

DECIPHERING THE FUTURE COMMERCIAL REAL ESTATE MARKETS

Presented by:

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PRACTICE AREAS:

[Real Estate](#)

[Land Use](#)

[Litigation](#)

[Nonprofits](#)

STATE ADMISSIONS:

Pennsylvania

COURT ADMISSIONS:

U.S. District Court for the Western
District of Pennsylvania

U.S. Court of Appeals for the Third
Circuit

Supreme Court of the United
States

EDUCATION:

J.D., Thomas R. Kline School of Law
of Duquesne University, 2004

B.A., University of Pittsburgh,
2001

Kimberly S. Tague

MEMBER

Kimberly Tague assists clients with real estate transactional matters, including sales, acquisition, development, financing, leasing, zoning, land use, easements, title issues and clearance, licenses, and air space transfers. She also advises on real estate tax assessment and real estate tax exemption matters, including valuation appeals and property tax exemption applications, hearings, and appeals. Kimberly has extensive experience with homeowners' associations assisting with the development, creation, management, and disputes associated with planned communities and condominiums and advising associations with governance challenges, elections, collections matters and disputes with the developer and neighbor to neighbor disputes. Kim is an experienced trial attorney and has litigated cases for clients with real estate litigation matters, including condominium and homeowners' association disputes, title matters, boundary disputes, construction claims, eminent domain cases, and real estate development disputes.

REPRESENTATIVE MATTERS

- Successfully defended real estate developers and successfully prosecuted cases on behalf of homeowners' associations against developers in commercial litigation regarding condominiums and planned communities in disputes about common area assessments, real estate taxes, turnover of control of the association and construction claims related to common areas.
- Successfully defended condominium developer in three-week jury trial and defeated a claim for more than \$6m for alleged common area construction defects.
- Successfully represented for profit and nonprofit entities with sales and acquisitions of facilities, including complicated acquisitions involving dozens of individual property acquisitions, property swaps and lot consolidations.
- Successfully obtained jury verdict in 100% of the amount sought on behalf of a home purchaser for consumer claims related to a national homebuilders' misrepresentations and poor construction and successfully petitioned the court to then triple the verdict.
- Represent both for profit and nonprofit entities with real estate development matters including negotiation of finalization or termination of URA restrictions and termination or modification of existing deed restrictions.

- Represented commercial property developer in the successful development of an urban mixed use commercial building project, including acquisition of land, leasing, financing, urban redevelopment, zoning and permitting matters.
- Represented non-profit entities in the acquisition of more than \$32m of properties throughout Western Pennsylvania including development and planning, financing both traditional and bond financing, land use issues and challenges, leasing, construction, and title insurance.
- Represented large national religious non-profit organization in restructuring its significant real estate portfolio to effectuate large scale lease project with a regional health care provider.
- Represented numerous landlords and tenants in the leasing of office buildings, shopping centers, retail, warehouse and manufacturing facilities and successfully negotiated long term leases.
- Represented both commercial landlords and tenants in lease buy outs and agreements regarding the termination or abandonment of a commercial lease.
- Represented both landlords and tenants in commercial landlord/tenant disputes and in litigation between commercial landlords and tenants.
- Successfully represented numerous property owners, both commercial and residential, in eminent domain negotiations, litigation and business relocation and successfully obtained a \$1.35m jury verdict against the condemnor for a residential taking.
- Represented property owners in real estate tax assessment and exemption appeals in cases involving major shopping centers, stand-alone commercial and industrial properties, public property and purely public charities resulting in significant financial savings.
- Successfully represented planned community association in the negotiation of a complex mutual property exchange and facilitated turnover of common areas with a resort developer.
- Represented property owners in review and negotiation of various easements, including restrictive covenants and conservation easements and in litigation regarding use and existence of easements.
- Successfully represented property owners in litigation with oil & gas companies regarding production from existing wells and in disputes regarding unitization of the land owners' properties resulting in favorable settlements for the property owners.

PROFESSIONAL AFFILIATIONS

- Pennsylvania Bar Association – Civil Litigation Council, Professional Excellence Award Committee Member
- Allegheny County Bar Association – Elected member of the Judiciary Committee, Real Property Section and Civil Litigation Section member

COMMUNITY INVOLVEMENT

- Community Associations Institute (CAI) Keystone Chapter – Member of the Legislative Action Committee and the Communications and Content Committee
- Thomas R. Kline School of Law of Duquesne University Law Alumni Association – Past President, Currently serving on the Nominating Committee

AWARDS AND RECOGNITION

- Selected for inclusion as The Best Lawyers in America 2024 for Real Estate Law
- Selected for inclusion in Pennsylvania Super Lawyers, Real Estate 2020 – 2023
- Selected for inclusion in Pennsylvania Rising Stars, Real Estate 2012 -2018

NEWS AND INSIGHTS

PUBLICATIONS

- [“After Surfside Collapse, CAI Releases Updated Reserve Study Standards,”](#) CAI Keystone’s Community Assets Magazine, July/August 2023.

