AMERICAN BANKRUPTCY INSTITUTE

Distressed Real Estate Symposium

REIT Restructurings

Michael A. Criscito
FTI Consulting, Inc. | Los Angeles

Marc DeLuca
KBS | Newport Beach, Calif.

Robert Klyman
DLA Piper US | Los Angeles

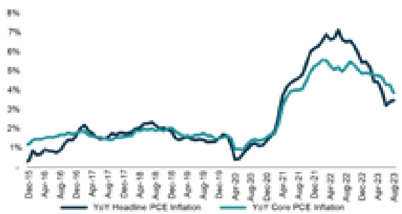
Anthony N. Rokovich, Jr.
Moelis & Company | New York

2025

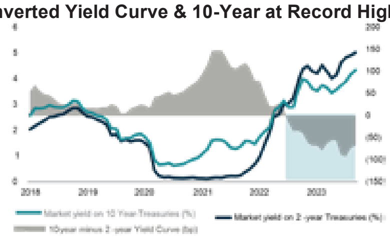
KBS

Looking Back to What Got Us Here

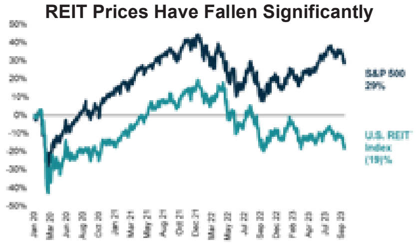
Inflation Remains Elevated



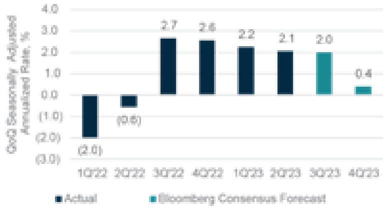
Inverted Yield Curve & 10-Year at Record Highs



REIT Prices Have Fallen Significantly



GDP Resilient Despite Market Volatility



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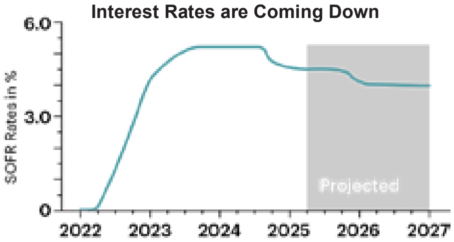
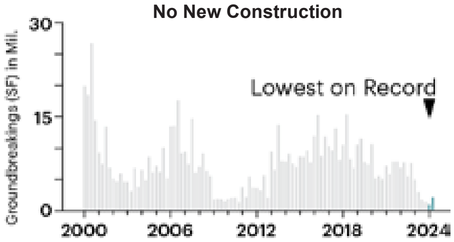
Current Environment

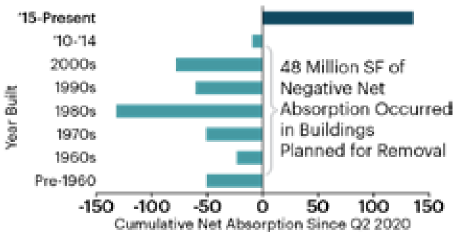
Interest Rates are Coming Down



No New Construction



Tier 1 Office Demand Continues



KBS

Looking Forward

According to CBRE, the U.S. enters 2025 with positive momentum in terms of economic growth, potentially setting up the U.S office market for a pivotal switch in 2025, with stabilization paving the way for a new cycle. With that in mind, we highlight the following significant trends impacting the office market that we see continuing throughout 2025.

Improving Statistics

According to a recent study by JLL, for three consecutive quarters, office leasing volume has a established post-pandemic high. Additionally, **Q4 2024 leasing volume reflected over 92% of typical pre-pandemic averages.** The market experienced its first quarter of positive net absorption since Q4 2021, just the second time since the pandemic began. Availability has declined for two consecutive quarters, pointing towards notable declines in vacancy in 2025.

Flight to Quality

According to a recent CBRE Occupier Sentiment Survey, more than one-third of respondents plan to increase their portfolio requirements over the next two years. Tenants that relocate will prioritize buildings in prime locations with first-class amenities, and as these spaces become more scarce, demand will spill over to the next tier of buildings. The Wall Street Journal recently reported on the same phenomenon in metropolitan areas across the U.S.

The Company's portfolio of assets is comprised entirely of Class A buildings and is well situated to benefit from the continued flight to quality trend.

Lack of New Supply

According to JLL, groundbreakings for the past six quarters have averaged 10% lower than the previous historical low. Additionally, record volume of inventory continues to be removed for conversion and redevelopment. Per CBRE, the office construction pipeline is notably thin, with **new supply expected to fall to 17 million square feet in 2025, well below the 10-year average of 44 million square feet**.

We believe this steep drop in supply may further facilitate a recovery in overall office market conditions.

Improved Debt Markets

Since early 2022, debt for office buildings has been nearly unattainable. More recently, CMBS/SASB have been leading the market in year over year increases, replacing some of the declining liquidity from Banks, Life Insurance Companies, and Debt Fund sectors at competitive pricing relative to other asset classes. Life Insurance Companies and Banks are also beginning to express interest in providing liquidity to Tier I assets in target markets.

