

# REAL TRENDS

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## Office Specialty Group 2nd Quarter 2011



### Tenant Representation in the Office Market

► By: David G. Lang, Vice President

**L**ike to say “three things in life are certain: death, taxes, and lease expirations!” The first two should be referred to your spiritual guide and your tax advisor, respectively. As for lease expirations, it is a date certain in the life of your business that should not be ignored or taken lightly.

Engaging a tenant representative for a new lease or renewal of an existing space in the office sector is a “value added” service that is still not recognized by all tenants in the NE Ohio marketplace. If relocation is the plan, finding the right property is only the first step. Ninety percent of the work comes after your preliminary choice of a building.

As a tenant, you will want to work with a representative who will also know the historical and competitive market conditions, nuances of the Landlord representative’s strengths and weaknesses and available concessions to allow representing your company from a position of strength. Most Landlords are more inclined to negotiate with a Tenant who is represented by a knowledgeable real estate professional, avoiding the normally adversarial process.

You should use a tenant representative for the same reason you would not have one attorney representing both parties in a legal matter. You want their advice as to what space is best suited for your business and what are the best terms at which the space can be leased. A good broker will help you in all aspects of the commercial space transaction. That starts with understanding your business and ends with a signed lease. Finding the space is simply one small step in the overall process.

The majority of buildings on the market have a listing broker representing the Landlord. The Landlord is prepared to pay a leasing commission should a lease transaction take place. The listing broker and your tenant representative will be paid out of the leasing commission, which in most NE Ohio markets is a percentage of the total consideration of the transaction.

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In other words, the fee both brokers receive is built into the operating expenses and therefore paid for within your base rent. You will be paying for the service whether you engage a tenant representative or not. When so much is at stake financially and legally why, would you not engage the services of a representative?

After engaging a broker, you should expect them to represent your firm’s sole interests. An exclusive representation agreement establishes an agency relationship of trust and confidence imposed by law. You should expect them to give you good advice and to help you through all phases of the

*(continued)*



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leasing process; that is helping you determine how much space you need, what are your most important selection criteria, and then finding and negotiating for the space that best meets your needs. Don't be afraid to ask your broker all kinds of questions.

In the final analysis, retaining a professional representative should derive a lower overall occupancy cost which, will benefit your businesses bottom line.

## RECON 2011 ICSC CONFERENCE LAS VEGAS, NEVADA

By: David C. Wagner, Principal



The 2011 RECON Conference in Las Vegas took place May 22nd through May 25th and was an upbeat conference compared to the past three years. Although there is still a fair amount of uncertainty in the real estate marketplace, the sense from brokers and retailers is that we have hit bottom. As an industry, we are bouncing along the bottom and for many assets there will be more trauma ahead.

Retail tenants are continuing to evaluate and upgrade their locations while taking advantage of the tail end of the real estate recession. The general consensus of participants in this year's show was that interest and showings on vacant space and demand for tenant proposals seem to be increasing. While tenant demand has

not increased enough to prompt an increase in asking rents, most landlords (that are not overleveraged) are sensing that the freefall in rents has stopped and the slow climb out of the hole may be able to begin in the next 12-18 months.

There is still a fair amount of distress and caution in the lending, legal, and work-out/special assets world. All parties fear that it will be a few more years to work these "special assets" through the system. Most folks seem to feel the healing has begun, but a relapse is certainly not out of the question if interest rates (or price of oil) rise too fast or there is another geopolitical shock to the fragile economy.

### BANKING/LENDING ENVIRONMENT

After meetings with some of Northeast Ohio's solid regional lenders, many profess a willingness to lend to their very best relationship customers under very conservative underwriting standards. Most assets being discussed are value-added acquisitions and ReFis. Very little new construction is being discussed for Northeast Ohio other than build-to-suit projects with 100% or majority of space pre-leased. The permanent lenders (life companies, pension funds, CMBs) are also lending on very conservative underwriting standards, but still making loans.

### SPECIAL ASSETS

Most lenders and lender counsels are still looking for effective strategies to resolve their special asset problems. Workouts, short sales, receiverships, and foreclosures are still the hot topics of conversation and seem to be dominating the daily activities of many lenders. This is still one of the major areas of focus for Chartwell Group for the foreseeable future.

### CONCLUSION

As a full service real estate firm, Chartwell Group (and the real estate industry in general) must focus on adding quality tenants and value to the built real estate environment. Adding value to the existing inventory will be the primary focus for the next 12 months.

