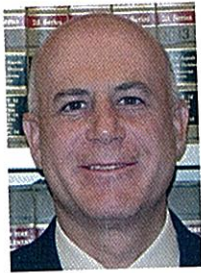


# MEET THE REAL ESTATE LAWYERS

REAL ESTATE NEW YORK TALKS WITH TWELVE PROMINENT REAL ESTATE ATTORNEYS ON CURRENT MARKET CONDITIONS, MARKET TRENDS, LOWER MANHATTAN INCENTIVES AND OTHER TIMELY TOPICS. MOST SAY THE BUBBLE IS FAR FROM BURSTING, COMPETITION FOR DEALS IS HEALTHIER THAN EVER AND SO IS THE MARKET. AND ALTHOUGH THE LOWER MANHATTAN INCENTIVES ARE GOOD NEWS MORE NEEDS TO BE DONE TO DRAW TENANTS BACK DOWNTOWN.



Interviews  
Conducted By  
Barbara L. Nelson



**Wayne Heicklen**  
Pryor Cashman Sherman  
& Flynn LLP

**RE Department Size:**

Partners: 4; Associates: 9; Other: 2 Counsel

**RE Department as % of Firm:**

Partners: 12%; Associates: 15%

**Projected % of RE Practice Revenue 2005:** 15%

**Major RE Clients:** Continental Properties/Levine  
Builders; Pinnacle Communities/Toll Brothers;

Costco Wholesale Club; Mack Cali Realty Corp.; and Direct Invest (Lehman Brothers-NPV Joint Venture).

**On the Terrorism Risk Insurance Act:** After 9/11, I was involved in several deals that immediately got held up because of the requirement for terrorism insurance. The insurers were excluding terrorism from coverage and something had to be done and, to the Bush administration's credit, they stepped up to the plate. They enacted a backstop for the private insurers so that there would be some protection in case the losses were catastrophic in the future. It was

intended as a temporary measure. The thoughts of Congress was that eventually insurance would figure out a way to provide the protection that was needed for terrorism. Unfortunately that hasn't happened. Certainly the risk is there, if not greater arguably. Something has to be done. Every mortgage over 90% requires some type of terrorism insurance. So not only would you potentially not be able to do new deals, because no lender would finance it, but existing deals would be problematic.

What's likely to happen is that there will be some type of extension, perhaps two years, with a decrease in the government's responsibility.

**On whether there will be a repeat of the early 1990s:** My view of a typical deal these days look like this. Almost any borrower, even someone that doesn't necessarily have any experience in the real estate business, can go out find a non-recourse construction loan and a mezzanine loan, except for maybe for a completion guarantee. This is 95% of the cost land acquisition and construction, which means the developer only has to come up with 5% of the equity needed. The lenders are competing with each other to make these loans. If this sounds a lot like the early '90s, it probably should. The available of capital is something we probably have not seen in our history, including in the early '90s.

The Fed is well aware of this real estate boom. They are well aware of the dangers of having too much money chasing too few good deals and they've been trying to control things by increasing short-term interest rates. One would normally think this would result in less spending, bringing prices down but it has not responded this way at all.

Will the bubble burst, absolutely, but I don't think it's going to happen in the short-term.