

# Florida Real Estate Journal

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## FREJ launches FREJLink.com networking site

WINTER HAVEN - Florida Real Estate Journal recently launched FREJLink.com - an unparalleled way to build your reputation and connect potential clients to you instantly.

How does it work?

■ Sign up for a FREJLink.com profile. Put anything you want in this profile. Contact information, major deals, resume, listings, links - anything.

■ When your name is mentioned in any news article on our Web site - www.FREJ.net - readers will be able to click your name and instantly access your FREJLink.com profile. The process is automatic.

It's that simple. When the 30,000 FREJ.net readers find an article mentioning you as the newsmaker, they will immediately know about your firm, your deals or anything else you want them to see.

Anybody in the industry can join, and it's totally free. Better yet, FREJLink.com is a social networking site like LinkedIn™ or Facebook™, which means you'll be able to keep track of and communicate with other industry members with the click of a mouse.

For details, contact Florida Real Estate Journal Editor Robert Pitts at 800-274-2812 x208 or rpitts@FREJ.net.

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**A RECENT ALLIANCE WITH NAI GLOBAL REAL ESTATE SERVICES** will result in multiple benefits for Commercial Jacksonville, CEO Chuck White said. — Page 3

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**BELIEVE IT OR NOT, THERE IS ONE SURE-FIRE WAY** to avoid the headaches and hand-writing now associated with the credit market upheaval. Develop for cash. — Page 5

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**FORTUNATELY, IT DOESN'T TAKE A NATIONAL TRAGEDY** to put Tampa Bay on the map for most corporate relocations and expansions. — Page 9

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**WITH ABOUT A DOZEN FLORIDA PROPERTIES UNDER SERIOUS DISCUSSION** or under contract, Rockefeller Group Development Corp. (RGDC) is taking a fresh look at deals within the state, including Central Florida. — Page 12

## Import/export balance to hit Florida industrial in varied ways

By Robert Pitts  
Florida Real Estate Journal

The weak U.S. dollar is continuing to generate a climate of declining imports and rising exports nationwide, but the impact on Florida industrial real estate varies by market, according to observers.

Nationally, while year-over-year growth in imports has trended downward to near zero as of 4Q07, exports registered an 8% growth rate, according to the March 3 edition of BusinessWeek.

The same is expected for Florida, only more so, said Manny Mencia, Enterprise Florida's senior vice president of international trade and business development.



Manny Mencia

"We're in the midst of a boom in terms of Florida-origin exports," said Mencia. "Our exports have reached record levels over the last two years and have outstripped the national average significantly."

Florida-origin exports should surpass \$44 billion in 2007, a 16% rise over 2006, which was itself a record year, Mencia said. He's predicting growth of 10% to 15% this year. Key product categories include computer-related products, phosphate and fertilizer, telecom equipment, aviation components, office machines, and medical products.

"This performance is, in many ways, helping to compensate for some of the weakness we're seeing in some sectors like residential real estate," he



New and proposed deals with Far East shipping firms are expected to boost the prospects for Jaxport regardless of the national balance of trade.

said. "It's played a very beneficial role in keeping our economy from a much more difficult patch."

### Jacksonville

Regardless of current import/export activity, the Jacksonville industrial market is gearing up to handle a huge increase in freight coming through Jaxport, said Hobart Joost Jr., senior vice president for Colliers Dickinson.



Hobart Joost Jr.

A new container terminal for Far East shipper Mitsui O.S.K. Lines - set to open in 2009 - will double the port's container traffic to 1.6 million TEUs annually, Joost said. And another terminal proposed by shipper Hanjin would add another 1 million TEUs.

One TEU equals one of the 20-foot boxes you typically see on a freight train.

"This will catapult Jaxport to the third- or fourth-largest container terminal on the East Coast," Joost said, adding that the activity has prompted some 7 msf of spec industrial development planned or under way.

