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We constantly hear about the toll the economy is taking on homeowners and personal real estate. But how has this economic downturn affected the commercial real estate market? And more importantly, what are some solutions? To address these questions, Texas Lawyer's business department talked to commercial real estate experts on the front line of these issues. The following discussion has been edited for length and style.

HEATHER D. NEVITT, moderator, editor of Texas Lawyer Books, Dallas: *I want to welcome you all to the Commercial Real Estate Roundtable. Let's start by having everyone introduce yourselves and share with us not only your name and where you work, but what you do on a daily basis.*

GREG C. BIGGS, executive director, Cushman & Wakefield of Texas, Inc., Dallas: I'm a commercial office tenant representation broker with 24 years of experience and have a large law firm practice. On a daily basis, I'm either working on transactions for clients or trying to find new clients.

SARAH HINKLEY, project leasing, Transwestern, Dallas: I am responsible for the leasing and marketing of commercial office properties in Dallas. My focus is representing the owners of Bank of America Plaza at 901 Main Street. The building is the tallest in Dallas and contains 1.9 million square feet. I work with tenants and brokers like Greg that represent tenants on a daily basis.

LINDSAY WILSON, vice president of the corporate interior practice, Corgan Associates, Inc., Dallas: On a day-to-day basis I could be trying to find new projects or helping run projects with my team. A lot of the work I do is up front with the client's real estate team, quite often starting early in the project process to figure out the client's needs and insure the space they select is in keeping with the project goals they are trying to achieve.

MICHAEL A. KRYWUCKI, shareholder with the real estate practice group, Munsch Hardt Kopf & Harr, P.C., Dallas: I am a commercial real estate

lawyer with Munsch Hardt Kopf & Harr, PC. I have been with Munsch Hardt for 15 years and have been practicing law in the Dallas market for a total of 19 years. My day as a real estate lawyer is much different than it used to be since the market has turned upside down; however, we continue to work with quite a few clients on a variety of real estate and transactional matters, even in this down market. There is a fair amount of work involving the renegotiation of leases and loans, but the dynamics of what people need and want to address these days is dramatically different than what we experienced before. We're now looked to as problem solvers in this market, and we're happy to help out where we can.

NEVITT: *The common-thread through the discussion this morning is going to be the economy. I would like to focus on a very large question and that is: what is the current state of the real estate market and how is it affecting your business?*

KRYWUCKI: It has the swine flu. I think all of us are experiencing significant differences. In real estate, we were fortunate for many years. We had an extremely good run. We had a lot of positive things going on in the marketplace. Most of us had tons of work to do. As a matter of fact, you had credenzas full of work just begging for your attention. Now things are much different. There is much trepidation in the industry. Businesses are contracting. It really puts a lot of us to task in the legal industry and in the brokerage ranks. In Sarah's case, it's a challenge to fill a high quality building like Bank of America, although, fortunately for her, she's leased up most of the building. And in Greg's case, he has tenants who either need to downsize or relocate and find a more efficient and cost effective space. In the legal world, we are being asked to be more efficient, cost effective and creative, while still producing the same high quality product. We're just happy to be in Dallas because our friends in other parts of the nation are feeling it much worse.

WILSON: From our perspective, the biggest change we've seen in projects is that about half of our current projects are driven by clients trying to get the most out of the space they already have, rather than relocations. We are studying how they can

be more efficient in their current space or possible how they can contract and office in less space. They're working with their real estate teams to try to sublease space, and we're trying to figure out the best way to divide the space so they keep what they need and leave something that's marketable. Increasing efficiency for our clients is good business for us right now.

HINKLEY: We have experienced an extremely slow summer with little to no activity. Landlords are now faced with trying to keep existing tenants in an extremely competitive market with high vacancies along with recruiting new tenants. It is extremely hard right now to get a tenant to move from their current location. It is a tenant's market and landlords are working hard to keep their tenants and help them "right" size. In the last two months, landlords have seen an increase in leasing activity. The United States will face a large wave of commercial loan maturity in 2010 and no one knows how that's going to affect the market. Recently, tenants seem to feel more confident than they did in October of 2008 and many feel that the market has hit or is close to the bottom.

BIGGS: I agree with Sarah. Between October of '08 and May of this year, the phones just were not ringing and nobody was answering their phones. The biggest challenge, frankly, was that decision makers didn't know how this downturn was going to affect their business. Most everybody just put any kind of decision-making on hold. But as recently as three or four months ago, we started to see an increase in activity. Companies that are still in business have started to determine their future game plan. So, we're working with them to try to right size their space if that's ultimately what they want to do. We also have some clients that are growing, so that's really good news. But I think the biggest news is they're starting to make decisions. Sarah's point regarding building ownership is our biggest concern because the last thing we want to do is put a tenant in a building where the ownership is either not going to be able to take care of them during their lease or where the future ownership is in question.

KRYWUCKI: To follow up on a couple points made by Sarah and Greg, there

COMMERCIAL REAL ESTATE

has been an increase in activity the past few months. We're actually seeing some retail tenants sign letters of intent, move forward, and pencil in first and second quarter 2010 as opening dates which is great. I believe the real estate industry has been historically anxious and eager to do something. The patience and restraint have been maddening. Lately it seems we are seeing some positive indications in the market and, while we're still having negative job growth, the drop is slowing. People are also getting some comfort that maybe the bottom either has been reached or is near, and we may be turning the corner. It's going to be a slow recovery period. It's compelling for our clients to make the right decision, and the clients are asking more questions about their real estate decisions such as the integrity of their landlord or how to consolidate their operations. It seems like the diligence on these decisions has gotten much deeper compared to what it used to be. More questions are getting asked and answered which is good.