This improved availability of debt capital is helping to provide much needed relief for existing lenders to be repaid, which should allow them to re-lend those dollars, and eventually enable the lending cycle to continue and increase overall participation on the equity side of the capital markets.

Uncertainties

It remains to be seen what develops, if anything, on a potential "trade war" between the U.S. and its largest trading partners, particularly Canada, Mexico, and China. Specific to our industry, this could lead to increased costs on raw materials in construction activities, or separately, could hit the bottom lines of our existing tenants and/or new prospects and potentially impact their growth plans and overall space needs.

Additionally, uncertainties remain with regards to future interest rate policy as impacted by inflation continuing to be "sticky" and running at levels above the Federal Reserves 2% target and also uncertainties related to current trade policy. An increased shift in the current forecasted path of future rates could negatively impact a real estate recovery.

Separately, the speed of the trickle-down impact on return to office among the largest employers remains to be seen, though we are encouraged by the improved trajectory which received a boost, in part, due to the recent election results and return to office mandate by the new administration.

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DLA PIPER

KEY LEGAL ISSUES IN REIT WORKOUTS

Presentation to ABI Distressed Real Estate Conference

March 26-27, 2025

Robert Klyman

Preparing for the Workout

Fiduciary duties during times of financial stress

- Governing law
  - Many REITS governed by Maryland law.
  - Operating and holding companies typically governed by Delaware law.
- Shift in beneficiaries to creditors when REIT is insolvent.
- Steps to make sure board is protected.

Surprisingly big issue: getting lender or servicer's attention

- A threshold problem can be simply getting the attention of the agent, or where the loans are syndicated, the master or special servicer. As the number of troubled commercial real estate loans has exploded, agents/servicers have focused first on loans already in default.
- So start negotiations early, and come armed with well-thought-out strategy.
- Use threat of bankruptcy as needed to get agent's attention.
- Be prepared to act as "substitute agent."

Preparing for the Workout

Before starting negotiations, know your documents:

- Before initiating workout negotiations, REIT borrowers should ensure that they and their counsel have a complete understanding of the agreements governing the relationships with their lenders.
  - Read “boilerplate.”
  - “Not generally paying debts as they come due” as a cross-default trigger.
  - Guarantor default as cross-default.
  - Special purpose/bankruptcy remote entity requirements.
  - Understand cash flows and remedies.

Out-of-Court Workouts

- Debt restructuring and lender negotiations.
- Asset sales and strategic divestitures.
  - Conflicts between senior lenders, junior lenders and equity.
- Preferred equity solutions.
- Holdout problem.
  - Loan documents typically require consent of each lender to modify cardinal provisions, typically maturity date, interest rate and principal amount.
  - Risk of small holder requiring different/better terms or, alternatively, selling to distressed credit fund/hedge fund that will force a bankruptcy filing.

Bankruptcy Considerations

The filing of a bankruptcy petition creates the "estate"

- "Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold." 11 U.S.C. § 541(d) (emphasis added).

Bankruptcy Considerations

The Automatic Stay

- The filing of a bankruptcy case automatically "operates as a stay, applicable to all entities" that prohibits a variety of actions that could affect or interfere with property of the debtor or the debtor's bankruptcy estate. 11 U.S.C. § 362(a).
- The stay prevents (for example):
  - The commencement or continuation of any action or proceeding against the debtor that was or could have been commenced before the petition date;
  - The enforcement against the debtor or the debtor's property of a prepetition judgment;
  - Any act to obtain possession of or exercise control over property of the debtor's estate (including interference with contracts/leases). 11 U.S.C. § 541(b)(2).
- The stay does not prevent (among other things):
  - The commencement or continuation of an action or proceeding by a governmental unit … to enforce such governmental unit's or organization's police and regulatory power (but not where the governmental unit is simply trying to collect a debt). 11 U.S.C. § 362(b)(4);
  - An audit by a governmental unit to determine tax liability; notice of tax deficiency; demand for tax returns. 11 U.S.C. § 362(b)(9);
  - Any act by a lessor to the debtor under a lease of nonresidential real property that has terminated by the expiration of the stated term of the lease before the commencement of or during a case under this title to obtain possession of such property. 11 U.S.C. §362(b)(10).

Bankruptcy Considerations

DIP Financing

- The Bankruptcy Code has special rules to encourage lenders to provide financing to companies in bankruptcy ("DIP Financing").
- DIP Financing lenders can be pre-petition lenders or "new money lenders."
- A DIP Financing can be (and usually is) secured.
- Usually, security ranks ahead of all pre-petition secured creditors (a "priming lien").
    - As a result, existing lenders typically provide the DIP Financing.
- Majority lenders can exercise rights under credit documents to prime minority lenders.
    - Use a tool to foster consensus and avoid bankruptcy altogether.

