

STATE BAR OF NEVADA VIRTUAL TOWN HALL

PRESENTED BY THE REAL PROPERTY SECTION

Moderator: Paul C. Ray

Panelists:

- Robert Ybarra, Senior Vice President, CBRE Capital Markets
- Marlene Fujita Winkel, Executive Director, Cushman & Wakefield
- Martin Bressler, Vice President and Senior Underwriter, First American Title
- Robert Kolesar, Jr., Vice President, Commercial Sales, First American Title
- Kelly Brinkman, Commercial Real Estate and Corporate Law, Goold Patterson



MODERATOR

PAUL C. RAY, PCR@PAULCRAY.COM (702) 823-2292



Mr. Ray practices real estate, business, civil litigation and appeals. He presently serves as Chair of the State Bar of Nevada Publications Committee; Immediate Past Chair of the State Bar of Nevada Appellate Litigation Section; Director on the Executive Board of the Clark County Bar Association; President of the Nevada Center on Foreign Relations; and is an Editor of the Nevada Real Property Practice Manual.

PANELISTS

- **Paul C. Ray**, Real Estate and Business Litigation and Appeals, Paul C. Ray, Chtd.; COVID-19 priorities and conventional wisdom, financial programs, legal requirements
- **Robert Ybarra**, Senior Vice President, CBRE Capital Markets, Debt and Structured Finance; Current lending environment, current relief, Paycheck Protection Program
- **Marlene Fujita Winkel**, Executive Director, Cushman & Wakefield 1031 exchanges, re-pricing of assets, current commercial lending, leasing market
- **Martin Bressler**, Vice President and Senior Underwriter, First American Title; Recording gap, underwriting policies for new or recent construction
- **Robert Kolesar, Jr.**, Vice President, Commercial Sales, First American Title; Brief market recap, V shape recovery, submarket differences, disaster v. recession
- **Kelly Brinkman**, Commercial Real Estate and Corporate Law, Goold Patterson; Transactional delays in purchase agreements, leases

COVID-19

PRIORITIES AND CONVENTIONAL WISDOM

- Health-hygiene, hand washing, social distancing, remote work, etc.
- Self-care-stress relief, physical activity, walking
- Communication-clients, employees, colleagues, friends, support persons in need
- Keep current-critically evaluate sources, be flexible in planning

FINANCIAL PROGRAMS

CARES ACT

- Paycheck Protection Program
- Economic Injury Disaster Loan
- Tax credits for employee retention

LEGAL REQUIREMENTS

- Administrative Orders- court appearances-check with each department re: chambers decisions, Blue jeans video, Court Call
- Governor's Orders-non-essential businesses closing schedule, extension of limitations
- Extensions commonly available-be professional

ROBERT YBARRA

SENIOR VICE PRESIDENT, CBRE CAPITAL MARKETS

(702) 369-4859, ROBERT.YBARRA@CBRE.COM



- Licensed Mortgage Broker (State of Nevada)
- Licensed Real Estate Agent (State of Nevada)
- Member of the National Mortgage Bankers Association
- Member of the California Mortgage Bankers Association
- Member of the International Council of Shopping Center (ICSC)
- Member of the CBRE Net Lease Property Group
- Top 10 production teams, 2003-2008
- Top team in the company in 2004 and 2005

Located in Las Vegas, Bob has been originating loans and arranging equity (permanent, bridge, construction, mezzanine, etc.) for all types of commercial real estate nationwide for over 22 years through a variety of capital sources including life insurance companies, commercial and investment banks, credit unions, pension funds, mortgage REITS, Debt Funds, Fannie Mae, Freddie Mac, and FHA/IHUD. Bob has completed in excess of \$10 billion in commercial real estate debt and equity transactions. After joining CBRE Capital Markets with the L.J. Melody & Company's 1999 acquisition of the Eberhardt Company, Mr. Ybarra forged such an impressive underwriting track record throughout Phoenix and Las Vegas that he ultimately moved to Las Vegas and opened CBRE's Las Vegas office in 1999. Bob is the licensed mortgage agent and carries the "Qualified Employee title for the company's State of Nevada Mortgage Lending Division License.

