

A M E R I C A N P R O P E R T Y  
T A X C O U N S E L



*The National Affiliation  
of Property Tax Attorneys*

# The Effects of Money Supply on The Valuation of Real Estate

**Probing New Vistas in Valuing Commercial and Industrial Real Estate**

American Property Tax  
Counsel (APTC) Seminar

October 12 – 13, 2007

The Lodge at Torrey Pines,  
La Jolla, California

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### 2007 Seminar Chairpersons

Raymond Gray - Popp, Gray & Hutcheson, L.L.P., Austin, TX  
James P. Regan - Fisk Kart Katz and Regan, Ltd., Chicago, IL  
Linda Terrill - Neill, Terrill & Embree, L.C., Leawood, KS



# Seminar Agenda

## The Effects of Money Supply On The Valuation Of Real Estate

### Probing New Vistas in Valuing Commercial and Industrial Real Estate

Friday, October 12, 2007	
7:30 am to 8:00 am	Continental Breakfast
8:00 am to 8:15 am	<b>Welcome and Introduction:</b> John Garippa, President, American Property Tax Counsel, Garippa, Lotz & Giannuario, Montclair, NJ
<b>Session 1</b> 8:15 am to 9:15 am	<b>Surveying Capital Markets: The Changing Criteria for Pricing Industrial and Commercial Real Estate</b> Presenter: Robert Fuchs, Capmark Financial Group, San Diego, CA Moderator: Stewart L. Mandell, Honigman Miller Schwartz and Cohn, LLP, Detroit, MI
<b>Session 2</b> 9:15 am to 10:15 am	<b>WHERE DO WE GO? : Creating a Valuation Framework Which Takes Into Account the Radical Change in Real Estate Pricing</b> Presenter: Michael J. Kelly, Real Estate Analysis Corporation, Chicago, IL Moderator: J. Kieran Jennings, Siegel Siegel Johnson & Jennings Co., L.P.A, Cleveland, OH
10:15 am to 10:30 am	Break
<b>Session 3</b> 10:30 am to 11:30 pm	<b>When Price Does Not Equal Market Value: A Clear Perspective on Investment Value</b> Presenter: Timothy Lowe, Waronzo Associates, Inc., Los Angeles, CA Moderator: Michele Whittington, Stites & Harbison PLLC, Frankfort, KY
12:00 pm	Lunch
6:30 pm	Cocktails and Dinner at Arroyo Terrace Restaurant
Saturday, October 13, 2007	
7:30 am to 8:00 am	Continental Breakfast
<b>Session 4</b> 8:00 am to 9:15 am	<b>Contemporary Issues Panel</b> <b>Critical Issues in the Valuation of Anchor Department Stores and Regional Malls</b> Presenters: Mark Parish, The Taubman Company, Bloomfield Hills, MI James H. Kurtzman, Nordstrom, Inc., Seattle, WA, Peter Korpacz, Weiser Realty Advisors, LLC, Mount Airy, MD Moderator: James P. Regan, Fisk Kart Katz and Regan, Ltd., Chicago, IL
9:15 am to 9:30 am	Break
<b>Session 5</b> 9:30 am to 10:30 pm	<b>CAP Rate Surve: An Analysis of Commercial and Industrial Market Extracted CAP Rates</b> Presenter: Norm Miller, University of San Diego, San Diego, CA Moderator: Raymond Gray, Popp, Gray & Hutcheson, LLP, Austin, TX
10:45 am to 11:00 am	<b>Closing Remarks</b>
11:00 am	Lunch - Pick Up Box Lunch
6:30 pm	Cocktails and Dinner at Charles Fries Restaurant - Charles Reiffel room



# Welcome

Dear Seminar Guest:

On behalf of the member law firms of American Property Tax Counsel (APTC), I am pleased to welcome you to the 13th annual APTC real estate valuation seminar.

This year our seminar will focus on the effects of money supply in determining fair assessments for industrial and commercial property. In that context, we will examine the importance of the capital markets and changing pricing criteria as it effects the valuation of industrial and commercial real estate. In that vein, we will also discuss creating a valuation framework which takes into account these radical changes in real estate pricing.

