

# FFOCUS

The Enterprise **F1**

May 18, 2015

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### What's going on in Logan?

The Jon M. Huntsman Jr. Hall at the school of business at Utah State University is part of the development on and off the campus in Logan. Catch up on what's happening in Cache Valley and in Weber County.

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## ...like it's 2007 again!

*Why commercial real estate values are back near their peak*

Utah's commercial real estate (CRE) market has experienced a steady increase in strength as it has fought to recover from the Great Recession. Values in many asset classes have improved — some to points even higher than the previous peak experienced in 2007.

When asking the question “why?” it's helpful to look at two primary factors: the national real estate market and global capital flows.

#### National Market

A low interest rate environment, aggressive capital allocation and uncertainty in some foreign markets is causing a flood of foreign investment into the United States. This, coupled with the already high demand from domestic investors, is boosting transaction volume and driving asset prices higher. Such a dynamic creates a challenging environment in which it's more difficult for investors to find lower-risk assets that meet investor yield requirements.

Transaction volume for all commercial property types in the United States reached \$430 billion in 2014, up 14 percent over 2013. This is 25 percent below the volume peak of 2007, but it is the highest level since then. Interestingly, institutional-quality

real estate values (properties classified as class A or trophy buildings, typically valued at \$20 million or more) are now 15 percent above their 2007 peak.

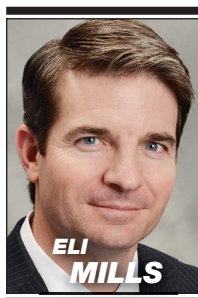
The level of distressed asset sales is another indicator of improvement in U.S. CRE markets. In 2010, distressed properties accounted for 19 percent of all sale transactions. In 2015, they only account for approximately 5 percent of all sale transactions year-to-date.

#### Global Capital Flow

We operate within a global market and what happens across the globe can have a major local impact. As previously noted, foreign capital is playing a larger role in CRE markets across the country. Of the \$430 billion in sales in 2014, \$50 billion (12 percent) was from foreign investors. Canada accounted for 22 percent of the capital invested in the U.S. by foreign entities and

China accounted for the second-largest portion of foreign capital, 11 percent of the total. With valuations becoming less attractive in larger metropolitan areas, secondary markets — such as areas along the Wasatch Front — are attract-

see **RECOVERY** pg. **F11**



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# Want to succeed? Concentrate on your core competencies

Demands from property owners and tenants, as well as advances in best practices and technology, are forcing real estate firms that want to



stay competitive to take a good look at what they do best. Firms whose core competencies don't measure up to the competition may continue to prosper for a while. But over time, these firms will find it more and more difficult to succeed as they lose customers to more savvy and responsive groups.

Adopting and implementing property management technologies, hiring and keeping the best personnel and the ability to adapt to and capitalize on changing market realities are critical elements of a competitive real estate management firm.

## Technologies

Real estate management has shifted toward providing real-time answers to real-time problems. Some of the exciting technologies being used to provide these answers include document management systems, tenant request and work order systems, building automa-

tion products, lease administration programs, vendor management programs, supply procurement/inventory systems and evolved core accounting systems. Many of these products provide managers, clients and tenants with 24/7/365 access anywhere in the world via an Internet connection.

The evolution of the Internet has sparked an information explosion. Anyone who has used an Internet search engine knows how hard it is to find the little needle of relevant information amidst the haystack of irrelevant information. Evaluating and using property management technologies is much the same. It is one thing to tell a customer that you can provide them

with any information they want. But it is quite another to deliver it to them the way they want it, when they want it. Many of us have made the mistake of burying our clients with information that might not be useful.

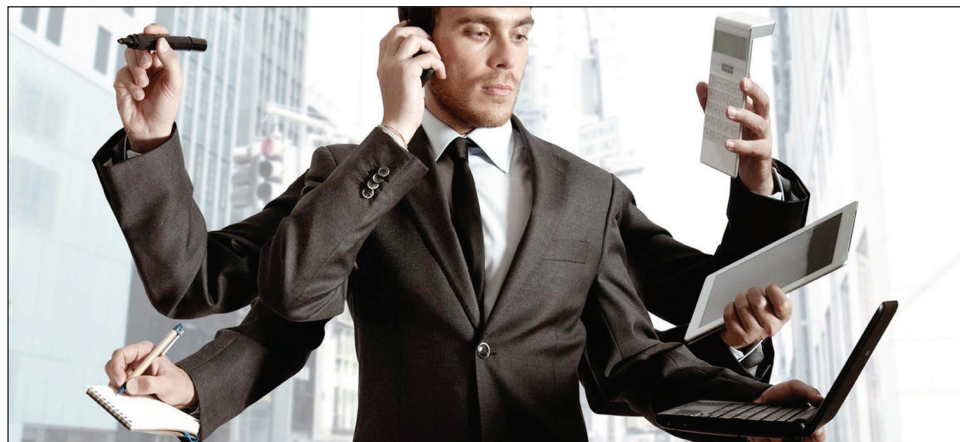
Successful technology initiatives start small, require executive level buy-in and supervision, contain contingency plans for how to address problems and must be well-funded. These basic rules for success are special challenges for property management firms because they tend to be loss leaders compared to their brokerage firm brothers and sisters. New technologies should be tested, prototyped, tested and then tested again. But a good technol-

ogy plan is worth the effort. It can help a property management firm to do a better job, with lower fees and a higher profit margin than their competitors.

## People

To be successful, even the best technology needs a skilled user on each end of the process. In other words, you have to hire the right person for the right job. Many brokerage firms and property owners/developers have tried to capitalize on property management operations as a profitable niche business. However, they often overestimate the profits and underestimate the hard work and professionalism required to succeed.

The best property management firms need to forge strong partnerships with brokerage companies and personnel within which they work together to create marketing and tenant retention plans that maximize earning potential for both managers and brokers. Management firms should set aside funds and time to involve employees with professional associations and other professional development opportunities. Some owners or brokers may



see **BENNION** pg. F11

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## Leveraging Utah's economy to attract international investment

As economic experts across the country continue showering Utah with accolades, the state's investment sector has exploded into the international mainstream as a result.

Over the past 18 months, major institutional investors are leveraging Utah's stable commercial environment to harbor large amounts of capital.



Investors are drawn to Utah by many of the high-caliber corporations that now have offices in the state. 222 Main, acquired by KBS Real Estate Investment Trust III, is a prime example. With world-class tenants like Goldman Sachs under roof (and long leases under contract), these property types provide a safe, predictable rate of return for institutional investors.

A business-friendly environment, low unemployment rate, skilled workforce and collaborative state government often receive bulk praise for driving top-tier corporations and prized institutional money to the state. However, one major component to this investment success often goes unnoticed — international relationships. In the case of Kuwaiti-backed KBS, this dynamic makes even more sense.

