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Understanding a Commercial Real Property Title Report

如何讀懂商業地產的產權報告

By: Maura O'Connor (GlobeSt)

The common goal of all due diligence efforts is to find out precisely what the seller is selling and what the buyer is buying. (Or, what the landlord is offering to rent, and the tenant is going to get if it leases the property.)

This sounds simple, but is not so easy: the challenge is to find out about the property while relying only on sources of information that are known to be highly accurate (and, if possible, on sources that carry liability insurance against their own errors). One of the most important tools available to a buyer or tenant is a title report.

A title report will disclose who owns the land, and precisely what legal interest the owner/landlord has in the land, together with a list of other interests in the land owned by other people.

Who Owns the Property, and What Rights That Person Owns, is Typically Shown by Searching the Title. A preliminary title report (a "PTR") is a product issued by a title insurance company which shows the following:

the legal description of the land (as opposed to the address of the improvements located on the land);

what the estate in the land is (such as whether it is a fee or leasehold estate, or something else such as an easement);

who has title to the estate in the land; and

what exceptions to title currently exist according to the public records and the title insurance company.

Obviously, the first step in reviewing a PTR is to confirm who owns the property to make sure that the buyer (or lender) is dealing with the property owner. The next step is to confirm the legal description against the deed by which the current owner obtained the property (to make sure that the legal description has not changed) and against the survey, to make sure that the land described in the legal description is the same as that shown on the survey. The lawyer must then confirm precisely what rights the owner has in the property, such as ownership of the fee, a leasehold estate or an easement.

Exceptions to and Exclusions from Title. The review gets more involved as the lawyer checks the exceptions to and exclusions from the vested owner's title. The exceptions and exclusions are a list of the rights in the property that have already been granted to third parties, usually by contract or operation of law. The exceptions also include a brief statement of the annual property taxes due for the property. The lawyer performing diligence will check to make sure that all taxes have been paid current on the properties. If all taxes are not paid current, the taxing authority may be able to divest the buyer (or lender) of any of its rights in the property if it does not pay the taxes (including back taxes); obviously, this can create havoc with the economics of a given transaction. If the due diligence discloses non-payment of taxes, the buyer (or lender) can usually make arrangements to have the overdue taxes paid at the closing.

Easements. A PTR will often contain a list summarizing exceptions to or exclusions from title, such as exceptions for easements. An easement is an interest in land given by the owner of the land to a third party, such as the right to use part of the property for a driveway, for access, or for utilities. Even though some of such uses may benefit the property, such easements are said to “burden” the land, because once the property owner grants such a right, his or her ability to use the area of his or her land affected by the easement is limited. In addition, once such an easement has been transferred by a property owner, his or her successors in interest, such as later buyers of the land, are also limited to using that portion of the land in ways that do not conflict with the rights of the easement owners. Easements often have previously granted to utility companies for electrical transmission lines, sewer pipes, or gas lines; easements in favor of the city in which the property is located giving the city the right to widen the neighboring streets; and exceptions for mineral or water rights.

Where easements have been given to third parties, the lawyer will examine the grants of easement to determine whether they are exclusive or non-exclusive (in other words, whether the easement owner can keep others from using the easement area, or not), and whether the property owner may use the surface area of the easements (owned by the third party easement owner) for its own purposes, such as a driveway or for parking.

A lawyer performing due diligence will also try to determine exactly what part of the property is burdened by each easement. The precise location of any easement is very important, and can be quite difficult to ascertain. For example, if the buyer wants to purchase a piece of property which has not been developed and is hoping to develop new buildings on it, and an easement for a high-voltage power transmission line runs directly through the middle of the area that the buyer wants to develop, that’s a big problem (a bigger problem if the planned development is residential; a smaller problem if it is industrial). The same power transmission line running along the perimeter of the property might not create any problem for the buyer’s planned development. Therefore it is important to review the exceptions to title (not just the easements) very carefully, and also to have them shown on, and locate them in, the survey, as discussed later.

Need to Review Underlying Documents. No matter what the type of easement or exception is, the lawyer performing the diligence must obtain (from the title insurance company) and read all of the underlying documents which have been listed as exceptions to or exclusions from title to determine precisely what rights to the property have already been given away. Sometimes the description in the PTR of the rights previously given away is not correct; sometimes the easements or other exceptions to title burden property other than that which is being sold or encumbered; sometimes the exceptions have expired by their own terms, and no longer burden the property. If the exception is not in effect for one of these reasons, often the title insurance company will agree to insure against the risk described by agreeing to not show that item as an exception to or exclusion from title in the title insurance policy.

Other Exceptions. Easements are not the only types of interests which may be shown as exceptions to or exclusions from coverage on the PTR. While an exhaustive list is beyond the scope of this article, exceptions may include covenants, conditions and restrictions; development agreements; special assessment districts; and many other types of planning documents. If any planning restrictions burden the property, the lawyer will review them to determine whether the use the buyer (or the borrower) plans to make of the property will be allowed, and whether any governmental or private entity has the right to collect payments from the owner of the property or to encumber the property with liens or foreclose on the property if such payments are not made.

Monetary Liens. If any monetary liens, such as mortgages or deeds of trusts, are shown as exceptions in the PTR, and encumbrances on the property, the lawyer doing diligence for a buyer (or lender) must review the underlying liens very carefully. (In addition, as noted above, third parties' rights to burden the property with monetary liens may be hidden in other documents listed as exceptions, such as covenants, conditions and restrictions, which often contain lien rights on behalf of the developer or a homeowner's association.)

Typically, a buyer (or lender) will require that all such monetary liens be paid off and released of record at or before the closing of the sale or loan. (A tenant usually won't: its review will be limited to determining whether its lease would survive a foreclosure if the landlord/owner quit paying its mortgage. If this is a large concern for a substantial tenant, the tenant can sometimes require that the owner's mortgagee provide a subordination and nondisturbance agreement, pursuant to which the mortgagee would allow the tenant to stay in place after a foreclosure as long as the tenant were paying rent and satisfying its lease obligations.) A lawyer representing an acquiring company seeking to buy a target company will want to note what monetary liens burden the company's real property, the amounts of such liens, and what obligations they secure. In addition, such a lawyer should determine whether any of the obligations secured by such liens will be due on sale or upon change of control of the target company if the transaction occurs.