We will also examine the ever increasing reliance upon investment value by the assessment community as they continue to confuse this concept with market value. We will also devote a panel discussion to a continuing review of critical issues in the valuation of anchor department stores and regional malls. Our seminar will conclude with our annual cap rate survey discussion.

In keeping with tradition and the nature of our organization, we have invited only a select group of real estate executives to ensure an environment that is most conducive to interactive education. We hope that you will be involved in questioning and discussing the ideas that will be presented.

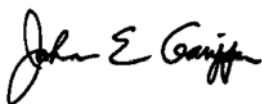
APTC is the affiliation of the leading independent property tax law firms in the United States and Canada. Our affiliation was created to service the property tax requirements of real estate owners with geographically diverse portfolios. APTC offers the unique benefit of experienced local representation coupled with centralized communication on the status of all tax payments, assessment reviews and appeals.

Each APTC member firm is committed to providing the highest level of legal representation and service to its clients on all property taxation matters. From its inception, APTC members have emphasized continuing education and in-depth understanding of their clients' business needs.

We have a scheduled format of individual speakers and panels, but these are intended only as a starting point. We look forward to sharing ideas with all of you. The success of this seminar depends upon your participation.

We hope that you enjoy and learn from this event.

AMERICAN PROPERTY TAX COUNSEL



John E. Garippa  
President



# Session 1

## Surveying Capital Markets And The Changing Criteria For Pricing Industrial And Commercial Real Estate

Presenter: Robert Fuchs, Capmark Financial Group, San Diego, CA

Moderator: Stewart L. Mandell, Honigman Miller Schwartz and Cohn, LLP, Detroit, MI

- I. Impact of Capital Markets' real estate lending criteria on the return on equity and, subsequently, valuation.
- I. Attitudes of Insurance Companies and CMBS lenders toward commercial real estate and capitalization rate assumptions.
- III. Historical perspective - lessons learned from real estate recessions over the last 30 years

## Session 2

### WHERE DO WE GO?: Creating A Valuation Framework Which Takes Into Account the Radical Change in Real Estate Pricing

Presenter: Michael J. Kelly, Real Estate Analysis Corporation, Chicago, IL

Moderator: J. Kieran Jennings, Siegel Siegel Johnson & Jennings Co., L.P.A, Cleveland, OH

#### Introduction:

1. Market Value:
  - a) Leased Fee
    - i) Contract Rent
  - b) Fee Simple Interest
    - i) Market Rent
  
2. Concepts
  - a) Stabilized Income
  - b) Stabilized Occupancy
  - c) Stabilized Value
  
3. Total Rent Concept
  
4. Development of an Overall Rate to Estimate Market Value of Fee Simple Interest
  
5. Confronting Recent Sale Prices with Declining Market Fundamentals

## Session 3

### When Price Does Not Equal Market Value: A Clear Perspective on Investment Value

Presenter: Timothy Lowe, Waranzof Associates, Inc., Los Angeles, CA

Moderator: Michele Whittington, Stites & Harbison PLLC, Frankfort, KY

1. Review of different financial structures used in larger property transactions.
  - a) Held for Corporate Purposes.
  - b) Held for Investment Purposes.
2. Looking at transactions specifics and market conditions and how they interact.
3. Key To Market Value vs. Investment Value.
  - a) The interaction of the transaction specifics + market conditions occurred at "typical" or cash equivalent financial terms = indicates Market Value.
  - b) The interaction of transaction specifics and market conditions are unique - indicating Investment Value or Value in Use

# Session 4

## Contemporary Issues Panel

### Critical Issues in the Valuation of Anchor Department Stores and Regional Malls

Presenters: Mark Parish, The Taubman Company, Bloomfield Hills, MI,  
Peter Korpacz, Weiser Realty Advisors LLC, Mount Airy, MD,  
James H. Kurtzman, Nordstrom, Inc., Seattle, WA,  
Moderator: James P. Regan, Fisk Kart Katz and Regan, Ltd., Chicago, IL

#### Mark Parish

##### I. Practical Considerations in Complex Valuations

- a. Brief History of the Assessor's Values
- b. Assessor's Hybrid Value Model (aka Livingston)
- c. What can we prove and what will it take?
- d. Allocation of Value among:
  - i. Land
  - ii. Parking, Deck & Surface
  - iii. Mall Buildings, GLA & common areas
  - iv. Five Department Stores (100K to 243K sq.ft.)