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PRACTICE AREAS:

[Real Estate](#)

[Energy](#)

STATE ADMISSIONS:

Pennsylvania

West Virginia

EDUCATION:

M.B.A., Pennsylvania State
University, 2015

J.D., Pennsylvania State University,
Dickinson School of Law, 2011

B.A., Pennsylvania State
University, 2008

Andrew K. Schwabenbauer

ASSOCIATE

Andrew Schwabenbauer focuses his practice on real estate matters, including the complex business issues associated with the oil and gas industries. This includes real estate acquisitions, divestitures, and large-scale due diligence projects. Andrew negotiates, drafts and reviews agreements relating to the transfer or operation of oil and gas properties, including but not limited to deeds, leases, assignments, trade agreements, joint operating agreements and purchase and sale agreements. Andrew also has significant surface title and mineral title experience having assessed and mitigated ownership or production issues throughout the Appalachian basin.

PROFESSIONAL AFFILIATIONS

- Marcellus Shale Coalition
- Energy and Mineral Law Foundation
- Pennsylvania Independent Oil and Gas Association
- Penn State Law Center for Agricultural and Shale Law

COMMUNITY INVOLVEMENT

- Dormont-Mt. Lebanon-Castle Shannon Rotary Club

Deciphering Future Commercial Real Estate Markets

Kimberly S. Tague
Andrew Schwabenbauer | Eckert Seamans 2023
Update: Legal Primer

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Who we are, and what we do.

- Purchases and sales
- Commercial Leasing
- Financing
- Planned Community/Condo Matters
- Easements and boundary issues
- Real estate tax exemptions and appeals



Kimberly S. Tague



Andrew Schwabenbauer



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National Trends - Transactions

Fewer deals and more failed deals.

- Between March 2022 and May 2023, the Federal Reserve raised interest rates 10 consecutive times.
- According to Coldwell Banker Richard Ellis (CBRE):
 - Commercial real estate lending is down 53.3% year-over-year.
 - Commercial real estate investment is down 57% year-over-year.

<https://www.cbre.com/insights/figures/q1-2023-us-capital-markets-figures>
https://mktgdocs.cbre.com/2299/8137030a-5f85-45e2-b674-c417d5aa6232-44338905/Q1_2023_20U.S._20Lending_20Fig.pdf

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National Trends - Transactions

Higher cost of capital
 + Large # of vacancies
 + Fewer players

Decreased valuations

- According to the Green Street Commercial Property Price Index:
 - All commercial real estate valuations down **16%** since March 2022.
 - Office building valuations down **30%** during same time period.

<https://www.greenstreet.com/insights/CPPI>

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National Trends – Commercial Leasing

The U.S. is trailing the rest of the world in return to office. Data compiled by Jones Lang LaSalle (JLL) shows:

- U.S. office occupancy at **40-60%** of pre-pandemic levels.
- Europe and the Middle East are up to **70-90%**.
- Some cities in Asia are around **80% and up to 110%**.

<https://www.cnbc.com/2023/03/02/why-us-return-to-office-plans-are-lagging-behind-global-cities.html>

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National Trends – Commercial Leasing

Operation Shutdown

- **Survey from Owl Labs and Global Workplace Analytics:**
 - **39%** of U.S. workers say they would quit if work from home benefits were eliminated.
 - Nearly **50%** say they would not work as hard if work from home benefits were eliminated.

<https://www.cnbc.com/2023/03/02/why-us-return-to-office-plans-are-lagging-behind-global-cities.html>
<https://www.timesonline.com/story/sports/mlb/2011/08/13/pirates-free-agency-through-tears/18386580007/>



Derek Bell
Pittsburgh Pirates 2001-2002

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National Trends – Commercial Leasing

Reductions and eliminations in office space.

- According to JLL:
 - Nationally, office space vacancy rate reached all-time high of **12.9%** in Q1 2023.
 - New office leasing decreased **9.8%** since Q4 2022.
 - Over the next 3 years, one-third of all leased space across the country is set to expire.

