

Real Estate & Construction

The real estate and construction industry is a major component of the global economy. In the United States alone, millions of people are employed in related occupations. Industry leaders in this sprawling and vital sector must be prepared to evolve and adapt when unforeseen circumstances arise. The COVID-19 global pandemic has brought the importance of agility to the forefront.

Cozen O'Connor has a renowned real estate and construction practice that provides clients with the long-range perspective members of the industry demand. Our attorneys regularly counsel clients on acquisitions, development, financing, construction, disposition, and disputes. The firm's dedicated real estate lawyers are often involved in the industry's most sophisticated deals and most complex litigation. They are privy to — and often a driving force behind — critical legal advancements. And when clients face real estate projects in distress, our distressed real estate team works with developers, investors, banks, non-bank lenders, construction companies, landlords, tenants, owners, and operators to address distressed assets head-on.

Our practice has a truly national reach, with attorneys in each of the firm's offices who have notable experience serving the real estate and construction industry. We represent commercial and residential developers, shopping center and office developers, property owners, real estate investment trusts, banks and lenders, investors, national and regional retail companies, real estate brokerage companies, public and privately held companies, property management companies, municipalities, general contractors and subcontractors, architects and engineers, building owners and manufacturers of construction-related products. Our attorneys counsel clients on issues related to office buildings, shopping centers, warehouses, commercial and industrial structures, highways, bridges, dams, docks, piers, refineries, drilling structures, and all residential structures from single-family dwellings to apartment house complexes.

Real estate and construction are exceedingly technical fields, and Cozen O'Connor attorneys are known for the depth of their technical knowledge. Whether discussing the specifics of compressive strength, load specifications, liquidation calculations, or insurance rates, our attorneys are fluent in industry-specific terminology, operations and formulas. Having lawyers with this degree of substantive background saves time, improves communication, and results in more sophisticated advocacy on behalf of our clients.

SERVICE AREAS

Litigation

- Defend clients in commercial disputes involving real estate transactions
- Represent construction clients in cases of catastrophic personal injury or death, design errors and omissions, defects, surety and performance bond default matters, "sick building" syndrome, and delay/cost overrun damages
- Respond to OSHA and ADA civil rights violation claims
- Lead industry-wide construction products litigation and arbitrations

Transactions

- Lead real estate acquisitions, dispositions, development, and leasing deals
- Analyze and prepare construction-related contracts
- Arrange complex financings via senior debt, mezzanine debt, or structured finance
- Perform loan restructuring, workouts, and foreclosures
- Handle environmental impact assessments and risk allocation
- Advise clients on partnering, leasing, and zoning transactions



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Corporate and Regulatory

- Provide guidance on insurance, indemnification, mechanic's liens, and surety
- Counsel clients on OSHA and ADA compliance
- Assist clients with environmental regulations, land use, zoning, and condemnation laws
- Advise construction and real estate professionals on industry best practices and standards

RELATED PRACTICES

- Real Estate
- Environmental Law
- Commercial Litigation
- Corporate Law
- Labor & Employment
- Tax
- Insurance Coverage Claims/Litigation
- Subrogation

Experience

Currently represent manufacturer-subcontractor in contract dispute concerning the construction of a nuclear reactor in South Korea.

Litigated hundreds of Labor Law §200, 241(6) and 240(1) cases.

Exclusive counsel for some of the largest residential projects in NYC.

Represented a large contractor with regard to a multimillion dollar mechanic's lien related to the landmark property located at One Madison Park in New York City.

Represented a large general contractor in a multimillion dollar construction defect claim with regard to the landmark West Perry properties on the west side of Manhattan designed by world famous architect Richard Meier.

Successfully defended privately owned real estate company in restrictive covenant case involving allegations of breach of non-solicitation agreements by competitor's former branch managers.

Closed the \$253 million sale of a Manhattan office building. The 389,000 sq. ft. building, known as the HarperCollins Building, 10 East 53rd Street, was sold by an Italian pension fund to SL Green, the REIT that is the largest owner of New York office buildings.

Represented Triangle Equities in connection with the leasing, development, and ultimate acquisition of a site in the vicinity of the Staten Island Ferry Terminal in three phases through the use of a Master Lease (serving as the land disposition agreement), and ultimately three Severance Development Leases (serving as the development vehicles). Responsible for the negotiation and closing of the master lease, the development leases, a parking and maintenance declaration, a public area maintenance, and operating agreement and related documentation, as well as the overall coordination of the project.

