

BOMA San Francisco advances the commercial real estate industry through advocacy, professional development, and information exchange

On the Inside

THANKS TO
PAC CONTRIBUTORS

... 5 ...

BOMA BUILDING
TOUR-THE ORRICK
BUILDING

... 6 ...

56TH ANNUAL
ELMER JOHNSON

... 7 ...

MARKETING
OPPORTUNITIES

... 9 ...

PURSUING BREACH OF
LEASE DAMAGES

... 11 ...

MEMBERS ON THE MOVE

... 15 ...

President's Message

BOMA is Your Last Line of Defense Against Bad Policy

You Can Help Us

Make A Difference in November

Election season is upon us and BOMA has never played a more active role in trying to shape the political landscape than in 2010.

I encourage everyone to attend our Election Forecast Forum on October 6th where noted business and political reporters will assess local and state candidates and ballot measures, and their potential impact on our industry.



Thomas Kruggel
Hines

BOMA has been a leader of multiple coalitions this year starting with an effort to bring fresh and moderate faces to the Democratic County Central Committee (DCCC), a key political grooming ground in our city. We have also collaborated with other business groups, and some factions of labor, to elect more moderate candidates and defeat bad legislation. All of this helps to stabilize the environment for commerce, support our clients' collective business needs, enhance asset value, and protect owners' private property rights.



Building on our Past Leading Our Future

BOMA San Francisco Celebrates
A Century of Service

In 2011, BOMA San Francisco will celebrate its first century of service to commercial real estate owners, operators and service professionals. Our first 100 years have been marked by the rebuilding of the city after the devastating earthquake of 1906, showcasing San Francisco with the Panama Pacific International Exposition in 1915, dramatic development in the 50's, 60's and 70's, followed by redevelopment of areas outside the historical downtown core. Through it all, BOMA San Francisco has stood as the most influential and effective advocacy, recruitment and training organization for the commercial real estate industry.

Our Centennial Celebration will kick off at BOMA's Annual Meeting & Member Recognition Luncheon on October 14, 2010 at The City Club San Francisco. The celebration will culminate with the Centennial Celebration Gala on May 19, 2011 at the historic Palace Hotel. We have a lot to celebrate, and we want to ensure our members enjoy a memorable event.

LEADERSHIP

EXECUTIVE COMMITTEE

Thomas Kruggel, President
Hines

Anne Stephens, CPM, President Elect
Paramount Group, Inc.

Meade Boutwell, LEED AP, Treasurer
CB Richard Ellis

Margot Crosman, RPA, CCIM, Immediate Past President
Unico

Marc Intermaggio, CAE, Exec. VP & Secretary
BOMA San Francisco

DIRECTORS

Stephen Austin, RPA
Boston Properties

Tim Ballas, CPM, CCIM
CB Richard Ellis

Gary Faleschini
Waxie Sanitary Supply

Harout Hagopian
Equity Office Properties

David Jaber, RPA, CPM, CCIM
Shorenstein Realty Services

Steve Levine, CPM
Wells Fargo

Sarah MacIntyre, RPA, LEED AP
Wilson Meany Sullivan

Steve Ring, RPA, CPM, LEED AP
Cushman & Wakefield

Elizabeth Trowbridge, RPA, FMA, CPM
LBA Realty

BOMA STAFF

Marc Intermaggio, CAE
Executive Vice President & Secretary

Ken Cleaveland
Director of Government & Public Affairs

Tory Brubaker, CAE
Member Services Director

LaMata Lewis
Director of Accounting

Francine Anderson
Director of Education Programs

John M. Bozeman
Legislative Assistant

Wendy deLara
Administrative Assistant

BOMA San Francisco Salutes



New York Stock Exchange Symbol: ABM

as a

2010 Gold Corporate Sponsor

ABM Industries' support demonstrates their belief in the value of BOMA's advocacy, professional development and information services for commercial real estate professionals.

Our Work Stinks...and we love it!

One whiff and you know it's us. Crude, black and smelly. When American Asphalt shows up ready to work, we pour it on hot and spread it on thick. Our crews love to fill cracks, seal parking lots and pave everything from a private driveway to a half million sq ft Costco parking lot in the space of a weekend. Smiling the whole time.

The logo for American Asphalt AND CONCRETE features a stylized road with a central line and dashed side lines, set within a circular frame. The text 'American Asphalt' is written in a bold, sans-serif font, with 'AND CONCRETE!' in a smaller, all-caps font below it.

American Asphalt
AND CONCRETE!

