COURSE DESCRIPTION

High-stakes real estate M&A transactions require consummate deal-making skills and a thorough understanding of the underlying business, legal, tax, financial and strategic frameworks. This Workshop will explore, in particular, the relevant financial advisory and legal skills needed to consummate these transactions, and will also highlight these skills in a combination of relevant class discussions, hands-on exercises and guest lectures.

Volatility and inconsistency between publicly traded REIT and REOC prices and the underlying net asset value of these assets have and will continue to create M&A opportunities in the publicly traded real estate sector, whether through strategic combinations, privatizations, or sophisticated and complex joint ventures. Capital flows into the U.S. real estate sector continue to be robust, which makes for a more interesting M&A dynamic. The last decade saw significant legislative improvement in the tax scheme that governs REITS. This has provided REITs with greater operating and transaction flexibility, and recent legislative changes have improved the ability of foreign persons to invest in publicly traded REITs. It is also anyone's guess what is in store for the real estate industry and REIT market generally under the Trump administration. The waves of transactional activity provide an ideal case study approach for learning the strategy and tactics involved in sophisticated real estate deal making, as well as the underlying legal and business building blocks.

This Workshop will take a multi-disciplinary approach, based on the premise that effective transaction advisors must understand the business and financial goals and implications of the deal and, similarly, that an effective business or finance executive must also have a solid grasp of the financial, structural, legal, and tax underpinnings for the transaction.
Course Themes:

1) Real estate M&A transactions occur in both the public and private equity and debt markets; this duality creates arbitrage opportunities that, in turn, shape M&A activity; it also creates clashes of cultures and deal structures.

2) Real estate M&A transactions are influenced by the cyclical nature of real estate, equity and debt capital markets, and capital flows into the real estate asset class.

3) The legal and structural differences among investment vehicles for owning real estate affect the strategy and structure of M&A transactions.

Readings and Materials

Readings for the course are laid out in two ways: required and recommended. We expect you to have read the required readings prior to class. The materials are available on the Canvas site for the course, which Business and Law students can access: [http://canvas.gsb.columbia.edu](http://canvas.gsb.columbia.edu). If you experience any difficulties with accessing Canvas, please contact ITG: [http://www4.gsb.columbia.edu/itg](http://www4.gsb.columbia.edu/itg).

*There is more reading overall than might be customary in MBA classes. Keep in mind that this is both a business and law course, and reading rather than intense numerical calculations is the norm for class preparation. We will, however, be focusing on the key financial metrics that drive boards of directors to do transactions. Many of our guest lecturers are investment bankers who will bring a deep quantitative approach to the classroom. Class discussion and effective participation in the assigned exercises is based on the assumption that you have thoroughly read these materials and are prepared to answer questions and pose questions in class.*

Course Expectations and Assignments

- Readings in advance of each class;
- Active class participation including in connection with relevant role-playing exercises; and
- Pre-class assignments designed to prepare you for intensive in-class learning; and
- Final assignment: TBD (most likely an analysis of an ongoing or recently completed REIT M&A transaction).

Grading

Grading will be based on the written assignments (4 distinct class assignments = 40%, final paper = 60%). Please note that class participation will count in the final grade in that you may improve your grade if you participate in class discussions and answer questions posed by Messrs. Haggerty or Menna, or by the guest lecturers.
COURSE ROADMAP/SCHEDULE

**Pre-Class: Friday, January 19, 3:45-7pm (location TBA):** Overview of M&A Concepts and REITs (Messrs. Haggerty and Menna)

**Mandatory attendance for the pre-class by law students; highly encouraged to attend in person by business students; and, in all events, MANDATORY to review tape recording of the class by business students who do not attend prior to Class 1.**

Class 1: Friday, January 26, 4:30 – 7:45pm

Overview of Real Estate REIT M&A - (Guest Lecturer: Gregory S. Wright, Managing Director, Co-Head of Americas Real Estate Investment Banking, Bank of America Merrill Lynch) (Mr. Haggerty)

