JANUARY 1999 Real Estate Issues PUBLICATION 1269

A Reprint from *Tierra Grande*, the Real Estate Center Journal

ARES Research Summary

By Ted C. Jones

Change is inevitable and constant, and, for the real estate professional, change seems to be accelerating. As structural change continues to permeate the real estate industry, numerous new issues arise or are once again revisited.

Real estate cutting-edge issues were discussed at the 1998 annual meeting of the American Real Estate Society. World-wide participants presented questions, discussions and issues. While some of these studies are not directly applicable to all states given differences in legislative and business practices, they do provide insight into the changes taking place within the real estate economy.

Year-round Schools—Do They Save Money? If So, What About Academic Performance?

Year-round schools have become a commodity as many communities seek cost control in an enterprise intensive in both real property and human capital. Such a management scheme can accommodate 25 percent more students within the same facilities.

Instead of the traditional nine-months of facility, teacher, staff and administrator usage, followed by three months of vacation, the facilities are used year-round. One of the more popular plans is referred to as the 45-15 model in which students are in the classroom for nine-weeks then on vacation for three-weeks. By using multiple tracks, facility use is maximized. Offsetting costs include year-round utility, maintenance and transportation (bus) expenses.

Thus, the big questions are: How do costs compare on a per-student basis at year-round versus traditional schools? Is there a difference in academic performance? To analyze these issues, 89 traditional elementary schools were compared to 26 year-round schools. The authors' analyses included a focus on the impacts of special education students (that attend school year-round), students with English as a second language, and gifted students.

Results support the concept of year-round schooling as a cost savings, with an estimated $200-per-student lower facility cost—a reduction of 31 percent. As expected, costs were greater in schools with a larger percentage of students in special education and English as a second language.

There was no discernable cost difference in schools with relatively greater numbers of gifted students. From an academic perspective, fourth grade students' combined math, language and reading scores were 3.7 percent higher in the year-round group. These findings, especially in Texas school districts facing growing enrollment, point to the need to consider the year-round school concept.

Nasser Daneshvary and Terrence M. Clauretie, University of Nevada, Las Vegas

Sexual Harassment in the Real Estate Brokerage Industry

The personal invasion of sexual harassment is so wide spread that researchers estimate as many as 50 percent of all women and 14 to 17 percent of men will experience some form during their working lives. Harassment is not only a problem within a company but can occur when customers violate employee or licensees' rights.

In one case, it was ruled that an employer was responsible for the harassment of employees by customers of the firm. The average legal fee to defend such a case reaching the trial stage is $250,000. Not only can a sexual harassment lawsuit be costly to defend, with the resulting penalties if found guilty,

but the publicity might be potentially devastating to the company's image and goodwill. An often overlooked cost adds up when key employees depart because others harass them.

"Sexual harassment: A report on the sexual harassment of students," by F.J. Till, in 1980 by the National Advisory Council on Women's Educational Programs, defined a five-level framework of severity of sexual harassment. Listed in increasing order of severity, the levels are:

- Gender harassment – sexist remarks and comments;
- Seductive behavior – inappropriate, offensive but sanction-free sexual advances;
- Sexual bribery – solicitation of sexual activity in exchange for rewards;
- Sexual coercion – coercion of sexual activity through the use of threats or punishment; and
- Sexual assault – gross sexual imposition or assault.

A consensual sexual relationship between two employees is not necessarily sexual harassment if it does not negatively affect the work place for others. It is sexual harassment if any employee can show that their working conditions changed because of the relationship.

So, how can a broker-owner or manager proactively control some of these risks? The researchers recommend a multi-pronged approach.

First, there must be a clearly communicated, substantive sexual harassment policy within the firm. Every employee should have a copy of the policy. A systematic program disseminating the firm's policy needs to be in place. Use periodic employee surveys to monitor the situation.

Next, there must be a reporting mechanism with dispute resolution techniques implemented. Because not all individuals will respond in a similar manner given their personalities and level of authority, multiple reporting avenues are recommended.

