

# Construction Lending News

Volume 27, Second Quarter 2009

## Construction Spending, Pending Home Sales Rise<sup>1</sup>

By MARTIN CRUTSINGER

AP Economics Writer

Construction spending and pending home sales both were better than expected in March, hopeful signs that those battered industries may be stabilizing.

The Commerce Department reported Monday that construction spending increased 0.3 percent in March, the best showing since a similar rise last September. Economists surveyed by Thomson Reuters had expected spending to drop 1.5 percent for a sixth straight monthly decline.

Meanwhile, the National Association of Realtors said its index of pending home sales rose 3.2 percent to 84.6 in March, the second monthly increase after it hit a record low in January. The pending sales index also is 1.1 percent above last year's levels. Typically, there is a one-to two-month lag between a contract and a done deal, so the index is a barometer for future home sales.

Economists called the new data faint glimmers of hope that construction activity may be stabilizing, although at very low levels.

"Things certainly look a bit less bad than in the dark days at the turn of the year," Ian Shepherdson, chief U.S. economist at High Frequency Economics, wrote in a research note.

The economic news triggered a rally on Wall Street. The Dow Jones industrial average added about 180 points in midday trading and broader indices also rose.

However, economists cautioned that the construction rebound could be temporary, given all the problems facing the industry as a severe financial crisis has made it hard for builders to obtain financing.

Spending on private residential projects fell 4.2 percent in March, the latest in a series of declines that began three years ago when the housing bubble burst with disastrous effects for the home industry and the overall economy.



Nonresidential construction rose 2.7 percent in March, the biggest advance in nine months. It marked the second straight increase and was led by gains in office construction, hotels and power plants.

Government building activity also showed strength in March, rising 1.1 percent. A 1.3 percent gain in state and local activity offset a 1.7 percent drop in spending on federal projects. The rise in state and local activity could be early signs of the impact of the \$787 billion economic stimulus bill that Congress passed in February in an effort to get money to the states for "shovel ready" building projects.

*continued on page 2*

### ***In this issue:***

- ***Construction Spending, Pending Home Sales Rise***
- ***Commercial Appraisals: Science or Art?***
- ***Rhode Island's Appended Mechanics' Lien Statute***
- ***Commercial Real Estate Survey Offers Glimmer of Hope***

<sup>1</sup> Licensed from Associated Press for republication in Construction Lending News. © 2009 Associated Press. Displayed by permission. All rights reserved. You may forward this article or obtain additional permissions at the following iCopyright license record and renewal locator: <http://license.icopyright.net/3.5721-41380>. Press Association and Associated Press logos are registered trademarks of Press Association. The iCopyright logo is a registered trademark of iCopyright, Inc.

## Construction Spending, Pending Home Sales Rise

(cont'd)

The various changes left total construction spending at a seasonally adjusted annual rate of \$969.7 billion in March. Even with the unexpected increase, building activity is 11.1 percent below year-ago levels, reflecting the country's steep recession.

With the financial sector embroiled in its worst crisis in seven decades, banks have tightened their loan standards, making it harder to get financing for shopping centers and other commercial projects.

The Federal Reserve will release results on Thursday May 7, 2009 of "stress tests" for the nation's 19 largest banks, providing guidance on which banks may need more government support to withstand a more severe recession. The banks that need more capital will be given six months to raise it on their own and if they are unable to do so, the government will step in with support from the \$700 billion financial rescue fund.

The initial stress test results showed that Wells Fargo & Co., Citigroup Inc. and Bank of America Corp. would need to raise more capital, sources have told The Associated Press. Investors also have grown concerned about regional banks that carry risky loans on their books in such areas as mortgages, credit cards and commercial real estate.

Many analysts are worried the commercial real estate market could topple into the worst crisis since the last great property bust of the early 1990s. Delinquency rates on loans for hotels, offices, retail and industrial buildings have risen sharply in recent months and are likely to soar through the end of 2010 as companies lay off workers, downsize or close.