Related Practice Areas

- Brownfields Redevelopment
- Construction Law
- Distressed Real Estate
- Eminent Domain
- Employee Benefits & Executive Compensation
- Employment Litigation
- Immigration Policy & Strategy
- Labor & Employment
- Labor Relations & Disputes
- Manufactured Housing
- Real Estate
- Real Estate Finance
- Real Estate Litigation
- Tax
- Trade Secrets, Restrictive Covenants, and Computer Abuse
- Zoning, Land Use & Development

Represented the energy provider in connection with the decommissioning and removal of the existing Montclair University campus energy plant and the construction of a new state of the art cogeneration plant providing heating, air conditioning and electricity to much of the large campus of the university spanning three counties in New Jersey. Handled the basic energy sales agreement, the ground lease for the new on campus plant site, the easements throughout the campus for the distribution systems (including over portions of the campus owned by New Jersey Educations Finance Agency and by Public Service Electricity and Gas) and the financing of the project through a public bond issue.

Handled the acquisition of 84 unsold an unoccupied residential condominium units at the new development known as Williamsburg Terrace in Brooklyn. Represented the company in connection with the acquisition of real estate, the financing and the joint venture work with the operating partner/managing agent for the project. Coordinated the work of special counsel representing the client in connection with the condominium offering plan for the development and the Section 421 - a real estate tax abatement for the unites.

Represented a private equity fund in its acquisition, in joint venture with affiliates of Carey Watermark and Marcus Hotels and Resorts, of the 372-room Atlanta Westin Perimeter Hotel. In less than 30 days, the team and co-counsel negotiated and concluded the acquisition, joint venture, hotel management, and franchise and loan documentation. Total acquisition and committed property improvement costs were \$57 million.

Handled all aspects of the acquisitions of portfolios of office and industrial properties in Minnesota and Arizona, some by purchase of defaulted loans.

Represented a real estate investment management firm in its investment in and financing of the majority interest in a \$2.5 billion joint venture formed to develop or redevelop a portfolio of 93 assets on 42 development sites located throughout the greater Washington, D.C., metro area as office, retail, hotel and multifamily residential.

Represented SL Green Realty Corp., a publicly traded REIT and the largest commercial landlord in New York City, in the acquisition of a 9,650 sq. ft. retail cooperative apartment at 747 Madison Avenue in Manhattan for a purchase price of \$66 million.

Represented a large Philadelphia-based developer in the restructuring of a joint venture agreement for an existing multifamily apartment project located in Baltimore, which included the contribution of \$9 million of additional equity by a new preferred equity investor.

Handled the acquisition by merger of a publicly-traded REIT for \$900 million by another publicly-traded REIT.

Represented a real estate investment trust in connection with the acquisition of whole loans, participations, A/B notes, and mezzanine interests and has experience in negotiating both intercreditor and participation agreements.

Represented a newly formed real estate limited partnership in a \$100 million syndication of limited partnership interests.

Represented Xin Zhang (Soho China), in the China/U.S. purchase of New York home for Chinese Developer.

Represented Mark Knopfler, in the lease of investment property at 36 Bank Street in New York City for a U.K. Investor.

Represented IRSA International, Inc. in the Argentina/US Domino Sugar Development Site; however,

the transaction did not close.

Represented Government of the Republic of Senegal, in the acquisition of the site for the Senegal Mission to UN and Consulate.

Represented New Millennium Estates Ltd., in the sale of 10 East 53rd Street in New York City for Italian Pension Fund.

Handled the sale of equity interests in entity that owned Wellington Apartment Complex located in Arlington, Va.

Represented an institutional investor in the restructuring of significant portions of a multibillion dollar real estate portfolio.

Negotiated and documented a workout in which the borrower provided additional collateral consisting of a 50 percent interest in a shopping mall and then acquiring such interest in a subsequent workout.

Represented a borrower in structuring a deed in lieu transaction (in the context of a confirmed bankruptcy plan) to facilitate a §1031 deferred exchange.

Handled a foreclosure on an iconic urban office building and negotiating and documenting an assignment of sheriff's sale bid.

Defended a foreclosure and negotiated and structured a workout related to a 400 unit residential phased development.

Handled the foreclosure of a major, urban, residential, high-rise condominium project in which out-sales had already taken place, assisting the lender in matters related to the condominium association and in preparing a new public offering statement for outsales.

Handled a general large scale development plan amendment to facilitate the acquisition of vacant land and development rights from the New York City Housing Authority for the development of three phases of affordable housing.

