



Program

U.S. Law Conference

Marriott Marquis San Diego Marina | San Diego, CA

October 23 – 25, 2019

#ICSCLaw



WEDNESDAY, OCTOBER 23**Registration**

12:00 – 8:00 pm

CLE Information Desk Open

12:00 – 6:00 pm

GENERAL SESSION 2:00 – 3:15 pm**General Session 1****Thinking Outside the Box: Is There Anything in the Box Anymore?**

The use and reuse of anchor tenant boxes presents a multitude of both challenges and opportunities. Lawyers have the ability to add value to their client's transaction by suggesting creative guidance and solutions. The panelists will discuss reasons for tenant vacancies, the effect of losing anchor tenant boxes, existing issues and future opportunities.

PANELISTS

Thomas B. Cahill

Thomas B. Cahill Attorney at Law, P.C.
Naperville, IL

Jared E. Oakes

Benesch, Friedlander, Coplan & Aronoff LLP
Cleveland, OH

Cristina H. Stroh

JC Penney
Plano, TX

SEMINARS 2:00 – 3:15 pm**Seminar 1****Blowing Away the Smoke: Financial Opportunities in Marijuana/Hemp Real Estate Deals**

This session will explore the opportunities that await those who seek to enter into landlord/tenant relationships with cultivators, processors, dispensaries and other related "cannabiznesses" and weigh those against the risks and roadblocks inherent therein. The seminar will provide a summary of the cannabis and hemp landscape across the United States and will take an in-depth look at the nuances/risks that landlords, lenders and other investors should expect to overcome should they choose to enter into this sector and the differences as related to cannabis, including hemp (CBD).

PANELISTS

Scot C. Crow

Dickinson Wright
Columbus, OH

Douglas A. Praw

Holland & Knight LLP
Los Angeles, CA

Seminar 2**Three's a Party: Understanding the Parties and Key Issues in a Franchise Lease**

A franchise lease is unique because it is a three-party dance with an independently owned local operator of a well-known national or regional brand, a corporate franchisor who is typically not the tenant and the landlord. This relationship poses issues and complications not ordinarily found in a standard lease negotiation, especially if both the franchisor and tenant are active participants in negotiating the lease. The franchisee has two "masters" – the franchisor and landlord – governed by different agreements that may require competing obligations by the tenant. The franchisor wants to protect its brand and image but is not the tenant, and the landlord has to decipher the true decision maker in lease negotiations. We will discuss all three perspectives and highlight the key provisions of the lease that are important for each party and why.

PANELISTS

Alan Betus

CBL Properties, Inc.
Chattanooga, TN

Megan Zaidan

Walter Haverfield LLP
Cleveland, OH

WORKSHOPS 2:00 – 3:15 pm**Workshop 1****Rock You Like a Hurricane – Affirmative Steps You Can Take to Be Prepared for the Storm**

This workshop reflects on the issues that the presenters faced after Hurricane Harvey in Houston and Hurricane Maria in Puerto Rico. As they discovered after these storms hit, many commercial leases do not contemplate such wide-scale disasters. This workshop will also look at the importance of cooperation and coordination among tenants, landlords and insurance companies. This workshop addresses those issues and how the presenters have modified their lease forms and internal procedures to address these types of events.

PANELISTS

Patrick O. Hayes

Andrews Myers P.C.
Houston, TX

Alexander L.W. Snyder

Simon Property Group
Indianapolis, IN

Workshop 2

Experiential Retail: Can It Continue to Grow and Will It Help Save the Mall?

If you ask most folks involved in retail development today, experiential retail is the future. But what is experiential retail, and how does it fit in with traditional retail development and mixed-use development? This workshop will focus on new experiential uses and how they could help revitalize America's malls by providing an additional means for drawing customers to the mall. Panelists will discuss legal and practical issues that arise when experiential uses are added to an existing project and the impact thereon as well as the legal and practical issues associated with designing a ground-up development around such experiential uses.

PANELISTS

Jeremy D. Cohen
Hartman Simons & Wood LLP
Atlanta, GA

Stephen L. Spector
Baltimore Cyber Range
Los Angeles, CA

Workshop 3

You Can't always Sell What You Want! Permitted, Exclusive and Prohibited Uses

As the legendary Mick Jagger may (or may not) have once sung, "You can't always sell what you want / But if you try some time, you might find, yourself in *default!*" Don't find yourself in default. Instead come to this workshop for an interactive discussion of the perils, pitfalls and practicalities of negotiating and otherwise dealing with the myriad of use exclusives, permitted uses and use restrictions found in shopping center leases – past, present and future.

PANELISTS

Brad Dallet
Husch Blackwell LLP
Milwaukee, WI

Thomas J. Phillips
Brown Rudnick LLP
Boston, MA

Workshop 4 ADV

Found Money! Creative Methods for Monetizing Underutilized Real Estate

Despite the pressures facing the retail industry and shopping centers, there are creative ways for both landlords and tenants to monetize underutilized parcels and premises. These may include sale/leasebacks, re-development of excess space into complementary re-uses, sublease or license arrangements for entertainment and/or food-related uses, leases or sales of excess parking areas, granting conservation easements,

etc. This workshop will explore methodologies for monetizing assets that would otherwise lay fallow or underused.

PANELISTS

Stephen E. Friedberg
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
New York, NY

Melissa McBain
Daoust Vukovich, LLP
Toronto, ON

PEER TO PEER 2:00 – 3:15 pm

Peer to Peer 1 ADV

All Pumped Up: From Coffee to Crunches and Bikes to Beds, Strategies and Challenges in Mixed-Use Projects

The world of mixed-use development is no longer confined to cities: it is increasingly also a suburban phenomenon. To meet today's lifestyles, developers increasingly are creating "villages" with multiple uses to attract and captivate their target markets – projects that require thoughtful legal planning to successfully mix disparate users and their competing interests. Join for this peer-to-peer session to confer about hypothetical mixed-use developments guaranteed to generate interesting discussions.

PANELISTS

David Lima
Real Solutions
Minneapolis, MN

Linda Madway
ShopCore Properties
Philadelphia, PA

GENERAL SESSION 3:30 – 4:45 pm

General Session 2

What Are We Fighting About This Year? Recent Case Law

This general session will highlight court cases decided within the past year to 18 months that are likely to affect shopping center practices and/or real estate law in general. The panel will discuss how these decisions should dictate best practices both from a transactional and litigation perspective. Further, the panel will suggest drafting tips on how to avoid problems on the front end.

PANELISTS

James Mayer
Holland & Knight LLP
Chicago, IL

Lila Shapiro-Cyr
Ballard Spahr LLP
Baltimore, MD

Connie Simmons Taylor
Baker Botts, LLP
Houston, TX

SEMINARS 3:30 – 4:45 pm

Seminar 3

Leasing Letters of Intent: Love 'Em or Leave 'Em

This seminar will focus on the fundamentals of negotiating leasing LOIs. The presenters will discuss the advantages of negotiating LOIs prior to negotiating and executing retail leases; the disadvantages of negotiating leasing LOIs; and the pitfalls of relying on them.

PANELISTS
Karim Ali
Porter Wright Morris & Arthur LLP
Columbus, OH

Amanda Links
Unibail – Rodamco – Westfield
Los Angeles, CA

Seminar 4

(Br)Exit Strategies for Leases – Anticipation, Negotiation, Deal or No Deal – Avoiding an Impasse

No one likes to anticipate failure, but from the beginning of lease negotiations landlords and tenants need to consider how they may want to provide for a graceful exit when that shiny new lease has endured a few miles over bumpy roads. The panelists will cover various aspects of lease exit strategies, whether anticipated or unplanned, as well as typical and not-so-typical lease provisions giving one or both parties an out. They will also take a closer look at what might happen when some of those strategies are the subject of litigation.

