



# EXCHANGES

*A quarterly publication of The Real Estate Exchange*

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## CREW



**Member  
Organization  
of the  
Commercial  
Real Estate  
Women  
Network**

## NETWORK

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## David Nyberg Converts Former American Airlines Building To Apartments

### Hartford, CT

On April 23, 2008, the Professional Development Committee sponsored a tour of the former American Airlines Building located at 915 Main Street, Hartford. The 9-story, 160,000 square foot building was the former home of E. J. Korvette's Department Store and later used as offices for American Airlines.

On June 10, 2004, the City of Hartford sold the building, known as One American Plaza, to David Nyberg's 901 Main Street Associates, LLC for \$1.4 Million. After gutting the building, the ground level floor is now home to Quiznos and Woody's, which offers a variety of all beef hot dogs.



*Photo: Hartford Business Journal/Laura Schreier*

The upper 8 floors have been converted to 101 one and two bedroom apartments. Asking rents start at \$950 for one bedroom units (882-984 square feet) and \$1,500 for two bedroom units (1,661-1,728 square feet). The units offer spacious bathrooms, separate laundry rooms with washer/dryer hookups, open kitchens with granite countertops, and

high ceilings. Community amenities include two fitness rooms, two community rooms, a theater room and game rooms including pool tables, air hockey and ping pong tables. Parking is available at the Temple Street Garage across the street at \$100 per month.

Frank Micali, the COO and Gwyn Forest, leasing agent for College Street LLC, gave a brief introduction about the project and then allowed the group to tour the different floor plans and community amenities.

A real estate broker is now on site and the building is now 50% leased. With nearly 500 apartments on the market in the Hartford area, including Hartford 21 and The Lofts at Main and Temple, these apartments needed to be competitively priced to compete in the current market. The evening ended with networking and a free hot dog and beverage at Woody's on the ground floor.

### NEW BRITAIN ROCK CATS GAME—JULY 23rd



***The Real Estate Exchange is hosting a family picnic at the Rock Cats game in New Britain. The Rock Cats will be playing the Reading Phillies.***

***Mark your calendars and watch for sign-up details in your inbox!***

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# President's Column

## *Diana MacPherson, President*



The Real Estate Exchange had a great get together at the annual summer meeting at the Essex Yacht Club on June 19. Some members enjoyed a game of golf or a tour of the Chamard Vineyards before a brief business meeting and delicious dinner.

REX has been active since the Developer's Showcase in March. April's tour of David Nyberg's new Apartments at 915 Main Street in Hartford and diving into Woody's Fish Tank afterward gave us a window into some of the new development on Main Street. I also know that many of you attended the big James Carville event that the Real Estate Exchange co-sponsored with REFA at the Hartford Hilton in May.

In early June, Sara Taylor, Bob Cummings and I attended the CREW Council Meeting in Calgary, Alberta, Canada. Calgary, a city of a million, is an oil town with virtually no unemployment. It breathes the newness and energy of the Canadian prairie and the council meetings, with several hundred in attendance, demonstrate CREW's dedication to planning and sparkled with energy. There was a lot of idea exchange about the membership of the many chapters in CREW and what these chapters do for meetings and events. Many of the chapters hold regular monthly lunch meetings with networking and a speaker. Sponsors who will pick up the tab are entitled to provide a speaker. The organizations range in size from NEWIRE in Boston at 435 to Dallas at 294 to Salt Lake at 28. As we listened and participated, one could see that you don't have to have national business to take advantage of the CREW programs or connections. To build on this experience, we will plan a lunch meeting for the entire Real Estate

Exchange membership later this year. We want to enhance our membership participation and increase opportunities for all members to meet and network.

We are also participating in several cooperative events with other leading commercial real estate groups in the area. The May 13<sup>th</sup> Carville program with REFA was a good example. The collaboration was successful on all sides, especially bringing together the strength of the Real Estate Exchange as a unique women-oriented group, together with REFA, BOMA, CoreNet Global and the Hartford Metro Alliance with all of our business exchange opportunities. BOMA has also graciously extended an invitation to their golf outing on July 14<sup>th</sup> at the Avon Country Club. The announcement has been circulated by email. Please call if you have not seen it.

Lastly, a bit of housekeeping. As you may know we are trying to migrate from paper to electronic communication. So far, it has been a little bumpy and we apologize if we have missed any of you on notices or other announcements. We are going to try an "opt out" notification so that if you wish to receive paper mail, then we can accommodate you, otherwise we will only send electronic mail. So watch all of your mail boxes for the near future.

I hope every one has a great summer and comes back rested and ready to be part of our State of the State Forum in September and to attend the CREW convention in Houston in October. PS: CREW network is holding a cyber auction to benefit the CREW Foundation.

