on the World Trade Center and the Pentagon, two of the country's most prominent office addresses, provided a dramatic photographic ending to the near picture-perfect market conditions of the last three years.

Key market gauges had been marching in the wrong direction since the office market peaked nationally at the end of 2000, so seeing the high-profile office space literally going up in smoke had a special poignancy for real estate practitioners and service providers.

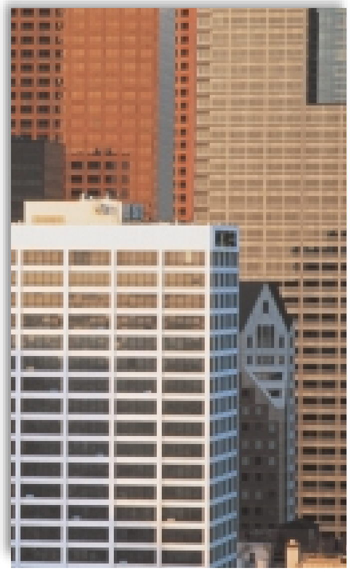
But despite the physical and psychological devastation, practitioners are optimistic about the office sector over the long term.

"The attacks simply defer the economic recovery," says Steven Leader, CRE, 2002 vice chairman of the REALTORS® Commercial Alliance Advisory Board and president of Leader Realty Advisors in New York City.

That doesn't mean it will be business as usual for the country's office sector. With crippled airline, hotel, and other travel-related industries helping to push the economy into recession and the country's lawmakers shifting their focus from domestic issues to a war against terrorism—with potential curbs on trade and immigration—office market conditions are sure to be bumpy.

Nationally, several negative trends continue to drive the office sector into a near-term slowdown. As of mid-2001, the national average vacancy rate was around 10 percent, up more than 140 basis points since the second quarter of 2000. At the same time, absorption had stagnated. It plummeted to a negative 3.7 million square feet in the first quarter of 2001, then worked its way back up to about negative 800,000 square feet in the second quarter, then settled at zero in the third quarter.

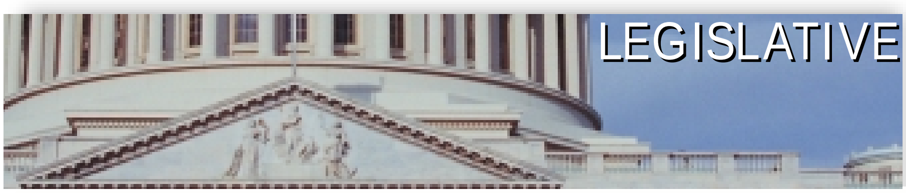
What's more, rental growth has been sitting at zero on a national



average basis since the second quarter of 2001, driven down from an average 10 percent annual increase in large part by stark drops in tech-heavy markets such as San Francisco.

All the figures are based on NAR analyses of data from 54 major markets around the country.

*See **Office** on back page*



LEGISLATIVE Update

TELECOM
BANKING
TAXATION

Terrorist bombings cloud legislative picture With the September terrorist attacks on the World Trade Center and the Pentagon, the U.S. domestic policy agenda was transformed literally overnight. For the balance of 2001, the overriding legislative priority will be national security issues. With the national crisis, partisan wrangling evaporated, which could open the door for passage of bipartisan legislation. However, it's unclear whether Congress will divert any attention from national security and rebuilding issues. All bets are off regarding the passage of real estate–related legislation. *Continued on page 4*

Bonnie Gottlieb,
NAR Senior Vice President,
Commercial Real Estate

Enhancing NAR benefits locally

One of the major initiatives of NAR's commercial area this year is to bring more benefits and services directly to our commercial practitioners by encouraging the creation of more commercial overlay boards and other commercial structures, as well as more commercial information exchanges.

For those who aren't familiar with these terms, a *commercial overlay board* (COB) is a local REALTOR® association of commercial members whose jurisdiction overlays—but is not necessarily the same as—the jurisdiction of other REALTOR® associations in the same locale. A *commercial structure* is a commercial investment division, society, or council of a local REALTOR® association. A *commercial information exchange* (CIE) is similar to an MLS, except that any compensation agreements related to property included in the exchange must be made on an individual basis outside of the CIE.

