MAREMA

Mid Atlantic Real Estate Marketing Association

Established in 1976

The MarketPlace

1st Qtr 2021

President's remarks. . .

Introducing the 1st Quarter MAREMA "MarketPlace" 2021 edition. In this addition we discuss topics important to our industry and introduce details on this year's Annual Meeting. The 2021 Annual Meeting will feature a trade show and highlight our 45th anniversary through past presidents and lifetime member's testimonials. Our theme this year is RE-Imagine and will be held at Ocean City, MD. Mark your calendar and choose a sponsorship, October will be here before you know it. I would like to invite all members to join us at our Monthly Meetings and invite a guest. If you are not a member yet join us as my guest and learn how we share best practices and share Haves (property listings) and Wants. I hope everyone enjoys "The MarketPlace".

Annual Meeting October 28 - 30, 2021

AIA Construction Contracts Understanding an Industry Standard

By: Peter Pokorny

Introduction - Parties frequently find themselves responsible to construct, remodel or improve property. When that happens, a contractor is hired to perform the work, and in some cases an architect or designer is hired to prepare plans. Many times, the parties document their transaction using forms prepared by the American Institute of Architects (AIA). The AIA has developed comprehensive forms for use in construction projects, widely recognized as the industry standard. This article will discuss certain key AIA agreements and their issues. For simplicity, we refer to the party that hires the contractor as the "Owner" though they could be a tenant.

- **Industry Bias** - It's important for an Owner to know that AIA documents are designed with the concerns of architects and contractors in mind, not Owners. So it is vitally important that an Owner using an AIA contract ensure that they thoroughly review and negotiate the document to ensure their expectations are met and that they will be able to resolve issues and disputes fairly.

- **Contractor Agreements** - The AIA has forms for when an Owner hires a Contractor, and other forms for when an Owner hires an Architect. Let's first discuss forms when an Owner hires a Contractor.

- **Two – Part Agreements** - AIA Contractor Agreements are composed of two (2) documents. One is a short agreement that specifies the parties, payments and a few other critical issues. These are the A-Series of documents. The second part is the General Conditions document.

- **A 100 Series Agreements** - The A 100 Series are standard forms between the Owner and the Contractor. A101 through A104 are four different forms which vary depending upon how the Contractor is paid. The Contractor can be paid based on a stipulated sum (flat amount), or based on the cost of work plus a fee. Some forms add the concept of a guaranteed maximum price. It's critical that an Owner selects the form that matches how they intend to pay the Contractor.

- **A 200 Series Agreements** -Each of the A-100 Series forms must be used with a corresponding A 200 Series "General Conditions" document. The General Conditions document is a much longer agreement that address many issues that come up during the construction process (delays, changes in material costs, how subcontractors are managed, what happens if there's a default, etc.).

- **B 100 Series Agreements** - All AIA agreements with Contractors assume that the Owner will also sign a separate agreement with an Architect using one of the AIA's B 100 Series. The B 100 Series are standard forms between the Owner and the Architect. B101 through B107 are seven different forms which vary depending upon the size, type and scope of the construction project the architect will be working on.

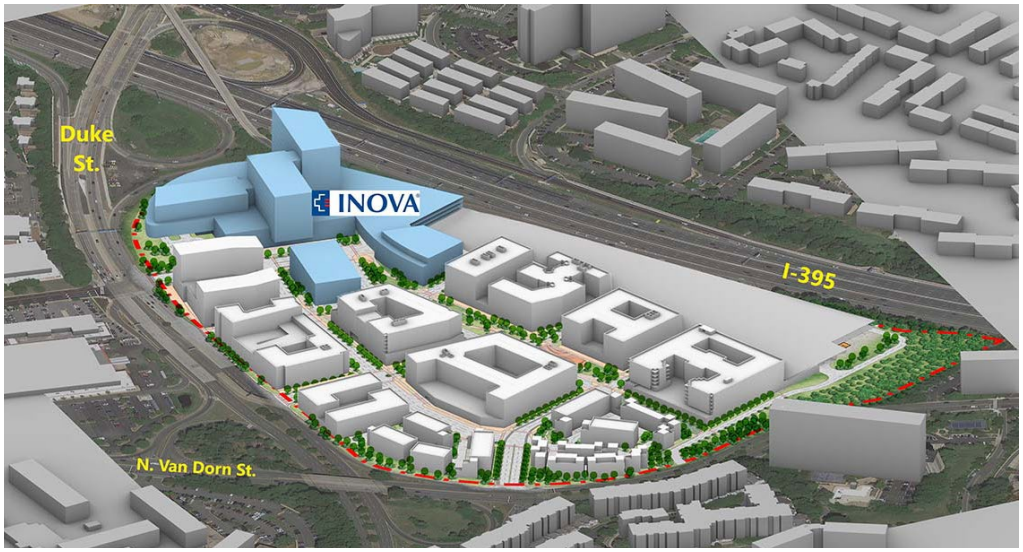
- **Right to Use Plans** - When negotiating an agreement with an Architect, an Owner should make sure it has broad rights to use the plans the Architect prepared. An Architect has an ownership interest in the plans it prepares and unless the Owner negotiates for broad rights, the Owner may not be able to give the plans to a buyer of its property, or use them a second time for a different property.