PANELISTS
Matthew Bordwin
Keen-Summit Capital Partners
Melville, NY

John H. Lewis
Hartman Simons & Wood LLP
Atlanta, GA

Dave Vallas
Polsinelli
Chicago, IL

Seminar 5

Basics of Title Insurance Double Feature:

- Fantastic Endorsements and Where to Find Them
- Apocalypse Now (?) – The Interaction of Blockchain with the Title Insurance Industry

A two-part seminar for the price of one! The first half of the session will explore the use of endorsements to expand the scope of title insurance policy coverage. In the second portion of the session, the presenters will pivot to a discussion of the potential effects of blockchain technology on land records, title searches and the closing/settlement process.

PANELISTS
Marion Aaron
Stewart Title Guaranty Company
San Francisco, CA

Matthew S. Bliwise
Chicago Title Insurance Company
New York, NY

Jordan Kelner
Fidelity National Title Group
Omaha, NE

WORKSHOPS 3:30 – 4:45 pm

Workshop 5

Retail Bankruptcy: If Only I Knew Then What I Know Now ...

This workshop will examine numerous retail bankruptcy cases and discuss whether bankruptcy was the best option for trying to save the company, or whether bankruptcy instead accelerated the death of the company. The panelists will discuss the bankruptcy process from before an official court proceeding is even commenced and discuss the pros and cons of bankruptcy as a means to save a financially challenged retailer. They will also discuss whether out-of-court restructurings could work and/or whether there are non-bankruptcy alternatives.

PANELISTS
Robert E. Kaelin
Murtha Cullina LLP
Hartford, CT

Gilbert R. Saydah, Jr.
Montgomery McCracken Walker & Rhoads LLP
New York, NY

Workshop 6

Do Not Pass Go, Do Not Click-and-Collect \$200:

How Omni-Channel/Internet Sales Are Changing the Retail Real Estate Industry and Why Failing to Keep Up May Cost You Lots of Real (Not Just Monopoly) Money

Today, online sales account for more than 10% of total retail sales, up from 5% in the late 1990s – and by all accounts, these numbers will continue to grow. While the online retail world is rapidly evolving, many leases are struggling to keep up, with antiquated provisions addressing percentage rent, gross sales, sales reporting, record keeping, audit rights, kick-out rights, radius clauses, exclusive uses, continuous operations and others that need to be updated to match today’s changing economy. How should click-and-collect sales, ship-from-store sales, Internet sale returns and other omni-channel/Internet sales issues be treated for purposes of these lease provisions? This interactive workshop will present both sides of the arguments of how these terms should be drafted to achieve a fair balance between the interests of landlords and tenant.

PANELISTS

Kenneth S. Lamy
The Lamy Group, LTD
Mandeville, LA

Nadav Ravid
Ravid Law Group
Los Angeles, CA

Workshop 7 **ETHICS**

Using Artificial Intelligence in Your Real Estate Practice: Practical Tips and Ethical Issues

This workshop will focus on how artificial intelligence (AI) technology is being used in real estate transactional practice, the types of AI being implemented and practical considerations when undertaking the use of AI. The panelists will also discuss how the use of AI in legal transactional practice intersects with a lawyer’s professional ethics.

PANELISTS

Rachael Philbin
Perkins Cole, LLP
Chicago, IL

Lindsay A. Smith
Kira Systems
Toronto, ON

Workshop 8

Enhance Your Credit: Lease Guaranties, Security Deposits and Other Performance Enhancements

In this interactive workshop, the panelists will discuss the various ways a landlord can help to ensure performance under a lease. Through discussion of the use of guaranties, security deposits (both cash and letters of credit), and bonds and self-help rights, we will explore how to enhance the credit supporting a lease as well as pointers on drafting these provisions. We will present examples of these credit enhancements; how they work and can help in a lease; and the potential pitfalls associated with each alternative.

PANELISTS

Bindi R. Dharia
Goldfarb & Fleece LLP
New York, NY

Mark S. Levenson
Sills Cummis & Gross P.C.
Newark, NJ

 **PEER TO PEER** 3:30 – 4:45 pm

Peer to Peer 2 **ADV**

Resolving Disputes: A Peer-to-Peer Discussion of Thought-Provoking Dilemmas from a Litigator’s Lens

The presentation will use peer-to-peer discussions of recurring issues that arise in disputes and serve to frustrate both landlords and tenants. The goal of the session is to collectively unravel these issues and provide practical and helpful strategies for navigating through the dispute resolution process whether it be through mediation, arbitration or litigation.

PANELISTS

Howard Jeruchimowitz
Greenberg Traurig, LLP
Chicago, IL

Gary Kessler
Kessler & Collins
Dallas, TX

Peer to Peer 3 **ADV** **ETHICS**

Conflicts, Waivers and Walls – Ethics Issues for the Real Estate Lawyer

Conflicts can arise at any point in a legal representation but can sometimes be hard to recognize. Although lawyers often handle the adversity with waivers or ethics screens, those solutions may not solve the problem for all conflicts. This interactive session will focus on the identification of conflicts, including those arising from non-legal activities and the ways they can be resolved – or not.

PANELISTS

John G. Cameron, Jr.
Dickinson Wright
Grand Rapids, MI

Nancy Little
McGuireWoods
Richmond, VA

First-Timers and Next Generation Orientation

FIRST-TIMERS

NEXT GEN

5:00 – 6:30 pm

Get inside tips on how to make the most of your first Law Conference at this special orientation and welcome reception. Longtime attendees will host small discussion tables to share their insights and answer your questions. This is a great networking opportunity to kick off your conference experience. Business casual attire is recommended.

Welcome Reception

6:30 – 8:00 pm

It's the opening night of the conference and all registrants are invited to get together for networking under the stars. Business casual attire is recommended.

THURSDAY, OCTOBER 24

Registration and CLE Information Desk Open

7:00 am – 4:00 pm

Continental Breakfast

7:00 – 7:30 am

Welcome Remarks

7:30 – 7:45 am

SEMINARS 8:00 – 9:15 am

Seminar 6

Maintaining a Desired Destination: Redeveloping/ Downsizing Anchor Tenant Spaces

This seminar will analyze the impact of anchor tenants vacating or downsizing their existing premises and what factors both developers and tenants need to consider. Addressing existing title encumbrances and other operating documents will also be discussed. Finally, a discussion of the competing interests of developers and tenants will be conducted to assist in resolving any conflicting goals between these parties.

PANELISTS

Matthew J Davis

Stroock & Stroock & Lavan LLP
Washington, DC

Mark Florak

Taylor English Duma LLP
Atlanta, GA

Seminar 7

Negotiate Assignment and Subletting Like a Godfather: How to Offer Basic Terms They Can't Refuse

This seminar will provide an introduction to the basic concepts contained in a typical assignment and subletting provision of a commercial lease and the overall importance of those terms to the parties negotiating the document. The panel will provide an in-depth discussion of the main negotiating points from the perspective of both the tenant and landlord as well as potential compromises to satisfy the parties' competing priorities. The discussion will also include drafting tips for preparing an assignment and subletting provision that meets your client's goals.