<https://www.us.jll.com/content/dam/jll-com/documents/pdf/research/americas/us/jll-us-office-outlook-q1-2023.pdf>

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National Trends – Commercial Leasing

- Flight to Value
 - Benefits to employers
 - Class – A space
 - Better terms
 - Lower rent



<https://knowledge-leader.colliers.com/editor/tenants-market-causes-flight-to-value/>
<https://www.cushmanwakefield.com/en/united-states/insights/us-articles/new-york-city-flight-to-quality-report>

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National Trends – Commercial Leasing

- Flight to Quality
 - Benefits to employees
 - Destination not obligation
 - Well-located
 - “Neighborhood” environments
 - Amenities



<https://knowledge-leader.colliers.com/editor/tenants-market-causes-flight-to-value/>
<https://www.forbes.com/sites/glebtsipursky/2023/07/31/the-magnet-not-the-mandate-a-new-approach-to-hybrid-work/?sh=1a9b3f103584>

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Commercial Leases: What Tenants Want



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Commercial Leases: What Tenants Want



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Commercial Leases: What Tenants Want



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Commercial Leases: What Tenants Want



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National Trends - Sectors Performing Well



- Multifamily
 - Would-be home buyers are renting until rates drop or stabilize.
 - JP Morgan: Rent growth of 2.5% since 2022.

<https://www.jpmorgan.com/insights/real-estate/commercial-real-estate/midyear-commercial-real-estate-outlook>

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National Trends - Sectors Performing Well



- Retail
 - Retail locations act as distribution centers, same-day-pick-up locations and brand extensions.
 - JP Morgan: Rent growth of 3.8% since 2022.

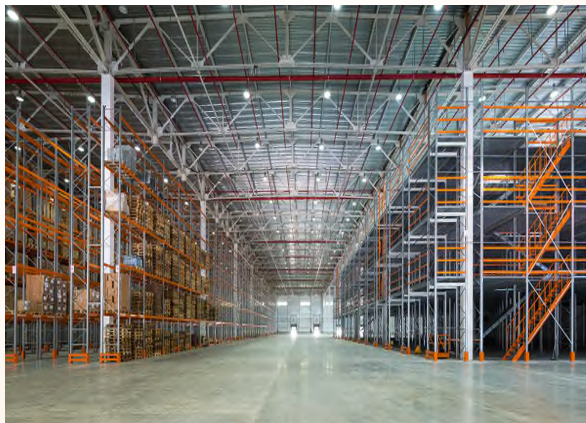
<https://www.jpmorgan.com/insights/real-estate/commercial-real-estate/ecommerce-impacts-cre-investments>

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National Trends - Sectors Performing Well



- Industrial
 - Warehouse locations needed to decrease shipping time and “last mile” complications.
 - JP Morgan: Rent growth of 10.3% since 2022.

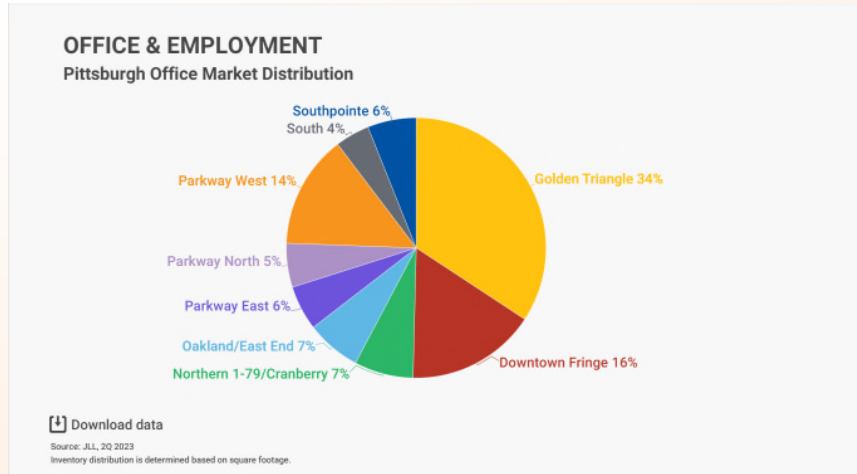
<https://www.jpmorgan.com/insights/real-estate/commercial-real-estate/ecommerce-impacts-cre-investments>