The creation of more commercial structures and exchanges is very important to our organization. A local CIE is a powerful benefit. We've found that when COBs have offered CIEs, their membership has grown enormously, and their members have expressed great satisfaction with their membership. Of course, COBs and other structures can exist quite successfully without CIEs, but the combination appears to be extremely effective in attracting and retaining members. A recent survey of the major COBs with CIEs indicates that CIEs can serve as profit centers for their COBs.

NAR moves to expand its commercial presence through board services, exchanges.

At this time, we have 27 COBs and 111 other commercial structures. Nine of these COBs and other structures have CIEs. Two new COBs and eight new commercial structures were created this year. We are extremely pleased with the formation of these new commercial entities and CIEs but would like to see faster growth in as many jurisdictions as possible.

We have started a multiyear project to facilitate growth. We intend to work on this project with Brad Benson, former CEO of the Denver Metropolitan Commercial Association of REALTORS®. Brad not only helped form DMCAR—one of NAR's largest and most successful COBs, with more than 1,500 members—but also helped create DMCAR's CIE. Denver's exchange is one of the oldest and most successful of NAR's CIEs, with more than 1,600 participating members, including 380 REALTORS® from other associations.

We've broken our growth initiative into three phases, though much of the work will happen simultaneously. In Phase 1, we'll do an in-depth assessment of existing commercial organizational models throughout the United States. We'll also research larger metropolitan statistical areas (MSAs) to determine how commercial members are being served and whether such service is being provided by a REALTOR® organization.

Phase 2 involves strengthening existing commercial COBs and structures, particularly those in the largest MSAs, and encouraging the implementation of CIEs. As part of Phase 2, we'll also work to create new NAR commercial organizations. For those organizations willing to discuss enhanced services and creation of CIEs, we'll provide information on the governance, finances, and staffing of successful models. We'll also offer information on existing CIE vendors, with the clear understanding that NAR does not and will not endorse any specific vendor. We'll provide as much information as we can and encourage the COBs and structures to make their own decisions.

Phase 3 will involve identifying non-member commercial markets and encouraging the creation of REALTOR® boards in those markets.

One of NAR's strengths is its local board programs and services. If we can improve and broaden those programs and services for you, our commercial members, you'll benefit—and NAR will benefit. That's our goal.

Commercial boards: 27 and counting At the Midyear Legislative Meetings in Washington, D.C., last spring, NAR welcomed two new commercial boards to the REALTOR® family, the Minnesota Commercial Association of REALTORS® and the Northern Massachusetts Commercial Investment Board of REALTORS®. The additions bring to 27 the number of commercial overlay boards around the country. See the complete list at *www.CommercialSource.com.*

REALTORS® Commercial Alliance

To contact NAR commercial real estate staff: 888/648-8321. To find an online version of this newsletter, go to *www.CommercialSource.com.* For a complete listing of NAR legislative and regulatory initiatives, go to *REALTOR.org*, formerly *www.OneRealtorPlace.com.*

REALTORS® Commercial Alliance Advisory Board National Representatives

CB Richard Ellis Inc.; Coldwell Banker Commercial; Colliers International; Cushman & Wakefield; Grubb & Ellis; Homestore.com Inc.; Insignia/ESG; Jones Lang LaSalle; Julien J. Studley Inc.; LoopNet Inc.; Marcus & Millichap; NAI; National Association of Real Estate Investment Trusts; ONCOR International; The Real Estate Roundtable; The Staubach Co.; Trammell Crow Co.; Transwestern Commercial Services

Commercial Affiliates of the NATIONAL ASSOCIATION OF REALTORS®

CCIM Institute (CCIM)
312/321-4460; *www.ccim.com;*

Counselors of Real Estate (CRE)
312/329-8427; *www.cre.org*

Institute of Real Estate Management (ARM, CPM)
312/329-6000; *www.irem.com*

REALTORS® Land Institute (ALC)
312/329-8440; *www.rliland.com*

Society of Industrial and Office REALTORS® (SIOR)
202/737-1150; *www.sior.org*

REALTORS® Commercial Alliance Advisory Board

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The REALTORS® Commercial Alliance Advisory Board, composed of major national, regional, and local market leaders, meets three times annually and serves in a non-policy-making advisory capacity for NAR's commercial initiatives. Advisory Board members are listed on page 2.

