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September 2011

SERVICE
EXCELLENCE
100 YEARS

2011 Real Estate Practice Group Deal Update

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**
- **Solar and wind**
- **Telecommunications/cell towers**

Thompson Hine represents 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* and national recognition in *The Legal 500 United States*.

WORKOUTS/FORECLOSURES, RECEIVERSHIPS, SPECIAL SERVICING

- Counsel to an **Irish** high-net-worth investor group in the restructuring and workout of condominium projects in **New York City**.
- Counsel to a financial institution's Southeast U.S. 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, covering a loan portfolio of approximately \$100 million.
- Counsel to an owner and manager of retail properties in negotiations with the special servicer of a \$250 million securitized portfolio loan, culminating in loan modification and appointment of federal receiver.



- Counsel to a national U.S. bank in connection with a \$30 million mortgage in the workout and disposition of a partially completed multiphased high-end planned residential marina community of 1,000 homes along the **Georgia** state coastline, involving interstate land installment sales, marina development, homeowners association issues and a Section 363 asset sale.
- Counsel to landlords in connection with the bankruptcy of a major retailer, including negotiation of lease amendments and bankruptcy stipulations, as well as advising on and implementing plans for lease termination negotiations and potential lease auction participation.
- Counsel to special servicers and REMIC trusts in foreclosures and confirmation hearings throughout the state of **Georgia**.
- Counsel to receivers in various litigation matters affecting their receiverships nationwide, including bankruptcy by borrowers or guarantors of underlying loans.
- Counsel to receivers in handling a variety of properties, including shopping centers, apartment complexes and strip malls, in **Georgia** and **Virginia**.
- Counsel to special servicers and REMIC trusts in disposition of hotel properties in **Georgia** through foreclosure and sale from receiverships.
- Counsel to special servicer and REMIC trust in disposition of numerous REO properties consisting of apartment complexes in **Georgia**.
- Counsel to special servicer and REMIC trust in placing receivership for management and sale of \$16 million apartment complex in **Georgia**.
- Counsel to the buyer of **Indiana** assisted-living facilities from a distressed tenant-in-common seller, involving SEC receivership and bankruptcy affecting the seller and its affiliates and tenant-in-common issues.
- Counsel to the real estate financing division of a national U.S. bank as the preferred equity partner in a two-year restructuring of a multitiered property owner, which involved workout with two national CMBS servicers of two defaulted senior mortgage loans aggregating \$57 million secured by three **Florida** apartment complexes.
- Counsel to a manufacturer in the \$1.3 million acquisition of an **Ohio** industrial facility and other business assets in a private receiver's sale.
- Counsel to affiliates of a global real estate investment firm in distressed debt investments and workouts as well as prospective investments.
- Counsel to a global financial services company in foreclosure matters in **Ohio**.



- Counsel to a national U.S. bank in complex real estate workouts of debt and equity investments in **New York** and other jurisdictions.

FINANCING

- Counsel to a national U.S. bank as provider of a \$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 a **German** bank.
- Counsel to a national U.S. bank in the fourth amendment to a \$66 million obligated group health care loan facility secured by projects in **Florida, Georgia, North Carolina** and **Tennessee**.
- Counsel to an automotive financial services company in more than \$112 million in construction, mortgage and leasehold mortgage loans for the acquisition, construction or refinance of automobile dealership properties in the **United States**.
- Counsel to a national U.S. bank in connection with the restructuring of a \$70 million mortgage loan secured by 25 properties in 17 states.
- Counsel to a national U.S. bank in connection with a modification to a \$49 million loan to institute a complex “bonds for title” *ad valorem* tax-abatement program for a mixed use development project in **Atlanta**.
- Counsel to a manufacturer/borrower on the real estate portion of a \$270 million refinancing for a steel pipe manufacturer (nine properties in **five states**).
- Counsel to the borrower in its \$12 million refinancing of a 200-unit apartment complex in **Indiana**.
- Counsel to the borrower in the \$16 million refinancing of a newly built 170-unit high-end student housing facility in **Cincinnati**.
- Counsel to an **Ohio** research foundation in its consolidation of existing term loans, a new term loan and the extension of a line of credit.
- Counsel to a manufacturer in connection with a \$1 million loan for a branch facility in **Kentucky**.
- Counsel to a national U.S. bank in connection with a \$16 million construction loan for an apartment project in **North Carolina**.



