COMMERCIAL OBSERVER

Cover Story

Reaching for the Sun: Is It Possible to Own Too Much Real Estate In NYC?

By Al Barbarino 11/13 7:00am

Some say capital gains taxes will likely stay the same, meaning that these transactions may be happening for the wrong reasons.

"Obama said the tax cliff will not happen and that he is going to reach some sort of a compromise with Republicans in Congress," said Kenneth Weissenberg, who advises real estate clients as the head of EisnerAmper's real estate department. "I think there's an increase in taxes for households earning over $250,000, but capital gains taxes stay at 15 percent."

But any reason seems like a good reason for some real estate professionals to continue buying. At least a few New York City-based real estate tycoons have made Forbes's "Richest People in America" list. An obsession with joining those ranks drives the industry elite—and not-so-elite—but more often than not, the result is more like a nosedive than an ascent toward greatness.

Just last month, a federal grand jury charged 87-year-old Seattle real estate tycoon Michael Mastro and his wife with bankruptcy fraud and money laundering. And runaway costs are allegedly pulling prominent real estate figures like Joe Moinian and Brian Fallon, president of Manhattan House, underwater, brokers said.

"By the time that a lot of these deals are foreclosed or modified, it will be after January 1, and these people will have an even higher tax burden than before," **Mr. Bailey** said, referring to property owners who find themselves on the edge of bankruptcy. "But it's like beating a dead horse, because they just won't have any money left by then."

Some will scoop up properties for the wrong reasons, taking out loans that they cannot pay off—the main culprit in the downfall of many of the city's once-lauded moguls.

"Owning too much of the wrong real estate may be a bad thing, but I doubt owning too much of the right real estate is a bad thing, irrespective of the expiration of the Bush tax cuts," said **Guy Arad**, a real estate attorney at **Bailey's** firm.

Instead of scrambling to sell off properties, at least one other option exists for those frightened by any imminent tax increase, in the form of 1031 exchanges, which allow people to replace real estate assets and be spared the taxes. In the simplest form, a seller and buyer simply transfer their properties to each other. Tax experts recently told *The Commercial Observer* that a giant uptick in these transactions is on the horizon.

The wealthiest of developers seem to "have nine lives," with a knack for bouncing back amid the most unlikely of conditions, because they often have access to capital that "mere mortals don't" in terms of leveraging other peoples' money, Mr. Miller said.

"Macklowe is one of those people who has used up many lives, but he has many more to go—and more power to him," Mr. Miller added. "Leveraging is intoxicating, because you can move so far with it, but it also can cut you down very quickly."

That could lead to a future in therapy, said Dr. Nando Pelusi, a New York City-based psychologist who studies corporate greed and has worked with real estate professionals who have been overcome by their own outsize desire to accumulate property.

"During most of human history there were conditions of scarcity, so our buttons are always switched on for acquisition," said Dr. Pelusi, who was unable to name his real estate patients due to confidentiality reasons. "We think we want something. When we get it we want something else. We have a Porsche—then we want a Ferrari."

"There is something bittersweet about the American Dream," he added. "It does propel innovation, but that innovation comes with few winners and many losers."