Economists, however, are more hopeful that the three-year slide in housing could be nearing a bottom although they don't see a significant rebound for some time.

New home sales have plunged 74 percent from their peak in July 2005. Sales of new homes hit a record low in January, posted an increase in February and then edged down 0.6 percent in March to a seasonally adjusted annual rate of 356,000 units.

Analysts said it appears the steep slide in new home sales is bottoming out. Prices, however are still falling. The median price of a new home sold in

March dropped to \$201,400, a 12 percent decline from a year earlier.

The demand for new homes appears to be recovering faster than that for previously occupied homes. In March, sales of existing homes fell 3 percent to an annual rate of 4.57 million from a downwardly revised pace of 4.71 homes in February, the National Association of Realtors reported.



In this April 7, 2009 photo, John Martin, right, and Brad Rollman work on the frame of a new home for Landmark Homes, in Hummelstown, Pa. The Commerce Department said Monday, May 4, 2009, construction spending rose unexpectedly in March after five straight declines, as strength in nonresidential projects and government building offset a further slide in housing. (AP Photo/Carolyn Kaster)

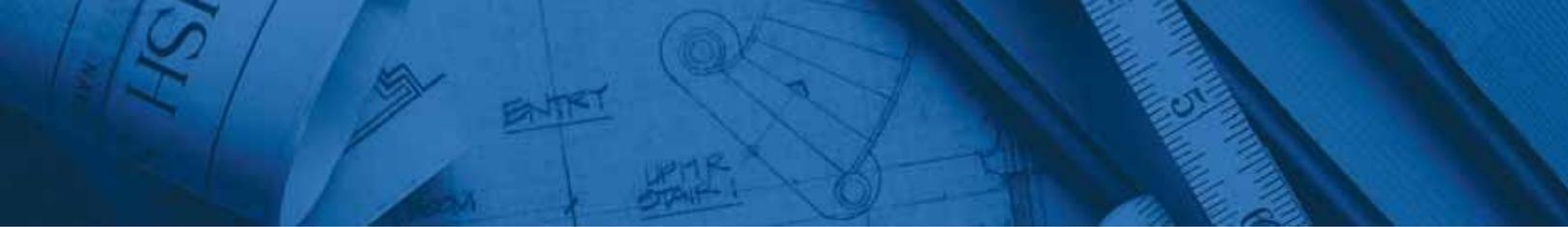
**Appraisals Anywhere**  
in the United States

**Elliott**<sup>®</sup>  
& COMPANY APPRAISERS

**Pre-Construction Appraisals**  
**Residential & Commercial**  
**Draw & Final Inspections**

Voice: 800-854-5889 Fax: 336-854-7734

Web: [www.appraisalsanywhere.com](http://www.appraisalsanywhere.com)



## Commercial Appraisals: Science or Art?

By Charlie Elliott Jr., MAI, SRA<sup>2</sup>

Over the years I have had the unique opportunity to prepare, supervise the preparation of and review the work of others on thousands of commercial appraisals. Most of this work was prepared by competent professionals, yet many times there were variables that caused me to pause and question the results.

Examples come to mind of cases where two appraisals were prepared by different appraisers, who came up with substantially different results on the same subject property. In these cases, there was almost always one common thread that the work products had in common. The subject properties themselves exhibited unique qualities not found in the most similar or comparable properties having been sold and/or they were prepared at a time when the market was volatile and or unstable. Said another way, when we, as appraisers, are able to locate an ample supply of truly comparable sales, they are able to offer a scientific appraisal that is, for lack of a better term, bullet proof. Conversely, when we find ourselves in a turbulent market or our subject is a unique property, we must resort to professional techniques that more resemble that of a modern artist using less traditional techniques. In these situations, unless appraisers are able to demonstrate professional strokes of genius resembling those of Picasso, critics may easily shoot our work product full of holes, making it quite a contrast from being bullet proof.