- Counsel to a 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.
- Counsel to a developer in connection with the restructuring and extension of a \$72.5 million construction and mini-perm loan with a U.S. national bank for the redevelopment of a former regional shopping mall into an open-air power center.
- Counsel to a property owner in connection with a security transaction for a \$55 million mortgage on development land in **Wesley Chapel, Florida**.
- Counsel to a financial institution in connection with a construction loan for a 242-unit first-class apartment project in **Nashville**.
- Counsel to an **Ohio** gear manufacturer in connection with a local counsel opinion for a \$27 million loan.
- Counsel to a property management company in connection with local counsel opinions for various loans and representation with respect to acquisition matters in **Ohio**.
- Counsel to a borrower in connection with the modification extension of a \$60 million loan secured by a resort hotel in **Orlando**.
- Counsel to a Central Ohio-based developer in connection with a \$24.5 million construction loan for a 219-unit student housing apartment project in **Greensboro, North Carolina**.
- Counsel to a manufacturing company, as the borrower, in connection with a \$65 million refinancing of a secured credit facility secured by nine manufacturing facilities in **Arkansas, Louisiana, Maryland, Mississippi, New Jersey, Pennsylvania, South Carolina** and **Texas**.

ACQUISITIONS, INCLUDING DEBT PURCHASES

- Counsel to a developer in connection with the acquisition of the Laurel Park racetrack in **Laurel, Maryland** and Pimlico, home of the Preakness Stakes, including counseling on strategies and structure for a 363 bankruptcy sale through several rounds of the bankruptcy court-mandated auction process. This transaction involved acquisition of the assets and operation of these significant facilities, including television rights associated with the Preakness and Maryland's rights to keep this leg of the Triple Crown in the state.
- Counsel to a corporate client in connection with the acquisition of an 18-story office building for use as a corporate headquarters.
- Counsel to the buyer in the acquisition of an apartment complex for \$6 million, including private placement of equity interests to investors.



- Counsel to the borrower in the \$10 million acquisition and refinancing with Freddie Mac of two apartment complexes in **Cincinnati**.
- Counsel to the buyer in the acquisition of a 250-unit apartment complex in **Northern Kentucky** for \$18.5 million with Freddie Mac financing.
- Counsel to a manufacturer in the \$4.5 million acquisition of an industrial facility in **Atlanta**.
- Counsel to a corporate executive in the purchase and financing of a \$4 million condominium in **New York City**.
- Counsel to a nonprofit art institution in the land acquisition and development of a \$25 million museum of contemporary art in **Cleveland**, an iconic structure designed by Farshid Moussavi of Foreign Office Architects. The transaction involved coordination with adjoining mixed use development, with reciprocal easement agreements and property restrictions.
- Counsel to an electric car manufacturer in its acquisition of 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.
- Counsel to developers on planning and strategy for the acquisition of fee interest in a resort facility in **Key West, Florida**, including a public referendum.
- Counsel to a financial services company in connection with a \$229 million portfolio acquisition involving properties in **Arkansas, Colorado, Illinois, Indiana, Mississippi, Missouri, Nevada, Tennessee** and **Wisconsin**.
- Counsel to a financial services company in the purchase of partnership interests in entity-owning apartment complexes in **Texas**.
- Counsel to a financial services company in its \$6 million purchase of a warehouse in **Colorado** and the negotiation of a reciprocal parking agreement.
- Counsel to a financial services company in the \$19 million purchase of an office complex in **Texas** and the negotiation of right of first refusal and purchase option on an adjacent property.
- Counsel to a joint venture in the acquisition of equipment and real estate in **New Brunswick, New Jersey**, including a 162,000 sq. ft. manufacturing facility. The assets were being sold pursuant to an assignment for the benefit of creditors transaction.



DEVELOPMENT AND REDEVELOPMENT

- Counsel to affiliates of a publicly traded **Spain**-based real estate investment company in the redevelopment of several **New York City** office and residential properties, as well as prospective investment projects.
- Counsel to a limited partnership in the redevelopment of a waterside entertainment complex and New Markets Tax Credit financings in **New York** and a pending **New Jersey** project.
- Counsel to a national real estate development company 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.
- Counsel to multiple developers in negotiating tax-increment financing (TIF) and other incentives for major multiuse developments planned at highway interchanges relating to independent development projects.
- Counsel to an owner of community shopping centers in the redevelopment of a 205,000 sq. ft. shopping center in **Illinois**, involving negotiation of a complex sales 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.
- Counsel to an owner and manager of retail properties in its 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, OfficeMax, PETCO, Mervyns and Steve & Barry's. Representation included negotiating lease modifications with several tenants, evaluating co-tenancy issues associated with store closings and advising client on the feasibility of several shopping center redevelopments designed to eliminate or reconfigure vacant stores.
- Counsel to an **Ohio** municipality 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.
- Counsel to a developer in various retail and land development projects in **Florida, Michigan** and **Ohio**.
- Counsel to a corrugated box manufacturing company in connection with the acquisition and development of a 16-acre property in **Tennessee** for the construction of a new 127,500 sq. ft. manufacturing facility.