## CHARTWELL GROUP SETS NEW LEGAL PRECEDENT IN OHIO DEMONSTRATING LEGAL EFFICACY OF RECEIVERSHIP REAL ESTATE AUCTIONS

By: Gordon J. Greene, CCIM, Principal



Lenders are looking for almost any way to realize the proceeds of sale for parcels of over-leveraged real estate other than through a Foreclosure or Sheriff Sale. OAA Member & Chartwell Group Partner, Gordon Greene, observed, "The legal and marketing constraints of a Sheriff Sale frequently result in the lender taking title to the bricks and mortar rather than obtaining the monetary proceeds from a sale to a third-party. Lenders in many states are actively requesting that the particular Court of Jurisdiction appoint a Receiver to manage the asset and subsequently sell the real estate."

The power and flexibility of the Receivership Real Estate Auction Strategy in Ohio was recently demonstrated by Gordon Greene and David Wagner of Chartwell when a major Ohio Bank as Secured Creditor petitioned the Court of Common Pleas in Cuyahoga County, OH to appoint a Receiver for the 93-Room Super 8 Hotel just south of Cleveland Hopkins Airport. The Receiver's job was to stabilize income; complete limited repairs; and generate a sale through a "widely-marketed" advertising program. The proceeds of sale would principally benefit the Bank, as asset valuation appeared to be well below the existing first mortgage.

Chartwell Group proceeded to market, show, and conduct an open outcry real estate auction. The property attracted 98 direct inquiries and eight bidders. Before the gavel fell at the auction at a sales price of \$1,274,000, the Receiver confirmed they would be signing the purchase & sale agreement with the approval of the Secured Creditor.

Of interest were the legal objections of the borrower to the Receiver Sale. Prior to the sale of the Hotel closing in escrow, the borrower lodged a legal appeal with the Eighth Appellate District Court of Appeals of Cuyahoga County, Ohio arguing that (1) they did not receive the type of statutory notice ordinarily required for a foreclosure sale in Ohio and (2) the Receiver did not have the authority to sell the asset. The Appellate Court disagreed and found (1) "the receiver was not bound by the notice provisions that bind a foreclosure sale" and (2) "a receiver sale is an alternative remedy to a sheriff's sale for enforcing and satisfying a judgment." The Court's Ruling stated, "A receiver is appointed for the benefit of all the creditors of the property. Under the control of the court which appointed him, a receiver may bring and defend actions in his own name as receiver, take and keep possession of property, receive and collect rents, and make transfers which includes the power to sell the property free and clear of liens and encumbrances."

The ability to sell good-quality real estate assets in Ohio through a Receiver Real Estate Auction will prove to be a significant benefit to Secured Creditors. David Wagner, Partner with Chartwell Group noted, "We have generated similar results with our Receiver Real Estate Auction Sales in Ohio, South Carolina, Georgia, and Florida."

To obtain a PDF Copy of the complete referenced 12-page Eighth Appellate District Ruling, E-mail Gordon Greene; ggreene@chartwellgroup.com

*Chartwell Group, Commercial Real Estate Broker & Auctioneers, with offices in Cleveland, OH; Charlotte, NC; & Chicago, IL, has conducted real estate auctions in over 39 states, four provinces of Canada and the Bahamas.*

## CHARTWELL GROUP OBTAINS BETTER VALUATION FOR REAL ESTATE ASSETS IN THE EASTERN GREAT LAKES-AREA BY APPEALING TO NATIONAL AND INTERNATIONAL BUYERS



"We are rounding up the usual suspects" is not a statement that real estate sellers want to hear from their commercial estate brokers when seeking to sell assets. This paraphrased line from the Humphrey Bogart Movie, *Casablanca*, indicates that that "nothing unusual is being done to obtain a better result." Commercial Real Estate located in and around the Eastern Great Lakes Regions from Michigan to Ohio to Western PA and Western NY can be undervalued by most local buyers presenting offers to purchase. Chartwell Group has found that marketing these Great Lakes Properties aggressively to Canadian, Asian, and Coastal U.S. buyers obtains better results for our sellers. Chartwell spends over \$100,000 annually advertising properties in the Wall Street Journal, Canadian National Post, and Toronto Globe, as well as major U.S & International Newspapers to attract 'out of area investors' for the following reasons:

1. The Canadian Dollar is close to an all-time high against the U.S. Dollar. Currently, one C\$ will buy about 1.03 US\$.
2. Canadian Investors, with significant funds

to invest, are hard-pressed to find available significant real estate assets to purchase in Canada that has a much lower population compared to the U.S.

