

Memorandum



VIA ELECTRONIC MAIL

September 20, 2010

Russell G. Golden
Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

**Re: File Reference No. 1840-1000 Proposed Accounting Standards Update of Topic 450,
“Disclosure of Certain Loss Contingencies” issued July 20, 2010**

Dear Mr. Golden:

Taubman Centers, Inc. appreciates the opportunity to comment on the above-referenced Exposure Draft. Taubman Centers, Inc. is a publicly traded real estate investment trust whose affiliates are engaged in the development, leasing and management of regional and super regional shopping centers. We or our affiliates currently own, manage, or lease 26 shopping centers in 11 states and are developing retail projects in Asia.

We agree that disclosures of certain loss contingencies should convey qualitative and quantitative information about loss contingencies that enable financial statement users to understand:

- The nature of the loss contingencies
- Their potential magnitude
- Their potential timing (if known)

However, we believe the following requirements need to be re-evaluated in order to be successfully implemented in practice after considering the benefits and costs of implementation.

Quantitative Disclosure Requirements – Tabular Reconciliation of Accrued Loss Contingencies

While we support the Board in its efforts to date in eliminating certain requirements to disclose potentially prejudicial information that were contained in the June 2008 Exposure Draft, we believe the tabular reconciliation process required for accrued loss contingencies still requires the disclosure of prejudicial information by providing plaintiffs with an ongoing view into the preparer’s assessment of the litigation. Plaintiffs will be able to monitor the changes in accruals and accompanying explanations to gain important insights into the preparer’s litigation strategy and opinion regarding the merits of the case. That information may be based on privileged communications between the preparer and its counsel and could inflict very significant prejudice on the preparer. The proposal permitting an aggregated disclosure by class or type does not eliminate this potential for prejudice



because not all litigation contingencies can be appropriately aggregated. For example, if there is a single large contingency that does not share similarities of “nature, terms [or] characteristics” with others contingencies, the Exposure Draft would not permit the accruals relating to such contingencies to be aggregated. Even if there are similarities that permit aggregation, if there are only a few contingencies, the larger more significant ones would dominate the aggregated group and the corresponding disclosure about changes related to a certain case likely would provide the necessary information enabling the reader to determine which contingencies caused the change reflected in the reconciliation. We would expect that these situations would most certainly occur in our company’s financial statements, considering the historically infrequent number of accruable litigation contingencies we have encountered, as well as their nature.

Furthermore, disclosure of an aggregated accrual for a class of contingencies may result in the loss of privileged protection for the separate accruals that comprise the aggregated accrual figure or for other sensitive information. Requiring disclosure of a tabular reconciliation of accruals creates a risk that a court will find that the attorney evaluations supporting the disclosed amounts must themselves be disclosed to plaintiffs, which in the past generally have been viewed as attorney-client privileged communications or protected work product. Similarly, if auditors receive such attorney evaluations as part of the audit process, plaintiffs are likely to argue that the information supplied to the auditors is not work product and that providing information to auditors gives rise to a waiver, thereby opening the door to discovery in litigation of the information supplied to the auditor. We believe that this proposal could result in the unintended consequence of deterring counsel from having full and frank discussions with their clients regarding their evaluation of any exposure related to the contingency. Accordingly, this provision may limit the quality of the disclosure as management’s assessment will therefore likely be based on incomplete and possibly qualified information.

We believe that this provision, if adopted, could severely prejudice the litigation position of public companies, and thus shareholders, in litigation. Accordingly, we believe that this portion of the Exposure Draft is not operational and should be excluded in any amendment to Accounting Standards Codification Topic 450.

Quantitative Disclosure Requirements – Disclosure of Accruals and Average Settlement Amounts

As a practical matter, requiring a reporting entity to disclose the amount of its accrual will make it next to impossible for the company to settle the litigation for an amount less than the accrued amount for a specific litigation contingency. Similarly, disclosing the average settlement for an aggregated group of contingencies will have the same effect. Disclosing either of these amounts will likely give plaintiffs a major advantage in settlement negotiations by not only informing them of the amount the entity has determined to be “probable” and “reasonably estimated” but also serve as a floor for subsequent negotiations.



Quantitative Disclosure Requirements – Information about Possible Recoveries

A defendant's liability insurance coverage is, in general, discoverable under the rules applicable to lawsuits in federal courts, as well as those applicable in many state courts. Therefore, the requirement to disclose information about possible recoveries from insurance "only if, and to the extent that it has been provided to the plaintiff(s) in a litigation contingency, it is discoverable by either the plaintiff or a regulatory agency, or it relates to a recognized receivable for such recoveries" would establish a requirement with very little exception to publically disclose coverage terms in financial statements.

