INDUSTRY REPORT:

Strong Economic Fundamentals Continue to Drive a Healthy Commercial Market

Westchester Office Properties Ended the Year on a High Note, Study Shows

RYE BROOK

Strong economic fundamentals in the U.S., the greater New York City area, and in Westchester County continue to drive a healthy commercial real estate market, according to a new, fourth-quarter report from Houlihan Lawrence's Commercial Group.

"Widespread fears about the health of the economy have proven unfounded in the face of recent encouraging labor statistics, positive wage growth, and an expanding labor force. The county, in particular, continues to show no signs of flagging economic momentum," said Thomas LaPerch, director of the commercial group.

"Confidence is being tempered by ongoing concerns - including a trade-related drop in industrial activity, geopolitical risks, interest rate increases, and volatility in some areas of the capital markets."

The report said that investors seeking to establish return expectations for real estate assets must continue to evaluate risk both at home and abroad. Assessing risk and return is challenging in any economic environment. In an environment of uncertainty, even the most brightly illuminated crystal balls appear opaque and difficult to decipher, the study added.

Retail and Office Properties have faced the strongest headwinds during the past decade. Consumers are changing their shopping, working, and health care consumption patterns. Real estate housing these activities has been negatively impacted as rents drift downwards, and landlords struggle to maintain or re-evaluate occupancy, according to the report.

The trend is good news for apartment developers, and there are several significant multifamily developments going up and recently approved to build in Westchester County.

The study said that obsolete business models are disappearing at a previously unforeseen pace. The winners include well-located properties providing consumer convenience, and new and refurbished properties able to attract new brands for the evolving consumer. These trends are likely to persist, influencing fundamentals for these property types throughout 2019.

Westchester Office Properties ended the year on a high note. After three quarters of net negative space absorption (in essence: demand lagging supply) activity in the fourth quarter turned the space market story around. According to industry data, net leasing volume in the fourth quarter offset aggregate losses in the first three quarters of the year, the report said.

Additionally, office rents finished the year slightly higher compared to the first quarter. The leasing strength observed in Westchester resembled the Manhattan market where 2018 was reported as one of the best leasing markets in many years, the study added.

A Surprise

Westchester Retail Properties are also surprising market watchers as rents have remained stable, and absorption positive, in spite of major retailers closing in the area. Landlords eager to keep forward momentum and maintain fully utilized assets have emphasized occupancy over pricing, the report said.

Westchester County Multifamily Properties demonstrated ongoing strength throughout 2018. Vacancy in multi-family apartments stood at just over 3 percent in the fourth quarter, slightly above 2.7 percent in the third quarter. Unit absorption overall declined at year's end compared to a blazing first half of the year. However, rents reportedly increased across the board. This suggests a trend of renters trading up and out of functionally obsolescent buildings, the study added.

Good News

The trend is good news for apartment developers, and there are several significant multifamily developments going up and recently approved to build in Westchester County. The majority of these developments are focused on transit-oriented development (TOD) locations which offer easy access to MTA train stations. According to industry data, projects under development in Southern Westchester (south of I-287) will deliver an increase of five percent of inventory during the next three years.

Demand

Industrial and Flex Properties are experiencing unprecedented demand throughout Westchester County fueled by demand for warehousing by a broad array of users and investors. This now three year-long trend pushed rental pricing up by five percent in 2018. Westchester zoning regulations have become stricter over time and replacement of obsolete industrial assets is increasingly difficult due to the scarcity of suitable land. This classic combination of vigorous demand and limited supply is likely to support the fundamental strength of industrial real estate space for the foreseeable future, the study said.

The study said that Investment Sales rebounded strongly in the fourth quarter of 2018, posting the highest total value of transactions of the past three years. However, the median price per square foot transacted declined. A combination of higher interest rates, challenging tenant markets for some property types, and the fear of an economic slowdown prompted sellers to accept offers on the table. Investors were encouraged by more reasonable sellers, financing availability and still solid real estate fundamentals.