RETAIL

- Counsel to retail landlords in co-tenancy and pass-through audit discussions and disputes with retail tenants, including substantial lease analysis, interpretation and explication.
- Counsel to retail landlords in employee misconduct claims and related personnel and labor issues.
- Counsel to an owner and manager of retail properties in a strategic asset swap involving the \$139 million sale of a shopping center in **Kansas** and the \$80 million acquisition of a shopping center in **Ohio**. This swap involves a loan assumption, partial defeasance and coordination of complex simultaneous closings.
- Counsel to an owner and manager of retail properties in connection with the \$25 million acquisition of a shopping center in **Colorado**.
- Counsel to a developer in acquiring a shopping center with a vacant big box store, arranging TIF for infrastructure improvements and negotiating the sale of the center for construction of a new store by a home goods retailer.
- Counsel to a developer in connection with a \$23 million mortgage loan secured by an **Ohio** shopping center.
- Counsel to an owner and manager of retail properties in the sale and ground leasing of a portfolio of former Mervyns stores, involving the release of properties from a \$250 million securitized portfolio loan and discharge of encumbrances relating to the Mervyns bankruptcy. Sales and ground leases have involved major department store retailers and publicly traded shopping center companies.
- Counsel to an owner and manager of retail properties in connection with conveyance of three shopping centers from the client's joint venture to entities wholly owned by the client, including release of assets from an existing \$370.5 million portfolio loan with an institutional life insurance company and inclusion of assets in a different existing \$350 million portfolio loan with the same lender.
- Counsel to an owner and manager of retail properties in connection with an \$85 million portfolio mortgage loan secured by three shopping centers in **Georgia, Missouri and Ohio**.
- Counsel to a regional retail supermarket in connection with the lease of a former Staples store in **Barrington, Illinois**.
- Counsel to numerous major high-end retail fashion shopping centers for leasing in **Charleston, South Carolina; Cleveland; Ft. Wayne, Indiana; Peoria, Illinois; Philadelphia; and San Francisco** and older, good-quality upgrading centers in **Bloomington, Illinois; Dallas; and**



Seattle. Selected significant new leases in the past year have included a 20,000 sq. ft. town visitor center, restaurants, coffee shop and beauty supply retailer.

- Counsel to shopping center landlords in connection with audit analysis and defense for major tenant pass-through audits, co-tenancy challenges or CAM/tax reviews.
- Counsel to a NYSE-listed REIT in the negotiation of numerous retail and restaurant leases at shopping centers throughout **Puerto Rico** and the **United States**.

DISPOSITIONS

- Counsel to a developer in connection with the structuring, negotiation and closing of the sale in the **United States** and **Australia** of more than \$150 million of REIT operating units with two of the largest shopping center REITs in the world.
- Counsel to a seller in connection with its \$98.5 million disposition of a multifamily property in **California**.
- Counsel to a seller in connection with its \$110.3 million disposition of a multifamily property in the state of **Washington**.
- Counsel to an owner and manager of retail properties in the sale of a portfolio of net leased properties located throughout the **United States**. The sales have involved packaging the properties into multistate packages, debt releases and seller financing to maximize value for the client.
- Counsel to an airport authority in the sale of an air freight hub facility to an industrial developer for reuse for non-aviation purposes.
- Counsel to a hospital in the sale of a former hospital building for \$16 million, including establishment of restrictive covenants against competing uses.
- Counsel to an owner and manager of retail properties in connection with the \$14 million sale of a shopping center in **Ohio**.
- Counsel to a global producer of paints, coatings and specialty chemicals in its disposition of legacy manufacturing assets in **New York** and **Ohio** with complex environmental liability issues.
- Counsel to the buyer in the \$8 million sale leaseback of a facility in **Clarksville, Tennessee**.
- Counsel to a manufacturer in the \$1.2 million sale of an industrial facility in **Indianapolis**.
- Counsel to a financial services company in the sale of an \$800,000 office building in **Texas**.