*How does the nonprofessional know when the appraisal is prepared scientifically? What evidence is there that the market might have been volatile? How do we know when a property is truly unique?* These may seem to be simplistic questions that are easy to answer. This is likely to be the case when the user of the appraisal is familiar with a property, but this is not always the case. It may be easiest to understand, when we all know that the market has tanked, as we have experienced lately. Even when we have reason to question these issues, we do not always know to what degree a property is affected by its uniqueness or an irregular market. In an attempt to address conditions that render an appraisal less

than scientific, listed below are 10 appraisal review red flags. I refer to these as Dumb Blonde Appraisal Review Red Flags, because they are so basic a dumb blonde could spot a problem appraisal when using them.

**1. Approaches to value yield a broad range of results.** If the range of values stated in the appraisal resulting from the sales comparison, income and cost approaches to value vary more than 5 percent, this is a red flag. This should not be accepted as a foregone conclusion that the appraisal is not accurate, but it is an indication that the appraiser was not able to be truly scientific in his preparation of the appraisal and that there is more risk associated with the final value conclusion.

**2. Projected net operating income (NOI) exceeds that of past.** It is possible that the NOI is legitimately increasing for the subject property, however, be vigilant. In such cases, evidence should be shown; otherwise pie-in-the-sky projections should be rejected.

**3. Vacancies exceed 5 percent.** If the property has historically or worse if it is still experiencing a vacancy percentage of 5 percent or more, research should be performed to determine whether there is concrete evidence that the property will be close to full occupancy in the future. If there is more than a 5 percent vacancy, this not only represents a potential loss in rental revenue but also is an indication that there is something that needs a more detailed explanation.

*continued on page 4*

**Register Online  
to receive  
Granite E-News!**



[www.constructionlendingnews.com](http://www.constructionlendingnews.com)

<sup>2</sup> Charlie Elliott Jr., MAI, SRA, is president of Elliott & Company Appraisers, a national real estate appraisal company. He can be reached at 800.854.5889 or at charlie@elliottco.com.

## Commercial Appraisals: Science or Art?

(cont'd)

**4. There is a significant amount of deferred maintenance.** If material deferred maintenance exists in a property this must be addressed. Questions should be asked as to why. Was it because the property is not financially self supporting or that it is poorly managed? Either could indicate a problem that should be more fully investigated.

**5. There are month-to-month or short-term leases.** Most successful commercial properties are leased long term. This represents stability. Offices are typically leased on three-to-five-year terms or longer, shopping center spaces sometimes are leased for 10, 20 or even 30 years, in the case of anchor tenants. If the subject property is leased monthly or for very short periods, this should be investigated to determine if the tenants are stable and if the property is capable of attracting good quality tenants.

**6. The NOI is less than 125 percent of the debt service.** In order to insure that a property is capable of servicing its own debt and returning to the investor a reasonable return on investment, it should throw off an amount of income to service the debt with a margin for safety. If this is not the case, more research should be done to determine why.

**7. The appraised value substantially exceeds estimated replacement cost.** If the cost to replace a property is materially less than the estimated value, this is a red flag. It may be that the estimated value is too high or that there is an opportunity for other investors to build nearby and undercut the subject property with cheaper rents. For newer buildings, astute appraisers typically restrict value opinions to the lower of the cost approach value indications and that generated by the sales comparison and or income approaches.

**8. The projected market rent exceeds the current subject or comparable rent.** It is not unusual for a broker, or even an appraiser, to suggest that a property can generate a higher rental rate than that currently experienced by the subject or comparable properties. My idea on that is, "Show me; don't snow me." If a property is not performing at its capacity, there must be a reason why.

**9. Comparable offerings are not addressed.** When an appraisal does not show comparable listings for sale or lease, I get nervous. Why are these not shown? They should be offered to the extent that they exist for examination. All too often, appraisals do not disclose competing properties that undercut the future position of the subject.

