

Market sparks increase in investor, lender lawsuits

BY MIKE SUNNUCKS
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Valley law firms are seeing an uptick in business in the wake of the real estate market bust and souring business deals.

More developers, lenders, investors, landlords, tenants, and real estate sellers and buyers are taking each other to court in an attempt to recoup losses during the rough times. This is creating an increase in legal work for commercial law firms, which are adjusting their practice areas to keep up with the volume.

"People are taking a sharper eye at agreements to see if there are ways out of them," said John Kerkorian, a litigator with the Phoenix office of Ballard Spahr Andrews & Ingersoll LLP.

Kerkorian said he is seeing increased legal business and inquiries from new and existing clients, including investors involved in disappointing real estate deals.

John Flynn, a partner with the law office of Dioguardi Flynn LLP in Scottsdale, is seeing an upswing in litigation involving landlord-tenant and lender-developer disputes. He said that includes tenants walking away from leases, and lenders pressuring home builders and commercial developers set adrift by the market downturn.

"When we go into a downturn, there is an influx of landlord-tenant disputes going in both directions," Flynn said. "People are wanting to retrade deals and leases."

He said most of that legal work is going to midsize and large commercial law firms, but he has seen some work being done by consumer-oriented plaintiffs' attorneys.

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John Flynn
Dioguardi Flynn LLP

Scott Zwillinger, a partner with the Phoenix law office of Zwillinger Georgelos & Greek PC, said some litigation isn't pursued for fear of "pending good money to chase after bad."

"In other words," Zwillinger said, "they are afraid of obtaining judgments on which they can't collect."

He said his firm is getting more work from lenders going after "the perpetrators of mortgage fraud," including real estate agents, mortgage brokers, loan officers and escrow companies.

Jordan Rose, managing partner of Scottsdale-based Rose Law Group, said her firm is getting work from lenders in cases involving appraisals and valuations.

"The state of law in this down market

'The state of law in this down market seems quite healthy.'



Jordan Rose
Rose Law Group

seems quite healthy," she said.

Some real estate-related cases that involve high-profile clients often can result in bringing new clients to the law firms.

Phoenix-based commercial lender Mortgages Ltd. faces a handful of lawsuits related to its real estate endeavors. The company also is facing additional legal matters following the death of its CEO and sole shareholder, Scott M. Coles.

John Clemency, an attorney with the Phoenix law office of Greenberg Traurig LLP, serves as legal counsel for Mortgages Ltd.

Phoenix-based Snell & Wilmer LLP represents Grace Communities in a legal case against Mortgages Ltd., and Los Angeles-based Sheppard Mullin Richter & Hampton LLP represents Scottsdale-based Rightpath Ltd. in its legal dispute

with the lender.

A group of investors represented by Phoenix law firm Mitchell & Forest PC is suing Valley shopping center owners Ron Barnes and Alex Papas over sales of some of those centers. Scottsdale-based Sacks Tierney PA is representing Barnes and Papas in that suit.

Reporter Jan Buchholz contributed to this story.

GET CONNECTED

Sacks Tierney PA: www.sackstierney.com
Zwillinger Georgelos & Greek PC: www.zggglawgroup.com
Dioguardi Flynn LLP: www.dioguardiflynn.com



The Greater Phoenix Market

ECONOMY TRACKER

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SRP Update

SRP is a proud sponsor of the Greater Phoenix Chamber of Commerce's 21st annual ATHENA Awards, honoring women in business. The award recipients are outstanding female business leaders who are dedicated to making a difference in the community and to developing the skills and leadership potential of other women. This year's awards will be divided into three categories: private sector, public sector, and young professional. To nominate a deserving woman for one of these prestigious awards, obtain an application and submit to the Chamber by July 18, 2008.

For more information, visit www.srpnet.com/econtracker.

