



# Newsletter

Summer 1997

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## UPDATE

What a summer! We were thrice blessed here in Atlantic Canada: the weather, H.S.T. and the Flink ... well twice only in P.E.I., no H.S.T. for them yet. As the economy gathers momentum H.S.T.'s slaying of the P.S.T. will we believe, provide the region with a competitive edge. The huge investment in road communications, the twinning of the Trans Canada Highway in New Brunswick and Nova Scotia and the Fixed Link joining P.E.I. to the mainland, will also help shrink the Maritimes into a single economic unit. For companies such as ourselves that operate most efficiently from a single location it means that every major city in the Maritimes can be reached by road in a morning. Telecommunications too have erased the frictional effect of distance; thanks to the Internet we can search New Brunswick property records as easily as those for Nova Scotia. The mineral riches of Voisey Bay, Hibernia's oil fields and now gas off Nova Scotia ... Canada will want to join us before long ... thank goodness for Quebec.

They savaged the good Doctor in Nova Scotia this summer ... brains and principles, a lethal combination for a politician ... Both are absent when it comes to property taxes, this issue of Newsletter has advice on how you can savage them. Fire insurance, hardly a burning issue unless you are so favoured, we have some thoughts to quench your enthusiasm. Lasercad™ our new service for asset managers has a pied piper effect on tenants: it's useful for dispute resolution too. Every morning the faithful kneel and pray, so do we ... our new computer system now works ... most of the time. Expropriation, more silliness from simple servants and how to survive it. Contaminated property, a further article in our series. Finally, the dark secret we can hide no longer, our brokerage team are lunatics dedicated to serving our clients: little wonder we make no money.

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## PROPERTY TAX DIVISION

### Nova Scotia - Tired of Taxes



Starrs Road, Yarmouth, N.S.  
(\$21,500/annum - 22% in tax savings)

The 1990 recession and its lingering effect forced the private sector in the region and elsewhere in the country to focus on its operating costs, with a concomitant effect on the inflation rate. Little wonder therefore that the efforts of the public sector are treated with skepticism. Despite all the hoop-la, their efforts belie their words; waste, overmanning and misallocation of resources continued throughout the recession and its end is being greeted as an excuse to escalate the process. In Halifax County, four municipalities were amalgamated, a Province inspired attempt to forestall further waste of taxpayer funds through ill conceived projects whose sole justification was "municipal one-upsmanship". The amalgamation should also have reduced operating costs. It did not: instead the 1997-1998 operating budget is actually 1.4% higher than last year's aggregate for the four municipalities.

The 1990 recession was a cataclysmic event for most owners of commercial real estate: the value of their assets declined by 50%. The Provincial Assessment Department refused to acknowledge the market meltdown when they undertook their 1993 re-assessment. As a result properties were usually grossly over-assessed. However, since the re-assessment was based on a 1st January 1991 market value, and there were few sales in 1990, the Assessment Department was often successful in defending their figures before the Regional Assessment Appeal Court where the onus of proof was on the

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property owner. It was apparent that their day of reckoning would only come at the next tri-annual re-assessment, in 1996. The Province therefore deferred the re-assessment until 1997, presumably in the hope that property values would have recovered by then. They did not. Faced with such a decline in their revenue generating ability a private business would have had to reduce its operating costs ... a public authority on the other hand ... ? You've guessed it, they raised the tax rate! These are the commercial tax rate increases just announced by the Halifax Regional Municipality:

Area	Tax Rate		% Increase
	1996	1997	
Bedford	2.859	3.515	23%
Airport	2.552	2.940	15%
Sackville	3.266	3.515	8%
Dartmouth	3.5700	3.787	6%
Halifax	3.8625	3.872	0%
Inflation Rate			2%

It would be easy to reduce the cost of government services and increase their quality through privatization. Indeed in 1994 we wrote to a Mrs. M. Ducharme, the then mayor of the City of Halifax offering to take over the City's real estate department at a cost saving of 25%. We were motivated in large part by disgust at what we perceived to be the poor quality of services offered by the department and the squandering of public monies, including our own! Ducharme deigned not to reply.

