



October 2010

## REAL ESTATE UPDATE

### 2010 Real Estate Practice Group Deal Update

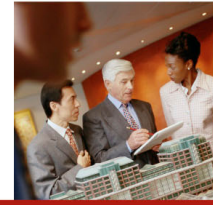
Our lawyers represent clients in all segments of the real estate industry across the United States and abroad. We deliver innovative legal services and solutions for full-cycle real estate needs. Our clients value our global reach, national strength and local focus. Our Real Estate practice group recently received another top-tier ranking in *Chambers USA: America's Leading Lawyers for Business*.

This bulletin provides a listing of recent transactions covering more than 25 states and several foreign countries in the following areas:

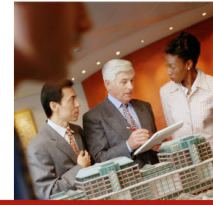
- **Workouts/foreclosures, receiverships, special servicing**
- **Financing**
- **Acquisitions, including debt purchases**
- **Development and redevelopment**
- **Retail**
- **Dispositions**
- **Joint ventures**
- **Leasing**
- **Outsourcing**
- **Real estate litigation**
- **Solar and wind**
- **Telecommunications/cell towers**

#### WORKOUTS/FORECLOSURES, RECEIVERSHIPS, SPECIAL SERVICING

- Representation of institutional investor as preferred equity partner in two-year restructuring of multi-tiered property owner involving workout with two national CMBS servicers of two defaulted senior mortgage loans aggregating \$57 million secured by three **Florida** apartment complexes.
- Representation of national bank in \$30 million mortgage loan workout and disposition of partially completed multi-phased high-end planned residential marina community of 1,000 homes along **Georgia** coast involving interstate land installment sales, marina development, homeowners association and Section 363 asset sale.



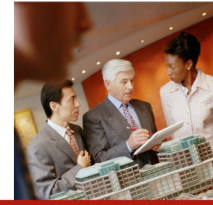
- Representation of special assets recovery group in working out or restructuring more than 30 delinquent or troubled secured commercial and industrial loans in a five-state region. The approximate value of the loan portfolio is \$100 million.
- Representation of national bank in complex real estate workouts of debt and equity investments in **New York** and other jurisdictions.
- Representation of Irish high-net-worth investor group in restructuring and workout of condominium projects in **New York**.
- Representation of developer in negotiating resolution of claims arising from developer's inability to perform its obligations under a major lease in **Ohio**.
- Representation of national bank as servicer for Fannie Mae on condemnation action in **Charlotte, North Carolina**.
- Representation of developer in negotiations with special servicer of \$250 million securitized portfolio loan, culminating in loan modification and appointment of federal receiver.
- Representation of national bank in foreclosure matters in **Ohio**, including appointment of a receiver in property owned by a TIC entity.
- Representation of federally appointed receiver in disposition of receivership properties in **New York** and **New Jersey**.
- Representation of REMIC trust, acting through its special servicer, to put receivership in place for multifamily property located in **Norcross, Georgia** and medical office center in **Decatur, Georgia**.
- Representation of REMIC trust, acting through its special servicer, in confirmation hearing after foreclosure in **Dublin, Georgia**.
- Representation of REMIC trust, acting through its special servicer, in negotiation of discounted payoff on loan secured by commercial property in **Tucker, Georgia**; short sale for multifamily property in **York County, South Carolina**; and negotiation of loan modification for commercial property located in **McDonough, Georgia**.
- Representation of REMIC trust, acting through its special servicer, in foreclosure of hotel in **Savannah, Georgia**.
- Representation of receiver in receivership of gas station/convenience store located in **Dalton, Georgia**.
- Representation of REMIC trust, acting through its special servicer, in foreclosure on commercial strip center in **Lawrenceville, Georgia**.



- Representation of lender in foreclosure on property and three airplanes in various sites in **Florida**.
- Representation of lender in sale of mezzanine indebtedness on property in **Philadelphia** as part of CDO asset management.