There must be consistent outcomes from these disputes. Simply stated, if the top producer or best customer commits sexual harassment, they must be treated the same as the most junior employee. Tolerating low-level sexual harassment sends the message that more aggressive forms also are acceptable.

Management must address diversity training, including employee rights, sensitivity and responsibility regarding sexual harassment and have a widely distributed and understood policy and mechanism for dealing with these issues. A systematic approach to sexual harassment fosters an environment of trust, comfort and goodwill that encourages licensee retention.

Deborah Erdos Knapp and Michael T. Bond, Cleveland State University

Overhead Power Line Perceptions

Ask any four individuals their opinion regarding a piece of art and expect four unique responses. Would the same be true of buyers, sellers and appraisers' opinions on the impact of overhead power lines on residential values? And, if there was a perceived difference, should it enter the thought process of prospective buyers and sellers of homes under or near power lines?

Two Minnesota researchers surveyed 190 individuals across four defined groups: homeowners of property with overhead power lines, sellers of property with overhead power lines, buyers of property near power lines and residential appraisers.

Slightly more than half (51 percent) of homeowners with overhead power lines responded that they did not consider the high voltage power lines or towers at the time of purchase. One-third of the respondents lowered their offering price. The average reduction was 4.1 percent, based on an average purchase price of $135,629. Nearly two-thirds (61 percent) responded that the power lines did not enter into their offering price decision.

Nearly two-thirds of respondents said power lines did not enter into their offering price decision.

Fifty percent of those that had sold a home with an overhead power line said the property's market value was adversely affected. Two-thirds (67 percent) of the sellers indicated a longer marketing time was required for the property to sell.

Half of homebuyers **near** overhead power lines (50.9 percent) did not consider homes with **overhead** power lines. When asked if the home they purchased had been within 200 yards of overhead power lines, 44 percent said they would have lowered their offering by an average of 7.6 percent.

More than eight in ten (83 percent) residential appraisers indicated a negative influence on residential property market value arising from the lines. Appraisers estimated an average 4.1 percent reduction in residential property values for homes with high-voltage overhead power lines. Each respondent had appraised an average 54 residential properties near overhead power lines. A similar 84 percent indicated an average 62 days longer marketing period for residential properties affected by power lines.

All groups acknowledged a negative impact of power lines on residential values. Homeowners on power lines and appraisers alike concluded an identical 4.1 percent average negative impact.

Cheryl Mitteness and Steven Mooney, St. Cloud State University

Environmental Contamination Stigma

Fears arising from property that is near or has on-site contamination is referred to as environmental stigma. These fears include health risks, property value loss, unknown remediation costs, credit illiquidity and reduced sales liquidity, or total inability to market the property. Often these properties receive significant press, magnifying or creating fears in the community. At issue is the extent of the stigma after cleanup and remediation of the contaminants.

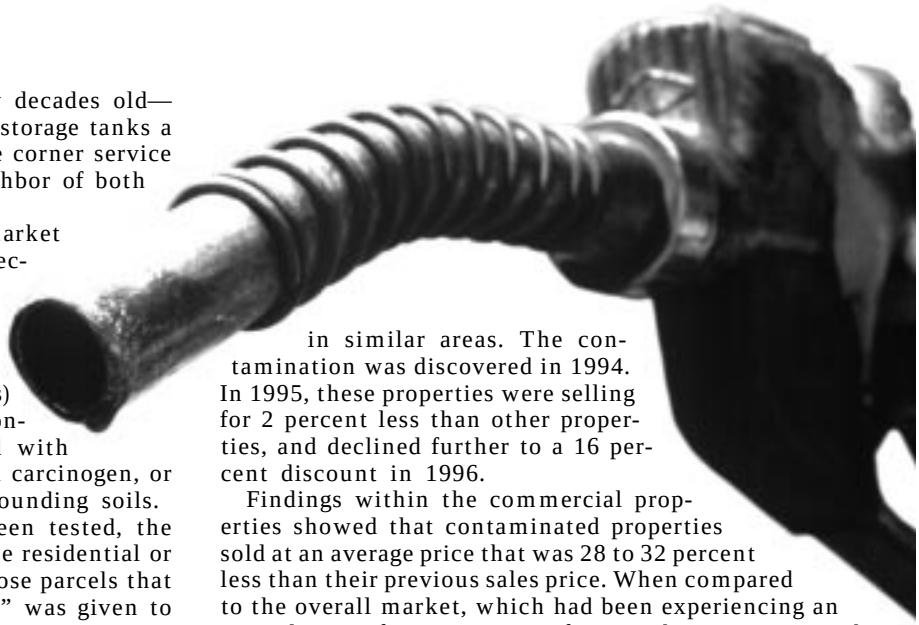
How much does an environmental stigma impact the real property value? The authors reviewed the literature on environmental contamination from North America, New Zealand and the United Kingdom. For those properties that were in the proximity of the contamination (but not specifically contaminated), the degree that the stigma detrimentally impacted property values varied with the type of hazard.