[www.CREWnetwork.org/foundation/CYBERAUCTION/cyberauction2008.php](http://www.CREWnetwork.org/foundation/CYBERAUCTION/cyberauction2008.php)

*Diana*



## UPDATE ON INLAND WETLANDS CASELAW IN CONNECTICUT

By Joseph P. Williams, Esq.  
Shipman & Goodwin LLP

What's happening in inland wetlands caselaw in Connecticut? In a nutshell, it's the *River Bend* era. The Connecticut Supreme Court's 2004 decision in the case of *River Bend Associates, Inc. v. Conservation and Inland Wetlands Commission of Simsbury* has become the defining standard in appeals from decisions of local wetlands agencies. Three recent court decisions discussed below demonstrate this fact.

In *River Bend*, the Supreme Court held that to support the denial of a wetlands application, there must be "substantial evidence" in the record of a specific, adverse impact to wetlands or watercourses, along with proof of the *likelihood* that the impact will occur. The wetlands commission cannot support its decision by relying on the mere possibility of adverse impacts, speculation or assumptions. As for upland wildlife habitat, once a hotly debated topic in wetlands cases, the Supreme Court confirmed that a wetlands commission can protect wildlife and its habitat *within* wetlands, but can regulate activities in upland areas *only if those activities will impact the wetlands*.

The lower courts mostly have applied *River Bend* faithfully. Interestingly, since the *River Bend* decision in 2004 and the legislative amendment that year codifying the *AvalonBay/Wilton* salamander decision, there have been very few cases in which a wetlands application was denied based on upland impacts to wildlife habitat. We have seen no cases where impacts in an upland habitat area were shown to have a direct impact on the physical characteristics of a wetland or watercourse.

The key battleground now is in expert testimony over impacts to wetlands. Courts' opinions over the last few years confirm that whether there will be an adverse impact to wetlands is a technically complex question requiring expert testimony. A wetlands commission cannot disregard uncontradicted expert testimony without a basis that is disclosed in the record. Three recent decisions from the Connecticut Appellate Court (our intermediate court) illustrate this trend.

In *Toll Brothers, Inc. v. Bethel Inland Wetlands Commission*,<sup>1</sup> the plaintiff proposed to build 128 townhouses on 22 acres. There were three, low-value wetland areas on the site comprising about one-tenth of an acre, and a wetland (known as Wetland D) that was 2.25 acres in size and extended along a brook. All agreed that Wetland D was of high quality and should be preserved, and the stormwater treatment system was designed accordingly. The site plan would result in filling one of the small wetlands and expanding another to act as a stormwater detention basin, but no direct impacts were proposed to Wetland D. The wetlands commission denied the application based on the proximity of a retaining wall to Wetland D, the migration route of the Eastern Box Turtle, potential flooding from the brook and indirect potential impacts to Wetland D from stormwater discharge.

On appeal, the Superior Court reversed the commission's decision. It held that the commission's findings of "potential" damage to the wetlands did not satisfy *River Bend*. There was no evidence of likely adverse impact to Wetland D and no link between upland turtle habitat and harm to the wetlands. The court held that the commission could not rely on density as a reason for denial and could not substitute "common sense" for expert testimony on the technical subject of impact to a wetland. It also found that the existence of feasible and prudent alternatives with less wetlands impacts was not a proper issue in the case, because "there cannot possibly be any alternative that could cause less impact than none."



Continued on Page 4....

## UPDATE ON INLAND WETLAND (Continued)

### Continued from Page 3....

In a decision published June 5, 2007, the Appellate Court upheld the trial court decision on the merits. It agreed that the record lacked substantial evidence of a likely impact on Wetland D, finding that the commission improperly had relied on evidence of general environmental impacts. It further held that “any connection between the project’s density and a likely impact on the wetlands is merely speculative.” Finally, the Appellate Court held that the commission had merely assumed that any proposed alterations to the two small wetlands justified denial of the application, but “that assumption was improper.” It ordered the case remanded to the commission for further proceedings.

In *Lord Family of Windsor, LLC v. Inland Wetlands and Watercourses Commission of Windsor*, the plaintiff applied to modify its subdivision plan to eliminate one of three access roads into its development. One of the existing “neck” roads crossed a brook over a culvert. The commission denied the application due to the greater discharge of pollutants into the brook it expected from increased traffic over the neck road, and because of the uncertain strength of the culvert. The Superior Court found in favor of the commission.