MEETING HIGHLIGHTS

Technology, reciprocity top agenda

Are commercial practitioners adapting to technological change too slowly? The pace of change was among the topics discussed at a meeting of the REALTORS® Commercial Alliance Advisory Board. The board met in Dallas in mid-June in conjunction with the commercial real estate technology conference, Realcomm.

Eileen Circo, former PikeNet managing director, told board members that although adoption of new technologies is important, it can be impeded by broker bias, a compensation system that doesn't reward transition to new systems, and lack of discipline to prevent reversion to old systems.

To speed the adoption of new technologies, Circo recommended that commercial companies:

- Provide financial and other incentives for behavioral change.
- Match dollars spent on technology with dollars for training.
- Get senior management support.
- Support staff members who champion use of new technologies.

Jim Young, president of the Jamesan Group, opened the Advisory Board meeting with a look at technology trends affecting commercial real estate over the next six to 12 months. He said technology bandwidth today is capable of satisfying virtually any user-desired wireless application need, and he encouraged board members to try new wireless applications. The Jamesan Group organizes the annual Realcomm conference.

Reciprocity gains ground

Peter Hanson, chairman of the License Reciprocity Task Force, reminded Advisory Board members that a state-by-state guide to reciprocity rules is available at *www.CommercialSource.com*. He also noted that Ohio has introduced legislation similar to that which the Advisory Board approved at the last meeting.

The board agreed in early March to support state statutes that would allow an out-of-state licensee (OSL) to conduct commercial real estate activities in cooperation with a licensee of the transaction state, provided that the OSL enters into a written agreement with the in-state licensee.

NAR President-Elect Martin Edwards Jr., CCIM, left, with Christopher Ludeman, president, corporate services, CB Richard Ellis, and Thomas McCormick III, SIOR, COO, Panattoni Development Co.

Task force member **James Hochman** provided assistance to the Ohio Association of REALTORS® in its efforts to get the state's license law changed. The Ohio legislation is likely to pass this fall, Hanson reported. He noted that efforts are under way to develop similar legislation in Maryland, Wisconsin, and Washington.

Language lessons

Industry efforts to standardize terminology are progressing on a number of fronts, according to **Steven Leader**, chairman of the Standardized Commercial Real Estate Terminology Task Force. Leader proposed that the Advisory Board create a "Rules of the Road," which would offer definitions of various commercial real estate terms in each of several major markets across the United States. The board approved Leader's recommendation that the task force develop a prototype matrix for the Advisory Board to review before determining whether to put further resources into the project.

AFFILIATE SPOTLIGHT

CCIM

CCIM Institute offers higher education, Web services

The CCIM Institute has been an industry leader in education and member services for more than 30 years. A commercial affiliate of the NATIONAL ASSOCIATION OF REALTORS®, it confers the prestigious Certified Commercial Investment Member (CCIM) designation. There are more than 6,500 active CCIMs and 6,000 candidate members across North America, Europe, and Asia. In the United States, CCIMs are represented in more than 1,000 markets, ranging from large urban centers to small towns. Once made up almost entirely of brokers, CCIM membership now includes property managers, corporate real estate and REIT executives, developers, appraisers, and professionals in other related fields.

There are three key elements to earning the designation:

- Passing four core courses
- Completing a detailed resume of qualifying real estate activities
- Passing a day-long comprehensive examination

The graduate-level curriculum addresses financial analysis, market analysis, user decision analysis, and investment analysis—the cornerstones of commercial investment real estate. Courses are refined continually to keep pace with the dynamic industry. In 2001, for example, "CI 102–Market Analysis" was completely rewritten.