##### II. Use of Cap Rate Studies in Valuation Disputes

- a. Comprehensive examination of Subject & Trade Area
- b. Credible analysis often helpful to both sides of dispute

- c. Narrow areas of dispute from:
  - i. Trade Area Dynamics
  - ii. Physical Condition of Subject
  - iii. Occupancy & Rental Rate Analysis
  - iv. Expense levels & treatment
  - v. Cap Rate or Risk Analysis
- d. Positive Message regarding seriousness of appeal.

**Peter J. Korpacz**

III. Assessment Appeal of a New Jersey Shopping Center

a. Cap Rate Study - Prepared For The Negotiation

- i. Contents of the Study
- ii. Preparation of the Study
- iii. Function of the Study in the Appeal Process

IV. Findings of Regional Mall Cap Rate Study

- a. Review of Mall Classifications
- b. Review of Sales Transactions since 2001
- c. Analyzing Cap Rates for Each Mall Classification
  - Assigning the Proper Cap Rate for Each Classification

## James H. Kurtzman

### I. Partner in a Retail Business

### II. Special Role

#### a. Creates Mall Identity

i. Fashion Image (Dr. Eppli) - Explanation of Eppli Paradigm

ii. Effects of Fashion Image

1. Dictates the National and International Retailers  
in the Mall

2. Influences the Shoppers coming to the Mall

3. Directly effects the Revenues generated at the Mall  
(Leases reflect Projected Sales Volume of Retailer)

#### b. Contributions to the Retail Enterprise

i. Intangibles

1. Advertising (Client Lists)

2. Shopper Base

#### c. Questions Raised

i. How do we determine the Real Estate Value of the Anchor?

ii. Is the Original Contribution of the Developer evidence of  
the Value of the ongoing Contribution of the Anchor to  
the Owner?

iii. How do we capture that Annual Contribution by the Anchor  
to the Developer? re: Real Estate Taxes

## Session 5

### Cap Rate Survey: An Analysis of Commercial and Industrial Market Extracted Cap Rates

Presenter: Norm Miller, University of San Diego, San Diego, CA

Moderator: Raymond Gray, Popp, Gray & Hutcheson, LLP, Austin, TX

1. What is going on in terms of cap rates and values in the private and public markets?
2. What has happened in the multifamily market with condo converters now gone?
3. Capital flows continue to move into real estate so what does this mean for pricing and how can rates continue to fall with inflation and oil prices up?
4. What do we see in terms of industrial and office property value trends?

Notes:

## Speaker Biographies

### **Robert T. Fuchs**

Robert T. Fuchs, CMB, is a Vice President-Production for Capmark Finance Inc. (successor to GMAC Commercial Mortgage Corp. and Westco Real Estate Finance Corp.) in its San Diego office. Prior to that, Bob was President of Mission Pacific Mortgage Corp. (1989-1995) and Torrey Pines Equity Corp. (1985-1989)--all in San Diego. He was also Senior Vice President and Manager of the Commercial Real Estate Division of Columbia Mortgage Co. (1974-1985) in Portland, OR, and a Commercial Loan Officer, United Bank of Denver, N.A.-Denver, CO (1972-1974).

He holds a Certified Mortgage Banker designation from the Mortgage Bankers Association of America, an M.B.A. degree from Southern Illinois University, and a B.S. in Chemistry from University of Maryland. Bob has been active in the MBA, having served on the Technology Initiatives Committee of the Commercial Real Estate Finance Division of the MBA and as Vice President of Oregon Mortgage Bankers Association. He is a former USAF pilot (F-100 and C-141), active in Rotary and other non-profit organizations, enjoys tennis and two grandchildren.

### **John E. Garippa**

John E. Garippa, President, American Property Tax Counsel is the senior partner of Garippa, Lotz & Giannuario. Mr. Garippa has specialized in ad valorem taxation for more than 30 years. He is a graduate of Rutgers University and Seton Hall University Law School. Mr. Garippa is licensed in New Jersey, Pennsylvania, New York and Maryland and is the APTC representative for New Jersey and Eastern Pennsylvania. He has authored and published more than fifty articles in the field of taxation and has been awarded the 1997 Literary Achievement Award from the Institute of Property Taxation. Mr. Garippa has been quoted in The New York Times, The Wall Street Journal, and USA Today.