Given that the politicians and the civil service is grimly determined to prevent privatization of government services despite the outstanding success of the process overseas and indeed at the Federal Government level, we confidently predict that taxes will continue their dizzy ascent. So what can you do about it ... ? Absolutely nothing! You can however address your own tax load. Each time your real estate taxes increase by \$100, the value of your property falls by approximately \$1,500 ... so too should your real estate assessment. In fact, depending on the marginal utility of your property, the effect may be much more pronounced ... and since properties

are re-assessed annually you now have the opportunity of addressing the problem every year. It gets better, be patient!

It is too late to appeal your 1997 realty or business occupancy assessment. However, the Provincial Assessment Department have recently pre-published the 1998 assessment roll and have offered to negotiate reductions with us for those clients whose properties are over-assessed. We first utilized this process last year: it was very successful. Since the assessors are not in the position of "defending the assessment roll" they are able to participate in the negotiation process with a more open mind. Be proactive, let us review your proposed 1998 assessment now. Give Tom or Giselle a call at 429-1811 (Halifax-Dartmouth) or 1-800-567-3033 (toll free). Don't just sit there, get on with it!

**New Brunswick**



Baig Blvd., Moncton, N.B.  
(\$13,500/annum - 21% in tax savings)

In January we wrote to the Provincial Director of Assessment suggesting that he join with us and other New Brunswick taxpayers to reduce the cost of appeals to the N.B. Assessment Review Board by utilizing tele-conferencing for parts of the appeal process (Newsletters Vol. 2 Nos. 56 & 57). Mr. Lawrence Garvie, QC, the Chairman of the N.B. Assessment Review Boards has frequently expressed the opinion that it behoves all parties to reduce the cost of the appeals in these times of fiscal restraint. This simple change in procedure would save thousands of dollars per appeal, to the benefit of provincial taxpayers, including the appellant. It would have the ancillary benefit of encouraging all disadvantaged property owners (not just the wealthy) exercise their democratic rights. We

received the following response from the Director of Assessment:

*"New Brunswick Geographic Information Corporation is committed to providing convenient and efficient services to our clients and your suggestion is appreciated."*

*"At this time our corporation can not support your request to implement this process due to the limited number of appeals that may be dealt with in this manner"*.

We presume that "clients" is a euphemism for "taxpayers".

Since our proposal entailed no set up costs ... one presumes that GIC employees have access to a telephone and are trained in its use ... we were somewhat puzzled and immediately sought elucidation. Alas, as yet none has been forthcoming.

Presumably the Geographic Information Corporation has no interest in reducing the cost of assessment appeals because they are frightened more taxpayers will be able to appeal.

So the ball appears to be firmly in Mr. Garvie's court ...

Although the appeal period has now expired in New Brunswick we are still completing work on a number of properties. If you have already filed your appeal, or wish to be pro-active and prepare for 1998, please give Tom or Giselle a call at 1-800-567-3033.

**Prince Edward Island**



University Avenue, Charlottetown, P.E.I.  
(\$3,900/annum - 14% in tax savings)

Although the appeal period has now expired we are still working on a number

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of appeals on the Island. If you have already filed an appeal and wish to be included in our itinerary please call Rick at 1-800-567-3033.

**Newfoundland**



Mount Pearl, Newfoundland  
(\$4,000/annum - 10% in tax savings)

This is a re-assessment year in the province. For the first time all municipalities are being re-assessed at the same time using a common 1st January 1996 base date. The province has restructured its Assessment Department; it is now a Crown corporation and is responsible for all areas other than St. John's. The latter municipality continues to undertake its own assessments but it too is undertaking a re-assessment utilizing the 1st January 1996 base date. Henceforth all municipalities will be re-assessed tri-annually. You can expect your assessment notice in early November ... an improvement over past practice which involved a mail-out for some municipalities during the Christmas vacation period ...

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**FIRE INSURANCE**

If your building and equipment is partially or fully destroyed by fire it is unlikely that your insurance will cover the full loss. Confusion reigns rampant when it comes to fire insurance. Let's take a look at a simple situation, an office building insured for \$1.0 million on a replacement cost basis, which is partially destroyed by fire. Repairing the damage costs \$500,000 ... no problem then? Possibly; probably not!