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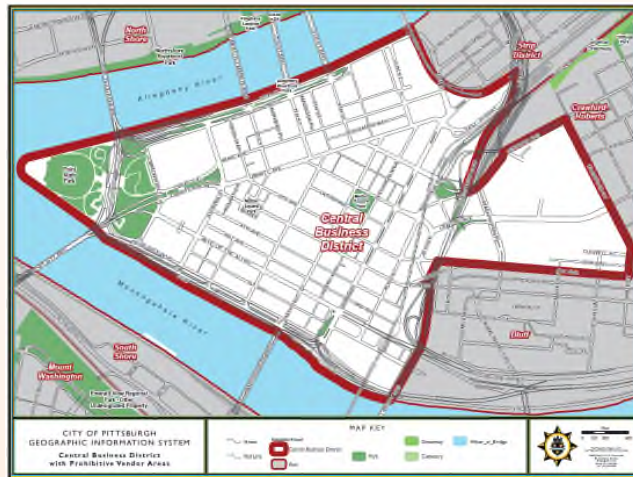
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Pittsburgh Office Market Distribution



<https://downtownpittsburgh.com/data/>

Pittsburgh – Central Business District



Commercial Office Vacancy Rates

- Pittsburgh Market Office Space
 - Vacancy rate as of June 30, 2023: 22.5%
 - Vacancy rate as of June 30, 2019: 14.9%

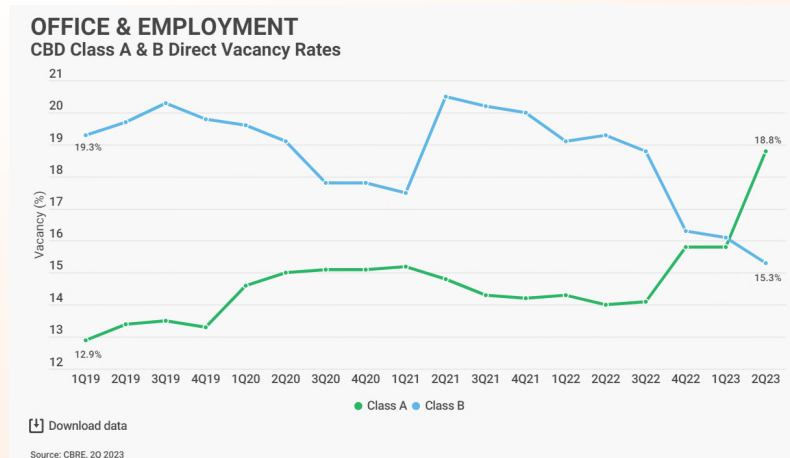
- National Market Office Space
 - Vacancy rate as of March 30, 2023: 12.9%

<https://www.us.jll.com/content/dam/jll-com/documents/pdf/research/americas/us/jll-us-office-outlook-q1-2023.pdf>
<https://www.us.jll.com/content/dam/jll-com/documents/pdf/research/americas/us/q2-2023-office-insights/jll-us-office-insight-q2-2023-pittsburgh.pdf>



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Downtown Pittsburgh



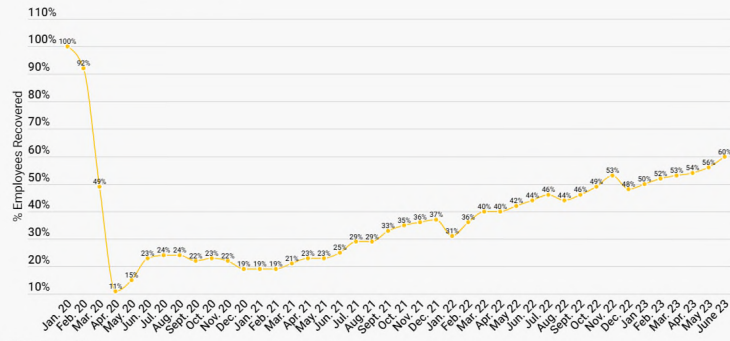
<https://downtownpittsburgh.com/data/>



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Downtown Pittsburgh

Employee Recovery



[Download data](#)

Source: Placer.ai
 Note: Employee data represent estimates taken Monday - Friday and exclude major U.S. holidays. Employees working in-person less than 4-days per week are counted as visitors. Rates are derived by comparing each month to the same month in 2019 (pre-pandemic) to determine the recovery rates from the pandemic.