Our People Pave The Way
Call us today to see for yourself.
800-541-5559
www.americanasphalt.com

Striping Seal Coating New Construction Petromat Overlay Concrete Asphalt Repairs ADA Requirements Slurry Surfacing/CAL TRANS 37-2

W

ith a 100-year history, BOMA is the most influential and effective advocacy, recruitment and training organization for the U.S. commercial real estate industry. BOMA San Francisco represents more than 73 million square feet of office space in San Francisco, San Mateo, Marin and Sonoma counties. To find out how BOMA can build power for your organization, call us today at 415-362-2662 X115 or visit our website.



BUILDING OWNERS &
MANAGERS ASSOCIATION

WWW.BOMASF.ORG

The BOMA Bulletin

is published quarterly. Scheduled 2010 issues are March, June, September and December.

Contact Tory Brubaker at **415/362-2662 x115** for information on

- Advertising Opportunities
- Article Submissions
- Press Releases for Members on the Move

Ads are due by the 10th of the month prior to publication.

BOMA's 2010 Corporate Sponsors

We thank these Leading Companies
for their commitment to our Association in 2010.

PLATINUM

Able Services

GOLD

ABM Industries Inc.
Pacific Gas & Electric Company
Recology Golden Gate
San Francisco Electrical Contractors Association, Inc.

SILVER

Alliance Roofing
BCCI Builders
Boston Properties
CAC Real Estate Management Co., Inc.
CleanSource Inc.
Equity Office
Hines
Metropolitan Electrical Construction, Inc.
Otis Elevator Company
Standard Parking

BRONZE

Allied Barton Security Services
Hanson Bridgett LLP
Hathaway Dinwiddie Construction Co.
ISS Facility Services
Marble West
McMillan Electric Co.
NRG Energy Center San Francisco
Paramount Group, Inc.
Restoration Management Company
Richlen Construction
RREEF
Securitas Security Services USA, Inc.
Shorenstein Realty Services
The Swig Company, LLC
ThyssenKrupp Elevator
Turner Interiors
Universal Protection Service

FRIENDS OF BOMA

ACC Environmental Consultants, Inc.
Arborwell, Inc.
Burr, Pilger & Mayer, LLP
CB Richard Ellis
Coit Cleaning & Restoration
Cushman & Wakefield
Cutting Edge Drapery
Cypress Security
GCI General Contractors
Nor-Cal Moving
Pankow Special Projects
R.N. Field Construction, Inc.
Sky Rider Equipment Co., Inc.
Swinerton Interiors
The Lawson Roofing Co. Inc.
Unico
Waxie Sanitary Supply
Young Electric Co. Inc.



Put Your Company in Good Company—

Be a 2011 BOMA SF Corporate Sponsor

BOMA San Francisco's Corporate Sponsorship program is designed to provide our members with increased visibility, awareness, and profile at all BOMA events. It's an exceptional and exclusive marketing opportunity for those BOMA member companies wishing to increase their prominence and accessibility to key professionals in the commercial real estate industry.

As the fourth largest local BOMA in North America, our 1100-member network of commercial real estate professionals own and manage more than 75 million square feet of office space in four counties. Over 1100 businesses are housed in member properties, and the office building industry served spends more than \$2 billion annually to service and maintain their properties. Corporate sponsorship of BOMA San Francisco gives your company maximum exposure to industry decision makers. It's a cost effective, relationship building tool.

Sponsorship solicitations will be emailed to all members in early November and signed commitments are due by December 13. If you have questions about the program please contact Member Services Director Tory Brubaker at 415-362-2662 x115, toryb@boma.com.



BEVILACQUA & SONS
GENERAL CONTRACTORS
LICENSE # 732067
UNION / W.B.E.

- COMMERCIAL INTERIORS
- RETAIL
- STRUCTURAL

www.bevconstruction.com
PHONE: 650.616.4900

M E M B E R B E N E F I T R E V I E W

Make the Most of Your Membership Investment!

Wednesday, November 10
11:45 a.m. - 1:15 p.m.
BOMA's Conference Room
Lunch Included

This program is designed for **new and prospective members, or even existing members** who want a better understanding of the benefits and resources available to them through membership.

Topics will include:

- Professional Development & Continuing Education
- Committee/Task Force Involvement
- Informational Resources
- Business Services
- Marketing Opportunities & Relationship Management
- Governmental Relations

The program is free of charge but space is limited.

Register at
www.bomasf.com/workshops

Questions?
Contact Tory Brubaker
toryb@boma.com

BOMA-SF-PAC
SERVING SAN FRANCISCO

Make a Donation Today

Thank You...

Thank you to the following companies who have contributed to BOMA-SF-PAC as of September 15, 2010.

