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by Tom McCann

Practice Group Survey: Real Estate's Booming, and There's No Bust in Sight

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Stephen G. Tomlinson's Aon Center window looks out onto a scene of dirt pits, construction cranes and the concrete hulks of half-built skyscrapers. For a real estate lawyer, it's a beautiful view.

"We haven't been this busy in a long time. The investment environment for property is incredibly active," said Tomlinson, leader of the real estate practice group at Kirkland & Ellis, which handles property issues for major corporations, investment funds and private-equity groups. "Prices are going up. Our clients are buying and selling in almost every sector. I don't even think the higher interest rates are going to slow us down too much."

With an uncertain economy and volatile stock market over the last several years, real estate has been one of the few consistent bright spots for U.S. investors, and local real estate practices have been enjoying a booming trade, according to the *Chicago Lawyer* 2004 Survey of the Largest Law Firms in Illinois.

More than a dozen law firms listed real estate as their fastest-growing practice in 2003 or as one of the new showpiece practice groups for their firm, according to the survey. The trend has emerged at firms as big as Kirkland, with 487 Illinois lawyers, to much smaller firms like Zukowski, Rogers, Flood & McArdle of Crystal Lake, which has 23 attorneys.

The fourth annual largest law firm survey was mailed to 170 firms with 20 or more lawyers as listed in Sullivan's Law Directory. Of these, 107 listed

information about showpiece practice groups, rapidly growing practice areas and the addition or deletion of practice groups since the previous year.

Firms said real estate has been experiencing solid upward growth for the last four years. Low mortgage rates have fueled a sustained housing boom, and the recent increase in corporate mergers and acquisitions have required more lawyers to resolve the myriad real estate implications.

Firm leaders said demand is high for expertise in everything from residential housing to industrial, commercial and retail property, as well as regulatory work like zoning, land use and tax advice. They continue to add new lawyers in order to meet their clients' needs.

"The economy is picking up now; credit is still easy to get. Big deals are being made on everything from office buildings to strip malls to multi-level parking lots," said Bruce L. Boruszak, head of the real estate practice at Wildman, Harrold, Allen & Dixon, which added real estate this year to its list of showpiece practice groups. "Virtually every corporate deal has complicated real estate matters that need to be ironed out. Companies are doing a lot of buying and selling of divisions right now or doing overall



**Stephen G. Tomlinson heads
Kirkland & Ellis' real estate
practice group, the firm's
fastest-growing practice area.**

refinancing of their corporate assets, so that keeps us at the office real late.”

Moving on up

Since 2001, Kirkland's fastest-growing practice group had been bankruptcy, with high-profile, debt-troubled clients like United Airlines and insurer Conseco Inc, according to the survey. But this year, the real estate group was Kirkland's fastest-growing practice both in terms of increase in lawyers and gross revenues.

Tomlinson started the practice in 1993 with one other attorney. Now the group has more than 30 lawyers, he said, with four new attorneys set to start work in the fall.

“We've been growing our legal staff very rapidly, about 20 percent a year. We just keep getting busier. Meanwhile, Kirkland overall grew by just 6 or 7 percent annually,” Tomlinson said.

“The past 12 months have been very good to us,” he said. “We have a lot of corporate deals going. We also represent some very large pension funds, institutional investors and private-equity groups that invest in real estate.

“Our clients have a lot of money,” Tomlinson said, “and they're looking for the next big thing.”

The real estate group has also fed off the bankruptcy group, renegotiating municipal bonds tied to United's large real estate holdings and representing Conseco in September in its \$1.4 billion sale of the landmark GM building in New York.

“We've also been doing an increasing amount of work for the hospitality industry, which is finally starting to rebound from Sept. 11,” Tomlinson said. “We're doing a lot of work for Starwood Hotels, which owns the Westin Hotel chain. They're very active acquiring and disposing of hotel properties. We did \$1.5 billion in hotel work last year alone.”

Many other areas are also booming.

“You'd think the market would slow down, but houses and buildings are going up everywhere,” said Anthony Frink, head of the

44-lawyer real estate practice at Holland & Knight in Chicago. The office added nine real estate lawyers in the last six months, most of them from Piper Rudnick, he said.

“We're seeing so many growth opportunities,” Frink said.

“Investment groups are taking up huge stakes in real estate, and importantly for us, people keep spending money on consumer goods, so retail outlets keep expanding in Chicago and throughout the Midwest. The Home Depots, Costcos and Wal-Marts of the world are doing real well, and they need new stores. It's a good time to be a real estate lawyer.”

Frink said Holland & Knight represents McDonald's and Bridgestone/Firestone in buying and developing their retail properties. He also said the firm is involved in a new wave of shopping developments in the Midwest called “lifestyle centers.”

“With all the new homes, you need new stores, new malls. The massive indoor malls and the big-box strip malls have gone out of style, so now developers are trying to mimic the old town center,” Frink said of the lifestyle centers.