WILSON: The decision-making process can be so much longer now than it was a few years ago. We have also seen clients do exhaustive searches for space. They really want to understand all of their options. We have frequently planned four, five, and six different buildings for clients who are looking to relocate. They are trying to make sure they've seen every option before they make a decision.

NEVITT: *And do they have more choices?*

BIGGS: Well, I think that depends. The choices and availabilities will be sub-market specific. We began again to work on a transaction in Dallas for a client needing a large amount of square footage that was in the market this same time last year and put the project on hold. We found that there's only one additional facility that became available in the last 12 months that can accommodate them. That just goes to show that although space has been put back on the market, it wasn't necessarily large blocks of space. That's prevalent across Texas.

HINKLEY: With all of the negativity surrounding commercial real estate, now is actually a great time for tenants to enter the market. There is an abundance of existing space on the market and because of the uncertainty of the commercial debt

market and lack of capital liquidity; there is no foreseeable development in the next couple of years. Solid-credit tenants can take advantage of the market and strike a great deal with a strong landlord. Texas continues to be a great place to do business with job growth forecasted for mid 2010.

KRYWUCKI: That reminds me of the growing frequency of RFPs [Request for Proposals] out there. We're being asked as a law firm to bid on work on a more regular basis. Also, we're seeing our clients ask for more help in evaluating their space options. Tenants are expanding their scope of search and asking landlords to come back with proposals and then put them through more rounds of the "best and final" process.

HINKLEY: To Lindsay's point, the decision making process has become extremely slow. The majority of Dallas CBD tenants are tied up in leases forcing some tenants to enter the market early with up to four years of remaining lease obligation. When tenants come to the market early, they have time to examine several options. Dallas is a market with sophisticated tenant representation brokers. They know the difference between local landlords and research the financial situation of each building. I believe there's disparity; the good buildings with stable ownership are seeing more activity than some of the ones that aren't. Bank of America Plaza has not received the amount of RFP's and inquires that it did at this time in 2007, but because of it's solid ownership, the property gets more looks than buildings with troubled ownership. Would you agree with that, Greg?

BIGGS: No doubt that solid ownership is going to be a preferred option for tenants. However, most tenants want to know all of their available options, then, decide how to narrow the field to their preferred choices. Sponsorship of a building is always an important piece of the narrowing process.

HINKLEY: How would you compare the activity today to the activity in 2007? Three-fourths of the activity?

BIGGS: Absolutely.

HINKLEY: Two years ago, Bank of America Plaza received several inquiries everyday.

KRYWUCKI: I read that that sales transaction volume on a year-to-year basis is down 95 percent. That's incredible.

BIGGS: Right. Nobody knows what the market is.

KRYWUCKI: And that is devastating. We've all experienced it with the economic pressures and dramatic drop in activity. It would seem that activity is destined to return relatively soon because the patience the banks have been exercising has been very unusual from a historical perspective. You hear the phrases: "a rolling loan shows no loss" and the "pretend and extend" approach. It seems like a lot of the lenders, especially if they're not balance sheet lenders, and the servicers of large loan pools, tend to be much more cooperative in letting borrowers hold onto and reposition the properties because few of the banks want to take them back in this environment. The regulatory agencies are trying to relieve some pressure by issuing more permissive guidelines, but that should only delay and not prevent the



deluge of activity.

NEVITT: *OK. So I think we all agree that the market is not doing so hot. So, what in your perspective areas are you doing to help your clients during this difficult time?*

BIGGS: I think the biggest thing we're trying to do is truly understand what our client's short, medium and long term goals are. By understanding these goals, we can build in enough flexibility to help them through the long term. But that's the biggest key right now.

WILSON: I think flexibility is the key word. Greg's talking about it in their real estate options. Clients also want flexibility in their built environment; it's the number one thing people ask for when they're moving from one space to another. How can we be more flexible in our new space than we were in our old space? Trying to help clients plan as best we can for an unclear future is something we spend a lot of our time doing. A lot of that planning is focused on flexibility in a company's technology infrastructure as much as it is where offices or copy rooms are located.

BIGGS: With law firms, it's much different now than it used to be. The law firm business has changed dramatically over the past few years and their office space is reflecting those changes.

NEVITT: *Why is that changing? The advances in technology or —*

WILSON: The universal size office in law firms is something we've been talking about for five years in this market. We've finally seen a couple of firms here in Dallas actually go through with it.

NEVITT: *Can you please explain to the readers of Texas Lawyer that might not know what a "universal size office" is?*

WILSON: A universal size office refers to the planning strategy of having only one size private office within a law firm. There's not a partner size office, an associate size office and the 1,000 square foot corner office. There's only one size for all attorneys. Typically, when a universal size office is utilized, it's going to be around 150 square feet. That is typically two windows wide or about 10 feet by 14 or 15 feet deep. This planning strategy gives increased flexibility to the firm to relocate practice groups, add attorneys, create case or project teams without having to worry

about office sizes. When someone's added, you're not shuffling. We're no longer seeing law firms giving an allowance to partners to go out and buy an antique desk or decorate their own office. Each attorney has the same furniture, which increases the ability to use the space in a flexible way. All that being said, for every law firm I've worked with in the past three years, I've done a plan to study the universal office concept. After that initial plan, how far that concept goes in the process is always interesting. It's not always about the age of the managing partners, but a determining factor of how far it gets is the age of the leadership, how progressive they're thinking, and how much or who are they trying to recruit. It matters if they are focused on lateral recruits or top law school graduates.