Unless the building was professionally appraised prior to the owner purchasing the insurance coverage, the policy will only cover 80% or 90% of the loss even

if the total replacement cost of the building was \$1.0 million. In other words, the owner carries 10% to 20% of the insurance risk even if the building was properly insured because of the co-insurance clause. The only way to eliminate the co-insurance clause is to ensure that it is professionally appraised prior to placing the coverage.

What happens if the building is underinsured? Let's say its true replacement cost is \$1.3 million. In these circumstances the insurance company will only pay  $\frac{\$1.0 \text{ million}}{\$1.3 \text{ million}} \times \$500,000 = \$384,615$  of the \$500,000 loss! Oh tut! And it gets murkier yet ...

Many property owners base their insurance on the following formula. They have a fairly good idea of their property's value. They then deduct the value of the land from this figure to estimate the building value for insurance purposes. This method always understates the replacement cost ... it should only be used if you are insuring the building on an actual cash value basis ... and in our experience it rarely makes sense to insure on the latter basis. The method is particularly dangerous today, because property values have fallen substantially since 1989 throughout the Atlantic Region.

So, for peace of mind and fiscal responsibility ensure that you are fully insured. If you are a manufacturing or processing business do not neglect your equipment insurance. In order to provide "one stop shopping" we have formed strategic alliances with equipment specialists such as James McClare Consulting (Newsletter Vol. 2 No. 57). One call now does it all.

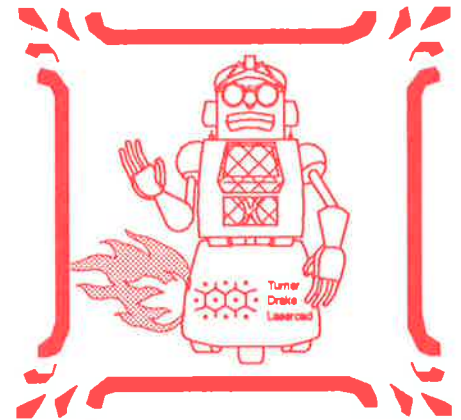
If you would like more information Patti (1-800-567-3033) will be pleased to mail you our friendly fire insurance brochure.

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**LASERCAD™**

**Measure up, Atlantic Canada**

When we launched Lasercad™ in November 1996 we envisaged its use as



the premier asset management tool for the next millennium. We also thought that the laser equipment would be a less obtrusive way of measuring tenant spaces. Quicker it may be, but unobtrusive it is not, at least for the moment. Of course our laser team are a particularly good looking bunch, bright eyed, bushy tailed, good crown work, etc. but at the moment it's our laser guns that perk the interest.

Lasercad™ is a useful dispute resolution tool. If the other side has the temerity to question our measurements we zap 'em between the eyes Star Wars fashion. If brute force fails you can always fall back on reason. Since Lasercad™ is provided by our Counselling Division staff, clients can draw upon their expertise for rental arbitration or court proceedings, circumstances that call for professionals trained in lease analysis and valuation, rather than just the technical aspects of space measurement.

Over the past twenty-one years we have measured over 10,000 buildings and suites in Atlantic Canada and can claim (probably truthfully) to have more experience than any other firm in the region.

If you would like a free demonstration of Lasercad™, please give Mike a call (1-800-567-3033).

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**VALUATION DIVISION**

If the prospect of facing up to Revenue Canada over a tax dispute makes you weak at the knees, take heart, we have

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just added another weapon to our arsenal.

We first invested in a computer terminal in 1978 and learnt the hard way that the leading edge was the bleeding edge. Three years previously two young men, Bill Gates and Paul Allen had started a two person company on a shoe string and were struggling to survive. But we, and most of the world had never heard of Microsoft; we designed our own programs, had them written for us, debugged them and wondered if there really was a God. In 1983, when IBM released its PC/XT we embraced it with the fervour of the delivered ... and then wrestled for about a year with software that worked on the even days of the week ... so long as there wasn't an "R" in the month. Being masochists we never gave up on computers, a subliminal throwback no doubt to a Calvinistic upbringing that suffering was good for the soul. Two years ago we embarked upon our costliest computer adventure yet. Our humble goal, to provide our clients instant access to the most comprehensive real estate data base in Atlantic Canada, extending back for 30 years ... together with the ability to tap into the government and other databases as they became available. We also wanted to cut the cost of paperwork, endemic in communicating with government departments, by transmitting court appeals, withdrawals and other information direct from our desks. We are just about there, thanks in no small part to Dr. Savage's decision to replace the P.S.T. with the H.S.T., and a truly Herculean effort by our data processing and professional staff.