"In this very dynamic real estate market, market knowledge and transaction expertise are critical for success. Houlihan Lawrence Commercial Group has the experience, market intelligence and access to data that is necessary to help investors, owners, and tenants to evaluate market conditions, determine fair pricing, and ultimately succeed by identifying the best approach to marketing, securing, and divesting real estate," LaPerch said.

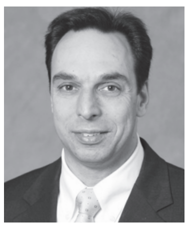
Houlihan Lawrence is the leading real estate brokerage serving New York City's northern suburbs, company officials said. Founded in Bronxville in 1888, the family-run company, officials added, is deeply committed to technological innovation and the finest client service.

Counsels' Corner

Landlords – Be Ready For A Fight!

By Kenneth J. Finger, Esq., Carl L. Finger, Esq. and Daniel S. Finger, Esq.,Finger and Finger, A Professional Corporation, Chief Counsel, Builders Institute (BI)/Building and Realty Institute (BRI)

Ken Finger



Carl Finger

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WHITE PLAINS

The Emergency Tenant Protection Act ("ETPA"), first effective in 1974 and variously modified since that time, expires on Jun. 15, 2019.

Lest anyone get their hopes up that it will expire, there is less chance of that than the New York Knicks winning the National Basketball Association (NBA) championship this year.

In past years, with a divided state legislature, the modifications to ETPA have been, at best, minimal and at worst, harmful. However, this year, with a state legislature and the Governor all being Democrats, the ETPA renewal is even more ominous and worrying than with past renewals.

As our firm is counsel to many Landlords in Westchester County, handling Non-Payment as well as Holdover Eviction Actions, Litigation and New York State Homes and Community Renewal (HCR) Proceedings, among other things, we find that not only is the ETPA tilted against Landlords (note the name Emergency Tenant Protection Act), but the Courts are generally more sympathetic to Non-Paying Tenants than Landlords who need the rent to not only maintain their buildings, but make Capital Improvements, as well as deal with the costs of the administration under the ETPA and its administrative agency, The New York Homes and Community Renewal (formerly known as The Division of Housing and Community Renewal – DHCR). Delays, repeated Orders to Show Cause and reluctance to evict tenants are, unfortunately, the norm.

However, Landlords always had the hope that there is a possibility that apartments can be decontrolled or a landlord can get a reasonable rent increase. Those hopes, either through Vacancy Decontrol, High Rent Decontrol, IAI's (Individual Apartment Improvements upon a Vacancy) and Major Capital Improvement Increases (MCI's), may now be past history, as well as other Landlord-oriented aspects of ETPA such as allowing a permanent rent increase for an MCI, or the 20 percent rent increase upon a Vacancy or the ability to have a Preferential Rent.

A Key Summary

To put this year's issues in perspective, a short summary of Rent Controls in New York is relevant. Rent Regulation in the State of New York has a long history. Starting in 1943, when federal Rent Control was administratively imposed on New York City, to the passage of "Emergency Rent Control" in 1950 by the state legislature, to Rent Stabilization in New York City (1969), to the adoption of the 1974 Emergency Tenant Protection Act (ETPA), there have been various incarnations of Rent Control, rarely to the benefit of Landlords.

At this time, with the recent addition of the Village of Ossining to the list, there are 21 communities that have adopted ETPA, including the cities of Yonkers, Mount Vernon, New Rochelle and White Plains. In Nassau, Rockland and Westchester counties, Rent Stabilization applies to Non-Rent-Controlled apartments in buildings of six or more units built before January 1, 1974 in localities that have declared an emergency and adopted ETPA.

"Therefore, we ask that all Landlords join in the efforts that will be organized by The Apartment Owners Advisory Council (AOAC) of The Building and Realty Institute (BRI) to mitigate the dangers of the extension of ETPA by the state legislature."

