



DISTRESSED REAL ESTATE COURSES AND PROGRAMS

ATTORNEY ADVERTISING

**Ballard
Spahr**
LLP



Distressed Real Estate

Our Distressed Real Estate team is a longstanding national leader in handling and resolving distressed real estate matters.

Established more than a decade ago, the team successfully helped a wide range of clients navigate the last market downturn and has been guiding them through COVID-19 related disruptions and, now, through current market challenges arising from increasing interest rates and construction costs, and the impact of an inflationary and, potentially, recessionary environment. For more information or to schedule a remote program for your organization, please contact your Ballard Spahr lawyer or a member of our Distressed Real Estate team.

TAX ISSUES IN DEBT RESTRUCTURINGS AND LOAN WORKOUTS

Learn about the tax consequences of debt restructurings, foreclosures, and deeds in lieu and better understand what tax issues motivate distressed property owners.

REAL ESTATE TAX ASSESSMENT APPEALS: OPPORTUNITIES IN A POST-COVID-19 MARKET

The opportunity is favorable for reducing your real estate tax burden in the current environment, through property tax appeals occasioned by market-driven shifts in property values. Following a brief review of valuation law, standards, and practices, Ballard Spahr real estate and tax lawyers examine the effect of COVID-19 on real estate property values, and present a practical roadmap for successful tax assessment appeal.

LOAN DEFAULT/ENFORCEMENT REMEDIES

This is a refresher course for experienced asset managers and a primer for new asset managers with limited loan default experience. Presenters include a mix of transactional and litigation attorneys who provide a comprehensive review of default and remedies issues.

LOAN WORKOUTS AND ENFORCEMENT WITHOUT JUDICIAL ACCESS

The program addresses pre-litigation considerations for defaults, including forbearance agreements and pre-negotiation agreements. Our discussion includes how to handle limited and restricted access to courts, such as during a health crisis, court closures, and extended deadlines. It also includes an overview of non-judicial foreclosures, contractual/consensual receiverships, deeds in lieu of foreclosure, note sales, and discounted payoffs without becoming a mortgagee-in-possession.

LENDER LIABILITY PREVENTION STRATEGIES

Our lawyers discuss how to respond to borrower requests for relief, such as forbearance, modification, and partial payment. The program addresses failure-to-finance claims, including dealing with requests for advances and the application and enforcement of MAC clauses.

FORCE MAJEURE AND IMPOSSIBILITY/ IMPRACTICABILITY OF PERFORMANCE

We examine what types of business disruptions can trigger force majeure clauses in contracts, as well as other defenses to non-performance. The course addresses common issues that arise regarding contract language, as well as applicable case law and general principles that apply to interpreting force majeure clauses. Topics include common-law defenses for non-performance and issues to watch for in specific types of contracts as well as pointers for handling them.

WORKOUT AND ENFORCEMENT STRATEGIES FOR SPECIFIC ASSET CLASSES

Our Distressed Real Estate attorneys present strategies for loan workouts and enforcement for assets in specific spaces, including hotel/hospitality, student housing, seniors housing, and retail. The discussion addresses issues affecting under-construction projects, including supply chain disruption and labor shortages. Mortgagee-in-possession issues are also examined, including assignment of leases and rents and third-party management.

REAL ESTATE AND CONSTRUCTION LITIGATION OVERVIEW

General overview and primer on real estate and construction litigation topics. Includes discussion of landlord/tenant litigation, development and construction litigation, and issues surrounding partnership and limited liability company member disputes.

SECURITIZATION/SECONDARY MARKET TRANSACTIONAL DISPUTES

This program considers disputes that arise in the secondary market. We review warehouse and repurchase agreements and loan participations and potential disputes that may arise out of those arrangements. Issues with respect to disagreements between master and special servicers are also discussed.

CORPORATE TRUST LITIGATION

This session deals with disputes involving corporate fiduciaries and trustees. The course includes an examination of issues arising from alleged breaches of PSAs and/or related credit default swap agreements, waterfall payment disputes, trustee and trustee agent declaratory judgment actions, and trust estate court supervised liquidation cases.