**10. There is no disposition, liquidation or go-dark value.** Market value may not suffice where there is potential for business downturns. Insist upon

alternative values in the appraisal aside from the standard market value. It will be rare that a non-performing or sub-performing property sells for the same price as a property not experiencing such hardships. Investors and lenders alike should have information at their disposal to perform "what if" scenarios in case of foreclosure or liquidation.

In summary and conclusion, in a perfect world when an appraisal is prepared on a subject property, possessing no rare or unique qualities, and when market conditions are normal, the reviewer can view the appraisal as relatively scientific, and his or her job is usually straightforward. Conversely, when the subject property is unusual or when market conditions are turbulent, the appraiser, no doubt, had to resort to a form of art to prepare the appraisal, and critiquing the appraisal becomes a chore that will likely challenge the most seasoned investors and financiers. Not only is the estimated value of the property an issue, but the risk associated with a property is also called into question. In such cases performing a thorough red-flag review of the appraisal is in order, and any unanswered questions should be addressed with the appraiser. Upon completion of the review, an assessment should be made as to the exposure to risk the collateral presents. The conclusion is not just a yes-or-no decision concerning whether a purchase or loan should be made, but, in many cases, how. Savvy investors and quality-control lending officers will tailor a transaction to match the risks with the opportunity. Issues, such as sales price, percentage of down payment, interest rates and closing fees, must be considered in the final decision.

Not only is there science and art to performing appraisals, but the same can also be said about the process of developing a property, purchasing a property or financing a property. The most successful investors, managers and lenders will recognize the difference and manage their business accordingly.



Charlie Elliott

# Rhode Island's Amended Mechanics' Lien Statute

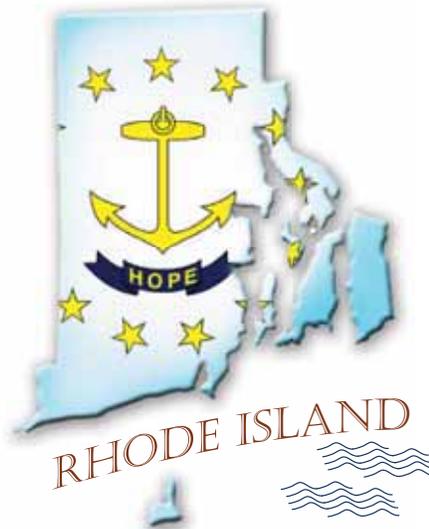
By Jay Hall<sup>3</sup> and Saikon Gbehan<sup>4</sup>

## Introduction

Rhode Island's mechanics' lien law, R.I. Gen. Laws § 34-28-1 *et seq.*, applies to private sector residential and commercial construction. Without exception, all provisions thereunder, including procedural requirements for perfecting and enforcing mechanics' liens, are the same for both residential and commercial projects. The scope of this article does not allow for a comprehensive review of Rhode Island's mechanics' lien law, and thus addresses a specific amendment to the law, which has recently been argued as a procedural lien defense. There has also been debate around this amendment as to whether its notice requirements are applicable to commercial as well as residential projects.

A relatively recent (2006) amendment to Rhode Island's Mechanics' Lien Statute generally requires both commercial and residential contractors, within ten days of beginning work, to provide written notice to property owners of a potential lien. R.I. Gen. Laws § 34-28-4.1 ("Notice of Potential Lien"). To date, our experience has shown that this provision is being universally ignored. Owners, lenders and contractors alike should be aware, however, that not only does the failure to send such a notice (f/k/a "10-Day Notice") arguably result in a full waiver of general contractors' lien rights, but such failure also requires general contractors to indemnify owners for costs associated with the liens of sub-contractors. *Id.*

This recent amendment to the Statute constitutes not just an obvious defense to the liens of general contractors but provides the foundation for a cause of action whereby owners may assert indemnity claims



against non-compliant contractors with whom the owner directly contracts.

## Background of Amendment(s)

Although a full history of Rhode Island's Mechanics' Lien Statute is both unnecessary and beyond the scope of this article, it is necessary to understand the recent attacks upon the Statute in order to better understand the recent amendments and the possible new defenses now provided thereunder.

