

# COMMERCIAL INVESTMENT Real Estate

The Magazine of the CCIM Institute

MAR.APR.08

## Leaning Toward Recovery?

Examining the Effects of  
an Off-Balance Economy

COMPLIMENTS OF THE  
CCIM INSTITUTE

Learn the Smart Way  
To Negotiate

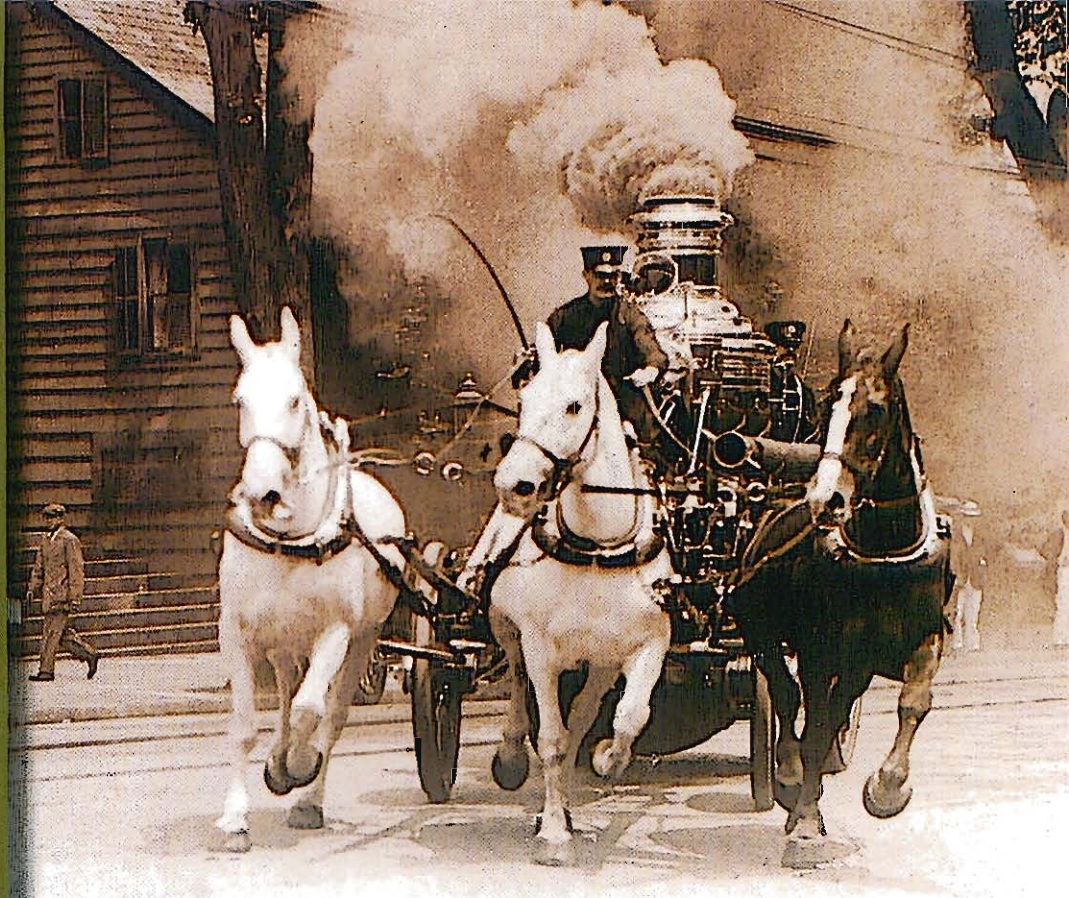
CCIMs Say It's Easy  
Being Green



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



Immediately  
after inventing  
the furnace stove,  
Ben Franklin  
established the first  
fire company and  
the first insurance  
company.



Throughout History,  
Successful Investors Know...

## Timing Is Everything!

*If you have property to sell,  
your timing couldn't be better!*

### **Introducing NorthStar Real Estate Capital, LLC**

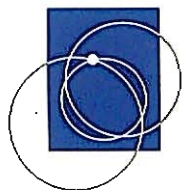
NorthStar Real Estate Capital, LLC is a privately owned investment firm seeking multifamily assets. Our team of professionals are recognized experts in the industry and specialize in the acquisition of stabilized and value-added property.