Obtained special permits and Waterfront Certification to permit construction of a mixed-building complex including 140 units of affordable housing and a new public park.

Handled the authorization of the conversion of a former manufacturing building in a historic district by the Landmarks Preservation Commission and City Planning Commission into 91 units of housing.

Handled an application before the Board of Standards & Appeals to permit the construction of a 220 sq. ft. residential building over extensive community opposition and controversy over the underlying zoning calculations for the design.

Assisted in a general, large scale development plan involving rezoning, special permits, and siting of a public school in connection with plans to construct a mixed-residential, commercial, and community facility building and public parking garage.

Assisted an internationally known, European mono-brand retailer in its U.S. leasing program in both the highest end retail centers for current merchandise and off-price centers for after-season merchandise liquidation. Centers include the Forum Shops in Las Vegas, Royal Hawaiian Shopping Center, Tyson's Galleria in Virginia and Woodbury Common in New York.

Assisted a national health and fitness center operator in negotiating leases for space in many shopping centers nationwide as part of a national expansion program. The premises leased included

in-line space, anchor stores and stand alone buildings on outparcels. Our services typically also included the review of title and other due diligence materials, as well as the review and negotiation of complicated declarations of reciprocal easements, covenants and restrictions. With regard to New York City locations, our land-use attorneys represented the client in obtaining the necessary special permits or zoning variances.

Assisted a Pennsylvania-based developer in the development and leasing in Pennsylvania and New Jersey of multiple big box shopping centers anchored by national retailers such as Wal-Mart, Lowe's and Home Depot. Representation included the acquisition and financing of the centers, the negotiation of anchor and in-line leases, and the negotiation of agreements vesting easements, covenants and restrictions.

Assisted national, publicly traded REIT in development and leasing of retail center appurtenant to 1.3 million sq. ft. office complex. Handled all aspects of the transaction, including condominiumization of the retail and public components of the development, negotiating and documenting complex easement, and cost sharing agreements among the various parties to the development and negotiating leases with all retail tenants.

Assisted a Florida-based developer in the development of retail outparcel in a large regional big box retail shopping center. Negotiated the amendment of a master declaration affecting the property to permit the use and variances necessary to construct and reconfigure signage, access, utilities and other easements necessary to develop the site. Assisted in all matters of title, acquisition, construction and permanent financing, and the entitlement process.

Assisted a Virginia-based developer in the development of a grocery anchored shopping center in Virginia. Negotiated grocery store lease as well as leases for in-line tenants and outparcels for national restaurant and drug store chain, together with office and residential users. Handled the satisfaction of various title, survey, easement and site plan complexities.

Represented the Special Committee (independent directors) of the Board of Directors of a few REITS when they negotiated related party transactions; e.g., internalizing management by terminating the management contract with the external company controlled by REIT management (interested directors).

Represented seller of property to a REIT in a "UPREIT" transaction –where the seller took back OP Units in the REIT.

Handled an initial public offering for EQK Realty Investors.

Represented Acorn Properties in the sale of office properties to Equity Office Properties Trust.

Represented the Miller family entity in connection settling claims against the Simon REIT and entering into a joint venture with a subsidiary of Simon to own a shopping center.

Represented a client that had a privately held REIT as its equity partner in connection with its relations with that entity, the operation of its business to conform to the REIT requirements in its LP Agreement, and the redemption of that entity.

Represented a client that disposed of a number of office properties in contribution transactions to a REIT based in Memphis, Tenn.

Represented a REIT in connection with certain real estate matters and, in connection with those matters, were involved in the application of the REIT rules to the transactions.

Represented the owners of about ten office/light industrial properties in the contribution of those properties to a partnership in exchange for REIT units.

Represented a client in connection with the acquisition and liquidation of a private REIT that owned a Texas shopping center.

Represented a client in connection with its acquisition a private REIT which owns shopping malls. This was largely a cashless transaction. The REIT is in the process of being liquidated.

Advised a client regarding their closely-held REIT and certain real estate acquisitions that cannot be made through the Fund because of concerns about the tax on the unrelated business taxable income of otherwise tax-exempt entities.

Represented a large trust in connection with the disposition of properties to a variety of UPREITs in exchange for units.

Represented a family and their real estate entity in two transitions in which they disposed of approximately \$700 million of commercial real property to two separate REITs.

Represented a large Connecticut-based developer in the sale of federal historic tax credits and the related construction loan refinancing to convert an abandoned warehouse into a 235 unit, residential apartment building. We also handled the later \$30 million refinancing of the project with Freddie Mac as part of its capital markets execution program for large multifamily loans.

