B8332 REAL ESTATE TRANSACTIONS: 
BUSINESS STRATEGY AND LEGAL STRUCTURE

Adjunct Professor Jennifer Morgan 
Monday/Wednesday 4:00 – 5:30 pm 
Uris Hall 333 
Fall 2013

Real estate is a transaction business, and a thorough understanding of legal structure and transaction documentation is essential to successfully execution of all types of business strategies in real estate: ask any seasoned investor! Decisions about the most effective format for owning real estate, layering debt, and structuring equity investments all involve legal considerations that shape the risk and return profile of real estate investments as well as control and decision making.

My goal in the course is to provide you with an understanding of the institutional framework of commercial real estate transactions. It is the essential complement to the analytics of finance and investment. Real estate transactions draw upon a vast array of laws and regulations – property law, contract law, land-use law, environmental law, securities law, constitutional law, corporate law, bankruptcy law, insurance law, and riparian law. Tax considerations similarly play a significant role in shaping transactions as real estate is highly sensitive to taxation at all levels of government and across all stages of property ownership.

How and why do transactions come out the way they do? This is the practical question underlying the structure of this course. You should finish the course knowing how the terms and conditions spelled out in a term sheet find their way into particular sections and provisions of a deal’s legal documentation. To succeed in this business, you will need to be savvy consumers of legal expertise, notwithstanding the knowledge and expertise of your attorney.

The course is designed to address a broad range of considerations that arise as a real estate transaction moves from term sheet to legal documentation. This process typically involves the following tasks:

- creating and describing real estate interests,
- protecting real estate interests,
- defining default,
- assuring remedies,
- aligning economic interests,
- allocating financial risk and return,
- assuring financing feasibility,
- creating exit flexibility,
- providing for condemnation and casualty,
- establishing dispute-resolution mechanisms,
- establishing governance structure and decision making, and
- structuring to increase certainty of execution.
As a means of integrating theory and practice, the course links business strategy and legal structure. It draws heavily on cases and other materials specially designed for this course. Leading attorneys and investors bring their expertise and insights to class to discuss the legal risks, rights, and remedies underlying contract transactions, financial structures for debt and equity, distress and restructuring strategies, and recent governmental interventions in today’s real estate markets.

The course is divided into four sections:

- **Part I:** Asset Transactions
- **Part II:** Capital Structure Transactions
- **Part III:** Development Transactions
- **Part IV:** Complex Transactions

Each topic is addressed through a mix of formats: mini-lectures, case analysis, document review, and class discussion. Careful and diligent preparation for each session is imperative for thorough understanding and take-away learning from the skilled professionals who are giving their time and preparation for your education. You will learn from actual transaction documents the key issues necessary for successful negotiations and closings.

**CONNECTION WITH THE CORE**

The learning in this course will utilize, build on and extend concepts covered in the following core courses:

<table>
<thead>
<tr>
<th>Core Course</th>
<th>Connection with Core</th>
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<tbody>
<tr>
<td>Decision Models</td>
<td>1. Decision Making Under Uncertainty and Risk</td>
</tr>
<tr>
<td>Leadership Development</td>
<td>1. Decision Making</td>
</tr>
<tr>
<td></td>
<td>2. Negotiations</td>
</tr>
<tr>
<td>Strategy Formulation</td>
<td>1. Creation of Value vs. Value Capture</td>
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</tbody>
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Students will be expected to have mastered these concepts and be able to apply them in the course.

**Class Expectations**

**Attendance** is required at all sessions and for the duration of the session. If for some reason, you are not able to attend or have to leave early, please notify me as such. Missing more than two classes (other than for religious holidays) is likely to adversely affect your grade.

**Class starts at 4:00 pm!** You are expected to be in your seats when class begins. Arriving late disrupts the class and is disrespectful to everyone who has arrived on time, and to our guest speakers.