In order for rents to be placed under regulation, there has to be a Rental Vacancy Rate of less than 5 percent for all or any class or classes of rental housing accommodations. Some municipalities limit ETPA to buildings of a specific size, for instance, buildings with 20 or more units. The law provides that the ultimate goal is the transition from regulation to a normal market of free bargaining between Landlord and Tenant, while the ultimate objective of state policy, must take place with due regard for such emergency.

The recent adoption of ETPA by Ossining Village calls into question the underlying premise for ETPA, including the provision of affordable housing. In what was known as the Dwarka Report (the Housing Ossining Final Report from Kevin Dwarka LLC 7/17), the report concluded that: "While ETPA confers benefits to existing tenants, it does not ensure fair and equitable access to new housing units nor does it link housing eligibility to economic need."

This 2017 report was ignored by the then Ossining Village Board in September, 2018, in adopting ETPA. The Dwarka Study listed the following options in order of preference:

- Increase Village Leadership in Economic Development;
- Adopt a Proactive Approach to Building Code Enforcement;
- Modify a Village Development Incentive Program;
- Expand the Village's Network of Local Housing Developers;
- Revise the Village's Affordable Housing Policy;
- Eliminate Regulatory Barriers To Housing Development;
- Improve Transit Access and Reduce Automotive Dependency;
- Apply State Rent Stabilization Law to Eligible Multi-Family Buildings.

Yet, in spite of the fact that the adoption of ETPA was recommended as the last of all the options, the Village Board, under pressure from outside organized Tenant Groups, ignored the Dwarka Study, instead relying on a faulty and defective study by an outside organization that found that there were less than 5 percent vacancies in the Village.

Inaccuracies

It is noted that the study ignored 17 percent of all apartments (and then considered those apartments fully occupied); ignored apartments being readied for rental by painting and repair; and, did not even contact Owners of some of the buildings and, among other things, ignored the surveys returned by some of the Landlords. Once there are more than 5 percent vacancies in an ETPA community, EPTA must be repealed in that community.

Under the ETPA upon the rental of a vacant housing accommodation after the local effective date of the ETPA the landlord must provide to the tenant and execute a valid written lease for a one- or two-year period at the Tenant's option at a rent which may not exceed the Legal Regulated Rent in effect. At the end of every lease period, the Landlord must once again offer the Tenant a 1 or 2-year Lease Renewal, with the rent increase limited to the amount set by the Rent Guidelines Board that year. At present the Guideline Increases were set by the Westchester County Rent Guidelines Board as 2 percent for a

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"A Call to Action Regarding the Renewal of N.Y. State's Rent Regulations" Examined at AOAC's Mar. 19 Membership Meeting

By Jeff Hanley, IMPACT Editor

WHITE PLAINS

More than 75 members of the local building, realty and construction industry attended the Mar. 19 Membership Meeting of The Apartment Owners Advisory Council of Westchester and The Mid-Hudson Region (AOAC).

The meeting, entitled "A Call to Action Regarding the Renewal of N.Y. State's Rent Regulations," focused on the Jun. 15, 2019 expiration of New York State's Rent Laws and the corresponding implications to Owners and Managers of properties affected by those laws.

The conference reviewed the strategies that the AOAC and its affiliate organization, The Building and Realty Institute (BRI), will utilize in the weeks ahead while citing the need for fairness to Owners and Managers during what is expected to a series of processes involving significant revisions to the laws, building and realty industry officials said.

"We were happy with the turnout of our Mar. 19 AOAC meeting – it was one of the best responses from our membership that we have had in recent memory," said Jerry Houlihan, chair of the AOAC, which represents more than 300 Owners and Managers of rental apartment buildings and complexes in the Westchester and Mid-Hudson Region. Those Owners and Managers are responsible for more than 17,000 units.

Houlihan added: "We explained how the AOAC and the building, realty and construction industry is working on citing the importance of fairness to our industry in the weeks ahead as the dialogues continue on what we know will be significant revisions to the state's rent laws."