### FINANCING

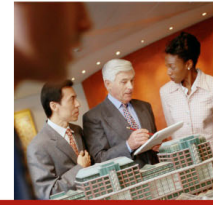
- Representation of developer in connection with the restructuring and extension of a total return swap for \$160 million of tax-exempt multifamily housing revenue bonds held by Merrill Lynch for a 665-unit multifamily rental housing project in **Oakland, California**.
- Representation of developer in connection with the issuance of \$47.7 million of multifamily housing revenue bonds for a 170-unit multifamily residential rental project in **Washington, D.C.**
- Representation of developer in connection with the restructuring and extension of a \$72.5 million construction and mini-perm loan with PNC Bank for the redevelopment of a former regional shopping mall into an open-air power center.
- Representation of national bank in connection with the restructuring of a \$70 million mortgage loan secured by 25 properties in 17 states.
- Representation of owner in a \$9 million construction loan for an industrial building in **Springdale, Ohio**.
- Representation of national bank as provider of \$71 million letter of credit in restructuring of credit enhancement for taxable and tax-exempt Florida Housing Finance Corporation Multifamily Mortgage Revenue Bond secured by two **Florida** apartment complexes involving multiple mortgage tiers and participation by German bank.
- Representation of private manufacturing company in financing transactions totaling \$6.8 million involving branch facilities in **City of Industry, California; Indianapolis; and Vandalia, Ohio**.
- Representation of lender in over \$112 million in construction, mortgage and leasehold mortgage loans for acquisition, construction or refinance of U.S. automobile dealership properties.
- Representation of national bank in \$24.5 million construction loan to Central Ohio-based developer for construction of a 219-unit student housing apartment project in **Greensboro, North Carolina**.
- Representation of developer in connection with the public finance aspects of the construction of a \$55 million build-to-suit facility for a governmental entity. Because of the requirements of the governmental entity, this was a highly negotiated public-private relationship.



- Representation of food supplier in real estate aspects of a \$1 billion refinancing involving properties located in **California, Texas, Oregon, Nevada, Arkansas, Wisconsin, Colorado, Tennessee, Mississippi, Georgia, South Carolina** and **Ohio**.
- Representation of institutional investor in connection with remaining real estate assets of a specialty finance REIT. Assisted REIT in completing an exchange of certain real estate loan assets (whole loan and mezzanine loan participations involving 26 properties in 13 states and a CMBS bond for \$50 million aggregate liquidation preference of trust preferred securities).
- Assisted national lender with a loan modification (on original \$49 million loan) to institute a complex “bonds for title” ad valorem tax abatement program on a mixed-use development project in **Atlanta**.
- Representation of developer in the modification and extension of a \$60 million loan secured by a resort hotel in **Orlando, Florida**.

#### **ACQUISITIONS, INCLUDING DEBT PURCHASES**

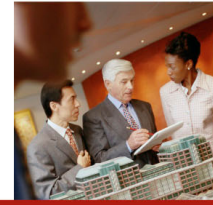
- Representation of purchaser in connection with the acquisition of the Laurel Park race track in **Laurel, Maryland** and Pimlico, the home of The Preakness, which included counseling as to strategies and structure for a 363 bankruptcy sale through several rounds of the bankruptcy court-mandated auction process. This transaction involved the acquisition of the assets and operation of these significant facilities, including addressing television rights associated with The Preakness and the rights of the state of Maryland to keep this leg of the Triple Crown in the state.
- Representation of purchaser in connection with the acquisition of a \$36 million shopping center in **Marin City, California** and the assumption of the loan secured by the shopping center.
- Representation of purchaser in portfolio acquisition of 22 industrial properties in **Wisconsin, Illinois, Nevada, Mississippi, Arkansas, Indiana, Missouri, Tennessee** and **Colorado**.
- Representation of national manufacturer in connection with acquisition of land to facilitate \$80 million pilot plant project.
- Development of strategy regarding public referendum for acquisition of property in **Key West**.
- Representation of electric car manufacturer in acquiring property for a lithium battery manufacturing plant in **Columbus, Ohio**. The project involves approximately \$100 million in state and local incentives. Primary project financing will be in the form of a \$500 million loan from the U.S. Department of Energy, if approved.
- Representation of public company with respect to real estate matters arising from proposed acquisition of energy company based in **Houston**, including 25 owned or leased facilities in nine states and two **Canadian** provinces.



- Representation of a joint venture of private equity investors in the acquisition of the real estate, plant and equipment comprising a 142,000-square-foot industrial manufacturing facility in **Wisconsin**.
- Counsel to public company in \$128 million acquisition, including the negotiation of a 43,000-square-foot office lease in **Fenton, Missouri** to house the corporate offices of the acquired company.
- Representation of buyer of **Indiana** assisted-living facilities from distressed tenant-in-common seller, involving SEC receivership and bankruptcy affecting seller and its affiliates and tenant-in-common issues.
- Representation of affiliates of institutional investor in distressed debt investments and workouts as well as prospective investments.
- Representation of manufacturing company in acquisition of office building for its corporate headquarters, including obtaining lot split approvals and cross-easements necessary to separate the building ownership from an adjoining building to which it was attached.