"That kind of activity we've never seen. We're under an industrial revolution," he said. "In three years, I don't know where we're going to find any affordable real estate when Hanjin hits the beach."

Joost said his own transaction volume in 2007 consisted mostly of industrial land sales to developers who want to build distribution centers in advance of Mitsui.

"We're seeing developers in town we've never seen before from all over the Southeast up to Cincinnati, Ohio," he said. "I personally had my best year in 34 years in the business, selling \$73

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## Koniver Stern finds success outside of state, holds focus on SF retail projects

By Hortense Leon  
Florida Real Estate Journal

The retail market is slowing down in South Florida as the economy as a whole sputters, but upscale locations like Lincoln Road and Collins Avenue in Miami Beach are still maintaining their rents, said Bruce Koniver, a partner with the Koniver Stern Group.

The Miami Beach-based retail brokerage firm serves a variety of clients in the area.

While it is headquartered in South Beach and is working on two high-profile, mixed-use projects with significant retail in Miami, the company is also working on three other large, upscale developments with a significant retail portion outside of Florida. Two of these projects are in Georgia, and one is in California.

In addition, Koniver Stern is about

to market the retail component of a major project in Orlando called Universal Boulevard Orlando.

Back in Miami, Koniver Stern is the leasing agent for the 220,000sf retail portion of Metropolitan Miami, a giant, mixed-use development now under construction that will have more than 1,000 residential units, 700,000sf of office space, nearly 400 hotel rooms and an entertainment complex, all on the edge of downtown.

"It is a catalytic project which ties Brickell Avenue to downtown and creates a sense of place," said Lyle Stern, one of the partners at Koniver Stern. "It will be the largest retail project between Merrick Park (a large, upscale, mixed-use development) in Coral Gables and Midtown Miami,"

### SOUTH FLORIDA

another mixed-use development a couple of miles north of downtown, he said.

Koniver Stern is also the leasing agent for Mary Brickell Village in the Brickell corridor, a retail development with 200,000sf of retail that is slightly more than 80% leased, said Stern. It will feature Publix and a number of upscale restaurants that are already open, while the retail anchors at MetMiami will be a 50,000sf Whole Foods Marketplace, scheduled to break ground this summer; Manny's Steakhouse, scheduled to open in the second quarter of 2008; and New York chef Daniel Boulud's DB Bistro.

"Mary Brickell Village has been a huge success," said Stern. "In 2008,

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### GUEST COLUMN

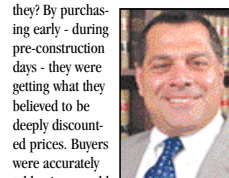
Full disclosure

## Recent ILSFDA suits provide harsh lesson for developers

By Andrew Blasi  
Shapiro, Blasi, Wasserman and Gora PA

For the last few years, builders and developers held the upper hand in the delivery of homes.

With demand and prices consistently escalating, buyers rarely if ever sought to get out of their contracts and get back their deposits. Why would they? By purchasing early - during pre-construction days - they were getting what they believed to be deeply discounted prices. Buyers were accurately told prices would go up if they waited for the next phase.



Andrew Blasi

But today, with an over-abundance of condos and houses on the market and values plummeting, developers are finding that not only are buyers walking from contracts, but they're also demanding - and in many cases getting - refunds along with damages.

This is due to a longstanding but little known consumer protection law: the Interstate Land Sales Full Disclosure Act (ILSFDA). Developers are shaking their heads in amazement because in recent years this has been a law short on interpretation and enforcement because the Florida real estate market has been so hot for so long.

Prior to real estate's recent downturn, in most cases many developers actually hoped behind closed doors that early buyers wanted out. They would gladly refund deposits if demands were made and get a higher price from the next wave of buyers, who were then all too anxious to stand in line - or camp out - and buy. Where there were significant construction delays, contract buyers chose to leave their accrued equity on the table and walk away from their purchases simply with a return of their deposits. They had no real remedy available to them. Today, that is changing.