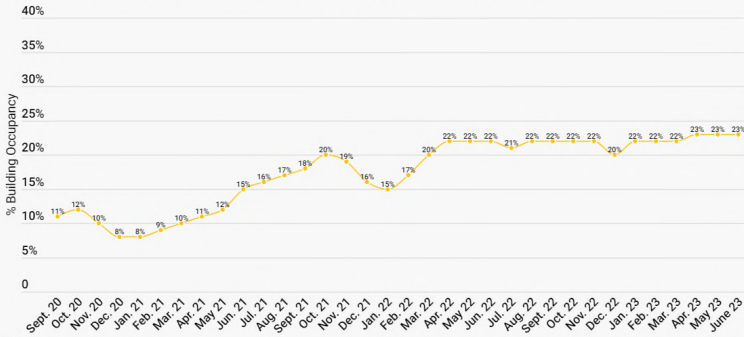
<https://downtownpittsburgh.com/data/>



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Downtown Pittsburgh

Downtown Office Building Employee Occupancy



[Download data](#)

Source: Pittsburgh Downtown Partnership (PDP), Downtown property owners and managers
 Note: Data is subject to change from month to month as new properties are added to the survey. Data is based on a.m. employee badge swipe volume and building counts from 20 Downtown properties and is compared against badge swipe volume from January 2020.

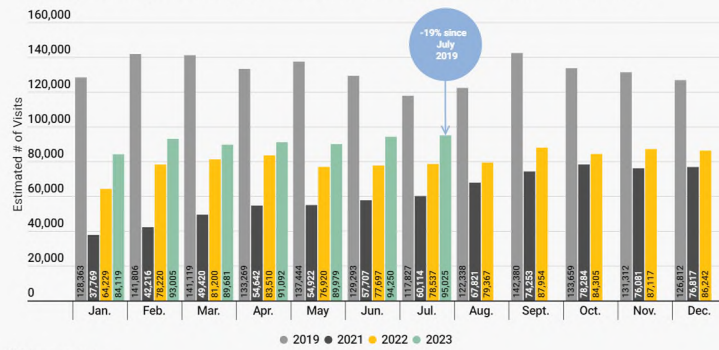
<https://downtownpittsburgh.com/data/>



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Downtown Pittsburgh

Average Daily Activity (Residents, Employees, and Visitors)



Download data

Source: Placer.ai
 Note: Data encompasses an aggregate average daily number of residents, employees, and visitors combined. Placer.ai data provides an estimate of foot traffic time, dwell time, and forms a large and representative panel of customers across the United States.

<https://downtownpittsburgh.com/data/>



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Downtown Pittsburgh

RESIDENTS

- 90.6%** Golden Triangle residential occupancy rate
- 6,882** apartments
- 1,080** condos

POPULATION

- 21,833** estimated residents in Greater Downtown
- 43%** estimated population increase over the past 5 years
- 51%** Greater Downtown residents are female.
- 30.3 years** median age of Golden Triangle residents

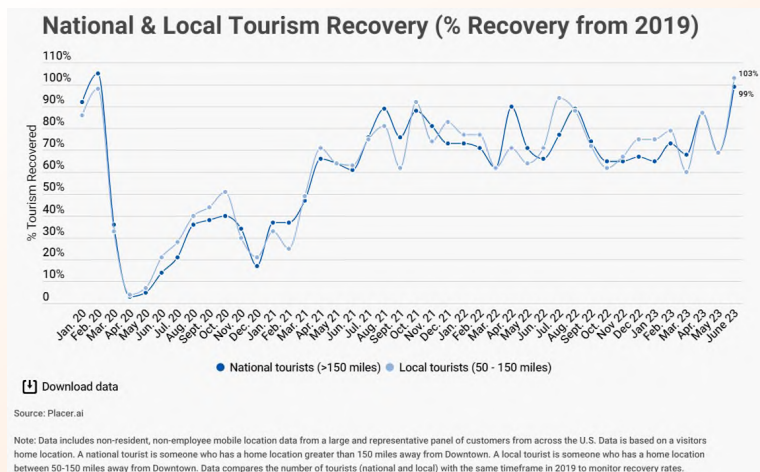
<https://downtownpittsburgh.com/data/>



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Downtown Pittsburgh



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Emerging Trends

- Transactions
 - Creative financing
 - Joint ventures
 - Seller financing
 - Equity financing
 - Cash deals
- Leasing
 - Shorter commercial leases
 - Creative uses of former retail space

Future Concerns

- Concerns about commercial loan defaults
 - Less rental income
 - Refinancing difficulties due to high interest rates and high vacancy rates
 - Impacts of loan defaults
 - Failure to maintain properties
 - Failure to pay real estate taxes creates difficulty for taxing bodies