3. Coastal Investors from California, New York, or Florida often represent funds arriving into the U.S. from Asia, Europe, or South America, respectively. These investors are more often looking for "preservation of capital" rather than "immediate capitalized return on investment."

Representative of the above trend are the following:

1. Painesville Commons Shopping Center, 1441 Mentor Ave, Painesville, OH sold 2nd quarter 2011 for EMMCO to purchasers from Los Angeles, California at a price of \$3,675,000. The Shopping Center was 26% occupied at the time of sale.
2. The former Activities Press Industrial Facility, at 8023 Crile Road, Concord Township, OH. Sold in May 2011 for \$758,000 to a purchaser from The Villages (NW Orlando), Florida.
3. The 2940 Noble Road Office Building, Cleveland Heights, OH sold for an Estate in June 2011 for \$215,000 to a purchaser from Toronto, Ontario.
4. The former Niagara Hotel, Niagara Falls, New York, sold for a Texas Bank in April 2011 for \$1,345,000 to Vancouver, British Columbia, Canada. The hotel was closed at the time of sale.
5. The Retail Shoppes at 130-148 Front St., Berea, OH. Sold in May 2011 for \$401,000 to a purchaser from Orlando, Florida.
6. Quality Inn Hotel, 2940 Chenoweth, Akron, OH, sold recently for \$3,760,000 to purchasers from Hamilton, Ontario, Canada.

By appealing to buyers from a wider geographic area, Chartwell is developing "new opinions of value" from investors with patient money willing to pay a fairer price.



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# Chartwell Group Featured Listings

To view all listings, please visit [www.chartwellgroup.com](http://www.chartwellgroup.com)



**2057 E. Aurora Road, Twinsburg, OH**  
*- For Sale or Lease*  
 Data Center with Raised Floor; Large Conference Room; Loading Dock for Shipping & Receiving Needs; Great Access to I-480. Contact: William P. Nice, Jr., 216.839.2010 or John A. Chluda, 216.839.2015



**1301 E. Ninth Street, Cleveland, OH**  
*- The Tower at Erieview*  
 2,000 SF to Full Floors of 19,860+/- SF. Amenities Include Banking, Shopping, Restaurants/Food Court in Attached Galleria. Contact: David C. Wagner, 216.839.2002 or William P. Nice, Jr., 216.839.2010



**10160 Queens Way, Unit 1, Auburn Twp., OH**  
*- For Sale or Lease*  
 2,300 Total Available SF consisting of a 2,010 SF Office Area and a 210 SF Warehouse Area. End Cap Unit; DSL / T1 Capability. Contact: David G. Lang, 216.839.2021 or David C. Wagner, 216.839.2002



**23210, 23220, 23230 Chagrin Blvd., Beachwood, OH**  
*- Commerce Park*  
 Prime Location on Chagrin Business Corridor; Many Floor Plans Available; 1,000 - 20,000 SF Contiguous. Contact: Mark S. Abood, 216.839.2027 or William P. Nice, Jr., 216.839.2010



**4620/4630/4640 Richmond Rd., Warrensville Hts., OH**  
*- Investment Property for Sale*  
 Sale Comprises of 3 buildings; with Office and Retail Space; Situated on 3.37 Acres. Also Offering Individual Suites for Lease at \$12.95/SF, NNN. Contact: David C. Wagner, 216.839.2002



**5169-5171 Wallings Rd., North Royalton, OH**  
*- Price Reduced!*  
 13,000 Total Available SF; Part of a 24,000 SF Two Story Office Building; 2.26 Acres (Additional Land for Expansion); Built in 2000; Can Sell All or Part (Divisible). Contact: David R. Stover, 216.839.2012 or R. M. (Mac) Biggar, Jr., 216.839.2020



**1370 Ontario Street., Cleveland, OH**  
*- The Standard Building*  
 Located in the legal and financial district of Downtown Cleveland, the Standard Building offers some of the most spectacular views of the lakefront; multiple floor suites are available. Contact: David G. Lang, 216.839.2021 or David C. Wagner, 216.839.2002



**1220 SOM Center Rd., Mayfield Hts., OH**  
*- For Lease*  
 2,119± SF Available; Zoned U-4-B; Excellent Space for Financial Services; End Cap Space; High-End Finishes; Easy Access to I-271 and Eastern Suburbs. Contact: David G. Lang, 216.839.2021 or R. M. (Mac) Biggar, Jr., 216.839.2020