CURRENT LENDING ENVIRONMENT

WHO'S LENDING IN THIS DIFFICULT ENVIRONMENT?

- Freddie Mac/Fannie Mae/FHA – Yes
- Life Insurance Companies – Some
- Banks/Credit Unions (National, Regional, Local) – Some
- CMBS - Nope

CURRENT LENDER RELIEF

WHAT'S OUT THERE?

First and foremost, if you can make your mortgage payment do so...

- **Freddie Mac/Fannie Mae** – 3 Months forbearance; Latest date to enter into forbearance is earlier of Dec. 21, 2020 or termination of National Emergency; Borrower will repay forbore amounts over a period of 12 months and can pay sooner; No late fees or interest charges will be applied. Must agree not to evict during forbearance period.
- **Life Insurance Companies/Bank** – Case by Case Base
- **SBA 7A and 504 Loans** – Govt. will not collect and will pay principal/interest portion of SBA loan or Debenture piece for the next 6 months starting April 1st.
- **CMBS** – “Don’t call unless you’re in default.” This is a little overstated but it’s going to be a difficult task. I’ve attached a link that can provide some CMBS guidance.
- https://www.crefc.org/crefcdocs/CMBS_Borrowers_Guide.pdf?_zs=7Vln91&_zl=NuBg5

PAYCHECK PROTECTION PROGRAM

Who's Eligible

- Businesses in operation on February 15, 2020
- Small business with not more than 500 employees
- 501(c)(3) nonprofits are eligible
- Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.

Loan Parameters

- 2 Year Maturity
- Interest Rate 1%
- Maximum loan is 2.5X the average monthly payroll costs
- Maximum loan size is \$10,000,000
- Six month deferral

PAYCHECK PROTECTION PROGRAM (CONTINUED)

Loan Forgiveness

- 100% - If funds are used for payroll costs (75% must be for payroll) and interest on mortgages, rent, and utilities
- For any amounts not forgiven, the maximum term is 10 years, the maximum interest rate is 4%. P&I will continue to be deferred for a total of 6 months to a year after disbursement of the loan.

How to Apply

- Best to go through your Lender relationship so long as they are an SBA 7(a) lender or you can go to the following link for guidance:
<https://www.sba.gov/funding-programs/loans>



MARLENE FUJITA WINKEL

EXECUTIVE DIRECTOR, CUSHMAN & WAKEFIELD

(702) 688-6884, MARLENE.FUJITA@CUSHWAKE.COM

Marlene was recently recruited as Executive Director for Cushman & Wakefield's Las Vegas office after previously spending nineteen years at CBRE as a Senior Vice President of Capital Markets - Investment Properties Las Vegas. Marlene's career has been spent in both investment property sales as well as industrial sales and leasing.

As an Executive Director of Nevada Investment Properties – Capital Markets, Marlene focuses primarily on the acquisition and disposition of income-producing properties valued at more than \$1,000,000. Since January 2010, Marlene has completed 114 dispositions in the Las Vegas area. Marlene has been involved in more than 10.3 million square feet and more than \$3.65 billion in transactions.

- Certified Commercial Investment Member (CCIM) Designee
- CREW Member
- ICSC, Member
- Past President, CBRE Cares, Las Vegas
- Board Member, RAD (Real Autism Difference)
- Currently licensed as a Nevada Real Estate Agent

MARLENE FUJITA WINKEL

- 1031-exchanges. Will we see extensions? Will Sellers/Buyers take chips off the table? Safe harbor?
- Re-pricing of assets on the market or under contract.
- Listing and offer velocity.
- How are Landlords responding to tenants asking for rent relief?
- Velocity in the leasing market- industrial, retail, office, etc.
- Outlook



MARTIN BRESSLER

VICE PRESIDENT AND SENIOR UNDERWRITER, FIRST AMERICAN TITLE

(702) 855-0856, MBRESSLER@FIRSTAM.COM

Mr. Bressler has been in the Title Industry since 1996 and specializes in National Commercial Transactions.

