

# REAL ESTATE NEWS

A Service to Real Estate Professionals  
Courter, Kobert & Cohen, P.C.



## A Note From The Editor:

This bulletin addresses recent developments affecting the real estate community in New Jersey.

The Firm's Real Estate practice, headed by Edward S. Nagorsky, Esq., along with Kevin Hahn, Esq., Michael Selvaggi, Esq., John Abromitis, Esq., and James Moscagiuri, Esq., is one of the largest in Northwest New Jersey, both in residential and commercial matters.

## Is Tenant Insurance Enough?

Most leases spell out the kind of insurance that a tenant must maintain in order to be in compliance with the lease. However, most leases fail to provide what insurance a tenant's contractor should have when doing a build-out or alteration in the space. If a tenant is required to construct tenant improvements or alterations, there is a risk that the contractor the tenant hires will not have adequate insurance. If the tenant's contractor damages the Landlord's building or injures someone, a Landlord may get sued and stuck with a bill. Even if the Landlord's insurance will cover that liability (which it should), the Landlord's insurance rates will most likely increase.

To make sure that a tenant's contractor is adequately insured, the lease should require the tenant to make its contractor carry specific types of insurance. To give a Landlord maximum control and flexibility, the lease should permit the Landlord to decide which insurer is acceptable and set the coverage amounts for each policy. In that way, a Landlord can require the proper amount of insurance coverage depending on the type of work that the tenant is undertaking.

Generally, a Landlord would want a contractor to carry any or all of the following types of insurance:

- Liability insurance covering any property damage or bodily injury. This policy should name both the Landlord and the tenant as additional insureds.
- Worker's Compensation in the amount required by New Jersey law. Such insurance covers injuries to the contractor's employees that occur at the work site. Please note that the State of New Jersey sets the Worker's Compensation amount.
- Automobile insurance may be required if the Landlord has parking areas and roadways on his property where a contractor or its employees will drive or park trucks and cars.

Lastly, the Landlord should require the tenant to furnish it with proof of the contractor's insurance so that the Landlord can verify that they are named on the policy.

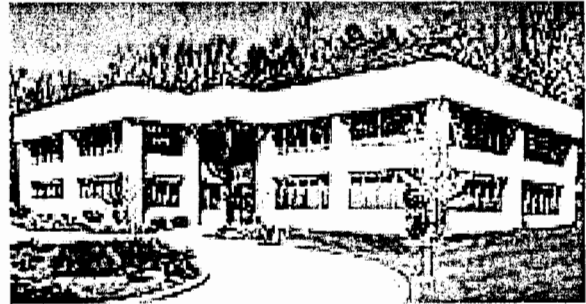
## New Year Reminder

With the start of the New Year, it is important to recall that last year,

New Jersey enacted a non-resident income tax on homes being sold by "non-residents" of the State of New Jersey. Non-resident sellers (limited by the statute to individuals, estates or trusts) have two options. They can prepay the tax or pay the tax at the time of closing. Sellers prepaying the tax must complete and sign the Non-Resident Seller's Tax Prepayment Receipt Form (Form #GIT/REP-2) along with Form NJ-104OES and file them with the Division of Taxation. Upon payment of the tax, they will receive a Receipt which must be provided at closing to be recorded with the Deed. Alternatively, non-resident sellers can pay the tax at the time of closing by completing and signing the Non-Resident Seller's Tax Declaration (Form #GIT/REP-1) and provide it, along with payment of the estimated tax, to the settlement agent at closing. The form, along with a check payable to the State of New Jersey - Division of Taxation must accompany the Deed when it is sent for recording.

A question has arisen among settlement agents as to what the tax is that is required to be submitted. The estimated payment is determined by the seller by multiplying the seller's gain, as computed for tax purposes, times 8.97%. In no event, however, may the estimated payment be less than 2% of the consideration paid. Thus, if the non-resident seller's payment at closing is 2% of the consideration or greater, and the forms are properly completed and signed, this should be

accepted and sent in for recording. However, you cannot assume that so long as 2% of the consideration is submitted to the County Clerk, the seller has met his obligation. That is not the case. Sellers who fail to accurately compute the estimated tax based on the gain on the sale of their property may subject themselves to an under payment of estimated tax and incur interest on the amount ultimately calculated to have been due. Accordingly, non-resident sellers should be sure to furnish the settlement agent with an accurate estimate of the gain on the sale of their home for tax purposes so that the proper estimated tax may be withheld at closing. A failure to do so could subject those unaware sellers to interest and possibly penalties imposed by the State.



VISIT US ON THE WEB AT  
[WWW.CKCLAW.COM](http://WWW.CKCLAW.COM)

*Although every reasonable effort has been made to achieve accuracy in this publication, its editorial content is necessarily general in nature. Always consult your professional advisor before acting on this information.*

## COURTER, KOBERT & COHEN, P.C.

Counsellors At Law

1001 Route 517  
Hackettstown, N.J. 07840  
Tel. (908) 852-2600  
Fax (908) 852-8225

23 Cattano Avenue  
Morristown, N.J. 07960  
Tel. (973) 285-1281

172 W. State Street  
Trenton, N.J. 08608  
Tel. (609) 656-1330  
Fax (609) 393-1990