KRYWUCKI: You both bring up great points. Universal office size is a great concept. As a matter of fact, it removes some of the egos out of the whole process which is great. Before we left Fountain Place, when we did an expansion to add two additional floors, we considered that pretty seriously and were close to implementing it. Instead of three or four different sized offices, we ended up having two. There was probably a 30 square foot difference between the two of them. Then you have the random offices that tend to be larger or smaller depending on where the pillars are and what the building corner or angle is. Hats off to the leadership at my firm, because that was a way for us to be much more efficient with our space. When we moved to Lincoln Plaza, we standardized the office sizes even more. It's much more functional. I think with the way you practice today, if you need space you go to a conference room.

WILSON: I agree with that. Meetings are being taken out of the private office and are happening in conference rooms which takes away the argument for needing a 500 or 600 square foot office. In addition, conference rooms are outfitted with a lot of technology now that is necessary for meetings. The rooms are much more supportive of the work that needs to be done in the meeting than the office is.

BIGGS: But it also depends on the building.

WILSON: It absolutely depends on the



Greg C. Biggs, executive director at Cushman & Wakefield of Texas, Inc., is a 23 year veteran of tenant representation in the Dallas, Texas office market. He has specialized in office tenant representation since 1986, completing over \$1.5 billion in transactions. His experience has led him to be a well respected negotiator within the Dallas real estate community. His skills include strategic planning and execution of real estate transactions leveraging market conditions for the benefit of his clients. Biggs has been named a *Dallas Business Journal* "Heavy Hitter" and was recipient of Best Real Estate Deal of the Year in 2008. He was also named a *D CEO* magazine "Top Broker" in 2008. Biggs is a graduate of North Texas State University. Biggs has worked with numerous law firms such as, Fulbright & Jaworski, Patton Boggs, Baker Botts and Sidley Austin.

COMMERCIAL REAL ESTATE

building. Some buildings lend themselves better to universal office planning. Newer product is usually set up for it perfectly. Older buildings have varying floor plates and they have to be studied on an individual basis. The key to the early involvement of a design firm in a project is insuring that the building selected supports the goal of the project. If it's universal office planning and flexibility — the building needs to support that efficiently.

KRYWUCKI: I would add that one of the things we looked for in searching for new space was whether we could centralize a lot of services. Instead of having four or five satellite libraries throughout the law firm, we have a centralized library now. Also, you have a single floor serve as your hub that provides the primary cafeteria area and the larger meeting rooms. The meeting space has been very functional and versatile. We use it for a variety of functions and have even had in-town firm retreats there.

WILSON: Concentrating all of those central services together and the client facing spaces together is a norm in law firm planning today. It can also be a cost saving measure. When you centralize the client facing spaces onto one floor, the design team can really focus on communicating the firm's identity in that space. This area usually has higher end finishes, furniture, and materials than the balance of the space — not that the rest of the office space isn't nice — but you are able to control the level of finish and make the dollars go further.

KRYWUCKI: That's another reason we went with a singular lobby concept too. We've tried to keep the space pretty efficient. Again, my kudos to our leadership in that. We've always kept a pretty lean shop in making sure that staffing levels are appropriate to the client and firm needs and the same applies to our space needs and use of space. We now have a single place where clients and customers are received at the firm. They come to a single floor where they are greeted by our receptionist and wait in a lobby area that's user friendly. This was a very efficient consolidation from when we had a receptionist and lobby area on each of the floors. In today's environment where everyone is concerned about security, it

also has a positive benefit there as well.

HINKLEY: It's interesting that almost every law firm performs a test fit with universal sized offices, but more often than not when you get each attorney's opinion they like offices that vary in size. Many law firms profit share; and if you're a rainmaker, you want a big office. At Bank of America Plaza, law firms can have sixteen corner offices per floor.

WILSON: The two office sizes in Dallas and Fort Worth have absolutely become the norm. If a firm can't push themselves to one size, they will go with two. That's the comfort level they can get to, and it absolutely serves to increase efficiency and flexibility. There's a partner size office, often around 225 square feet and an associate size office at 150 square feet. There are some progressive firms that have utilized the universal office planning. Haynes and Boone is probably the most notable here in Dallas that has used the concept in their new offices.

NEVITT: *Sarah, what concessions are landlords giving law firms to help with these hard times?*

HINKLEY: Concessions packages vary by buildings and landlords. Tenants mainly ask for free rent and high tenant improvement packages. Bank of America Plaza can offer above market concessions and possibly relieve a tenant of their remaining lease obligation. Landlords who are at risk because of their debt situation or who are in financial trouble tend to offer free rent due to their lack of capital. Buildings with different amenities such as covered parking, fitness clubs, and signage opportunities can offer different concession packages. There are several ways to structure concessions in a lease. Concessions depend on the financial strength of the tenant and the size of the deal.