Title Insurance as a Risk-Shifting Solution. Depending on what exceptions to title are shown in the PTR, a buyer (or lender) may be able to purchase title insurance in order to minimize or mitigate the risks to itself caused by the existence of the exceptions to title. For example, it is very common in California to buy, and to use as collateral, real property as to which subsurface mineral rights have been previously granted to third parties. A review of the document creating the exception will usually disclose whether the person or entity that owns the subsurface mineral rights has any right to enter onto or drill from the surface of the property. If the document creating the exception is well drafted and states clearly that surface drilling rights are not included, then the buyer (or lender) can typically buy an endorsement to its title insurance policy ensuring that the owner of the mineral estate has no rights to drill on the surface estate or at any point above a certain depth (such as 500 feet) below the surface of the land. As a practical matter, this eliminates the risk of any disturbance of the surface of the property, by contractually shifting it to the title insurer.

Review of Rights to Neighboring Land. In addition to reviewing the exceptions to and exclusions from title, the lawyer also needs to review any rights on neighboring land that benefit the property. In order to use a piece of land effectively, often certain easements are needed; for example, the owner of a store on its own parcel in a shopping center often needs a reciprocal easement to allow its customers to park on shared parking lots which are on other parcels actually owned by other entities. Typically, this sort of arrangement is documented in a reciprocal easement agreement. If a buyer is considering buying that piece of property, or a retail tenant is considering leasing it, then that buyer or tenant needs to be sure that it will obtain the rights under the reciprocal easement agreement as well.

No matter what issues are disclosed by the PTR, the lawyer doing due diligence should communicate any issues arising out of the due diligence review to his or her client, so that appropriate steps can be taken to resolve them.

Buying Title Insurance. In a simple real estate purchase or a loan secured by a deed of trust or mortgage, most experienced real estate lawyers will recommend that the buyer (and its lender) purchase a policy of title insurance, which will take effect at the same time that it closes the purchase (or loan). This policy insures that the buyer (or lender) has the interest in the property that it was to have obtained through the closing of the transaction.

Title insurance is typically not purchased by tenants of multi-tenant buildings, but is sometimes prudent for tenants of single-tenant buildings, or those with very long leasehold estates, depending on their circumstances and what issues are shown in the initial title review – as well as what issues are addressed by covenants from the landlord in the lease. The broader the landlord's covenants, the more comfortable a tenant may be without buying title insurance for its leasehold estate.

Title insurance is different from other insurance in that title insurance only covers the past: the policy only insures against unknown risks that exist as of the day the policy is issued. Before issuing such policies, title insurance companies analyze the public records (or their own title plant), and exclude from coverage any interests in the property arguably owned by third parties. In practice, this means that the lawyer for the buyer (or a tenant or lender) must independently review those documented rights initially identified by the title insurance company as exceptions to title in the manner described above, and must either convince the title insurance company to accept the risks presented by them, or determine that the buyer (or tenant or lender) can do so.

In a purchase, the buyer's lawyer will draft closing instructions to the title insurance company (and the escrow holder) which reflect the results of this diligence and which specify the form of the policy of title insurance to be issued at closing, including statements about precisely what exceptions to and exclusions from title will be shown on that policy, and what endorsements providing additional coverage will be included in that policy. Usually most purchase and sale contracts will provide that the escrow holder and/or the title insurer will pay off all existing monetary liens, cause them to be released of record and make sure that they are not shown as exceptions on the title insurance policy that is eventually issued, but if they do not, the lawyer for the buyer must make sure this is done. The lawyer also specifies what additional insurance coverages (endorsements) are required in the policy.

Best practices involve specifying all of this information in advance of closing in writing so that there is no dispute later, when the title policy arrives, about whether it meets the requirements of the buyer or tenant.

Managers Stand Front and Center in Tenant Retention

如何通過管理留住租戶

By Paul Rosta (Commercial Property Executive)

Observers of the American political scene sometimes quip that candidates and their operatives take only a day's breather after the election before launching their next campaign. That adage holds a lesson for property managers, colleagues and clients. Whether the customer has signed a one-year lease for an apartment or a 15-year deal for a regional distribution center, the campaign for repeat business never completely subsides.

"The tenant experience from day one is really important now," explained Michael Daniels, COO for Cagan Management Group Inc., a multi-family specialist that manages some 15,000 units in Florida, Louisiana, Indiana and Illinois.

Tenant renewal depends on the efforts of multiple stakeholders, particularly owners and leasing agents, but the property manager also has an integral role. The face of ownership to the tenant, the manager also advises the owner on matters that influence renewal decisions. That role takes on heightened significance when excess capacity and relatively slow leasing velocity in most property categories and geographic areas is heightening the importance of each renewal.

Competition for tenants remains keen across the board. The retail availability rate stayed at 13.2 percent nationally from the second to third quarters, CBRE Econometric Advisors reported in early October. In the industrial sector, availability remains at 13.7 percent even after four consecutive quarters of incremental improvement. Office availability stayed at 16.2 percent nationwide from the second to the third quarters. Multi-family, the best-performing property sector, enjoyed a 70 basis-point drop in availability year-over-year, to 5.1 percent.

For third-party property managers, winning the competition requires a particularly delicate balancing act. "What seems to be a good idea to me may not be a good idea to an owner, and vice versa," explained Jo Anne Corbitt, director of property management for the Mathews Co. "I try to tell (tenants) that I'm the conduit. I'm not making the decisions." The property manager can feel caught between conflicting choices: Invest in the property today to retain tenants for the longer haul or cut outlays in the interest of a stronger bottom line short term.

Difficult as it may be, the manager has the responsibility to tell the owner things they do not want to hear. Whether or not the property manager wins the argument immediately, it is important to make the case that failing to make needed improvements may set off a downward spiral. Apartment management specialists, for instance, point out that a property's declining condition is likely to discourage renewals, and the ensuing reduction in revenue may make the owner still more reluctant to put capital into improvements. "I've seen property managers avoid that conversation for all the right reasons," reported Joe Greenblatt, president of San Diego-based multi-family specialist Sunrise Management. "That doesn't relieve you of the obligation to have that conversation."

When clients do agree to make upgrades, the investment can boost renewals. Several years ago, Cagan

Management faced declining occupancy at Park Place Apartments in Lafayette, La. Recessionary pressures had pushed the property's customary 90 percent-plus occupancy rate as low as 78 percent during the recession. Cagan decided that it would be worth tapping into reserve accounts and forgoing 12 months' worth of owner's disbursements to finance an upgrade. Among other steps, Cagan added a recreation room—carved out from part of a maintenance shop—and expanded laundry facilities. Occupancy is re bounding, and Daniels cites Cagan's willingness to invest in the property as the main reason.