Class 2: Monday, January 29 in Warren 310

Selling a Public REIT – (Guest Lecturer: Jens Thomas Jung, Managing Director, Citigroup Global Banking) (Mr. Menna)

Class 3: Monday, February 5 in Warren 310

Buying a Public REIT - (Messrs. Mr. Haggerty and Menna)

Class 4: Monday, February 12 in Warren 310

Hostile Takeovers of REITs - Hostile Takeover of REITs/Shareholder Activism: (Guest Lecturers: Avinash Mehrotra, Managing Director, Goldman Sachs and Jonathan Litt, Founder and CEO, Land and Buildings) (Mr. Haggerty)

Class 5: Monday, February 19 in Warren 310

“Merger of Equals Transactions”; Interested- Director Transactions: (Guest Lecturer: Thomas A. Grier, Managing Director, Head of Real Estate Investment Banking, J.P. Morgan Securities LLC) (Mr. Menna)

Class 6: Monday, February 26 in Warren 310

Lehman Brothers and the Archston Transaction - (Guest Lecturers: David J. Neithercut, President & CEO, Equity Residential and Steve Hentschel, Founder & CEO, Hentschel & Company, LLC) (Mr. Menna)

Final exam/writing assignment due: Friday, March 16
Class 7: **Review session: either April 16 or 23 from 4:30-7:45pm**

Session to Review Final Paper (Mr. Haggerty)

**Mandatory session for all Law students**
Warren 310
Mondays, 4:30pm to 7:45pm

COURSE INDEX

I. Pre-Class: Friday, January 19, 3:45-7:45pm (location TBA)

A. Pre-Class Reading – Required:
   - Course Syllabus – Real Estate Mergers & Acquisitions Deal Workshop ........................... 1
   - Pre-Class Overview PowerPoint (will discuss in class; please review in advance) ................................................................. 2
   - REIT Valuation: The NAV-based Pricing Model, Green Street Advisors ......................... 3
   - Goodwin Procter REIT Alert (June 8, 2016) on REIT Ownership Limitations 4A
   - NAREIT Alert (December 18, 2015) on the PATH Act......................................................... 4B

B. Pre-Class Reading – Recommended:
   - Chpts. 1 (Intro) & 3 -- §§ 3.01, 3.02, 3.03, 3.04 & 3.05 (Directors’ Duties and Duties of OP Unitholders and other REIT Complications) of REITs: Mergers and Acquisitions, Law Journal Press, by David M. Einhorn, Adam O. Emmerich & Robin Panovka (“REIT M&A Treatise”)......................................................... 5

C. Key Topics:
   - History of the REIT industry, terminology and overview
   - REIT structures, UPREITs and DownREITs
   - REIT valuation methodology and terms
   - Introduction to basic public REIT M&A concepts
     - Delaware vs. Maryland Corporation
     - Why Maryland?
What are Revlon duties under Delaware law, and when do they apply? Do they apply in Maryland?

How do fiduciary duty outs and deal protections work?

How do UPREIT conflicts of interest arise and how are they addressed?

Basic terms of a merger agreement

Basic defenses to hostile takeovers

**Fiduciary Duties and Charter “REIT qualification” Ownership Limitations**

**Basic Terms of Merger Agreement – Price and Closing Terms; Closing Conditions (MACs); Operating Covenants; Representations; Interim Covenants, etc.**

If we run out of time discussing the Pre-Class topics, we will finish our work on this segment during the beginning of Class 1.

**NOTE:** All information necessary for Assignment No. 1 is covered in the Pre-Class and you should review Assignment No. 1 so any clarifying questions can be asked at Class No. 1.