Piper Rudnick has one of the biggest real estate practices in town, with almost 100 real estate lawyers in its Chicago office.

“We've had a tremendous recent influx of new real estate clients. We have more transactions in the Chicago office than we can handle,” said Theodore Novak, a partner at Piper Rudnick who represents Donald Trump on the Trump Tower high-rise project on Chicago's riverfront. He also represented the Chicago Cubs this year in building new seats behind home plate at Wrigley Field.

“A lot of national law firms have deemphasized real estate, believing real estate entrepreneurs are more penny-pinching and cost-averse than corporate and big-ticket litigation clients,” Novak said. “We haven't deemphasized. We're expanding our practice. It'll be difficult for anyone to catch up to our platform.”

Novak said Piper's recent mergers with San Francisco-based Steinhart & Falconer and Boston firm Hill & Barlow were pursued in part for those firms' real estate practices. Piper's proposed merger to



Theodore Novak

British-based D.L.A. also has a significant real estate motivation.

“D.L.A. has a worldwide real estate practice to complement our nationwide practice,” Novak said. “That would be a significant next stage in our growth.”

Bright outlook

Charles Edwards, another real estate partner at Piper Rudnick, focuses on zoning and land use, which he said was a good harbinger of deals to come down the pipeline.

“There’s really no sign of stopping,” Edwards said. “There is a lot of buying and selling of office buildings, developments of retail shopping centers, real estate finance transactions. Homes are going up across the suburbs, and whole central parts of Chicago are being completely recycled.”

Novak said that because of the low interest rates, Piper has clients who are doing condominium conversions all over the country. This has depleted the rental stock in urban areas and has led to a construction boom in apartment buildings.

“At the end of the year, after tax deductions, the cost to buy is still equal to the cost to rent, or close to it. That has been in play for the last couple of years. There’s lots of adaptive reuse going on,” Novak said.

Kevin Breslin, managing partner of Weinberg Richmond, said real estate is also by far the fastest-growing segment of the firm. One of the fastest-growing sectors of that work has been industrial.

“Chicago’s industrial base is making a resurgence, and a lot of vacant industrial land on the South Side and downstate are being put back to good uses,” Breslin said.



Amy Blumenthal

“Chicago is still a huge gateway for most of the commerce moving through the country. It’s still the hub of transportation.”

Weinberg Richmond is involved in the construction of a Ford manufacturing campus on old industrial land on the far South Side. The firm also represents clients in the Joliet Arsenal redevelopment project, which is being turned into an industrial park with a rail facility. Weinberg is doing a similar facility with the Union Pacific railroad in downstate Rochelle.

Tomlinson: “Our clients have a lot of money, and they’re looking for the next big thing.”

“These developments are really flourishing right now, where you have the combination of multiple modes of transport, good outlying locations with rail and road access and ample land to develop,” Breslin said. “Businesses are flocking to the Chicago area for this type of industrial development. It’s going to only increase in the next few years.”

In the collar counties, home development continues at a fevered pace, said Amy Blumenthal, head of the real estate practice at Gould & Ratner.

“We represent some of the biggest home developers in the region — Lakewood Homes and Concord Homes — and they just keep gobbling up land,” Blumenthal said. “They keep building because consumers are



Bruce Boruszak

out there that keep buying. It’s going to continue to be hot as long as interest rates remain favorable. They are starting to creep up, but they have to rise significantly to have any impact on construction. I don’t see that happening in the next six months.”

Joseph R. Fortunato, president of the Illinois Real Estate Lawyers Association, practices in DuPage County. He said home building in DuPage and other collar counties was accelerating beyond belief.

“There has been a surge of teardowns. Prices are astronomically high, but not too high that someone doesn’t want to buy them,” said Fortunato, whose association represents 1,200 real estate attorneys in the state. “Recently I saw someone buy a property for \$800,000 with the sole intent of tearing it down. It boggles the mind.”

David Rogers, managing partner of Zukowski, Rogers, Flood & McArdle in Crystal Lake, has also experienced a surge in real estate work. But his firm mostly represents municipalities struggling to buy park land and property for facilities amid the competitive atmosphere, as well as longtime land owners being inundated with requests to buy their property.

“We represent a large number of landowners in the suburbs who have had their properties for generations and had always rented it out to farmers. They never intended to sell, but they are getting offers they can’t refuse,” Rogers said. “The pace to buy up land throughout McHenry and Kane counties is really frenzied. Lawyers are doing a lot of work in that area.”

Novak of Piper Rudnick said even the less-active sectors of the market are filled with potential as well-monied investors try to

get in on the ground floor.

"It's really dead right now in leasing downtown office space. Vacancies are very high, and not a lot of new construction is going up, just custom-built high rises," Novak said. "But there has been a surge in downtown office buildings changing hands. The Sears Tower this year is a prime example. Institutional investors are banking that values are set to go upward. There really isn't a segment of real estate that doesn't have activity right now."