101 Montgomery St. Company
2001 The Embarcadero
22 Battery Associates, LLC
221 Main Street Building
244 California St. Associates
255 California Street
425 Market Building
500 Sansome LLC
601 Townsend
750 Battery Street
Able Building Maintenance
Able Engineering Services
Amerimar Hamm's Management Co.,
Baker's Floor Care
BCCI Construction
Bently Holdings CA, LP
Berding & Weil
Boston Properties
Broadway Real Estate Services
CAC Real Estate Management Co.
CALFOX, Inc.
California Sansome Company
Capital & Counties, USA, Inc.
CB Richard Ellis
Clean-A-Rama
Coast Counties Prop. Mgmt. Inc.
Colliers International
Commercial Interior Builders
Cushman & Wakefield
Cutting Edge Drapery
Dome Construction
DPR Construction, Inc.
DRA Advisors, LLC
Equity Office
Folger Building
Genesis Building Services
Georgia Pacific
Glenborough LLC
GLL Properties
Gordon Group
Grosvenor Properties Ltd.
Grubb & Ellis
Hanford Freund & Company
Harsch Investment Corp.
Hathaway Dinwiddie Construction
Hearst Building

Heffernan Insurance Brokers
Hines
Hoem & Associates
Honorway Investment Corp.
Interland-Jalson
Jones Lang LaSalle
Justice Investors
KSW Properties
Leo Epp Company
Lightner Property Group
Madico, Inc.
Market Square
Matrix HG Inc.
McCarthy Cook & Company
McKesson Company
McMillan Electric Company
McMillan Security Systems
Metropolitan Electrical Construction
NRG Energy Center
Otis Elevator
Pan-Med Enterprises
Paramount Group, Inc.
Parking Concepts, Inc.
Parnassus Heights Medical Center
Pacific Gas & Electric Co.
Quantum Energy Services
Restoration Management Company
RetroCom Energy Strategies

RNM Properties
Seagate Properties, Inc.
Service West, Inc.
SF Office Lofts, Inc.
Shorenstein Realty Services
SMG - The Moscone Center
Specialty Apparel
Terwilliger Management Company
The Empire Group
The Swig Company
Township Building Services
Unico
Universal Protection
USL Property Management, Inc.
Verde Pacific
W3 Partners
Wahl & Company
Waxie Sanitary Supply
Webcor Construction
Western Waterproofing
Wilson Meany Sullivan LP

New Date! **2nd Annual**
BOMA Gran Prix
Wednesday, November 17
GoKart Racer, Burlingame
all proceeds benefit
BOMA International's PAC



Questions? Contact
Mike Steele, Glenborough
michael.steele@glenborough.com

Start Your Engines -
Registration Now Open

BOMA Building Tour: The Orrick Building—405 Howard Street

On August 19, BOMA members got an intimate look at The Orrick Building, 405 Howard Street, managed by Ashforth Pacific. This building was awarded first place, Medium Commercial Building Category in the 2010 EARTH Awards and is currently the highest rated LEED Platinum certified building in the country for Existing Buildings. The building is located on a 1.7-acre site on the corner of Howard and Fremont Streets, in the heart of San Francisco's South Financial District. The 10 story, Class A building has 503,576 total square feet of floor space.

Senior Property Manager **Blake Peterson** and her team led members throughout the building. Additional presenters included **Steve Hawkins**/Engineer; **Tom**

Fahey/Chief Engineer; **Scott Lunski**/Vice President of Engineering; **Elle Vega**/Property Administrator; **Rich Schaeffer**/Engineer; and **David Montanez**/Engineer.

Members toured unique building features such as the under floor HVAC distribution system and other sustainable building features contributing to The Orrick Building's certification as the highest LEED EB Platinum rated building in the nation.



56th Annual Elmer Johnson Golf Tourney

Great Golf, Great Weather, Great Company, Great Prizes!

Elmer Johnson was BOMA's Executive Director from 1945 to 1985. Elmer was the quintessential San Francisco Gentleman who initiated the tournament in 1954, and who dedicated 40 years of his professional life to BOMA San Francisco and the office building industry. In many ways, his professional tenure at BOMA paralleled the growth and development of San Francisco.

How far do you think you can drive a marshmallow? Well, if you were at the **56th Annual Elmer Johnson Golf Tournament** you would have had the opportunity to find out courtesy of Liz Allio and her "crew" with **Universal Protection Services** who sponsored the Longest Drive. That's right; members had the chance to drive a marshmallow instead of a golf ball which really equalized the playing field. The exercise was not only very entertaining but also quite revealing. The winners of the Longest Drive and recipients of \$100 Gift Certificates were **Manny Moreno (PM Realty)** and **Michelle Donnelly (CAC Real Estate Management Co., Inc.)**.

We must again thank all of our food sponsors beginning with **Comcast Business Services** for the champagne continental breakfast. Once on the field, players had a wonderful selection of food and beverages, including **Able Services'** liquid refreshments and ribs; **ABM Industries'** hot dogs, burgers and beer; **Marble West's** tequila with bbq beef sandwiches; **Skyline Construction's** ice cream, cigars, tequila and candy; and **Waxie Sanitary Service's** mai tais and jambalaya.