Even in the apartment sector, which continues to enjoy the lowest availability nationwide and is drawing occasional new investment, renewal is by no means guaranteed. Though multi-family occupancy remains relatively strong, economic pressures can nevertheless hamper renewals, and leasing activity in general. To name one trend, underemployment restricts young people from striking out on their own. That, in turn, slows new household formation and raises the volume of available units.

Those trends are evident in the dramatic shift in pre-leasing at Cagan's multi-family complexes in Chicago, a market where October is one of the two busiest months for apartment lease starting dates. In a healthier market, demand encourages renters to nail down a new lease well in advance. About 60 percent of the units coming available by Oct. 1 are typically pre-leased at least a month before that date. This year, however, pre-leasing dropped to only 30 percent, Daniels reports.

To pick up the slack, Cagan hired staff to phone residents who had not responded to renewal offers. Those contacts turned out to be surprisingly revealing. "A lot of times, the lease renewal is the catalyst for people opening up and talking to us," Daniels said. Residents cite rent increases or personal reasons for not wishing to renew, but the property manager's failure to fix maintenance problems also comes up often. Cagan's resident outreach team is instructed to report any concerns directly to Daniels, who then follows up himself with the complex manager. Not surprisingly, a brief chat with the COO tends to prod even slow-footed managers into action.

Owners at Bat

With owners' involvement in tenant relations varying widely, property managers can also encourage clients to help retain tenants. These days, many owners are willing to join in the renewal campaign earlier than ever, reports Jeffrey Ludwig, senior vice president of Alter360, The Alter Group's third-party management unit. "They are asking the question earlier (as to) when they can and should (reach out directly to the tenant). They have a lot more to lose than all of us service providers put together."

One owner advised by Alter360 is a sterling example, taking an active role in renewal negotiations more than a year before the lease expires. The client, who owns a small portfolio of office buildings, told a tenant that he plans to invest in a backup generator so that building occupants can stay up and running if the building loses power. Whatever the tenant's final decision may be, the owner scored points by not only weighing in but committing to a capital improvement, Ludwig said.

Even a problem can be turned into a plus that makes the tenant more favorably disposed toward renewing. In early May 2010, catastrophic flooding struck the Nashville metropolitan area, killing 26 people and causing $2 billion in damage. The rising waters knocked out one of the two chillers at a

Nashville offi ce building managed by the Mathews Co. When daytime temperatures hit the 90s soon afterward, the overmatched chiller had only enough power to bring the inside temperature down to 78 degrees, still warmer than the building's standard.

As a result, conditions were less comfortable than usual during the two-week wait for a new chiller. Mathews' client came up with the idea of offering each tenant in the building half a month of free rent. Although it is too soon to say whether any will re-up as a direct result, the gesture generated good will from a situation that could easily have caused tenants to think twice about returning. "No one rejected it," Corbitt reported. "That was a big hit for the owner."

At the many properties around the country where tenants are struggling for survival, retention takes on an entirely different meaning. In these situations, property managers' role as the liaison between owners and tenants comes to the fore, as they often find themselves in the position of persuading their clients to compromise.

Compared to 2010, a growing number of tenants are losing ground in the largely retail portfolio managed by Portland, Ore.-based Elliott Associates Inc. "It's more dire now, and we're seeing businesses fail that we didn't expect to fail," said Julie Muir, senior property manager.

In the effort to find common interests between tenants and landlords, the real estate manager must walk a fine line. For less sophisticated tenants, managers should assist with analyzing nuts-and-bolts issues that can help them save money. "The biggest challenge is when tenants call seeking the landlord's help. They need to show that they've tried to help themselves," Muir said. "A lot of them don't know the cost of sales per square foot. We show them some areas they can cut themselves before going to the landlord for help."

Advising owners on tenants in crisis is another case in which property managers are obligated to say what their client may not want to hear. Offering temporary rent relief to a tenant in distress is an unsatisfying solution to landlords and lenders, but property managers should remind them that discounted rent produces more revenue than an empty space. And the manager may be the first to realize that even the best efforts may fall short. As Muir put it, "A lot of times, the tenants that want to stay open the most are the ones that shouldn't."

Homeowners Association Directors Can't Delegate Duties to Property Managers

物業經理不可包攬業主委員會董事的職責

By Stephen Glassman and Donie Vanitzian (LA Times)

Question: The president of our homeowner association sits next to the property manager at board meetings, and the manager runs the meeting. She answers questions that owners ask the board and interprets the CC&Rs and bylaws. The property manager is the only one sitting at the board meeting that is aware of incidents occurring at our development. There are many incidents that happen in our complex that the board never hears about because most owners have a dialogue with the manager instead of the board directors. Because most owners don't attend board meetings, the only issues and incidents that get reported directly to the board are the ones the manager wants them to know about. When I brought this situation to the board's attention, one director refused to listen to me, saying he trusts the manager to take care of everything and if he didn't trust her, she wouldn't be working here. As an owner I find this attitude inappropriate. I am concerned about the association's operations, but what can I do?

Answer: There is a difference between trust and duty. Although a director may trust the property manager, he or she may not delegate his management duty to that individual or company. Ignorance of any events leading to liability, like ignorance of the law, will not excuse directors' inaction.

As for the president's trust, it too is misplaced. When the manager attempts to interpret the covenants, conditions and restrictions (CC&Rs) and bylaws of the association, that person is making a legal determination that he or she is not permitted by law to make, unless the manager is an attorney. Any incorrect explanation could prove costly to the association and could result in misdemeanor charges against the manager.

Instructing titleholders to send notification of their problems to the manager is incorrect. Management works at the behest of the board and all notices should be sent to the board of directors, who have a statutory duty to act in the best interests of the association and its owners. The board decides what will be copied to the property manager. Even if the board never reads the letters from homeowners, it is responsible for knowledge of the contents and any liability for ignoring complaints.

Directors must recognize that employing property managers does not shield them from anything, and certainly not from liability. Directors were not elected to pass the buck to vendors.