Bankruptcy Considerations

DIP Financing – Roll-Ups

- What is a roll-up?
    - DIP Financing provided by pre-petition lenders which is used to refinance/pay off some or all of the pre-petition debt.
    - The roll-up effectively transforms the lenders' prepetition claim into a postpetition administrative expense and secured claim secured by an expanded collateral base. This debt normally cannot be crammed down under a plan.
- There are different structures to roll-ups:
    - Complete roll-up – a complete roll-up involves existing lenders advancing enough proceeds postpetition to pay off the prepetition indebtedness in full and provide some quantum of new money loans.
    - Partial roll-up – a partial roll-up is where the DIP Financing lenders advance funds to pay down only a portion of the prepetition debt and fund some new money loans.

Bankruptcy Considerations

Voting rules in bankruptcy solve holdout problem

- To be confirmed, each impaired class entitled to vote must vote to accept a plan, or each dissenting class must be "crammed down."
- Acceptance requires more than 1/2 in number of claims and at least 2/3 in dollar amount of those claims voting to vote in favor of Plan.
  - A class that "accepts" binds all holdouts and dissenters within that class.
- Alternatively, a court can confirm a Plan over the "no" vote of a class (cram down) if the plan (i) does not "unfairly discriminate" against the class, (ii) is "fair and equitable" with respect to the class, and (iii) at least one impaired class votes in favor of the Plan.
  - <u>Secured creditor</u> – generally found to be "fairly and equitably" treated if:
    - It retains its lien to the extent of its secured claim and receives present value of deferred cash payments; The collateral is sold with the lien attaching to proceeds; or
    - It receives the "indubitable equivalent" of its collateral.
  - <u>Unsecured creditors</u> – generally found to be "fairly and equitably" treated if:
    - creditors in the class receive (over time) cash payments equal to present value of their unsecured claims; or
    - junior classes receive nothing under Plan and senior classes do not receive more than 100 cents on the dollar.

Bankruptcy Considerations

In cases involving multiple borrowers, debtors, what if one borrower among several in the REIT cannot satisfy the voting requirements for a consensual or a cram down plan?

- Section 11129(a) provides that a plan can be confirmed if one impaired class votes to support the plan: "The court shall confirm a plan only if . . . a class of claims is impaired under <u>the plan</u>, at least one class of claims that is impaired under <u>the plan</u> has accepted <u>the plan</u>, determined without including any acceptance of <u>the plan</u> by any insider." (emphasis added).
- Assume 3 borrowers in the REIT structure, each of whom (a) hold distinct properties and (b) pledged those properties as collateral to support a loan solely incurred by an individual borrower:
  - Borrower/debtor 1: borrowed \$100 million from a syndicate of 5 lenders, pledged 3 office buildings as collateral to support that loan;
  - Borrower/debtor 2: borrowed \$200 million from a syndicate of 7 lenders, pledged 4 office buildings as collateral to support that loan; and
  - Borrower/debtor 3: borrowed \$150 million from a syndicate of 4 lenders, pledged 5 office buildings as collateral to support loan; Borrower/debtor 3 is not subject to any additional claims.
- Debtors file for bankruptcy and the cases are jointly administered.

Bankruptcy Considerations

Cramdown based on "per plan" or "per debtor" approach

Assume: Debtors propose joint plan covering all three debtors. The lenders holding claims against Debtor 1 and 2 vote to support the plan. The lenders holding claims against Debtor 3 vote to reject the plan. No class of creditors holding claims against Debtor 3 votes to accept the plan.

Issue: can the REIT use the affirmative vote of claims against Debtor 1 and Debtor 2 to cramdown the jointly administered plan over the dissenting votes of the lenders holding claims against Debtor 3?

Yes, if the cramdown analysis applies on a **per plan** basis.
No, if the cramdown analysis applies on a **per debtor** basis.

- In cases involving multiple debtors, courts have split on whether § 1129(a)(10)'s requirement applies **per plan** or **per debtor**.
- *Compare, e.g., In re Tribune Co.*, 464 B.R. 126, 180-84 (Bankr. D. Del 2011) (**per debtor**) and *In re Consolidated Land Holdings LLC* (2021 WL 3791799, at *6 (Bankr. M.D. Fla. 2021) (denying confirmation based on the **per debtor** approach); with *In re NESV Ice LLC*, 2023 WL 2278603 (Bankr. D. Mass. Feb. 28, 2023) (adopting **per plan** approach); *In re 85 Flatbush RHO Mezz LLC,* 2022 WL 11820407, at *1 (S.D.N.Y. Oct. 20, 2022); and *JPMorgan Chase Bank, N.A. v. Charter Commc'ns Operating, LLC* (*In re Charter Commc'ns*), 419 B.R. 221, 264-66 (Bankr. S.D.N.Y 2009) (**per plan**)

Bankruptcy Considerations

Statutory Basis for "per plan theory" continued

- The only Circuit Court level decision on point is from the Ninth Circuit Court of appeals *in In re Transwest Resort Props.*, 881 F.3d 724 (9th Cir. 2018), where the Ninth Circuit endorsed the "per plan" approach. According to the Ninth Circuit:
  - Section 11129(a) provides that a plan can be confirmed if one impaired class votes to accept. "The plain language of the statute supports the "**per plan**" approach."
  - "Section 1129(a)(10) requires that one impaired class "under the **plan**" approve "the **plan**." It makes no distinction concerning or reference to the creditors of different debtors under "the **plan**," nor does it distinguish between single-debtor and multi-debtor **plans**."
  - "Under its plain language, once a single impaired class accepts a **plan**, section 1129(a)(10) is satisfied as to the entire **plan**. Obviously, Congress could have required **plan** approval from an impaired class for each debtor involved in a plan, but it did not do so. It is not our role to modify the plain language of a statute by interpretation."