#### **DEVELOPMENT AND REDEVELOPMENT**

- Representation of developer in the development of a retail shopping project in **Wisconsin**. The project involved negotiation of a joint venture with a real estate fund partner, including a complex operating agreement, venture formation agreement and membership interest purchase agreement. Unique features included a takeout commitment by the real estate fund partner.
- Representation of developer in the development of a mixed-use project at a new interchange at I-75 and Austin Road in the corridor between **Dayton** and **Cincinnati**. Services included negotiation of a \$16 million incentive package with Montgomery County as well as zoning and development agreements with three governmental subdivisions with jurisdiction in the area of the interchange and negotiation of ground lease, site development agreement and reciprocal easement agreement with Kohl's.
- Representation of developer in the redevelopment of a 205,000-square-foot shopping center in **Illinois**. This redevelopment has involved negotiation of a complex sale tax-sharing arrangement with the local municipality to fund tenant improvements. The current phase of the redevelopment involves negotiation of a joint venture with a real estate private equity fund capital partner, including a complex operating agreement, contribution agreement, redevelopment agreement and property management agreement.
- Representation of developer in connection with the development of a 130,000-square-foot build-to-suit for a medical laboratory operation. This is the first building to be created on a 30-acre campus for the user.



- Representation of the city of **Warrensville Heights, Ohio** in connection with the development of a new recreation center and library. Services included drafting of a zoning ordinance for a new planned unit development district.
- Representation of developer in repositioning and or redevelopment of more than 50 shopping centers in connection with the bankruptcy and/or large-scale store closures of several large retailers, including Ann Taylor, Borders, Goody's, Steve & Barry's, Office Max, Petco and Mervyn's (among others). Representation included negotiating lease modifications with several tenants, evaluating co-tenancy issues associated with store closings and advising on the feasibility of several shopping center redevelopments designed to eliminate or reconfigure vacant stores.
- Representation of port authority in connection with strategy and planning on proposed redevelopment of more than 100 acres of lakefront property.
- Representation of affiliates of a publicly traded Spanish real estate investment company in its redevelopment of several **New York City** office and residential properties.
- Representation of developer in redevelopment of waterside entertainment complex and New Market Tax Credit financings in **New York** and pending **New Jersey** project.
- Representation of public entity in the development and leasing of \$465 million convention center facility.
- Representation of development corporation in eight-story, 150-room \$25 million hotel development at world leading medical center.
- Representation of development corporation in \$20 million residential/retail development in major cultural center.

## **RETAIL**

- Representation of developer in the negotiation of 28 new retail leases at shopping center properties in 14 states and **Puerto Rico**, including leases with national and regional fashion retailers, restaurants, telecommunications companies and retail service providers.
- Leasing for numerous major retail fashion, high-end shopping centers including Bay St. in **San Francisco**; Suburban Square in **Philadelphia**; Mt. Pleasant in **Charleston, South Carolina**; Grand Prairie in **Peoria, Illinois**; Jefferson Pointe in **Ft. Wayne, Indiana**; and University Park Village in **Fort Worth, Texas**.
- Leasing for older, good-quality upgrading centers including College Hills in **Bloomington, Illinois**; Lake Forest Park in **Seattle**; Beachcliff Market in **Cleveland** (occupancy now over 95 percent); and Broadway Market in **Seattle**. Significant new leases in the past year have included Town of Addison Visitor Center (Village on the Parkway—20,000-square-foot visitor

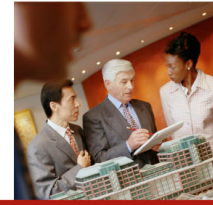


center, art studio/kiln and other civic and educational uses), PF Chang (Mt. Pleasant—new building), Guy Harvey Island Grill (Mt. Pleasant—restaurant combined with signature art gallery), Guess (Bay St.), Erie Island Coffee (Beachcliff—renovation to accommodate new use and drive-through), and Beauty Brands and Panda Express (College Hills—new building, revisions to REAs and other recorded documents).

- Audit analysis and defense for major tenant pass-through audits, co-tenancy challenges or CAM/tax reviews (examples include Borders at Grand Prairie, Barnes & Noble and Bath & Body Works/Victoria's Secret at Jefferson Pointe) on behalf of shopping center landlords.
- Multiple leases with emerging retailers such as Charming Charlie, Apricot Lane and Planet Fitness.
- Leases in several states with Anthropologie and Urban Outfitters.