PANELISTS

Jonathan Blank

EDENS
Washington, DC

Sophia Desai

Panda Restaurant Group, Inc.
Rosemead, CA

Seminar 8

Leasing 101: Everything You Want to Know (But May Be Afraid to Ask)

If you're attending the ICSC Law Conference, you've probably done at least a little lease work. Along the way, have you ever wondered why certain aspects of a lease are the way they are? This session is meant for those who are relatively new to the industry and would like a broad overview of standard leasing clauses from various perspectives and why they are important. Key clauses and the meaning or significance of certain boilerplate provisions will be discussed along with their interplay with other lease provisions. Both tenant and landlord perspectives will be considered, as well as the perspectives of different types of users. The goal of this session is to provide attendees with a better understanding of the "why" behind many common lease provisions.

PANELISTS

Ann Elliott

T-Mobile
Bellevue, WA

Brian Smith

Arnall Golden Gregory LLP
Atlanta, GA

WORKSHOPS 8:00 – 9:15 am

Workshop 9

Clear and Present Danger: Drafting to Avoid Litigation

You think the lease you drafted is clear as a bell, but your phone rings at midnight and your client says we are being sued and the plaintiff wants to take your deposition! Litigators and deal lawyers will find ways to avoid this late-night stress caused by clauses that produce the most litigation such as exclusives and use restrictions, ADA indemnity, rent commencement conditions and tenant improvement allowance provisions.

PANELISTS

Karen R. Pifer
Honigman LLP
Bloomfield Hills, MI

John J. Wiles
Wiles & Wiles, LLP
Marietta, GA

Workshop 10

ADV

Oh Baby, Why Don't You Just Meet Me in the Middle? Balancing the Needs, Conflicts and Concerns of Franchisor, Franchisee and Landlord

This workshop will identify the needs, conflicts and concerns of the franchisor, the franchisee and the landlord that often arise during a lease negotiation. Although the end goal is the same – to have a signed lease permitting the successful operation of the franchise – the parties don't always agree on how to get there. We will discuss and examine various ways to creatively address concerns in the lease so that each interested party can satisfy its needs.

PANELISTS

Christine Levonian Gresham
Gresham Cahn LLC
Gaithersburg, MD

Adam Hirschfeld
Rudolph Fields LLP
Bethesda, MD

Workshop 11

Environmental Terms in Leases - What Does a Landlord or Tenant Really Need?

This interactive workshop will explore the environmental issues raised in various leasing scenarios from both landlord and tenant perspectives. Facts drawn from actual case studies will be presented to stimulate a discussion of the potential risks to both parties and possible alternatives (contractual and otherwise) to mitigating those risks. This workshop disproves the adage: What you don't know, can't hurt you.

PANELISTS

Robert Crespi
Chiesa Shahinian & Giantomasi PC
West Orange, NJ

Jon Schuyler Brooks
Michelman & Robinson, LLP
New York, NY

Workshop 12

In The Room Where It Happens: Planning Considerations for Redevelopment and Repositioning

This workshop will explore a pragmatic approach to dealing with the various aspects of the revitalization of existing shopping centers with the goal of ensuring that the shopping center is vibrant, competitive and sustainable. The panelists will address integration with online retail, mixed-use, non-traditional uses and public spaces, as well as the impact of technology on the design and functionality of today's shopping centers. Interactive group discussions will focus on ways to resolve practical issues such as existing REAs, relocation rights, construction obligations and changes to the site plan.

PANELISTS

Jason S. Gibson
Regency Centers
Boca Raton, FL

Tandy C. Patrick
Bingham Greenebaum Doll LLP
Louisville, KY



PEER TO PEER 8:00 – 9:15 am

Peer to Peer 4

ADV

Before a Claim Happens: Designing Leases and Construction Contracts to Properly Allocate Risk

As insurance policy forms and endorsements evolve, it is critical to make sure contract provisions keep up and have flexibility to withstand future revisions with leases that could be in effect for decades. We will analyze the insurance and indemnification sections of a lease and construction contract respectively. The discussion will focus on ensuring that risk is being allocated based on the intentions of both parties.

PANELISTS

Bryant Eaton
Alliant Insurance Services
Newport Beach, CA

Jo-Ann Marzullo
Regnante Sterio LLP
Wakefield, MA

GENERAL SESSION 9:30 – 10:45 am**General Session 3****I Want It That Way: Construction Issues, Tenant Allowances and Opening Requirements**

This session will examine different perspectives on pre-delivery issues leading up to possession, such as permitting contingencies, penalties for late delivery and self-help rights. We will identify concerns with respect to tenant allowances from both sides of the table, with consideration for the negotiating power of smaller and larger tenants. Finally, we will provide an overview of various conditions to rent commencement.

PANELISTS

Melissa S. Rivers

Goulston & Storrs, PC
Boston, MA

Lisa A. Schwartz

The TJX Companies
Framingham, MA

Alexander Tselos

Target Corporation
Minneapolis, MN

SEMINARS 9:30 – 10:45 am**Seminar 9** **ETHICS****Assess Your Negotiation Style: The Ethics of Puffing, Bluffing and Outright Misrepresentations in Agreement Negotiations**

As in-house and outside counsel, we are asked to advocate our clients' negotiating positions in the strongest possible manner to achieve their deal objectives. When do puffing or bluffing tactics cross the line and when must you confirm the accuracy of representations? In addition to these issues, we will explore the ethics of agreement negotiations and drafting when zealous advocacy might cross the line into arguably unethical conduct.

PANELISTS

Donald Rea

Saul Ewing Arnstein & Lehr
Baltimore, MD

Patricia Voth Blankenship

Fouston Siefken LLP
Wichita, KS

Seminar 10**Clicks to Bricks: Digital Natives Test Traditional Retail Waters**

The retail industry has experienced a well-documented expansion of retailers into the online world as well as a shifting of sales from brick-and-mortar locations to the Internet. That shift is also occurring in the other direction, as a number of companies that started as an online presence only with Internet sales begin to open physical brick-and-mortar stores. This seminar will explore the dynamics and issues that arise for such digitally native retailers, including issues that are unique to such companies as well as those faced by any tenant in the current world of brick-and-mortar development.

PANELISTS

Jim Lovell

Opus Law Group
Seattle, WA

Nancy Nardella

Morrison Cohen LLP
New York, NY

Seminar 11**The Active Ingredients in Grocery Store Leases**

This seminar will focus on the active ingredients in grocery store leases: key clauses (hereinafter, "LotsaClauses®") that will launch stimulating discussion and provide attorneys and real estate stakeholders with useful tools for approaching (and sometimes even resolving) daunting issues in supermarket lease negotiations. LotsaClauses® is ICSC-approved to treat both Pernicious Anchreatitis and Noxious Developatosis, diseases in which the ambitions of, respectively, a supermarket anchor tenant and a developer become inflamed. In the event of an unsigned deal that persists longer than two years or a painful individual negotiation session that persists longer than eight hours, the attorney should seek immediate in-house counsel assistance and avoid telling the brokers about the delays.

PANELISTS

Eric M. Astrin

WeWork Companies, Inc.
Atlanta, GA

David J. Larsson

Larsson & Scheuritzel
Philadelphia, PA

WORKSHOPS 9:30 – 10:45 am**Workshop 13****Adventures in Joint [Ad]Ventures: Avoiding Unforeseen Adventures in Your Joint Ventures**

This workshop will be an interactive program that focuses on a variety of aspects and issues in negotiating joint venture agreements. It will be an exciting adventure as we expect a lively discussion on management/control issues, exit strategies and economics, as well as the interplay among the various provisions. Through our joint venture adventures, we will touch upon issues arising out of the impact of the foregoing on the rights and responsibilities of the parties and on the operation of the joint venture.