NEVITT: *Mike, how has the practice of law changed?*

KRYWUCKI: The practice of law has changed dramatically. I want to touch on a point that Greg made regarding the need to understand the immediate, mid range and long term goals of your client. I believe now that we're not in the fast and furious real estate market frenzy that we had enjoyed for so long, it's enabled us to learn more about our clients. There's been much more of an open dialogue

as to what clients are looking for with respect to their business, where they want to take their business, how the business has changed and how they need us to help them with the transition period. And we've been happy to be included as part of that team. We also are really fortunate because it gives us a chance to be proactive by offering some creative and insightful suggestions. The more we learn about where their business is heading, the better we can help the client. I will say that clients also look to the lawyers for more than just legal work these days, which I think is a fair request. We've been fortunate enough to have quite a few entrepreneurial lawyers and if you're paying your lawyer to do certain legal tasks, you should expect and command some business input along the way to see what the market is doing on similar transactions. A client should expect and get that in this market. Plus, that's a little more fun for us too and encourages us think about the bigger picture and not just the immediate task at hand. We like to help clients shape and grow their business in the most optimal manner possible. I think that bonds the client relationship a little better and it helps us address their needs more.

NEVITT: *We touched on this a little, but let's talk a little bit more about negotiating and underwriting leases and purchases and what new trends are out there.*

BIGGS: One of the latest trends we've seen is that a number of the international law firms are trying to insure that their offices have the capability to operate 24 hours a day. It's something you really have to pay attention to because for a landlord to provide that, it can add up to \$4 per square foot to the bottom line. They're trading work back and forth between India, China, certainly Europe and the United States, and so they want that flexibility to be able to come in at 2 o'clock in the morning to work on a project without the need to first call somebody to have the air-conditioning or heat turned on. Building security has become even more significant than it used to be. We had a terrorist incident in Dallas recently that shocked a lot of people. Previously, everyone thought something like that wouldn't happen in Texas. But when you have a terrorist attack on a major office

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building in your backyard, it's an awakening. Those are some of the newest concerns that we've seen that law firms are really focused on. It's not just a rent and lease term structure that we look at. It's a myriad of things that are of interest and of importance to our clients.

HINKLEY: Some buildings are not equipped for a law firm to operate twenty-four hours a day. Twenty-four-seven security and maintenance staff is a huge perk of leasing space in a large, iconic building. At Bank of America Plaza, police officers are available to escort our tenants up to a three block radius at all times. The ownership of a large building wants to ensure its tenants are content and safe.

WILSON: On the planning side of the business, we used to put the copy centers in the core of the building which was in the middle of the space every time. There's such a high volume of couriers, FedEx and UPS employees in and out of law firms, which can be a security concern. In an effort to increase security and utility, we are now seeing firms put their copy centers, word processing, even their accounting group on another floor. From there, firm are responsible for distributing packages and mail throughout the rest of the facility, minimized the number of people in and out of the space.

KRYWUCKI: That's yet another reason why we went to a single reception area for the multiple floors we have. Not only to centrally receive clients and guests, but also to serve as a connector to our office services department, where couriers are directed to deliver their packages. As lawyers, we also have an ethical mandate to preserve client confidences and protect their work product, so we have an independent but parallel duty to make sure

that there is not unintended access to files and materials. So the controlled and convenient setup at the office helps us meet that obligation as well.

NEVITT: *We hear about the term "collaboration" in industries. Is collaboration increasing in law firm environments?*

WILSON: I hear law firms saying, "Yes, we want to collaborate more." Then we immediately get into how much real estate they want to dedicate to collaborative spaces. Many other industries are giving up the private office and moving toward more open environments, and that's the square footage we're re-allocating for collaborative spaces. It's not that the overall space they're taking is downsizing, but the space allocated to an individual is downsizing and more square footage is being put into collaborative areas. Law firms aren't giving up that personal space yet. It's a challenge to find a balance of creating the right space for lawyers to collaborate, while keeping the firm efficient in overall space usage. One of the solutions that seems to work for some firms is a large lounge that's the break room and a meeting room. However, these spaces have been given so many duties to perform that unless they're planned just perfectly, they're not meeting those goals. Collaboration in law firms in a work in progress, but we've got lots of great ideas and I feel that law firms will continue to draw inspiration from other types of business in this area.

HINKLEY: Collaboration in a law firm environment really depends on the law firm and what areas of law are their specialty. For corporate litigators, war rooms and large conference rooms are important because clients visit their space. It can be very different depending on the type of

practice. Each firm seems to have a different idea of collaboration.

KRYWUCKI: I agree. It's very practice specific. We've done some functional placement of lawyers throughout the firm by section, by sub-practice groups and teams within each. We do encourage a lot of free exchange of ideas. As a matter of fact, that's one of the opportunities in this wonderful economy since we now have more time on our hands to actually figure out how to refine the practice of law and help our clients. We are also exchanging ideas among different practice groups to see how we can help each other. One of the opportunities that is frequently ignored, is that an incredible source of business comes from the expansion of relationships with existing clients. If you take advantage of that opportunity, it could be a huge benefit to your client because of the efficiencies of the knowledge and team work that are captive within one firm. Since it involves an existing relationship, the trust is established at some level. So that's helped us a little bit. I think in the legal world collaboration also has some other connotations, especially in family law where collaborative law firms are basically trained as an alternative to the "put the gloves on and go in the ring and beat the heck out of each other" approach. You're trying to look for more solution-based results to help the parties. But I think for smaller law firms or where you have what I'll call "office sharing arrangements," collaboration is probably a great feature for them to be able to send work to each other, rely upon each other, and act at times almost like a cohesive law firm, but not necessarily be legally married to each other such that you're sharing profits, losses and responsibilities.