We are seeking properties of 150 units or larger —  
though smaller assets will be considered on a case by case basis.

### **Contact Us Today!**

For more information, please call **866-816-0123**  
or e-mail us at **[info@nsrecap.com](mailto:info@nsrecap.com)**

**We are always happy to pay brokerage fees!**



**NorthStar**  
REAL ESTATE CAPITAL LLC

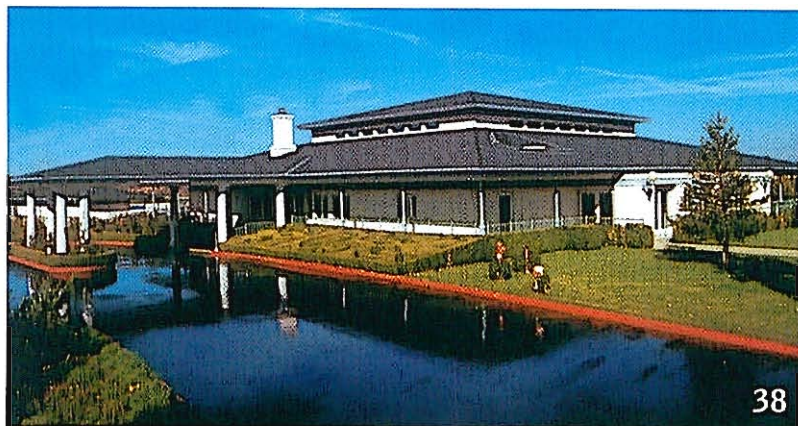
*Navigating Successful Investments*



# COMMERCIAL INVESTMENT Real Estate

The Magazine of the CCIM Institute

MAR.APR.08 VOL. XXVII NO. 2



## Features

### BUILDING YOUR BUSINESS

#### 20 Terms of Agreement

A new CCIM advanced education workshop highlights effective negotiation tactics.

*by Jim Van Dellen*

### COVER STORY

#### 24 Ripple Effects

Commercial investment markets attempt to stay afloat in the wake of financial and residential downturns.

*by Jon Peterson*

#### 30 Value-Add Visionaries

These multifamily investors set their sights on hard-to-find deals.

*by Sara Drummond*

#### 34 LEEDing the Way

CCIMs in various fields share perspectives on how they use green building knowledge.

*by Jennifer Norbut*

#### 38 Manufactured Success

Investors look to land-lease communities as an alternative to more-traditional properties.

*by Larry Harwood, CCIM*

On the cover: The Tower Building, Rockville, Md.

## Columns

#### 4 President's Desk

CCIMs have distinct advantages in slow economic cycles.

#### 12 Financing Focus

SBA 504 loans may be the answer for your small-business clients.

#### 14 Tech Solutions

Discover how going paperless can save time and cut costs.

#### 16 Investment Analysis

Section 1031 investors must ask the right questions when evaluating qualified intermediaries.

#### 18 Legal Briefs

Copyright laws complicate the reuse of development designs.

## Departments

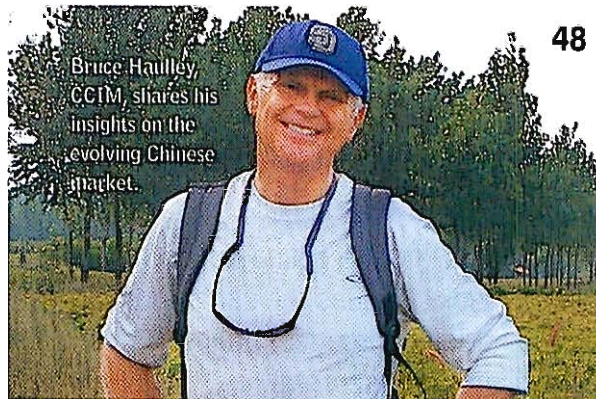
#### 6 Market Trends

#### 42 Regional Outlook

#### 45 Buyers Guide

#### 46 Deal Makers

#### 48 CCIM Spotlight



Bruce Haulley, CCIM, shares his insights on the evolving Chinese market.



