

## REAL ESTATE

The Tarlow Breed Hart & Rodgers Real Estate group brings comprehensive industry experience to developers, investors, lenders, family-owned businesses, property management companies, banks and trust companies, tenants and landlords, non-profits, educational institutions, and local towns and city governments.

Our real estate clients look to us as a trusted resource to build legal strategies and achieve practical solutions. We understand the full range of issues related to the real estate industry, and apply decades of practical experience to achieve our clients' goals.

We guide development and investor clients through acquisitions and dispositions, leasing, title questions, entity formation and related tax planning, joint venture agreements, capital structures, condominium, ground lease and easement structures, due diligence, affordable housing restrictions, conservation and historic preservation restrictions and regulatory compliance.

In the area of real estate finance, we represent borrowers, lenders, investors and financial institutions with negotiating, documenting and closing construction loans, participation loans, permanent financing, securitized loans, CMBS transactions, refinancing, restructuring and workouts.

Clients often turn to our group for real estate-related environmental, permitting, conservation and tax credit matters. Our attorneys develop strategies and manage the process of obtaining environmental impact clearance, federal, state and local environmental permits, chapter 91 tidelands licensing, oil and hazardous materials cleanups, and response actions under chapter 21E and federal law, resolving environmental enforcement actions, and obtaining permitting, subdivision and zoning approvals. We often consult on Brownfield redevelopment projects, including review, negotiation and drafting of environmental indemnities, environmental risk transfer agreements, environmental insurance, and environmental cost recovery actions as well as the best options for taking advantage of brownfields tax credit programs.

### Representative Experience

#### Commercial Finance

- Negotiated and documented the \$230 million joint venture between Lyme Properties and Scottish Widows, creating the equity investment vehicle for numerous life science developments in Boston and Cambridge.
- Represented a national bank in the negotiation, documentation and closing of a \$2,100,000 SBA 7(A) guaranteed working capital loan for a construction company engaged in alternative energy projects.

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- Represented private lender in documenting short-term bridge financing of \$10,000,000 provided to a developer on an expedited basis for a property in metropolitan Boston.
- Successfully prosecuted a secured lender's claim in an adversary proceeding brought by the Trustee in a Chapter 11 proceeding of a mortgagor/borrower.
- Prepared and negotiated, on behalf of a Chicago Trust Company, loan documents for a \$25 million loan to a prominent Midwestern family, in which the collateral for the loan was real estate located in several states across the country (one being Massachusetts).
- Negotiated, on behalf of Boston real estate investors, the purchase and financing with a national insurer, of a large parking garage in a Northern New England city. The parking garage also contains a substantial amount of office and a small amount of retail space.
- Negotiated a series of Participation Agreements with a Boston community bank for a Rhode Island trust company. Also reviewed and revised the loan documents between the bank and developer in order to facilitate the trust company's participation in several construction loans to a Boston real estate company which is a favored developer in the Boston area for a particular national retailer.
- Reviewed title and underwrote \$80,000,000 lender's title insurance policy in connection with historic tax credit financing for a multi-parcel mill conversion to residential apartments in the Merrimack Valley.

### **Development, Environmental Impact and Permitting**

- Planned, negotiated and drafted the comprehensive, multi-phase, multi-parcel cross easement agreement with a nested condominium and shared parking garage operating agreement for the Center for Life Science Boston. This 1.3 million square foot, high-rise biotech center adjacent to Harvard Medical School is fully leased and was sold at the highest per square foot price ever achieved for a building in Boston.
- Conducted all phases of due diligence and represented a developer in the negotiation and preparation of the purchase and sale agreement in the acquisition of 150 acres in Southern New Hampshire slated for commercial development. Negotiated the purchase, development and financing, with a regional Boston bank, of an environmentally contaminated property in a Boston south shore community. Further negotiations included the contracts regarding the remediation of the building and the leasing of the property as a self-storage facility.
- Advised a major Boston real estate developer on the planning and layout of a property in Southern New Hampshire converted to retail uses and then negotiated a lease with a major electronics retailer as the anchor to the new retail development.
- Conceived and structured the environmental liability transfer arrangements for and negotiated manuscripted, \$10 million environmental liability insurance policies with each of Kemper, Zurich and AIG which permitted the successful redevelopment of Kendall Square, Cambridge MA, a 10-acre former manufactured gas plant adjacent to MIT. Subsequently, this property won the 2006 US EPA Phoenix Award for best Brownfield redevelopment in America.

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- Drafted critical portions of the 2007 Act Restoring the Exemption from Chapter 91 Licensing for Landlocked Tidelands. This took place on the heels of the Supreme Judicial Court invalidating the DEP regulatory exemption of landlocked tidelands from licensing. Subsequently guided the litigation strategy for the case (Moot II) in which the SJC upheld the 2007 Act against a challenge that it violated the public trust doctrine, allowing the North Point project to be sold in 2010.
- Obtained MEPA clearance in one year for Langwood Commons, a mixed-use 300-unit residential and 225,000 square foot office redevelopment, after nearly 10 years of delay.
- Authored and implemented the strategy allowing the redevelopment by Hobbs Brook Management of a property with an ongoing, active 21E site controlled by a third party, resulting in the successful completion in early 2010 of a 300,000 sq. ft. LEED Gold complex on Route 128, which was fully leased by the fall of 2010.

## **Leasing**

- Represented commercial landlord in a lease of 30,000 sq.ft. in two buildings to a major healthcare tenant.
- Negotiated the leases for the redevelopment of a large regional shopping center in New England and later negotiated the financing with a European bank for the center. The anchors for the center are a national home improvement chain and a prominent New England supermarket chain.
- Negotiated a lease with a national drugstore chain, as well as the construction documents, easements and other related matters for the development of a free-standing store in a Boston suburb.
- Negotiated the extension of a ground lease with the City of Boston for a New York based developer, and then subleases with several companies, including a major health care company, regarding their transportation needs on a property adjacent to Boston Harbor.

## **Zoning & Land Use**

- Served as pro bono counsel for a local land trust, structuring and closing numerous transactions (including both outright acquisitions and conservation restrictions with public trail rights) resulting in the permanent open space preservation of over 530 acres of land between 2000 and 2010.
- Produced and implemented the strategy for the successful expedited permitting of Edgewood, the first major 40R smart growth project brought to market in Massachusetts. This 400-unit residential apartment complex is located on a portion of a former state hospital property. The rezoning of the property for by-right redevelopment received a unanimous Town Meeting vote.
- Developed key elements of, and key evidence convincing the Legislature to adopt, the Expedited Permitting Act of 2006, including the Permitting Session of the Land Court and revisions to chapter 40A, the Massachusetts Zoning Act, to prevent appeals from blocking the effectiveness of Special Permits.