Real Estate Industry Alerts Tracker - November 6, 2020 Issue

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District of Columbia Eliminates Regulatory Exemption to Unincorporated Business Franchise Tax

On October 30 we published a client advisory on recent legislation that was passed as part of a larger budget bill in the District of Columbia that eliminates the liquidation exemption from unincorporated business franchise tax – a valuable tax exemption that real estate investors in the District have historically relied upon for significant tax savings on the sale of property in the District.

To read our full advisory, click here.

SBA Releases Draft Questionnaires Related to PPP Loan Forgiveness

The U.S. Small Business Administration recently released draft questionnaires (Form 3509 for For-Profit businesses and Form 3510 for Non-Profit businesses) for use in its review of paycheck protection program (PPP) loan forgiveness applications of PPP loans of $2 million or more. Both questionnaires include questions about business activity and liquidity. For example, the For-Profit forms include questions about business activity, including: second quarter gross revenue, the impact of the pandemic and related shutdown orders on operations, and any capital improvement projects being undertaken from the beginning of the pandemic through the end of the Loan Forgiveness program covered by the PPP program. The For-Profit questionnaire also included questions about a company's liquidity, such as: cash on hand, whether any distributions or dividends were paid, and whether any outstanding debt was paid before contractually due, during the same period. The Non-Profit questionnaire includes similar questions as to business activity and liquidity.

Additional information may be found here and copies of proposed questionnaires may be found here and here.

Research Shows CMBS Borrowers Willing to Return Collateral to Lender

A recent report by Trepp included a list of about 100 borrowers, representing about $3.9 billion in CMBS loans, that are willing to relinquish the collateral to the lenders. The list does not include loans for which deeds-in-lieu of foreclosure were discussed, but for which the asset has already been returned to the lender. The list includes some large portfolio loans with balances above $200 million. In its report, Trepp breaks down the borrowers willing to return their properties by segment. The largest segments are in the lodging industry, where of the 100 borrower properties, 18.09% were full service hotels, 6.38% were extended stay properties, and 18.09% were limited service properties. This represents about 42.5% of the borrowers willing to return their properties to their lender. The retail sector is the next largest category, where regional shopping malls (26.6%), super-regional malls (2.13%) and community shopping centers (8.51%) account for 37.24% of borrowers willing to hand back their properties.

Additional information may be found here.

CMBS Delinquency Rate Continues to Decline

In its most recent report of CMBS loan performance, CRE Finance Council ("CREFC") reported that the overall delinquency rate in the CMBS market continued to decline in October, to 8.3% down from a high of 10.3% in June. The report indicates that delinquency rate improved across most categories. While the 30-day delinquency rate within the hotel and retail sectors decreased, part of the improvement is attributable to forbearance agreements being executed by borrowers and special servicers. Additionally, the percentage of hotel and retail loans on servicer watch lists increased slightly in October. Industrial loans on servicer watch lists increased dramatically, from 9.6% in September to 26.5% in October, a change attributable to a $3.4 billion industrial portfolio newly added to servicer watch lists.

A copy of the report may be found here.

Office Vacancies in Manhattan Reach 16-Year High

According to a recent report from Colliers, the Manhattan office market is experiencing the highest vacancy rate since 2004. The report showed that in October, 2020, the office vacancy rate in Manhattan increased for the fifth consecutive month to 12.9%. Average asking rents also dropped to $76.20 per sq. ft. during the same period. Leasing activity picked up, however, as compared to September, 2020 from 1.12 million sq. ft. to 1.76 million sq. ft., but the October leasing activity is still down more than 50% as compared to the 3.89 million sq. ft. leased in October of last year.

Additional information may be found here.

New York Residential Rental Rates Fall For Tenth Straight Month

Apartment List's November 2020 Rent Report revealed that rents in New York decreased 2.8%

month-over-month in October, and are down 15.3% since March, 2020 and down 17% compared with October, 2019. Since the pandemic began, New York has experienced the second-fastest decline among the fifty largest U.S. cities, with San Francisco posting the largest rent decline at 21.7%. Other major cities with double digit rent declines include Seattle (14%), Boston (13.6%), and San Jose (12.2%). Renters leaving high-cost metropolitans areas for smaller cities have contributed to rent growth in those cities.

Additional information may be found here.

Reports Show that Construction Spending in the U.S. is up Again in September

For the fourth consecutive month in 2020, construction spending in the U.S. rose 0.3% in September. However, the increase in September was smaller than what analysts had expected. The Commerce Department reported that the September gains follow a gain of 0.8% in August. Single-family home construction increased by 5.7% and total residential construction was up 2.7%. Government construction projects fell 1.7% and non-residential private construction fell by 1.5%. In the first nine months of 2020, total construction spending across the U.S. is up 4.1% as compared to the same period last year.

Additional information may be found here.