PANELISTS

Steven Z. Nachman
RD Management LLC
New York, NY

Lee Samuelson
Holland & Knight LLP
New York, NY

Workshop 14 **ADV****Sleepless ... What Keeps Title Agents and Underwriters Up at Night in 2019?**

This advanced title session will include a discussion of important current topics in title, including wire fraud/cyber security; cannabis-related transactions and green energy. We will also cover mechanics liens, title diligence when the corn field becomes a mall; public rights of way; and insuring public/private partnership deals. Workshop participants will discuss hypothetical fact patterns involving owners, lenders and tenants. We will present what title insurance products are available, which are desirable and/or necessary and what is required to obtain them.

PANELISTS

S.H. Spencer Compton
First American Title Company
New York, NY

Christopher J. Montalbano
Montalbano, Belliveau & St. Sauveur, LLP
Pilgrim Title Insurance Company
East Providence, RI

Workshop 15**Where the Wild Things Are: Co-Working Tenants, Medical Services and Other Evolving Uses**

This workshop will explore the growing list of shopping center tenants that are not primarily focused on selling goods and that cater to customers who are focused on services and experiences. This includes leasing to providers of co-working space, medical services and other hybrid forms of the retail

experience. Different business models and needs come into focus for these tenants – including exclusives, access and parking protocols, assignment and subleasing issues – ensuring the use conforms to zoning, CC&Rs and REAs and other operational and risk management considerations.

PANELISTS

Rory J. Campbell
Hanson Bridgett
San Francisco, CA

Kathryn Hauch
WeWork Companies, Inc.
New York, NY

Workshop 16**Just Sign 4 Copies and Send Back: Dealing with the Other Side's Lease Form**

You always want to negotiate from your own lease form, but sometimes that isn't an option, even if you are the landlord. We will devise strategies for dealing with the other party's form, even when your client has minimal leverage. We will examine this issue from both the landlord and the tenant's perspective and offer practical tips and techniques for making sure you end up with all the points you need.

PANELISTS

Betsy Allen
Honigman LLP
Detroit, MI

Andrew Herz
Patterson Belknap Webb & Tyler, LLP
New York, NY

**PEER TO PEER** 9:30 – 10:45 am**Peer to Peer 5** **ADV****Not Your Parent's Mall: The Co-Tenancy Conundrum**

Malls are not the same as they were when our parents took us shopping. They're not even the same as they were five years ago. What is considered a mall anchor has completely changed and those who are drafting co-tenancy provisions the way they always have are doing their clients a disservice. This peer-to-peer workshop will encourage participants to brainstorm solutions that address various scenarios that are taken from real-world examples of changing malls; addressing them from both the landlord and the tenant perspective.

PANELISTS

Hank Rouda
Giorgio Armani Corporation
New York, NY

Kathy Sherwood
Macerich
Dallas, TX

Peer to Peer 6 **ADV****Square Peg in Round Hole: Restaurant and Entertainment Leases in New and Existing Mixed-Use Developments**

A lease is a lease is a lease. Or is it? Restaurant and entertainment leases present unique issues for landlords and tenants, particularly in mixed-use developments. Attend this program to discuss how to fit a restaurant or entertainment location into an existing mixed-use development and how to plan around restaurants and entertainment uses in new mixed-use developments. We will consider how to handle construction, signage, CAM, trash, parking ratios, curbside service, exclusives, noise, vibrations and other operational challenges that naturally occur with a mixture of uses.

PANELISTS

Deborah A. Colson
Federal Realty Investment Trust
Rockville, MD

Ruth Schoenmeyer
White & Case LLP
Chicago, IL

GENERAL SESSION 11:00 am – 12:15 pm**General Session 4****Recovering the Whole Enchilada: Matching Expectations and Contract Provisions with Property Insurance Policies**

Businesses rely heavily on property insurance to rebuild their premises, recover their business income losses and get back into business quickly upon a casualty loss. In addition, both the landlords that lease to these businesses using net leases and their lenders expect the tenant's property coverage to pay the replacement cost of the property and the rental loss. All of these expectations can be satisfied, but only if the right coverage is maintained – and for the landlord, if the right coverage is required in the lease. This panel will explain the coverages that are needed for a business to get back into business and the language that should be used in a lease or other contract to accurately require this coverage.

PANELISTS

Abe Freeland
Willis Towers Watson
Nashville, TN

Janet M. Johnson
Schiff Hardin LLP
Chicago, IL

Marie A. Moore
Sher Garner Cahill Richter Klein & Hilbert, LLC
New Orleans, LA

SEMINARS 11:00 am – 12:15 pm**Seminar 12****ADA Title III Strategies and Updates: All Landlords and Tenants Need to Know**

As the volume of ADA Title III litigation increases dramatically, so do the costs borne by landlords and tenants. This interactive seminar will address recent ADA Title III litigation trends, proactive measures to mitigate against claims and strategies for resolving disputes before and after litigation is initiated. The session will also include a discussion on the application of ADA Title III to include websites and mobile apps and why both landlords and tenants need to address this issue now.

PANELISTS

Alisa Carr
Leech Tishman Fuscaldo & Lampl, LLC
Pittsburgh, PA

Minh Vu
Seyfarth Shaw
Washington, DC

Seminar 13**The Nuts and Bolts of a Retail Bankruptcy: What Landlords Need to Know to Protect Their Rights and Avoid Pitfalls**

The presenters will take participants on a journey through a typical retail bankruptcy case from the perspective of a retailer's landlord, identifying the immediate questions and concerns that landlords often have when a retail tenant files and emphasizing how landlords can protect their rights and minimize losses every step of the way. Among other issues that typically arise in Chapter 11, the presenters will focus on actions landlords should and should not take upon a retail tenant's bankruptcy filing, the claims that are available to landlords, how to preserve and pursue them and how to address a retailer's proposed sale of assets and/or assumption and assignment of leases. The presentation is intended to be an interactive experience among the presenters that will ask, and respond to, all the burning questions participants either have been too confused or too intimidated to ask about the dreaded "B" word.

PANELISTS

Brian Audette
Perkins Coie LLP
Chicago, IL

Vanessa P. Moody
Goulston & Storrs PC
Boston, MA

Seminar 14**The Shopping Center Chop Shop: Where the Parts are Greater than the Sum**

This seminar will explore some of the common pitfalls in splitting existing centers and steps that can be taken to maximize the marketability of newly created parcels. Particular focus will be paid to obstacles in existing leases and approaches for obtaining needed tenant approval rights. Other topics will include resolving third-party rights under existing title encumbrances and ensuring new parcels will not create violations of existing zoning or local land-use classifications. Lastly, speakers will discuss operational concerns such as CAM charges, access and other property management concerns that can arise after the subdivision process.

PANELISTS

Marc Angelone
Hinckley Allen
Boston, MA

Walt Burton

Thompson Burton
Franklin, TN

Lee Kolber

RCG Ventures LLC
Atlanta, GA

WORKSHOPS 11:00 am – 12:15 pm**Workshop 17****Guaranteed to Be a Great Discussion: The Ins and Outs of Non-Recourse Mortgage Loan Guaranties**

This workshop will focus on the role, structure and scope of non-recourse loan guaranties for commercial mortgage loans, including discussions about “above the line” and “below the line” carve outs and lenders’ expansion of these guaranties to cover deal-specific matters. The facilitators will focus on the protections that lenders often seek as well as the limitations that guarantors desire in these guaranties. The discussion will be in the context of what is market at this stage of the real estate cycle.

PANELISTS

Arren S. Goldman
Seyfarth Shaw LLP
New York, NY

Erin Hewitt

Burr & Forman LLP
Atlanta, GA

Workshop 18**What You Can’t See Can Hurt You – Lessons from Litigating Invisible Provisions and Implied Covenants**

In this interactive workshop we will provide a real-world perspective on litigation involving implied covenants. Litigators are often not litigating the deal terms you spent weeks and months negotiating. Instead, litigation often turns on invisible provisions, implied covenants and boilerplate terms. We will explore real-world hypothetical situations involving implied covenants and how these terms can lead to litigation (and how you might avoid litigation).