High voltage overhead power lines had a negative impact on price in the -5 to -6 percent range for properties typically within 300 feet of the lines. Those near gas transmission pipelines averaged from 0 to -3 percent at a distance up to 250 feet. Landfills and hazardous waste dumps clustered in the -5 to -7 percent range over a one-to-three-mile range. Airports hovered around -10 percent, with the impact one-half to one mile away.

How long does the stigma remain after remediation? The answer varies with the publicity and level of contamination. Love Canal, which has been an identified environmental hazard for as many as 20 years, illustrates the stigma potential. Others, which have been through remediation and have received press, lack such notoriety. Regardless, environmental stigma is a major consideration in property analysis and evaluation.

William N. Kinnard, Jr. and Gail L. Beron, Real Estate Counseling Group of Connecticut

Leaking Underground Storage Tanks



Sheer numbers of gasoline stations—many decades old—make the occurrence of leaking underground storage tanks a common problem in many communities. The corner service station or convenience store is often a neighbor of both commercial and residential properties.

How does a leaking storage tank affect the market value of adjacent properties? Have lenders effectively redlined these properties? Does contamination alter the time-on-the-market when a property is offered for sale?

Researchers examined information from as many as 200 underground storage tanks (USTs) in Cuyahoga County, Ohio. They defined contaminated sites as those USTs documented with more than five parts per billion of Benzene, a carcinogen, or other volatile petroleum compounds in surrounding soils.

Because not all adjacent properties had been tested, the researchers established a three-point scale. The residential or commercial property was assigned a "1" in those parcels that had tested positive for contamination. A "2" was given to those properties adjacent and down the gradient to known leaking underground storage tanks (LUSTs). Properties that were adjacent to a "1" or "2" risk parcel and were within 50 to 100 feet of the edge of contamination were assigned a "3" risk category.

Within the county, 133 residential properties (approximately 100 existing homes and the remainder new) were identified as contaminated, plus 154 known contaminated commercial properties. By analyzing both property tax information and the 11 residential properties with recorded sales, the researchers ascertained that a contaminated existing residence had a value decline of 14 to 15 percent when compared to non-contaminated parcels.

Prior to knowledge of the contamination, new home properties sold for a 5 percent premium when compared to houses in similar areas. The contamination was discovered in 1994. In 1995, these properties were selling for 2 percent less than other properties, and declined further to a 16 percent discount in 1996.

Findings within the commercial properties showed that contaminated properties sold at an average price that was 28 to 32 percent less than their previous sales price. When compared to the overall market, which had been experiencing an annual rate of appreciation of more than 4 percent, the impact on contaminated commercial properties averaged a 42 percent value loss. Seller financing was used in 30 percent of the contaminated parcels—more than double the 13 percent level observed in other commercial properties.

The bottom line points to significant value impact from LUST on impacted residential and commercial properties. Above all, the importance of disclosure cannot be understated. These factors can be used to counsel prospective sellers of contaminated properties regarding probable values. Commercial sellers also need to be sensitive to an extended marketing time and perhaps open to seller financing.