Bankruptcy Considerations

Absolute priority rule and REIT tax issues

- There exists a conflict between the REIT-enabling legislation and IRS regulations and the application of Bankruptcy Code §1129(b), often known as the absolute priority rule. This section prohibits any distribution to equity-holders unless all creditors are paid in full—unless a class of creditors votes to accept lesser terms.
- In a bankruptcy case involving a typical corporate debtor, it is common that existing equity gets wiped out and those holders of equity receive no cash or property on account of that equity. As a result, those holders will not receive any dividends during or after consummation of a bankruptcy case.
- In a REIT bankruptcy, the termination of dividends and cancellation of equity can endanger the enterprise's tax status as a REIT. Once the REIT loses that tax status, the REIT must pay corporate income tax and may be subject to a senior priority tax obligation arising out of pre-petition and post-petition income.
- REITs and their lenders must undertake a detailed tax review to resolve the inherent conflict between the need to use estate assets to pay avoidable federal tax obligations and the absolute priority rule.

Thank you

Explaining Southern California's evolving and complex real estate environment

Experience the most valuable real estate law and business conference in Southern California. Get the latest industry trends, explore real-world strategies for dealing with major challenges, and interact face-to-face with nationally-known industry experts. Attend specialized programming on development, capital, or hot topics in real estate to learn about the legal loopholes. Thrive during SoCal's continued evolution!

Market yourself

Reconnect or make new connections with other opinion and thought leaders looking to make a difference in Los Angeles at five networking events, including a lively jazz reception with live music and an open bar. **We expect the Forum to sell out this year, so sign up now!**

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Program

THURSDAY
FEBRUARY 27, 2025

USC GOULD SCHOOL OF LAW
2025 REAL ESTATE LAW AND BUSINESS FORUM

REF25

7:30 AM
Check-In and Continental Breakfast

8:00 AM – 9:00 AM
BONUS BREAKFAST SESSION
AI and Your Practice: A Primer on Tools for Your Practice and Ethical Considerations

Artificial Intelligence is all around us and rapidly evolving and expanding in the legal arena. This panel will explore various AI platforms and programs which can help you manage and expand your practice today and tomorrow. As exciting as AI is, it does come along with some potential pitfalls. We will also discuss the current ethical considerations and obligations surrounding AI in California. This is one you can't afford to miss!

T **1 hour of MCLE technology credit**

Kimo Gandall
Chief Executive Officer
Fortuna-Insights, Inc.

Brandon Krueger
Advisor to the
Committee on Professional Responsibility and Conduct (COPRAC)
State Bar of California

Jackie Schmiedlin, JD
Co-Counsel, Customer Success Manager
Thomson Reuters

Tony Thai
CEO & Chief Engineer
HyperDraft, Inc.

MODERATOR
MaryBeth Heydt
Senior Counsel
Husch Blackwell, LLP

9:00 AM – 9:10 AM
Welcome and Opening Remarks

Susan Booth
Forum Co-Chair
Partner
Holland & Knight LLP

Glenn A. Sonnenberg
Forum Co-Chair
President
Latitude Real Estate Holdings

contact information

USC Gould School of Law – Continuing Legal Education
699 Exposition Boulevard, Suite 326, Los Angeles, CA 90089

Telephone: (213) 821-3580 **Email:** cle@law.usc.edu
Website: https://gould.law/REF

Office hours are 9:00 a.m. to 5:00 p.m. Pacific Time, Monday – Friday (excluding holidays)

9:10 AM – 10:10 AM
How Macro Events Are Influencing the Southern California Market

More and more, basic supply and demand fundamentals are seemingly taking a backseat to major macro, geopolitical, and climatological events in shaping local real estate dynamics, and nowhere is this perhaps more obvious than in Southern California in the wake of the recent wildfires. This session will explore the increasing influence of inflation, policy moves, shifting demographics, and climatological change and their implications for real estate practitioners locally.

Richard K. Green
Director and Lusk Chair in Real Estate
USC Lusk Center for Real Estate

Dr. Christopher Thornberg
Founding Partner
Beacon Economics, LLC

10:10 AM – 10:15 AM – Passing Period

10:15 AM – 11:15 AM
Rebuilding LA to Make it Better and Stronger

In light of the devastating recent wildfires in Los Angeles, this session will delve into the challenges and opportunities of rebuilding the city. Join us as our expert panel discusses innovative approaches to sustainable development, resilience in urban planning, and the legal frameworks shaping LA's recovery efforts. This is a vital conversation you won't want to miss.