Rhode Island's Mechanics' Liens Statute has been the subject of substantial yet entirely uncoordinated amendment on several occasions since its enactment in 1874. As a result, the Statute has become cumbersome, unclear and predictably the subject of consistent constitutional attack.<sup>5</sup> In response to judicial recognition of certain procedural due process infirmities embodied in the Statute, Rhode Island's Legislature has, over the past four years, enacted yet another round of amendments aimed at curing those perceived procedural shortcomings.

The first such amendment attempted to counter assertions that the Statute failed to provide procedural due process protections. As amended, Section 17 of the Statute now provides property owners with a statutory right to an immediate lien challenge hearing at any time after the filing of a lien notice. R.I. Gen. Laws § 34.28-17.1. In light of the immediate lien challenge hearing afforded to property owners, Rhode Island's Supreme Court has held the Statute does not deprive owners of procedural due process rights.<sup>6</sup> Relevant to a more recent amendment addressed below, the Court has reasoned, *inter alia*, that property owners are in fact provided notice that their property is being encumbered and that a lien attaches as a "preexisting interest" simply by witnessing improvements made to

*continued on page 6*

<sup>3</sup> James (Jay) Hall is a partner at Adler Pollock & Sheehan in Providence, Rhode Island. He practices in the Litigation Group and handles matters of zoning and land use, construction, civil litigation and product liability. For the past decade he has practiced as a knowledgeable construction litigator lecturing on construction litigation and mechanics' lien law. He is admitted to practice in Rhode Island and Connecticut. He may be reached at 401.274.7200 or jhall@apslaw.com.

<sup>4</sup> Saikon Gbehan is an associate in the Litigation Department at Adler Pollock & Sheehan in Providence, Rhode Island. Her experience extends across a broad spectrum of civil litigation matters, including contractual disputes, real estate law, construction law, and business dispute matters. She is admitted to practice in Rhode Island and Massachusetts. She may be reached at 401.274.7200 or sgbehan@apslaw.com.

<sup>5</sup> See e.g., *Gem Plumbing & Heating Co. v. Rossi*, 867 A.2d 796 (R.I. 2005) ("*Gem Plumbing*")

<sup>6</sup> *Gem Plumbing*, 867 A.2d at 818.

## Rhode Island's Mechanics' Lien

(cont'd)

the property for which payment may not have been made.<sup>7</sup> Furthermore, the Court held that when such notice is combined with a swift lien challenge hearing under the amended Section 17 (§17.1), owners are provided with a valid constitutional process.<sup>8</sup>

### The Ten-Day Amendment(s)

In reaction to continued judicial criticism of the Statute, Rhode Island's Legislature embarked upon a second round of recent amendments. Included in these amendments was the mandate that any person or entity in contractual privity with a property owner waives the right to lien unless, within ten days of starting work, the owner is provided with a written Notice of Possible Lien via certified mail. R.I. Gen. Laws § 34-28-4.1. The "10-Day Notice" amendment, like all other provisions of Rhode Island's Mechanics' Lien Statute, applies to both commercial and residential properties.

Arguably, the amendment of the Statute – requiring written notice to all owners – abrogates the above-noted Supreme Court holding that notice is simply a function of the fact that an owner witnesses improvements adding value to property.<sup>9</sup> Thus, it would seem that the State's Legislature has gone beyond the ostensibly "constructive" notice, as previously read into the Statute by the judiciary, to now require "actual" notice of a potential lien prior to contractors availing themselves of any lien rights. Further indication of legislative preference for actual written notice is Section 4.1's arguably punitive mandate - that a contractor in privity with an owner who fails to provide such written Notice of Potential Lien, must also indemnify owners for costs associated with the liens of subcontractors.