Accordingly, during the last few years, buyers rarely complained about construction delays in any formal or legal sense. After all, they were happy to get this house or that condominium with significant paper profit built into the deal.

But today, the market has shifted, and buyers are willing to walk away from purchases because the home they bought at pre-construction pricing is no longer worth that price. The climate has also changed for developers, many of whom got sloppy with their contracts, a good portion of which were

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# Report: Worldwide sales exceed \$1 trillion in 2007

NEW YORK - Real Capital Analytics recently announced that worldwide acquisitions of commercial property surpassed the \$1 trillion mark last year. The landmark figure is reported in the first issue of Global Capital Trends, RCA's global capital investment report.

"The size of the commercial property marketplace is much larger than previous estimates," said **Robert M. White**, founder and president of RCA. "Our research has documented more than \$1 trillion of significant property sales in 2007 across 75 countries on five continents. Considering our research only includes sales greater than \$10 million, the total size of the marketplace may be closer \$1.5 trillion."

The report also identifies 114 cities that recorded more than \$1 billion of commercial property sales. Other findings in the report include:

- Of the 114 cities that recorded more than \$1 billion of commercial property sales, 48 are in North America, 35 are in Europe and 21 are in Asia.

- Office space was the most active property type, representing 32% of total sales or \$434 billion. Nearly 1.2 billion sf of property changed hands last year, equivalent to all of London, Tokyo and New York City combined.

- Commercial property sales volumes in Asia could surpass those in either Europe or the Americas in 2008.

- The risk premium for property ranges from 20 to 350 bps. The U.K. and Hong Kong were considered the least risky investment locations, with cap rates averaging just above comparable government bonds in 2007.

- Half of all land acquired by developers around the world last year was in China, with \$50 billion in acquisitions - this was double the United States, the next most active country.

- Corporate users capitalized on investor demand for property globally, with \$88 billion worth of asset sales. This included \$56 billion of sale-leaseback transactions, a form of corporate finance.

## BALANCE

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million in real estate and another \$2.8 million in leases."

### Central Florida

Exports are clearly on the rise - and imports on the wane - in Florida, and that can be expected to impact Central Florida industrial real estate, said George Livingston, chairman of NAI Realvest in Orlando.

A decline in demand for warehouse space will bring lower rental rates and less construction, he said. But while lease-ups are taking longer, Livingston added, the market is healthy overall. More tenants are interested in incentives than rental rate decreases, he said, and cap rates remain low.

"In fact, I don't know of any significant high vacancies in the industrial market for Central Florida," he said.

Livingston added that Central Florida is fast becoming a hub for distribution throughout the state - as evidenced by CSX Corp's plan to build a 1,250-acre freight transfer facility in Winter Haven. Real estate is a one-time expense, he said, but delivery costs are forever.

"(Central Florida) is the single best location, if you measure it by drive time," he said.



**George Livingston**

### Tampa Bay

As a whole, the Tampa Bay industrial market tends to be a regional distribution market, said Chris Sass, an industrial real estate broker for Cushman & Wakefield in Tampa.

As such, more of the space is designed to serve Tampa, Orlando and, perhaps, Southwest Florida, he said. Therefore, any impact from a shift in the import/export balance would not be as critical as it would in a market comprised mostly of bulk distribution space.

In fact, Sass said he expects more of an impact from domestic events like the downturn in the housing market - which affects the industrial space used by suppliers of building and home improvement products.

Sass said Tampa Bay will never see huge container ship traffic like that common on the east coast, and that is one factor helping to keep Tampa-area industrial real estate relatively affordable.

### South Florida

"In general, even though things are slowing down, globalization and free trade will fuel demand for modern warehouses in good locations. We think South Florida qualifies there," said Scott Alexander, first vice president and market officer in South Florida for ProLogis.

"Our industrial development is tied to long-term dynamics. Long term, it's going to continue to be a strong market."