Victor J. Coleman
Chairman and CEO
Hudson Pacific Properties

Lewis C. Horne
President, Advisory Services
CBRE

Randall Winston
Deputy Mayor of Infrastructure
City of Los Angeles

MODERATOR
Glenn Sonnenberg
President
Latitude Real Estate Holdings

11:15 AM – 11:35 AM – Networking Break

continuing education credit

ATTORNEYS: USC Gould School of Law, a State Bar of California-approved provider, certifies that this activity qualifies for Minimum Continuing Legal Education credit in the amount of **12.5 hours.**

This event may or may not meet the requirements for continuing legal education in other states. We are partnering with the American Bar Association on out-of-state applications and credit reporting. Please watch for future emails from mcle-uscgould@americanbar.org regarding affidavits and certificates after the Forum has concluded. Certificates will be available once the attendee fills out their personal affidavit after the Forum has concluded. We appreciate your patience while we verify attendance!

MCLE Maximum Hours: In-Person: 6.5 hours

T indicates number of hours of MCLE technology credit available.

ACCOUNTANTS: This program meets the guidelines set by the California State Board of Accountancy in the amount of **420 minutes** for in-person and live broadcast attendance. The maximum amount of CPE credit is **8 hours.**

11:35 AM – 12:35 PM
DEVELOPMENT TRACK
Local Control vs. State Control: Evolution and the Future of Land Use in Our State

Historically, local government in California had few guardrails regulating control of land use development. However, as the housing crisis has deepened, and concerns about environmental impacts of development flourish, the State of California has increasingly in recent years stepped in and provided new guardrails. Come learn about these recent changes in land use regulation and where it is likely to go, particularly with state mandated constraints on local governments. Hot topics include: Housing Development (Housing Accountability Act, Accessory Dwelling Units, State Density Bonus Law), Warehouse/Distribution Facilities, and CEQA.

Alex Fisch
Special Assistant Attorney General
California Department of Justice

Todd J. Olson
President, Community Development
The Olson Company

Sonja Trauss
Executive Director
YIMBY Law

MODERATOR
Ryan Leaderman
Partner
Holland & Knight LLP

11:35 AM – 12:35 PM
CAPITAL TRACK
Slip Sliding Away: The Portuguese Bend Landslide Complex, Issues and Solutions

Listen as our panel of government representatives, impacted stakeholders, geotechnical engineers and real estate law experts discuss the legal implications of the existence, recent acceleration and mitigation efforts relating to the ancient landslide zone in Palos Verdes, and evaluate considerations for developers, builders and homebuyers who might encounter similar issues elsewhere.

Ramzi Awwad
Director of Public Works
City of Rancho Palos Verdes

John Cruikshank
Former Mayor
City of Rancho Palos Verdes

Ara Michael Mihranian
City Manager
City of Rancho Palos Verdes

William W. Wynder
City Attorney, Rancho Palos Verdes
Of Counsel, Aleshire & Wynder

MODERATOR
David Waite
Partner
Cox, Castle & Nicholson LLP

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12:35 PM – 1:30 PM

LUNCHEON BREAK

1:30 PM – 2:00 PM

Building Toward the Games: An Insider's Perspective on the 2028 Olympics and Paralympics

Join us for a fireside chat with Elisabeth Freinberg, the chief legal officer and general counsel of LA2028. LA2028 is the nonprofit organization responsible for getting the City ready to host the Olympics and Paralympics in just 3 years. Liz will update us all on the status of the planning for the games from transportation to infrastructure to securing public and private venues. You won't want to miss this inside scoop.

Elisabeth Freinberg
Chief Legal Officer & General Counsel
LA28

INTERVIEWER
Misty M. Sanford
Partner
Willkie Farr & Gallagher LLP

2:00 PM – 2:15 PM – Passing Period

Keynote

ELISABETH FREINBERG

CHIEF LEGAL OFFICER & GENERAL COUNSEL

LA28

ELISABETH FREINBERG is Chief Legal Officer & General Counsel at LA28, the Los Angeles organizing committee for the 2028 Olympic and Paralympic Games. Before joining LA28, Freinberg served as vice president of business and legal affairs at Warner Bros. Entertainment Inc., having previously served as a director of legal affairs for Warner Bros. Television and as senior counsel to TMZ, which was owned and operated by a division of Warner Bros. Television Group. From 2007 through 2011, Freinberg litigated cases as an associate at the Los Angeles-based law firm Munger, Tolles & Olson LLP. While at the firm, she had the opportunity to litigate cases on behalf of her clients in both state and federal courts at the trial and appellate levels, including before the Supreme Court of the United States.

Freinberg began her legal career as a law clerk, first to the Hon. Margaret M. Morrow of the United States District Court for the Central District of California, and then to the Hon. Joseph A. Greenaway, Jr. of the United States District Court for the District of New Jersey (and now of the United States Court of Appeals for the Third Circuit).