# WWW.CIREMAGAZINE.COM

# CIRE ONLINE

## ONLY ONLINE: the green issue

### NEW IN 2008: international report

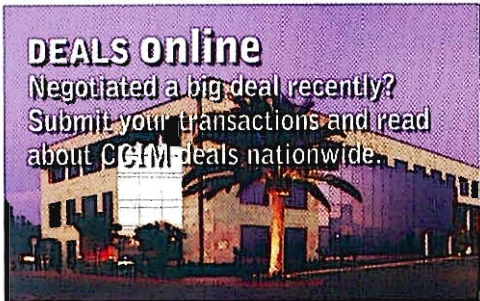
Read highlights of global real estate news, market trends, and deals.

### NEW IN 2008: career news

Learn about CCIM designees' industry awards, promotions, and career changes. To be included, e-mail details and color photographs to [magazine@ccim.com](mailto:magazine@ccim.com).

### DEALS online

Negotiated a big deal recently?  
Submit your transactions and read  
about CCIM deals nationwide.



### CCIM q&a

Larry G. Schedler, CCIM,  
discusses the New Orleans  
post-Katrina multifamily  
market.



### REDUCING carbon emissions

The EPA's Energy Star Portfolio Manager can help property managers reduce costs.

### INDUSTRIAL efficiency

Implementing energy-wise strategies in this sector adds value.

### CIRE resource guides

Check out the new multifamily resource guide. Use the CIRE resource guide link to access archived multifamily articles as well as stories on technology, marketing, business development, office properties, industrial properties, and tax issues.

### MARKET TRENDS online

More of the cutting-edge news and information you love to read in the print edition.



### LEEDERS of the pack

CCIMs discuss why they pursued professional green building accreditation.

FIND THESE WEB EXCLUSIVE ARTICLES ONLINE  
AFTER APRIL 1, 2008.

### CIRE E-BOOK

View this entire issue online or download it in easy-to-read PDF format. CIRE's e-book provides the same industry-leading stories and high-quality charts and images. Online. All the time. Available March 1 at [www.ciremagazine.com](http://www.ciremagazine.com).

## COMMERCIAL INVESTMENT Real Estate

The Magazine of the CCIM Institute

*Commercial Investment Real Estate*, the member publication of the CCIM Institute, reports on market trends and analysis, current developments in the field, and successful business strategies.

### CIRE Staff

Chief Executive Officer

Jonathan D. Salk

Publisher

Richard J. Sirois

[rsirois@ccim.com](mailto:rsirois@ccim.com)

Editor/Associate Publisher

Jennifer Norbut

[jnorbut@ccim.com](mailto:jnorbut@ccim.com)

Managing Editor

Sara Drummond

[sdrummond@ccim.com](mailto:sdrummond@ccim.com)

Associate Editor

Stephanie Bell

[sbell@ccim.com](mailto:sbell@ccim.com)

Communications Coordinator

Rich Rosfelder

[rrosfelder@ccim.com](mailto:rrosfelder@ccim.com)

Contributing Editors

Christopher G. Hurn

Todd Clarke, CCIM

Stephen A. Wayner, JD

Rory J. Radding

Cover Photo

© Jeff Wolfram

Design Consultant

the magazine group

*Commercial Investment Real Estate* (ISSN 1524-3249) is published bimonthly by the CCIM Institute of the National Association of Realtors, 430 N. Michigan Avenue, Chicago, IL 60611-4092. Periodicals postage paid at Chicago, Ill., and additional mailing offices.

Postmaster: Send address changes to *Commercial Investment Real Estate*, 430 N. Michigan Avenue, Chicago, IL 60611-4092.

Subscriptions: \$45 for nonmembers in U.S.; \$55 for nonmembers in Canada and Mexico. Call (800) 532-8633. For reprints, call (312) 321-4460.

