www.CMAlert.com

Commercial Mortgage ALERT

THE WEEKLY UPDATE ON REAL ESTATE FINANCE AND SECURITIZATION

Loan Sellers Urged to Boost Access

Some attorneys and investors are encouraging loan sellers to provide access to the one party buyers most want to talk to: the borrower.

www.CMAlert.com

Commercial Mortgage ALERT

THE WEEKLY UPDATE ON REAL ESTATE FINANCE AND SECURITIZATION

NOVEMBER 19, 2010

6 NEW LOANS IN SPECIAL SERVICING
8 RECENT LOAN MODIFICATIONS
10 REIT CREDIT RATINGS
2 Natixis Backing Buyer of NY Tower
3 Builder Seeks to Refi Medical Offices
3 Bridger Expands to Mezz Lending
3 More WaMu Loans on the Block
4 Silicon Valley B-Note Trades Near Par
5 CMBS Values Reverse Course Again
6 Lenders Reminded of New IRS Rule
7 High-Yield Shop Seeks Hotel Lender
7 Capmark, LoanCore Refi Phoenix Mall
9 Loan Sellers Urged to Boost Access
11 INITIAL PRICINGS

CMBS Lenders Chase Giant Healthcare Loan

A **JER Partners** team has started approaching lenders for proposals to refinance a $1.6 billion debt package that backed its takeover of **Genesis HealthCare** in 2007.

The existing debt doesn't mature until 2014, but the JER partnership is looking to take advantage of the exceedingly low prevailing rates. Commercial MBS lenders and the mortgage agencies are considered favorites to win the assignment, which is too big for most balance-sheet lenders to bite off. But given its long lead time, the JER team isn't under any pressure to act quickly.

JER, a fund shop in McLean, Va., teamed up with **Formation Capital** of Alpharetta, Ga., to buy Genesis for $2 billion, taking the Kennett Square, Pa., company private. They financed the takeover with the $1.6 billion debt package, which was supplied by **GE Real Estate** and **CapitalSource.** The debt, none of which was securitized, was backed by Genesis' 220 skilled-nursing and assisted-living facilities,

See HEALTHCARE on Page 9

Bank of China Lands Another NY Office Loan

Bank of China, continuing its surge into the U.S. mortgage market, has agreed to finance a second Midtown Manhattan office property for **SL Green.**

The bank will write a $110 million loan on the building at 600 Lexington Avenue for the New York REIT and its partner, **Canada Pension Plan.** The duo bought the 303,000-square-foot building in May for $193 million from **Hines U.S. Core Office Fund** and **Sumisei.**

As part of the acquisition, the SL Green team assumed a $49.9 million mortgage originated by **Cigna.** That 5.7% loan, which is scheduled to mature in March 2014, will be retired with proceeds from the new mortgage.

Bank of China's seven-year loan will have a floating rate, which is unusual for a loan that long. The rate is pegged to Libor plus 200 bp. It's unclear if there is a Libor "floor" that will effectively set a minimum rate for the loan, but such provisions have become customary in light of Libor's historically low prevailing

See CHINA on Page 9

Berkadia to Originate Loans for Securitization

Berkadia Commercial Mortgage plans to originate fixed-rate commercial mortgages and sell them to securitization shops.

The Horsham, Pa., firm has set aside some $200 million to start the program. It will focus on loans of $5 million to $25 million on stabilized retail, office, warehouse and multi-family properties. A typical mortgage will have a term of 5-10 years, a loan-to-value ratio of 60-75%, and a coupon of 5-6%.

Since being formed a year ago, Berkadia's lending operation has focused mostly on agency mortgages. The fixed-rate program, headed by commercial MBS veteran **Joseph Franzetti,** is the company's first attempt to build a private lending arm.

Berkadia also is launching a floating-rate program that will provide bridge loans

See BERKADIA on Page 8

The next issue of **Commercial Mortgage Alert** will be published Dec. 3. Happy Thanksgiving!

THE GRAPEVINE

KeyBanc Capital has hired senior bond salesman **Jeffrey Hotch** to market commercial MBS, residential mortgage bonds and other structured-finance products. Hotch last week joined the New York unit of Cleveland-based KeyBank as a director. He reports to managing director **Keith Newman,** head of fixed-income sales in New York. Hotch previously spent a year in a similar role at broker-dealer **BTIG,** which he left in July. Before that, he worked at **Cohen & Co.**

Kristian Bornemann and **Harold Hagen** went to work for the San Francisco office of law firm **Bryan Cave** this month. They both assumed counsel titles, and are the first members of the firm's capital-markets group to be based in San Francisco. Bryan Cave is based in

See GRAPEVINE on Back Page

When a mortgage is being shopped, the lender often demands that a prospective buyer agree not to contact the borrower. That can preclude the buyer from determining the borrower's ability and willingness to make good on the loan.

"The buyer doesn't know if the borrower will simply roll over and give the property up to the lender, or whether he will fight like holy heck to avoid giving the lender the keys," said real estate attorney **Bruce Stachenfeld** of New York law firm **Duval & Stachenfeld.** "This uncertainty usually leads to a lower bid price for the loan."

Stachenfeld is advising lenders to be flexible about the "no prior communication" clause included in most loan-sale confidentiality agreements. "I would never suggest that a seller should always allow a buyer to speak to the borrower — just that the seller should consider it a possible option in connection with a loan sale," he said.

Fund shop **Angelo, Gordon & Co.** of New York is often willing to bid more for a loan if it can contact the borrower, said **Adam Schwartz,** head of U.S. real estate investments. "By allowing a buyer to speak with the borrower, the risk premium that is priced in by the buyer to deal with the uncertainty of the timing and risks of drawn-out fighting or litigation is minimized, and should result in a higher price for the seller," said Schwartz. He added that Angelo Gordon has acquired about 20 loans over the past year, in some cases after getting permission to speak to the borrower.

The main reason lenders want to keep buyers and borrowers apart is fear of giving up control of the situation. One concern: The buyer and borrower might end up colluding against the lender. For example, if the borrower has a liability claim against the lender for allegedly not fulfilling all of the loan terms, the borrower might enlist the prospective loan buyer to switch sides and provide financial support to the borrower, perhaps in return for a stake in the property.

What's more, lenders are wary of exposing borrowers to unscrupulous or frivolous players.

"It might seem okay to let people talk to the borrower if you are marketing your loan to a very narrow group," said one veteran loan broker. "But it could potentially become a circus.

"For example, say you own your house, and your lender decides to sell your mortgage. All of a sudden your phone is ringing off the hook. You hear, 'Do you plan to refi? I can get you a quarter percent less.' If everyone was acting in good faith and everyone was reputable and everyone was courteous, it would be fine. But the world doesn't always work that way."

Still, Stachenfeld said that in some cases, letting buyers and borrowers talk can be the best approach. "In the right circumstances, it can make it a lot more likely that the transaction will close," he said. "This is because everyone is at the table trying to make a win/win/win deal, as opposed to figuring out how a party not at the table gets taken to the cleaners." ❖