



NYSSA Quarterly Newsletter

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NYSSA's Mission:

NYSSA is a not-for-profit corporation formed in 1982. The purpose of the Association is to provide a powerful network of information and a wealth of experience to those who are in or wish to enter the self-storage industry. As a member, you benefit from the advice and experience of industry insiders and other self-storage operators throughout New York State.

The primary aim of NYSSA is to give each owner/operator a support system for dealing with lien law and auction questions, building code issues, property tax strategies, manager education and industry visibility. Our goal is to link the entire industry in New York State, to act as legislative watchdog and to be the VOICE of the self storage industry in the Empire State!

[Visit our Website](#)



Toys for Tots

The holidays are here; join the NYSSA in supporting Toys for Tots by becoming a designated drop off location. Peter Ferraro Sr. CEO of the New York Self Storage Association

Go to: <https://www.toysfortots.org/>

From the “Support the Program” menu, select “Become a Toy Drop Site.”

Collect toys at your site through December 14.

Deliver the toys to the designated location set by the Campaign Manager.

If you have any questions about the program, you may contact James Coakley of Treasure Island Storage (212.840.5588, ext. 510; email (jcoakley@ceqy.com), or Ted Silvester, regional Toys for Tots vice president (703.640.9433; email (ted.silvester@toysfortots.org).

Are you already involved in your community? Tell us about it and we'll showcase it in a future newsletter. Email us at admin@nyselfstorage.org.



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In October, the NYSSA held its annual Fall Conference in Tarrytown at the Westchester Marriott. This year was different



from previous years because we opened the event with a Sales Leadership Workshop, presented by Mary Laudati.

Mary is a leading expert in developing and training sales professionals and building multimillion-dollar sales organizations. She has a rich history of driving revenue in the

sports club industry. Thirty-two people participated in the training and learned about creating successful organizational cultures, achieving and exceeding revenue goals, and winning more sales opportunities.

Later that night, the association held a reception to recognize its event sponsors. The highlight of the evening was a presentation by Jennifer Podoll, chief development officer of Guiding Eyes for the Blind, which trains and provides guide dogs for the visually impaired. One of their graduates, Alysha, who recently received her new guide, Clare, said at graduation, “Clare is the silver lining in a really dark cloud. I never thought I would move again like I do with her. We fly – that’s what I call it. When we pick up the harness and fly, it’s like I can see again and nothing’s different.”

Due to the success of this year’s event and the many sponsors who participated, NYSSA was able to make a \$1,000 donation to Guiding Eyes for the Blind. We would also like to offer thanks to Gold Key Properties and Manhattan Mini Storage for their generosity in matching the donation for a total contribution of \$2,000 to a wonderful organization. For more information about Guiding Eyes for the Blind, visit: <https://www.guidingeyes.org/>

Thursday’s Fall Conference attracted owners and operators from around the state as well as sponsors and presenters throughout the United States. The first sessions discussed search engine optimization, marketing, market statistics and how to use them to drive your business’s performance.

In the afternoon, Kathleen Digan of Ostroff Associates, provided a legislative update and shared NYSSA’s initiatives and progress. She was followed by New York State Assemblyman David Buchwald, who gave an overview of the political climate in Albany and his projections for the election year and the possible impacts for business owners.

Nick Malagisi assembled a panel of esteemed financiers to discuss the current market and their forecasts for the year to come. Joe Miller and Patrick Quigley closed the event with the always popular legal review.

We are grateful to all of the sponsors and guests who made this year’s event a success. Our next event, the Investment Forum, will be on January 8, 2019 at the Union League Club in New York City. Financial professionals from around the United States and Canada will converge on the financial capital of the world to discuss the state of the self storage industry, with an emphasis on the New York market.

