

Real Estate

Foreign & U.S. Lenders

Among foreign- and U.S.-based lenders, very attractive returns and loan to value ratios on newly originated debt are possible given the volume of needed refinancing. Opportunities for financing new construction will be generally limited and consist mostly of isolated trophy sites. Many lenders will be focused on preserving value in their current loan portfolios through careful adjustment of existing loan terms and by working out or recouping their investments through creditor action. We expect to leverage our group's experience representing borrowers and lenders with respect to all types of financing products, including mezzanine and conduit debt and in all possible stages of a loan relationship, be it origination, workout or foreclosure and recovery. For our lender clients, including master and special servicers, we have been assessing loans to identify and fix any weaknesses in loan structure or security as well as undertaking restructuring and recovery efforts with assistance, as needed, from our litigators and bankruptcy attorneys. We are experienced at handling syndicated and participated debt, and have recently been engaged in extremely large transactions, multi-state deals and representations involving agent/servicer obligations and exposures and inter-creditor agreement enforcement and avoidance issues.



Anticipated Opportunities in 2010

While we expect the U.S. real estate industry to face continued challenges in 2010, we do anticipate opportunities. There is no doubt that the coming year looks difficult for the U.S. real estate sector. Three out of four respondents in a recent national survey conducted by the Turnaround Management Association thought the commercial real estate industry will have more difficulty in 2010 than it did in 2009. That result was matched in a similar survey conducted by the Urban Land Institute which also predicted declines of 40 percent - 50 percent off 2007 market value peaks for commercial real estate. There is limited liquidity in the system to refinance the \$1.5 trillion - \$2.0 trillion in real estate secured loans that will be maturing by 2013. Even if such funds were present, tightened underwriting standards would make the majority of those loans ineligible for funding at current loan to value ratios, requiring equity infusions at a time when cash is tight. The bleak predictions notwithstanding, opportunities are present to protect existing investments, to bargain hunt and to position for a recovered market.

Investors

For investors, we expect that cash buyers interested in high quality projects in strong urban markets will find excellent long-term ownership opportunities. U.S.-based real estate investments will prove attractive to foreign buyers, especially those who do not rely on financing at the acquisition stage. In the current market, government anchored projects appear to be dependable, long term purchases, as are high quality multifamily projects in gateway cities like Washington, D.C., Boston and San Francisco.

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We anticipate that we will be assisting our U.S.-based and international clients this year in identifying and evaluating prospective investment targets, bringing targeted properties under contract and, in concert with our corporate, tax and other practice groups, structuring and closing transactions in a manner that best suit the clients' needs. Existing owners may need to focus their efforts on debt restructuring or possibly, workout negotiations. Our real estate finance attorneys have had extensive experience in those areas and have had good results in reducing or eliminating remaining liabilities for guarantors and structuring transactions to minimize adverse tax consequences arising from, among other matters, debt forgiveness.

COMMERCIAL SPACE For Lease

Landlords & Tenants

Opportunities also exist for landlords and tenants as they seek to maximize delivery of building services while minimizing overall costs and expenses. Issues being faced in the current economy include rent renegotiation, evaluation of lease pass-through and rent escalation charges, enforcement of expansion provisions and lease enforcement and work out actions following default. Subleasing, assignment and contraction of rental space have all become very relevant matters as clients seek to balance the cost of maintaining unused space against the prospect that surrendered space or forgone expansion opportunities will hinder growth in a rebounded economy. The reduced security provided by the current economic climate has also made lease guaranty issues an increasingly relevant topic for both our landlord and tenant clients and, increasingly our landlord, tenant and lender clients have asked us to evaluate protections available in their non-disturbance agreements in the event a loan default results in foreclosure. We are currently handling these matters for their clients, often with respect to nationwide portfolios of rental space, using attorneys in our various offices to provide local counsel and in-depth market experience.

To learn more about our Real Estate services, please visit: www.lockelord.com/realestate