The CCIM Institute also offers other member services, including continuing education and the *Site To Do Business*, an integrated online resource of industry and business information.

For general information on the CCIM education program, contact Jonathan Salk, vice president of education, at 312/321-4496 or jsalk@cciminstitute.com. *Or, for specific course information, send e-mail inquiries to* courseinfo@ccim.com.

NAR Commercial Affiliates **CCIM Institute (CCIM),** 312/321-4460; *www.ccim.com;* **Counselors of Real Estate (CRE®),** 312/329-8427; *www.cre.org;* **Institute of Real Estate Management (ARM®, CPM®),** 312/329-6000; *www.irem.org;* **REALTORS® Land Institute (ALC),** 312/329-8440; *www.rliland.com;* **Society of Industrial and Office REALTORS® (SIOR),** 202/737-1150; *www.sior.com*

LEGISLATIVE Update

Continued from page 1

Massachusetts court rules against forced access

In a great victory for real estate, the Suffolk County (Mass.) Superior Court ruled in August that regulations giving telecommunications service providers mandatory access to apartment and office buildings are unconstitutional under both the Massachusetts and U.S. constitutions.

The forced telecom access issue came to a head in Massachusetts after the state's Departments of Telecommunications and Energy released rules governing the terms and conditions under which building owners must provide access to telecom service providers. The rules were challenged jointly by the Greater Boston Real Estate Board and the Massachusetts Association of REALTORS®. REALTORS® in Massachusetts were assisted in their efforts by the Real Access Alliance, of which NAR and the Institute of Real Estate Management are members.

The court relied on the U.S. Supreme Court's 1982 decision in *Loretto v. Teleprompter Manhattan CATV Corp.*, which said that telecommunications access to private buildings constituted an impermissible taking of property without just compensation.

One month earlier, however, there was an unfavorable ruling in a satellite dish case. On July 6, the U.S. Court of Appeals for the District of Columbia upheld the FCC regulations pertaining to satellite dishes.

NAR and IREM, in conjunction with the Real Access Alliance, had petitioned the court to overturn a 1998 FCC order granting renters the unrestricted right to install satellite dishes within their leased premises, over the opposition of a property owner. The real estate groups cited a violation of private property rights. Property owners have also expressed safety and security objections as well as aesthetic concerns.

The court ruled that Congress had given explicit responsibility to the FCC, requiring the commission to make satellite services available to all individuals. The FCC ruling relates only to those areas under exclusive control of the renter and doesn't extend to common areas or rooftops.

NAR leads efforts to oppose unfair banking regulations

In late 2000, powerful banking interests petitioned the Federal Reserve Board and the U.S. Treasury Department to declare real estate brokerage and property management "financial in nature," or "incidental to a financial activity" by regulation, which would allow banks to enter the real estate brokerage and property management businesses.

During a four-month comment period earlier this year, thousands of NAR members sent letters to the agencies to protest the proposed change. The agencies have more than 80,000 comment letters to review, as required by the Administrative Procedures Act, and the review must take into account all comments on all issues raised by the agencies, as well as comments volunteered by letter writers.

Under normal circumstances, the agencies might: (1) move to make a final regulation based on the proposed rule; (2) issue a new proposed regulation, essentially modifying the proposed regulation based on the comments received; (3) issue an interim regulation along the lines of the proposed regulation or modified by the comments received; (4) withdraw the proposal; or (5) do nothing. But the agencies are likely to take none of these actions in the near future. In a recent *American Banker* article, representatives of the Federal Reserve indicated that, given the sheer number of comments, further action on the proposed regulation wouldn't come before next year.

The tragic events in New York, Pennsylvania, and Washington, D.C., override the issue and add further uncertainty regarding the outcome.

Defeating the proposed regulation remains a significant challenge. But NAR is optimistic that, because of its aggressive opposition so far, the regulation won't be finalized as proposed.