PANELISTS

Michelle McGeogh
Ballard Spahr LLP
Baltimore, MD

Martin H. Orlick

Jeffer Mangels Butler & Mitchell, LLP
San Francisco, CA

Workshop 19**Tenant Financing: Will Your Landlord Cooperate?**

The workshop will provide an overview of the issues associated with tenant leasehold financing and how to make the “BIG” ask of the landlord to waive its lien rights. We will focus on the role of the tenant’s counsel in negotiating both Landlord Waivers and Tenant Collateral Subordination Agreements and we will explore the implications to the landlord of its agreements with the tenant and the tenant’s lender. The discussion will include examples of practical negotiating strategies to successfully resolve the conflicting interests of tenant, lender and landlord related to tenant financing.

PANELISTS

Nicholle Allen-Steele
Parker Poe
Raleigh, NC

Gregory R. Beekman

Lewis Rice LLC
St. Louis, MO

Workshop 20

Oh, Hush! The Nether Regions of Non-Disclosure and Confidentiality Agreements

Non-disclosure and confidentiality agreements are a standard part of nearly every real estate deal. This workshop will take an in-depth look at these agreements, including an examination of the practical risks and limitations inherent in keeping secrets. Participants will learn to think through key issues such as timing, scope, remedies and drafting challenges.

PANELISTS

Steve Katz

Barnes & Thornburgh LLP
Minneapolis, MN

J. Cliff McKinney

Quattlebaum, Grooms & Tull
Little Rock, AR

PEER TO PEER 11:00 am – 12:15 pm

Peer to Peer 7 ADV

Scuba Gear Required: Diving into Advanced Issues in Purchase and Sale Agreements

This peer-to-peer session will explore advanced issues encountered when negotiating Purchase and Sale Agreements for operating shopping centers, such as post-closing rental and construction guaranties, purchase price holdbacks, leasing and operating covenants and limitations during the pendency of the agreement. Hypothetical fact patterns exploring these issues will be presented and discussed in small groups and then with all of the participants.

PANELISTS

Gary Glick

Cox Castle & Nicholson LLP
Los Angeles, CA

Francesca Weindling

Nuveen, a TIAA Company
New York, NY

Peer to Peer 8 ADV

Getting the Deal Signed, Sealed and Delivered... Delivery Conditions and Late Delivery Penalties and Complications

In many leases, a free rent/construction period will not start until the landlord has delivered possession of the premises to tenant. In other leases, the tenant has a build-out period of X days after delivery. However, many leases require more than just the handing of keys to the tenant. In this peer-to-peer session, we will have an advanced discussion of delivery conditions and the variety of requirements, incentives and penalties that could be connected to such delivery conditions.

PANELISTS

Ellen B. Friedler

Strategic Leasing Law Group
Chicago, IL

Howland R. Gordon

Milber Makris Plousadis & Seiden, LLP
White Plains, NY

Lunch

12:15 – 1:00 pm

Keynote Address ETHICS DIVERSITY

1:00 – 2:30 pm



Dr. Mahzarin R. Banaji

Richard Clarke Cabot Professor of
Social Ethics, Harvard University

Co-Author, *Blindspot: Hidden Biases of Good People*

This keynote address will surely impact and hopefully improve the way you do business. **Dr. Mahzarin R. Banaji**, Harvard University professor and co-author of *Blindspot: Hidden Biases of Good People*, will share research showing how intelligent people unknowingly perpetuate biases in their everyday interactions. She will highlight how our “blindspots” can affect business decisions, from promotions to client interest. And, once aware of our biases, we can be mindful in our interactions with colleagues and business associates.

Diversity Reception DIVERSITY

4:00 – 5:00 pm

Join the ICSC Partners in Diversity & Inclusion for cocktails as we celebrate all dimensions of diversity and connect with companies committed to greater inclusion across the retail real estate industry.

ICSC PAC Networking Reception*

6:00 – 7:00 pm

Roy's Restaurant

Mingle over Mai Tais with ICSC PAC and hear directly from the Global Public Policy team. Learn about ICSC's plans for the 116th Congress and discuss the issues that are having the greatest impact on retail real estate.

*Contribution required to attend. Please contact Susan Askew (saskew@icsc.org) to RSVP or for additional information.

Chocolate, Cocktails and Conversation

9:00 – 11:00 pm

Stop by after dinner and join fellow conference attendees for a nightcap and decadent desserts from our “sweet dreams” table.

FRIDAY, OCTOBER 25**Registration and CLE Information Desk Open**

7:00 am – 2:00 pm

Continental Breakfast

7:00 – 7:30 am

ICSC Update

7:30 – 7:45 am

Roundtable Discussions

7:45 – 8:45 am

GENERAL SESSION 9:00 – 10:15 am**General Session 5** **ETHICS****What, Me Worry? Ethics in Negotiations and Lease Disputes**

Real estate negotiations have become increasingly complicated by multijurisdictional ethical issues, the states' patchwork adoption of the Model Rules and conflicts. These complexities are magnified when disputes arise and mediation, arbitration and lawsuits are pursued. Join this panel of experienced real estate transactional and litigation practitioners who will discuss innovative approaches and strategies to allow you to stop the worrying and focus on practical, effective and efficient solutions, including through the use of artificial intelligence and other emerging technology.

PANELISTS

Desmond D. Connall, Jr.Ballard Spahr LLP
Baltimore, MD**Michael A. Geibelson**Robins Kaplan LLP
Los Angeles, CA**Pamela L. Westhoff**Sheppard, Mullin, Richter & Hampton LLP
Los Angeles, CA**SEMINARS 9:00 – 10:15 am****Seminar 15****Co-Tenancy 101: Everything You Wanted to Know About Co-Tenancy but Were Afraid to Ask!**

In this seminar we will explore the complexities of the co-tenancy provision and focus on issues faced by both landlord and tenant when negotiating co-tenancy provisions in a multi-tenant shopping center lease. Issues addressed will include different types of co-tenancy provisions (opening

and operating co-tenancies), co-tenancy criteria, department store replacement language, sales tests, remedies, termination rights and other relevant co-tenancy provisions. Specific attention will be given to sample lease provisions and providing tips for drafting co-tenancy clauses – addressing these and other relevant issues from both the landlord and tenant's perspectives.

PANELISTS

Matthew IrwinThe Gap, Inc.
San Francisco, CA**Stacy Moskowitz**Unibail – Rodamco – Westfield
Los Angeles, CA**Seminar 16****Setting the Table with Boilerplate: Negotiating "Standard" Provisions and Preventing the Hostess from Getting Away with the Mostest**

We've all made it to the end of a long lease when we are tempted to gloss over the miscellaneous section and its "boilerplate" provisions. Many see these as standard provisions not requiring much (if any) negotiation. However, these provisions are often much more important than most attorneys realize and can lead to very real consequences during the life of a lease if not addressed properly. We will explore multiple categories of so called "boilerplate" provisions (including how some courts have interpreted them) and provide tips for drafting and negotiating these provisions in a manner that is most beneficial for each party to the lease.