In 2005, then-Gov. Jon Huntsman Jr. demonstrated extreme foresight when he sought to organize the World Trade Center Utah (WTC Utah). Ramifications from his vision are now apparent a decade later. Utah international exports totaled \$6.1 billion in 2005 when WTC Utah founding president and CEO, Lew Cramer, created the organization. Exports tripled to \$18.9 billion at the end of Cramer's WTC Utah tenure in 2013. By contrast, Colorado international exports totaled \$6.9 billion in 2005 and grew to \$7 billion over the same time period.

"Gov. Huntsman adamantly encouraged the people of Utah to understand

that international business makes good business sense and lots of business dollars," said Cramer. "We can make more opportunities for the economy and the future of our children when we expand business practices across geographic borders."

San Francisco, New York, Chicago and Los Angeles are generally primary targets for major investors, as properties and tenants are bountiful. However, it is not uncommon to see nearly a dozen or more groups contending for top bid when properties hit the market. Competition in primary markets is undeniably steep. On the other hand, properties in Utah offer a rate of return that is comparable to — or better than — primary markets, with far less competition. For investors, Utah makes sense.

"Pertaining to investments, it's mainly the return on capital achievable for the asset itself and how it correlates to the overall portfolio," said Adam Gatto, senior vice president of investment properties at CBC Advisors. "If an investor owns a premium office property in San Francisco or New York, considerations may be made to acquire a primary property in a secondary market location such as Salt Lake City, Denver or Seattle. Secondary markets provide attractive yields as

well as solid demographics, infrastructure and employment numbers. Factors like a bilingual workforce and international airport help Salt Lake win."

When institutional investors enter a market, their projects attract attention from around the world. The financial structure and connections these investors bring creates a snowball effect that amplifies and diversifies economic development in the state.

Brandon Fugal, chairman at CBC Advisors, saw this trend coming two years ago. In order to take a proactive approach, he reached out to secure Cramer as the company's new CEO and president.

"It was difficult to consider leaving a career in public service to join Brandon and CBC Advisors, but I saw the enormous opportunity to use private resources to better promote Utah to international and institutional investors," said Cramer of his transition.

In the past 12 months Cramer has traveled the world promoting Utah as a destination for commercial real estate investment dollars. Since May of 2014 he has been to Dubai; Abu Dhabi; Turkey; Cypress; Paris; London; New York City three times; Washington D.C., twice; South Carolina; Southern California numerous times; Phoenix twice; Anchorage; Manila and Hawaii.

Every stop along the way, he promotes the investment of real estate dollars into the Utah economy.

For example, Cramer recently flew to LAX for the Asian Pacific Trade Summit hosted, as it is every year, at the University of Southern California. Cramer is co-founder of the event, which brings together the top U.S. trade officials from the Pacific ring to discuss trade issues and investments. Later that same week he met with an institutional developer wanting to enter the Utah market. The following week, Cramer was in the Philippines as one of only four North Americans on the board of directors for the general assembly of the World Trade Center, where he used the weeklong trip to promote Utah as a viable economic center.

"International trade relies heavily on creating trusted relationships with influentials in profitable markets," Cramer said. "Your net worth is only as large as your network, and connections are the key to making international business work for Utah companies."

Many consider Cramer the most connected economic development professional in the western United States and throughout his diverse career path he has nurtured those personal and professional connections. The fruits of Cramer's connections and travels have been fruitful for the state of Utah as a whole. With many deals done and more in the developing stages, it is safe to say that hundreds of millions of institutional and international dollars are being spent here.

The international vision that began with Gov. Huntsman, along with Fugal, is exploding into a regional tsunami of capital infusion, and the story of Lew Cramer leads to one important point: Utah has earned its spot on the global map.

Kevin Long is the principal broker and COO at CBC Advisors in Salt Lake City.



Lew Cramer - leading the charge to bring international investors to Utah.

# There are many things to be considered for loans collateralized with real estate

Lenders take many things into consideration when making credit decisions for real estate collateralized loans. Among them are:

- The value of the real property to



be taken as collateral.

- The current and continued validity, priority and enforceability of the

lender's lien against the collateral.

- The management expertise of the individuals in control of the borrower, guarantor(s) and collateral.

• The extent to which the lender will have recourse to the borrower and/or guarantor(s).

• The wherewithal of the borrower and guarantors to fulfill their obligations under the loan documents.

• The likelihood and implications of the occurrence of a material adverse change of the circumstances upon which the loan was underwritten.

This article focuses on the last of the considerations in the preceding list — the likelihood and implications of the occurrence of a material

adverse change in the circumstances on which a credit decision was made.

Specifically, this article outlines best practices lenders should employ (and of which borrowers should be mindful) to mitigate the risks of a particular type of change in the status quo — a change in the ownership of the real property taken as collateral in order to accommodate a borrower's purposes and objectives in obtaining the loan.

The principal mechanism by which lenders prevent or restrict such ownership changes are provisions in the loan documents whereby the borrower (or the owner of the collateral, if not the borrower) and lender agree upon the limited circumstances (if any) under

which the borrower may permit any such change to occur. Throughout this article, the term "transfer provisions" is used as a short-hand reference to these types of provisions in loan documents.

From a lender's perspective, the ideal transfer provisions would prohibit the occurrence of all circumstances potentially resulting in a change in ownership of the collateral. While this objective seems straightforward, there are a number of challenges in drafting transfer provisions that are suitable to accomplish the same. One such challenge arises in defining what constitutes a "change" in ownership. For example, while both the lender and borrower may agree that the outright sale of the collateral constitutes a change in ownership, they may not agree on whether the sale of a membership interest in a limited liability company that owns the collateral constitutes a change in ownership of the collateral or whether the pledge of a membership interest in that limited liability company constitutes a change in ownership. Even if they do, they may not agree on whether the sale (or pledge) of a non-controlling membership interest (say, a 20 percent membership interest) in that limited liability company constitutes a change in ownership. If transfer provisions are not carefully drafted, disagreement may also arise over whether the transfer provisions were intended to prohibit involuntary changes in ownership, such as a sale occurring by operation of law as a result of bankruptcy or other insolvency proceedings involving the borrower and/or the collateral.

These challenges would make it difficult to establish any hard-and-fast rules for drafting effective transfer provisions even if borrowers did not require varying degrees of flexibility for the loan to meet their respective purposes and objectives. Given the foregoing, we recommend lenders and borrowers each consult an experienced attorney in drafting transfer provisions suitable for each lending transaction.

With that caveat, as a general rule, transfer provisions should prohibit the direct or indirect sale, exchange, mortgage, pledge, hypothecation, assignment, encumbrance or other transfer, conveyance or disposition, whether voluntarily, involuntarily or by operation of law, of the collateral and/or the entity which owns the collateral.

One common need borrowers have for flexibility in transfer provisions arises in connection with certain variations of 1031 exchanges. Through a

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# N O R T H E R N U T A H

## USU is not the only place developing around Logan and the Cache Valley

“Slow and steady” seems to have been the mantra for years in Logan, and while “steady” is certainly still descriptive, change is anything but slow these days in Logan and the surrounding Cache Valley.