Coalition asks Congress to fill reinsurance gap for terrorist acts

A coalition of real estate organizations, led by the National Association of Real Estate Investment Trusts *(www.nareit.com)* and joined by the NATIONAL ASSOCIATION OF REALTORS®, is urging the federal government to develop a reinsurance program to cover property losses related to acts of war or terror. In late September, insurance industry representatives told the House Financial Services Committee that, after Sept. 11, insurance policies would likely exclude damage resulting from terrorism or war. Coalition members say the exclusion will be devastating for owners of office buildings, shopping centers, hotels, and other publicly accessible buildings—and could seriously disrupt the economy.

For more information, contact NAR research analyst Doug Miller, 202/383-1117, dmiller@realtors.org.

Sorting out the new tax act

During the nine months preceding the attack, business-related policy issues, including real estate, had already taken a back seat to President Bush's reform agenda.

On June 7, 2001, President Bush signed a 10-year, $1.35 trillion tax cut. The Economic Growth and Tax Relief Reconciliation Act of 2001, signed by the president in late spring, introduced across-the-board reductions in tax rates for individuals but didn't address corporate tax or capital gains tax rates.

The legislation contains no provisions that apply only to real estate. However, real estate businesses that are organized as partnerships, limited liability companies, or S corporations will benefit from the tax rate cuts, because income from those entities flows through to the owners and is taxed at individual tax rates without an intervening corporate-level tax.

Cuts phased in

To provide an immediate stimulus to the sagging national economy, the legislation provided for a one-time immediate tax refund. By Oct. 31, 2001, the Treasury will have sent checks to most individual taxpayers: a $300 refund for single filers, $500 refund for single filers with children, and $600 refund for married taxpayers filing jointly.

Although the rebate is an immediate benefit, the rate cuts will phase in gradually. A new 10 percent bracket, applicable to the first $6,000 of taxable income ($12,000 for married filing jointly), is effective July 1, 2001. In addition, the current 28 percent, 31 percent, 36 percent, and 39.6 percent brackets will all be reduced by one point each as of July 1, 2001. Additional one-point rate reductions are scheduled to take place in 2004 and 2006. Thus, when the full rate cut is effective, there will be six tax brackets: 10 percent, 15 percent, 25 percent, 28 percent, 33 percent, and 35 percent. As under current law, the dollar amount for each tax bracket will be indexed for inflation.

2010 estate tax repeal

For those who plan to bequeath real estate to an heir, it's critically important to understand the estate tax changes in the new tax law—particularly the change in how an inherited asset's basis is determined when the tax goes away eight years down the road.

The estate tax rate will be gradually reduced between 2002 and 2007 and will be repealed for those who die after Dec. 31, 2009. Effective in 2002, the maximum estate tax rate is reduced from 55 percent to 50 percent. The rate is then reduced by one point each year until 2007, when the top rate will be 45 percent, a rate that remains in effect until the 2009 repeal date.

At the time of repeal, heirs will discover a significant change: Under current law, the value (or basis) of assets that heirs receive is the fair market value of the assets, the so-called stepped-up basis. But after 2009, the basis will be the same as that of the decedent (deceased person). This is called carryover basis, because the value in the hands of the decedent carries over to the heir.

The change to carryover basis will result in significant tax consequences for heirs who sell property at a great gain. When inherited property is sold, the gain will be measured as the difference between the carryover basis and the amount of the sale. Gains will be taxed at capital gains rates, and depreciation recapture rates will apply to sales of depreciable real estate.

Carryover basis rules won't apply to all assets. At the time of death, the value of assets may be stepped up by up to $1.3 million (but not in excess of fair market value). An additional $3 million may also increase the basis of assets transferred to a surviving spouse. At the time of the spouse's death, another $1.3 million increase is permitted. Thus, the value of assets in a couple's estate may be stepped up by a total of $5.6 million.

And here's another twist you may have read about: In order to satisfy certain budget rules of the Senate, the estate tax will be "restored" as of Dec. 31, 2010. As of Jan. 1, 2011, the tax rules that are applicable on the date the bill was signed will be reinstated. Thus, the 2001 estate tax rules and the tax rate brackets will be restored.