MARTIN BRESSLER

- Recording Gap
- Underwriting policies for new or recent construction



ROBERT KOLESAR, JR.

VICE PRESIDENT, COMMERCIAL SALES, FIRST AMERICAN TITLE

(702) 595-5017, RKOLESAR@FIRSTAM.COM

Mr. Kolesar has been active on the commercial side of title insurance and escrow services for over 25 years. He was with Nevada Title Company for 22 years until First American Title acquired Nevada Title in 2017. His focus is primarily with attorney directed business and gaming properties; encompassing both local, national and international business. Robert was born and raised in Cleveland, Ohio, attended Bishop Gorman High School in Las Vegas, and received his degree from Marquette University, majoring in Political Science with a dual minor in Philosophy and Theology.

ROBERT KOLESAR, JR.

- Brief market recap – how are gaming companies in particular handling the closures (gaming/hospitality focus as it is Las Vegas' largest employer)
- V shape recovery – unprecedented contraction followed by an unprecedented rebound
- Different sub-markets will invariably have different outcomes –gaming, apartments, retail
- 'Natural disaster' vs. recession

KELLY BRINKMAN

COMMERCIAL REAL ESTATE AND CORPORATE LAW

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As a director with Goold Patterson, Ms. Brinkman practices primarily in the area of commercial real estate and corporate law. Ms. Brinkman also represents landlords and creditors in bankruptcy matters.

Ms. Brinkman received her undergraduate degree (BA in Social Ecology) from the University of California at Irvine in 1992 (with honors), and her Juris Doctor degree from McGeorge School of Law in 1997 (with distinction). While attending McGeorge, Ms. Brinkman served as the Managing Editor of The Transnational Lawyer and also clerked for the Honorable Burrell Gates, United States District Judge for the Eastern District of California.

Ms. Brinkman is admitted to practice in Nevada (1997) and California (1999). From May 1997 through April 1999, she was an associate attorney with Jolley Urga Wirth Woodbury & Standish where her practice was concentrated in the areas of commercial litigation, bankruptcy and employment law. From April 1999 through April 2004, Ms. Brinkman was an associate with the California law firm of Allen Matkins Leck Gamble Mallory & Natsis working mainly in the fields of bankruptcy and real estate.

REAL ESTATE IMPLICATIONS DUE TO COVID-19

DELAYS, LEASES AND MORE

Transactional delays in purchase agreements

- Delay of or inability to perform (closures of both governmental and private offices and extensions of due diligence periods, closing dates, etc.)
- Automatic extensions of due diligence periods and/or closing dates
- Seller representations and warranties (compliance with laws; operating covenants)
- Tenant defaults and vacancies (estoppels; occupancy requirements)
- Force majeure provisions

REAL ESTATE IMPLICATIONS DUE TO COVID-19

LEASES

Forbearance Agreements and Lease Amendments

- Temporary defer collection of rent;
- Payment of operating expenses, taxes & insurance
- Repayment plans for temporary deferment of rent
- As a condition to defer rent, pledge to make application for emergency disaster loan assistance program made available to business owners ([sba.Gov/funding-programs/disaster-assistance](https://www.sba.gov/funding-programs/disaster-assistance))
- Relief based on financial aid/stimulus/covid-19 relief proceeds
- Moratorium on commercial evictions
- Reviewing loan documents in connection with lease amendment
 - Lender consent, material changes, trigger non-recourse carveouts, etc.



QUESTIONS

To submit questions, click the Q&A button and type your question into the text box.

Or, click the “raise hand” button. You will be unmuted and can speak verbally to the presenters.

Phone-only users can raise their hand by entering *9.



THANK YOU!

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