

REAL ESTATE UPDATE

Spring 2009

In this annual update we highlight some of the projects our real estate group handled in the prior year, as we have in past updates. However, in assembling the list below, we realized how much has changed in the commercial real estate industry since just last summer. In recent months, our practice has evolved to include much more counseling regarding distressed assets. As lawyers with a lot of experience from past real estate down cycles, we have the skill set to help our clients with workouts, restructurings, asset sales, foreclosures, winding up of businesses, lease terminations and subleases. Accordingly, we have formed a "workout team" which includes attorneys from our real estate, tax and bankruptcy departments who are versed in the law and practice of restructurings. These team members are aware of the unique issues clients face in today's market and both old and new solutions to problems facing our clients.

Unlike the virtual paralysis which we saw at the end of 2008, we are now seeing signs of activity. As in the early 1990's when the slogan was, "Stay alive until '95", owners, major space users, lenders and developers are all taking steps to preserve their properties and protect their core assets and businesses. For example, owners are extending both lease and mortgage maturities where they can, consummating sales at reduced prices where there is a need for liquidity and taking out smaller mortgage loans from local and regional lenders. Opportunities do exist to buy debt (especially subordinate tranches) at less than par and to rescue illiquid owners at discounted prices.

We are hopeful that a market recovery gains a foothold soon. Please contact us if you have any issues or problems you would like to discuss. We are ready to help.

Our Real Estate group participated in the following representative transactions in 2008:

- Our attorneys continue to represent The Durst Organization in connection with the leasing of space at One Bryant Park, including the execution of a lease amendment with Bank of America with respect to the entire 50th floor (bringing BOA's total leased space at the building to over 1.5 million square feet) and the execution of a lease with an entity formed by former Vice President Albert Gore with respect to a portion of the 48th floor.
- We represented Assurant, Inc. in negotiating a joint venture and development agreement with a local developer for the construction of a \$50 million luxury apartment community consisting of 200 units in suburban Boston.
- We represented Dow Jones & Company, Inc., a division of News Corp., in its leasing and subleasing of office space in the United States and abroad (including the leasing of a substantial block of space at Dow Jones' New Jersey campus, the negotiation of a global leasing agreement with Regus Group LLC, and the leasing of individual offices in South Korea, Vietnam, Malaysia, the Philippines, Germany, Switzerland, Poland, Hungary, Bulgaria, Norway, and Greece).

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- We also continue to represent Forest City Ratner in handling its office leasing at *The New York Times* building, including new leases with First Solar, Inc. and the Government of Flanders.
- We represented the owners of the Crown Building at 730 Fifth Avenue in connection with a mortgage refinancing.
- The firm represents the American Stock Exchange in the proposed sale of its headquarters buildings. When the American Stock Exchange merged with the New York Stock Exchange, their headquarters buildings located at 86 Trinity Place and 22 Thames Street in Manhattan were retained by the members of the American Stock Exchange and we were engaged to represent them in the sale.
- We represented the law firm Cleary Gottlieb Steen & Hamilton LLP in the lease of two full floors at a property in downtown Manhattan adjacent to its primary office space.
- We represented Mitsubishi UFJ Securities (USA), Inc. in obtaining a sublease of 55,000 square feet at 1633 Broadway for its headquarters from Bank of America. Mitsubishi UFJ Securities (USA) is the securities arm of The Bank of Tokyo-Mitsubishi-UFJ, Ltd.
- We represented Toyota Motor in the lease for its New York headquarters at Citicorp Center located at 153 East 53rd Street from Boston Properties.
- We advised UBS Realty in the bankruptcy of Fortunoff's, the anchor tenant in an upscale shopping center UBS Realty owns, including the proposed restructuring of that tenant's lease, an ancillary parking agreement, and a series of personal guarantees.
- We represented Cobble Hill Health Center in the gut renovation of one building in Brooklyn, New York to house a state of the art Alzheimer's care facility and construction of a new building to house an adult day care center.
- The firm represented The New York Botanical Garden in connection with the acquisition of commercial property adjoining the Garden on Webster Avenue in the Bronx. The acquisition of land was a major step in expanding the Garden's footprint, whose growth had been restrained by physical limitations.
- On behalf of SAP America, Inc., the world's second largest software company, we negotiated leases for office space in Houston, Virginia, California, Chicago and Puerto Rico.
- We represented PB Capital Corporation, Deutsche Genossenschafts-Hypothekenbank AG and Allied Irish Bank in purchases of co-lending interests in loans secured by properties throughout the U.S.
- We represented The Bank of Tokyo-Mitsubishi UFJ, Ltd. in the negotiation and closing of a multi-million dollar construction loan secured by an industrial property located in the suburbs of Memphis, Tennessee.
- The firm represented Allied Irish Bank (AIB) in the closing of several commercial real estate loans that AIB directly originated in the U.S. market including a portfolio loan for nine properties in six states.
- We represented Eisai Inc., a leading pharmaceutical company, in the leasing of an entire office building in Woodcliff Lake, New Jersey from Hartz Mountain Industries, as the Eisai group of companies effectively creates an office campus from several adjacent, independently owned buildings.

- We represented private sellers of several midtown Manhattan commercial buildings, including 49 West 47th Street, 64 West 48th Street, and 690 Fifth Avenue.
- We were actively involved in the arbitration and/or settlement of new rentals under ground leases and/or office leases in midtown Manhattan on behalf of several well known owners and tenants.

In Other News...

- All six of our real estate partners, Hugh J. Freund, Andrew L. Herz, Lawrence P. Lenzner, Robert M. Safron, Kenneth L. Sankin, William W. Weisner have been included in *New York Super Lawyers 2009*, a peer and independent review publication that ranks the top 5% of lawyers in the city.
- Kenneth L. Sankin and William W. Weisner were recognized in Real Estate New York's "Top Real Estate Lawyers."
- Two of our partners, Robert M. Safron and Andrew L. Herz, were recognized in the *Best Lawyers in America 2009* guide as leading attorneys in the industry and in *International Who's Who of Business Lawyers*. Both Mr. Safron and Mr. Herz are members of the American College of Real Estate Lawyers.
- Our Real Estate practice was recognized for the first time in *Chambers USA*. The guide notes that "*leasing is widely regarded as the strength of this 'fair-minded, engaged and cordial' group, and its proficiency is exemplified by its presence on several of New York's largest office leasing deals...*" and that "*Patterson Belknap's real estate team inspires 'the utmost confidence' in its clients.*" ♦

This newsletter is for general informational purposes only and should not be construed as specific legal advice. If you have any questions about the Real Estate Update or wish any further information, please contact one of the following partners or counsel from the Patterson Belknap Webb & Tyler LLP Real Estate Practice Group:

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