Although there has yet to be a judicial interpretation of the "10-day Notice" amendment, several lien claims - including significant commercial claims - are now being defended via a "waiver" defense based on general contractors' failure to provide a written Notice of Potential Lien. In response, practitioners have made the quasi-equitable argument that Section 4.1 was intended to provide notice to unsophisticated owners

unaware of the lien process and not commercial and/or sophisticated owners. The amended Statute, however, does not make this distinction.

In fact, legislative statements and press releases addressing the "10-Day Notice" provision indicate a clear intent to strictly regulate the construction industry as a whole without delineation between commercial and residential projects or the subjective sophistication of owners. In a 2006 press release, then Rhode Island House Speaker Lima stated, without distinction between commercial and residential projects or delineation amongst the sophistication of owners, that the recent amendment of the Statute offers some immediate protections and "will send a strong message to unscrupulous contractors ... [and that] [t]he provisions in this law will go a long way to finally regulate the contracting profession ..."<sup>10</sup>

### Interpretation of Section 4.1

As noted above, Section 4.1 has not yet been interpreted by a Rhode Island court and thus, it remains to be seen how strictly the provision will be interpreted. Available case law indicates, however, that non-compliance with Section 4.1 will be viewed as a jurisdictional defect and thus a complete lien void.

Rhode Island's courts have generally recognized that the intended purpose of the Mechanics' Lien Statute is to afford a liberal remedy to those who have added value to property.<sup>11</sup> Those same courts have, however, consistently stated that the Statute is in clear derogation of the common law and thus "those seeking to attach a lien must comply strictly with the mandatory directives of the statute."<sup>12</sup>

Like most jurisdictions, Rhode Island's Statute prescribes a multiple step process in order to establish the right to claim and/or perfect a lien against the property of another – including several notice provisions. Thereunder, lien rights are acquired by complying with the procedural requirements outlined by the Statute, which are generally mandatory or "jurisdictional" in character.<sup>13</sup> Although minor defects by the potential lien holder in the process of obtaining a mechanics' lien may be remedied by a latter amendment,<sup>14</sup> failure to comply with the "prescribed

*continued on page 7*

<sup>7</sup> *Gem Plumbing*, 867 A.2d at 817.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Press Release, Rhode Island General Assembly, Lima Bill to Regulate Contractors Signed into Law (July 20, 2006) <http://www.rilin.state.ri.us/News/pr1.asp?prid=3484>.

<sup>11</sup> *Desimone Elec., Inc. v. CMG, Inc.*, 901 A.2d 613, 619 (R.I. 2006) (quoting *Gem Plumbing Co.*, 867 A.2d at 803; *Field & Slocumb v. Consolidated Mineral Water Co.*, 25 R.I. 319, 320, 55 A. 757, 758 (1903)).

<sup>12</sup> *Pezzuco Constr., Inc. v. Melrose Assocs., L.P.*, 764 A.2d 174, 178 (R.I. 2001) (quoting *Faraone v. Faraone*, 413 A.2d 90, 91 (R. I. 1980)).

<sup>13</sup> *Pezzuco Constr., Inc.*, 764 A.2d at 178. See also *Faraone*, 413 A.2d at 91.

<sup>14</sup> *Kelley v. Dunne*, 112 R.I. 775, 778-79, (R.I. 1974).

## Rhode Island's Mechanics' Lien

(cont'd)

requirements in ... the notice to claim a lien ... cannot be cured by amendment."<sup>15</sup> Thus, strict observance of "the statute in this respect has been held 'jurisdictional,' meaning thereby that those requirements must be satisfied or the lien cannot be enforced."<sup>16</sup>

Accordingly, defects like a joint notice for separate properties,<sup>17</sup> failure to provide a clear notice of encumbered estate,<sup>18</sup> failure to send notices by certified mail, and failure to file notices in the land records,<sup>19</sup> have all been held to be jurisdictional notice defects and thus operate to wholly void asserted liens. In reaching such conclusions, Rhode Island's courts have generally reasoned that the mechanics' lien law's statutory requirements are "expressed in clear, unequivocal, and mandatory language and therefore must be complied with strictly."<sup>20</sup>

Thus, it is not unlikely that Rhode Island's courts will view failure to provide a Notice of Potential Lien, pursuant to Section 4.1, as a jurisdictional notice defect, which defect will void the liens of general contractors while rendering the same contractors subject to indemnity claims by owners and/or lenders seeking to remove encumbrances.