Restoration Management sponsored the "19th Hole" once again this year which offered a nice networking opportunity before dinner. **Caledonian Building Services** graciously provided wine at the dinner table. If anyone left the day hungry or thirsty it was their own fault!

Thanks to all those companies that provided raffle prizes including \$1000 cash provided by **Recology Golden Gate**, won by **Jim Keenan (Letterman Digital)**; an iPad provided by **Marble West**, won by **David Starkey (Kilroy Group)**; a flat screen tv, wine and a digital camera (and also tee bags) provided by **Metropolitan Electric**; and the Pebble Beach grand prize package

worth \$4000, won by **Dan McNeer (American Technologies, Inc)** and generously donated again this year by **NRG Energy Center, San Francisco**.

Much of the success was due to the top-notch event planning by event chair **Fred West (Marble West)**, Associates Committee Chair **Howard Fish (Skyline Construction)**, and the entire **Associates Committee**.

It iss that time of year again
and ve haaff to celebrate!



Break out der Oom Pah Pah,
put on der Lederhosen,
und join uss for some great funn.

BOMA San Francisco's

un-Oktoberfest!

Save the date - November 3, 2010

Schroeder's
240 Front Street

Invitations to be sent soon!

SOCIAL EVENTS



BOMA San Francisco's Year Round Marketing Opportunities

Your Map to a Successful Marketing Campaign

BOMA's offers numerous marketing opportunities for its members to promote their products or services to the local commercial real estate industry. Below is a brief description of the vehicles available and the contact person who can provide more information.

Corporate Sponsorship Program 2011

The annual corporate sponsorship program is designed to provide sponsors with increased visibility, awareness, and profile at all BOMA events throughout the year. It's an exceptional and exclusive marketing opportunity for those BOMA member companies wishing to increase their prominence and accessibility to key professionals in the commercial real estate industry. **Enrollment for the 2011 program is November 1 through December 10**, and information will be forwarded to all members via email. Questions? Contact **Tory Brubaker at toryb@boma.com; 415-362-2662 x115.**

Centennial Celebration Sponsorship

Help us celebrate 100 years of service to the industry. See cover story and page 14 for details or visit www.bomasf.org, or contact sponsorship chairs **Lisa Vogel, RREEF, Lisa.vogel@rreef.com** or **Mark Kelly, Able Services, mkelly@ableserve.com.**

On-line Buyers Guide & Web site advertising

Online Buyers' Guide is a new tool for our members to research and locate products and services that they use every day throughout the year. BOMA's website, www.bomasf.org, receives an average of more than 3,300 visits per month and is a valuable resource for our membership, who commonly refer to it for business tools, as well as association and industry information. A limited number of ads are currently accepted on the site. For both of these opportunities Contact **Vicki Sherman, Naylor Publications, vsherman@naylor.com (800) 369-6220, ext. 3417.**

Membership Directory Advertising 2011-2012 Edition

BOMA members receive this valuable tool in their new member package when they join. Each year, an updated edition is published and mailed to the entire membership in late August. Membership data is current

as of June 10, and the publisher, Naylor Publications, sells advertising from April through July. Questions? Contact **Tory Brubaker at toryb@boma.com; 415-362-2662 x115.**

BOMA Bulletin/BOMA Advocate Advertising

The *BOMA Bulletin*, BOMA's quarterly newsletter, is published in January, March, September and December. The ad rate sheet can be found in the archived Bulletin section of our website at www.bomasf.org. To advertise, contact **Tory Brubaker at toryb@boma.com.**

Sponsorships are also available for the Advocate, BOMA's monthly email update of local, state and federal legislative issues facing our industry. Issue sponsorships can be secured by contacting **John Bozeman, johnb@boma.com, 415-362-2662 x116.**

Topical Seminar Sponsorships

BOMA organizes 4-6 topical seminars each year, and welcomes member companies to sponsor the event in exchange for recognition at the event, in our newsletter, on our website and in email notifications. Sponsorships range from \$750-\$1500 and are advertised via email when the event is initially promoted. For more information, contact **Tory Brubaker at toryb@boma.com, 415-362-2662 x115.**

Foundations of Real Estate Management Sponsorships

A soup-to-nuts, 5-module, 28-hour entry-level course, covering the fundamentals of commercial real estate administration, management, building systems, accounting and reporting, contract management, and more. This five module course will be presented on five consecutive Fridays. Sponsors will have the opportunity meet new and rising talent taking on more responsibilities and assignments, and be part of the national roll-out of this acclaimed program that seeks to help the industry meet goals for attracting and training new commercial real estate talent. Sponsorships are \$750 each. For more information, contact **Francine Anderson at francinea@boma.com, 415-362-2662 x112.**

BOMA Young Professionals Event Sponsorships

BOMA's Young Professionals, BOMA^{YP}, Steering Committee host social networking events and career

Continued on page 10

Continued from page 9—Marketing Opportunities

success workshops designed to provide fun and educational events for members with less than 7 years of industry experience. If you are interested in sponsoring one of our 2011 events, please contact **Chair Michelle Funkhouser**, mfunkhouser@hines.com, 415-512-5100.

