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Study Reignites Debate About Broker Interests

New York City Has Been at the Center of the Commercial Real Estate Brokerage Debate



Mark Jaccom, president of Cresa New York. *KEVIN HAGEN FOR THE WALL STREET JOURNAL*

By **PETER GRANT**

Nov. 30, 2014 8:56 p.m. ET

A new study by George Washington University's Center for Real Estate and Urban Analysis has rekindled the debate over whether there are conflicts of interest at some

of the country's largest commercial real estate brokerages.

Brokers who represent only office tenants have argued for years that conflicts exist at firms that represent both landlords and tenants—and that their tenant clients often suffer as a result. Brokers at the so-called full-service firms that represent both have argued back that such potential conflicts aren't an issue, partly because they typically disclose such relationships to all of their clients.

The George Washington study, written by Peter Smirniotopoulos, an adjunct professor, supports the critics of the full-service firms, arguing that conflicts may not be resolved through current disclosure practices.

“The conflicts of interest issue has not been addressed in any systematic way benefiting tenants,” the study says. “If legal ethics prohibit an attorney or a law firm from representing both the landlord and a tenant [in a lease]...how can the divergent interests of those same parties nonetheless be adequately represented by the same [real estate firm]?”

Executives at full-service firms who have read the study, which was released late last month, have challenged its conclusions, pointing out that their professional ethics require them to represent their clients' best interests, whether they are landlords or tenants.

They also noted that the study was undertaken by the Center for Real Estate and Urban Analysis in partnership with Boston-based Cresa, one of the largest firms that represents only tenants and a big critic of the full-service firms.

Mr. Smirniotopoulos, who also is a consultant in the real estate industry, said in an interview that Cresa provided a “gift letter” that helped finance the research. But the Center has complete control over the study's scope and objectivity. “It had to be consistent with scholarly work,” he said.

New York City long has been at the center of the conflict-of-interest debate because Julien Studley, one of the pioneers of the business of representing only tenants, founded his firm here. Earlier this year, that firm was acquired by Savills PLC in a deal that valued Studley at up to \$260 million. While Savills is full service, its U.S. division—now named Savills Studley—has remained a tenant-only shop.

“The industry is replete with conflicts,” said Mitchell Steir, the head of Savills Studley, which represents a number of major tenants in New York. “Each side deserves an

advocate.”

Cresa’s office in New York has been a relatively small player, but it has grown since it was taken over by Mark Jacom, who worked at Studley at an earlier stage in his career. Mr. Jacom said the New York Cresa office employs about 45 people and will represent tenants in about 1.5 million square feet of deals this year, up from 600,000 square feet in 2013. The deals brokered by Cresa this year included Affinity Health Plan’s lease of about 95,000 square feet of space at Simone Development’s Metro Center Atrium in the Bronx, Mr. Jacom said.

Brokerages that only represent tenants use the conflict-of-interest issue to lure business from full-service firms. “You question how hard [full-service firms] push the landlord who gives them tens of millions of square feet of business for a tenant looking for 20,000 square feet,” Mr. Jacom said.

But executives at the firms with the largest offices in New York say that tenants clearly like the service they get from full-service operations.

“We represent more tenants for more space than any other firm,” said a spokesman for CBRE Group Inc. “That speaks volumes for the value that we deliver for them.”

Executives at the top firms also pointed out that tenants get more insight into the market when brokerage firms also represent landlords.

“Having a broad perspective from all angles in the market coupled with a strong adherence to confidentiality is a clear advantage to our clients,” a spokeswoman for JLL said in an email.

Some brokers at full-service firms acknowledged that the potential for conflicts of interest exists. But they said it happens very rarely because both tenants and brokers are becoming more sophisticated.

The issues raised in the George Washington report “are valid issues,” said Peter Hennessy, head of the New York region for Cassidy Turley. “But the level of sophistication of brokers is such that they’re able to manage the conflict issue,” he said.

The report recommends further study, better self-regulation and the development of a “model code of conduct” in the commercial brokerage industry.

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