



Does one size fit all in commercial real estate?

By JASON HUGHES

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Next time I have a commercial real estate need in Italy, I know just whom I'm going to call.

Trust me, I'll be picking up the phone to call the movers and shakers at **CB Richard Ellis** when I have the itch to acquire, manage, sell or lease out commercial property in that country. Ditto if I have those needs in Australia, Asia, elsewhere in Europe and the United States where the El Segundo-based firm operates a slew of offices. If I'm an international developer, investor or big-time property manager, I'll sleep better at night dealing with a company whose fourth-quarter revenues alone soared 33 percent to \$1.4 billion and whose acquisitions last year included the Texas real estate giant **Trammel Crow**.

Suffice it to say, CB Richard Ellis did not grow to that size by accident. It is an outstanding firm with skilled real estate professionals who are highly competent in managing properties and representing property owners in sales and leasing transactions. Owners, wherever their properties are located, are well-served by the high quality of services this company provides.

The company makes no bones about what side its bread is buttered on. Just last year, its leader said its local mission is to be trusted advisers to owners and operators of commercial real estate -- not one word about being trusted advisers to tenants. Yet its brokers and leasing agents are out on the streets daily, rustling up hapless tenants who don't understand the negative implications of having one broker try to represent both themselves and landlords in a particular transaction.

It's called "dual representation" when a broker represents both the landlord and tenant in a transaction, and it's something I've been righteously critical of for as long as I've been in the business.

There are dozens of analogies to describe the dilemma that is created in such arrangements. Just one example: Would I hire the landlord's attorney if I needed to sue his client, the landlord? Even if I were of a mind to do so, the attorney would refuse to take the case for ethical reasons and the fact there are laws against such a conflict of interest.

Sadly, there hasn't been the voluntary ethical discipline in place to dissuade brokers and agents from representing both sides in one transaction. So, now it's up to the legislators or regulators to rid our industry of this practice. The sooner, the better.

But there is at least one other factor that bodes ill in dual representation situations: the broker's experience and expertise. No single broker or even one firm, for that matter, knows and does it all -- not even giants like our international player here. Commercial real estate is a highly specialized craft, requiring professionals who concentrate or focus on manageable strands of the business -- specific locales, types of properties and, in this case, the role of the client. Again, analogies help to make the point: Would one hire a real estate attorney to handle the defense in a murder case? Would one go to a proctologist for an eye exam?

Landlords have their special needs; tenants have theirs and they seldom, if ever, line up the same way.

My firm, for example, represents only tenants. Landlords need not apply. We -- and the thousands of tenants we've represented over the years -- have found there's an enormous chasm on the bargaining table, between the interests and goals of landlords and those of tenants. One of these days, I'd like to be the fly on the wall in a negotiations session where one broker is trying to represent both sides. I'd love to hear how he or she jumps back and forth across the gap, trying to represent opposite, if not conflicting sides. It has to be like a chameleon trying to change colors on a checkerboard.

Let me say finally that the concerns I have about dual representation are by no means confined to CB Richard Ellis. There are numerous other brokerages that play the game from both sides. CB Richard Ellis' role as one of -- if not the -- largest real estate services company in the world makes it a fitting case study in asking the question of whether one size fits all in the world of commercial real estate.

To me, the answer is intuitively obvious.

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