

Presenting a live 90-minute webinar with interactive Q&A

Syndicated Real Estate Loans: Structuring Agreements to Balance Differing Rights and Obligations of Lenders and Agents

Navigating Rights of Agents, Information Sharing,
Lender Decisionmaking, Exculpatory Clauses, Defaulting Lenders and More

THURSDAY, SEPTEMBER 11, 2014

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

Gary Goodman, Partner, **Dentons**, New York

Gregory Fennell, Senior Managing Associate, **Dentons**, New York

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Special Problems of Syndicated Loans and Multi- tiered Financings

September 11, 2014

Introduction



Gary A. Goodman

Partner
Real Estate

D +1 212 768 6916

gary.goodman@dentons.com



Gregory Fennell

Senior Managing Associate
Real Estate

D +1 212 768 5382

gregory.fennell@dentons.com

Special Problems of Syndicated Loans

- Driving Forces Behind Loan Syndication
- Participation Structures for Real Estate Loans
- Documenting Syndication Relationships
- Assignment and Assumption Agreement
- Information Rights of Co-Lenders and Notice Provisions
- Liability and Reliance on Agent Lenders
- Decision-Making
- Intercreditor Agreements
- Defaults and Payment Priorities
- Lender Default

Driving Forces Behind Loan Syndication

- Major Benefits
- Syndication Groups

The Rise of the Use of Multi-tiered Financings

- Mezzanine Financings

Participation Structures for Real Estate Loans

- Direct Participation
 - "Club Format"
- Regular Participation
- Indirect Participation
- Co-Lending

Documenting Syndication Relationships

- Primary and Syndication Loan Documents
- Agent Lender Role
- Co-Lender Role
- Multiple Underwriters
- *Beal Savings Bank v. Sommer*, 8 N.Y.3d 318 (2007)

Assignment and Assumption Agreement

- True-sale Language
- Rights and Obligations within Primary Loan Documents

Information Rights of Co-Lenders and Notice

- Notices

Liability and Reliance on Agent Lenders

- Provisions
- Liability of Knowledge
- Loan Administration

Decision-Making

- Agent Lender Seeks Freedom
- Co-Lender Seeks a Degree of Control
 - *Material Amendments*
 - *Changes in the interest rate*
 - *Changes Maturity date*
 - *Increases in the facility amount*
- How it Effects Negotiations
- The Borrower's Role
- Senior Lenders and Subordinate Lenders
- The Lending Group's Role

Tranches (A/B Loan Structures)

- Tranches (A/B Loan Structures)
- Defaults

Intercreditor Agreements

- Need for Intercreditor Agreements

Intercreditor Provisions

- Right to Cure
 - Monetary Cure Periods
 - Non-Monetary Cure Periods
- Right to Purchase
- Rights in Bankruptcy
- Foreclosure Rights

Intercreditor Agreements (cont'd)

- Issues facing second-lien lenders in Intercreditor Agreements

Intercreditor Agreements (cont'd)

- Issues faced by mezzanine lenders

Drafting Notes for Intercreditor Agreements

- Deal specific language

Defaults and Payment Priorities

- Pre-default Waterfall
- Post-default Waterfall
- Priorities
 - *Agent lender administrative and servicing fees*
 - *Reimbursements*
 - *Interest*
 - *Principal*
- Tranches
- Limitations
- *New Bank of New England, N.A. v. Toronto Dominion Bank*

Lender Default

- Breaches
- Mechanism for Default

Acknowledgements

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Q & A



Gary A. Goodman

Partner
Real Estate

D +1 212 768 6916

gary.goodman@dentons.com



Gregory Fennell

Senior Managing Associate
Real Estate

D +1 212 768 5382

gregory.fennell@dentons.com