BIGGS: From a national and international firm capability, I think collaboration has taken on a whole new business model that firms are implementing. Because revenues are down, law firms are looking at ways to increase their business within their existing portfolio of clients while working as efficiently as possible for their clients.

NEVITT: *This is a question for Sarah. So how do landlords consider credit of a partnership versus credit of a corporation?*

HINKLEY: Credit is a big issue, especially now. Landlords are having a hard time evaluating credit. Two years ago, most landlords would have been eager to lease space to well known corporations and national law firms without a security deposit or credit enhancement. Because of the current economic climate and the way law firms are set up, evaluating the credit of a law firm has become challenging. If a firm partakes in profit sharing, there are generally no assets to be held as collateral. If something were to happen to a law firm, a Landlord could end up with vacant space and zero return on the investment. Right now, landlords are more willing to invest in a deal backed by corporate America. Law firms should be willing to show the last three years of their audited financials when negotiating a lease.

BIGGS: Well, I don't know that that's just necessarily law firm specific. All landlords that are viable and have a long term ownership strategy are being very guarded about how much financial investment they provide a tenant because that's exactly what it is. And they want a return on their investment. That's why they're in the business.

HINKLEY: You need to understand from a landlord's perspective, the capital invested upfront in a lease is seen as a loan and can be a big expense. It is hard to find a way to evaluate credit in these uncertain times. As a landlord representative, I need to be the eyes and ears of the Dallas market because the landlord may not be located here. Unlike public corporations, law firm's financial statements are private. Everything a landlord hears about a firm is from me, their broker or from what they read in the newspaper.

BIGGS: One of the major differentiating factors between a law firm and traditional

office user is the amount of money it costs to build out their space. That's something obviously you can address. But our job is try to do is to get the landlord to take on as much of that build-out cost as possible.

NEVITT: *It's custom-made space.*

BIGGS: Absolutely.

WILSON: It's also heavily built out, versus other industries. Sixty to seventy percent of a corporate tenant may be open office, and the furniture rarely comes out of the TI allowance that the landlord is providing. So in the open area you're providing the ceiling, the mechanical systems, the lights and the carpet. That allows more dollars to be allocated to the 30 percent of the space that's heavily built out. For a law firm that is primarily private office, it costs more to construct. On top of that, there are often higher end finishes in a law firm to create the firm's brand and image. These factors can quickly double and triple or quadruple what a typical building standard space might be.

KRYWUCKI: This is a great topic for everyone because law firms, in the early 80s, or pre-mid-'80s crash, were built out over-the-top. You walked in and it was like a palace. It seemed to be an ego driven idea that clients love to work with law firms that had amazingly extravagant space.

NEVITT: *It was a sign of success.*

WILSON: As much surface as you could cover with wood paneling and trim, the better, right?

BIGGS: Don't forget the opulent stairwells.

KRYWUCKI: Yes, very much so, the interior stairwell which was always so nice.

HINKLEY: But the belief was that you'll get more clients with all that.

KRYWUCKI: Exactly, the appearance of being successful was attractive. We purposely went for a nice, functional but understated decor. Our lobby is nice, and we have a few fancy features that are very functional. At the same time, however, we were very conservative not only for cost containment, but we were being conscious and aware of the message it conveyed. That's just a mindset that has driven a lot of our decisions. And that's a similar mindset of our clients too. They're just not outlandish and over-the-top. Granted, they're not misers; but they tend to be very cost aware. They don't want to be sitting in



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COMMERCIAL REAL ESTATE

some ridiculous modern contemporary chair that cost \$2,000. The client is going to look and say, "I'm paying for this." I want to touch on one point that Greg made earlier and Sarah addressed as well. It's regarding the legitimate concerns landlords have in investing in a tenant's space. I think Greg and I have experienced in this market that tenants now have a similar concern about a landlord's ability to actually fund their finish-out. One of the diligence items we do, and I'm sure you do too, Greg, is to explore the credit worthiness of your landlord, given the pressures that a lot of the landlords are facing from their lenders. In light of some of the lender mandates on what is required of a tenant to take down space, the funding and availability of TI dollars are not safe assumptions anymore. So, that's another aspect of diligence that we've had to go through on behalf of our tenant clients in this challenging economy.

HINKLEY: That leads into the question of what is the difference of working with a financially stable ownership versus a highly leveraged ownership. There are so many issues law firms consider when evaluating a building: its amenities, tenant improvement dollars, location, etc. The list goes on and on of what a law firm looks for. Dealing with a financially stable owner versus a highly leveraged owner should be an enormous factor when determining the right building for a law firm. Signing a ten year lease means that you are entering into a ten year relationship with your landlord. When signing a lease with a highly leveraged owner, a law firm does know if the landlord that signed the lease will be the landlord throughout the lease term. A firm should not have to worry about how clean the restrooms are. Does your trash get taken out every day? Do you feel secure? These are the kinds of things that financially stable owners take care of that affect a law firm's employees on a daily basis. If a firm is evaluating two different buildings and Building A has great ownership, and Building B is \$4 less per square foot with a highly leveraged ownership is it worth the savings to be in a building that is not as well maintained? Fortunately, I work for a very financially stable ownership with an outstanding management team.

The ownership addresses capital improvements and keep the tenants happy. We have over a million square feet of tenants that have been in the building since the building was built. Not many buildings can say that. I think that law firms need to look at the next 10 years of their work environment instead of just the economics of the deal.