Japanese Clothing Retailer Bringing High Tech to the U.S. at Affordable Prices; Plans to Open 200 Stores in the U.S. by 2020

日本服裝零售商將高科技平價服裝帶入美國市場；計劃 2020 年前在美開 200 間店

By Barbara Thau (Daily Finance)

Uniqlo has a simple plan.

The Japanese retailer wants to make utilitarian clothing -- with features like milk protein softening fibers -- sexy, whether you're 16 or 60.

Showcasing affordable basics in a sleek, modernist, setting is also part of its plan to seduce American shoppers. (Think the Apple Store, but for fashion.)

It's how Uniqlo hopes to "revolutionize" mass retailing in the U.S., said Shin Odake, CEO of Uniqlo USA, during a tour of its new 64,000-square foot outlet in New York City.

"Everyone is selling clothes. Apple is selling cell phones and computers, but they've revolutionized people's lives," Odake said. "We want to revolutionize how people wear clothes."

"If you walk down Fifth Avenue in New York City, most people are wearing basic items," he said. "They're not wearing the super-designed clothes that you see on the runway. We want to make a perfect T-shirt, sweater and jeans that can be worn by everyone."

First American Invasion Fell Flat

Uniqlo, a subsidiary of Japanese retail holding firm Fast Retailing Co., operates 1,041 stores in 12 countries, including Japan, China, France and the United Kingdom.

Now, it has set its sights on opening 200 stores in the U.S. by 2020. The retailer hopes the second time's a charm. Uniqlo's first attempt to conquer the U.S. market failed: It opened three mall stores in 2005, only to close them by year's end.

Opening stores in malls when few Americans had heard of the chain was an ill-fated strategy, Odake said. "It's difficult to differentiate yourself in a mall environment. The strategy now is to open flagship stores on prominent shopping streets," and expand to malls later.

This time around, Uniqlo picked fashion capital New York City to initiate its bold expansion plans. The two flagship stores launched this month in the Big Apple are its largest anywhere. Up to this point, the retailer has operated just a single store in the U.S., in Manhattan's Soho neighborhood.

To whip up consumer excitement, Uniqlo started spreading its minimalist gospel in July with a marketing blitz that plastered buses and subway cars with celebrity-driven ads espousing its "made for all" philosophy, with phrases like, "Uniqlo is beauty in hyper practicality." At the same time, Uniqlo pop-up stores dotted high traffic areas around the city, while mobile Uniqlo Cubes rolled up at summer events and street festivals.

The Next Gap?

Marketing hype aside, success stateside will come down to blowing away shoppers, one item at a time, Odake said.

And if Uniqlo plays its cards right, it could fill the void left by the struggling Gap, which will close 21% of its stores by 2013, Susan Scafidi, professor of the Fashion Law Institute of Fordham University, told *DailyFinance*.

Gap lost its way when it became too trendy and "abandoned its strengths of core basic apparel," she said. Uniqlo can take market share with its formula of "fitting the hole in shoppers' wardrobes for completer pieces -- that T-shirt, V-neck sweater." And their focus on "quality, materials and technology" gives then a fresh edge, Scafidi said.

Odake pointed to a $12.90 camisole featuring Heattech, its exclusive heat-retaining and moisture-resistant technology, which incorporates that milk protein. Uniqlo is on track to sell 100 million pieces of Heattech this year globally.

"This type of product didn't exist before at this price range," Odake said. A similar item from North Face, for example, would cost about $80, he said, holding up the whisper-thin undershirt. "And it would be very heavy and thick."

To keep prices low, Uniqlo places orders with its Chinese factories in the off-season for products that will sell year-round, like cashmere sweaters and jeans, so it locks in lower rates when factories are short on work.

It also marks up its products less than other merchants, sacrificing fatter product margins for higher sales volumes -- a strategy that's a hallmark of Walmart's model.

"The best item for us is something that sells 100 million pieces," Odake said. "It's almost like a social movement: It means that people like it and we're changing how people dress."

In the outerwear department, Uniqlo's new, $59.99 Premium Down Ultra Light coat -- so light that it effortlessly folds into a pouch -- is turning out to be one of its best-sellers. Demand has outpaced the company's manufacturing capacity, Odake said.

In addition to performance features like Heattech, Uniqlo likes to play up the quality of its merchandise as a selling point. Odake noted a table display of jeans for $9.99, marked, "Japanese engineered denim."

The jeans reflect the touch of Japanese takumi masters. Work dried up for those textile artisans when the industry relocated to China. So Uniqlo enlisted the craftsmen to improve its product quality and ensure a consistent standard when it comes to tasks like fabric dyeing and crafting the silhouette of a pair of jeans, for example.

The Medium is the Message

En route to the outerwear area, Odake noted the stainless steel, custom-made spinning mannequins, which fly up and down between the store's three floors.

They're one feature of Uniqlo's futuristic store design, characterized by a sparse, airy layout, an abundance of white glass and steel, and 150 LED and LCD screens. Uniqlo stores cultivate a high-tech vibe to reflect the company's "technology, innovation and newness" branding message, Odake said. "People are looking for something new."

But new doesn't mean chasing fashion trends, he said.

Uniqlo is the antithesis of the fast-fashion merchants that spit out clothing in a New York minute to jump on runway looks, Odake said.

"You have to understand trends and what's going on with color, fabric and fit," he noted, pointing out a wool coat in camel, the hot color this season, and denim leggings, which are also on-trend this season. But following fashion trends is not what will make Uniqlo a household name, Odake said.

The idea is to "create a business that's innovative and sustainable," he said. For Uniqlo, that means it's only as good as its next hit high-tech product, he said. So the question is always: "What is the next Heattech? What's the next Light Down?"

The Service Factor

Just as Uniqlo hopes to reshape how Americans dress, it's also working to upgrade shoppers' customer service expectations from a U.S. mass retailer.

"Japan is a very homogeneous society. Everyone is very middle class," Odake said. Unlike the U.S., "Everywhere you go in Japan, the service level is the same" -- be it a discount chain or an upscale store, he said. So everyone expects good service.

And in Uniqlo's U.S. stores, "just because the price points are low, doesn't mean the service level can't be as good as a high-end store," he said.

To that end, the 64,000 square foot 34th Street store boasts 500 store associates, as well as 83 fitting rooms and 36 cash registers so that shoppers don't have to suffer those dreaded long lines. At a similarly sized H&M store, for example, "you might have 45 to 70 people waiting on line," he said.