Alexander said Miami-Dade County boasts a higher amount of export-oriented space, while Broward

### FL import slowdown

Downward pressure on Florida imports continues, according to Manny Mencia, Enterprise Florida's senior vice president of international trade and business development.

From a value of \$57.4 billion in 2006, the 2007 total was expected to drop by about 3% when the final numbers become available, Mencia said.

And if the economy slows tangibly, look for a 5% to 5% contraction in Florida imports for 2008, he added.

County is mixed and Palm Beach County is more import-oriented.

However, industrial space in the South Florida market is versatile and able to accommodate shifts in import/export activity efficiently, he said. And if you're located at a strategic port, it will be an advantage regardless of the import/export climate.

"We've noticed an increase in exports. We look at that as being very important. Strategically located distribution centers at the ports are key. It's only going to help those markets in the long run," Alexander said.



**Scott Alexander**

## ILSFDA

From Page 1

not in compliance with the ILSFDA.

While there isn't much relief for developers whose contracts are in place and in violation of the ILSFDA, they would be well-advised to review all future contracts. The real estate industry is cyclical in nature. While it certainly will rebound, this volatile sector will also have downturns. Today, many developers are feeling the pinch - not only from a slow market, but also from having to return deposits in many instances.

The ILSFDA was passed in 1968 to protect consumers from land sale scams. Unless exempt, the act requires developers to register their properties with HUD. They must also give potential buyers a summary of that registration in a property report prior to going to contract or the signing of an agreement. The most common way in which a builder/developer procures an exemption is to unconditionally commit to completion construction within two years from the date the buyer signed the purchase contract.

Today, at least in part, the law applies to projects of 25 or more units. In cases where a project is comprised of 100 or more units, unless exempt, a HUD registration and property report are required. The property report is meant to provide buyers with very basic information about the project, including:

- Proposed utility services and charges
  - Proposed parks
  - Proximity to schools
  - Availability of paved roads
  - Existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developers
  - Availability of sewage disposal facilities
  - Nature of any improvements to be installed by the developers and estimated schedule of completion
- These are the basic expectations to be disclosed, as established by the act. There are also numerous prohibitions, including:
- To sell or lease any lot/apartment where any part of record or the property report contained an untrue statement.
  - To display or deliver to prospective purchasers or lessees advertising and promotional material that is inconsistent with information required to be disclosed in the property report.
  - To employ any device, scheme, or artifice to defraud.
- As this law comes more and more into focus, it appears that the most

Many developers feel as though they've been blindsided simply because the ILSFDA is a law that for the most part has existed in a vacuum.

common problem is the requirement that a builder unconditionally guarantee that the home will be completed within two years in order to maintain the exemption. It seems simple enough. However, during the boom times builders overlooked this rigorously interpreted and applied exemption. Many developers - upon scrutiny of their contracts - are disqualified from this exemption.

Builders must provide the buyer, in the event of any default by the builder, the full range of remedies provided by the law, including the right to sue for specific performance and the right to sue for damages. A simple return of the deposit, in many cases, is not sufficient. Also, the builder is prohibited from extending the two-year period by qualifying language such as shortages of materials, strikes, etc. The only thing that can warrant a delay is a true, legally-recognized impossibility of performance resulting from an "act of God."

As mentioned, many developers feel as though they've been blindsided simply because the ILSFDA is a law that for the most part has existed in a vacuum. In an ascending market, which we've had for a decade, it really has no practical application as most, if not all, buyers would not complain.

If nothing else, the current situation has given builders, developers, purchasers and attorneys reason to pause and review contracts that govern the sale of properties. When the market turns - and it will - they are all well-advised to review the legal aspects of the transaction and take pains to comply with this law.

*Andrew Blasi, partner in Shapiro, Blasi, Wasserman and Gora PA (www.shblawfirm.com), is an AV-rated attorney by Martindale Hubbell. His main areas of practice include business transactions, contracts, transactional real estate, residential and commercial real estate development, and land use.*