BIGGS: Like you said, there are so many things that go into a decision, especially when a law firm decides to move. There are rarely opportunities when you're working with a law firm that the existing building is not somehow some way going to try to keep that law firm from moving.

HINKLEY: Right. And it's usually from an economic position.

BIGGS: Sometimes, but there are other reasons why law firms move too. If their space is obsolete and it needs to be remodeled. If they decide to stay in place but the space needs significant construction, you've got to do something with those people during that construction period. Typically you've got to find swing space for them. Swing space requires a lawyer to move twice. Moving once is painful; moving twice is doubly painful. So there are those types of considerations that go into decisions about whether a law firm is going to move or not. Law firms are always very interested in what the economic decision is, but then all these other important factors come into play as well. I think partnership meetings, when it comes down to making a decision on whether to actually move or not, are always so interesting. You never know what is going to happen.

NEVITT: *How does this current real estate crisis differ from the one that occurred in the mid-80's?*

KRYWUCKI: I started practicing law when the real estate market was still mired in the malaise from the mid-to-late '80s real estate crash. When you start your



practice doing nothing but work-outs and foreclosures, you get a pretty eye opening perspective. Personally, I think it's very good training to see a deal gone bad, to help you learn how a deal should be done properly. It gave me a great amount of exposure to arguments that could be made and positions that could be taken. It really influences how tight your drafting is and different requests and negotiating points you make. Since we've had a little more time on our hands the past 12 months, I have been able to attend more industry conferences and networking events and meet with seasoned industry professionals who are in a position to give you market input and feedback.

HINKLEY: Like Texas Lawyer roundtables.

KRYWUCKI: Exactly, like participating in roundtables with esteemed panelists. We're in an environment where you're seeing lenders do things that they didn't do before. As a matter of fact, Bill Cawley recently said that he was able to buy notes on two properties that he owned at a discount. And he was the borrower. In the late '80s, early '90s, that couldn't happen. The RTC and FDIC limitations would prohibit a borrower from getting a discount on their own loan. So that dynamic has changed. You're also seeing buyers being able to buy their own property at

a foreclosure sale because of their ability to come to the table with a better offer. Because they're familiar with the asset and could offer a higher price and non-refundable deposits at the outset, they are in a better bargaining position compared to someone who knows much less about it and is not in position to commit hard money from the start or pay a higher price. So we've seen some changes. In this market, there is a bunch of capital out there. It's just that the banks aren't lending because of their regulations and fear that any loan they make these days is a bad loan destined for default. There's still such a price delta between what sellers believe their properties are worth and what buyers are willing to pay. The brokers probably see a bit of that in the disparity of lease rates asked and offered. And, Lindsay, I'm sure that drives some of the cost decisions on what users were used to paying for interior design work compared to today.

WILSON: Absolutely. The competition is fierce for the work that is out there and that continues to drive down fees.

BIGGS: Real estate is cyclical, and our economy is cyclical as well. Real estate typically trails the economy by a period of months, sometimes as much as 18 months. The downturn in the '80s seemed to be United States centric. What we're experiencing today is an international recession. Most companies and law firms are really trying to focus on what the future of their business is going to be. When we have these great runs in the economy that lasts for seven, eight or nine years, people get bullish and believe that it's going to last forever, but it never does. I believe this downturn's going to last a little longer than the traditional two or three or four year downturn which is going to cause law firms and companies to run lean and mean for a long time. Law firm clients are asking them how they can be more efficient and do more work for lower fees. The firms in turn are running their businesses that way. Hopefully we're all going to learn from this downturn.

NEVITT: *Lindsay, how can office space be used as a recruiting tool to try to get attorneys into the space?*

WILSON: That dove tails with our discussion of how firms used to look. If the

goal is to recruit the best and the brightest from top law schools, firms recognize that these kids are very visual. They've been bombarded with images since the day they were born. They are all very media and technologically savvy. They make decisions and form opinions quickly. That can happen upon crossing the threshold of that law firm and seeing the wood paneled walls and ornate furniture — the supposition being that this must be an old school place. Many firms are telling us they want that first impression to be that they are forward thinking. They are an international firm. That's something associates coming out of college are looking for. They want those global opportunities. Firms want to brand themselves internationally, an office in New York and in Dallas and in Beijing may not be identical, but they have the same feel. Technology — we hear it again and again and in all the information and studies that are done about what these young attorneys are looking for. They're not looking for their own secretary. They're not even necessarily looking for their own office. They're more interested in how technologically advanced is the firm and what technology is going to be at their fingertips to do their work.

KRYWUCKI: I would say that recruiting has dramatically changed as well because, again, it's an investment in the future of a law firm. I know several firms have had to make the challenging decision to either cancel or suspend their recruiting programs. Being a mid size firm, I think we have some pretty decent name recognition out there, but we strategically elected to continue our recruiting program because we want to continue our brand and awareness at the different schools and in the market place. It's amazing how there's a direct correlation with the economy and willingness of students to adjust their expectations and expand their job horizons. The market is tough enough that a lot of students coming out of law school, unless they are the top students from the best schools, are just happy to land a job. There are some rounding errors that really help you when you're competing against other comparable firms. We're fortunate enough to have a lot of high caliber recruits from good schools and lateral