It's also big on staff training. In preparation for the opening of the two Manhattan stores, Uniqlo sent U.S. college graduates to Japan for six months to groom them for store manager positions.

Store manager is a vaunted role at the chain, Odake said.

That's because, unlike at many U.S. retailers, local Uniqlo managers are charged with driving the business strategy at their individual store, rather than carrying out dictates from a corporate office, he said.

Odake is bullish on just how big an impact Uniqlo's customer service can have on the American retail market. "The type of service we offer can revolutionize the retail landscape in the U.S.," he said.

Expansion During a Downturn?

Uniqlo is plotting to rack up $10 billion in U.S. sales by 2020. "We want to grow a very rapid pace, like Apple and Google," Odake said.

But the U.S. economy is in a prolonged funk: Is now the time to attempt to expand here?

The retailer has little choice, Odake said. Company founder Tadashi Yanai wants Uniqlo to be the biggest clothing retailer in the world. The company can't get there without tackling the U.S. market.

"The U.S. is the biggest economy in the world, the country is a big opportunity," he said. "We want to bring Heattech to Chicago ... It's up for us to come up with new concepts and innovative merchandise so that the customer will want to spend."

Retail Revitalization - Use These Tips to Increase the Value of Shopping Center Investments

振興購物商場——增加投資價值的技巧

By: Jim Conway（CCIM Institute）

Increasing a retail property’s value is what investing is all about. And, today’s savvy investors aren’t waiting for inflation to push up the value of their properties –- they are seeking creative ways to improve their assets’ financial health. From cost-effective upgrades to reducing common expenses, these tried-and-true tips can help to improve a retail property’s value in any market.

Upgrade Zoning. Investors can utilize market lulls to investigate rezoning options. For instance, I applied for and received rezoning approval for land my company owns in suburban Atlanta without having a potential user in-hand, a process that took about nine months. The property taxes won’t increase because they are based on the land’s usage, not the zoning. As a result, I now have a piece of land available for a potential developer that otherwise would have been held up in the rezoning process.

Maximize and Maintain. Take advantage of all available signage and consider implementing other head-turners such as murals to draw attention to the property. In addition, ensure the property is meticulously maintained. For recurring maintenance items, keep an annual calendar and follow up regularly. Keep in mind the basics, such as making sure your property has the market’s nicest and neatest landscaping. These small details are very important to tenants.

Tackle Tenant Needs. Take a proactive approach by meeting with tenants, listening to their concerns, and providing reasonable improvements to increase their satisfaction with the property. Requests may be as simple as increasing the size of the Dumpster or paving space for another few parking spots. Retaining an existing tenant is almost always more productive than getting a new one.

Seek High-Quality Tenants. Consider this example: If a property has a well-respected bank tenant and a nearby property has a local restaurant with identical rents and terms, more than likely the bank tenant-occupied property will be given a higher market value. Why? The bank is perceived to be a higher-quality tenant with lower perceived risk. Property renovation -- even at a substantial cost -- almost always becomes cost-effective because it allows the property to obtain higher-quality tenants.

Evaluate Rental Agreements. If tenants are successfully increasing sales, consider installing a percentage of sales rent clause that kicks in above a specified sales level. Three percent of additional sales is typical. Ask for periodic sales reports to gauge the tenant’s financial health. If a tenant vacates, past sales reports can be very useful when working to obtain a replacement.

In multitenant retail buildings with chronic vacancy, take a closer look at tenant improvement allowances and rent concessions. As much as 50 percent of the expected rents received would be reasonable for TIs and RCs on a short-term lease to land a good-quality tenant.

Plan to Expand. Single-tenant buildings with unused land on either side may be ideal for an adjacent build-to-suit tenant. Of course, lease terms and competition clauses for both tenants must be considered. Yet with proper zoning, land, and paved parking in place, costs to add new space will be much less than all-new construction. Price the rent for the new space to more than cover the cost of the addition, thereby increasing the value of the original investment. In most cases the additional foot traffic will benefit the original tenant and result increased sales.

Consider Cell Towers and Billboards. If your property meets a cell tower's needs and the tower doesn't cause a problem for existing tenants, tower operators can provide steady rental income of $800 or more a month. Though permitting for billboards usually isn't easy, these additions typically pay the land or property owner about 20 percent of expected lease income through a land lease after installing the billboard. Investors can opt to own and rent billboards as well. A billboard costing $75,000 to build can command $1,500 per month or more on each side in high-traffic locations.

Appeal Taxes and Refinance. With property values declining in nearly all parts of the country during the last three years, tax valuations should have decreased as well. If a property's taxes haven't gone down, consider appealing them. Appeals are usually scheduled for the early spring and may result in multiyear reductions. For example, tax valuation reductions in Georgia resulting from an appeal are locked in for three years. If a property is performing well, owners can also explore refinancing. The economic downturn has resulted in a decline in loan demand for most lenders. Some are actively looking to take borrowers away from competitors, so it may be cost-effective to shop around for the best deal.

Commercial Property Prices Stay Flat in October

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Source：LA Times

Commercial real estate values have risen substantially since the trough of 2009 but remained flat in October, an industry analyst said.

Properties such as office buildings, warehouses, apartment complexes and malls have increased in value by more than 45% from the bottom of the market in 2009, according to Newport Beach-based Green Street Advisors Inc. That means that three-quarters of the decline in values that occurred as the market went down between 2007 and 2009 has been erased.

Prices are back to where they were in late 2006, about 10% below their all-time highs.

“After enjoying a robust two-year recovery, property prices have effectively gone into a stall over the last six months,” said Mike Kirby, director of research at Green Street. “Some of the factors that have been fueling the impressive recovery in values have taken a turn for the worse, including the economic outlook and capital availability.”

Investors Place Big Bets on Buy Here Pay Here Used-Car Dealers

投資者看好售融一體二手車商

By: Ken Bensinger (Los Angeles Times)

The J.D. Byrider used-car dealership in Visalia, Calif., sits amid a jumble of tow yards, hubcap vendors and vacant lots littered with empty beer cans. It may not look like much, but selling aging cars to waitresses, secretaries and farmworkers is a lucrative business. That's why private equity firm Altamont Capital Partners of Palo Alto bought the J.D. Byrider chain in May for a reported $50 million.

Altamont's offices, on the 10th floor of a luxury office tower overlooking Stanford University, are 200 miles and a world away from the Visalia lot.