**KIRK JENSEN**  
Utah State University, long the pulse of this Northern Utah community, continues its steady growth in new facilities. The relatively new Aggie Legacy Fields will soon be bordered by the Aggie Recreation Center, creating a comprehensive cluster of student recreation facilities that include the existing George Nelson Fieldhouse, the HPER building and the Quad.

Utah State Athletics also recently announced a naming rights agreement for its football stadium expansion, now underway, with Maverik, a convenience store chain operated in the Intermountain West. The project creates premium seating, a new press area and various amenities to enhance the fan experience.

Construction also continues on the Jon M. Huntsman Hall, a 117,000-square-foot addition to the current business school, adding 21 classrooms, 21 student meeting rooms, terraces, a courtyard, a café and various open spaces to create an enhanced learning environment.

But the university scene isn’t just driven by what USU is doing. Contributing to the change in landscape are some large off-campus student housing developments, including Blue Square, a mixed-use project directly west of the newly renamed Maverik Stadium.

Away from campus, growth and change is equally prevalent. Despite continuing to have one of the lowest unemployment rates (2.9 percent) in the country, Cache County’s job growth rate of 3.2 percent still exceeds that of the state (2.9 percent) and the nation (2.3 percent).

Growth from within continues to be the winning formula. Conservice, a utility management and billing company founded in Logan, is one of the fastest-growing companies in Utah. Pepperidge Farms, JBS, Lin Manufacturing and Design and Malouf Linens are all examples of local

companies that are expanding locally and regionally, creating jobs and invigorating the local economy.

Logan recently welcomed two companies with an international footprint. GE Healthcare recently purchased ThermoFisher Scientific’s cell culture and sera business segments and continues operations locally. Samsung just completed its acquisition of YESCO’s electronic division.

Though the local economy is largely built on internal growth, an economic development partnership resulted in the launching of “Logan on the Edge” in 2014, a multi-faceted branding campaign with a largely external recruiting focus. Spearheaded by the Cache Chamber of Commerce, the project came together as partnerships were forged across both the private and public sectors.

The campaign attempts to promote the simplicity and the beauty of the Logan brand — a fertile ecosystem for successful businesses, coupled with a hard-to-beat quality of life. The project website, [www.loganontheedge.com](http://www.loganontheedge.com), contains actionable data and analytical features enabling site, business and demographic research on the region’s prime real estate expansion opportunities. Site selectors and businesses can access comprehensive and up-to-date information about area demographics, workforce, consumer spending, housing, business and available properties.

On the retail front, the city of Logan is looking to energize its historic downtown by attracting new development, both to its central city block and also by creating a new entertainment district. The city plans to relocate the Logan Library from its Main Street location, thereby opening up this highly visible tract of land for commercial development.

In addition to these planned developments, Logan’s older core is also experiencing other redevelopment activity adding life and energy to commercial neighborhoods that had grown tired. Specifically, the AI’s Sporting Goods project at 1000 N. Main St. brought with it not only a significant expansion of a highly successful local sporting goods store, but various other impactful dining, grocery and retail tenants.

On an altogether different front,

see **LOGAN** pg. F11



Recent development in real estate in the Ogden area spotlights three iconic buildings that have new ownership in 2015. All three are undergoing renovations to spotlight progressive concepts in the city’s exciting growth.

### The Bus Depot

The Bus Depot, located on the corner of 25th and Grant Ave., and once home to Greyhound Bus Lines and a hub of the 25th street area, is



now occupied by Berlin’s Fine Meats and Deli (BFMD) which will be an upscale, specialty retail meat shop and deli. The owner has said that the product line will include certified Angus beef (wet and dry-aged), Salmon Creek Farms pork, Smart Chicken, Nautilus flash-frozen fish, Boars Head deli products, lamb, veal and other products found

in a quality retail meat establishment. BFMD will also offer prepared foods inspired by Milt Berlin, uncle of owner/proprietor, Marty Berlin. Milt Berlin owned and operated the Mansion House Restaurant in Ogden for over 50 years. The Mansion House became an icon in the Ogden area, offering great German dishes, homemade breads and rolls, chicken pot pies and dessert pies. The Mansion House catered to all the major men’s and women’s clubs in the area and the Berlin name is well-known and respected throughout the region. Business, church and other organizations, as well as residents in the region, will be target customers. There will also be a variety of sundry products.

Berlin’s will offer classes on subjects such as “Beef 101” to help educate the customer and to further build relationships with the community. How-to DVDs will be played on the in-store TV, covering topics on cooking methods and product attributes.

### The Berthana Building

The new owners of the historic Berthana Building, Dan McEntee and

Scott Gregory, have announced that they are starting to fund the long-talked-about renovations to the legendary historic ball room.

The owners are strong advocates of the Ogden area, having purchased multiple buildings in the central business district, and are now focused on the 32,000-square-foot Berthana Building located at 329 24th St. They believe their efforts with the building will be a key component in providing more opportunity for quality entertainment and economic stimulation in downtown Ogden.

The Berthana Building was built in 1914 and for over 70 years the building’s 16,000-square-foot second-floor ballroom had been used for various functions, including ballroom dances, military balls, boxing matches and, its last known use, as a roller rink in the '60s and '70s. The owners are committed to bringing the space back to its original glory, hoping to attract participation from Ogden City and Weber County.

The Berthana Building’s main floor has already undergone extensive renovations over the past few years, now holding The Century Club, Craft Burger, The Barrel House and Beyond Glaze Donuts. There is 3,600 square feet of retail store front available for lease.

### The Kiesel Building

The 60,000-square-foot historic Kiesel Building, located at 2411 Kiesel Ave. and pictured above, will also see a complete renovation from its early 1900s traditional office space into hip residential urban lofts. A prominent Salt Lake City-based multi-family developer has committed to purchasing the now nearly vacant building and will be introducing a loft-style housing concept that many Ogden residents have been looking for. The group has been involved in similar redevelopment projects in the Salt Lake City central business district over the past 10 years. This project will offer a unique living experience in the center of Ogden, adjacent to the thriving Junction entertainment complex and one block from Ogden’s historic 25th Street.

Nate Harbertson and Carter Randall are with PPC Commercial Real Estate Services in Ogden.