The impact will be similar for all provisions of the act.

New tax stimulus package

At press time, the House Ways and Means Committee, on a party line vote, reported an economic stimulus package that contains important real estate provisions. Among the provisions that affect commercial real estate:

Leasehold Improvements: Costs for leasehold improvements placed in service after Sept. 11, 2001, would be permanently reduced and recovered over 15 years rather than the current 39 years.

Capital Gains: The current capital gains rate of 20 percent (10 percent for taxpayers in the 12 percent and 15 percent brackets) would be reduced to 18 percent (8 percent for lower bracket taxpayers), and would apply to any sale or exchange of a capital asset (or installment sales payments received) on or after Oct. 12, 2001.

Capital Losses: The current $3,000 limitation on capital losses is increased to $4,000 for 2001 and $5,000 for 2002 prior to reverting to $3,000 for 2003.

For more information, including, current status of the proposed package, go to REALTOR.org *(formerly www.OneRealtorPlace .com)*

INDUSTRY Update

The new LoopNet: your questions answered

Since early September when LoopNet.com Inc. introduced its Premium Membership Program, commercial overlay boards and structures (boards) and individual REALTORS® have raised questions about the relationship between the NATIONAL ASSOCIATION OF REALTORS® and LoopNet.

NAR was briefed on the Premium Program several months before its introduction, but because the elements of the program weren't finalized at the time, information about the program couldn't be provided to NAR members or boards. Now that the program has been released, we can address your questions.

NAR's financial interest

Will NAR benefit from its members' payments to the subscription-based program? The answer is no.

In November 1999 LoopNet gave NAR stock comprising less than a 1 percent interest in the company in exchange for NAR's exclusive endorsement of LoopNet's national property ad system.

Additionally, NAR was provided with a seat on the LoopNet Governance Board. The Governance Board monitors LoopNet's compliance with its contractual obligations for operating the site. However, the Governance Board isn't responsible for LoopNet product and service development. NAR doesn't have a seat on LoopNet's Board of Directors, and there's no agreement that allows NAR to participate in the profits generated by the Premium Program.

Status of existing LoopNet–maintained websites

Currently, LoopNet operates 134 websites for boards and CCIM chapters. LoopNet's policy of maintaining and hosting websites free of charge for these boards and chapters hasn't changed. Listings entered by board and chapter members will continue to be displayed immediately on the board or chapter website. And users searching those sites won't be required to upgrade to the Premium Program to access listings *(see "Premium vs. Basic: how the programs work," page 7)*.

At this point, advanced search functions available at the redesigned LoopNet site aren't available at the board or chapter websites. LoopNet is considering offering boards and chapters this more advanced search technology *(see "Search engine enhancements," page 7)* and may do so on a fee basis.

Why fee-based?

A fee-based service was needed "to build a solid revenue base around the listing service that would support the existing infrastructure," a LoopNet spokesperson said.

Over the past two years, venture capital funding for Internet companies has dramatically declined. Consequently, Internet companies are shifting toward funding operations through sales revenue. LoopNet's Premium Program is a direct reflection of the need to create operating income to stay in business.

MyLoopNet and Property Alert access and features

Both Premium and Basic members have access to **MyLoopNet** and **Property Alert.** If you're a LoopNet member, MyLoopNet displays all listings that you currently have posted at the site and any properties for which you are listed as a contact. It allows you to track inventory and maintain your listings from one convenient location and has a Saved Property feature that allows users to save property descriptions that were identified in searches.

PropertyAlert notifies members when a property that matches their search criteria has become available. With this feature, Basic members are subject to a 30-day waiting period for alerts to properties posted by other Basic members but would have immediate access to postings by Premium members.

Search engine enhancements

LoopNet has introduced an improved search engine that's available to both Premium and Basic members (although Basic member access is subject to the 30-day timing restriction described previously). A search can now be performed at the market and submarket level, a significant advancement in the search engine technology. Previously, users would have to sift through the listings for an entire market to locate the properties in a specific submarket.