The opinions expressed in signed articles and materials appearing in *Commercial Investment Real Estate*, including specific references to products and services, are those of the authors and not necessarily those of *Commercial Investment Real Estate*, the CCIM Institute, or the National Association of Realtors.

© 2008 by the CCIM Institute.  
All rights reserved.

Editorial address: 430 N. Michigan Avenue, Chicago, IL 60611-4092; (312) 321-4460; [magazine@ccim.com](mailto:magazine@ccim.com); [www.ciremagazine.com](http://www.ciremagazine.com).

For advertising information, contact: John L. Davis, (770) 952-7030 or [johnldavis@ccim.com](mailto:johnldavis@ccim.com).

# When the Going Gets Tough



Tim Hatlestad, CCIM  
President  
TimH@ccim.net

In many markets across the U.S. and around the globe, commercial investment real estate is holding its own and even thriving. However, some areas of the U.S. are in different stages and varying intensities of a downward economic cycle, which is affecting sales velocity and leasing scenarios for office, retail, and industrial space. Furthermore, the residential market's struggles, stress in the capital markets, and the tightened lending arena are making many investors nervous, causing them to sit on the sidelines. However, while some may think these conditions do not bode well for commercial real estate professionals, one could argue that these challenges are excellent news for CCIM Institute members and designees.

## Join CCIMs on the Hill

On April 16, CCIM Institute members will meet with congressional leaders and their staff to increase awareness of and generate support for several pertinent issues in the real estate industry. A Capitol Hill visit orientation will be held April 15 at the J.W. Marriott in Washington, D.C., for CCIM and Institute of Real Estate Management members attending the Hill visit. For more information about participating in the 2008 CCIM Capitol Hill visit, go to [www.ccim.com/members/govaffairs/capitol\\_hill.html](http://www.ccim.com/members/govaffairs/capitol_hill.html) or contact Vijay Yadlapati, CCIM Institute's legislative liaison, at (312) 329-6033 or [vyadlapati@ccim.com](mailto:vyadlapati@ccim.com).

How so? In thriving economic times, the margin of error for commercial real estate is very wide. For example, high occupancy rates can offset weaknesses in rents, and smart financing choices can overcome bad operational decisions. In other words, there are many pressure points in commercial investment real estate, such as acquisition pricing errors, poor location choices, and uninformed rent decisions, which, in a thriving, expanding, and growing market, arguably can be overcome by other factors such as abundant or inexpensive capital, market momentum or growth, and even just sheer luck.

Conversely, in difficult economic times, the margin of error is very narrow. Property owners, tenants, investors, lenders, borrowers, and others in the real estate industry can't expect miscues to be easily offset by other market influences. In short, professionals need the benefits that the CCIM Institute provides — Networking, Education, and Technology.

The networking opportuni-

ties provided by CCIM on local, regional, national, and virtual levels are excellent vehicles for obtaining market knowledge, sharing ideas, and gaining relevant information on how to migrate through a down market.

The CCIM educational offerings are crucial to staying informed and knowledgeable about leading practices in the industry. Many of the topics covered in the Robert L. Ward Center for Real Estate Studies courses are developed to provide the skill sets necessary to make informed decisions in any market.

The CCIM technology tools, including STDBonline.com, CCIMnet.com, and the knowledge available at [www.ccim.com](http://www.ccim.com) are designed and maintained to provide cutting-edge resources and to help members offer the best possible service and data to their clients.

Ultimately, when the going gets tough, the tough (and successful) look to the CCIM Institute and its programs, products, and services to get going.



[www.ccim.com](http://www.ccim.com)  
[www.ciremagazine.com](http://www.ciremagazine.com)

## Executive Officers

### President

Tim Hatlestad, CCIM  
Scottsdale, Arizona

### President-Elect

Charles McClure, CCIM  
Dallas, Texas

### First Vice President

Richard E. Juge, CCIM  
Metairie, Louisiana

The CCIM Institute, an affiliate of the National Association of Realtors, confers the Certified Commercial Investment Member designation to commercial real estate professionals who have extensive training and industry experience and complete a rigorous study program.