BOMI Course Breakfast Hosts

Provide breakfast for a small group of managers and other property professionals attending 3-day BOMI course and gain a chance to get your name/product before building staff in a way that is sure to be remembered and appreciated. Contact **Francine Anderson** at francinea@boma.com; 415-362-2662 x112, for more information.

Committee Lunch Hosts

BOMA hosts approximately 8-10 committee meetings each month, most during the lunch hour. Member companies are encouraged to sponsor the lunch

provided. Depending on the committee size, the cost ranges from \$100-\$150 and members are billed after the meeting. **Contact the committee chair if you are interested in sponsoring a lunch.** Contact information is available at www.bomasf.org in the committee section.

Social Events Sponsorships

BOMA's Associate Member Committee plans 5-6 networking events each year to provide fun and friendly opportunities for our members to mix and mingle. These events include 2 annual golf tournaments, the Spring Golf Classic in May, the Elmer Johnson Golf Tournament in August, BOMA Texas Hold'em, PAC at the Park in spring, Un-Oktoberfest in November, and the Annual Holiday Party in December. If you are interested in providing sponsorship support please contact committee chair **Howard Fish**, **Skyline Construction**, hfish@skylineconst.com.

BOMA
International

Don't Forget to Budget for BOMA International Meetings in 2011

January 23–26, 2011

Winter Business Meeting
Walt Disney World Swan
Lake Buena Vista, FL

March 21–22, 2011

National Issues Conference and MAC Region Conference
Hyatt Regency Capitol Hill
Washington, D.C.

June 26–28, 2011

Annual Conference and The Every Building Show™
Gaylord National Resort & Convention Center
Washington, DC

A Landlord's Decision to Pursue Breach of Lease Damages—Art or Science?

by Scott W. Singer & Clifford R. Horner

As all BOMA members already know, tenant defaults over the past three years have increased significantly. The owner's regaining possession of the Premises following a monetary default is typically not expensive or time consuming. The expedited statutory unlawful detainer procedure can usually be completed in 30 to 60 days, and without significant expense. The challenging question facing office landlords is: after obtaining possession, does it make financial sense to pursue litigation against the tenant for breach of lease damages? Said another way, is it in the best interest of the owner/landlord to file a breach of lease lawsuit and incur further attorneys' fees pursuing an evicted tenant for monetary damages?

A breach of lease action is typically brought after a landlord has regained possession of the premises through an unlawful detainer action, voluntary return of possession, or notice of belief of abandonment. As discussed below, if the landlord has obtained a judgment as part of regaining possession, the landlord and counsel have valuable tools to investigate the assets of a tenant and/or guarantor to assist in determining whether a breach of lease action makes financial sense. If possession was obtained without an unlawful detainer judgment, as a result of various state and federal legislation restricting consumer information publically available, the owner/landlord is limited to the financial information it obtained as part of the lease negotiation and execution process and the information available through public records – a sparser universe of available information. In those instances, the art of balancing the factors discussed below is as close to a scientific approach as a landlord may be able to make in deciding whether to pursue litigation for lost rent against the tenant. We will examine both scenarios and the factors a landlord should consider in this article.

Unlawful Detainer Judgment

One of the most valuable methods to determine whether to pursue a tenant for future rent damages is to initially pursue an unlawful detainer judgment. If the return of possession occurred through a court judgment, the landlord has in its possession a judgment for the then delinquent rent, which is a valuable tool to the landlord in determining whether to proceed with additional litigation to attempt to recover future rent. In cases where the sufficiency of a tenant or guarantor's assets are questionable (which is the vast majority of cases), it is recommended to attempt to collect on the unlawful detainer judgment before making the decision to litigate the future rent claims in a breach of lease action.

There are two primary steps to take in collecting on an unlawful detainer judgment. First, the landlord should levy all bank accounts of the tenant. Bank levies are inexpensive (approximately \$200 per bank account), typically only take two to three weeks to complete, and are very effective. In addition to levies, it is recommended that an examination under oath be immediately scheduled and taken. This allows questioning regarding the tenant or guarantor's financial condition and ability to pay the Judgment. After concluding the bank levies and examination under oath, a landlord should be in a position to make an educated decision whether to expend the attorneys' fees to pursue a breach of lease judgment or whether the tenant is essentially judgment proof.