LoopNet's second major search engine enhancement is the ability to search by property subtype. In the industrial market, for example, there are seven property subtypes.

Submarket and property subtype searches are available for both sale and lease properties. These two search features create a very powerful search engine, greatly enhancing LoopNet's functionality.

Premium vs. Basic: how the programs work

In September, LoopNet launched a major redesign, incorporating search technology developed by PropertyFirst (which merged with LoopNet in July) and launching new Premium and Basic Programs. The Basic Program is free. The new Premium Program, at $39.95 per month for a single user, provides some new product features and preferential listing access. Listed below are the features of the Premium and Basic programs with examples of how each works:

PREMIUM PLACEMENT If you are a Premium member, search results that include your listings will appear above listings of Basic members for the first 30 days that your properties are listed.

CONTROLLED ACCESS MARKETING Premium members can restrict access to their listings by password protection or by restricting access only to registered principals and owners. Password-protected listings require obtaining the password from the listing broker in order to view the listing.

PREMIUM MEMBER PREVIEW PERIOD Premium members will have an exclusive 30-day preview period for all listings posted by Basic members and nonrestricted listings posted by other Premium members *(See "Controlled Access Marketing")*. Basic members must wait 30 days to see listings posted by fellow Basic members. If you are a Premium member, you'll have immediate access to all listings on the LoopNet website with the exception of restricted listings of Premium members. However, if you are a Basic member, you'll have access to all Basic listings that have been posted for more than 30 days and immediate access to nonrestricted Premium member's listings.

IMMEDIATE LISTING EXPOSURE As a Premium member you'll have the option of allowing your listings to be viewable immediately by both Premium and Basic members.

PROPERTY PUSH As a Premium member, you'll have access, via MyLoopNet, to a list of purchasers or leasing candidates who have specified to LoopNet an interest in a property that's similar to your listings.

SEARCH RESULTS REPORTING Premium members are provided professional-looking reports that can be customized to present to clients. These reports range from a simple one-line summary with elementary property information (property name, description, city, state, size, asking lease rate/sale price, website of listing company) to a one-page detailed report. Tour Sheets compile information for multiple properties into a single document for broker and client review.

NAR revamps commercial online efforts

Watch your Internet browser for significant changes to NAR's commercial real estate websites. A new Institute Affiliate (IA) Virtual Orientation site launched Oct. 1. And a revamped *www.Commercial Source.com*, NAR's commercial portal, is scheduled to be out for the REALTORS® Conference & Expo, which takes place in Chicago Nov. 2–5.

LoopNet will still maintain the commercial property and member directory sections of *www.Commercial Source.com*, and NAR will host the other contents and services.

The new IA Virtual Orientation site provides visitors with information about institute affiliate membership in NAR. This special membership category is open to individuals who hold a designation from one of NAR's five commercial affiliates (*see page 3 for a list*) and to members of those affiliates who are eligible to hold office within the affiliate group.

The new sites will make it easier to access the business tools and information available from NAR and its commercial affiliates.

Failure to inform client about available space could result in liability for negligence A Washington appellate court has sent a case back to trial court for determination on whether a commercial leasing transaction could have occurred at an earlier time if the broker had notified the client about a warehouse's availability. Direct link: *www.onerealtorplace .com/letterlw.nsf/pages/0801 vertical*

Unsatisfied condition precedent denies prospective buyer performance of purchase agreement A federal appeals court has rejected a prospective buyer's lawsuit seeking specific performance of purchase contract for a commercial property, because an environmental approval provision that he inserted into the agreement was never granted or waived. Direct link: *www.onerealtorplace.com/letterlw.nsf/pages/0601 allen*

To read a summary of these and other relevant decisions, visit *The Letter of the Law*, NAR's online legal newsletter at *REALTOR.org*, formerly *www.OneRealtorPlace.com.*

Office

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Under-girding all this bad news is a breathtaking increase in sublease space—largely a parting gift of the dot-com and telecommunications companies whose growth fueled so much of the demand for office space in the first place. Sublease space totaled 60 million square feet in the first quarter of 2001, up by a third over the fourth quarter of 2000, according to Grubb & Ellis.