## Editorial Review Board

Adrian A. Arriaga, CCIM  
Donald G. Arsenault, CCIM  
Roger B. Broderick, CCIM  
Kirsten E. Early, CCIM  
David B. Eaton, CCIM  
Jeff Engelstad, CCIM  
Paul G.W. Fetscher, CCIM  
Tony M. Guglielmo, CCIM  
Thomas E. Hankins, CCIM  
James L. Helsel, CCIM  
J. Howard King, CCIM  
Robert Knight, CCIM

George C. Larsen, CCIM  
Kevin G. Lenze, CCIM  
Patricia Leslie, CCIM  
Mark L. Levine, CCIM  
Charles A. Mack, CCIM  
Len Magnani, CCIM  
Michael T. McLean, CCIM  
James J. Piro, CCIM  
Carol Rockhold Shoemaker, CCIM  
David L. Schank, CCIM  
Robert Stone, CCIM  
Nancy Bowen Wiggins, CCIM



*Now that our business is going  
public, how do we handle our  
real estate holdings?*

**WE KNOW.**



**Prudential**

**CRES Commercial  
Real Estate**

Prudential CRES Commercial Real Estate combines the power of our exclusive nationwide network with the knowledge and experience of our local professionals to deliver maximum results. Our diverse client base ranges from individual property owners to Fortune 500 companies. When you need solutions to your commercial real estate questions – WE KNOW.



# Paperless Payoff

Discover how going digital can streamline your business.

by Todd Clarke, CCIM

**F**acing an overwhelming number of files and documents to scan, some commercial real estate professionals resist converting their brokerage from paper to digital, hoping for an easier solution. However, those looking to increase services while gaining a competitive advantage may find a solution in a modest technology investment coupled with a modified workflow process. With the right tools and patience, commercial real estate professionals will find that converting to a paperless office is a spring-cleaning shortcut to a long-term investment.

## Beginning the Process

While technology is a necessary component for paperless offices, adopting a process to integrate digital documents into the work flow also is integral.

The first step is to scan all documents in a timely manner. It is important to get scanners that can hold 30 pages, scan both sides of a page in a matter of seconds, automatically adjust for color or black-and-white documents, and save to a PDF through just one button. It also saves time to have a scanner on each desk. If large-format documents are involved, consider contacting a local architectural supply company to scan and convert building

plans to PDF or CD-ROM for a nominal fee.

While some brokerages scan documents right away, others wait until documents are ready to be transmitted, thinking they are saving time. Before beginning the scanning process, commercial real estate professionals should consider what will work best with the current work flow. For example, if documents are scanned upon receipt,

Converting to a paperless office is a spring-cleaning shortcut to a long-term investment.

this allows brokers access to them anytime anywhere.

Companies also should develop a file naming process that allows all appropriate staff members, brokers, and clients to easily access the information. For instance, a conventional naming process should include everything needed to decipher a file's content without having to open it. This includes property name, city, client name, type of document, status, version, and date.

For example, a purchase agreement signed by the seller of a property located at a specific address could be named: yourdatadirectory\listings\6101SequoiaNWABQ\PurchaseAgreement-BuyerAllied-SignedbySeller-12182007.pdf.

A naming system plus a Web-based tool that allows users to create a "virtual" closing room to upload files allows clients, employees, and other parties to check the status of transactions as well as access relevant files. Whether commercial real estate professionals set up their own online closing rooms or use a national company's electronic closing room platform, the always-open access these sites offer all parties in a transaction is unparalleled.

## Organizing Storage

Once files are named, an appropriate company-wide storage method also must be determined. For instance, files can be organized within the company directory in a most-accessed to least-accessed system. The most-active directories such as listings and clients can be at the top, while the bottom directories can be archived files such as past deals, closings, and client files.

Different directories should have practical names, such as day-to-day, listings, clients, and personal. Brokers

## Using 504 Funds

Proceeds from Small Business Administration 504 loans must be used for fixed-asset projects such as purchasing land and improvements including existing buildings, grading, street improvements, utilities, parking lots, and landscaping; construction of new facilities; modernizing, renovating, or converting existing facilities; or purchasing long-term machinery and equipment. For more information on SBA 504 loans, visit [www.sba.gov](http://www.sba.gov).