Freinberg earned her BA in history with honors from Columbia University, and her JD cum laude from the University of Michigan Law School. She is admitted to practice in both California and New York, as well as before a number of federal courts, including the Supreme Court of the United States.

As a lecturer in law at USC Gould School of Law, Freinberg teaches courses on federal courts and entertainment law.

2:15 PM – 3:15 PM

DEVELOPMENT TRACK

EV Charging Infrastructure – A Brave New World for Sustainability

Demand for EV charging stations has exploded as California and the federal government have legislated mandates and incentives to require or incentivize production of EVs and reduce reliance on gas-powered vehicles; pricing of new EVs continues to fall and compete better with non-electric cars; and consumer preferences increasingly shift in favor of environmentally sustainable transportation. Automakers have taken notice and invested billions in designing and producing EVs to meet this growing demand and regulatory standards. EV charging infrastructure, however, has not kept pace with this exponential growth in EV demand, creating robust opportunities for developing EV infrastructure in all manner of commercial real estate settings. Our panelists will share their expertise and insights on how this market is meeting this demand, from structuring partnerships among developers, high tech and utility companies, and charging network providers, financing, business and investment models for EV charging projects, and enhancing property values with EV infrastructure, to trends in EV adoption, consumer preferences and technological innovation.

Jeff Mulrennan
Senior Vice President,
Business Development
Landmark Dividend

Jacob Potent
Director of Policy and Government Affairs
Revel

Olga Shevorenkova
Chief Executive Officer
Loop Global

MODERATOR
Fernando Villa
Partner
Manatt, Phelps & Phillips, LLP

2:15 PM – 3:15 PM

CAPITAL TRACK

Equity Workouts: Resolving Disputes Concerning Real Estate Partnerships and Equity Investments in Real Estate

This panel will discuss, among other things, best practices in avoiding and resolving risks in investment structures where a money partner/investor invests into project company or partnership with a 'sponsor' partner (who usually found the deal or has special expertise to develop it) and retains specified control rights pursuant to the LLC/partnership agreement. These are very common structures and raise significant litigation issues in the event of disagreements between the participants.

Eli Moghavem
Co-Founder & Principal
Base Equities

Beth Newman
Managing Director and
Associate General Counsel
Affinius Capital

Megan Pautler-Gutnikov
Managing Director
KCB Real Estate Management, LLC

David Schwartzman
President and CEO
Harridge Development Group

MODERATOR
Jennifer Sung
Partner
Allen Matkins Leck Gamble Mallory & Natsis LLP

2:15 PM – 3:15 PM

HOT TOPICS TRACK

Public / Private Partnerships: Creating Exceptional Places and Addressing Critical Needs

This panel will explore three examples of public/private partnerships (PPP) and how each is bringing value to our communities and businesses. We will discuss the Lucas Museum of Narrative Art, currently under construction in Exposition Park and scheduled to open in 2026, the Dana Point Harbor Redevelopment, now a thriving recreational and commercial destination, and innovative ways to Repurpose Surplus School Property for housing and other needs. We will discuss how these efforts are structured, challenges each faced and are facing and what they portend for future PPP projects.

Jacob Adams
Deputy Executive Director
Los Angeles World Airports

Al Grazioli
Vice President
Brailsford & Dunlavey, Inc.

Brian Saenger
President and CEO
The Ratkovich Company

MODERATOR
Larissa Gotguelf
Managing Director
FTI Consulting

3:15 PM – 3:35 PM – Networking Dessert Break

3:35 PM – 4:35 PM
DEVELOPMENT TRACK
Data May Be Power, But Power Fuels Data: Energy and Environmental Issues in the Development and Growth of Data Centers

Expert panelists will discuss the latest trends in Data Center development, financing and operations, with a special focus on how the need for energy to power these cutting-edge facilities has evolved, the resulting impacts and what the future holds.

Mike Bedke
Partner
DLA Piper LLP (US)

Jocelyn McCaslin
Vice President, Hyperscale Leasing
Corscale Data Centers

Ben Vandebunt
Chairman
Parallel Partners

MODERATOR
Pamela L. Westhoff
Partner
Sheppard, Mullin, Richter & Hampton LLP

3:35 PM – 4:35 PM
CAPITAL TRACK
Deal-Making in a Volatile Environment: Investment Strategy & Competitive Fundraising

This is a business-focused panel discussing how deals are being made in the current market. Among other things, our panelists will provide insight into how they're underwriting deals given uncertainty in interest and cap rates, the state of the debt capital markets, whether private market valuations have reset to narrow the buyer-seller gap, and what differences they are seeing, if any, between asset classes. Our investor panelists will discuss what new strategies they are seeing employed to capitalize on market dynamics, what kinds of alternative investment vehicles LPs are pursuing, and how successful capital raising has been relating to those strategies.