If the Landlord Does Not Have an Unlawful Detainer Judgment

If the landlord obtained possession in a manner that did not result in a judgment (i.e. via a notice of belief of abandonment or voluntary return of possession), then the valuable tools of bank levies and examinations under oath after judgment are not available. In this instance, the landlord should examine and balance the factors below in order to make a more informed decision whether to pursue a breach of lease action.

Continued on page 12

Continued from page 11—Breach of Lease

Factors to Consider in Determining if a Landlord Should Pursue Breach of Lease Damages

1. **Corporate versus personal tenant.** In the event the subject tenant has formed a corporation and the corporation is a “mom and pop” single-location operation, this strongly weighs against filing a breach of lease action. These sorts of corporations are typically shells with no assets.
2. **Tenant’s Assets.** One of the primary considerations in pursuing any tenant is whether the tenant (whether individual or corporate) has assets sufficient to satisfy all or any part of a potential judgment. This same analysis applies to any guarantor. The goal of the landlord and its attorney in deciding whether to pursue a tenant or guarantor is to determine what assets may be available to satisfy any potential judgment. Unfortunately, in California very little information is readily obtainable other than real estate ownership information. Lease language may allow the Landlord to obtain financials on the tenant and also run a credit report – both of which may be valuable in determining a tenant’s assets.
3. **Tenant’s Retention of Legal Counsel.** As a general rule, if a tenant has the financial ability and does in fact retain legal counsel, that is a sign that the tenant may have assets worth protecting.
4. **The Amount in Dispute.** Regardless of what financial information may be available about a tenant or guarantor, the greater the amount in controversy, the more likely a landlord should file a breach of lease or breach of guaranty action. The filing of the complaint by itself is a relatively inexpensive investment to see how the tenant or guarantor reacts.
5. **Other Locations/Businesses.** A landlord may have knowledge of other locations or other businesses run by the tenant. If a tenant has other locations, the chance of recovery increases.
6. **Other Information.** This factor can be called the “scuttlebutt.” It is not uncommon to find out from the property manager that the tenant abandoned the subject premises, but moved across the street, took all the clients from the former business, and is operating the same business under a new name. This information can prove valuable to the owner in determining if there is a potential to pierce the corporate veil and create personal liability on the part of the principals of the tenant’s business. A tenant may tell his office neighbor or the office manager about the house she has in Tahoe, or the luxury home they have under construction.

Right to Attach Orders

In California, landlords (and other creditors) can file concurrently with the breach of lease complaint an application for a right to attach order, which provides the landlord the power to locate and levy any non-exempt assets of the tenant or guarantor, effectively “freezing” those assets. The cost of an application for right to attach order is relatively nominal (attorneys fees typically range from \$3,000 to \$6,000), and the settlement leverage created by attaching the tenant’s assets is significant.

Conclusion

An owner/landlord’s strategy in determining whether to file a breach of lease action to recover all of the owner’s lease damages involves a balancing of all factors known by the asset manager, property manager and counsel. If all known information is added to the conversation, this compilation of information should lead to an increased chance of recovery and less wasted attorneys’ fees.

Scott Singer and Clifford Horner are founding partners of Horner & Singer, LLP, Attorneys at Law. The firm’s legal practice focuses on all aspects of business and commercial real estate including transactional law and litigation. For more information, visit www.hornersinger.com.

2011 DUES UPDATE: No Dues Increase for 2011!

BOMA’s Board of Directors has approved a budget that keeps annual dues at 2009 levels for the 2nd year in a row. We also ask that all Associate members budget for a contribution to BOMA-SF-PAC of \$400, and Principal Building members budget at 30% of dues. BOMA is dedicated to protecting private property rights and preserving your ability to serve your clients and operate as efficiently as possible. We thank you in advance for your 2010 membership renewal and for your continued partnership, as we work together to enhance and provide lasting value to our industry.

BOMA Oakland/East Bay and BOMA San Francisco Collaborating to Co-Host BOMA Bay Area TOBY Awards & BOMA Bay Area EARTH Awards

In a move designed to generate additional participation in two key industry awards programs, BOMA Oakland/East Bay and BOMA San Francisco are now collaborating to co-host The Outstanding Building of the Year (TOBY) Award, and the EARTH Awards. BOMA Oakland/East Bay will open its TOBY program to BOMA San Francisco members, and conversely, BOMA San Francisco will expand the EARTH Awards to include commercial properties in Oakland/East Bay. BOMA Oakland/East Bay will take primary responsibility for managing the TOBY program, and BOMA San Francisco will manage the EARTH Awards program.