Robert A. Simons and William M. Bowen, Cleveland State University, Arthur Sementelli, Stephen F. Austin State University

Tax Reform Benefits Real Estate

The 1997 Taxpayer Relief Act had numerous reforms affecting real property. Investment property saw the capital gains rate drop from 28 to 20 percent and trickling on down to 18 percent for property held at least five years. Depreciation recapture now is taxed at just 25 percent. Both are obviously good news for investment property.

What is the value impact to investment property in an aggregate sense? To answer this question, researchers ran a sensitivity analysis based on the following assumptions:

- typical investor has a 39.6 percent marginal tax rate;
- 30-year, 80 percent loan-to-value mortgage at 8 percent;
- ten-year holding period;
- 20 percent land value (as a percentage of total value);
- 12 percent yield rate; and
- 7 percent selling expenses.

Property appreciation is excluded. Under these assumptions, the income-producing residential property value would

increase 5.47 percent while non-residential property would escalate 4.85 percent. Simply holding the property a minimum five years yields additional increased values of 1.01 percent and 0.97 percent for residential and non-residential properties, respectively, because of the decline in capital gains rate from 20 to 18 percent.

Not only did investment property gain in value from the 1997 changes, but so did the potential for increased liquidity in the market. The implication of reduced transaction costs should be increased sales activity. Overall, the act was the best tax news for real estate in a decade.

Marvin L. Bouillon and Timothy D. West, Iowa State University

How Many Licensees and at What Income?

Licensing by the respective states is viewed by many as a means of protecting the consumers of real estate services from incorrect or unscrupulous practices. The minimum required level of education and knowledge necessary for a real estate license varies significantly across the states.

Obtaining a real estate license is the most difficult in Texas and California, given pre- and post-licensing education requirements. Are there other benefits, other than consumer protection, that arise from more stringent qualifications? Do licensing standards affect the number of licensees and, eventually, their respective incomes? How sensitive is the relationship between housing sales activity and the supply of licensees?

North Carolina researchers collected data from 54 metropolitan statistical areas (MSAs). Information included the number of real estate licensees, the number of full-time equivalents working in real estate (as per the census), estimated and derived incomes of licensees, the regional cost of living, real estate license pass rates and educational requirements.

Findings indicate that as industry revenue rises, additional licensees enter the business. Hence, the demand for licensees rises with sales activity. The total number of licensees, however, does not necessarily respond to income factors.

Income was inversely related to real estate license examination pass rates. States with lower pass rates had corresponding higher incomes, after adjusting for cost of living. Likewise, the lower pass-rate states had fewer individuals entering the business. Educational requirements, however, were found to have little influence on supply and only a small influence on earnings.

G. Donald Jud and Daniel T. Winkler, University of North Carolina at Greensboro

Disabled Tenant Lawsuits Void Eviction

The Fair Housing Act prohibits discrimination in the sale, rental and financing of housing based on race, color, religion or national origin. Amended in 1988, the act included discrimination based on family status, or if the tenants were handicapped or disabled.

The definition of disabled was vastly expanded with the passage of the Americans with Disabilities Act in 1990. Arising from this were a series of lawsuits from disabled or handicapped tenants attempting to void their evictions by arguing that the Fair Housing Act prevents such discriminatory actions.

Handicaps include mental impairments, cosmetic and psychological disorders. Almost all multi-family housing is under the umbrella of the act.

It is obvious that a blind individual cannot be evicted for having a seeing-eye dog in a no-pets apartment. But what about others claiming they have mental needs for pets? There are legal cases in which individuals with pets that were evicted collected settlements from their landlords.

Managers cannot overtly discriminate either at the time of renting or in evictions.

Given the legal complexities in this realm, it becomes prudent for a landlord to obtain legal advice when planning to evict tenants that might be included under the disabled definition of the Fair Housing Act.

Robert J. Aalberts, University of Nevada, Las Vegas

Dr. Jones is vice-president-chief economist with Stewart Title Guaranty Company.

REAL ESTATE CENTER

Tierra Grande (ISSN 1070-0234), formerly *Real Estate Center Journal*, is published quarterly by the Real Estate Center at Texas A&M University, College Station, Texas 77843-2115.

Subscriptions are free to Texas real estate licensees. Other subscribers, $30 per year, including 12 issues of *Trends*.