On a recent morning, a dozen executives could be seen huddled in a glass-walled conference room, reviewing a slide presentation on plans to buy some franchised Byrider lots. It's part of a strategy to boost profit at the 135-lot chain, which had sales of $740 million last year.

Firms like Altamont pride themselves on being the smart money, identifying profitable opportunities ahead of the herd. Lately they and other investors are finding just such a windfall in a little-noticed niche of the used-car business known as Buy Here Pay Here.

These dealerships focus on people who need cars to get to work, but can't qualify for conventional loans. They sell aging, high-mileage vehicles at prices well above Kelley Blue Book value and provide their own financing. As lenders of last resort, they can charge interest at three times or more the going rate for regular used-car loans.

Many require customers to return to the lot to make their loan payments — that's why they're called Buy Here Pay Here dealerships.

If buyers default, as about 1 in 4 do, the dealer repossesses the cars and in many cases sells them again.

The dealerships make an average profit of 38% on each sale, according to the National Alliance of Buy Here Pay Here Dealers. That's more than double the profit margin of conventional retail car chains like AutoNation Inc.

"The amount of return from these loans you can't get on Wall Street. You can't get it anywhere," said Michael Diaz, national sales manager for Small Dealers Assistance Inc. in Atlanta, which buys loans originated by Buy Here Pay Here dealers. "It's the gift that keeps giving."

Investor money is pouring into the industry from several sources, helping Buy Here Pay Here dealers expand their reach and raise their profile.

In addition to private equity firms such as Altamont, several payday lending chains are moving into Buy Here Pay Here and have acquired dealerships.

Stock investors are snatching up shares in Buy Here Pay Here chains and other publicly traded companies in the business. Two of the biggest, America's Car-Mart Inc. and Credit Acceptance Corp., have seen big gains in their share prices this year, outpacing the market.

Buy Here Pay Here is also being boosted by one of the sophisticated financial strategies that drove the nation's recent housing boom and bust: securitization.

Loans on decade-old clunkers are being bundled into securities, just as subprime mortgages were a few years ago. In the last two years, investors have bought more than $15 billion in subprime auto securities.

Although they're backed mainly by installment contracts signed by people who can't even qualify for a credit card, most of these bonds have been rated investment grade. Many have received the highest rating: AAA.

That's because rating firms believe that with tens of thousands of loans lumped together, the securities are safe even if some of the loans prove worthless.

Some analysts worry that the rush to securitization could lead to careless lending by dealers eager to sell more loans, as happened with many mortgage-backed bonds.

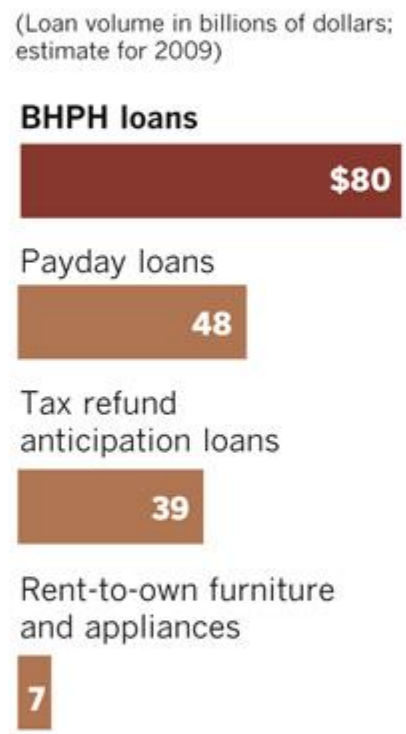
"We think that investing in such companies is a ticking time bomb," said Joe Keefe, chief executive of Pax World Management, which steers its investments into businesses it deems socially and environmentally responsible. "It has ethical as well as systemic risk implications."

Others predict that investor scrutiny will shave a few of the sharper edges off a business notorious for high prices and interest rates, and for lightning-fast repossessions. "Investors are looking at the good operators, the ones that want to keep their customers in their cars," said John Nagy, a managing director at investment bank Stephens Inc. "We don't want to associate with the bad apples."

Dealers are using the flood of cash to move into new territories, add inventory and hire aggressively.

Big business

Buy Here Pay Here compared to other non-traditional lenders.



Source: FDIC.

Graphics reporting by Ken Bensinger

Lorena Elebee Los Angeles Times

Buy Here Pay Here dealers last year founded a trade group, the Community Auto Finance Assn., to represent them before Congress and regulators. That has fueled concern among consumer advocates that the industry is building political muscle to ward off regulation.

"There hasn't been widespread public attention paid to Buy Here Pay Here because mortgages have been such a preoccupation," said Kathleen Keest, senior policy counsel for the nonprofit Center for Responsible Lending.

"It might be an attractive model to investors, but when it's designed to ruthlessly maximize profit, there's no way it can't hurt the consumer," Keest said.

Jeff Williams, chief financial officer of America's Car-Mart, one of the largest Buy Here Pay Here chains, said his company fills a pressing need for millions of Americans who can't qualify for conventional auto loans.

"Our customers live paycheck to paycheck, and we work with them," Williams said. "We consider ourselves to be the good guy of the industry."

The chain started with a single lot in 1981. And like its Bentonville, Ark., neighbor, Wal-Mart Stores Inc., it had grand ambitions. The company now has 111 locations in nine states, including three that opened in the last few weeks.

Car-Mart charges 14% interest on average — significantly less than many competitors. Most of the cars on its lots have about 100,000 miles on the odometer, Williams said.

Shares in the company have risen about 23% this year. By comparison, the better-known CarMax Inc. chain — which sells more expensive, late-model used cars and won't finance people with serious credit problems — has seen its shares fall about 6%.

Car-Mart's profit has nearly doubled over the last four years, to $28.2 million for its most recent fiscal year, while its loan portfolio has grown more than 30%.

Another major player, Credit Acceptance, was founded in the 1970s as one of the first Buy Here Pay Here chains. It eventually moved away from retail auto sales to focus on buying loans issued by other Buy Here Pay Here lots.

It was a shrewd move: Dealers proved eager to trade future revenue streams for cash upfront. Credit Acceptance tries to cherry-pick the highest-quality loans, which it buys at a discount.

In the second quarter of this year, nearly 3,000 dealers sold loans to Credit Acceptance. From 2007 to 2010, the Michigan company's revenue jumped 84% and profit more than tripled — to $170 million last year.