The Appellate Court reversed on August 21, 2007. It found that all stormwater runoff on the bridge was to be collected and treated and there was no evidence of harm to the wetlands from an increase in passing traffic. The Appellate Court held that the following statement by the vice chair of the wetlands commission fails to satisfy the substantial evidence test: “It doesn’t take a rocket scientist to figure out that sometimes cars drop oil, and salts get into the wetlands and all kinds of things happen.” In response to staff comments questioning the strength of the culvert, the court responded, “a mere worry is not substantial evidence.” As in the *Toll Brothers* case, it remanded the matter to the commission for further proceedings consistent with its opinion.

The applicant in *Fanotto v. Inland Wetlands Commission of Seymour* proposed a 20 lot subdivision on a 20.37 acre parcel. The plan proposed direct impacts to .05 acre out of 5 acres of wetlands through two minor wetland crossings and a road upgrade. The commission denied the

application and the Superior Court upheld its decision.

On June 3, 2008, the Appellate Court reversed the trial court. Without much discussion of the direct impacts, the court found that there was no substantial evidence in the record to support the commission’s decision to deny the application. It noted that the plaintiff’s expert had explained that any indirect impacts would be addressed by improving the existing stormwater system. While numerous lay people spoke at the hearing, the court found that there was “no credible evidence” presented to rebut the plaintiff’s expert. The court also held that the commission improperly relied on its own knowledge without any expertise or opportunity for the plaintiff to rebut it. In this case, however, the Appellate Court found that “the only reasonable conclusion for the commission to reach would be to grant the application with reasonable conditions,” and remanded the case to the commission with direction to do so.

In short, recent court decisions show that it is imperative for an applicant to present solid expert evidence demonstrating the avoidance or mitigation of adverse wetlands impacts, and to challenge and rebut any evidence that suggests the possibility of wetlands impacts.

***Joe Williams is a partner in the Environmental and Land Use Practice Group at Shipman & Goodwin LLP in Hartford and chairs the firm’s Litigation Department. His practice focuses on land use and environmental permitting and litigation. Joe is also a new member of The Real Estate Exchange. He can be reached at (860) 251-5127 or [jwilliams@goodwin.com](mailto:jwilliams@goodwin.com)***



## James Carville—May 13, 2008



**The Real Estate Exchange  
Co-Sponsors  
REFA Event  
Featuring  
James Carville**

**By: Susie Hays  
Attorney/Principal  
Updike, Kelly & Spellacy, P.C.**

On May 13, 2008, 350 real estate professionals gathered at the Hartford Hilton for several hours. No, it was not an awards program nor was anything being given away for free. It was a REFA program co-sponsored by 4 other Connecticut organizations (BOMA, CoreNET, Metro Hartford Alliance and The Real Estate Exchange) that featured James Carville, aka Rajun Cajun, as its speaker.

For those of you who live under a political rock, James Carville was the campaign manager and, some say, primary architect of Bill Clinton's victory in the 1992 election. Since that time, he has stopped working on domestic campaigns, (although he was an advisor to the Hilary Clinton campaign), spending his time writing books, teaching, hosting Crossfire

broadcast, and executive producing All the King's Men. He currently hosts a sports program on XM Radio with Luke Russert, the son of the late Tim Russert (note the foregoing information was gleaned from Wikipedia).

The evening started with a VIP event, at which a select few, including our own President, Diana MacPherson, and Bob Cummings, had the pleasure of meeting Mr. Carville personally. Eschewing the usual networking and cocktail events, the program proceeded directly to the main event. Before hearing Mr. Carville speak, the audience was treated to Sasha Debevec-McKenney, a graduating senior from Hartford Academy of Performing Arts, reading an incredibly articulate, interesting, insightful and humorous essay on what voting means to her.

On to the main event. Mr. Carville, speaking with a sometimes difficult to understand Cajun accent, entertained and educated the audience with interesting, and sometimes insightful comments on the past, present and future political races, processes and predictions. His description of the 2008 presidential election is spot on - *"truly breathtaking, incomprehensible and historic."*

Some interesting factoids about this election - this campaign has the first serious woman, black, and Hispanic candidates; most of the male candidates have been divorced and remarried; three were cancer survivors; and it is the first time since 1928 that there is no sitting president or vice president running.

Mr. Carville was careful to keep from making any predictions, although he did state that it was likely that Senator Obama would be the democratic nominee. And, as we all know now, he was right! With respect to the general election, he again made no predictions, other than to say that it would not be close. The best thing about this election, he stated, is that young people are getting involved. He believes that politics, although not for the weak and even though it is filled with rough and tumble, can be a noble calling. Getting young people involved will be a good thing as they want something good and different for our country. Figuring out exactly what the "different" is will be the challenge as we move forward.