About the AOAC

The AOAC, formed in 1971 as a component organization of the BRI, offers Owners and Managers a series of valuable Membership Benefits, association officials said. Those benefits include:

- ✦ Promoting legislation that is beneficial to Property Owners and Managers;
- ✦ Preventing legislation that is harmful to the building and realty industry;
- ✦ Sponsoring Educational Forums that are beneficial to the apartment building industry;
- ✦ Being the source of information on proper procedures under state and local rent regulations;
- ✦ A direct "Hot-Line Service" for guidance on the many problems that Owners and Managers of Rent-Controlled and Rent-Stabilized Properties face;
- ✦ Meetings, Seminars, Special Programs and Membership Communications which address key issues to Owners and Managers.

"If you are an Owner or Manager of rental apartment buildings and complexes, joining the AOAC is a must for you," said Albert Annunziata, executive director of the AOAC/BRI. "The organization exists to help you meet the daily challenges that Owners and Managers face."

BRI officials said that Owners and Managers who are interested in membership information on the AOAC can call the AOAC/BRI offices at (914) 273-0730. Inquiries can also be sent to Maggie Collins, director of membership for the AOAC/BRI, at maggie@buildersinstitute.org.

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One-Year Renewal and 3 percent for a 2-Year Renewal (except in the Village of Ossining where, inexplicably, the Westchester County Rent Guidelines Board, ignoring the 2-3 percent county-wide increases and without any statistical support regarding the Village of Ossining Tenants, adopted a zero (0) increase for a One-Year Lease Renewal, and a 1 percent increase for a 2-Year Lease Renewal).

Upon a Vacancy, a Landlord is entitled to a 20 percent rent increase for a 2-Year Lease (and somewhat less for a One-Year Lease) as well as six-tenths of one percent per year if the tenant has been in residence for over 8 years. Further, the Landlord, if a Major Capital Improvement (MCI) has been undertaken for the apartment, is allowed to raise the rent 1/40th of the expenditure for the Individual Apartment Improvement (IAI) per month for smaller buildings and 1/60th for larger buildings of more than 35 units.

Under the new legislature, with the 2019 renewal, look for this IAI increase to be lost or limited, as well as the loss of limitation of building wide Major Capital Improvement (MCI) Increases.

Another Negative

Moreover, many Landlords provide Preferential Rents for Tenants. While limited by the 2015 legislation, it is also anticipated that there may be another detrimental modification to the ability to increase the Preferential Rent even as limited in 2015. Additionally, with the control of rents and extreme limitations on rent increases, such increases do not even match the cost of living. The ability of a Landlord to continue to maintain a building, undertake repairs and keep the building in A-1 shape will become increasingly suspect and difficult.

The Landlords of Westchester, and of all ETPA communities throughout New York State, have to work together to have the state and local legislatures aware of the negative impacts of ETPA. Among other things, movement from apartments is lessened, with young families unable to find decent-sized apartments at an affordable rent.

Under ETPA there is no reason for a person to move from a large apartment thus taking them out of the rental market. Landlords cannot maintain the buildings with the same ability as if they do not have controls. There is a deterioration of existing housing; reduced Property Tax Revenue; increased costs of administration; reduced consumer mobility; and increased costs to enter the housing market.

Actually, rent regulation aggravates the very problem it was designed to cure. Instead of providing more affordable housing for those who need it, it protects the well-off tenant at the expense of poor tenants and new entrants into the market. The imposition of rent controls leads to a drop in the quality of existing rental stock when providers faced with declining revenues are forced to substantially reduce maintenance and repair of existing housing.

The burden of the increased prices and poor-quality housing falls primarily on the poorest tenants, and the benefits accrue to wealthier tenants. Poor families, single consumers, and young people entering the market are especially hard-hit by these costs and rent controls. Also, devalued rentals lower municipal tax revenues in more ways than merely reducing the value of the building. The law, relative to Certiorari Proceedings (Tax Assessment Reduction Proceedings) provides a dis-incentive to the community and, in effect, requires that the single-family homeowner and small business subsidize the Landlords and Tenants of controlled buildings.

