

*Commercial Briefs*

# MHM Makes Hotel Business Easier For Lenders

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Some workout specialists hope to profit from dealing with the Resolution Trust Corporation, and a Texas company has found a niche in serving thrifts that become instant hotel owners when they assume properties as a result of loan defaults.

MHM, Inc., of Dallas, has among its clients 21 financial institutions, many of which have no experience in the hospitality industry, said Senior Vice President Don Landry. The company took over management of 17 hotels in September that are owned by Bluebonnet Bank FSB of Dallas.

"We provide thrifts with the greatest probability of a higher value and sale in a short period of time," he said.

Some hotels faltered in the mid-1980s because of overbuilding and the inability to raise room rates. When a hotel becomes real estate owned (REO), Landry said the property is generally in less than prime condition. The 10,000-person staff of MHM can move quickly to correct deferred maintenance, create a marketing plan and rebuild staff, he said.

Some of the properties it manages can be sold immediately after being taken over, while others have to build value over years before they can be marketed, he said. MHM can stop a hotel from losing money in three months, Landry asserted.

The REOs are not over in the hotel industry, he added, because some financial institutions have not been strong enough to repossess them. Dealing with regulators who take over these banks and thrifts is going to be a challenge, Landry said.

## KNOW YOUR SURVEYS

Two surveys from the third quarter of last year show just how different market data can be. A survey by the national realty firm Grubb & Ellis of available leases in Chicago's central business district (CBD) puts vacancies at 10.3 percent, or 6.16 million square feet.

But a survey of occupied space by the Building Owners and Managers Association (BOMA) of Chicago from a similar period put vacancies at 16.25 percent, or 21 million square feet.

The BOMA survey delineated the CBD by street and covered May through September. Both surveys excluded owner-occupied space.

The Grubb & Ellis survey shows 7.65 million square feet under construction in the Chicago CBD, while the BOMA survey found eight million square feet.

The Grubb & Ellis survey found that the national office vacancy rate was 18.4 percent in the third quarter of 1989. In the greater Boston area, vacancies were 14.8 percent for that period. A fourth-quarter survey by Codman Associates put vacan-

cies for the Boston CBD and Back Bay neighborhoods at 11.7 percent.

Codman, a brokerage firm, said absorption rates in the CBD are up nearly 40 percent from the fourth quarter of 1988.

## NO SOLACE FROM ENVIRONMENTAL RULINGS

Legal actions at the Federal level over the past two years have not reduced lender liability in cases where properties are contaminated, according to a New York lawyer.

Margaret Murphy of the firm White & Case also said that limits remain unclear on the degree a lender can become involved in a troubled borrower's business without becoming liable for environmental hazards found later.

In one 1988 case in the Fifth Circuit, homeowners sued the developers, builders, sales agents and the construction lender, alleging that toxic wastes remained from a

wood treatment plant previously on the property.

Trial and appeals courts have refused to dismiss the case after the defendants argued that the Superfund law was not meant to impose a chilling effect on banking and real estate.

Murphy said that the case, *Tanglewood East Homeowners v. Charles-Thomas Inc.*, indicates that plaintiffs will be given an opportunity to prove that lenders are potentially responsible parties under the law.

In another Federal case from Colorado, the court refused in 1989 to dismiss a suit against a bank when it took possession of inventory and equipment belonging to a lessee of the plaintiff.

In *Polger v. Republic National Bank*, the lessee contaminated the property, became insolvent and ceased making rent payments to the plaintiff. The plaintiff alleges that the bank became an owner and operator of the facility upon taking possession of the lessee's property.

In a Pennsylvania case, *United States v. Nicolet*, Murphy noted that a Federal court ruled that the fact that a parent company held the mortgage on the polluted property of its subsidiary was not sufficient circumstances to define the parent as an owner and operator.

In a related matter, new environmental disclosure laws in Illinois and Indiana went into effect for real estate and corporate transactions on January 1. To protect unwary lenders and buyers, sellers have to file detailed information about the status of the property with county clerks and state environmental authorities.

Larry Schnapp, an attorney in New York with the firm Lord Day & Lord, predicted that more states will adopt this approach.

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