### **Raymond Gray**

Raymond Gray joined Popp Gray & Hutcheson, LLP, in 1999 after nearly 15 years of representing appraisal districts and taxing units. Popp Gray & Hutcheson is the largest firm in the country devoting its practice entirely to the representation of property owners in ad valorem tax disputes. Few persons understand better than Raymond the pressures and constraints under which appraisal districts operate or the interplay between local appraisal efforts and state revenues. He has been a much requested speaker at professional seminars as well as a frequent instructor of appraisal district and tax office staff, teaching subjects such as Texas Property Tax Law, Property Tax Collections, and Advanced Collections. Raymond received his B.A. degree from Southwestern University, and his J.D. degree from the University of Texas at Austin. He served as law clerk to the Committee on Ways and Means of the Texas House of Representatives during the initial revisions of the Texas Property Tax Code in 1981. He was Legislative Aide and Counsel to his hometown (Corpus Christi, TX) state representative. Raymond is a founding member of the Property Tax Subsection of the State Bar of Texas, and is a member of the Texas Association of Assessing Officers (TAAO), the Texas Association of County Assessors (TACA),



the Institute for Professionals in Taxation (IPT) and the College of the State Bar of Texas. He is also a member of the American Property Tax Counsel (APTC), a national affiliation of preeminent property tax attorneys, and the International Network of Boutique Law Firms, an exclusive organization of highly credentialed law firms. Raymond has been assigned Martindale Hubbell's highest "AV" rating.

## **J. Kieran Jennings**

J. Kieran Jennings is a partner in the law firm, Siegel Siegel Johnson & Jennings Co., L.P.A., serving institutional clients such as real estate investment trusts, pension funds and many of the largest national retailers. Prior to joining the firm Mr. Jennings practiced with a Big Four accounting firm as a CPA in federal tax planning and compliance. He also worked as an auditor and advisor to the credit union industry. He received his B.S. in accounting from Indiana University of Pennsylvania and his J.D from Cleveland Marshall College of Law cum laude. Mr. Jennings is vice chair of the ABA real property tax committee and is a facilitator at the IPT advanced property tax school.

Mr. Jennings is the lead attorney for the Western Pennsylvania region of the American Property Tax Counsel (APTC) and is the director of Siegel Siegel Johnson & Jennings's national real estate tax practice. In response to the needs of clients with multi-state portfolios, the Siegel firm, along with leading law firms in other states, established the APTC. The APTC provides national representation provided by local attorneys who are among the best in the field of property taxation.

## **Michael J. Kelly**

Michael J. Kelly has been the President of Real Estate Analysis Corporation since 1985. In that capacity, he has appraised various types of real estate including single family, multi family, industrial, commercial and special purpose properties. Industrial properties included factories, warehouses, truck terminals and steel mills. Commercial properties included hotels, office buildings, department stores and nursing homes. Michael has been certified as an expert witness for several governmental hearing bodies. Mr. Kelly is a member of the Appraisal Institute, the International Association of Assessing Officers and the Institute of Property Taxation. His Bachelor's Degree is from Western Illinois University. He also has a Master's Degree in Business Administration from the University of Chicago, Graduate School of Business.

## **Peter Korpacz**

Peter F. Korpacz possesses more than 44 years of experience in the real estate appraisal, counseling, publication, and research fields. Mr. Korpacz is a graduate of St. John's University (Queens, NY). Over the course of his career, he has been associated with Landauer Associates, Inc., as chief appraiser; Korpacz & Weitzman, Inc., as a principal; and Peter F. Korpacz & Associates, Inc., as owner. Most recently, he served as Director in the Global Strategic Real Estate Research Group of PricewaterhouseCoopers LLP.

Mr. Korpacz is the founder and original publisher of the quarterly Korpacz Real Estate Investor Survey®, one of the industry's standard sources of real estate capital market trends, including



capitalization and discount rates and other cash flow forecast assumptions of active real estate investors. He was a principal researcher and advisor for the annual Emerging Trends in Real Estate® from the 2001 U.S. issue through the 2008 U.S. issue. He is the author of numerous articles and contributor to numerous real estate books, including the 8th and 9th editions of The Appraisal of Real Estate and the 1st and 2nd editions of The Dictionary of Real Estate Appraisal. Mr. Korpacz has received several awards from the Appraisal Institute for his contributions to the real estate appraisal industry. He is also a former editor-in-chief of the Appraisal Journal.