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# Commercial Real Estate Firms in Utah

Ranked by Combined Commercial Sales and Leasing Volume in 2014

Rank	Company Name Address	Phone  Web	Total Commercial Sales Volume in Utah for 2014  Total Commercial Leasing Volume in Utah for 2014	Number of Utah Offices  Number of Commercial Transactions Completed in Utah for 2014	Services Offered	Top Local Executive
1	<b>Cushman &amp; Wakefield Commerce</b> 170 S. Main St., Ste. 1600 SLC, UT, 84101	801-322-2000  comre.com	\$865.9 million  \$1.4 billion	4  1,283	Full-service commercial real estate brokerage and property management	Mike Ohmes Executive Vice President
2	<b>CBC Advisors</b> 6550 S. Millrock Dr., Ste. 200 SLC, UT 84121	801-947-8300  cbcadvisors.com	\$1.73 billion  DND	3  DND	Commercial brokerage, asset services, mergers & acquisitions, corporate services	Brandon Fugal, Chairman Lew Cramer, CEO & President Kevin Long, Principal Broker & COO
3	<b>Newmark Grubb ACRES</b> 376 E. 400 S., Ste. 120 SLC, UT 84111	801-578-5555  ngacres.com	\$605 million  \$436.6 million	2  1,517	Office, retail, land, investment, multifamily, property management, facility services, corporate services	Michael B. Falk, President Lloyd Allen, Ex. Vice President of Brokerage Service, Managing Director & Principal Broker
4	<b>CBRE</b> 222 S. Main St., 4th Fl. SLC, UT 84101	801-869-8000  cbre.com/slc	\$460 million  \$314.3 million	1  745	Brokerage (office, industrial, retail), investment properties, valuation & appraisal, etc.	Mark Bouchard
5	<b>Mountain West Retail and Investment</b> 376 E. 400 S., Ste. 120 SLC, UT 84111	801-456-8800  mtnwest.com	\$179 million  \$186 million	1  427	Operate a boutique commercial real estate brokerage	Chad Moore Managing Director
6	<b>EquiMark Multifamily LLC</b> 178 S. Rio Grande, Ste. 220 SLC, UT 84101	801-531-1221  equimark.com	\$126 million  N/A	1  4	Multifamily investment brokerage	Sage R. Sawyer
7	<b>NAI Utah South</b> 243 E. St. George Blvd., Ste. 200 St. George, UT 84770	435-628-1609  naiutahsouth.com	\$71.4 million  \$14.6 million	1  440	Office, retail, industrial leasing & sales, investment & land sales, etc.	R. Mark Walter, Principal Broker Neil Walter, Managing Director
8	<b>PPC Real Estate Services LLC dba PPC Commercial Real Estate</b> 968 Chambers St., Ste. 5 South Ogden, UT 84403	801-393-2733  ppc-utah.com	\$24.5 million  \$13 million	2  183	Full-service commercial real estate office, industrial, investment, retail, land, etc.	C. Carter Randall, Owner/Principal Broker Nate Harbertson, Owner
9	<b>Knight Realty Co.</b> 254 S. 600 E., Ste. 100 SLC, UT 84102	801-580-4947  DND	\$5.5 million  \$9.3 million	1  69	Sales, leasing, property management, investment	Spencer Knight
10	<b>G. Norman George Advantage Real Estate</b> 23065 Washington Blvd. Ogden, UT 84401	801-393-5007  utah4sale.com	\$8.5 million  DND	1  14	Specialized in commercial, land, residential, investment properties	G. Norman George
11	<b>Capstone Property Management LC</b> 4422 Century Dr. Murray, UT 84123	801-313-0700  capstonepm.com	\$3 million  \$4.8 million	1  67	Property management & leasing	Kent Gibson
12	<b>Time Property Management</b> 8169 S. 700 E. Sandy, UT 84070	801-838-7900  timepropertymanagement.com	DND  DND	2  DND	Property management, residential & commercial	Adam C. Griffiee
13	<b>IPG Commercial</b> 2007 McClelland St. SLC, UT 84105	801-746-7295  ipgcre.com	DND  DND	1  DND	Industrial, office, investment, sales & leasing	Michael Jeppesen SIOR, CCIM, LEED AP
14	<b>Chapman-Richards &amp; Associates Inc.</b> 1414 E. Murray-Holladay Rd. SLC, UT 84117	801-278-4414  chapmanrichards.com	DND  DND	1  DND	Commercial & residential real estate services	George P. Richards Scott E. Chapman

# Major Office Parks in Utah

Listed in alphabetical order

Company Name Address	Phone Web	Total Number of Acres and Buildings in Utah	Major Tenants in Utah	Top Local Executive
<b>Canyon Park Technology Center</b> 1501 N. Technology Way Bldg. A, Ste. 3300 Orem, UT 84097	801-404-5076 canyonparkutah.com	14 buildings with more than 1 million SF of rentable space; 85 with an additional 8 acres for build-to-suit	EIG/Bluehost, Vivint Solar, Family Search, Verio, Fishbowl, Jive Communications, Agilix Labs	Allen Finlinson President/CEO
<b>Edgewater Corporate Park LLC</b> 5205, 5215, 5225 Wiley Post Way SLC, UT 84116	801-712-1847 cbre.com/edgewater	3 buildings on 9.4 acres, totaling 213,725 square feet	C-3, ClearOne Communications, Strayer University	All executives out of state
<b>Manor House Development</b> 1412 S. Legend Hills Dr., Ste. 100 Clearfield, UT 84015	801-775-9111 manorhouse development.com	80 acres 16 buildings	Northrop Grumman, Lockheed Martin, University of Phoenix	Wayne Belleau
<b>Millrock Park</b> 6510 S. Millrock Dr. Ste. 200 Holladay, UT 84121	801-365-2001 millrockpark.com	22-acre campus, 490,000 square feet of Class "A" office space	GE Capital, BTJD, CHG Health Catalyst, Coldwell Banker Commercial, Morgan Stanley	Steve Peterson Manager
<b>NuTerra Property Management</b> 6925 Union Park Center, Ste. 500 Cottonwood Heights, UT 84047	801-858-0600 unionparkcenter.com	40 acres 7 buildings	Security National, Michael Baker, Century 21 Everest Realty Group, Tetra Financial Group, City of Cottonwood Heights, etc.	Marc Lloyd
<b>Regus Management Group</b> 2150 S. 1300 E., Ste. 500 SLC, UT 84106	801-990-4600 regus.com regusutah.com	DND/6 buildings	Google, NVIDIA, Raymond James, TYCO, Abbvie, PNC Healthcare	Jason Eckert
<b>RiverPark Corporate Center</b> 10701 South River Front Pkwy. Ste. 135 South Jordan, UT 84095	801-446-0110 riverparkcorporatecenter. com	120 acres 20 buildings	OOCL, Verisk Health, HireVue, Boart Longyear, ADP, Roseman University, Harman, Dealertrack	Dave Layton, Bill Child, Jeff Flamm
<b>Silver Creek Business Park</b> 6447 Pace Frontage Rd. Park City, UT 84098	435-655-9068 scbp.com	Approximately 20 acres  10 buildings	Sherwin Williams Paint, Ferguson Plumbing, Contractors Window Supply, Yee-Haw Pickles	Robert Holmes
<b>South Towne Corporate Center</b> 150 & 200 W. Civic Center Dr. Sandy, UT 84070	801- 869-8000 cbre.com/stcc	Building 1: 124,046 RSF Building 2: 124,306 RSF 10.74 acres	CoreLogic, Cadence, Diamond Wireless, Abeo, Staff Care, New York Life Insurance Co.	Scott Wilmarth & Nadia Letey
<b>Thanksgiving Park</b> 3400 N. Ashton Blvd., Ste. 100 Lehi, UT 84043	801-768-0500 thanksgivingpark.com	6 commercial buildings approximately 900,000 square feet	Sorenson Capital, Microsoft, Pluralsight, Multiview, Sirsi Dynix, Boostability	Andrew Bybee, General Manager Nathan Ricks, General Partner Ron Lindorf, General Partner
<b>Traverse Ridge Perry &amp; Associates</b> 17 E. Winchester St., Ste. 200 Murray, UT 84107	801-264-8800 perrycommercial properties.com	1 building completed/planned for 4 22 acres	Oracle & Regus	Matthew Swain
<b>Vista Station</b> 13400 S. 200 W. Draper, UT 84020	801- 521-4781 gardnercompany.net	Over 1.2 million square feet/ DND	StorageCraft, 1-800 Contacts, Progressive Finance	DND

# Thoughtful planning is essential to a successful real estate transaction

A well-known author once said that “planning is bringing the future into the present so that something can be done about it now.” While this



statement was given in the context of personal planning, the principle applies to preparing and negotiating a real estate purchase and sale transaction. The best time to address key issues in any real estate transaction is at the outset. Properly structuring a transaction from the beginning helps the parties avoid conflict and offers more certainty. Here, we provide general guidelines

on important aspects of a real estate sale transaction, intended to assist you or your clients in structuring successful deals.