PANELISTS

Paul MagyClark Hill PLC
Birmingham, MI**Roy Ruda**Kitchens Kelley Gaynes, P.C.
Atlanta, GA**Jennifer Schultz**Ravid Law Group
Los Angeles, CA**WORKSHOPS 9:00 – 10:15 am****Workshop 21****You're Grounded – Modifying Bad Behaviors (Practices) When Drafting and Negotiating Functional and Financeable Ground Leases**

Whether drafting a basic or complicated ground lease, lawyers must pay attention to hot button issues and prevailing best practices to avoid unhappy surprises both in the interaction of the fee and leasehold estates and in financing the leasehold interest. With help from our

participants, we will investigate current market trends related to ground leasing and how to “look around corners” and anticipate issues before they leave the parties “stalled and grounded.”

PANELISTS

Kathleen Dempsey Boyle
Meltzer, Purtil & Stelle, LLC
Chicago, IL

Joe M. Doren
Frost Brown Todd, LLC
Louisville, KY

Workshop 22

Drafting for Density: Lessons Learned from Construction Missteps, Bad Smells, Loud Music and Other Operational Headaches in Mixed-Use Communities

This workshop will examine common provisions that present challenges in the current mixed-use market place with a focus on construction and operational issues (i.e., timing of store and apartment opening, sound and odor mitigation, parking, venting shafts and manner of construction). The speakers will present a “top ten” list of frequently encountered problems, followed by a discussion of solutions for each. This workshop will include a discussion of how to manage older documents that may unreasonably restrict redevelopment.

PANELISTS

Josh Bernstein
Norton Rose Fulbright US LLP
Austin, TX

Louis K. Raymond
Irvine Company Retail Properties
Irvine, CA

GENERAL SESSION 10:30 – 11:45 am

General Session 6

Will Your Lease Get You Sued? Hear from the Litigators

Three litigators with experience representing landlords and tenants will discuss the provisions in leases that often generate litigation and their perspectives on what steps transactional lawyers can take to avoid finding themselves in the courtroom. The panelists will review several cases that exemplify the lease provisions and issues that frequently generate litigation, how those cases were resolved and what is important, if not determinative, when lease disputes end up in a courtroom. This session will also review how many of the provisions in leases have evolved in response to prior litigated cases.

PANELISTS

Gregory D. Call
Crowell & Moring
San Francisco, CA

Martin M. Fantozzi
Goulston & Storrs, PC
Boston, MA

Michelle D. Gambino
Greenberg Traurig, LLP
McLean, VA

SEMINARS 10:30 – 11:45 am

Seminar 17

"Nacho" Average Anchor – Food Halls and Entertainment Uses in the Modern Shopping Center

This seminar will explore the evolved (and evolving) blend of unconventional uses in today’s shopping center and will detail the many different ways for an owner or operator to structure them. The discussion will first focus on the appeal and necessity of service-oriented uses, as well as some of the obstacles to getting there. In addition to barriers to entry found in other tenants’ leases (and other contracts), the cost structures for these uses tends to be higher (with the operators often having less available capital), so we will explore creative structures to consider in order to advance these choices.

PANELISTS

Sean Dennison
CenterCal Properties, LLC
El Segundo, CA

John Gessner
Fox Rothschild LLP
Dallas, TX

Justin Wheeler
Cinemark USA
Plano, TX

Seminar 18

Whose Risk is It Anyway? How to be Sure that Insurance, Indemnity, Waiver and Casualty Lease Provisions Allocate Risk as Planned

This seminar will explore the intersection of the insurance, casualty, indemnity and waiver provisions of a commercial lease. It will bridge the gap between a risk manager’s and attorney’s points of view on the key lease provisions that allocate risks between landlords and tenants.

PANELISTS

Mary Ranum

Fredrikson & Byron, P.A.
Minneapolis, MN

Matthew Shatzkamer

Associated Agencies, Inc.
Rolling Meadows, IL

Seminar 19**Managing Expectations (No One Likes Surprises):
Brokerage and Management Agreements 101**

This seminar will review and discuss shopping center brokerage and management agreements from the owner's and property manager's perspectives. Attendees will have a new-found appreciation for the major issues involved in drafting and negotiating brokerage and management agreements for shopping centers, including the calculation and payment of fees, the allocation of risk and responsibility, indemnification and insurance.

PANELISTS

Russell Arouh

Arnall Golden Gregory LLP
Atlanta, GA

Heather Michael

JLL
Atlanta, GA

WORKSHOPS 10:30 – 11:45 am**Workshop 23****Cannabis and Commercial Real Estate:
Business Opportunity and Legal Conundrum**

The business of cannabis is exploding across the United States. Ever-increasing numbers of states are embracing both medical and recreational cannabis use, while the federal government continues to criminalize it. Issues include navigating inconsistent state and federal laws, ethics, malpractice insurance, engagement letters and all-cash business and security concerns.

PANELISTS

Benton B. Bodamer

Dickinson Wright
Columbus, OH

Mark S. Hennigh

Greene Radovsky Maloney
San Francisco, CA

Workshop 24**Through the Looking Glass We Go: Everything You Wanted
to Know About Triple Net Expenses in Retail Leases**

This workshop will examine the handling of common area maintenance expenses, insurance, real estate taxes and other pass-through charges from both a landlord's and tenant's point of view, which are often quite different. CAM caps, management fees, flat CAM charges, audit rights, base year concepts, calculations of pro rata share, typical CAM and other pass-through exclusions will be discussed in detail. The workshop will ultimately seek to answer in an interactive process whether any common ground exists in the handling of pass-through expenses and how practitioners can best help themselves and their respective clients avoid unnecessary, protracted discussions over such lease provisions.

PANELISTS

Karen E. Abrams

Paris Ackerman LLP
Roseland, NJ

Michael Di Geronimo

Miller Starr Regalia
Walnut Creek, CA

Workshop 25**Do the Due or Don't do the Deal: Diligence in an
"As Is" World**

This interactive workshop will cover the due diligence process in multiple contexts, from purchase and sales to financings and leases. Topics will include the preparation and organization of due diligence data rooms; tailoring the scope of due diligence for the transaction and client; and avoiding common pitfalls that create delays and/or increase cost. We will also lead a discussion related to checklists and best practices from different clients' perspectives as well as the application of new technologies to improve efficiency in the due diligence process.

PANELISTS

Emily A. Jung

Norton Rose Fulbright US LLP
Austin, TX

Peter M. Oxman

Seyfarth Shaw LLP
Houston, TX

Workshop 26 **ADV****The All-Important Assignment and Sublease Provision and Its Undeniable Marriage to the Use Clause. Negotiating the Pre-Nup: The Interplay between Use Clauses and Exit Strategies**

This workshop will delve into the interplay between tenant exit strategies, including assignment and sublease provisions and use clauses. We will focus on creative ways to meet landlords' needs to curate (and control) the uses at different types of shopping centers and tenants' needs to structure meaningful exit strategies. We will also discuss and solicit input on the impact of recapture rights and other hot issues of the day in connection with tenant exit strategies.

PANELISTS

Scott L. Grossfeld
Cox Castle & Nicholson
Los Angeles, CA

Ellen Sinreich
The Sinreich Group
New York, NY

 **PEER TO PEER** 10:30 – 11:45 am**Peer to Peer 9** **ADV** **ETHICS** **DIVERSITY****Do I Think That? Unconscious Bias – How to Spot It and Become an Inclusive Leader: Part 2**

Learn more about unconscious bias in real estate deals and at the office. Understand how it impacts our ability to be productive. Identify types of unconscious bias and discuss how to respond in the workplace. Through the exploration of these and other issues, learn how to cultivate a more inclusive and ultimately more successful practice. Plan to attend even if you went to the session offered last year. We will have new scenarios!