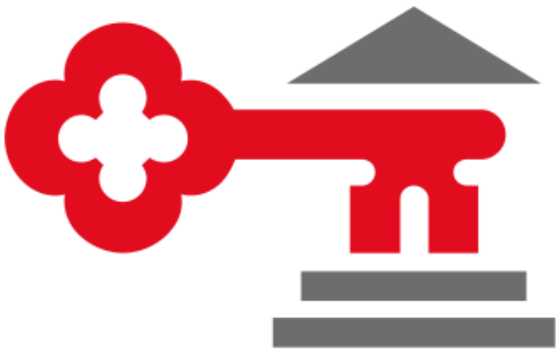
I would encourage you attend a NYSSA event this year and become active in your association if you are not already. It’s a great opportunity to meet and network with like-minded professionals and advance the industry in New York State and beyond. If you, or someone you know, is interested in becoming a member, please visit our website <https://nyselfstorage.org/> or call the office (518) 431-1106 for more information.





Peter Ferraro, CEO, NYSSA (left) with
Brett LaRocque, Fidelity National Title (right)

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The Importance of Auction Terms and Conditions

By Joseph Miller
In enacting Lien Law 182, the drafters of the Statute meant to provide an economic and expeditious remedy for recovering storage space and rental monies due. Unfortunately, in practice, the lien sale, a major component of Lien law 182, is fraught with potential dangers. The myriad of situations that an operator can encounter as the result of a lien sale is far-reaching.

Before every lien sale, the bidders should sign a document outlining the auction terms and conditions. The auction terms



- owner's right to suspend, cancel and/or recall a lien sale;
- amount of damages in the event of a lien sale being recalled by the owner after the sale occurs;
- owner's right to lock a unit after a lien sale to allow a period of time to pass (although rare, needed when a lien sale occurs while a stay application is pending in court);
- amount of damages the bidder can obtain against the owner in the event a court nullifies a lien sale and requires the contents of the unit be returned;
- what is not part of the lien sale (i.e. guns, narcotics, toxic substances, personally identifiable information);
- what the successful bidder must do if they find items excluded from the sale in the unit;
- means of payment, time of payment, and consequence of failure to make payment;
- time requirement to vacate the unit and owner's rights if not timely vacated;
- owner's right to bid at the auction;
- owner's right to cancel any bid not reasonable;
- whether there is an auctioneer's fee (buyer's premium) and how calculated;
- the buyer's identity is not confidential; and
- hold harmless and indemnification provision.

Joseph Miller is a member of Miller & Lee LLP. One of his principal practice areas is the representation of self storage companies.

Rising Rates and New Supply Signal Cautionary Shifts in Financing

It's starting to feel a little different these days.

However, some of these factors have reached plateau levels. Specifically, interest rates are now on the rise and an increased supply of storage facilities has created rental pricing pressure in some sub-markets nationwide.

A portrait of a middle-aged man with a balding head, smiling at the camera. He is wearing a light blue button-down shirt. The background is a dark, textured wall with a circular, fan-like pattern.

Upward Interest Rate Pressure

In a way, we’ve been lulled into a comfort zone during the past few years given low interest rates and only incremental movement by the Federal Reserve when it’s made policy changes. Further, the economy has been humming along, with the lowest unemployment levels in nearly 50 years, the Dow Jones bumping against new highs and the government providing fuel to extend the recovery from the 2008 financial crisis.

But don’t get too comfortable: These factors are actually precursors for interest rates returning to more normalized (that is, historically higher) levels. Indeed, the Fed has raised the Fed Fund Target Rate three times thus far in 2018, with an additional rate hike likely before year end.

Lenders base loan rates on a spread over various indices. The chart below highlights rate increases for several commonly used indices: 1) Over a recent 30–day period, 2) Year–over–year, and 3) During the past three years.

The 30–Day Libor and the Prime Rate historically are highly correlated to Fed Funds Target Rate movement. So, as the Fed continues with incremental bumps, you will see these rates move accordingly.

Short– and long–term Treasury yields are based on many factors and are not linear relative to the Fed Funds Target Rate adjustments. In the chart you’ll note that shorter–duration bond rates increase at a faster clip than longer–term bond options. Thus, we are inching closer to a flattening yield curve in which short–term loans pay interest rates equal to, or even above, longer–term loans.