#### DISPOSITIONS

- Representation of developer in the sale and ground leasing of a portfolio of former Mervyn's stores, involving the release of properties from a \$250 million securitized portfolio loan and discharge of encumbrances relating to the Mervyn's bankruptcy. Sales and ground leases involved major department store retailers and publicly traded shopping center companies.
- Representation of developer in connection with the structuring, negotiation and closing of the sale in the **United States** and **Australia** of over \$150 million of REIT operating units with both CBL & Associates and Westfield, two of the largest shopping center REITs in the world.
- Representation of chemical industry seller in disposition of excess facilities and land in **New Jersey** and **Louisiana**.
- Representation of manufacturer in bargain sale of former manufacturing facility and corporate headquarters to nonprofit.
- Representation of seller in connection with the proposed sale of approximately 60 acres of land for the development of a casino gaming facility and related improvements.
- Representation of seller in two of **Ohio's** largest industrial property transactions, including a highly complex 68,000-square-foot sale and build-to-suit transaction for a new corporate office and distribution center, and the leasing of a newly constructed 175,000-square-foot office and warehouse complex, as well as structuring and negotiating the construction and permanent financing for each project.
- Representation of property owner in connection with proposed sale of 600 acres of land to the Trust for Public Land, including negotiation of purchase agreement with TPL, and negotiation with National Park Service regarding ultimate disposition and use.



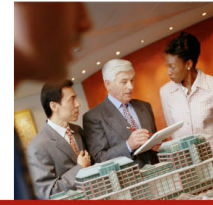
- Representation of principals in the reconfiguration and disposition of multiple high-end residential properties in **Indian Lake, Logan County, Ohio**.
- Representation of a multinational manufacturing corporation headquartered in the **Netherlands** in the dispositions of legacy manufacturing facilities in **New York, New Jersey and Ohio**. The sales involved the negotiation of complex environmental access, release and indemnification issues and resolution of longstanding title issues relating to adverse possession claims, “wild deeds,” public road access and oil and gas leases.
- Representation of public company in the sale of retail paint stores located throughout the **United States**. Deals involved franchise and dealer issues and forward purchase commitments for paint.
- Representation of manufacturer in sale of former manufacturing facility in **Maryland** to retail developer.
- Representation of manufacturer in sale of former manufacturing facility in **New Jersey** to warehouse user.
- Handled over \$800 million in dispositions for institutional investor in **Arkansas, California, Colorado, Florida, Georgia, Illinois, Mississippi, Missouri, Nevada, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Texas, Washington and Wisconsin**.

#### **JOINT VENTURES**

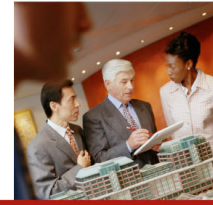
- Representation of developer in connection with conveyance of three shopping centers from joint venture to wholly owned entities, including release of assets from existing \$370.5 million portfolio loan with institutional life insurance company and inclusion of assets in different existing \$350 million portfolio loan with same lender.
- Representation of developer in the negotiation and financing of a joint venture for the development of 229 acres of land at the I-675/Wilmington Pike interchange in **Dayton, Ohio**.

#### **LEASING**

- Negotiation of long-term lease for \$25 million Museum of Contemporary Art including easement for adjoining underground geothermal facility. Designed by the internationally renowned architect Farshid Moussavi, of Foreign Office Architects in London.
- Representation of manufacturer in extension and modification of **New York** office lease.
- Representation of prospective buyer of plastics business, in connection with real estate due diligence and lease negotiations for multiple sites.
- Representation of investment banking firm in **Chicago** in lease of new headquarters space at Citicorp Center.