A real estate transaction is typically initiated through a letter of intent. A letter of intent’s purpose is not to cover every minute detail of a transaction; rather, a letter of intent sets forth the material terms and the parties’ general understanding. An effective letter of intent provides a smooth runway to a fully executed purchase contract. Every deal is unique and, as such, there is no “one size fits all” letter of intent. However, as a starting point, a letter of intent should identify and describe the following: 1. The property, 2. Purchase price, 3. Earnest money, 4. The parties’ responsibility for costs and fees (i.e., expenses associated with a title policy, survey, taxes and closing fees), 5. Due diligence period; 6. Important representations and warranties, and, 7.

Closing.

After a letter of intent is in place, the parties’ attorneys prepare a purchase contract. Unlike the broad and general nature of a letter of intent, the purchase contract should identify and thoroughly address the important details of a transaction. Like the letter of intent, there is no form purchase contract that works for every transaction. The parties should give careful consideration to the purchase contract in order to assure each party’s intent and prerequisites to closing are included. At a minimum, the purchase contract should include the same provisions which are typically included in letters of intent.

First, the purchase contract must be in writing and describe the subject property. The property’s description should identify all personal property, water rights, fixtures, leases, contracts or intangible property to be included

in the purchase. The seller should ensure that the property description contains only property the seller owns and should also identify any property which will be excluded from the transaction.

Second, the purchase contract states the purchase price and any earnest money the seller requires. In addition, the purchase contract should specify the timing of payment of the purchase price and earnest money, and under what circumstances, if any, the earnest money will be returned to the buyer. The parties also typically identify any required financing for the purchase and any financial encumbrances to be assumed by the buyer or satisfied by seller on or before closing.

Third, the purchase contract should thoroughly address due diligence. The due diligence section

see **PLANNING** pg. F14

## Report: Landlords should experience positive rental market through 2nd quarter

A new report from Salt Lake City-based Real Property Management forecasts that landlords should expect a positive rental market through the second quarter. The projection is based on the company’s “Economic Snapshot for Landlords,” an analysis of 14 key economic factors known to impact the rental market.

Key trends from the snapshot that suggest a positive economic outlook for rental property investors through the second quarter include:

• **Already tight rental markets to get tighter.**

Vacancy rates have steadily declined from a peak 10.7 percent rate in 2009 to the current 5.7 percent rate. Real Property Management expects a continued decline in rental vacancies in the coming months as the job market improves, homeownership declines, and millennials begin to move out of their parents’ homes and into their own households, which will likely be rentals.

• **Americans continue to shift toward renting.** From its peak rate of 68.6 percent in 2003, homeownership has steadily fallen to its current 63.9 percent rate — the lowest level in more than 20 years.

During the past year alone, the rate dropped a full percentage point. Any potential increases in homeownership related to low mortgage rates have been offset by higher house prices and continued economic uncertainty.

• **Improving job market bodes well for household formation.** The unemployment rate has steadily declined to 5.5 percent nationwide in March, significantly lower than 2009’s peak rate of 10 percent. Even though labor force participation continues to lag, a stronger job market enables more Americans to start their own house-

holds, which will likely lead to an increased demand for rentals.

• **Rental rates to continue rise.**

In the months ahead, Real Property Management projects that rental rates will rise. The reasons include recent declines in vacancy rates, reductions in the single-family home month supply, gains in the employment rate as well as continued declines in homeownership and supply of new and existing single-family homes.

Although most indicators point to a positive or neutral road ahead, Real Property Management cautions that

landlords may have fewer investment opportunities in the second quarter — especially at distressed levels — as the number of foreclosures continues to drop. In February, CoreLogic reported 553,000 foreclosures compared to 761,000 a year earlier.

“There seems to be a dearth of available information about the state of the rental housing industry — especially for landlords — and we’re endeavoring to change that with quarterly rental market snapshots,” said Don Lawby, president of Property Management Business Solutions, the franchisor of Real Property

Management. “Through the second quarter, our outlook for landlords looks very positive.”

Real Property Management has 260 offices in 44 states and specializes in managing single-family homes, townhomes, condos, multiplexes and small apartment buildings. Its services include finding and screening tenants, completing the lease agreements, collecting rent, maintaining the building and grounds, arranging for any necessary repairs and processing evictions when necessary. Real Property Management also manages the legal compliance for both state and federal real estate law.



# Title Companies in Utah

Ranked by Number of Policies in 2014

Rank	Company Name Address	Phone Web	Utah Title Insurance Premiums in 2014	Number of Utah Policies in 2014	Number of Utah Employees	Top Local Executive
			Total Gross Income in Utah for 2014	Number of Utah Offices	Year Founded	
1	<b>Backman Title Services</b> 167 E. 6100 S. Murray, UT 84107	801-288-8818 backmantitle.com	\$6.5 million \$9.9 million	10,119 7	105 1989	Canyon Anderson President
2	<b>Cottonwood Title Insurance Agency Inc.</b> 1996 E. 6400 S., Ste. 120 SLC, UT 84121	801-277-9999 cottonwoodtitle.com	\$6.3 million \$8.4 million	4,986 5	51 2001	Cortlund Ashton, Vice President
3	<b>Meridian Title Company</b> 64 E. 6400 S. Ste. 100 SLC, UT 84107	801-264-8888 mtcutah.com	\$4.3 million \$5.7 million	4,636 4	54 1980	James R. Ivins
4	<b>Metro National Title</b> 345 E. Broadway SLC, UT 84111	801-363-6633 metrotitle.com	\$4 million \$7.1 million	3,398 6	57 1988	Rodney A. Newman, Owner/President
5	<b>Title One Inc.</b> 1275 E. Ft. Union Blvd. Ste. 100 Cottonwood Heights, UT 84047	801-266-0606 DND	\$1.4 million \$2 million	2,234 1	22 1993	Kevin Shoell & Doug Back
6	<b>Founders Title Co.</b> 746 E. Winchester, Ste. 100 SLC, UT 84107	801-261-5505 founderstitel.com	DND DND	1,200 3	40 1984	Duane J. Phillips, Chief Executive Officer
7	<b>Alta Title Insurance Agency LLC</b> 2180 S. 1300 E., Ste. 670 SLC, UT 84106	801-545-7050 DND	DND DND	DND DND	DND DND	DND
8	<b>First American Title Insurance Agency</b> 215 S. State, Ste. 280 SLC, UT 84111	801-578-8888 firstam.com	DND DND	DND 23	135 1889	Mark S. Webber, Utah State Manager
9	<b>Hickman Land Title Co.</b> 112 N. Main St. Logan UT 84321	435-752-0582 hickmantitle.com	DND DND	DND 3	30 1904	Jim Hickman
10	<b>Intermountain Title Insurance and Escrow Agency Inc. and Weber Title Company Inc.</b> 4630 S. 3500 W., Ste. 4 West Haven, UT 84401	801-393-0200 intermountaintitle.com	DND DND	DND 1	8 1955	M. Todd Sumner
11	<b>Landmark Title Co.</b> 675 E. 2100 S., Ste. 200 SLC, UT 84106	801-467-41113 landmarktitleutah.com	DND DND	DND 2	DND 1987	Jeffrey J. Jensen
12	<b>Provo Land Title Co.</b> 255 E. 100 S. Provo, UT 84606	801 373-0924 provoland.com	DND DND	DND 4	29 1966	Doug Pinder & Kevin Pinder
13	<b>United Title Services</b> 2455 E. Parleys Way Ste. 310 SLC, UT 84109	801-924-5330 unitedtitleservices.com	DND DND	DND 2	25 1961	Walt & Karen Vandenberg