The portion of the 504 loan that is funded by the SBA represents the least expensive financing available in the commercial mortgage industry for small businesses — 6.03 percent fixed for 20 years as of December 2007. The blended rates for the entire loan are often significantly lower than those of conventional loans and can be fixed for the duration of the 20-year to 25-year amortizations. In addition, borrowing from the SBA 504 program does not preclude business owners from also applying for funding from the SBA 7(a) program for working capital, inventory, and other needs.

By forgoing the 504 loan program and real estate ownership, business owners would be disregarding one of their best options for preserving capital, improving cash flow, and maximizing profits. Initially they benefit from the lower down payment requirement, but as business owners reach retirement age, they can sell their business while retaining and leasing the real estate as a continuing income source.

## Loan Qualifications

SBA 504 loans are available to almost any type of for-profit small to midsize business in the U.S. with the exception of financial services providers, passive real estate investors, companies having a tangible business net worth greater than \$7 million, or companies with net profits after taxes that averaged more than \$2.5 million during the past two years.

As an SBA lending program, 504 loans require applicants to demonstrate job creation, export potential, or other economic development or public policy goals, which are met easily for the majority of applicants. The funds must be used for capital expenses, including land, buildings, construction, and equipment. Owner occupancy requirements are 51 percent of the total square footage for acquisition loans and 60 percent for new-construction financing.

In addition, multiple businesses may be able to jointly pool 504 financing if they meet occupancy requirements together. The loans require the same amount of documentation and due diligence as ordinary commercial loans, and approval processes also are comparable to conventional loan processing.

For commercial brokers who represent clients who wish to own rather than lease space and equipment, the SBA 504 loan program is an effective tool for closing deals. These brokers also are providing added value to their clients by informing them of one of the least-known programs for property financing.



Christopher G. Hum is president and chief executive officer of Mercantile Commercial Capital LLC, in Orlando, Fla. Contact him at (866) 622-4504, [www.504experts.com](http://www.504experts.com), or [info@mercantilecc.com](mailto:info@mercantilecc.com).

Day 45: When the tax code isn't flexible,

we are.

## FlexTIC is Your 1031 Solution.

- + **More Time:** FlexTIC gives investors and their advisors a solution for the time constraints of the 1031 Exchange rules, providing more time to evaluate future investment goals and solutions.
- + **Availability:** An "Inventory" of TIC Interests in high-quality, long-term leased properties is available for investors to identify or purchase.
- + **Flexible Debt Replacement:** Debt is available to structure an exact match to an investor's debt replacement requirement (subject to underwriting), avoiding either additional debt or realizing taxable "boot".
- + **Return on Investment:** Sound investment is likely to provide a competitive return on investor's capital.
- + **Easy Exit:** A unique call option can facilitate the sale of the investor's FlexTIC investment back to FlexTIC in order to complete a future exchange.

## Call today to solve your 45 day problem.

For more information, call 1-877-690-1031 or email [invest@flextic.net](mailto:invest@flextic.net) [www.saveyour1031.com](http://www.saveyour1031.com)

**FlexTIC™**  
The 1031 Exchange Solution

A Co-Ownership interest will be sold only through licensed real estate brokers to qualified buyers. The value of this transaction to you depends upon tax considerations and other factors which should be evaluated by your tax, financial and legal advisors before you make a decision. This is not an offer to sell or a solicitation of offers to buy, which will only be made by an Offering Memorandum. Not available in New York.



**CCIM**

### *Rise and Shine CCIM Stars*

If you're an up-and-coming commercial real estate professional in your market and have held the CCIM designation for five years or less, don't miss your chance to be named a CCIM Rising Star.

Visit [www.ciremagazine.com](http://www.ciremagazine.com) for complete details.  
Entry deadline is April 1, 2008.