### Conclusion

Rhode Island's Mechanics' Lien Statute applies to all private construction projects regardless of whether residential and/or commercial in character and the recent amendments to the Statute have arguably provided an additional waiver defense premised on failure to provide statutory notice pursuant to Section 4.1. Yet, the debate surrounding the amended Statute's requirement of written



Saikon Gbehan



Jay Hall

<sup>15</sup> *Id.*

<sup>16</sup> *Art Metal Constr. Co. v. Knight*, 56 R.I. 228, 247 (1936)

<sup>17</sup> See generally, *Harris v. Page*, 23 R.I. 440, 50 A. 859 (R.I. 1901)

<sup>18</sup> *Hawkins v. Boyden*, 5 R.I. 181, 183-84 (R.I. 1903)

<sup>19</sup> *Pezzucio Constr., Inc.*, 764 A.2d at 174.

<sup>20</sup> *Id.*

statutory notice has focused not on the provisions operation or general effect, but whether, for the first time, a portion of Rhode Island's Mechanics' Lien Statute would apply only to residential projects and/or unsophisticated owners and not commercial projects.

Although there has been no judicial determination with regard to these statutory amendments, residential and commercial owners as well as lenders and/or contractors must now be aware that these recent amendments to Rhode Island's Mechanics' Lien Statute constitute, at a minimum, viable defenses to lien claims. Additionally, those same parties should be aware that for the first time there exists a debate over the applicability of a portion of Rhode Island's Mechanics' Lien Statute to commercial projects.

## Be a Part of NARCL!

NARCL is a nonprofit national trade association representing financial service providers in the residential construction industry. The Mission is to provide education, information, policy development, development of standards & practices for the benefit of consumers, lenders, investors and others in the residential construction community.



An "ALL MEMBER" conference call is hosted each quarter at 2:00PM Eastern Time (1:00PM Central Time, noon Mountain Time, 11:00AM Pacific Time). The call is also open to any interested parties. To participate, please email Executive Director, Richard Nirk at [rwnirk@narcl.org](mailto:rwnirk@narcl.org).

### 2009 Call Schedule:

- Wednesday, Sept. 23, 2009 (2:00 EST, 12:00 MST)

### For more information on

### NARCL contact:

NARCL, Attn: Membership  
5445 DTC Parkway, Suite P-4  
Greenwood Village, CO 80111  
email: [info@narcl.org](mailto:info@narcl.org)  
[www.narcl.org](http://www.narcl.org)

# Starting to wonder who's been watching your construction portfolio?



*Don't kid yourself, keeping track of construction projects is a lot harder than it looks.* Granite Commercial Management (GCM) offers Third Party Oversight and Workout Services designed to ensure that every project in your SBA portfolio is completed successfully.

With services such as Initial Project Review and Contractor Underwriting, Funds Disbursement and Cost-to-Cure, Status and Forensic Inspections, GCM doesn't play around when it comes to quality.

And neither should you.

**Visit GCM at the upcoming  
Mid-America Lender's Conference in Sugar Land, Texas on August 10-11, 2009!**



Granite Commercial Management  
10770 E. Briarwood Avenue, Suite 280, Centennial CO 80112  
866.710.4099 • sales@granitecm.com • www.granitecm.com

# Commercial Real Estate Survey Offers Glimmer of Hope

By Michael Murray<sup>21</sup>



Amid doom-and-gloom forecasts, a new survey from Jones Lang LaSalle, Chicago, provides a potential silver lining for commercial real estate.

The Jones Lang LaSalle Cross-Sector Survey said more than one-third of investors and developers—37 percent—said investment activity could rebound by as much as 30 percent this year. Slightly less than one-third of respondents said their investment could drop between zero and 30 percent.