Under current practice, the disclosure of insurance coverage terms to a plaintiff during discovery proceedings does not result in their public disclosure because courts typically issue a protective order that requires the plaintiff to keep the applicable policy terms confidential. The requirements in this Exposure Draft would effectively undo this protection. As a practical matter if the proposed amendments were adopted, public companies would generally be required to disclose their available coverage to the public at large. We believe that this may have the unintended consequence of attracting additional claims for higher amounts by potential plaintiffs encouraged by the possibility for a big insurance-funded recovery.

Quantitative Disclosure Requirements – Damages Indicated by the Testimony of Expert Witnesses

While we agree with the requirement to disclose certain public information, we disagree with the example in the Exposure Draft to disclose "the amount claimed by the plaintiff or the amount of damages indicated by the testimony of expert witnesses". This requirement is unlikely to provide useful information to users of financial statements and in some circumstances may be misleading because testifying experts hired by the plaintiff tend to endorse the inflated damage claims made by the plaintiff. Disclosing this information in the financial statements may give more credence to certain claims than is warranted and also further incentivize plaintiffs to exaggerate their damages since it will create leverage to settle. While a company might be able to mitigate this source of misinformation by disclosing its own estimate of possible loss, it is often difficult, if not impossible, to formulate such an estimate with sufficient certainty.

We do agree however with the requirement to disclose sufficiently detailed information that enables financial statement users to obtain additional information from publicly available sources such as court records, which notably would also include any testimony of expert witnesses. Facilitating financial statement users in this manner accomplishes the same desired objective of this example disclosure without the endorsement of possibly misleading amounts.

Disclosure Threshold – Consideration of Possibility of Recoveries

We currently evaluate certain loss contingencies in our portfolio on a net basis after consideration of any recoveries from insurance or indemnification agreements which we believe to be recoverable. For example, as part of owning and operating large regional shopping centers, our company is regularly exposed to various claims by mall customers relating to the perceived safety or conditions of our facilities (e.g., slip and falls). On a net basis, these and other similar types of insurable events



are not material. Ultimately, the Exposure Draft's requirement prohibiting consideration of the possibility of recoveries from insurance or indemnification arrangements runs counter to how we monitor and review loss contingencies and will not necessarily produce disclosures useful to financial statement users. To the contrary, we believe this Exposure Draft requirement is overly prescriptive and may result in unnecessary levels of disclosure about immaterial contingencies. Therefore, we recommend that management should retain the responsibility for determining on what basis (gross or net) disclosure will be most relevant to financial statement users.

Disclosure Threshold – Remote Contingencies

We believe that the Exposure Draft's requirement to disclose asserted but remote contingencies whose nature, potential timing, or potential magnitude may make the entity vulnerable to a potentially severe impact will simply create an unnecessary level of additional disclosure because it is inessential for the primary users of core financial statements to concern themselves with remote events. In addition, changing the disclosure threshold by also requiring the disclosure of certain remote contingencies may be potentially confusing to users by giving these additional disclosures the same level of prominence, via disclosure in the financial statements, as the material reasonably possible ones. We believe that the potentially severe impacts of certain remote contingencies and other similar business risks already have a rightful place in the filings of public companies (e.g., in Risk Factors and other sections describing companies' businesses), but recommend against additional financial statement disclosure for any contingencies with a remote probability of loss.

Elimination of Prejudice Exemption

Aside from our comments indicated above, there may be other provisions in the Exposure Draft that may require the disclosure of prejudicial information. Accordingly, if the FASB elects to proceed with the proposal substantially in its current form we suggest including an explicit exemption for the disclosure of prejudicial information in the final standard that is sufficiently broad to allow public companies to protect themselves and their shareholders from prejudice.

Effective Date

The basis for conclusions in the proposed Exposure Draft states that the FASB believes that most of the information required under the amended standard already is available and that collecting data from various locations in year-end reporting packages would be feasible for public entities whose fiscal year ends after December 15, 2010. We do not believe this is necessarily true. For example, as we described earlier, we currently manage certain loss contingencies in our portfolio on a net basis after consideration of any recoveries from insurance or indemnification agreements. As a result, we have not designed systems or internal controls sufficient for purposes of evaluating and reporting such contingencies on a gross basis. We believe the proposed effective date does not provide sufficient time to adequately comply with the proposed requirements, which will require new tracking processes, assessing which contingencies should now be disclosed, determining how, if at all, to aggregate contingencies, preparing the new disclosures, communicating with auditors, outside counsel, internal management and our Board of Directors and establishing new internal controls. Therefore, we propose delaying the effective date of the proposed standard so that it is effective for



fiscal years ending after December 15, 2011, and interim and annual periods in subsequent fiscal years.

We thank you for the opportunity to comment on the Board's Exposure Draft. Please contact us at (248) 258-6800 if you would like to discuss our comments.

Respectfully submitted,

/s/ Esther R. Blum
Senior Vice President, Controller, and Chief Accounting Officer
Taubman Centers, Inc.

/s/ Chris B. Heaphy
Assistant Secretary
Taubman Centers, Inc.