- **The Architect's Role** - The A-Series construction contracts call for the Architect to have an active role in managing construction including approving the Contractor's payment requests. The Architect does not sign the A 100 agreement, however, because the AIA assumes the Architect signed a B 100 Series agreement. If an Owner and Architect do not sign a B 100 form, the Owner must make sure it gets the Architect to agree to perform all obligations required of the Architect under the construction contract.

Conclusions - AIA contracts can be used in lieu of an agreement custom-drafted by an attorney, though an Owner must understand all the inter-related documents that the AIA requires for its transaction. In addition, an astute Owner will have the AIA contracts reviewed and negotiated by an experienced commercial real estate attorney to avoid unexpected costs and liabilities. documents that the AIA requires for its transaction. In addition, an astute Owner will have the AIA contracts reviewed and negotiated by an experienced commercial real estate attorney to avoid unexpected costs and liabilities.

Abandoned Landmark Mall Once Again Shows the Way to the Future

By: Frank Dillow



(Proposed INOVA Alexandria Hospital Site - Courtesy INOVA)

Viewed as a shining example of retailing's future when it opened in 1965, now mostly abandoned since it closed in 2017, Alexandria's Landmark Mall may again represent the future. Under a redevelopment plan announced late in December 2020, the mall will feature a new Inova Alexandria hospital campus combined with mixed retail, residential and civic uses.

With the surge in e-commerce already underway before COVID-19 accelerated the trend, the outlook has been grim for retailers and the real estate they occupy. During 2020, CoStar Group reported 11,000 retail businesses closed – spanning the gamut from boutique apparel stores to large-scale department store chains. According to some economic forecasters, nearly a quarter of all shopping centers nationwide may not survive the pandemic.

Notwithstanding the strength of the Washington, D.C. market, fueled by its prosperous suburbs, Landmark Mall has remained largely vacant for the past four years.

Located on 52 acres at the western edge of Alexandria at the intersection of Duke Street and I-395, Landmark opened as one of the largest shopping centers in the D.C. market, and the first to be anchored by three major department stores: locally owned Hecht's and Woodward & Lothrop, along with national major retailer Sears.

By the 1990s, the nature of retailing had changed and Landmark Center, as it was then known, was redeveloped into a three-story enclosed retail center and renamed the Landmark Mall. By then the formerly locally owned department stores were gone – replaced by the national brands Macy's and Lord & Taylor.

When it officially closed in 2017, all that was left was the Sears store. In 2020, Sears, too, announced that its Landmark store would be among the 100 stores nationwide closing by year end, leaving just 700 of its stores remaining open, down from a one-time high of 3500 stores. Lord & Taylor had already closed its 120,000 square-foot store in 2009 and the chain declared bankruptcy in 2020. Macy's, which closed its Landmark store in 2017, closed another 30 of its remaining stores in 2020.

What once had been a regional powerhouse had become a derelict and abandoned property sitting onsome of the most attractive real estate in Northern Virginia.

Several efforts were made to convert the mall into a more open-air pavilion similar to its original construction, but plans never quite emerged past the talking stage. As the site descended into being used as overflow automobile dealer car storage, a temporary homeless shelter, and a filming location – most notably for the recently released Wonder Woman 1984 – Alexandria city planners kept working with developers to bring the location back to life.