Represented private equity client in connection with a \$15 million loan secured by: (I) multiple real estate parcels, (II) pledge of membership interests, (III) pledge of cash collateral account held by third party and (IV) a personal guaranty. Proceeds of this loan were utilized, together with proceeds of other private/institutional lenders and bond offerings to develop a multi-use project in Cleveland.

Represented the developer of a New York residential condominium development in connection with a work/out restructuring of three loans.

Represented a lender making a loan in connection with a major mixed use development in the Cleveland area.

Represented the buyer of a loan secured by a failed residential condominium development in the Philadelphia area.

Represented a private equity fund in acquiring a distressed loan secured by a major office building in the southeast United States and a contemporaneous deed in lieu transaction.

Represented a private equity fund in acquiring a loan secured by a failed residential high-rise condominium development in the Southeast United States.

Represented a nationally known private equity fund in the overhaul of a distressed portfolio of national real estate assets involving the restructuring of several hundred million dollars of senior debt and recourse guaranties, and extensive modification of the internal equity structure of scores ownership entities.

Represented a joint venture owning a super regional shopping center in one of the largest commercial mortgage-backed securities (CMBS) loans closed in 2010.

Represented HSBC Bank in a construction loan closing. The transaction consisted of an \$80 million multi-lender construction loan for a \$153 million, 320,000 sq. ft. mixed use project in Queens, N.Y.,

which included a senior loan, building loan and project loan. The three-loan structure is a creature of the unique requirements of New York's statutory treatment of mechanic lien priority. The site itself is a complicated combination of a Hyatt Hotel, residential apartments that share certain hotel amenities, first-floor retail space, office space, community facility space and a multi-level garage.

Closed a \$180 million construction loan with a syndicate led by Bank of America for our client, Atlantic Realty Development Co., for the development of a high-rise luxury rental project on Avenue of the Americas (a/k/a Sixth Ave.), two blocks south of Herald Square. At the time, this was one of the few projects in New York City fortunate enough to obtain construction financing, a tribute to the well-established track record and financial commitment of Atlantic Realty, a family-owned developer based in New Jersey embarking on its second ground-up development in Manhattan.

Handled the redevelopment of the former 261-acre Texas Instruments Attleboro, Mass., facility into a mixed-use commercial office park.

Obtained a significant land development approval for a 14-building, seven-phase project in Lower Gwynedd Township, Pa., for our client, Ortho-McNeil, a subsidiary of Johnson & Johnson.

Converted PECO Generating Station, a 90-acre Chester, Pa., site, into adaptive commercial re-use of Delaware River site.

Developed a cleanup agreement with Pennsylvania Department of Environmental Protection and proposed development for Pennsylvania Turnpike Commission Service Plazas - a 21-site project.

Converted Ford Electronics/North Penn No. 7 Site, a 35-acre former industrial site in Lansdale, Pa., into a mixed-use transit-oriented redevelopment.

Redeveloped the former American Standard facility in Hamilton, NJ, into commercial and residential mixed use.

Handled the redevelopment of the former 391-acre Ingersoll-Rand Phillipsburg, NJ, facility into a multi-tenant industrial park.

Remediated and redeveloped the contaminated 10-acre Campbell's Soup riverfront manufacturing site in Camden, NJ, into a state-of-the-art minor league baseball stadium.

Handled the acquisition of the former IBM plant in East Fishkill, NY, which included more than one-million sq. ft. of space with plans to build 600,000 sq. ft. and an investment of \$300 million to \$400 million in the project for our client, Assisted Preferred Real Estate Investments, Inc. (who took title under the entity name of PREI Hopewell Junction Associates, L.P.).

Represented the developer of a 500,000 sq. ft. office/hotel project in suburban Philadelphia in connection with the receipt of all land-use and development approvals.

Represented a client in connection with the acquisition of six multifamily apartment complexes in the southeast and the structuring of a joint venture arrangement between the firm's client and the seller of the properties.

Handled the redevelopment of the former 67-acre Stop & Shop North Haven, Conn., facility.

Handled the redevelopment of the former 500,00 sq. ft. Radio Corporation of America "Nipper Building" in Camden, NJ into 300-unit luxury apartment complex.

Represented Oliver Tyrone Pulver Corp. in Conshohocken, Pa., and West Conshohocken, Pa., in

riverfront development since 1987. The project included Pennsylvania redevelopment and condemnations, about 1.5 million sq. ft. of office space, and two Marriott Hotels.