Thanks to a new filing system we can now locate and retrieve any one of several thousand property files in less than 60 seconds. Our new server, thundering away deep in the bowels of our building is less tardy: it can search through our 60,000 property sales database in about 6 seconds. Because of the Internet, New Brunswick property tax and land information records

are as readily accessible as those for Nova Scotia. We now file court appeals and withdrawals electronically and we have even persuaded our server to disgorge your faxes instead of swallowing them (sorry about that!).

So, whether you are facing a showdown with Revenue Canada over Capital Gains Tax, the City of Fredericton on expropriation, the City of St. John's on assessment or any other government department, we can tilt the playing field in your favour. Going weak at the knees should be a thing of the past.

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### EXPROPRIATION - A HITCH HIKER'S GUIDE

The odds are stacked against property owners in Atlantic Canada whenever they are faced with the acquisition of their property by a Municipality or Provincial department. The Nova Scotia Expropriation Act, the only legislation in the region true to the spirit of the Federal Act, was gutted by the Department of Justice in 1995: timid politicians offered but token resistance. The purpose of the amendments was to isolate the property owner by cutting him/her off from the protection afforded by the Court system: the latter having developed the rather disagreeable habit of insisting that justice be done often at great inconvenience to the public servants involved. Lamentably this intransigence ran the gamut as appeals from decisions of the lowest court, the Public Utilities Board, to the Supreme Court and finally the Court of Appeal showed. Some public servants, notably the legal staff at the region's largest municipality, the City of Halifax refused to be discouraged and lavished large amounts of public monies on appeals, and appeals of appeals, all to no effect; they huffed and they puffed but they couldn't blow the house down! But in the end the Act was changed, Nova Scotia joined the ranks of New Brunswick, Newfoundland and Prince Edward Island; justice denied. Well not quite, we suggest that you employ the following modus operandi when faced with the possible loss of your property to a public body in any of the Atlantic Provinces ...

In our experience, offers from acquiring authorities follow a discouragingly familiar pattern. Their initial offer is made prior to expropriation: apparently on the assumption that they can thus operate outside its legislative safeguards. (The Supreme Court of Canada begs to differ: *Dell Holdings Limited v. Toronto Area Transit Operating Authority* [1997] S.C.J. No. 6. Newsletter Vol. 2 No. 57). The offer is low; on average about one third (32%) of the actual loss suffered, though our analysis indicates a range of 4% to 104%. We have subjected the initial offers and the final settlements to statistical analysis: the initial offer is usually an arbitrary figure that bears no relationship to the loss actually experienced! Unless the property has

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been expropriated the acquiring authority does not have to base its offer on an appraisal and may simply be "shooting from the hip". You should therefore insist that they produce the appraisal on which their offer is purportedly based. If they cannot do so we strongly recommend that you refuse to negotiate. Eventually they will have to produce an appraisal when the property is expropriated.

When the acquiring authority does produce its appraisal report we will conduct a formal Appraisal Review that will tell you whether or not you are in fact being properly compensated. If not, we can then move on to the next step and provide you with the necessary counselling advice, coach you or your lawyer through the negotiation process or if you wish will handle the negotiations for you. Although appraisal reports prepared for acquiring authorities commonly ignore the more substantive heads of claim, e.g. injurious affection, and hence understate the actual loss, they do provide us with a starting point. Do not be intimidated by a thick appraisal report, impressively bound and replete with photographs though it may be ... there is no correlation between weight and intelligence ...

Give Mike or Lee a call (1-800-567-3033) if you wish to discuss the specifics of a particular case.