Just before the end of December 2020, the city, along with Inova Health Systems and a joint venture that includes Foulger-Pratt, The Howard Hughes Corporation and Seritage Growth Properties, announced an innovative and ambitious plan to "revitalize the West end of Alexandria by transforming the unoccupied enclosed mall site into a mixed use, walkable, urban village," according to the city's announcement.

Plans call for Inova to invest $1 billion to create a new one million square-foot medical campus, covering about a quarter of the property near I-395, anchored by the relocation and expansion of Inova's Alexandria Hospital. Inova President and CEO Stephan Jones, M.D. explained the complex will include a hospital with 230 private patient rooms and an enlarged emergency room, a full-scale cancer service center extension of Inova's Schar Cancer Institute and one of only three Level II Trauma Centers located in Northern Virginia. Inova also plans a new medical building for 50 physicians and a helipad for emergency access, Jones added.

The remainder of the property, or roughly 3 million square feet, is planned for multiple uses, including residential, retail, restaurants and civic purposes, including a new fire station and transportation hub and nearly four acres of community parks and open spaces.

Demolition of the existing mall could begin as early as 2022 with construction to follow beginning as early as 2023. The first parts of the hospital campus could open by 2025. The existing Alexandria Hospital's nearby Seminary Road location is proposed to be demolished after the new hospital opens, with the property to be rezoned for residential use. City planners have already begun community meetings with residents to discuss the Landmark redevelopment, as well as the future of the Seminary Road property.

"The scale of the area's redevelopments shows that the future for malls, even the best-performing ones, is poised to come with massive changes," Jon Bannister observed in a recent Bisnow report. Department store anchors have closed in several malls throughout the D.C. suburbs. Existing malls are increasingly being targeted by developers for dramatic changes with creative new concepts from medical and recreational uses to churches, warehouses, industrial and even research laboratories.

The future of retailing and centers like Landmark Mall are also drawing academic attention. George Mason University (GMU) recently announced it will be creating a new "Center for Retail Transformation" focused on small and midsize retailers. Guided by an advisory board of 30 retail executives, the center will provide both undergraduate and graduate courses and research aimed at encouraging retailers to experiment with new approaches and expand innovation. GMU also wants to engage the public in their programs by hosting conferences, such as their recent day-long webinar on "Re-Thinking Retail."

As trends and consumer needs evolve, the transformation of existing commercial space to new uses represents an opportunity for growth in Northern Virginia – and perhaps an opportunity for increased inventory for Northern Virginia Realtors® and their clients.

Loudoun County Commercial Investment Real Estate Review

By: Joe Serafin

In this article, we will review Loudoun County's commercial real estate investment activity over the past three years and briefly list the typical lease terms associated with this market segment. We will also summarize the current, on-the-market activity.

Loudoun County Commercial Real Estate Overview

By way of an overall summary, since March 2018 Loudoun County saw 450 total closed transactions totaling almost 14 million square feet and adding up to just over $5.411 Billion in total value. Q2 last year saw the lowest closed volume at just below $66.5 million, and the highest was in Q4 2019 when closed volume stood at just below $1.31 Billion. The average CAP rate across all transactions was 7%, with a low of 4.3% and a high of 13.6%. The first two months of 2021 saw nine closed transactions with a total dollar volume of $201.57 million.

Loudoun County attracts all types of businesses. 70% of the world's internet traffic passes through Loudoun every day, biomedical research is a major employer, and almost 1,000 federal government contractors are based here. Four Loudoun County employers were in the **DC region's Top 10** last year. The demand for office space, industrial premises, warehousing, hospitality units, retail space, and healthcare premises is high. The increasing number of employees and business owners also generates demand for high-quality schools and homes, including multi-family properties.

The wide range of available CRE properties as well as those under development continues to grow. The past three years saw an active market across all 10 property types. Here is how the total inventory broke down in that period.

10 Loudoun County Commercial Real Estate Major Property Types

1. Office Space

These are, typically, multi-tenanted properties, but some have household name-brand single tenancies. 58 properties were sold with an average price of $6,322,704 and a median price of $2,284,914. The $/SF averaged $171.40, actual CAP rate averaged 7.38% on an average RBA of 22,588 SF. Sales price to asking price (SP: AP) averaged 91.76%.