The silver lining

Amidst all this doom and gloom are strengths that will keep office lease transactions turning at a steady—albeit reduced—clip into 2002.

"We're not seeing the soft landing in the economy we were hoping for six months ago, but office markets on the whole are holding up very well," says Lynn Schenk, SIOR, 2001 vice president of the Society of Industrial and Office REALTORS® and vice president at Grubb & Ellis/Krombach Partners, St. Louis.

For starters, speculative development has stayed in check. That has helped keep vacancies from hitting the high double-digit levels that plagued markets in the late 1980s.

"We're starting to see oversupply in certain markets [as of early September]," says Macdonald West, CRE®, 2001 REALTORS® Commercial Alliance Committee chairman and vice president of the Allen Morris Co., Miami. "But development of new space has been very controlled, keeping supply and demand in good equilibrium throughout this growth cycle."

Another silver lining has been interest rates, which dipped below 7 percent in the third quarter of 2001. The low rates have enabled developers to refinance their property debt, leaving them in a better position to withstand softer conditions. Even the growth of the sublease market has an upside. The needs of tech companies made it all but impossible for "old economy" companies to get the space they wanted, especially when their needs called for lots of square footage. Now big blocks of space are becoming available, opening the door for new transactions. "Two years ago offices in our suburban markets were 95 percent occupied, so bigger tenants had no alternative but to go downtown," says Barry Spizer, CCIM, 2002 president-elect of the CCIM Institute and principal of SRSA Commercial Real Estate, Metairie, La.

Many tenants see the sublease space as an opportunity to upgrade their quarters. "In soft markets, tenants normally eyeing Class B space can get into Class A space, so they're upgrading," says Schenk.

The trade-off, of course, is downward pressure on rents, but even in markets with the largest rent drops, such as San Francisco, levels have yet to come down to where they were just 18 months ago.

Nor have practitioners been letting shaky tenants run the sublease game. "This is a great time to work with owners to terminate leases of some of these tenants, so they can reposition that space for today's market," says Schenk. "Owners are better off getting control of that space and marketing it themselves."

In most cases, shaky tenants will bend over backwards to help bring in new tenants, including subsidizing the gap between the discounted space and the market rate, says Spizer. "You can make lemonade out of lemons."

In with the old

There's one more silver lining: a renewed emphasis on sound business practices.

"All of those grandiose ideas, such as accepting warrants in lieu of security deposits and creative ways to securitize leases, are now forgotten principles," says Schenk. "Going back to traditional standards is good news for the industry."

—Robert Freedman, senior editor of REALTOR® Magazine

Coping at ground zero

Commercial practitioners in New York City and Northern Virginia are upbeat about the office market prospects in their areas, but they say there are stiff challenges ahead in the aftermath of the terrorist attacks.

In New York City, close to 20 million square feet of office space was lost. Commercial practitioners stepped up to help displaced office tenants find new space quickly and cheaply. On the day after the attack, Bruce Mosler, president of Cushman & Wakefield, announced that his company would help its displaced clients at no charge. Shortly after, the Real Estate Board of New York City issued a memo asking practitioners to help displaced tenants without fees and owners to hold rents stable.

But the long-term market impacts are hard to discern. In New York, the office vacancy rate, at about 4 percent, was one of the tightest in the country at the time of the attack. There was about 14 million square feet of vacant space at the time of the attacks, but practitioners say much of that wasn't suitable for tenants from the financial district.

In Northern Virginia, the Pentagon attack destroyed 4 million square feet of office space and displaced an estimated 4,800 employees, according to news reports. The federal government has since found space for most of its displaced people, mainly in the Crystal City area of Arlington, which borders the Potomac River across from Washington, D.C. The office vacancy rate in Arlington stood at about 7.5 percent in late September. But that's expected to drop and the market to tighten now, practitioners say.

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