## BENNION

from page F2

be tempted to set up small or “one-off” management shops run by under-trained personnel. An unemployed son-in-law, a part-time administrative assistant, or an off-season ski instructor may not be the best choice to manage real estate assets, and in some cases can hurt the value of the asset.

A property management professional who is trained in fiscal responsibility and customer service is aware of current liability issues and who participates in property management trade associations that promote industry best practices will, over time, add value to the real estate asset by increasing tenant retention and streamlining property operations. And while the professional property manager brings a certain skill set to the firm, his or her involvement as part a team of property management professionals, which includes everyone from the building engineers to the accountants, allows a firm to offer a package that is greater than the sum of its parts. The value of real teamwork is often missing from property management firms, but it is a must-have for firms wanting to move to the next level of success.

### Ability to Adapt to Change

Often, the only constant in life is

constant change. If a property management firm desires to be successful, it has to be willing to adapt to today’s changing realities. Property management firms need to support a number of different property management systems. Profit margins are decreasing and tenants are requiring more from their landlords. Owners often demand unique and specialized reporting, and it can be extremely challenging to keep up with their evolving requirements. Property managers who refuse to see these challenges as opportunities will lose customers to firms that do. While traditional property management functions of collecting the rent and keeping the lights on will endure, successful firms must be willing to expand their services into other areas such as facilities management, corporate facilities management and project management. Expansion into these areas does not mean that a firm should simply offer those services, but that they should hire employees who are specialists in those areas and bring a well-defined set of expertise.

Property management firms that successfully utilize technology, hire and retain the best employees, and adapt to changing market conditions will lead our industry and represent best-in-class properties teeming with happy rent-paying tenants. Those that

ignore technology, fail to hire and retain the best employees, and refuse to adapt to change will find it increasingly difficult to compete in today’s marketplace.

Scott Bennion is the senior asset and property manager for RiverPark Development, overseeing nearly 2 million square feet of office, retail and industrial space. He is also the president-elect of BOMA Utah.

## LOGAN

from page F5

Logan has seen growth in its event base. Long the home, or starting point, of such successful events such as the Summerfest Arts Festival, the Ragnar Relay Wasatch Back, LOTOJ and the Top of Utah Marathon, Logan flies under the radar as a popular cycling venue. During 2014, Logan hosted eight different amateur cycling events. However, in 2015, for the first time in its history, the Tour of Utah, a multi-stage North American professional cycling event, will have its start in Logan. The 132-mile route will take riders from downtown Logan through Logan Canyon, around Bear Lake and back through the canyon to the Stage 1 finish.

On the transportation front, Logan seeks commercial passenger air service to provide greater convenience for business and leisure travelers alike. The Logan-Cache Airport, a productive facility as a general aviation airport, is well-positioned for greater economic utility. At 9,095 feet long, its runway

17/35 is one of the longest in the state of Utah and the airport has had an instrument landing system in place for several years. The airport has been master-planned and envisions future development across 1,200 acres with an array of uses.

Logan, with its diversified economy, consistently ranks among the very best small places for business in America. Currently ranked No. 1 by *Forbes* in its “Cost of Doing Business” category, Logan is ranked No. 4 nationally among the smaller MSAs as a best place for business and careers, combining not only operational costs, but job growth, income growth, educational attainment, net migration, quality of life and projected economic growth. While not surprising to those that live and work in Cache Valley, the word is getting out that this is a special place.

Kirk Jensen has worked in economic development for the City of Logan the past 10 years. His prior work experiences include private business, commercial banking and corporate accounting.

## RECOVERY

from page F1

ing more attention from foreign investors. Investors are typically seeking a 150 to 200 basis points higher yield than that which can be obtained in primary markets. (Basis points are used to measure the potential value of an investment, so seasoned investors typically only purchase assets that meet a certain basis point threshold.) Utah’s economy is one of the strongest in the nation and it has begun to attract global attention. In fact, during the past year, capital from the Middle East, Russia, China and Korea sought out CRE assets in the state of Utah. These buyers are generally looking for stabilized assets with strong credit tenants.

### How Has This Affected Utah?

Investor interest in Utah has never been stronger due to the national and global demand for commercial real estate investments. Utah saw a large jump in investor interest in 2014. Among the primary property types of office, industrial and retail, there was over \$1.4 billion in sales, an increase of 75

percent from 2013 and the highest level in Utah history. Furthermore, average cap rates — a rate of return based on the expected income a property will generate — descended to 7.25 percent. This is a historic low, beating 2007 — which was the previous low — by 50 basis points. It is interesting to note that 39 percent of investors in 2014 were new to the market.

### Moving Forward For Utah

National and global investor interest in Utah properties doesn’t look to be tapering off anytime soon. The trends that have attracted investors to Utah’s CRE market should continue to hold steady. CBRE Econometric Advisors projects rent growth in Utah of 6.3 percent, 2.7 percent and 5.9 percent annually over the next five years in office, industrial and retail, respectively. These projected increases vary by location and product type. However, a rising tide raises all ships.

In a third quarter 2014 report by the National Council of Real Estate Investment Fiduciaries (NCREIF), Utah was listed as one of the top 10 markets in the U.S. for commercial real estate returns over the

past 10 years. This recent report — along with projected rent increases — is underpinned by an economy experiencing moderate but healthy growth, spurring job creation and business investment. Such growth will allow CRE market fundamentals to continue improving and will likely keep the attention of national and global investors, barring any major shifts in the global or national economy.