The BOMA Bay Area TOBY program kicked off in August. See www.bomaoeb.org for application instructions. Local winners will be selected and be recognized at a luncheon in November 2010. The 2011

BOMA Bay Area EARTH Awards program kicks off in November 2010, and winners will be recognized at a special luncheon in April 2011.

The BOMA Bay Area EARTH Award recognizes member buildings within the BOMA San Francisco and BOMA Oakland/East Bay territories that utilize the most comprehensive resource management programs, including commercial recycling programs, energy and water conservation efforts, air quality and toxics reduction programs, support for public transportation, and effective use of tenant education programs geared to promoting sustainability practices in commercial office buildings. For more information, please contact **Zachary Brown, chair, BOMA's Energy & Environment Committee at zachary_brown@equityoffice.com**.

Continued from page 1—President's Message

BOMA has a solid track record of defending our members' interests against bad policy. For example, we successfully defeated Prop L – the real estate transfer tax hike in November 2002, saving local investors more than \$500 million over the next six years. In just six weeks, BOMA-SF-PAC raised nearly \$750,000, hired political consultants and waged a multimedia campaign to defeat the initiative, 55% to 45%. Members of the Board of Supervisors placed a doubling of the transfer tax again on the ballot in November, 2008, and, with our industry in the doldrums, and little ability to fight the measure, it passed handily. Now, San Francisco's real estate transfer tax rate of 1.5% is among the highest in the state. Despite that fact, our current Board of Supervisors has again – only two years later - voted to place another substantial transfer tax increase on the ballot, raising the rate by 60% on properties sold at more than \$10 million to 2.5%. This time, BOMA is leading the fight to defeat it, and has partnered with other business groups, particularly the SF Hotel Council, to create the coalition www.EconomicRecoverySF.com. Check it out, and seriously consider making a donation!

Our advocacy success is only possible with adequate funding and our members' commitment to being a voice

of reason. There are many ways that each of us can do to make a difference. Please join your fellow members by taking these actions:

- raise money for BOMA-SF-PAC by including the voluntary recommended PAC contribution in your 2011 budget (30% of a building's dues or \$400 for associate member firms),
- inform your clients/partners of our efforts to promote policies that enhance asset value rather than diminish it, and ask them to help,
- inform your tenants of proposed legislation that might negatively impact them and their businesses,
- write letters to local policy makers encouraging them to opt for legislation that supports job creation and economic recovery, and
- write letters to the editor of the *Chronicle* and *Examiner* with the same message.

BOMA is just about to enter its second century of service to the commercial real estate industry, and protecting private property rights and securing a stable commercial environment for our members and their clients will continue to be a central component of our mission. Here's to a promising a prosperous second centennial, made possible by you.



2011 BOMA San Francisco Centennial Celebration Gala

*Building on our Past
Leading Our Future*

Thursday, May 19, 2011
The Palace Hotel

Sponsorship Opportunities Available
Details at www.bomasf.com

Continued from page 1—Centennial Sponsorship

Help us make this an occasion to remember. We need your help in underwriting the expense of this event in exchange for a unique recognition opportunity that offers your company the chance to gain broad industry exposure from October 2010 through May 2011. Please review the Sponsorship/Recognition Opportunity and let us know how you can participate.

Sponsorship levels are:

Landmark Sponsor	\$ 12,000
Tower Sponsor	\$ 5,500
Cornerstone Sponsor	\$ 3,000
Foundation Sponsor	\$ 1,000

To be part of this once in a lifetime opportunity, just complete the Centennial Sponsorship Commitment Form found at www.bomasf.org and return to BOMA San Francisco. For more information, please contact the BOMA Centennial Sponsorship Co-Chairs **Lisa Vogel, RREEF**, lisa.vogel@rreef.com or **Mark Kelly, Able Services**, mkelly@ableservice.com.

Thank you to the following companies who have committed to Centennial Sponsorship as of press time.

Landmark Sponsor
Able Services
The Lurie Company

Tower Sponsor
CB Richard Ellis, Inc.
Georgia-Pacific Corp.
Recology Golden Gate
RREEF
Shorenstein Realty Services

Cornerstone Sponsor
Ace Parking Management
CAC Real Estate Management Co., Inc.
Cushman & Wakefield
Hines
LBA Realty
Waxie Sanitary Supply
Wilson Meany Sullivan

Foundation Sponsor
Barker Pacific Group/Prudential Real Estate Investors
BCCI Construction Company
ISS Facility Services

Members on the Move



WAXIE Sanitary Supply has promoted **Gary Faleschini** to Regional Sales Manager effective September 1, 2010. Gary began his employment with WAXIE in March 2008 in the position of Strategic Account Representative after a 20 year career with August Supply, Inc. As the

Regional Sales Manager, Gary will lead the Livermore sales team. With 33 years in the industry, Gary will utilize his experience to obtain new business and overall growth.