Lead was commonly used in paint between 1910 and 1974, and sometimes as late as 1980. Laboratory testing is required to confirm the presence of lead but you should refrain from chewing or licking the paintwork particularly if your building was erected, or renovated, between 1940 and 1980. Lead is poisonous in small quantities: its use in paint was banned in Canada in 1979 (> 0.5% lead content by weight) and 1995 (> 0.06% lead content). Lead paint is really only a problem when it is released into the atmosphere during renovations, otherwise it is best left alone.

Lead was also used in water pipes, solder for copper pipes, old municipal water lines and other conveyances of drinking water. Soft water exacerbates the presence of lead (residents of Truro, N.S. take note). Cities in the Atlantic Region have an abundance of lead water lines. Lead can impair physical and mental development of young children and exacerbates high blood pressure in adults. Pregnant women are therefore at risk. Lead in drinking water, drawn from a fully flushed tap must be below 10 parts per billion. Laboratory testing of drinking water is cheap and readily available ... we have confirmed that the level of mental acuity in our office is totally unrelated to our present drinking habits ... the damage is of earlier origin.

**CONTAMINATION - PITY THE POOR PROPERTY OWNER (CONTINUED)**

**Hazardous Building Materials (Continued)**

Mercury is still used in electronic switching gear and is available by the million in thermostats throughout the land. (The ubiquitous Honeywell Round™ T-86 thermostat uses mercury as do the other pre-electronic thermostats). It evaporates readily and when inhaled

HAZARDOUS SUBSTANCE	DOCUMENTED USE																				
	≤2000 >1900	≤1990 >1890	≤1960 >1870	≤1970 >1960	≤1960 >1950	≤1950 >1940	≤1940 >1930	≤1930 >1920	≤1920 >1910	≤1910 >1900	≤1900 >1890	≤1890 >1880	≤1880 >1870	≤1870 >1860	≤1860 >1850	≤1850 >1840	≤1840 >1830	≤1830 >1820	≤1820 >1810	≤1810 >1800	≤1800
Leather Tanning																					
- Lead								○	●	●	●	●	●								
- Mercury											○	●	●								
- Benzene																					
- Chromium			○	●	●	●	●	○	●	●											
Paint			○	●	●	●	●	○	●	●											
- Lead			○	●	●	●	●	○	●	●											
- Chromium			○	●	●	●	●	○	●	●											
- Arsenic				○	●	●	●	○	●	●											
- Mercury				○	●	●	●	○	●	●											
- Carbon Tetrachloride				○	●	●	●	○	●	●											
- Trichloroethylene				○	●	●	●	○	●	●											
Metal Plating																					
- Cyanide										○	●	●	●								
- Mercury										○	●	●	●								
- Arsenic																					
- Cadmium																					
- Chromium																					
- Trichloroethylene																					
- Sulfuric acid																					
Adhesives																					
- Benzene				○	●	●	●	○	●	●											
- Carbon disulfide																					
- Trichloroethylene																					
Glass																					
- Lead											○	●	●	●	●	●	●	●	●	●	●
- Cadmium																					
- Arsenic																					
- Chromium																					
Hats & Caps																					
- Mercury					○	●	●	○	●	●											
- Arsenic																					
- Benzene																					
- Carbon Tetrachloride				○	●	●	●	○	●	●											
Pottery																					
- Lead						○	●	○	●	●	●	●	●	●	●						
- Arsenic																					
Wood Preserving																					
- Cresosote		○	●	●	●	●	●	●	●	●											
- Arsenic		○	●	●	●	●	●	●	●	●											
- Pentachlorophenol		○	●	●	●	●	●	●	●	●											

Source: Illinois State Museum Geography Program, Historical Hazardous Substance Data Base, v2.0, 1992.  
 Key: ○ Phasing out.  
 ● In common use.

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over long periods of time causes irreversible kidney, liver and brain damage. It was used in the manufacture of hats hence the saying "mad as a hatter"...