As the supply of high-quality assets in major markets runs short, investors will continue to look toward secondary markets. Utah has an advantage over other markets in its superior performance and positive medium-term economic outlook. The most limiting factor for the investment market in Utah will be a shortage of assets available as owners are not willing to sell assets — perpetuating the very condition which on a national level is driving capital into the state.

Competition for high-quality assets that become available in 2015 will be intense. In Utah, Class A office buildings in strong sub-markets such as the central business district, Cottonwood, Sandy/Draper

and Lehi — as well as grocery-anchored shopping centers — will continue to attract the attention of out-of-state buyers and foreign investors searching for higher returns and relative safety.

Unlike the investment conditions that existed during the pre-recession highs, the current demand is based on a differently structured market grounded on tighter lending practices and an increasingly diverse investor base. While commercial real estate growth is expected to be broad-based, the investment market will remain somewhat divided with high-quality assets commanding a higher price than assets that are less desirable from an investment perspective. However, the value of all types of assets may experience an increase due to strong competition and limited supply. Based on the investment activity experienced over the past several years, it is clear that Utah has moved into the global economy and we expect the level of investment activity in the state to remain strong.

Eli Mills, senior vice president, and Tucker White, vice president, are investment specialists in the Salt Lake office of CBRE.

# Commercial Property Management Firms in Utah

Ranked by Total Square Feet of Property Managed in 2014

Rank	Company Name Address	Phone	Square Ft. of Property Managed in UT 2014	Examples of Properties Managed in Utah	Top Local Executive
		Web	Number of Properties Managed 2014		
1	<b>Newmark Grubb ACRES Asset Services</b> 376 E. 400 S., Ste. 120 SLC, UT 84111	801-578-5555  ngacres.com	10.15 million  81	Edgewater Corporate Park, Wingcrest I & II, 175 S. West Temple, Parkway Center, The Crossroads at Taylorsville, The Family Center of Riverdale	Michael B. Falk, President Gary L. Coker, Executive Vice President & Managing Director
2	<b>CBRE Group Inc.</b> 222 S. Main St. 4th Floor SLC, UT 84101	801-869-8000  cbre.com/slc	8.45 million  42	DND (office, industrial and retail properties)	Keith Geisel
3	<b>CBC Advisors</b> 6550 S. Millrock Dr., Ste. 200 SLC, UT 84121	801-947-8300  cbcadvisors.com	6.6 million  53	Hidden Valley Center, Union Heights Tower, Wells Fargo Tower (Provo), Safeway Retail Portfolio, State of Alaska Portfolio, Discovery Pointe	Randall W. Owen, CPM
4	<b>Cushman &amp; Wakefield</b> 170 S. Main St. Ste. 1600 SLC, UT, 84101	801-322-2000  comre.com	5.8 million  55	DND	Angie Mazuran Sr. Vice President & Regional Director
5	<b>Wasatch Group</b> 595 S. Riverwoods Pkwy. Ste. 400 Logan, UT 84321	435-755-2000  DND	3.5 million  16	Wells Fargo Center, Questar Center, Ken Garff Building, Broadway Media Center, City Centre Building , etc.	Dell Loy Hansen President & CEO
6	<b>Cottonwood Management Services</b> 1389 Center Dr., Ste. 360 Park City, UT 84098	801-365-6200  cottonwoodpartners.com	1.9 million  12	Cornerstone I, Newpark I & III, Scowcroft, Granite Park	Michelle Keaveny
7	<b>Capstone Property Managementw LC</b> 4422 Century Dr. Murray, UT 84123	801-313-0700  capstonepm.com	597,338  30	Retail, office, industrial, medical office	Kent Gibson
8	<b>Time Commercial Property Management</b> 8169 S. 700 E. Sandy, UT 84070	801-838-7900  timeproperty management.com	N/A  N/A	HOAs, flex space, industrial, office	Adam C. Griffiee



# CBC Advisors Dominates



**Number One 12 Years In a Row**  
Coldwell Banker Commercial Brand Awards

# #1

- Affiliate in North America
- Office Worldwide
- Property Management Firm for the Brand

## These CBC Advisors Received Top Recognition

**Brandon Fugal**  
Salt Lake City



- #1 Sales Professional in Utah
- #1 Office and Leasing Professional Globally

**Stuart Thain**  
Salt Lake City



- #1 Retail Professional Globally

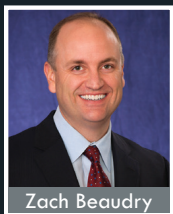
**Jim Wood**  
Anchorage



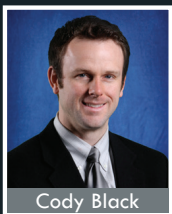
- #1 Sales Professional Alaska

### PLATINUM RECIPIENTS

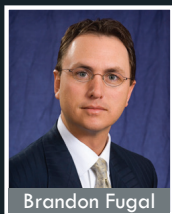
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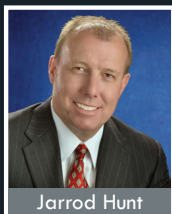
Zach Beaudry  
Salt Lake City



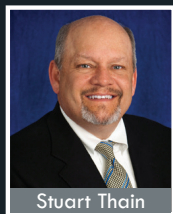
Cody Black  
Utah County



Brandon Fugal  
Salt Lake City



Jarrod Hunt  
Utah County



Stuart Thain  
Salt Lake City



Greg Pavich  
Salt Lake City



John Petersen  
Utah County

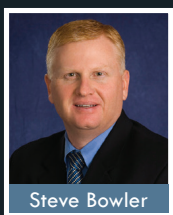


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Utah County

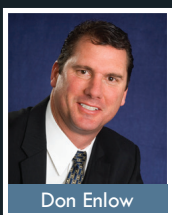


Jordan Wall  
Salt Lake City

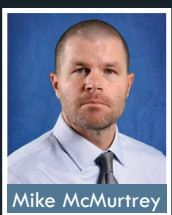
### SILVER RECIPIENTS



Steve Bowler  
Salt Lake City



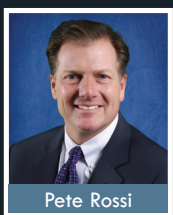
Don Enlow  
Salt Lake City



Mike McMurtrey  
Utah County



Doug Petty  
Salt Lake City



Pete Rossi  
Utah County



Cameron Simonsen  
Salt Lake City



Tim Simonsen  
Salt Lake City



Jim Wood  
Anchorage



Don Zebe  
Pocatello

### BRONZE RECIPIENTS



James Bullington  
Utah County



Jason Dodge  
Utah County



Dan Donaldson  
Utah County



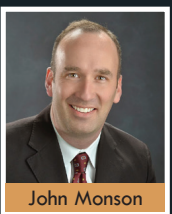
Brandon Huntsman  
Utah County



Eric Larsen  
Utah County



Josh Martin  
Utah County



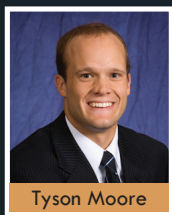
John Monson  
Utah County



Dan Moore  
Salt Lake City



Rob Moore  
Salt Lake City



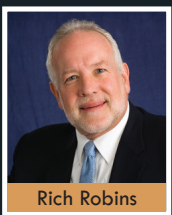
Tyson Moore  
Salt Lake City



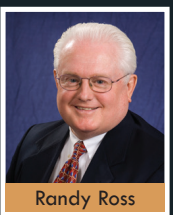
Monica Rafferty  
Salt Lake City



Ben Richardson  
Salt Lake City



Rich Robins  
Salt Lake City



Randy Ross  
Salt Lake City



Sherry Schoen  
Boise

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**JONES WALDO***from page F4*