Greater Phoenix Building Permits

Single-Family Homes - NSA		
	Total	Y-Y Change
February-07	4,918	
February-08	1,363	-72.2%
March-07	4,942	
March-08	1,551	-68.6%
April-07	3,059	
April-08	2,141	-30.0%

Source: U.S. Census Bureau NSA = not seasonally adjusted

Arizona Economic Indexes

	May-07	May-08
Arizona Price Index 50 = Neutral	72.5	83.0
Arizona Business Conditions < 50 = Contraction > 50 = Expansion	59.3	48.3

Source: Arizona State University

Greater Phoenix Employment

	Employment Change*	Unemployment Rate
March-07	+6,570	3.1%
March-08 (r)	+2,484	3.5%
April-07	-3,145	2.9%
April-08	-4,208	3.2%

Source: Bureau of Labor Statistics NSA = not seasonally adjusted
*Change from prior month (r) = revised data

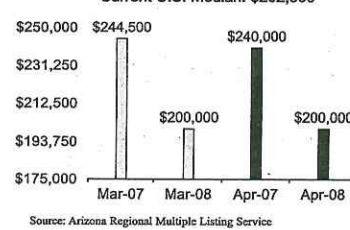
Carlton Index

In the month of April, each job in the Greater Phoenix area generated an average of \$565 in retail sales expenditures. That is a 13% decrease from April 2007.

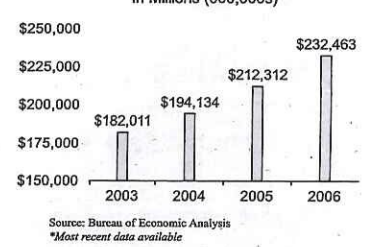
Source: The Carlton Group Ltd.

Greater Phoenix* Economic Benchmarks

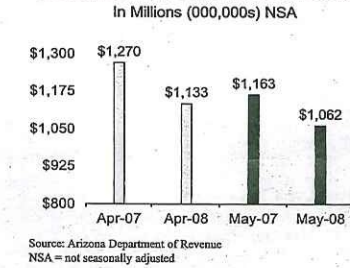
Greater Phoenix Median Home Price



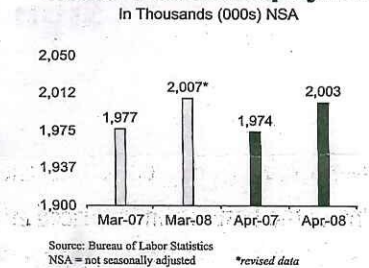
Arizona Gross Domestic Product*



Greater Phoenix Retail Sales



Greater Phoenix Employment



Mortgage rates: 30 yr - 6.30%, 15 yr - 5.89%, 5/1 - ARM 5.76%;
1 yr CD - 3.18%; money market yield - 2.33%

Source: WSJ 06/16/08

Inside the Economy

The (Im)balance of Trade - Part 1

The accounting for trade between the United States and the rest of the world is sometimes called the "balance of trade." This is a bit of a misnomer in that it only refers to one part of the international trade accounts - the part of the "current account" that reflects the net import and export of goods and services. The current account consists of the import and export of goods and services, investment income, compensation of U.S. employees overseas, and unilateral transfers of funds. The balancing account is called the "capital account"; we'll leave for next month's article.

In April of 2008, the net balance of goods and services was a negative \$61 billion. In other words, the United States imported \$61 billion more goods and services than we exported during that month. At this rate, it will take about a year and a half to add \$1 trillion to the amount we owe other nations. Another way of looking at this is that we send a net \$61 billion worth of ugly green dollar bills to foreign countries, and they send us a net \$61 billion worth of cars, oil, electronics, and other neat stuff. So, as long as other countries are willing to accept ugly green dollars for their goods and services, should we care about running up another trillion dollars of debt to them? The short answer is—maybe.

We (collectively) owe the rest of the world a dollar's worth of goods and services for every dollar we send overseas. When we cover the capital account next edition, we will further discuss the relevance of the U.S. Treasury (read that as "us") owing Japan \$600 billion, the People's Republic of China \$490 billion, and oil-exporting countries \$150 billion.

Author: Ken Maxey