Interest Rate Summary						As of	10/3/2018
	Fed Funds Target Rate	30-Day Libor	Prime	1 Year Treasury Yield	5 Year Treasury Yield	10 Year Treasury Yield	
Current Rates	2.00%	2.40%	5.25%	2.62%	3.02%	3.15%	
Last Month Rate	1.75%	2.12%	5.00%	2.49%	2.76%	2.91%	
Rate Increase Past Month	0.25%	0.28%	0.25%	0.13%	0.26%	0.24%	
Last Year’s Rate	1.00%	1.28%	4.25%	1.35%	1.94%	2.35%	
Rate Increase Past Year	1.00%	1.12%	1.00%	1.27%	1.08%	0.80%	
3 Years Ago Rates	0.00%	0.19%	3.25%	0.27%	1.37%	2.12%	
Rate Increase Past 3 Years	2.00%	2.21%	2.00%	2.35%	1.65%	1.03%	

There’s Good News and Bad News

It’s always better to start with the good news.

While rising indices mean loan rates are on the rise, a positive takeaway is that spreads have remained neutral or slightly decreased. This has softened the increase in resulting mortgage interest rates.

Further, stretching back to 2015’s fourth quarter, the Fed target rate, 30–day Libor and Prime Rate which are typically used for variable rate loans have increased approximately 2 percent, while the longer–term 10–year Treasury yield which is tied to fixed rate financing has only inched up approximately 1 percent in that time.

When factoring in spreads over the indices, many variable rate loans tied to Prime and Libor that had lower overall interest rates compared to five– or 10–year fixed rate loans, are now actually higher and will continue to climb as the Fed further increases the target rate. Nearly all construction loans are variable rate–based and will be affected by these changes.

On the bad news side, higher interest rates cause debt service payments to rise and put additional stress on the debt service coverage (DSC). What this means is that your availability of maximum loan dollars decreases because minimum DSC is needed to meet the lender’s requirement covenants.

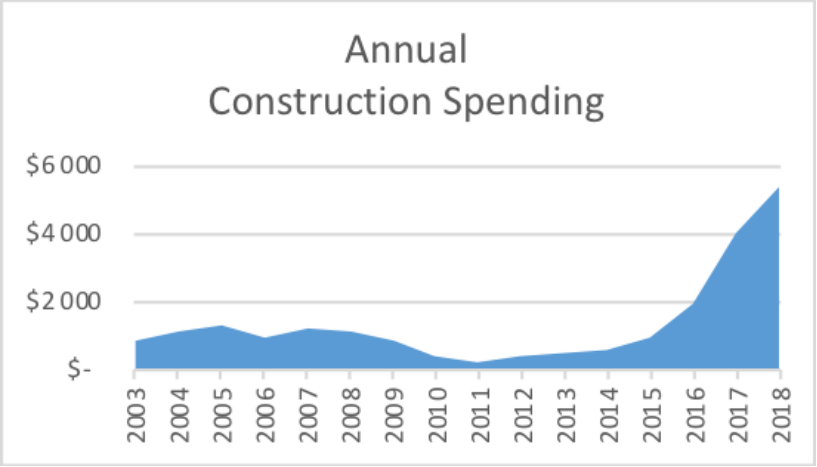
The minimum DSC constraint — usually set between 1.20 and 1.30 percent (calculated by net operating income divided by debt payment — may result in loan proceeds at a lower Loan–to–Value (LTV) ratio. This is particularly applicable in markets where properties are valued on relatively low cap rates. Buyers who are seeking, for example, 75 percent LTV leverage should know that greater equity may be required for their next purchase.

What About Development and Construction Financing?

Back when capital was tight and only a few lenders offered financing, virtually no new storage facilities were constructed between 2009 and 2012. Once capital became readily available from debt markets and investors, new property developments started tracking at record levels in 2016. A record \$9.39 billion has been invested in storage from January 2016 thru August 2018, according to U.S. Census data. And Union Real Time reports that during the same period, 1,858 facilities opened nationwide.

Despite these recent development and construction surges, self storage remains a micro–market industry and it’s impossible to categorically state that an entire MSA or market, for example, is overbuilt.