## Summer Social—Essex, CT—June 19, 2008



Debbie Barrett, Christine Kubas, and Shirley Von Dassel enjoy the wine-tasting at Chamard Vineyards in Clinton, Connecticut. It was an absolutely beautiful day at the Essex Yacht Club. Current President, Diana MacPherson, enjoys dinner and good conversation with Sara Taylor, President-Elect, and Bob Cummings, CREW Delegate, along with 35 other Real Estate Exchange members.

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CREW



## CREW NETWORK NEWS

### NETWORK

## October 15–18, 2008 CREW NETWORK CONVENTION & MARKETPLACE

**Opportunities RISING:  
A New Day.  
A New Deal.**

Hilton Americas Houston  
HOUSTON, TEXAS



### FEATURED SPEAKERS:

*Arianna Huffington*  
Editor, Huffington Post

*Tom Peters*  
“Ur-Guru” of Management

*Genevieve Bos*  
Co-Founder and Publisher Of  
PINK Magazine

*Dr. Mark G. Dotzour*  
Chief Economist and  
Director of Research for  
The Real Estate Center at  
Texas A&M University



**REGISTER ONLINE:**  
[www.crewnetwork.org](http://www.crewnetwork.org)

### CREW NETWORK COUNCIL MEETING REPORT Bob Cummings of SS&C Technologies, Inc.

Calgary, Alberta was the site of the Spring Delegate Meeting June 5<sup>th</sup> and 6<sup>th</sup>. The sun rises at 5:30 AM and it stays light out until 10 PM this time of year in Western Canada, so the days are long and fortunately the weather was beautiful and humidity free. Diana MacPherson, Sara Taylor and Bob Cummings attended. Here are some of the highlights:

- The Canadian Chapters presented their own introduction to their Chapters and respective markets including Vancouver, Calgary, Toronto & Montreal, representing a growing CREW presence across the border. Vacancy rates in Calgary were 3% and unemployment is close to 2%. The economy is strong in Alberta due to the energy sector.
- In a survey of the top real estate deals nationally, CREW members participated in over 90% of the transactions in some capacity.
- 2007 Recognition Awards are in process - look for emails or consult the website for details.  
<http://www.crewnetwork.org/>
- The 2008 Convention in Houston is scheduled for October 15-18, 2008. Featured speakers include: Tom Peters, Genevieve Bos, Dr. Mark Dotzour, and Ariana Huffington.
- The current CREW Network President, Lynny Osenbaugh of Houston, described four recent initiatives to attract young women to join: CREW Careers Building Opportunities, UCREW, Scholarships and eMentoring.

- Technology Update - CREW is installing a state-of-the-art Association Management System which will allow members to trade information on deals and find each other more efficiently by profession, expertise, and geographic location. The system can also be used by local Chapters to target recruitments more efficiently and amplify current member qualifications for new business networking purposes.
- The Winter Conference will be in San Diego and the Spring Conference will be in St. Louis. The 2009 Convention will be in Boston and the 2010 Convention will be hosted by CREW San Francisco.



**2008 CREW NETWORK  
CONVENTION & MARKETPLACE  
HOUSTON, TEXAS  
Hilton Americas Houston  
OCTOBER 15–18, 2008**



**2009 CONVENTION  
TO BE HELD IN BOSTON!  
SEPT. 30–OCT. 3, 2009**



**2010 CONVENTION  
SAN FRANCISCO**



**66 CHAPTERS STRONG  
& STILL GROWING**



**CREW Celebrates  
20 Years in 2009!**



# Calendar of Events

## **SUMMER 2008**

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**JUNE 19, 2008**

**Summer Social  
Essex Yacht Club**

**JULY 23, 2008**

**Rock Cats Baseball Game  
vs. Reading Phillies  
New Britain  
Gates Open 6:05 p.m.  
Game Time 7:05 p.m.  
\$10.00 for Picnic & Game  
\$5.00 Age 12 and Under  
\$3.00/Car for Parking**

## **FALL 2008**

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**SEPTEMBER 23, 2008**

*Program Committee  
State of the State  
The Hartford Club*

**OCTOBER 5, 2008**

*Making Strides  
Against Cancer Walk*

**OCTOBER 15–18, 2008**

*CREW CONVENTION  
& MARKETPLACE  
Hilton Americas  
Houston, Texas*

## **2009**

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**JAN. 29 & 30, 2009  
CREW WINTER COUNCIL  
San Diego, California**

**JUNE 4 & 5, 2009  
CREW SPRING COUNCIL  
St. Louis, Missouri**

**SEPTEMBER 30 -  
OCTOBER 3, 2009  
CREW CONVENTION &  
MARKETPLACE  
Boston, Massachusetts**



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