David Berzon of Levenfeld Pearlstein said there is an explosion of work in a relatively new field called tenant-in-common transactions, where individual investors sell a property and go in together on a larger property like a mall or retail outlet.

"It's a really new and hot market right now. People do it because it allows them to get in on a much bigger investment, and the reinvestment of their money allows them to employ a tax strategy where they defer all their taxes," Berzon said. "There is much more money floating out there than there are opportunities, and people are trying to find places to invest. Real estate tax work is very important right now. Clients pay good money for good real estate tax advice."

Where it's headed

Novak said the abundance of capital in search of real estate opportunities was the main topic of Piper Rudnick's annual meeting of real estate professionals, held in Chicago in April and titled "More Dollars than Deals."

"Real estate is still giving clients good return on their risk. Rather than getting 5 percent on a 10-year bond, you can get a much greater return on real estate," Novak said. "And with Chicago, this city is really on an upturn and has been for some time. We have a pro-development mayor. People are returning to the city. Big-box stores are dying to get into the city. The demographics continue to be really attractive for real estate."

As part of the meeting, Piper Rudnick conducted a survey of 555 executives at real estate companies, pension funds, banks and insurance groups. The survey found that rising interest rates and steady-yet-sluggish job growth were the top concerns for executives in weighing whether real estate would continue to grow.

Asked to pick one of six property types as most ripe for growth — retail, downtown office, suburban office, multifamily, industrial and hotel — 23 percent rated

multifamily properties as the most attractive investment opportunity. Retail properties and hotels followed with 19 percent and 17 percent of the responses, respectively.

Randy Rowe, chairman of Green Courte Partners LLC, a private-equity investment firm in Lake Forest, selected apartments and hotels as the most attractive sectors for real-estate investors. But his company currently is

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focusing on two other types of properties: parking and manufactured housing such as trailer homes.

"Every analyst has a different opinion on what's hot and what's not. I think there is still room for growth in several sectors," Rowe said. "Prices are way too high in some places like high-end condo buildings and office buildings. I like manufactured housing and parking right now because they're smaller, and we don't run into as much money competing for the property. Manufactured housing has had a rough time, so I see a lot of value there, and families who own small and midsize parking lots are increasingly looking to sell off those assets."

James C. Adams, director of the real estate practice for Dykema Gossett in Chicago, said he also was seeing a lot of activity in parking lots.

"We recently represented a client in buying all the surface parking lots at O'Hare Airport for \$66 million. It was part of a \$132 million deal for airport parking lots around the country," Adams said. "The real estate boom is spreading to many non-traditional areas."

Berzon of Levenfeld Pearlstein has a thriving mobile-home park practice, recently completing a major deal of 25 properties around the country, he said.

Adams added that the increase in bank consolidations is leading to more real estate work, including the opening of hundreds of new bank outlets around Chicago. He said there also has been an increase in mega-projects for roads, highways, convention centers and hospitals.

Local hospitals have mapped out

ambitious plans for expansion in DeKalb, Aurora and Naperville with facilities that would cost \$300 million each. The Chicago Fire soccer team also is building a new stadium, and local college campuses are expanding, Adams said.

"The cost of money is very cheap, the return on more traditional investment vehicles is very low, so people turn to real estate," Adams said. "There has also been a big rise in the number of surplus properties, and companies are snapping them up en masse. We're doing the acquisition of several former Kmart sites for development by other stores. If you can pick up a Kmart site that's already zoned with utilities, you're light years ahead of buying a green field next door. That work is increasing a lot."

Meanwhile, the low interest rates on mortgages and lenient down-payment terms, as well as federal programs aimed at increasing home ownership, sustain robust home sales.

Sales of Chicago-area single family homes grew 5.1 percent in May and condo purchases were up 10.9 percent compared to the previous year, according to a recent report by the Illinois Association of Realtors. Housing starts in the suburbs grew to a record 32,000 in 2003, up 6 percent from its 2002 total.

"Interest rates remain historically low. Even if they tick up a little bit, things will slow, but it won't come to some abrupt halt," said Frink of Holland & Knight. "As long as they don't skyrocket, it will be a smooth transition."

Jim Costello, an economist at Torto Wheaton Research, a Boston-based real-estate research firm, said the interest-rate rise could lead to more activity buying rental buildings.

Costello said he also was bullish on the prospects for retail office space in the suburbs. "When companies take on new space, it's typically in the suburbs," he said. "If cost is a consideration, suburban locations are generally cheaper than urban areas. Most office workers live in suburbs, so it's easier for companies to find workers in a suburban location."

Given these areas of projected growth, lawyers say the outlook for real estate is good.

"Chicago has a diverse economy. We weather downturns better than other places," Frink said. "Values of homes have increased nicely, but not as radically as the coasts, so hopefully we won't have deflation. I don't see any bubble bursting on the Chicago real estate scene any time soon."★