Adrian Berger
Managing Director, Acquisitions
Cypress Equity Investments

Grant Geisen
Senior Vice President, Investments
Pacific Urban Investors

Ty Newland
CEO and Managing Partner
Newland Capital Group

MODERATOR
Susan Booth
Partner
Holland & Knight LLP

3:35 PM – 4:35 PM
HOT TOPICS TRACK
When David Becomes Goliath: The Exercise of Builder's Remedy

Builder's Remedy is an extraordinary measure in California law: when a city or county does not have a substantially compliant Housing Element of a General Plan, a city or county cannot deny, on the basis of a General Plan or zoning inconsistency, a housing development project that contains the requisite amount of affordable housing. Proposed Builder's Remedy high-rise developments and dense urban projects across California have sparked the ire of communities across the state, such as Beverly Hills, La Canada Flintridge, and many others, as well as the interest of the Attorney General and Governor Newsom. Come learn the latest, including about revisions to Builder's Remedy that are effective January 1, 2025.

Jonathan C. Curtis
Managing Partner
Cedar Street Partners, LLC

Matthew Gelfand
Counsel
Californians for Homeownership

Leo Pustilnikov
Principal
SLH Investments

MODERATOR
Dave Rand
Founding Partner
Rand Paster & Nelson LLP

4:35 PM – 4:45 PM – Passing Period

4:45 PM – 5:45 PM

DEVELOPMENT TRACK

The Future of Last-Mile Development in California

This panel is designed as a window into the future of industrial real estate projects in California amidst new challenges impacting these projects, such as Assembly Bill 98 and evolving sustainability regulations. Panelists will review innovative developmental and legal solutions being used to redevelop landfills, oil-impacted sites and other contaminated properties into viable, alternative sites for industrial use. Join our experts for this forward-looking discussion outlining the new norm for industrial growth in urban areas otherwise resistant to it.

Brandon Burns
Executive Director
Cushman & Wakefield

Carter B. Ewing
Managing Partner
CT Realty

William Lu
Co-Founder & Managing Partner
Outrigger Industrial

Gregory R. Wall
Partner
Hunton Andrews Kurth LLP

MODERATOR
Lindsay M. Tabaian
Partner
Allen Matkins Leck Gamble Mallory & Natsis LLP

4:45 PM – 5:45 PM

CAPITAL TRACK

The Increasing Pace of CPACE: Creative Financing Solutions to Fill the Gap

With values upside down and expensive capital, more and more borrowers and lenders are turning to CPACE financing in workouts and recapitalizations. Our panelists will discuss how CPACE is filling the gap on some projects years after the construction is completed or as part of the take out of the construction loan with what feels like "found" money using the retroactive (aka "lookback") CPACE financing. Panelists will dive into the nuts and bolts of putting these deals together from the CPACE lender's, bond counsel's, senior lender's and borrower's perspective.

Cory Jubran
Senior Director
Nuveen Green Capital

Christopher K. Lynch
Shareholder
Jones Hall

MODERATOR
Karen A. Lorang
Partner
Willkie Farr & Gallagher LLP

4:45 PM – 5:45 PM

HOT TOPICS TRACK

Quick Hits 2025: Roundtable Discussion - Current Issues Facing Real Estate Investors, Developers and Practitioners

This panel will be packed with updates and practical advice on a range of today's hot topics that are likely to impact your real estate deals this year, including ever-problematic insurance issues, a national outlook on stabilization (or not) of property values, guidance on the hotel market and navigating the pesky Corporate Transparency Act.

Greg Friedman
Managing Principal & CEO
Peachtree Group

Andrew Whitman
Senior Director
FTI Consulting

Tony Yousif
Executive Managing Director
SVN

MODERATOR
Alex M. Grigorians
Partner | Chair of Real Estate Finance
Hanson Bridgett LLP

5:45 PM – 7:00 PM – Networking Jazz Reception

Enjoy cocktails, fine hors d'oeuvres, and live jazz while networking with speakers, industry leaders, and innovators.

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Lynn A. Williams
Vice Chairman
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In-Person registration includes all sessions, continental breakfast, networking breaks, luncheon presentation, jazz reception, continuing education credit, and a downloadable copy of the Forum Syllabus (distributed electronically before the Forum). **New for 2025: No Livestream or Videos On Demand will be available for credit.**

Register early before the Forum sells out!

LOCATION AND ACCOMMODATIONS

The 2025 Real Estate Law and Business Forum will be held at:

Jonathan Club
545 South Figueroa Street
Los Angeles, CA 90071
Information: (213) 624-0881

Valet parking will be available at the Club for $18 per vehicle (cash not accepted/credit or debit cards only).

Should you need information on booking sleeping rooms, please contact the USC Gould CLE Office at **cle@law.usc.edu** or call **(213) 821-3580.**

CHECK-IN AND BADGE PICK-UP

Check-in opens at 7:30 AM with a continental breakfast. Badges will be held at Will Call located in the foyer on the third floor of the Jonathan Club.