PANELISTS

Oscar R. Rivera
Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel
Plantation, FL

Terri K. Simard
Target Corporation
Minneapolis, MN

Jane Snoddy Smith
Norton Rose Fulbright
Austin, TX

GENERAL SESSION 12:00 – 1:15 pm**General Session 7****Deal or No Deal: The Most Hotly Contested Provisions in Purchase and Sale Agreement Negotiations**

Commercial real estate clients want their attorneys to get deals done quickly and efficiently while at the same time reducing as much of their risk as possible. Balancing speed and efficiency with risk mitigation can be a challenge in negotiating purchase and sale agreements. This session will focus on some of the most contentious issues in purchase agreement negotiations and offer possible solutions while achieving an appropriate risk allocation between the buyer and seller.

PANELISTS

Charles A. Brake, Jr.
Miller & Martin PLLC
Atlanta, GA

Robyn Minter Smyers
Thompson Hine LLP
Cleveland, OH

J. Adam Rothstein
Honigman LLP
Bloomfield Hills, MI

SEMINARS 12:00 – 1:15 pm**Seminar 20** **ADV****SOFR is the New LIBOR, or Is It? Hot Topics in Commercial Mortgage Market**

This interactive session will highlight current issues in complex mortgage financing transactions. Topics will include the demise of LIBOR, the current state of the CMBS market and the resurgence of CLO transactions. The panelists will provide insight on how to address these issues in the structuring and documentation of mortgage loans.

PANELISTS

Jill Block
Norton Rose Fulbright US LLP
New York, NY

Susan Cornett
Thompson Hine LLP
Dayton, OH

Seminar 21**Off the Beaten Path: How to Navigate through the Bumpy Road of Airport and Entertainment Lease Negotiations**

This seminar will cover everything you need to know about leasing retail space in airports and leasing entertainment space in multiple venues. We will explore how these

negotiations differ from traditional lease negotiations, what to expect when you are dealing with a governmental entity as your landlord and what's important to fight for on behalf of all parties involved. In this session, we will discuss experiences and tips for that unique deal that may be coming your way – be prepared to fly away!

PANELISTS

Lisa Cahn
Gresham Cahn LLC
Gaithersburg, MD

Allen Hubsch
Loeb & Loeb LLP
Los Angeles, CA

Seminar 22**Is a Trampoline Park a Gym? Exclusives, Permitted Uses and Restrictive Covenants in an Experiential World**

This seminar will first present the basics of exclusives, permitted uses and restrictive covenants in retail leases. We will then discuss real-life examples of recent disputes regarding exclusives, permitted uses and restrictive covenants to highlight the impact of the changing retail landscape on these time-worn lease provisions. Finally, we will address drafting strategies for landlords and tenants to anticipate and avoid these disputes. This agenda will take us beyond the theoretical discussions that dominated this topic in the past few years to discussing real-world solutions to issues that have arisen in the wake of experiential retail replacing the anchor-tenant model.

PANELISTS

Leona Hammill
NewQuest Properties
Houston, TX

Julia Kreyskop
Womble Bond Dickinson (US) LLP
Tysons, VA

David J. Marmins
Arnall Golden Gregory LLP
Atlanta, GA

WORKSHOPS 12:00 – 1:15 pm**Workshop 27** **ETHICS****Are You Present? The Ethics of Practicing Here and There**

Many lawyers perform legal services in multiple jurisdictions through a physical or virtual presence in various locations: are some of these lawyers engaging in the unauthorized practice of law? This program will address this challenging question in the context of shopping center leasing and acquisition transactions and related matters, identify the limitations on a lawyer's ability to practice in other states,

explore possible disciplinary and professional liability consequences and present some ideas to help avoid traps in the multijurisdictional practice. These issues implicate Model Rules 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice), 1.1 (Competence) and 8.5 (Disciplinary Authority; Choice of Law).

PANELISTS

Randy J. Curato
ALAS
Chicago, IL

Dave Majchrzak
Klinedinst
San Diego, CA

Workshop 28**Lenders and Landlords and Tenants, Oh My! – Balancing the Competing Interests in Estoppels, SNDAs and Recognition Agreements**

What role does each party play in the negotiation of estoppels, SNDAs and recognition agreements? In this workshop we will discuss the common pitfalls and pressure points for each party. We will also discuss strategies for compromise and overcoming issues in order to make each party (relatively) happy.

PANELISTS

Eric D. Bernheim
Halloran & Sage LLP
Westport, CT

Clint Kakstys
Sills Cummis & Gross P.C.
New York, NY

Workshop 29**Watching What the Watchers Watch: Considerations for Retail Security**

This workshop will address the legal considerations involved in attempting to ensure the physical security of your properties. Today's environment requires a healthy mix of old school, "gumshoe" security, with modern, and in some cases futuristic, electronic techniques. Discussion topics will range from addressing open and concealed carry rights, to planning for and dealing with the aftermath of tragedies, to the legal and privacy implications of deploying emerging technologies.

PANELISTS

Justin O. Kay
Drinker Biddle & Reath LLP
Chicago, IL

Walker Kennedy III
Woodbury Corporation
Salt Lake City, UT

Workshop 30**Maintenance and Repair Obligations under Commercial Leases – Does Anyone Really Know What First-Class Condition Means**

This workshop will focus on analyzing the allocation of responsibility between the landlord and the tenant under commercial leases for maintenance and repair obligations, including distinguishing between structural and non-structural building components and repair, replacement and maintenance obligations. It will also explore the common use of the term “first-class condition” and what it means (or you think it means) and how to avoid legal entanglements through careful lease drafting.

PANELISTS

Frank J. Cerza

Lewis Brisbois Bisgaard & Smith LP
New York, NY

Nick McGrath

Polsinelli
Denver, CO

 **PEER TO PEER** 12:00 – 1:15 pm
Peer to Peer 10 **ADV****Making Lemonade Out of Lemons! Overcoming Restrictive Covenants and Tenant Exclusives When Repurposing a Shopping Center**

The redevelopment of retail and mixed-use properties into modern projects that meet the needs of 21st century retail operators and tenants can be hampered by old exclusives, covenants, easements and restrictions burdening the land that are unfavorable or outdated, that prohibit new and desirable uses, or that just do not make sense given the intended redevelopment. Finding creative and effective workarounds can add tremendous value and can mean the difference between project success and failure. In this advanced session, participants will consider hypotheticals and will strategize together to come up with potential ways to address troublesome exclusives, covenants, easements and restrictions that threaten to impede a proposed redevelopment of a shopping center.

PANELISTS

Steven L. Dube

Saul Ewing Arnstein & Lehr
Washington, DC

Steve Messinger

Messinger Consulting
Toronto, Canada

Conference Adjourns


1:15 pm

SESSION DESCRIPTIONS

I. General Sessions: General Sessions are intended to provide a broad, general perspective of the topic. Sessions are held in large rooms and led by a panel of three or four speakers. There is limited interaction with the audience as a result of the size and scope of the presentation.

II. Seminars: Seminars are intended to be a more in-depth discussion of the topic. They are led by two or three practitioners with substantial prior experience on the topic. Interaction with the audience is encouraged, but the session speakers are expected to control and limit discussion as well as cover all of the subject matter described in the outline of the session.

III. Workshops: Workshops are intended to be interactive and are typically led by two practitioners with a substantial level of experience in the topic area. Interaction between the workshop leaders and the audience is encouraged and expected, with the freedom to stray from the outline and address audience concerns in a more specific and detailed fashion.

IV.  ADV Peer to Peer: Ten workshops have been designed as Peer to Peer Forums and will involve breakouts into small group discussions with reporting back to the entire workshop. All Peer to Peer workshops are considered to be advanced. Advance review of the hypotheticals is highly encouraged as they will form the basis for the discussions at each of these sessions. Attendance at these programs will be strictly limited to the first 40 attendees.