CAC Real Estate Management Co., Inc. is pleased to announce the promotion of **Kelly Jane Galentine** to Assistant Property Manager at 111 Sutter Street. KJ has been in the industry for two and a half years and is an active member of the BOMA Young Professionals Steering Committee. **Alison Mata** has been promoted from Tenant Coordinator to Assistant Property Manager at 650 California Street.

Sean Kunz has recently joined **American Asphalt**, as a new South Bay Estimator. Being the fourth generation to join a leading asphalt company, Sean will be responsible for meeting with new and existing clients and developing cost effect solutions to tailor the needs of the client.



Andrew Keller has joined **BCCI Construction** as an Assistant Project Manager. BCCI, a commercial contractor firm, added Andrew Keller, LEED AP as an assistant project manager to its San Francisco office. Keller joins BCCI from Swinerton Incorporated, where he spent the last four years as a project engineer. Keller has a "Safety Trained Supervisor" certification from the Council on Certification of Health, Environmental and Safety Technologies.

The **Newhall Building (260 California)** is celebrating its centennial this year. Designed by renowned architect Lewis P. Hobart, The Newhall Building was designed in an effort to rebuild the city of San Francisco after the 1906 earthquake. H. M. Newhall & Co moved their offices to 260 California Street occupying the entire second floor. For many years the building stood unaffected by changing owners, the crash of 1929, two World Wars, the 1989 earthquake and today sits on one of the most prominent corners in San Francisco's Financial District. Join property owner **Sakti International** in celebrating this centennial milestone of commercial real estate service

to the San Francisco Bay area.

Oyster Point Marina Plaza, owned by Kashiwa Fudosan America and managed and leased by **Cushman & Wakefield** has been awarded **LEEDEB® Gold Certification** by the U.S. Green Building Council (USGBC). The distinction marks the Gold level certification for the largest office complex in San Mateo County, at gross square footage of 468,958.

One California, owned and managed by **Shorenstein Realty Services**, has been awarded **LEEDEB® Gold Certification** by the U.S. Green Building Council (USGBC). The management team worked very hard to achieve this certification.

CB Richard Ellis has assumed management and leasing responsibilities for 1.5 MSF of properties located in Oakland City Center. The buildings include **1111 Broadway, 555 12th Street, 1300 Clay Street, 505 14th Street, City Square** and the underground parking garage. CBRE is pleased to announce **Diana Hernandez, Mary Padilla, Anastasia Deveaux-Hutado and Tamira Twillie** have joined the company in management positions along with a staff of 10 professionals.

Gardeners' Guild, Inc., an employee-owned Landscape Management firm has been recognized for its work by the California Landscape Contractors Association (CLCA) North Coast Chapter. The firm earned a First Place Award for its Sustainable Landscape Management Program at Spring Lake Village, Santa Rosa, a retirement community located on 30 acres of secluded and landscaped gardens. In addition to being recognized for its Sustainable Landscape Management program, Gardeners' Guild also received two Recognition Awards: One, for the category of "Custom Residential installation" for a home in the Napa Valley. The other award was for the category of "Large Commercial Maintenance" for Whiskey Springs, a residential community in Sausalito.

The Engineering and Utility Contractors Association (EUCA) every year recognizes the safest companies in the association. **WBE Electric** was proud to have earned the first place safety award for the 250,000-500,000 hours class. EUCA Director of Contractor Services Mike Herron (below right) visited the WBE Office in Novato on June 21 to present Leslie and Mike Murphy with the EUCA Safety Award.

Skilled.

One word can make all the difference for your project.



By choosing a contractor represented by the San Francisco Electrical Contractors Association (SFECA), working with the skilled electricians of the International Brotherhood of Electrical Workers (IBEW) Local 6 for your project, you can ensure you get the most skilled workforce in the industry. IBEW Local 6 electricians train for over 8,000 hours, in classrooms and on job sites, to guarantee they always provide superior craftsmanship for your project. Their expertise allows them to complete the job safely, while maintaining productivity and cost efficiency. Their knowledge of the latest techniques and technology prepares them for the full scope of electrical construction and telecommunications work. With this unmatched training, SFECA and IBEW Local 6 have provided San Francisco and the Bay Area with the industry's best electrical construction work for over a century.

*Choose the San Francisco and Bay Area's most **skilled workforce.***

Hire a SFECA/IBEW Local 6 contractor for your next project.

Call 415-703-8333
or visit www.sfeca.org.



BOMA San Francisco
233 Sansome St., 8th Fl.
San Francisco, CA 94104-2314

Ph. 415.362.8567
Fax 415.362.8634
www.bomasf.org

FIRST CLASS MAIL

 Recycled Paper