- Negotiation of build-to-suit lease for public company for its corporate headquarters. Project involves a 60,000-square-foot single-tenant building and related improvements.
- Representation of private manufacturing company in the negotiation of a lease for headquarters facility in **Kansas City, Missouri**.
- Representation of public company in the leasing of 103,000 square feet of industrial and office space in a former U.S. Army ammunition plant in **Riverbank, California** recently decommissioned through the BRAC process from the Riverbank Local Redevelopment Authority.
- Representation of foundation in the leasing of 35,000 square feet of office space for a 10-year primary term in the Miami Valley Research Park in **Kettering, Ohio** to Wilmer Hale LLP. Wilmer Hale has relocated its firmwide accounting and other administrative support departments from Boston and New York to the space and is also developing a shared technical resource center in the space.
- Representation of apparel company, as tenant, in two **Georgia** industrial warehouse leases, including a 265,000-square-foot triple net lease in metro **Atlanta** for a warehouse distribution center.
- Representation of private airlines company, as tenant, in a highly complex 140,000-square-foot build-to-suit lease for new world headquarters at the Columbus International Airport. This transaction involves the relocation of a public road with federal grant dollars, wetlands mitigation and FAA review and approval of the proposed development.
- Representation of private airlines company, as tenant, in a 40-year ground lease with the Columbus Regional Airport Authority for an existing office building at the Columbus International Airport.
- Representation of a paperboard manufacturer in the lease of 48,000 square feet of warehouse and manufacturing space in **Richmond, Virginia**.
- Negotiation of franchise license agreement in connection with the reflagging of a resort hotel in **Orlando, Florida** under the Hilton Brand. This project was national in scope.
- Representation of public company in the negotiation of leases and lease amendments for a network of retail paint stores and leases for paint distribution/warehouse centers located in the **United States** and **Puerto Rico**.
- Representation of national bank in winding up portfolio lease transaction with renewal of 13 leases.
- Representation of investment company in major net leases of **New York City** buildings.



- Representation of an international investment bank and financier in leases throughout the **United States** and several foreign countries.
- Representation of investment company and affiliates in leases in **New York** and other jurisdictions in major sublease to investment bank.
- Representation of several hedge funds in office leasing and subleasing.

### **OUTSOURCING**

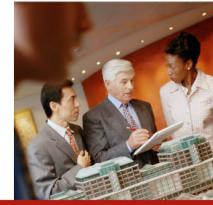
- Representation of public company in four significant sourcing contracts for real estate management and other related services.

### **REAL ESTATE LITIGATION**

- Representation of national bank in connection with litigated dispute regarding exercise of ground lease extension and negotiation of new long-term ground lease.
- Litigation against a national tenant that claimed occupancy shortfall at **Jefferson Pointe, Indiana**. Trial court held entirely for landlord and tenant paid in full without appeal shortly after verdict.
- Representation of developer of six-acre parcel in connection with defense and resolution of commercial real estate litigation with adjoining landowner relating to claims of common-law dedication of public road over client's property, prescriptive easements, validity of historical easements, adverse possession and related matters.
- Representation of health care company in tax appeal case, involving significant obstacles related to the client's late filing of the appeal, resulting in \$300,000 per year in tax savings.
- Representation of business in foreclosure of hotel/retail facility in **Ohio**, including litigation regarding TIF claims.

### **SOLAR AND WIND**

- Representation of a major alternative energy company in solar ground leases for utility-class facilities in **California, Arizona, New Jersey** and **Toronto** and continuing representation of the company in international leases.
- Representation of a major alternative energy company in leases in the **United States**.
- Representation of wind turbine developer in connection with sale, lease and finance of multiple distributed wind turbine and solar transactions.



- Representation of wind turbine developer in connection with joint venture agreement between developer and national energy management and services company.

#### **TELECOMMUNICATIONS/CELL TOWERS**

- Representation of national telecom company in various leasing transactions, including warehouse, office, conduit and equipment leases, and lease termination agreements in 14 states including **Maryland, New York, Kentucky, Pennsylvania, New Jersey, Illinois, District of Columbia, Ohio, Massachusetts, West Virginia, Missouri, Wisconsin, Iowa and Delaware.**
- Representation of telecom company in the subdivision of approximately 70 acres in metro **Columbus, Ohio** including the drafting of a comprehensive declaration of easements and restrictions in preparation for the sale and future development of the property.
- Representation of developer in connection with the negotiation of a national license agreement for the marketing of its properties for the installation and operation of ground-mounted wireless telecommunications antennas and related equipment and fixtures.
- Representation of developer in connection with the negotiation of a national license agreement for the marketing of certain of the company's enclosed mall properties for the installation and operation of a wireless telecommunications multi-carrier, in-building, neutral host distributed antenna system.
- Representation of seller of communications towers in portfolio sales including separate sales of 161 towers, 17 towers and 21 towers.
- Representation of communications tower owner to assist with acquisition of 45 communications towers in a series of separate transactions.

#### **FOR MORE INFORMATION**

Please contact any member of our **Real Estate** practice group for more information.

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