Therefore, we ask that all Landlords join in the efforts that will be organized by the Apartment Owners Advisory Council (AOAC) of the Building and Realty Institute (BRI) to mitigate the dangers of the extension of ETPA by the state legislature.

Editor's Note: The authors of this report are attorneys with Finger and Finger, A Professional Corporation. Finger and Finger, based in White Plains, is Chief Counsel to The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and the Mid-Hudson Region.

Ginsburg Development Companies (GDC) Unveils Its Plans for City Square in White Plains

WHITE PLAINS

Ginsburg Development Companies LLC (GDC) recently unveiled to the White Plains Common Council its vision and plans for the transformation of the former Westchester Financial Center into City Square, a new mixed-use project that includes the renovation of Class A office space at 50 Main Street, new restaurants and retail space along Main Street and Martine Avenue, and the reinventing of the 1 Martine Avenue office building into 188 units of rental apartments.

The project is on the square block at the Gateway to White Plains just east of the White Plains Metro-North Station and is bounded by Main Street, South Lexington Avenue, Martine Avenue and Bank Street. GDC presented the plans to the Common Council at a meeting on Nov. 26, officials said.

GDC purchased the 571,000-square-foot property, comprised of the 50 Main Street and 1-11 Martine office buildings, along with the over 1,000-car garage, last April for \$83 million. GDC had earlier purchased The Metro, a 122-unit residential building at 37 South Lexington Avenue, which completes the block which will be called City Square, officials added.

The transformation of The Westchester Financial Center into City Square will be the first development project under the area's new Transit District Development Zone, designed to make the neighborhood near the train station more pedestrian friendly with new retail and restaurant offerings. The station is currently undergoing a \$92 million renovation by Metro-North Railroad, spokesmen said.

"We are excited to be at the forefront in initiating this gateway project to the downtown. City Square will become a real mixed-use location in Westchester County for people to live, work, play and dine – all just steps from the new train station," said GDC Principal Martin Ginsburg.

Specifics

GDC, company officials said, unveiled renderings of the redevelopment that shows a dramatic new entrance for the 50 Main Street office building featuring a dramatic sculpture and new retail and restaurant buildings fronting Main Street, South Lexington Avenue and Martine Avenue. GDC is proposing a total of 19,540 square feet of new retail/restaurant space.

Upgrades to 50 Main Street will include an entire new amenity floor featuring a completely renovated cafeteria with outdoor dining, a fitness center, various meeting rooms, yoga/motion rooms, conference/assembly rooms, an art gallery, exhibit area and a golf simulator, officials added.

The proposed 1 Martine residential conversion will contain 188 rental apartments offering studio, one-bedroom and two-bedroom units. Amenities in the building will include a Club Lounge with a setback roof terrace, a fitness center and 24/7 Concierge Service, spokesmen said.

GDC officials said that an amenity that the entire complex will be able to enjoy is a new "City Square Park," an almost one-acre landscaped roof deck that will sit on top of the property's 1,033-space parking garage and will be accessible from all buildings. This Central Park will feature a dramatic fountain with plentiful seating, a putting green, a BBQ Pavilion and a 2,000-step, 4-level walking path with landscaping and sculpture features.

"City Square Park is a unique feature that will become a favored spot for all of those who live and/or work at this special place," Ginsburg said.

Founded in 1964 by Ginsburg, GDC is a premier residential developer in the northern suburbs of New York City, company officials said. With 50 years of experience and market leadership, GDC has built many of the region's most successful and prestigious luxury developments, many with a Hudson River and/or transit-friendly focus, including Harbors at Haverstraw, Livingston Ridge in Dobbs Ferry, Ichabod's Landing in Sleepy Hollow, Mystic Pointe in Ossining, Marbury Corners in Pelham and Christie Place in Scarsdale.

Company officials said that GDC's developments have won numerous design and community planning awards. GDC also owns and manages a portfolio of commercial properties, located primarily in Westchester County.