Credit Acceptance combines some of the loans into securities and sells them to investors. The buyers are usually insurance companies, banks, mutual funds and other institutional investors.

What they're buying, essentially, is the right to collect borrowers' loan payments, which are passed on by dealers and assorted intermediaries. If borrowers default, investors are stuck with the loss.

Some Buy Here Pay Here chains securitize their loan portfolios themselves.

DriveTime Automotive Group in Phoenix, a chain of 88 dealerships in 17 states has issued two offerings of bundled car loans this year totaling $461 million.

The securities consist of more than 52,000 loans with an average interest rate of 21%. The borrowers' average credit score was 518, according to rating firm DBRS.

That score, out of a possible 850, is known as "deep subprime." A prime score is anything above 720. More than $7 billion in subprime auto securities were sold by a dozen issuers through June 30, compared with $3 billion for the same period last year, according to Moody's Investors Service and Standard & Poor's Ratings Services

Subprime auto loan issues now represent a larger percentage of all auto-loan securitizations than at any time since 2006, according to Moody's.

That means people who have never set foot on a Buy Here Pay Here lot, including retirement savers, own a small piece of the business.

OppenheimerFunds, which has more than $188 billion in assets and 11 million shareholders, holds DriveTime securities in at least six of its mutual funds, company reports show.

The returns on subprime auto-loan securities vary, but one offering sold late last year paid 3.5% annually on A-rated bonds maturing in three years — about six times the yield on comparable U.S. Treasury notes. On a $1-million investment, an investor would expect a return of $105,000, plus the principal, over the three years.

This spring, Moody's warned that the market for subprime auto-loan securities could get overheated. "New market entrants lured by profits and low-cost financing are susceptible to expanding 'too much too fast,'" the ratings firm wrote.

Still, Kenneth Morrison, head of the asset finance and securitization practice at law firm Kirkland & Ellis, doesn't think another subprime meltdown is in the making.

"I don't think a blowup would happen because investors are very attuned to that risk now," Morrison said. "But you can't rule it out."

It's the fundamentals of the Buy Here Pay Here business, not securitization, that have been attracting some private equity firms.

Alpine Investors of San Francisco bought Minnesota-based CarHop in 2007 and has doubled the number of lots to 48 in 12 states.

Last year, Serent Capital, also of San Francisco, acquired Tricolor Auto Group in Dallas, a chain with $30 million in revenue in 2009. Serent has opened Tricolor locations in Dallas and Fort Worth and has expanded to Houston. Recruitment pamphlets for salespeople tout potential incomes of up to $250,000 a year.

Tricolor advertises aggressively in Spanish-language media. Its television ads feature a rooster dressed in the white, red and green of the Mexican flag, along with the slogan "*orgullo en nuestros carros para nuestra gente*" — pride in our cars for our people.

Like other Buy Here Pay Here dealers, the chain courts people on the financial edge.

Clara Gonzalez and her husband, Joaquin Ramirez, bought a 2004 Dodge Durango at a Tricolor lot in Dallas. They traded in their 1999 Ford Expedition and put $1,300 down. To come up with the rest of the $17,000 price, they took on a three-year loan at 18.7% interest, according to the sales contract.

Their payment was $250 every two weeks. It was more than they could handle after Ramirez lost his job in construction and Gonzalez — who made $11.75 an hour working in a school cafeteria — became the sole breadwinner.

The couple filed for bankruptcy. They could have gotten out from under the loan, if they were willing to give up the truck.

They weren't, so they cut a deal with Tricolor to keep the Dodge, court records show.

The payment schedule didn't change: $250 every two weeks.

With many Americans struggling financially but still in need of a car, private equity firms see rapid growth in Buy Here Pay Here.

Altamont Capital, the Palo Alto private equity fund, made J.D. Byrider its first acquisition in May and has since opened six lots. Today, the year-old fund owns 20 of the chain's 135 lots and the rest are franchises.

Newly franchised dealerships pay a $50,000 fee upfront, plus 2.5% of their gross monthly sales, among other fees, according to Byrider documents.

The industry's continued prosperity depends on people like Debbie Acevedo, who bought a 2005 Ford Taurus at the Byrider lot in Visalia.

A 58-year-old restaurant manager, Acevedo cashes her paycheck every two weeks and drives straight to the dealership to make her $180 payment in cash. Because the interest rate is nearly 22%, she'll end up paying almost $18,000 over the four-year life of the loan — nearly four times the Kelley Blue Book value of the car when she bought it.

For Acevedo, whose credit was damaged by bad debts on old loans, the monthly payment is a stretch. She can't even afford a phone. But she sees no alternative: Without the car, she wouldn't be able to get to work.

"Sometimes you gotta do what you gotta do," she said.

October Retail Sales Up 3.4% at Major Chains, Less Than Expected

十月主要連鎖店銷售額上漲 3.4%，低於預期

Source：LA Times

The nation's retailers recorded a moderate increase in sales last month as consumers reined in their spending after splurging on back-to-school shopping and cautiously sized up the coming holiday season.

On Thursday, major chain stores reported a 3.4% sales increase in October compared with the same month a year earlier, according to Thomson Reuters' tally of 23 retailers. The results were below analysts' expectations.

"Some sectors cooled a little bit in October," said Michael McNamara, vice president of research and analysis at data service MasterCard Advisors SpendingPulse. Sales were hampered by unusually warm weather early in the month as well as by heavy snowstorms in the Northeast.

All told, about two-thirds of retailers reported sales that fell below expectations. The worst showing was by teen apparel chain Wet Seal Inc., based in Foothill Ranch, which posted a 9.7% decline. October retail sales up 3.4% at major chains, less than expected

Struggling apparel giant Gap Inc., operator of the Gap, Banana Republic and Old Navy chains, saw sales drop 6%.

The discount sector had a relatively strong showing as cost-conscious shoppers sought bargains. Costco Wholesale Corp. posted a 9% gain. Cheap but trendy Target Corp. reported a 3.3% rise.

The percentage changes are based on sales at stores open at least a year, considered an important measure of a retailer's health because it excludes the effect of store openings and closings.

October is a slow time for merchants as they gear up for the holidays, so is not a good predictor of future consumer spending, analysts say. The National Retail Federation, a trade group, forecasts that sales will rise 2.8% in November and December compared with a year earlier.