**No Cell Phones, Laptops, iPads.** Please place these items in a safe place where they cannot be touched in class. If you intend to take class notes on a computer during the semester, please let me know at the start of the course. Our guest speakers are volunteering their time and warrant your undivided attention; it is highly distracting—and quite obvious—to your fellow students, your professor, and guest speakers to use these devices in class to conduct your other business and personal relationships.

**Preparation.** Students must be prepared for all classes. Convenient as it might be, you cannot learn all you need to learn just from listening in class. Class discussion will be based on the assumption that you have
thoroughly read these materials and are prepared to answer questions as well as pose questions in class. Sometimes students will be cold called. Toward that end, the syllabus lists “Class Preparations Assignments,” three of which must be submitted prior to class. The dates for these three preparation submissions listed below under “Key Dates.”

Readings. for the course are posted on the course website on Canvas and the required readings for each session are clearly identified on the syllabus. I have been selective in the assigned readings, yet there is more than is customary in MBA classes. Keep in mind that this is a business law course, and substantial reading rather than intense numerical calculations are the norm.


Grading Assessment:
Three (3) of five (5) case assignments 30%
Three class preparation assignments 24%
Take-Home final (ASSIGNMENT TYPE C) 30%
Class participation 16%

Submitting Assignments:
All assignments are individual work unless otherwise specified. All assignments are to be submitted hard copy at the start of class on the due date. If you are late, do not disrupt class to hand in your assignment. Assignments submitted after the specified time will be marked “late” and will be given partial credit. For group assignments, one submission from each group should be submitted with the names of the group’s members clearly stated on the first page.

DO NOT E-MAIL ASSIGNMENTS TO PROFESSOR MORGAN OR THE TA.

Key Dates:
Case Assignments: Submit three (3) of five (5):
September 16 Case Assignment #1: Zenith Center. ASSIGNMENT TYPE C
October 9 Case Assignment #2: Legal Structure of the Capital Stack. ASSIGNMENT TYPE B
November 6 Case Assignment #3: Burnswell JV – REQUIRED OF ALL. ASSIGNMENT TYPE A / GROUP OF 2 ONLY; NO DISCUSSION ACROSS GROUPS
November 13 Case Assignment #4: Aligning Incentives. ASSIGNMENT TYPE C
December 4 Case Assignment #5: Battling Over a New York Workout: The W Hotel Strategy. ASSIGNMENT TYPE B

Class Preparation Assignments:
September 11 Class Preparation Assignment #1(a): Sale-Leaseback Transactions. ASSIGNMENT TYPE C
or #1(b) (see October 23 below)
September 23 Class Preparation Assignment #2(a): The Mortgage for 1800 L Street. ASSIGNMENT TYPE B or #2(b) (see October 14 below)
October 14 Class Preparation Assignment #2(b): Mortgage Financing II. ASSIGNMENT TYPE C
October 23 Class Preparation Assignment #1(b): Space Leases as Transaction Drivers. ASSIGNMENT TYPE C
November 20 Class Preparation Assignment #3: SoHo Loft Building. ASSIGNMENT TYPE C
<table>
<thead>
<tr>
<th>Type</th>
<th>Designation</th>
<th>Discussion of concepts</th>
<th>Preparation of submission</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>group / group</td>
<td>Permitted with designated group*</td>
<td>By the group</td>
<td>Same grade for each member of the group</td>
</tr>
<tr>
<td>B</td>
<td>group / individual</td>
<td>Permitted</td>
<td>Individually (No sharing of any portion of the submission)</td>
<td>Individual</td>
</tr>
<tr>
<td>C</td>
<td>individual / individual</td>
<td>None of any kind</td>
<td>Individually</td>
<td>Individual</td>
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On the first day of class the seat you select will be yours for the entire semester. This will allow me to identify everyone in this large class by name and get to know you on an individual basis. I appreciate your cooperation!