A majority of new storage property development (particularly larger multi–story properties) has been in the top 50 MSAs. Given pent–up consumer demand, many of these projects leased up quicker than projected. However, as we get further into the development cycle, lease up is now taking longer than expected and requiring discounted introductory rates to attract renters.



Source : US Census – Construction Put in Place not Seasonally Adjusted, note last four months of 2018 estimated as same monthly level of spending as August 2018

In many cases, the lead time for finding a site, planning, entitlement and permitting is lengthy. And as we experience a market shift, project assumptions from, say, 24 months ago are likely quite different today in relation to construction and financing costs, lease-up rates and lease-up projections. Some projects simply may not pencil out any longer to attain a developer’s anticipated return on investment.

From the Lender’s Lens: Examining New Projects

There are still many lenders who will provide construction financing for new projects. Key for them is the sponsor’s strength and experience, as well as the development’s feasibility and underlying economics. No two lenders will underwrite a deal exactly the same, but a common element is they will underwrite the project if they feel there will be take-out or permanent financing at stabilization, whether it’s with them or another lender.

Accordingly, lenders will take assumed stabilized NOI and conduct a stress test with criteria that typically include a 25-year amortization, a 6.5 percent +/- interest rate, and a DSC ratio of 1.30 or better. Given today’s market conditions, do not assume they will consider pro-forma rent increases; on the contrary, they may use a discount to rental rates.

Financing Existing Facilities in Expanding Markets

An existing property’s historic performance is the primary determinant of deriving a loan amount and terms. Lenders also take into consideration new competitors and ones slated to open in the near future. If new competition has put downward pressure on street rental rates and monthly revenues, lenders will likely be less aggressive with loan proceeds.

It is also imperative to work with a lender or utilize a mortgage broker who understands self storage’s unique dynamics and economics. For example, you do not want to go down the road with a lender who will have the underwriter apply current lower street rents to existing customers. In fact, owners often implement price increases to existing customers even while street rents may be decreasing.