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hires that come from either national or international law firms. We need to be competitive and we've stayed that way, and a lot of that is through technology. Everyone expects your office to be designed where it's fully functional. You have immediate access to things, in some cases entirely from your desk, including printers in your own office, where you don't have to walk down the hall to perform a task. You want to be able to have a virtual office from anywhere, whether it's via laptop or PDA, since the practice of law is a 24/7 job. The expectations now, more than ever, are that we need to be available at any time of day regardless of where we are, and I think that's the right thing to do because most of our clients aren't 9:00 to 5:00, the whistle blows and they leave. When they're thinking and they're working, they expect you to be paying attention too. Technology enables us to do that. One other thing about the office space as a recruiting tool is practice specific. Obviously, when we were looking to make a move four years ago, we had to factor in the other practice groups within the firm since we were fortunate enough to have a very balanced firm of transactional and controversy lawyers. The controversy group, litigators and bankruptcy lawyers, need to be close to the courthouses, so that is a compelling reason for us to be close to Downtown. It's also a compelling reason for us to be close to the feeder roads and access points in and out of Downtown. Those are big selling points for us. And also getting in and out of your garage very easily and not having to walk blocks to go to your garage. All those things make the day-to-day practice of law a lot less high-maintenance.

WILSON: The image of the building that their space is in is also an important issue. Repositioning existing assets is something we're doing more and more of and talking to landlords about quite frequently. We said earlier that there won't be a lot more new development, but there will be repositioning of older buildings. For example, the building that Munsch Hardt is in, Lincoln Plaza, my firm did an extensive renovation of all their common areas, including their lobby and cafeteria space.

KRYWUCKI: Nice job by the way. It looks great.

WILSON: That renovation resulted in increased occupancy in that building. That's a segment of work that we think is growing in this economy. The value of an older building with updated amenities is something that law firms definitely look at.

KRYWUCKI: That's an interesting point because when we moved into the building, it was a nice building, good amenities, but the lobby area was kind of dark and a little drab. It had a little carry-over from previous design references. And now it is much brighter. In this current world of negative news and a dour economy, it's nice to walk in to a bright, well-lit space that is not a downer.

WILSON: Lincoln Plaza also has a great green initiative. They just recently received their LEED certification for the way the building is operated and maintained. LEED and sustainability is another part of the repositioning effort that we're seeing; not only attracting law firm tenants, but attracting all types of corporate tenants.

HINKLEY: A law firms' location and space is a reflection of the firm. If a firm is recruiting a 25-year-old right out of law school, the space should make him or her say, "I want to work here." You made a good point with Downtown. The demographics of Downtown in Dallas are primarily 25-40 year-olds. If a firm is recruiting from premiere schools in and outside of Texas, young lawyers want to work Downtown where the action is, where they can go downstairs to grab a bite to eat, go walk across the street to work out at a gym, and walk to their urban apartment or house. A Downtown location is a big selling point for young attorneys.

KRYWUCKI: Plus your building is incredibly convenient to the courthouse.

HINKLEY: All three are within a block.

BIGGS: Michael said is that recruiting out of school has slowed down dramatically and I agree. But I think firms are still trying to recruit lateral hires that can bring in proven revenue. Like Sarah said, their space is a reflection of the firm and lateral hires pay attention to that just as much as young recruits do. So I think it's important for the firm to have an image that reflects their vision and their culture.

BIGGS: From a real estate perspective, a building's age and its technical capacity are critical to a law firm's ability to advance

as technology advances. Technology has now become one of the top three costs in a law firm's annual budget. Earlier, we talked about the fact that it cost so much more to build out a law firm space than traditional office space. Well, in today's world, law firms are typically not spending as much on their offices, but rather on their conference centers, their reception areas and their technology. Redundancy is a key factor for a lot of firms as well. They want to have the ability to continue to operate if the power in the building goes down.

HINKLEY: Again, that depends on the landlord's interest in keeping the building up-to-date. Because of financing issues, we will not see skyscrapers built in any market for several years, or possibly ever. The infrastructure of an iconic building like Bank of America Plaza will not be duplicated. The building has every major fiber provider building. The 72nd floor is dedicated to telecommunications. Newer buildings are built to spec depending on the tenant's needs.

WILSON: Sometimes the need for a technology upgrade will actually be the driver that makes the decision to relocate. If it's extensive, the cost, and pain, to stay in place and go through that renovation, can be the tipping point to ultimately decide on relocation.

HINKLEY: There is a lot of savings that could be passed through. On-site data centers can be a huge benefit to law firms.

WILSON: That part of the budget is something we're talking to all of our clients about, not just for cabling and new phones, but for the complete technology package. A conference room isn't a conference room anymore unless it is set up with adequate technology. We are seeing a lot of video conferencing, flat panel monitors on the walls, wireless connectivity and the ever present conference phone. Without proper technology a room just won't get used. Putting a sign on a room that says conference room doesn't mean anything to anyone if it doesn't serve the needs of the meeting. No one goes in there. It becomes a storage room every time.

HINKLEY: I agree. Law firms started putting their data centers, and servers at a different location for many different reasons such as flood risks or security issues.

Now we're seeing an influx of bringing them back in the firm's space. Bank of America Plaza has an on-site telecom consultant and existing data centers.

WILSON: I think that's driven by the law firm size too. Many national and global firms will have a separate data center site, rather than having it all within their space.