Sales of Los Angeles Hotels Are Brisk

洛杉磯酒店銷售生機勃勃

Source：LA Times

With the hospitality business in recovery and some financially troubled properties coming to market, sales of hotels in Los Angeles County have increased dramatically in 2011, a real estate brokerage said.

Investors have spent $550 million so far this year on such properties as the Kyoto Grand Hotel and Gardens in downtown Los Angeles and the Sheraton Universal Hotel Los Angeles in Universal City, a 77% increase from the same 10-month period in 2010, real estate brokerage Jones Lang LaSalle said in a report.

Los Angeles is one of the largest tourism markets in the country and second to New York as the top-ranked destination for overseas visitors, the report said. Historically, Los Angeles' most well-known attractions have been Hollywood studios, Santa Monica beaches and Beverly Hills shopping. However, downtown Los Angeles has come into its own following a decadelong renaissance.

"The revitalization of the downtown Los Angeles market, along with an increased volume of international and overnight visitors continues to be a key driver for the economy," said John Strauss, a managing director at Jones Lang.

Downtown Los Angeles is seeing a flood of foreign and domestic investment in major development projects. Korean Air plans to demolish the 896-room Wilshire Grand Hotel north of Staples Center and replace it with a $1-billion mixed-use complex with office, retail and residential components, along with a luxury hotel. The existing hotel is slated to close at the end of the year.

Also planned downtown near L.A. Live is a 22-story hotel to be operated as both a Residence Inn by Marriott and a Courtyard by Marriott starting in 2014. Other hotel brands and developers are shopping for sites to build new inns, real estate brokers said.

Los Angeles is projected to host more overnight visitors this year than it has in a decade — an increase bolstered by strong international tourism specifically from Australia, Britain and Japan. International visitors represent one-fifth of the city's tourist arrivals and generate more than one-third of tourist spending. The number of foreign visitors last year increased 18%, providing a boost to the Los Angeles hotel market.

Revenue produced by L.A. County hotel rooms is expected to continue to increase next year, the report said, but sales probably will be down because the number of properties available for purchase will diminish.

Tighter Lending Could Strangle Growth

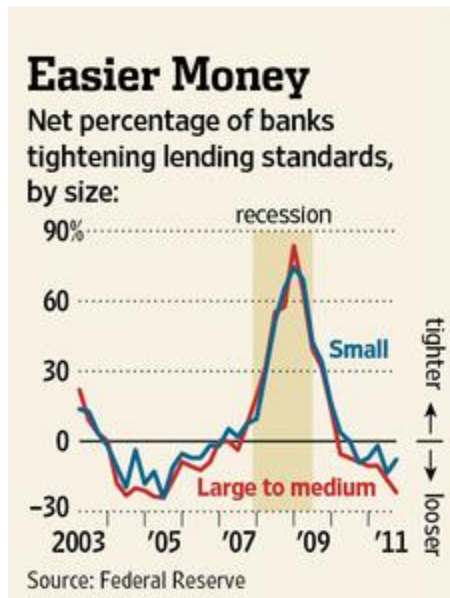
收緊貸款可能扼殺經濟增長

By: Kelly Evans (Wall Street Journal)

Europe's debt woes could douse U.S. growth sparks.

It isn't just direct channels, like trade and sovereign-debt exposure, that have brought Europe's troubles to U.S. shores. Just as important is the impact Europe's crisis could have on bank lending. A key, early read of this is due Monday with the Federal Reserve's fourth-quarter senior-loan-officer survey. The issue is whether lending standards, after months of loosening, may be starting to tighten.

Through the third quarter, the net percentage of large and medium-sized U.S. banks that tightened lending standards on commercial and industrial loans fell to negative 22% from negative 10% at the start of the year. The more negative this reading, the better in terms of future loan growth—and ultimately economic growth. A reading of minus 100%, for example, would imply that all banks are loosening standards or at least holding them steady. However wonky, this gauge is useful as a leading indicator of economic growth trends a year or two out.



The flip side is that a higher reading bodes poorly for growth. The net percentage of large and medium-sized banks tightening standards peaked at 84% in the third quarter of 2008, for example. While the Fed's report covers all types of loans, including consumer and real estate, the commercial-and industrial-loan category typically offers a better window into the business cycle. These loans have also been a rare bright spot for banks over the past year, while other categories continue to contract.

The worry is that standards for such loans will tighten in the fourth quarter, which "would portend a flattening in the recovery" several months out, says Barclays Capital strategist Barry Knapp. European banks in their own fourth-quarter survey showed a significant tightening in lending standards, with lack of access to financial markets a key reason, Mr. Knapp notes. Because plenty of Eureope's banks do business in the U.S., the Fed's survey is likely to show some tightening among lending by foreign banks. And because domestic banks have plenty of European exposure, they may pull in their horns as well.

Standards don't have to tighten much to make a difference, adds BTIG strategist Dan Greenhaus. Growth, he says, could weaken "simply because banks aren't loosening standards" further.

Demand for loans, after all, remains subpar. Any pullback in supply will only make matters worse.

Consumer Money Rates (Mortgage Rate, Prime Rate, etc.)

消費者市場利率：房貸、基本利率、等等

(Reprinted with Permission of the Wall Street Journal)

	Yield/Rate (%)		52-Week		Change in PCT. PTS	
Interest Rate	Last	Wk Ago	High	Low	52-week	3-yr
Federal-Funds rate target	0-0.25	0-0.25	0-0.25	0-0.25	-	-1.00
Prime rate*	3.25	3.25	3.25	3.25	-	-0.75
Libor, 3-month	0.44	0.43	0.44	0.25	0.16	-1. 85
Money market, annual yield	0.51	0.50	0.67	0.50	-0.15	-1.97
Five-year CD, annual yield	1.59	1.55	2.08	1.55	-0.47	-2.36
30-year mortgage, fixed	4.26	4.39	5.21	4.15	-0.17	-2.07
15-year mortgage, fixed	3.57	3.65	4.57	3.46	-0.27	-2.50
Jumbo mortgages, $417,000-plus	4.93	5.00	5.89	4.93	-0.39	-2.81
Five-year adj mortgage (ARM)	3.21	3.17	5.79	3.00	-0.30	-2.78
New-car loan, 48-month	4.14	4.16	5.68	3.75	-1.54	-2.47
Home-equity loan, $30,000	4.77	4.77	5.17	4.71	-0.31	-0.42