Handled the Queens West Waterfront Development Project, a joint project of the state, city, and the port authority of New York and New Jersey, which is being developed on a 74-acre waterfront site directly across the East River from the United Nations, at Hunters Point, Queens. It is a mixed-use project to include residential and commercial uses, and comprises 14 development parcels to be leased to private developers, totaling 9.3 million sq. ft., and 19+ acres of parkland.

Led the effort to overcome title issues through grants from the New York State Office of Governmental Services and Westchester County and to negotiate and close pre-development financing and mezzanine debt with a Japanese financial partner for the Davids Island Project (the multifaceted development of an island in the Long Island Sound off the coast of New Rochelle), which is owned by the City of New Rochelle. Participated, through and with the developer's local representative, in seeking a bridge permit from the Coast Guard, seeking to acquire Con Edison's fee title in exchange for an easement (or to take the fee title through eminent domain, in consultation with special condemnation counsel to the project).

Led a team of real estate lawyers who represented the Commonwealth of Pennsylvania in closing the transactions for the development of a new \$140 million Family Court Building at 15th and Arch Streets in Philadelphia. This was a multi-faceted transaction involving many state and local government agencies.

Represented a financial institution/investor in the restructuring of many real estate joint ventures involving dozens of properties nationally and approximately \$500 million of assets.

Represented developer/landlord in the development and leasing of new regional headquarters for GlaxoSmithKline in the Philadelphia Navy Yard Corporate Center.

Represented landlord in the lease of a shopping center development parcel to Wawa Inc.

Represented the debtor, a real estate investment and construction company, in its Chapter 11 case in the United States Bankruptcy Court for the District of New Jersey, confirming a Chapter 11 liquidating plan providing for the completion of pending jobs and orderly liquidation of the remainder of the debtor's assets which substantially increased the value of the debtor's estate for creditors.

Represented the debtor, the owner and operator of an exclusive private country club, in a Chapter 11 proceeding in the United States Bankruptcy Court for the District of New Jersey resulting in a sale of substantially all of the debtor's assets to a buyer that preserved the club's operations.

Represented the Liquidating Trustee of Limited Partnership of a failed Philadelphia commercial real estate development slated to be Waldorf Astoria hotel and condominium complex. Appointment was by Philadelphia Court of Common Pleas.

Represented a major international bank as a lead lender for a syndicate of lenders in connection with a \$103 million construction loan to be advanced in connection with the construction of an 11-story office building of approximately 321,000 sq. ft., located in Washington, D.C.

Represented a major international bank and a syndicate of lenders in a loan of approximately \$318 million for the construction of a resort hotel and spa outside of San Antonio.

Represented a major international bank as a lead lender for a syndicate of lenders in connection with a construction loan of approximately \$168 million to be advanced for the renovation, repositioning and reconstruction of an existing retail center located in Hampton, Va.

Represented a major international bank and a German bank as lead lenders in connection with a syndicated acquisition and development loan in excess of \$400 million.

Represented a major international bank in connection with the increase and modification of a construction loan. The aggregate loan proceeds, in excess of \$80 million, were funded for the renovation of an existing midtown (New York City) south residential building and its conversion to operation as a hotel.

Represented Liberty Property Trust in the development, leasing and debt/equity financing of the \$500 million Comcast Center office tower in Philadelphia.

Represented the developer of the Wells Fargo Center (formerly the Wachovia Center) in Philadelphia, home arena of the Sixers and the Flyers, in a multi-hundred-million project finance of the development of the facility.

Represented a major international bank, as agent for a syndicate of lenders, in connection with the conversion of a construction loan in the approximate principal amount of \$150 million into a loan secured by the unsold shares in a newly-constructed leasehold cooperative apartment building in New York City.

Represented a borrower in a \$230 million commercial mortgage-backed securities loan secured by a regional shopping mall.

Represented a large commercial landlord in large bankruptcy cases including Borders, Claim Jumper Restaurants, Real Mex Restaurants, and Gottschalks. Litigated and resolved issues concerning administrative claims, rejection damages, and general unsecured claims. Providing counseling regarding commercial landlord's rights in tenants' bankruptcy cases.

Represented the Official Committee of Unsecured Creditors in the 1031 Tax Group cases that were commenced in the Southern District of New York, which involved widespread fraud perpetrated by the debtors' principals. The committee worked with the Chapter 11 trustee to confirm a consensual plan of reorganization that in the end will result in a recovery to unsecured creditors in excess of 70 cents on the dollar.
