

Crittenden Research, Inc.
P.O. Box 1150 Novato, CA
94948 (800) 421-3483

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Heard in the Halls

Athens Offers

Peek at Project

The **Athens Group**, led by **Kim Richards**, expects construction to start early next year on a 214-room luxury **Montage Hotel** in Beverly Hills. It is also making plans for a 315-acre parcel near its existing oceanside Montage Resort and Spa in Laguna Beach, Calif

VP of Development **John Mansour** and Director of Forward Planning **Martyrs Hoffman**, are handling the new project, **Aliso Creek Inn and Golf Course**. They haven't submitted plans to the city for approvals but have provided information to concerned citizens.

While not along the ocean, the property is adjacent to a wilderness park. Athens' proposal includes 240 acres of dedicated public space and a resort, to replace the existing inn and other structures. The resort will feature 90 to 98 rooms, a spa and 40 to 50 attached residences to be serviced by the resort. A nine-hole golf course will be improved and is set to remain open to the public.

Harassment Prevention Training is Essential

The hospitality industry is one of biggest targets when it comes to litigation for sexual harassment. The reasons are obvious. Many hospitality workers are young and don't know the laws, language barriers can cause communication breakdowns and employees are sometimes forced to work in isolated areas making them easy targets. Companies like **Caesars Palace**, **Mandalay Bay** and **Columbia Hotels Inc.** have all been hit with federal lawsuits by the **Equal Employment Opportunity Commission** (EEOC). Many have or will result in big settlements, taking a big chunk out of the companies' bottom line. Proper training of management, as well as employees, is key to avoiding costly litigation. And since owners can be liable for an employee's action, training would appear prudent.

Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex or national origin and protects employees who complain about such offenses from retaliation. States like California and Connecticut are enforcing discrimination laws even further and others are expected to follow suit. For example, **Gov. Arnold Schwarzenegger** signed into law **AB 1825** requiring all California employers with 50 or more employees to provide two hours of sexual harassment prevention training to all supervisors once every two years. The compliance deadline is Jan. 1, 2006, forcing employers to pay attention to the issue. Numerous companies like the **Opus Group**, **Littler** and **SAM & Associates** are offering up their services to help companies comply, with training for supervisors and employees.

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Lenders Seek Advantage in Hot Money Environment

With all the money available to hoteliers right now, lenders have to find an edge to stand out in the crowd. **PNC Real Estate Finance**, **GE Commercial Finance** (GEFF) and **RockBridge Capital** have found ways to keep active during this high-octane period. Credibility, relationships, partnerships and inside knowledge of the industry help to provide a leg up on the competition.

PNC offers non-recourse, fixed rate, long-term CMBS loan financing on mid- to upper-tier limited-service, full-service and upscale boutiques throughout the country. Its minimum loan is about \$5M and it has no maximum. Typically, it does first mortgages. It could put a mezz on top, but hasn't. **Patrick O'Neal**, national products manager for hotels, believes that having one person focusing on hotels for 10 years gives PNC plenty of credibility as the company does what it says it will. He sees another plus in that it services its CMBS loans with **Midland Loan Services**, a wholly owned subsidiary of PNC. O'Neal believes that each deal stands on its own, so its DSC ratio depends on the deal. Current LTV is 75%. Five-, 10- and 15-year terms are amortized over 25 to 30 years or are fully amortized.

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While many hoteliers are griping about the cost of the training, which can run around \$400 an hour, the money it can save down the line is priceless. Failure to comply could cause the **Department of Fair Employment and Housing** to issue an order requiring the employer to conduct the required training. If training is not done as required, a plaintiff's attorney could argue the failure to train was a "reckless disregard" for AB 1825, thereby establishing a basis for punitive damages liability.

In 2004, there were 13,136 charges filed with the EEOC and state and local **Fair Employment Practices** agencies under Title VII alleging sexual harassment discrimination. Of those, 27.7% (3,821) resulted with outcomes favorable to the charging party. About \$37M was paid out in settlements for federal cases. Some 30% of the discrimination cases filed with EEOC are sexual harassment based, only race discrimination is higher. This is just a small piece of the pie though, since private litigation cases aren't included in the EEOC's numbers.

Columbia Hotels, owned by **George Pate**, had a sexual harassment judgment levied against it in May 2005 for \$236, 670 for incidents at its **Fairfield Inn** in Missouri. A former employee charged the GM with encouraging her to wear short skirts and to use her looks to get ahead and also with making comments about her body. When she filed a written complaint, she said the GM retaliated with falling performance scores, job changes and verbal abuse in front of guest and employees. The jury agreed. Two major lawsuits have hit the Las Vegas Strip in the last six months. The EEOC in April, charged Caesars Palace with severely sexually harassing a class of kitchen workers for several years. Again, employees that complained were allegedly retaliated against. In September, the EEOC filed a suit against Mandalay Bay for sexual harassment and retaliation against kitchen workers.

Nick Toghia of the Opus Group believes sexual harassment prevention training will help employers become more aware of all the nuances of the law and help keep them out of litigation. Along with management training, which is crucial, companies need to offer employee handbooks that include sexual harassment policies in compliance with federal and state laws. Policy statements should be distributed to all employees and returned with a signed acknowledgement. And when developing policies and procedures, owners should keep in mind that under federal law, employers are liable for any sexual harassment by independent contractors, customers and other non-employees as well. Policies and training should reflect this.

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GE Commercial Finance, Franchise Finance provides loans on new acquisitions, development, renovations and refs for owner/operators in the select-service segment and for owners of major brands. To help it rev up business, it's joined with **Hilton** and **Winston Hotels**, a REIT, for two separate programs. With Hilton, GEFF is offering one million **HHonor points** for operators who take on loans of less than \$10M and two million points for loans of more than \$10M. GEFF's average loan is \$2M to \$15M. **Finergy Development** received one million points for a \$6.2M loan it used to convert an assisted living development to a **Homewood Suites** in Sarasota, Fla. With Winston, which has been offering mezz loans for a while, it offers "one-stop shop lending" (HLN: 5/16/05) that can provide up to 85% of construction, acquisition or refs costs. The combo will likely give loans to projects ranging from 100 to 250 rooms at an all-in cost of \$7M to \$25M. **Greg O'Stean**, who recently joined GEFF, has a hospitality background, including eight years with **Starwood**. He indicates the company is doing lots of takeouts and conversions of variable rate loans to fixed. Loans have five- and 10-year terms and 20- and 25-year amortizations.

RockBridge Capital has focused on hotel lending for 12 years. Its capital has come from seven closed-end real estate funds made up of institutional and high net worth investors. It offers first mortgage, mezz and equity, and construction or redevelopment loans. Construction loans roll over to perms. Led by **Ron Callentine**, Ohio-based RockBridge recently expanded, opening a new office in Del Mar, Calif., near San Diego. **Mark Crisci**, SVP of the investment group, operates that office. Most recently, with **BankersBanc**, he was also VP of business development at **GMAC Commercial Mortgage**. RockBridge gravitates to Hilton and **Marriott** products though it's also doing some Starwood brands. Many are focus-service properties, but it also looks at full-service and upscale non-branded hotels. The only segment RockBridge avoids is economy lodging. It provides up to \$50M for first mortgages. Because of blending, its LTV can go as high as the 90s in the capital structure, but the loans are priced accordingly. Crisci sees interest rates rising gradually, but doesn't think that will have a major effect on any but marginal deals-and that is not a bad thing.