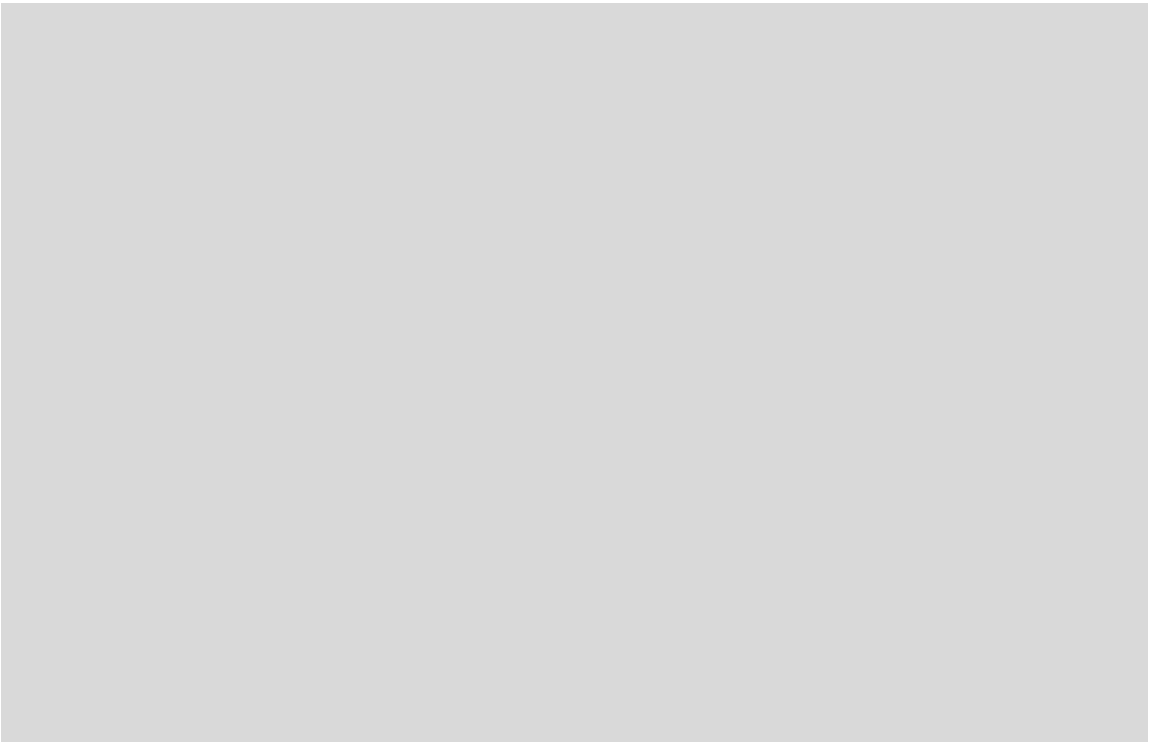
Word for the Wise: Plan Ahead

It is always good to try to stay ahead of the curve. With interest rates inching up and new supply market pressures affecting so many locales nationwide, here are a few financing tips for consideration:

- Look to switch from variable rate financing to a fixed rate option
- Refinance sooner rather than later:
 - Lock in a lower interest rate
 - Maximize loan proceeds
- For maximum loan proceeds, seek lenders offering longer amortization or interest-only periods
- Seek loan quotes on acquisitions early so you are not surprised on equity requirements to close
- Reevaluate development economics for projects in the pipeline; err on the side of being conservative

The best news is that there are plenty of capital providers aggressively seeking to lend to self-storage owners and developers, but they can’t control interest rates or new supply.

With more than 25 years of experience as a national self-storage mortgage broker and advisor, Neal Gussis is a Principal at CCM Commercial Mortgage, where he specializes in securing debt and equity for self-storage owners nationwide. He can be reached at 224-938-9419 or ngussis@CCMfinancing.com.



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Legislative Update

Dear Members,

We had two goals for our first legislative session representing SSA: build industry relationships with key decision-makers and advance legislation beneficial to the industry and our consumers. We are pleased that significant progress was made on both but recognize headwinds that must be addressed.

The work continues on making changes to lien law to modernize and allow for more efficient modes of communication between self-storage operators and occupants by allowing for electronic mail and verified mail. This legislation faced some hurdles during the legislative session including working with a new Committee Chairman and staff as well as several misconceptions about your industry. We are working on amendments to the legislation that address legislative concerns but don't dilute the benefits to the industry.

Aside from legislation we'd like to pass, we faced legislation that would have a negative impact on your business. This bill sought to make changes to the lien law, including an extension of the time for demand of payment from 10 days to 60 days, an additional 60 days for any person to claim interest in the property and a requirement for two separate notices to be sent to two separate addresses. When this bill was introduced Ostroff Associates and NYSSA immediately reached out to the bill sponsors and provided a memo in opposition. This bill did not pass either house. Ostroff Associates and NYSSA members had a very productive meeting with the Senate sponsor this summer about how these changes would negatively impact the industry.

On a political note, the 2018 legislative session saw changes to the makeup of the Senate, with more changes potentially coming. This year the Independent Democratic Conference (IDC) rejoined the mainline Democrats. Between this and the April special elections the Democrats had 31 seats with the Republicans holding onto the Majority with 32 seats. After the November election we will know which party will be in the Majority in the Senate. This could have an impact on leadership positions, committee chairmanships, etc. There are also several retirements including sponsors of our legislation, Senator Larkin and Assemblyman Titone. We have begun the process of finding new sponsors.

Thank you for a great year! We have enjoyed partnering with you on these efforts and we look forward to seeing you at the Fall Conference!

Kathleen Digan
Ostroff Associates





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Two Provisions of the Tax Cuts and Jobs Act Impacting Self-Storage Business Owners

By: Don Warrant, CPA
Tax Director
Freed Maxick

Many businesses are still working to understand the full impact of last year's Tax Cuts and Jobs Act (TCJA). As we enter the 2018 year-end tax planning season, a couple of the TCJA provisions are worth a second look which may impact self-storage business owners.