TAX ISSUES FOR DISTRESSED REAL ESTATE

Tax lawyers review tax issues that may arise in connection with distressed real estate assets. Includes a discussion of cancellation of indebtedness income, loan modifications, foreclosures, and deeds in lieu.

MANAGING THE CAPITAL STACK

This program covers key issues surrounding mezzanine lenders, preferred equity investors, and joint venture partners that may arise during workouts and enforcement proceedings. Includes a discussion of intercreditor arrangements and an overview of relevant structures and document provisions.

CORONAVIRUS-RELATED INSURANCE DEVELOPMENTS IN THE REAL ESTATE CONTEXT

Ballard Spahr Insurance and Real Estate lawyers examine coronavirus-related insurance developments in the real estate industry. Topics include an unbiased discussion of insurance coverage issues in the real estate context; an update of litigation, regulatory, and legislative approaches and initiatives; and advice for preserving and presenting a claim.

COMMERCIAL LEASING ISSUES AND STRATEGIES

Real estate attorneys review leasing concepts and practical approaches to navigating landlord and tenant concerns that arise in connection with distressed real estate. The program addresses rent abatements, rent deferrals, lease amendments, and lease enforcement strategies.

NAVIGATING DISTRESSED CONSTRUCTION PROJECTS

Course leaders present an in-depth analysis of preparing for and navigating troubled construction projects from the owner/lender perspective. The course includes a detailed discussion of drafting contracts with appropriate rights, protections, and remedies, and how to leverage them appropriately. We also examine issues such as mechanics' liens, insurance, exercise of rights under bonds and subguard insurance, warranty issues and defective work, self-help rights, alternative dispute resolution, preparing for litigation, and transitioning the project to a replacement contractor.

CONDOMINIUM LIABILITY

This program addresses liability issues unique to the condominium context. We discuss declarant liability, warranty obligations, fractured condominiums, and how these may be affected by the distressed market conditions.

HOTEL WORKOUTS – AN OVERVIEW

This primer addresses practical approaches to navigating investor, hotel owner, brand franchise, and third-party manager concerns that arise in connection with distressed hotel properties. The program addresses critical provisions in hotel management and franchise agreements, management fee subordination and deferrals, termination rights and non-disturbance agreements, cash management and account control security interests, receivership, and pre-bankruptcy strategies.

THE CHANGING LANDSCAPE: COMMERCIAL LANDLORD LITIGATION & BANKRUPTCY – WITH AN EMPHASIS ON COVID-19

In these uncertain times, landlords and management companies that operate shopping centers, offices, and other commercial facilities face a multitude of issues from distressed tenants. This remote program provides guidance on:

- handling tenants that are unable or unwilling to pay rent or continue leases;
- implications of lease workouts and amendments;
- litigation and bankruptcy in the COVID-19 era;
- applicability of force majeure, impossibility, or frustration of purpose; and
- the future economic outlook for landlords.

CONTACTS

For more information, please contact your Ballard Spahr lawyer or any of the attorneys below.

DOMINIC J. DE SIMONE

Chair, Finance Department
Distressed Real Estate Team Leader
Philadelphia | desimone@ballardspahr.com
215.864.8704

THOMAS A. HAUSER

Co-Leader, Real Estate Finance Group
Baltimore | hauser@ballardspahr.com
410.528.5691

AMY M. MCCLAIN

Chair, Real Estate Department
Philadelphia | mcclaina@ballardspahr.com
410.528.5592

SIOBHAN M. O'DONNELL

Co-Leader, Real Estate Finance Group
CMBS Loan Origination Team Leader
Los Angeles | odonnelles@ballardspahr.com
424.204.4341

BRIAN SCHULMAN

Leader, Real Estate and Construction Litigation Group
Phoenix | schulmanb@ballardspahr.com
602.798.5407

MATTHEW G. SUMMERS

Leader, Bankruptcy, Creditors' Rights, and Restructuring Group
Delaware | summersm@ballardspahr.com
302.252.4428

KELLY M. WRENN

Leader, Banking and Financial Services Industry Team
Washington, D.C. | wrenn@ballardspahr.com
202.661.2204