- Counsel to a financial services company in the sale of vacant land in **Texas** valued at \$3 million.
- Counsel to a global asset manager in connection with the miscellaneous remaining real estate assets of a specialty finance REIT.
- Counsel to a servicer of commercial real estate loans in the sale of a \$3 million REO property in the state of **Georgia**.
- Counsel to a REIT in the sale of a 278-unit apartment complex in **Dallas**.
- Counsel to a distressed private equity firm in the \$10 million sale of a paper plant in **Berlin, New Hampshire** following acquisition out of bankruptcy.
- Counsel to a manufacturer in the sale of a former manufacturing facility in **Maryland** to a retail developer.
- Counsel to a developer in a highly complex 68,000 sq. ft. sale and build-to-suit transaction for a new corporate office and distribution center in **Ohio**.
- Counsel to an arts association in connection with the proposed sale of 600 acres of land at an outdoor concert venue near **Cleveland** to the Trust for Public Land (TPL), including negotiation of the purchase agreement with TPL and negotiation with the National Park Service regarding ultimate disposition and use.
- Counsel to seller in connection with the \$22.5 million disposition of a multifamily property in **Missouri**.
- Counsel to a financial services company in the sale of a \$7 million office complex in **Illinois**.
- Counsel to a financial services company in the \$17.9 million sale of a distribution center in **California**.
- Counsel to the seller on the \$10 million sale of the former Chrysler stamping plant, a 2.2 million sq. ft. facility located on 167 acres in **Twinsburg, Ohio**. The seller, who purchased the facility and all equipment therein from the Chrysler bankruptcy trustee, leased back half the facility on a triple-net basis to complete its sale of manufacturing equipment.
- Counsel to a financial services company in the \$800,000 sale of an office building in **Texas**.
- Counsel to a financial services company in the \$3 million sale of vacant land in **Texas**.
- Counsel to the seller of the assets of a power equipment manufacturer in **Minnesota**. The transaction included the sale of an 84,000 sq. ft. manufacturing facility and the assignment of a 43,000 sq. ft. industrial lease.
- Counsel to the seller of an GMC-Buick automobile dealership in **Beachwood, Ohio**.



JOINT VENTURES

- Counsel to a developer in the negotiation of a joint venture for the redevelopment of a shopping center in **Illinois**.

LEASING

- Negotiated multiple leases and lease assignments secured by letters of credit and partial assignor guarantees, including structured tiers of risk and assurance, conditional liability caps, conditional future release criteria and criteria for financial institutions providing letters of credit or holding security escrows.
- Counsel to a global producer of paints, coatings and specialty chemicals 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 **Puerto Rico** and the **United States**.
- Counsel to an international investment bank and financier in leases throughout the **United States** and several other countries.
- Counsel to a limited partnership in major net leases of **New York City** buildings.
- Counsel to several hedge funds in leases and subleases.
- Counsel to an investment banking firm in **Chicago** in the lease of new headquarters space.
- Counsel to a developer in the leasing of a newly constructed 175,000 sq. ft. office and warehouse complex in **Ohio**, as well as structuring and negotiating the construction and permanent financing for each project.
- Counsel to a national U.S. bank in winding up a portfolio lease transaction with renewal of 13 leases.
- Counsel to franchisee in the negotiation of a franchise license agreement in connection with the reflagging of a resort hotel in **Orlando** under the Hilton brand.
- Counsel to a global reinsurer and its affiliates in leases in **New York** and other jurisdictions in a major sublease to an investment bank.
- Counsel to a subtenant in the sublease of Class A office space from a law firm in **Washington, D.C.**
- Counsel to a commercial bank in connection with a dispute regarding the exercise of a ground lease extension and negotiation of payment of a new long-term ground lease.
- Counsel to a plastics manufacturer in the negotiation of a lease for a 122,000 sq. ft. industrial facility in **Jeffersonville, Indiana**.



- Counsel to a manufacturer in the negotiation of a lease for a 243,000 sq. ft. warehouse and distribution facility in **Greenfield, Indiana**.

OUTSOURCING

- Counsel to a national financial services company in connection with four significant sourcing contracts.

SOLAR AND WIND

- Counsel to a community wind project developer in connection with structured financing for and development of \$10 million of community wind projects.
- Counsel to a major alternative energy company in connection with leases in the **United States**.
- Counsel to a major alternative energy company in solar ground leases for utility-class facilities in **Arizona, California, New Jersey** and **Toronto** and in international leases in countries including **Canada, Germany** and **Spain**.
- Counsel to a NYSE-listed REIT in the ongoing implementation a rooftop solar energy program with a major alternative energy company at numerous shopping centers throughout the **United States**.

TELECOMMUNICATIONS/CELL TOWERS

- Counsel to a private equity fund manager in the \$54 million sale of 148 communications towers in **Alabama, California, Colorado, Idaho, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Pennsylvania** and **Texas**.
- Counsel to a developer in the \$1 million sale of its interest in leases on cell towers in **Arizona, Georgia, Maryland, North Carolina** and **Utah**.
- Counsel to a major communications provider in connection with various leasing issues and the sale of developed and undeveloped land in **Delaware, Illinois, Indiana, Maryland, Massachusetts, New Jersey, New York, Ohio** and **Pennsylvania**.
- Counsel to a private equity fund manager in the \$13 million sale of 17 communications towers located in **Georgia, Kentucky, North Carolina, South Carolina** and **Virginia**.



FOR MORE INFORMATION

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