II. Class 1 (Friday, January 26, 2018, 4:30-7:45pm, **location TBD**): Overview of Real Estate REIT M&A

(Guest Lecturer: Gregory S. Wright, Managing Director, Co-Head of Americas Real Estate Investment Banking, Bank of America Merrill Lynch)

(Mr. Haggerty)

A. **Pre-Class Reading – Required:**

Board Book – Initial Presentation from Financial Adviser to Board of Directors on an Acquisition Proposal.......................................................... 6

Goodwin Procter Board Memorandum: Existing Change of Control Protections Available to ABC Properties Trust, Inc.......................... 7

Goodwin Procter Board Memorandum: Responding to Unsolicited Inquiries,
III. **Class 2 (Monday, January 29, 4:30-7:45pm, in Warren 310): Selling a Public REIT**

(Guest Lecturer: Jens Thomas Jung, Managing Director, Citigroup Global Banking)

(Mr. Menna)

A. **Pre-Class Reading – Required:**

Scenario: Selling a Public REIT (Please review this carefully and be prepared to conduct mock negotiations in class) ................................................................. 12

Exchange Ratio and M&A Pricing Mechanics ................................................................. 13

Relevant excerpts from MAA/Post Properties Proxy Statement and MAA Registration Statement and related materials (*skim for familiarity*)

Excerpts from MAA/Post Joint Proxy Statement/Prospectus dated September 30, 2016, sent on October 3, 2016 ................................................................. 14

Excerpts from MAA/Post Joint Proxy Statement/Prospectus – Fairness Opinions dated August 14, 2016 ................................................................. 15

Two-Tier Termination Fees ....................................................................................... 16
Market Reaction to Transaction (Green Street Analysis)................................. 17

B. Post-Class Assignment No. 2 (Assignment 2 of 4):

MAA/Post Transaction Questions and Answers. Due before Class 3,
February 6, 2017.................................................................................................................. 18

IV. Class 3 (Monday, February 5, 2018, 4:30-7:45pm in Warren 310): Buying a Public

REIT

(Messrs. Haggerty and Menna)

A. Pre-Class Reading – Required:

Columbia CaseWorks: VNO and the EOP Blackstone Transaction............................ 19

Relevant excerpts from EOP Proxy Statements and related materials

(skim for familiarity)

Proxy Statement of EOP, dated December 29, 2006 ................................................. 20
First Supplement to Proxy Statement............................................................................ 21
Second Supplement to Proxy Statement ..................................................................... 22
Third Supplement to Proxy Statement ......................................................................... 23
Assorted Press Releases .............................................................................................. 24

B. Pre-Class Reading – Recommended:

REIT M&A Treatise, Chapter 5 -- §§ 5.01, 5.02[1], 5.05, 5.06 and 5.07[2], [3]
and [4] (Acquisition Agreements) ................................................................................. 25

C. PowerPoint Timeline of EOP Blackstone Transaction (to be discussed and
reviewed in class).................................................................................................................. 26

D. Post-Class Assignment No. 3 (Assignment 3 of 4):

Friendly Merger Term Sheet. Due before Class 4, February 13, 2017..................... 27

V. Class 4 (Monday, February 12, 2018, 4:30-7:45pm in Warren 310): Hostile Takeovers

of REITs/Shareholder Activism

(Guest Lecturers: Avinash Mehrotra, Managing Director, Goldman Sachs and Jonathan Litt,
Founder and CEO, Land and Buildings)

(Mr. Haggerty)
A. **Pre-Class Reading – Required:**

- The Macerich Company Stock Price, 11/1/15 to Present .................................................... 28
- The Macerich Company / Simon Property Group Unsolicited Takeover Attempt Timeline ............................................................................................................. 29

B. **Pre-Class Reading – Recommended:**

- REIT M&A Treatise, Chapter 7, §§ 7.02, 7.03, 7.05, and 7.07[4], [5] .................................. 30
  - Overview of Maryland Antitakeover Statutes (For Background Only) 31

C. **Post-Class Assignment No. 4 (Assignment 4 of 4):**

- Advice to Macerich Board. Due before Class 5, February 20, 2017 32

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### VI. Class 5 (Monday, February 19, 2018, 4:30-7:45pm in Warren 310): “Merger of Equal Transactions”; Interested-Director Transactions

(Guest Lecturer: Thomas A. Grier, Managing Director, Head of Real Estate Investment Banking, J.P. Morgan Securities LLC)