## Paperless Gains

- Quicker turnaround in document management
- Improved staff efficiency
- Brokers freed from office and paper files
- Reduced need for paper storage
- Better client service through faster response time

can use the day-to-day directory for e-mail, Palm files, QuickBooks, and other frequently accessed files. The listings directory, however, could consist of client properties, which could be further disaggregated by property type. Different from the day-to-day directory, these files usually are only accessed occasionally. All files can be archived after projects are completed or deals are closed.

It also is helpful to numerically label each directory. For instance, directories 1 and 5 could be transactions while 2 and 6 could include client files. In this case, directories 1 and 2 would be active deals and clients while directories 5 and 6 would be archives. Both new and old information is organized in way that is easily accessible for employees.

The directories also can be set up as shortcuts through the keyboard. Using Windows XP or Vista, users can right click on any data directory and create one compressed or zipped file to send to co-workers, clients, and qualifying brokers.

## Backing Up

By organizing data based on frequency of use, backing up files is an easy process. USB drives, DVDs, and Blu-ray discs work

best for storage, depending on the amount of data. Daily information can be backed up using a USB drive; weekly backups can be burned to DVDs, which can store up to 4.7 gigabytes in a matter of an hour; and monthly backups can be performed on Blu-ray discs, a new generation of optical discs that hold 25 GB to 50 GB of data and take about four hours to fill. Once this process is complete, storing the backup drives in a safe place can help maintain longevity of the information.

If a temporary backup is needed, external data drives, varying in capacity from 160 GB to 2 terabytes, can be connected through USB or Firewire ports. Keep in mind that these drives have a limited lifespan and are subject to the same safety and security issues that affect laptops and desktops. Therefore, they should only be used to move data from machine to machine or as a temporary backup solution.

Ideally, the creators/authors of the files should be responsible for their personal backups, with office managers coordinating a common off-site location. In doing so, the company and employees can organize information in a way that makes sense.

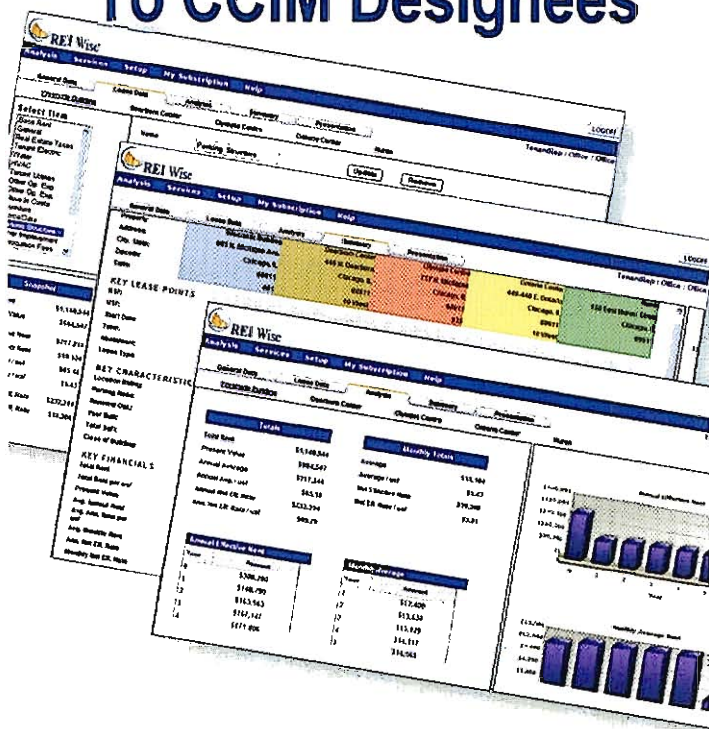
Commercial real estate professionals not only will benefit from eliminating paper and clutter by going digital, but important information also will be secure while improving efficiency and offering a competitive advantage to clients.



Todd Clarke, CCIM, is chief executive officer of NM Apartment Advisors in Albuquerque, N.M. Contact him at (505) 247-1411 or tclarke@nmapartment.com. For more information

on going paperless, see his blog at [www.nmapt.com/tech](http://www.nmapt.com/tech).