**Urea Formaldehyde** is used as a binding agent in particle board (cabinet frames, doors, shelves, wall panelling), fibreglass insulation, fibre tiles (T-bar and glued ceiling covering) and as a residue in some recycled fibreboard (floor underlays, roof decking, insulating sheathing, sound isolation board). It was also used as a foam insulator (UFFI) until 1980, mainly in residential construction, when its use was banned in Canada. Formaldehyde, a pungent, colourless gas is released into the air when the parent building material comes into contact with water or even high humidity, or when it is broken up. Small amounts of formaldehyde are harmless and in fact it is present in so many materials, including furniture and carpets, that it's impossible to escape from it. Your "new car smell" is partly thanks to formaldehyde. If your office tenants complain of irritation to eyes, nose and throat; persistent cough and respiratory distress, skin irritation, nausea, headache and dizziness you may have a formaldehyde problem. (Health Canada safety standards for a home are 0.1 parts per million). Then again maybe they just want to get out of their lease and have read this article.

**Polychlorinated Binphenyls (PCBs)** were used in some fluorescent light ballasts until 1978 so you are probably reading this with their help. They are also commonly used in transformers, circuit breakers and switch gears. They are not harmful unless swallowed ... resist the temptation. However, when they are heated to more than 250°C they degrade into furans and dioxins, both highly toxic substances. If you renovate and wish to get rid of your PCBs, you have a problem since there is no disposal facility in Atlantic Canada.

*(Contamination - Pity the Poor Property Owner will be continued in future issues of Newsletter ...)*

## BROKERAGE DIVISION

### Sales

*The Difficult We Do Today, The Impossible Takes a Little Longer ...*



Former Derby Tavern,  
Gottingen Street, Halifax, N.S.

The sale of this former Halifax landmark is a tribute to the tenacity, perseverance and patience of our brokerage team, in particular Verna. She resolutely refused to throw in the towel and during the past 4½ years invested 263 person hours in pursuit of the right purchaser. So, if you have something similar to sell ... please call the competition ...

Purchasers are returning to the marketplace in reasonable quantity. Financing is somewhat easier though the banks are focused on a 65% loan to value ratio and have red lined certain commercial neighborhoods. We have an inventory of purchasers seeking apartment buildings (12 to 100 units), warehouses (15,000 ft.<sup>2</sup> to 20,000 ft.<sup>2</sup>) and office buildings (6,000 ft.<sup>2</sup> to 24,000 ft.<sup>2</sup>). Halifax Peninsula is particularly in demand. We anticipate that improvements to the road network through the addition of a third lane to the MacDonald Bridge, and the upgrading of the Bayers-Robie link to four lanes, will further enhance its position.

If you have surplus property but have been holding back waiting for the market to recover its momentum, procrastinate no more. Give Verna a call at 429-1811.

### Leasing

The Canadian economy is enjoying strong growth but the effect has taken some time to percolate down to the Metro Halifax level. However we recorded a

sharp increase in leasing interest two months' ago. It is now getting difficult to fill specific tenant requirements for industrial and commercial use on Halifax Peninsula and for industrial space over 10,000 ft.<sup>2</sup> in Burnside Industrial Park. Office space is still in plentiful supply but that situation will change over the next 24 months.

### Tenant Representation

Like many other commercial brokers we maintain a database of office, industrial and retail space. Ours is computerized (of course!) so we can rapidly search for suitable premises. Metro landlords are very good at notifying the commercial brokerage community of space availability. If you are looking for space there is therefore little point in contacting several brokers; it causes confusion and is counter productive since each broker will reduce their effort level as soon as they realize their prospects of a leasing commission are diminished because others are involved. Such becomes rapidly apparent since each broker is fishing in the same pool of properties. Your optimum course of action therefore is to chose a broker in whom you have confidence.

Whilst commercial brokers usually act as the property owner's agent most will act instead for the tenant if so requested at the outset of the assignment. Since we are very fussy people our Tenant Representation package is contained in a formal agreement which spells out our legal obligations. Tenant Representation is not a new concept in North America but like many new ideas, germinated on the west coast and spread slowly eastwards. At present about 25% of the firms who approach us for leasing assistance utilize it: ironically the greatest resistance appears to be founded on the objection that "there must be a catch" ...

Please call Russ (429-1811) if you would like information on our Tenant Representation package.