## **James H. Kurtzman**

Jim started his career in the field of property taxation in 1972 with Borden, Inc. in Columbus, Ohio. Borden was an international conglomerate with interests in Dairy, Food and Chemical manufacturing. Along with his property tax responsibilities, he held various positions of increasing responsibility within the department including supervisor of sales, use and motor fuel taxes. Upon the late 1994 acquisition of Borden by the leverage buy-out firm Kohlberg, Kravis, Roberts & Co., Jim tried his hand at tax consulting with Coopers & Lybrand, but after two years returned to the corporate world joining the tax department at Nordstrom, Inc. in Seattle, Washington. Nordstrom is a fashion specialty retailer with 158 stores operating in 28 states; Ninety-nine full-line department stores and fifty Nordstrom Rack (discount) stores, along with several boutiques, clearance and shoe stores.

Jim is a graduate of Ohio Dominican College with a degree in Business Administration. He is a member of the International Association of Assessing Officers and the Institute for Professionals in Taxation. He has held the Institute's CMI designation since 1983. Jim has been married to his lovely wife, Kathy, since 1978 and their daughter, Lisa, is currently pursuing her masters in psychology.

## **Timothy Lowe**

As Principal with Waronzof Associates, Inc., Mr. Lowe is responsible for directing real estate consulting, litigation and complex valuation engagements addressing strategy, real estate finance, real estate enterprise analysis, and special purpose and sustainable properties. His 30 years of experience includes consulting and valuation engagements across the continental United States, Alaska and Hawaii, Canada and Argentina. Prior to forming Waronzof in 2000, Mr. Lowe spent ten years in real estate consulting with Deloitte & Touche in Los Angeles. Notable properties Mr. Lowe has completed engagements for include the West Edmonton Mall, the Ambassador College Campus (Pasadena) the Kapolei City development (Honolulu), No. 2 Wall Street, the Stratosphere Casino-Hotel (Las Vegas), AT&T Park (home of the San Francisco Giants) and a 5 million acre portfolio of public trust lands in Washington State. Mr. Lowe is a member of the Appraisal Institute, the Counselors of Real Estate, the Royal Institute of Chartered Surveyors, Lambda Alpha, the Urban Land Institute, the US Green Building Council and the Green Building Finance Consortium. He serves regularly as an expert witness in state and federal courts in the areas of real estate and going concern valuation, economic damages and lost profits, project feasibility and bankruptcy reorganization plan feasibility. Over his valuation career, Mr. Lowe has served in property tax engagements involving sports facilities, hotels, special purpose properties, office buildings, shopping centers and mixed-use developments.



In the last two years, as a member of the Green Building Finance Consortium and the US Green Building Council, Mr. Lowe has spoken on sustainable building finance at several conferences and meetings, including: Greenbuild 2006 (Denver), Mexico's Greenbuild 2006 (Monterrey), Green Real Estate 2007 (Toronto), ULI-Houston (2007), Los Angeles Metro Green (2007), Counselors of Real Estate Winter Meeting (2006) and for the World Business Council on Sustainable Development's Energy Efficiency in Buildings project (2007) (Zurich). Mr. Lowe is also one of two developers of the Appraisal Institute's newest seminar - "Introduction to the Valuation of Green Buildings", which will be first offered in 2008.

## **Stewart L. Mandell**

Mr. Mandell has been a member of Honigman Miller Schwartz and Cohn, LLP firm since the year of 2004. His practice focuses on appropriately reducing taxes through tax planning, tax appeals, tax incentive awards, and the passage of favorable State tax legislation. Such efforts include property tax appeals for landmarks such as the Renaissance Center and the Alma oil refinery, significant state tax appeal victories for IBM and C & O Railroad, and substantial tax incentive awards for Pfizer and Nissan. Mr. Mandell obtained approvals for state and local tax incentive packages of over \$130 million, including the State's largest non-automotive incentive award. He achieved passage of Single Business Tax legislation that will save taxpayers over \$25 million of taxes. He successfully handled federal and state tax planning and controversy matters for 501(c)(3) and (c)(6) organizations. Mr. Mandell is a member of Michigan Chamber of Commerce, the Detroit Regional Chamber of Commerce, the Institute of Property Taxation (IPT) and the State Bar of Michigan. He received his J.D. from the University of Michigan Law School, his M.A. in Public Policy from University of Michigan, his B.A with Distinction also from University of Michigan.