(Mr. Menna)

A. **Pre-Class Reading – Required:**

- **Stock Merger Press Releases:**
  - BRE Press Release (December 9, 2013) .................................................................................. 33
  - BRE and ESS Joint Press Release (December 19, 2013) .......................................................... 34
  - MAA and Colonial Joint Press Release (June 3, 2013) ............................................................ 35
  - **ProLogis Press Release (January 6, 2011)** 36
  - ProLogis and AMB Joint Press Release (January 31, 2013) ....................................................... 37
  - Reuters—“AMB/ProLogis deal would be no merger of equals” (January 28, 2011) ................. 38
  - Ventas and NHP Joint Press Release (February 28, 2011) ...................................................... 39

- **Merger of Equals:**
  - Project Washington Term Sheet ............................................................................................... 40
M&A Update: Are All MOEs Created Equal (March 15, 2013) ............................................ 41
M&A Alert: When public companies combine ........................................................................ 42

Dividend Treatment:
HCN and Windrose Joint Press Release (December 11, 2006) .......................................... 43
HCN Press Release (January 22, 2007) ........................................................................................ 44
Spirit Realty Press Release (July 1, 2013) .................................................................................. 45
Spirit Realty Press Release (July 17, 2013) ................................................................................ 46
Excerpt from AMB/ProLogis Merger Agreement .................................................................... 47
Excerpt from email from Yoel Kranz, April 2013 ................................................................. 48

B. Pre-Class Reading – Recommended:

Proxy Statement Excerpts:
MAA and Colonial (August 23, 2013) ........................................................................................... 49
AMB and ProLogis (April 28, 2011) .............................................................................................. 50
Ventas and NHP (May 13, 2011) .................................................................................................... 51

VII. Class 6 (Monday, February 26, 2018, 4:30-7:45pm, Warren 310) (End of Term):

Lehman Brothers and the Archstone Transaction

(Guest Lecturers: David J. Neithercut, President & CEO, Equity Residential and Steve
Hentschel, Founder and CEO, Hentschel & Company, LLC)

(Mr. Menna)

A. Pre-Class Reading – Required:

Cover Memorandum from Professor Menna ............................................................................. 52
Columbia Business School Case Study: “Archstone from 2007 to 2013, Who
Said Life was Easy?” by Lynne Sagalyn and Jared Nutt, January 6, 2014 ......................... 53
Green Street Advisors, “Splitting the Stone” (November 29, 2012) 54
AVB Press Release announcing closing (February 27, 2013) .............................................. 55
EQR Press Release announcing closing (February 27, 2013) ................................................ 56

B. Pre-Class Reading – Optional:
Bankruptcy Court hearing transcript (January 6, 2012) **(Recommended for law students)** ................................. 57

Bankruptcy Court hearing transcript (January 5, 2012) ................................................................. 58

Bankruptcy Court hearing transcript (February 29, 2012) ...................................................... 59

C. **Writing Assignment**

(Final exam due Friday, March 16; grading due April 13) .......................................................... 60

D. Grades to be submitted by April 13, 2018

VIII. **Class 7, Review session:** either April 16 or April 23, 4:30-7:45pm (classroom TBD) (Mr. Haggerty)

Session to Review Final Paper (MANDATORY FOR ALL LAW STUDENTS)
ATTENDANCE POLICY
Students are required to attend each class. Students should reach out to the Office of Student Affairs (OSA) by using Core Absence Form on this course’s Canvas page regarding excused absences (for religious observances; personal, medical, and family emergencies; military service; court appearances such as jury duty). Unexcused absences will affect your course grade.

INCLUSION, ACCOMMODATIONS, AND SUPPORT FOR STUDENTS
At Columbia Business School, we believe that diversity strengthens any community or business model and brings it greater success. Columbia Business School is committed to providing all students with the equal opportunity to thrive in the classroom by providing a learning, living, and working environment free from discrimination, harassment, and bias on the basis of gender, sexual orientation, race, ethnicity, socioeconomic status, or ability.

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