

DISTRESSED REAL ESTATE COURSES AND PROGRAMS

*Customizable Webinars and
Presentations for Your Organization*



Distressed Real Estate

Ballard Spahr's Distressed Real Estate practice was established more than a decade ago and helped clients navigate the Great Recession. The team is now guiding clients through COVID-19-related market disruptions. For more information or to schedule a remote program for your organization, please contact your Ballard Spahr lawyer or a Distressed Real Estate Team contact.

LOAN DEFAULT/ENFORCEMENT REMEDIES

Refresher course for experienced asset managers and 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

Program addresses pre-litigation considerations for defaults, including forbearance agreements and pre-negotiation agreements. Discussion includes how to handle limited and restricted access to courts, such as during the COVID-19 pandemic, court closures and extended deadlines. Also includes 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

Lawyers discuss how to respond to borrower requests for relief, such as forbearance, modification, and partial payment. 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**

Examination of what types of business disruptions can trigger *force majeure* clauses in contracts, as well as other defenses to non-performance. 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. 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.

**CREDITOR RIGHTS LITIGATION
OVERVIEW**

Overview of loan and collateral rights enforcement. Experienced bankruptcy attorneys review topics such as collateral protection actions, guaranty enforcement, intercreditor and capital stack disputes, and put-back claim disputes.

**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**

Program considers disputes that arise in the secondary market. Review of 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 also discussed.

CORPORATE TRUST LITIGATION

Session deals with disputes involving corporate fiduciaries and trustees. Includes 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

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

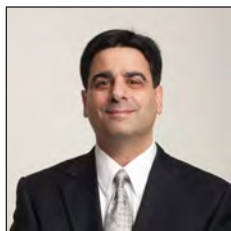
This program addresses liability issues unique to the condominium context. We discuss declarant liability, warranty obligations, fractured condominiums, and how these may be affected by the distressed market conditions.

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.

CONTACTS

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



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