2. Flex

29 properties in this segment sold at an average price of $46,102,685 and a median of $6,418,064. $/SF averaged $605.29 with an actual CAP rate averaging 8.32% on an average RBA of 74,206 SF. The average SP: AP was 95.2%.

3. Industrial

29 properties were sold at an average price of $18,336,634 and a median of $15.4 million. $/SF averaged $188.42 with a CAP of 6.97% on an average RBA of 95,856 SF. The average SP: AP was 83.96%.

4. General Retail

40 properties changed hands for an average price of $6,541,884 and an average $/SF of $262.44 on an average center size of 25,113 SF. The median sold price was $4,747,972, with an actual CAP averaging 6.25%. SP: AP averaged 90.81%, ranging from a low of 82.22% to 97.69%.

5. Sports and Entertainment

1 property was sold at $23.5 million. It was a 42,530 SF building.

6. Multi-Family

12 properties sold for an average price of $64,233,125 and a median of $39,069,706. The average building size was 316,172 SF and the number of units in each property averaged 274, giving an average price per unit of $234,356 and an average price per SF of $203.16. The CAP rate ranged from 4.3% to 5.3%, averaging at 4.89%.

7. Hospitality

8 properties sold for an average price of $10,570,255 and a median price of $8,701,132. The average building size was 58,298 SF ranging from 9,036 to 95,000 SF. Price per SF ranged from $86.11 to $267.71. The CAP rate range was, as expected, also broad, going from 8.43% to 13.64 and averaging at 10.4%.

8. Vacant Land

163 parcels were sold, with an average price of $12,005,652 and a median of $2.76 million. Parcel sizes ranged from a little over 2000 SF to 1,092.94 acres, with an average size of 3.98 acres. Price per acre averaged at $311,428. The average SP: AP was 85%.

9. Health Care

1 property of 102,785 SF was sold for $7,916,500.

10. Specialty Properties

8 properties were sold for an average price of $8,790,000 and a median of $9,490,000, giving an average Price/SF of $208.64. Both the average and median CAP rate was 6.88%.

Types of Commercial Leases Common in Loudoun County

There are three primary types of a commercial lease, each based on different parameters. The main components of each type are as follows.

Gross, or Full Service, Lease

- This type is common in freestanding buildings where there is no shared expense for common areas used by other tenants.
- The tenant's rent covers all the property's operating expenses including property taxes, insurance, maintenance work, utilities, janitorial services, etc.
- Typical costs associated with building standards are used as the basis for setting that portion of the monthly rent.
- Landlords set a higher rent to cover known and potential costs, and often include an escalation clause if variable costs exceed a certain, predetermined limit.
- The tenant benefits because their costs are known and fixed until lease renewal.

Net Lease

- The rent payable is fixed, but other costs which would be covered in a gross lease agreement, become the tenant's responsibility.
- Common area maintenance (CAM) fees may be calculated monthly and shared by each tenant. Net leases subdivide into three categories known as single, double, or triple net, depending on which expenses are the tenant's responsibilities and which the landlord's.

Single Net Lease (The N Lease)

- Tenants pay rent plus an agreed proportion of property taxes plus their utilities and other services such as cleaning, trash collection, etc.
- The landlord pays building costs such as maintenance and repairs.

Double Net Lease (The NN Lease)

- Tenants pay property insurance premiums and property tax plus their utilities and other expenses they incur.
- The landlord covers CAM charges.

Triple Net Lease (The NNN Lease)

- Tenant is responsible for property taxes and insurance plus their own operating and maintenance costs, and an agreed percentage of any CAM costs. By minimizing their operating costs, tenants can lower their current liabilities.

Absolute Triple Net Lease

- Tenant takes on all responsibilities for the building including managing and funding costs associated with, for example, an Act of God or other catastrophes.

Modified Gross Lease

- This form of lease is a merge of gross and net leases and offers greater flexibility for tenants and landlords to negotiate levels of responsibility and the share of costs.
- Operating and other costs are based on building standards and the proportion of the building each tenant occupies.
- The tenant's share becomes part of the monthly rent, so monthly costs remain the same whether actual costs change or not.