KRYWUCKI: Depending on the number of locations a firm has, you may have separate — we're Dallas, Houston and Austin — facilities as backup for each of those. But technology has really changed the way people practice law, though, because of the off-site storage, electronic storage, and scanning capabilities. We can document and close transactions without ever having to leave the office or meet in person. The ability to have the video conferencing has caused quite a few people to earn fewer Southwest Rapid Reward points. We're able to have client presentations or conferences in our office where we can have our other two offices participate as if they were in the same room. It kind of makes the world flat like Thomas Friedman said.

WILSON: The systems are also getting easier to use. If somebody had an older generation video conferencing system, the first part of the discussion is always: "We're not doing it again unless we can actually work it because there's only one guy in IT and we have to call him to get everything set up." They really are getting more user friendly. The economy is also resulting in travel being limited and video conferencing being utilized more.

NEVITT: *Do you find that with all the development of user-friendly technology that companies/firms are centralizing their work into the main office and closing their suburban or regional offices? Or are firms still keeping their smaller regional locations?*

WILSON: Seems to depend on the firm.

KRYWUCKI: Right. It's actually client driven more often than not. There were some firms in town that had heavy technology practices where they wanted to locate within the telecom corridor and they'd open up a satellite office there. And with conventional law firm adaptation to a new location, if you're going to go ahead and set up shop somewhere, you normally like to have some cultural anchors in that new location. They are



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lawyers who have been with the firm for a long time who can basically set the tone for the office and continue the culture of the firm. We've had lawyers spend significant time with clients where it ends up almost serving as a satellite office. We've also had satellite offices at different places around the country over the years because it was practice driven or client driven at that time. As for the three primary markets in Texas, we're happy to be in each of the three. Each of our three offices is a good anchor in their market.

NEVITT: *To wrap up our discussion, what trends do you see happening in the next five years? Where do you see this all going? Or do you think it will take even longer than five years to get over this hump? Where do you see things going from here?*

BIGGS: I think you're going to see a repositioning of many millions of square feet of real estate. Ownership changes are going to be dramatic. There will be opportunities that purchasers will take advantage of and hopefully they'll be a terrific landlord and recognize how important the tenants are to their properties. One of the biggest challenges we've had is that a number of landlords bought assets in hopes of ever increasing rents. But that obviously didn't happen. Landlords need to recognize the importance of taking care of the tenants that they have, and making sure they keep them. We often hear from law firms that they don't feel that their landlords care about them or their business. And when you hear that comment, you know that it's going to be hard for a landlord to overcome those perceptions. The hope is that the organizations that buy assets after all the dust has settled understand how important it is to run a building with the service and quality that reflect what tenants deserve and expect.

HINKLEY: Looking five years ahead, I think we have another year of tenants likely staying in place, short term renewals and overall uncertainty. Without development of new product and job creation, existing buildings will continue to do everything possible to keep tenants in place and recruit new ones. I believe we will see significant increase in leasing activity mid-2010. We are fortunate to be in Texas. Downtown Dallas has gained great momentum with the addition of the Arts District, Woodall Rodgers Deck Park and the convention center hotel. Tenants will continue to return to the urban core.

WILSON: I think we anticipate seeing that whether law firms relocate or stay in place the number one goal is going to be to make their space as flexible as possible. Greg talked about being lean and mean as a firm, making their space lean and mean will better support their business model and the way they're practicing law today. In addition to being flexible, maintaining the firm's brand, culture, and image will also remain important. Communicating stability is more important now than ever.

KRYWUCKI: I believe that there will be permanent changes to the way a lot of people do business. The dramatic drop in the economy and activity coupled with the immediate pressures so many are facing in the face of declining revenue and either constant or increasing costs will cause a lot of people — and we use this term a lot today — to become lean and mean. We are fortunate enough to live by that mantra all along, although, we've even looked at additional ways to tighten the belt a little bit more and figure out how to do things even more efficiently. But that also means, as I think Greg mentioned earlier, clients are looking to us for more cost effective ways to do the same thing. How can we be innovative? How can we streamline the team such that the client is getting as good, if not better, service? Standards continue to increase while there is pressure to maintain the level of cost or even lower it.

NEVITT: *More bang for the buck.*

KRYWUCKI: Exactly. I think there's been a real assessment of what are luxuries and what are needs. Consumers and professionals will evaluate every aspect of their businesses and lives, and that will

include the types of space they have. There always will be a market for high quality space, great landlords, and great locations. People don't want to work in a box because it's psychologically daunting. It stunts your ability to be a progressive, creative thinker. At the same time, however, you may not need all that extra space. As far as the economy goes, we've got a ways to go. We're feeling our way through the dark. We're going to bump into a lot of furniture and a lot of other things along the way. I will say this about the real estate industry, I've been very impressed in how real estate professionals have come together and decided to be more collaborative — to use the term Lindsey used earlier — in working together in trying to come up with solutions and opportunities. Even though it is a tenant market right now, we're also seeing quite a few tenants, aside from asking for a rental reduction, become open-minded when a landlord comes back and says, "I need something to trade for that. What kind of concessions can I get to reward me for this additional investment in you for the same space?" Because that landlord's cost will remain the same, if not increase. So I've been really impressed with the predominant desire to work together. I think in the law firm arena, lawyers and clients are trying to be more cooperative with each other and the other side. You have the occasional instance where some take advantage of the situation and they feel it's time to go in for the kill. You'll always have that. But, we're seeing parties be much more motivated to cooperate and work together. We've also seen that in document negotiation. While negotiations may take longer, you often end up with a slightly more even-handed document. ❖

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