V. Roundtable Discussions: The Roundtables are organized as informal discussions among industry professionals regarding specified topics. The Roundtable leader is not expected to have prepared any written materials. The leader is there to guide the discussion and ask questions of the Roundtable participants for discussion among themselves. Roundtable leaders are chosen for their prior experience with the topic.

VI. **ADV Advanced Level Sessions:** Advanced Level Sessions are recommended for attendees with an intermediate level of knowledge of the topic.

U.S. Law Conference

Program Planning Committee

ICSC sincerely thanks the following individuals of the 2019 U.S. Shopping Center Law Conference Program Planning Committee for their valuable assistance in developing this year's program:

Conference Chair

Nancy M. Davids, Chair, Goulston & Storrs PC, Boston, MA

Conference Co-Chair

Kathleen A. Crocco, Co-Chair, Williams Legal Advisory Group, LLC, Oakland, NJ

General Sessions Subcommittee

Neil B. Oberfeld, Co-Chair, Greenberg Traurig LLP, Denver, CO

Eric D. Rapkin, Co-Chair, Akerman LLP, Fort Lauderdale, FL

*Ronald L. Gern, Pyramid Management Group LLC, Syracuse, NY

*Harold D. Piazza, Jr., Glen Ridge, NJ

*Lawrence D. McLaughlin, Detroit, MI

Seminars Subcommittee

Renee J. Magnant, Co-Chair, AZT Corporation Inc., Dallas, TX

Jonathan L. Neville, Co-Chair, Arnall Golden Gregory LLP, Atlanta, GA

*Ann Peldo Cargile, Bradley Arant Boult Cummings LLP, Nashville, TN

Margaret Jordan, Kane Russell Coleman & Logan, Dallas, TX

Carol Kauffman, L Brands, Inc., Columbus, OH

Rory A. Packer, Unibail-Rodamco-Westfield, LLC, Los Angeles, CA

David J. Rabinowitz, Goulston & Storrs PC, New York, NY

*Jane S. Smith, Norton Rose Fulbright US LLP, Austin, TX

Marc E. Wasser, Goldfarb & Fleece LLP, New York, NY

Workshops Subcommittee

John I. Cadwallader, Co-Chair, Frost Brown Todd LLC, Columbus, OH

Mindy Wolin Sherman, Co-Chair, Perkins Coie LLP, Chicago, IL

*Jo Anne M. Bernhard, Law Office of Jo Anne M. Bernhard, Sacramento, CA

Lester M. Bliwise, Seyfarth Shaw LLP, New York, NY

Adam Hirschfeld, Rudolph Fields LLP, Bethesda, MD

Nina L. Kampler, Kampler Advisory Group, Teaneck, NJ

Robert M. McAndrew, Dublin, CA

J. Theodore Smith, Vorys Sater Seymour & Pease LLP, Columbus, OH

Robert J. Stewart III, Pyramid Management Group, Syracuse, NY

*Raymond G. Truitt, Ballard Spahr LLP, Baltimore, MD

Sara Hansen Wilson, Drinker Biddle & Reath LLP, San Francisco, CA

Peer to Peer Subcommittee

David B. Matthews, Co-Chair, Bartko, Zankel, Bunzel & Miller, San Francisco, CA

Joseph Nuñez, Co-Chair, Vantage Law Group, Minneapolis, MN

*Deborah Stear De Luca, Kin Properties Inc., Boca Raton, FL

Aubrey Waddell, JLL, Atlanta, GA

Roundtables Subcommittee

Nancy S. Rendos, Co-Chair, Macerich, Broomfield, CO

Margaret K. Sitko, Co-Chair, Sitko Bruno, LLC, Pittsburgh, PA

Robert L. Crewdson, DLA Piper LLP, Atlanta, GA

Recent Developments

Consuella S. Taylor, Chair, Baker Botts LLP, Houston, TX

James T. Mayer, Holland & Knight LLP, Chicago, IL

Lila Shapiro-Cyr, Ballard Spahr LLP, Baltimore, MD

Session Materials Subcommittee

Jerry M. Cyncynatus, Chair, Irvine Company Retail Properties, Irvine, CA

Joseph S. Finkelstein, Interstate Outdoor Advertising, L.P., Cherry Hill, NJ

Brian D. Huben, Ballard Spahr LLP, Los Angeles, CA

Jo-Ann M. Marzullo, Regnante Sterio LLP, Boston, MA

*Past Conference Chair

Monitoring and Evaluations

Paul Ledbetter, Chair, Cinemark Holdings, Inc., Plano, TX

Mark E. Florak, Taylor English, Atlanta, GA

*Linda K. Schear, Gregory Greenfield & Associates, Ltd., Atlanta, GA

First-Timers and Next Generation Subcommittee

Maria Manley-Dutton, Chair, DDR Corp., Beachwood, OH

*Oscar R. Rivera, Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel, P.A., Plantation, FL

Michelle Gierke, Target Corporation, Minneapolis, MN

Past Chairs Council

*Robert R. DiVita, Chair, Urban Edge Properties, Paramus, NJ

Nominating Subcommittee

*Alan J. Salle, Chair, Honigman LLP, Bloomfield Hills, MI

Kathleen A. Crocco, Williams Legal Advisory Group, LLC, Oakland, NJ

Nancy M. Davids, Goulston & Storrs PC, Boston, MA

Neil B. Oberfeld, Greenberg Traurig LLP, Denver, CO

Lila Shapiro-Cyr, Ballard Spahr LLP, Baltimore, MD

Emeritus Members

*Victoria S. Berghel, Victoria S. Berghel Law Offices, Chattanooga, TN

Lester M. Bliwise, Seyfarth Shaw LLP, New York, NY

*Thomas P. Bloch, Samuels & Associates, Boston, MA

*Richard J. Burstein, Honigman LLP, Bloomfield Hills, MI

*Stephen K. Cassidy, Powlan Cassidy Law LLP, Walnut Creek, CA

*Jay A. Epstien, DLA Piper LLP, Washington, DC

*Morton P. Fisher, Jr., Ballard Spahr, LLP, Baltimore, MD

Richard S. Friedman, Resch Polster & Berger LLP, Los Angeles, CA

Richard Galen, Kelliher & Salzer, LLC, Severna Park, MD

*Ronald G. Galip, Youngstown, OH

*J. Kevin Garvey, Chicago, IL

*Richard R. Goldberg, Ballard Spahr LLP, Philadelphia, PA

Mark S. Hennigh, Greene Radovsky Maloney Share & Hennigh LLP, San Francisco, CA

*William P. Hise, Bonita Springs, FL

David G. Johansen, Shoreline, WA

*Howard E. Kane, DLA Piper US LLP, Chicago, IL

Neil S. Kessler, Troutman Sanders LLP, Richmond, VA

*Edward R. Krasnove, Griffin, Fletcher & Herndon LLP, Palm Desert, CA

Jack A. Marino, Jr., Chicago Title Insurance Co., New York, NY

James A. Moomaw, The Howard Hughes Corporation, Dallas, TX

*Jeffrey H. Newman, Sills Cummis & Gross P.C., Newark, NJ

*David Pollack, Philadelphia, PA

*Oscar R. Rivera, Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel, P.A., Plantation, FL

*Linda K. Schear, Gregory Greenfield & Associates, Ltd., Atlanta, GA

*Terri K. Simard, Target Corporation, Minneapolis, MN

Gail M. Stern, Rosenberg Martin Greenberg, LLP, Baltimore, MD

*George J. Walsh III, Thompson Hine LLP, New York, NY

*Wade Whilden, Baker Botts LLP, Houston, TX

*C. David Zoba, JLL, Naples, FL