DRESS CODE

The Jonathan Club has a formal dress code on the 3rd Floor where the Forum is held. Most areas of the Club prohibit denim jeans, shorts, sweats, T-shirts and athletic shoes; the Club may refuse admittance to those not meeting this dress code. *Options include: Business suit or collard dress sport jackets and slacks, collared shirt, necktie, dress, business suit, pantsuit, blouse, skirt, tailored slacks and dress shoes (including open or closed toe shoes, loafers and dressy sandals), or equivalent military, religious or public agency attire.*

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USC Gould School of Law 2025 Real Estate Law and Business Forum
Thursday, February 27, 2025
Jonathan Club, 545 South Figueroa Street, Los Angeles, CA 90071

It is strongly recommended that you fill out the registration form online.

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Faculty

Michael A. Criscito is a senior managing director with FTI Consulting, Inc. in Los Angeles and has more than 30 years of experience in international banking with a focus on real estate in distress and restructuring. As an expert in restructuring, he has worked with a range of creditor classes across a variety of international industries. His experience also includes engagements on the principal side for distressed real estate assets. Prior to joining FTI Consulting, Mr. Criscito was a senior managing director and co-leader of the Real Estate Advisory Group at Ankura Consulting Group, LLC. Previously, he was the global head of workouts at Credit Suisse for more than two decades, managing an international staff of restructuring professionals located in New York, London, Brazil, Singapore and Hong Kong. Credit Suisse's global portfolio, which exceeded $6 billion, was primarily composed of commercial real estate loans and assets, impaired or stressed corporate and leveraged loans, derivatives and structured products. In this role, Mr. Criscito provided senior-level guidance and direction on strategic matters, client and investor relationships, valuation, debtor-in-possession structuring and fees, problem loan management framework and talent development. During his career at Credit Suisse, he successfully restructured, owned, operated and disposed of a multi-billion real estate portfolio across various asset classes, including land, multifamily, residential, golf, office, hotel and entertainment. Mr. Criscito also held positions at HSBC Markets; Bear, Stearns & Co.; McDonald & Company Securities, Inc., and Paine Webber Inc. He holds Series 7 and 63 Securities Licenses and is a member of the Risk Management Association, CRE Finance Council and Urban Land Institute. Mr. Criscito received his B.B.A. in marketing from The George Washintgon University and his M.B.A. in finance from Fordham University. He also attended The Ross Executive Program at the University of Michigan.

Marc DeLuca is the CEO of KBS in Newport Beach, Calif. He also serves as the firm's Eastern regional president. Mr. DeLuca directs business activities and oversees all KBS operations, including the acquisition and management of individual investments and portfolios of income-producing real estate assets. In addition, he is responsible for all acquisitions, dispositions and asset-management activities for the firm in the Eastern U.S. DeLuca also serves as chairman of the KBS Investment Committee, which reviews and approves all new investments for the firm. He previously was an executive board member at Federal City Council. Mr. DeLuca received his B.S. in public policy and business economics in 1992 from The George Washington University, and his M.S. in real estate in 2006 from The Johns Hopkins University.

Robert Klyman is a partner and global co-chair and U.S. co-chair of DLA Piper's Restructuring Practice in Los Angeles. In his international practice, he represents companies, lenders, other creditors, acquirers, and boards of directors in all phases of restructurings and workouts. Mr. Klyman's practice includes advising companies and key stakeholders in complicated workouts, including traditional, prepackaged and prenegotiated bankruptcies, structuring cutting-edge distressed mergers and acquisitions, negotiating bankruptcy financings, and litigating complex bankruptcy and commercial matters related to financial distress. Much of his practice also involves representing companies and other stakeholders in complicated out-of court workouts that avoid bankruptcy. Mr. Klyman developed, and for 20 years co-taught, a case study for the Harvard Business School on prepackaged bankruptcies and bankruptcy valuation issues. He has also taught bankruptcy dealmaking and strategy classes at the University of Michigan Business School, Massachusetts Institute of Technology's Sloan School of Management, and

UCLA Law School. Mr. Klyman is a frequent panelist on topics relating to financial distress and bankruptcy. He also was a member of the ABA Subcommittee that drafted the ABA Model Bankruptcy Asset Purchase Agreement. Mr. Klyman has been listed in *The Best Lawyers in America*, *Chambers USA*, *The Legal 500 United States* and as one of *Lawdragon*'s 500 Leading U.S. Bankruptcy and Restructuring Lawyers for 2024, and he was named one of the world's leading Insolvency and Restructuring Lawyers by *Euromoney* in 2020. He received his B.A. from the University of Michigan and his J.D. from the University of Michigan Law School.

Anthony N. Rokovich, Jr. is a managing director at Moelis & Company in New York, where he specializes in advising clients in the real estate, lodging and leisure sector. He has more than 20 years of investment banking experience working on strategic and financing transactions. Previously, Mr. Rokovich was a managing director in the Real Estate, Lodging & Leisure Group at UBS, and he previously worked in real estate investment banking at Merrill Lynch. He received his B.A. from the University of Vermont and his M.B.A. from the University of Chicago.