1031 exchange, if properly effectuated, an individual or entity can invest the proceeds from the sale of property into a new property and thereby defer the capital gain tax liability which would otherwise have accrued from the sale of the first property. The most basic type of 1031 exchange is where the initial property is sold and a replacement property is identified within 45 days and purchased within 180 days thereafter. This type of exchange is usually not problematic for lenders making a loan collateralized by the replacement property because the transfer provisions need not be revised to allow a post-loan-closing change in ownership for the 1031 exchange.

Often, however, this traditional structure does not work for the seller who wishes to benefit from a 1031 exchange. For example, the preferred

replacement property may be placed on the market for sale prior to the sale of the first property. In this scenario, the replacement property may actually be purchased before the sale of the initial property. If the transaction (or series of transactions) are properly structured, this can be done without the seller disqualifying herself for the benefits of a 1031 exchange.

As alluded to previously, the post-closing change in ownership required to effectuate one of these more complex 1031 exchanges can occur in vari-

ous ways. The replacement property could be initially owned by an entity and thereafter directly transferred to the seller of the first property. Alternatively, the replacement property could be initially owned by an entity with owner of that entity subsequently transferring her ownership of the entity to the seller of the first property. Again, due to the various deal-specific circumstances, it is difficult to formulate any one-size-fits-all transfer provisions for accommodating a complex 1031 exchange.

As a general rule, the key for lenders is to understand the mechanics of the necessary change in ownership and to narrowly tailor an exception to the transfer provisions to allow only the required accommodation without creating any unintended loopholes affording too much latitude for transactions that would create an unacceptable level of risk to the lender.

Keven Rowe and Landon Sullivan are real estate law attorneys with Jones Waldo in Salt Lake City. Rowe is the president of the firm.

**PLANNING***from page F9*

should identify the start and end of the due diligence period, define the buyer's and seller's respective rights and obligations during the due diligence period and, determine a procedure for resolving buyer's objections to the property's condition, such as a buyer termination right.

Due diligence often creates tension between the parties. On the one hand, buyer will want seller to have an obligation to provide all documents and information relating to the property before the due diligence period begins; will want to secure for itself and its agents the broad access rights for the purpose of performing inspections, studies or invasive testing of the property without seller's prior permission; and will also want to include a right to terminate the contract and receive a return of buyer's earnest money if buyer is dissatisfied with the property for any reason.

On the other hand, seller typically wants to limit the scope of documents and information it is obligated to provide to buyer (especially if the documents are not in seller's possession); may want to limit the duration of the due diligence period; may consider qualifying the buyer's access rights to the property (i.e., requiring advance notice, limiting the scope of inspection or invasive testing permitted, requiring insurance or indemnification, including confidentiality restrictions, or limiting buyer's ability to communicate with seller's tenants or employees during the due diligence period); and, seller may desire to mitigate any lost opportunity and the risk of buyer's termination by requiring a portion of the earnest money to be nonrefundable or including a notice and cure period prior to buyer's right to terminate.

Fourth, the purchase contract should contain the parties' representa-

tions and warranties. Depending on the parties' respective negotiating positions, their understanding of the property at the time of contract, and other factors, the representations and warranties may be broad or narrow, and may terminate at closing or extend beyond closing for a definite or indefinite time. Buyer typically requests broad representations and warranties from seller in order to elicit as much information about the property as possible. From buyer's perspective, these provisions will likely include representations that seller owns marketable title; seller has authority to enter into the transaction;

limit such survival.

Conversely, seller typically insists on a much narrower representations and warranties. Two factors for the seller to consider when negotiating representations and warranties are whether buyer could independently verify or obtain the information it is seeking through a proposed representation or warranty and whether the proposed representation or warranty is absolute in nature or is limited to seller's knowledge or seller's receipt of written notice. If the answer to the first factor above is affirmative, seller may consider declining to provide the representation and warranty. Also, to

the extent possible, seller will limit its representations and warranties in the contract to the information seller has received in the form of written notice and, if such a limitation is unacceptable to buyer, seller may then attempt to limit its representations and warranties to its own actual knowledge. Additionally, seller should require representations and warranties that buyer has authority to enter into the transaction and that buyer has funds sufficient for closing.

Finally, a purchase contract should establish the parameters of closing, including the closing date, title matters, and identify-

ing the parties' pre- or post-closing obligations. These provisions should allocate closing costs and prorate the property's expenses, set forth the parties' closing conditions, identify documents required for closing and assign responsibility for their preparation, and otherwise contain the terms necessary to complete the transaction.

With advanced thought and consideration concerning each of the issues discussed above prior to the execution of a purchase contract, the parties can effectively prepare for a smooth and successful real estate purchase and sale transaction.

Colby B. Vogt and Craig T. Jenson are attorneys with Snell & Wilmer LLP in Salt Lake City. Their practice is concentrated in commercial real estate.

**Ace selects NGA as nationwide real estate rep**

Ace Hardware, the nationwide home improvement chain, recently dissolved its in-house real estate department and outsourced its functions to a Salt Lake City-based team from Newmark Grubb ACRES. Newmark will now handle new store acquisitions, existing store lease renewals and consulting work across all 50 states for Ace.

Scott Gambino, national manager of real estate and finance for Ace Hardware, said regarding the change, "We have enjoyed quality results working with Newmark Grubb ACRES. They have provided unrivaled support to the Ace field team sourcing sites, negotiating leases, and providing reporting to the corporate level. Newmark Grubb ACRES is a true asset to the scores of Ace owners across the U.S."

Senior account executive Matt Stephens leads the Salt Lake City team of Global Corporate Service brokers representing Ace throughout the country. When speaking on the new relationship with Ace, Stephens remarked, "Ace real estate deals are unique and challenging, and in our business that's really exciting work to be a part of. These are family-owned stores, sometimes multi-generational and it's very gratifying to create and add value for Ace owners whose grandparents opened the first store years ago."



that there are no undisclosed taxes, encumbrances, adverse title claims or other matters affecting the property; the property is in good physical condition; that there are no undisclosed environmental issues affecting the property; that there are no undisclosed leases, service contracts, utility agreements or operational contracts which would limit the buyer's intended use of the property; the current entitlements permit buyer's intended use; and that there is no threatened or pending litigation affecting the property, including condemnation proceedings. If buyer desires the seller's representations and warranties to survive closing, the contract should expressly provide for survival or a time period for survival; although, seller will likely want to



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