Teaching Assistant:
Kevin Chan, kchan14@gsb.columbia.edu
B8332 REAL ESTATE TRANSACTIONS:
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Fall 2013
Class Schedule

Sept 4  Course Overview and Themes—Pre-class reading
       THIS CLASS WILL BE VIDEOED AS THIS IS THE START OF A RELIGIOUS HOLIDAY.

PART I: ASSET TRANSACTIONS

Sept 9  Institutional Architecture of Real Estate Transactions

Sept 11 Space Leases as Transaction Drivers
        Guest: Michael Monahan, Vice Chairman, CBRE

Sept 16 Acquisition Opportunity
        Case Assignment #1: Zenith Center

Sept 18 Acquiring and Transferring Title
        Guests: Jon Mechanic and Ross Silver, Fried, Frank, Harris, Shriver & Jacobson LLP

Sept 23 Mortgage Financings
        Topics: Security Interests, Lien Priorities, Lender Rights, Foreclosure
        Case: The Mortgage for 1800 L Street.

Sept 25 Transaction Tax Basics I
        Guest: Richard A. Wolfe, Fried, Frank, Harris, Shriver & Jacobson LLP (all four tax classes)

Sept 30 Transaction Tax Strategies II

Oct 2  Transaction Tax Strategies III

Oct 7  Transaction Tax Strategies IV

PART II: CAPITAL STRUCTURE TRANSACTIONS

Oct 9  Legal Structure of the Capital Stack – In Normal Times and In Distress
        Guests: Rick Jones, Dechert, LLC and Stephen Plavin, Capital Trust
        Case Assignment #2: Legal Structure of the Capital Stack

Oct 14 Mortgage Financing Transactions II: Buying Mortgage Paper

MID-SEMESTER BREAK
Oct 23  Sale-Leaseback Transactions  
*Guests:* Gordon Whiting '94, Angelo Gordon  
Michelle E. Williams, Esq. Sheppard Mullin Richter & Hampton LLP

Oct 28  Ground Leases and Leasehold Transactions  
*Guest:* Meredith Kane, Paul, Weiss, Rifkind, Wharton & Garrison LLP

Oct 30  Raising Equity via a Joint Venture I

Nov 4-5  UNIVERSITY HOLIDAY

Nov 6  Allocating Risk and Reward in a Joint Venture  
*Case Assignment #3:* The Burnwell JV

Nov 11  Raising Equity via a Joint Venture II  
*Guest:* Cia Buckley, Dune Real Estate Partners LP

Nov 13  Aligning Incentives in Private Equity Transactions  
*Case Assignment #4:* Aligning Incentives for Real Estate Investments

Nov 18  Structuring the Private Equity Fund  
*Guests:* Kelly Ryan, Kirkland & Ellis LLP  
Russ Bates and Edward Casal, Aviva Investors

**PART III: DEVELOPMENT TRANSACTIONS**

Nov 20  Controls on Property, Rezoning and Value Creation  
*Case:* SoHo Loft Building  
*Guest:* Professor Lynne Sagalyn

Nov 25  Ground-Up Development  
*Guest:* Ron Sernau, Proskauer

Nov 27  UNIVERSITY HOLIDAY

**PART IV: COMPLEX TRANSACTIONS**

Dec 2  Bankruptcy and Restructuring  
*Guests:* Ricky Mason, Wachtell, Lipton, Rosen & Katz and Paul Basta, Kirkland & Ellis LLP

Dec 4  Workouts of Distressed Debt  
*Case Assignment #5:* Battling Over a New York Workout: The W-Hotel Strategy  
*Guests:* Kevin O’Shea, Allen & Overy, LLP

Dec 9  Special Issues in Hospitality Transactions / Summing Up  
Hand-Out of Take-Home Final (due Dec __, 1 pm)

**SPECIAL JV NEGOTIATION EVENT WITH MIT REAL ESTATE STUDENTS: FRIDAY, NOV 15**