## **Norm Miller**

Dr. Norm Miller is a Professor and the Director of the MSRE Program at the Burnham Moores Center for Real Estate at the University of San Diego. Previously he was at the University of Cincinnati with stints at DePaul, the University of Hawaii and the University of Georgia. He received his Ph.D. the Ohio State University. He is active on the Editorial Board of several national and international journals and is the immediate past President of ARES, the American Real Estate Society.

Dr. Miller has authorized numerous academic articles, books and articles in trade market publications on housing, brokerage, mortgage risk, valuation and many other topics. Dr. Miller has lectured globally from Singapore to Thailand and Russia on Real Estate Market Analysis and Trends. He has worked extensively with various trade associations and became one of the first "Distinguished Fellows" of NAIOP in 2002 as well as one of the primary instructors for NAIOP educational programs. He is currently an Educational Consultant for CCIM and his research covers housing risk analysis, price forecasting, AVMs and mortgage risk analysis. As a Homer Hoyt Land Use Institute Faculty and Board member, based in North Palm Beach Florida, he is involved with some premier thought leaders among academics and industry professionals in a think tank setting for annual conferences on real estate issues and trends. Currently he is President of HIRE, the Hoyt Institute for Real Estate, which promotes commercial real estate education and career path awareness. He started the placement web site for students and professionals



www.real-jobs.com as well as the real estate career resource website www.realcareers.com and can be reached at: nmiller@sandiego.edu

### **Mark Parish**

Mark Parish is Director of Real Estate Tax for The Taubman Company. He is a member of the Institute for Professionals in Taxation and the International Association of Assessing Officers (IAAO) and currently Chair of IAAO's Associate Member Committee. He was formerly the assessor of the City of Brooklyn Center, Minnesota. He received his BS from The University of Wisconsin.

### **James P. Regan**

James P. Regan, J.D., is the managing partner of Fisk, Kart, Katz & Regan and has worked extensively on matters involving the assessments of major industrial complexes, office buildings, hotels, shopping centers, apartment developments, condominium properties and Incentive Assessment Applications. Mr. Regan has been a principal speaker at various seminars including the annual education seminars sponsored by the American Property Tax Counsel (APTC) on the topics of regional and super regional shopping centers, the valuation of REIT owned office buildings and hotels; the International Association of Assessing Officers (IAAO) Legal Seminars where he spoke on the valuation of resorts, full-service hotels and shopping centers; and the American Bar Association and the Institute of Property Tax Professionals in New Orleans in March 1999 on the real estate valuation of REIT properties. Mr. Regan received his J.D. from St. John's University Law School in New York. He earned a MA from the New School for Social Research, also in New York, and his undergraduate degree is from the Catholic University of America.

### **Linda Terrill**

Linda is a partner in the firm of Neill, Terrill & Embree in Leawood, Kansas. The firm concentrates on representation of taxpayers in state and local tax matters of property tax, sales tax and income tax in Kansas, Nebraska and Missouri. Formerly the General Counsel for the Kansas Board of Tax Appeals, Linda has a J.D. from the Washburn University School of Law and a Masters Degree in Tax Law from the University of Missouri at Kansas City. Linda has been a member of the American Property Tax Counsel for approximately 10 years, representing taxpayers in Kansas and Nebraska

### **Michele Whittington**

Michele Whittington is Counsel in the Frankfort, Kentucky office of Stites & Harbison, PLLC. Ms. Whittington is a member of Stites' State and Local Tax group, and her practice focuses on real and tangible property tax issues. Her experience includes challenges to assessments on large industrial and commercial properties, valuation and classification of tangible personal property, valuation of public service companies, and the drafting of state tangible property tax regulations for the coal mining, crushed stone and asphalt industries. She is a graduate of Transylvania University and the University of Kentucky College of Law. Stites & Harbison is the Kentucky member of the American Property Tax Counsel.