Loudoun County CRE Investment Properties Currently for Sale

We will now look at current market stats. There are 136 properties on the market with a combined For Sale volume of $244 million, totaling 799,000 SF and an average Price/SF of $261. The For Sale CAP rate averages 6.6%, ranging from 5% to10%. 72% of the listings show a For Sale CAP of 6-7%. The market CAP rate averages at 7%. There is a 33.5% vacancy rate across the entire inventory. The average Sale Price vs the Last Sale is up 242.1%. This, again, has a wide range going from negative 10.4% to +1,275%.

The market asking rent stands at an average of $20.77/SF. A different comparison tells us that an asking price of $200/SF carries an average asking rent of $20/SF and an asking price of $350/SF has an asking rent of $25/SF. 80% of the listings are being sold by private owners, and 20% by users. 32% of listings have Asking Price Rents (APR) of between $180 and $240. 21% have APRs of between $240 and $300, while another 24.5% of listings' APRs range from $300/SF to $360.

Single Tenant Buildings — *Defining the Premises*

By: Peter Pokorny

When a tenant leases an entire building, they face many unique issues. Foremost among them is what exactly is the leased premises.

- **Introduction** - The majority of commercial leases involve a tenant leasing a portion of a building that is occupied by others (a multi-tenant building). Occasionally, however, a tenant intends to occupy the entire rentable area in a building (a single-tenant building). In that case, how the Premises is defined has significant consequences.

- **What is the "Premises?"** - The Premises is the term used to describe what the tenant leases and many provisions in a lease (e.g., maintenance, insurance, restoration, etc.) impose obligations on the tenant regarding the Premises. In some single-tenant leases, it is appropriate for the Premises to be defined as the building and underlying land including any other improvements such as other buildings, loading docks, parking areas, and the like. In other cases, however, a tenant may want to specify that the tenant leases only the interior rentable area of the building. This serves to exclude the land, parking areas and other exterior areas, as well as portions of the building like the roof and structure, from the definition of the Premises.

- **Maintenance –** Leases typically require a tenant to maintain the Premises. If the Premises is defined to include the entire building and surrounding land, then the tenant would be responsible to maintain, repair and replace the building's roof, exterior, structure as well as the parking areas, sidewalks, landscaping and drain lines. Single-building tenants who expect the landlord to maintain some or all of these areas should clearly address that in their lease.

- **Insurance** - Many tenants typically insure their personal property and interior improvements with property insurance, and have liability insurance to address issues in their office or store. If, however, the Premises is defined to include the entire building and land, the tenant must make sure that its insurance covers property damage to the entire building (including roof, structure, etc.), as well as liability insurance that covers accidents that happen outside of the building. We also

recommend the tenant send the part of the lease that defines the Premises, as well as the insurance section, to its insurance broker for them to review in detail and make sure the tenant will have all insurance the lease requires.

- **Indemnity** - Leases usually have an indemnity that requires the tenant to protect the landlord from all accidents and damage in the Premises except if they are caused by the landlord, its agents and employees. If the Premises is defined to include the land outside of the building, the tenant may be required to protect the landlord from unexpected situations such as accidents in the parking lot or the actions of third-party trespassers on the land. A single-building tenant (and all tenants for that matter) should make sure that its liability insurance covers contractual liability, like its indemnity under the lease, including having the tenant's insurance provider review the lease's indemnity provision.

- **Casualty** - In leases of multi-tenant space, the landlord is the party responsible to restore and rebuild the building after a major casualty. In a single-building lease, that responsibility may fall on the tenant. If the landlord has a lender, further complications may arise if a major casualty triggers the lender's right to call the loan. The tenant should review the lease's casualty and condemnation sections closely.

- **Restoration** - Tenants exiting their lease are often required to restore the Premises to the condition it was when the lease commenced. A single-building tenant should consider additional responsibilities if their leased premises includes the entire building and surrounding land.

- **Next Steps** - This is a brief overview of issues to be aware of for single-building tenants. An experienced commercial real estate attorney can best advise a tenant and protect its interests.

UPCOMING

EVENTS

MAREMA members meet on the
3rd Wednesday of each month
9:30 am - 12:00 pm

We are open for business, meeting this month in person at our new meeting location and online.

8230 Old Courthouse Road, Suite 400

Vienna VA 22182