Michael Zietsman, managing director of capital markets at Jones Lang LaSalle, said JLL's capital markets group in primary international markets report "increasingly positive signs that pricing floors are being reached, with a corresponding uptick in transaction volumes."

"This should bode well for the United States where the bid/ask gap still remains wide," Zietsman said. "Buyers have set pricing levels that are unappealing to most sellers, but it's only a question of time before sellers move down and buyers move up to create a more efficient market. We've seen this in the London market, and I suspect that we are six to eight months behind."

However, most survey respondents--property owners, development firms and professional services firm and consultants--still predict declines in all sectors.

A majority said tight credit is the one factor that will most influence development and investment activity this year, with 87 percent of respondents saying occupancy rates already fell by as much as zero to

20 percent this year in U.S. properties compared to 2008.

Respondents forecast underperformance in office, retail and hotel properties. Compared to other sectors:

- All respondents this year said office properties could underperform zero to 30 percent, as opposed to 47 percent predicting the same declines last year;
- All respondents predicted retail could underperform this year zero to 40 percent, versus 56 percent forecasting zero to 50 percent declines last year; and,
- More than 85 percent said the hotel sector could underperform zero to 40 percent, compared to 54 percent saying the same thing last year.

While 52 percent of respondents last year said multifamily could offer the best potential for outperformance, from zero to 30 percent compared to other sectors, 38 percent said the same thing this year. More than 55 percent predicted multifamily could falter from zero to 20 percent this year.

Last spring, 40 percent of respondents predicted declines of zero to 30 percent in the industrial sector but, this year, 67 percent of respondents predicted the same declines. However, 26 percent forecast the industrial sector to outperform other sectors zero to 20 percent by the end of the year.

<b>Construction-at-a-Glance</b>		
	Mar. 08	Mar. 09
Total Monthly Housing Starts*	988	510
One Unit	711	358
Multifamily	277	152
YTD Permits-Single Family*	634	360
YTD Permits-Multifamily*	334	151
Monthly New Home Sales*	513	356
Unemployment Rate	5.1%	8.5%
<i>*Thousands of Units</i>		

Source: U.S. Bureau of the Census, Construction Reports, Series C-20, Housing Starts. U.S. Bureau of Labor Statistics.

<sup>21</sup> Michael Murray is editorial manager of online communications at the Mortgage Bankers Association. Printed with permission by MBA Commercial/Multifamily NewsLink.

## UPCOMING EVENTS

Please Visit Us at These  
Upcoming Events:

### Five State Bankers Convention 2009

June 28-30, 2009  
Grand Hyatt  
Denver, Colorado

### Mid-America Lenders Conference (MALC)

August 10-11, 2009  
Sugar Land Marriott Town Square  
Houston, Texas

### National Association of Government Guaranteed Lenders (NAGGL) Annual Conference on Small Business Lending

October 26-28, 2009  
JW Marriott Desert Ridge  
Phoenix, Arizona

### Risk Management Association (RMA) Annual Risk Management Conference

November 7-10, 2009  
Buena Vista Palace Hotel & Spa  
Orlando, Florida



Follow Construction  
Lending News on



<http://twitter.com/constlendingnws>

## Place Your Ad Here!

Construction Lending News (CLN) highlights industry news and information for both the Commercial and Residential lending markets. CLN has become an invaluable resource for statutory articles, economic trends, Construction-at-a-Glance and valuable information that relates to the construction lending market.

CLN is offering advertising space in its upcoming editions. With a circulation of over 5,000 copies, your message will be presented directly to industry leaders who are eager to learn more about your business.

Take advantage of this unique opportunity and place your Commercial or Residential ad here today! Download a Media Kit at [www.constructionlendingnews.com](http://www.constructionlendingnews.com), call 866.710.4087 or email us at [cln@graniteloan.com](mailto:cln@graniteloan.com).