The New 20 Percent Deduction

For taxable years beginning on or after January 1, 2018, but before January 1, 2026, self-storage business owners who are partners (including LLC members), S-corporation shareholders, or sole proprietors, can claim a new 20 percent deduction based on the lesser of their qualified business income or adjusted taxable income. This new deduction can reduce the self-storage business owner's federal income tax rate on qualified business income by 20 percent. For example, the highest personal income tax rate of 37 percent under the TCJA could be reduced by 20 percent, to 29.6 percent.

The amount of the deduction may be limited at certain levels of taxable income. Those limitations, which are based on the self-storage business's W-2 wages and the original acquisition cost of depreciable property, begin to apply when the self-storage business owner's taxable income reaches \$157,500 (\$315,000 for married couples filing jointly), and then phase-in over the next \$50,000 of taxable income (\$100,000 for married couples filing jointly).

If the self-storage business generates a tax loss, then the tax loss is carried over to future taxable years and reduces the deduction that is otherwise allowed for those years. Since the amount of the deduction may be limited by the amount of qualified business income, adjusted taxable income, W-2 wages and the original acquisition cost of depreciable property, self-storage business owners should calculate their potential deduction for the current tax year and consider actions that could maximize this deduction. Such actions may include deferring or accelerating taxable income or incurring or paying deductible business expenses before year-end, acquiring and placing depreciable property in service before year-end, and adjusting compensation of the self-storage business owner(s) and/or its employees.

New Limitation on Business Losses

Also new for tax years beginning on or after January 1, 2018, but before January 1, 2026, "excess business losses" that are incurred by self-storage business owners who are partners (including LLC members), S-corporation shareholders, or sole proprietors, are no longer allowed to be taken as a deduction in the current tax year. Instead, such excess business losses are carried over to future tax years and are treated as a business net operating loss.

In addition, the TCJA changed the rules for business net operating losses whereby such losses



are no longer able to be carried back to prior tax years (certain exceptions continue to apply). Instead, such business net operating losses are carried forward to future tax years without expiration. In addition, the amount of a business net operating loss that can be used to offset taxable income in the carry forward year is limited to 80 percent of taxable income. Previously, such losses could be used to offset 100 percent of taxable income in the carry forward year.

This new excess business loss limitation applies when the combined losses from all businesses for the tax year exceeds \$250,000 (\$500,000 for married couples filing jointly). In other words, a self-storage business owner cannot offset their other sources of taxable income each year by more than these amounts.

For example, let’s assume a single taxpayer has \$300,000 of investment income and \$300,000 of business losses. Before the TCJA, the taxpayer could offset the \$300,000 of investment income by the \$300,000 of business losses. However the TCJA results in the taxpayer owing federal income tax on \$50,000 of investment income since the allowed business losses are limited to \$250,000. The \$50,000 excess business loss is treated as a net operating loss that is carried forward to future tax years, subject to the 80 percent of taxable income limitation discussed above.

Self-storage business owners should consider these new limitations on business losses when performing year-end tax planning. If it appears that a business loss will be incurred, then it is important to determine whether such loss will be limited and to consider actions to reduce or eliminate any excess business loss. In addition, any amount of business loss that is claimed by the self-storage business owner for the current tax year reduces the 20 percent deduction that may be claimed in the following year.

Do These Changes Help or Hurt Your Business?

As with most changes in tax law, there are bound to be some winners and some losers.

- Self-storage business owners welcome the new 20 percent deduction which should result in a federal income tax savings. However, it is important for self-storage business owners to maximize this deduction since it results in a permanent income tax savings.
- Self-storage business owners should also determine whether they will incur a business loss for the current tax year and if so, whether the loss will be limited. If a limitation applies, then it is important to consider actions that might reduce or eliminate any excess business losses.

The new provisions within the TCJA have made year-end tax planning very important for self-storage business owners. Many of the TCJA provisions interact with each other in unexpected ways and will likely result in certain actions to take before the end of the year to minimize income tax liabilities.

If you would like to discuss your tax situation, please contact me at don.warrant@freedmaxick.com or via phone at 716.847.2651.

Don has 30 years of public accounting experience where he has obtained a broad background in manufacturing, real estate, construction, retail and wholesale trade, agribusiness, hospitality, and professional services. Don also provides tax advisory services to high net-worth individuals.



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