# REI Wise Commercial Lease Analysis-**FREE** To CCIM Designees



**REI Wise's signature Commercial Lease Analysis platform is now online.** The software is designed for professionals involved in commercial leasing including corporate real estate managers, tenant rep. brokers, owner rep. leasing agents and real estate consultants. Unlike other lease analysis products, REI Wise offers both Owner and Tenant analysis in one platform, producing industry-leading, fully-branded proposals. In 2007, CCIM Designees analyzed over \$7 billion in commercial real estate using REI Wise investment analysis online. Now all CCIM Designees can access two great REI Wise products, for FREE!

**Don't wait to take advantage of this special offer!**

**REI Wise Commercial Lease Analysis is now FREE to CCIM Designees and CCIM Candidates receive 10% off their purchase!**

**It's Advanced! It's Online! It's the Hottest Thing in Commercial Lease Analysis!**

**TO REGISTER FOR YOUR FREE SUBSCRIPTIONS GO TO:**  
**[www.reiwise.com/stdb](http://www.reiwise.com/stdb)**

Designees already registered with REI Wise do not need to re-register. Simply go to [www.reiwise.com](http://www.reiwise.com) to log into the CLA platform.



**REI Wise**  
Financial Analysis and Marketing Software



# QI Questions

These strategies can help investors evaluate qualified intermediaries.

by Stephen A. Wayner, JD

**F**or investment property owners, the current top concern in a Section 1031 exchange transaction should be safety of the taxpayer's funds. In the past decade, mismanagement and malfeasance have resulted in a handful of high-profile qualified intermediary bankruptcies and restructurings, causing many investors to lose their sale proceeds and be held liable for taxes on the gains from their relinquished property sales. These cases have created an environment where commercial real estate investors must carefully scrutinize their options in the virtually unregulated QI industry. "Will my funds be secure?" is perhaps the most important question to ask a QI before entering into an exchange transaction.

## Choose Wisely

Safe-harbor rules prohibit investment property owners from possessing or accessing funds generated from the sale of relinquished property in 1031 exchanges. Instead, a QI must hold sale proceeds. Additionally, investors are prohibited from using their own attorneys, accountants, brokers, or any related party as a QI; the 1031 exchange proceeds must be handled by an independent third party.

How can investors determine if their funds truly will be secure during a 1031 exchange? There are a number of ways to evaluate QIs, and each method has advantages and drawbacks. The following points are worth considering before entering into a transaction with a QI.

**Segregated Accounts.** Instead of co-mingling exchange funds, some

them on the lowest rung in the ladder of payouts from the bankruptcy trustee. In these cases, unsecured creditors typically receive a fraction of lost sale proceeds. Unfortunately, this was reaffirmed in the most recent QI bankruptcy case. A QI that recently went bankrupt had segregated accounts that did not preserve investors' sale proceeds after the filing.

**FDIC Insurance.** Capped at \$100,000, FDIC insurance often is publicized as a source of protection for exchange funds. However, the \$100,000 insurance coverage provided is per depositor. Most QIs title accounts in their own names to meet federal rules that restrict investment property owners from accessing exchange funds. Thus, in cases of malfeasance or bankruptcy, the \$100,000 FDIC insurance

The ultimate protection  
for 1031 proceeds  
is to use a QI that is  
bonded and insured.

QIs segregate client funds into separate bank accounts. Viewed by some as the ultimate form of protection, security of funds in segregated accounts is an illusion. Regardless of Federal Deposit Insurance Corp. protection, segregated accounts do not receive any protection from QI failure, malfeasance, or bankruptcy. If a QI files for bankruptcy, deposit holders in the midst of 1031 exchanges with the QI are classified as unsecured creditors under the U.S. Bankruptcy Code, placing

is shared equally among all parties for whom the QI is holding funds. Moreover, there is no guarantee that a QI actually deposits funds from its 1031 exchanges in a bank. A few QIs have invested exchange funds in stocks, derivatives, hedge funds, and any other unregulated, uninsured investment vehicles without their clients' knowledge. While not illegal, this is considered bad business practice by reputable QIs.

**Company Size.** Another consideration for investment property