

AT-DOOR PROGRAM
ICSC U.S. SHOPPING CENTER LAW CONFERENCE
JANUARY 9-10, 2008

WEDNESDAY, JANUARY 9, 2008

8:00AM – 7:30PM	Registration	<i>Elizabeth Foyer</i>
8:30AM – 9:00AM	Continental Breakfast Served	<i>Elizabeth Terrace</i>
9:00AM – 10:15AM	General Session	<i>Elizabeth EFGH</i>

Lifestyle Centers and Big Box Tenants - Is Resistance Futile?

This General Session will explore in depth the major issues that need to be addressed when negotiating a lease with a big box tenant in a lifestyle center, and the Panel will recommend ways in which to balance the competing concerns of landlords/developers, big box tenants and lenders. We will begin with an overview, first explaining industry definitions of a “lifestyle center” and a “big box tenant” and the evolution of traditional/historical department stores from mall anchors to lifestyle center anchors. We will then explore major issues that the traditional department store had to address in entering into a lifestyle center, including re-inventing its store prototype. We will also explore other major issues typically the topic of much discussion when negotiating a big box lease in a lifestyle center, such as determining and allocating the cost of maintaining the shared amenities between the various shared components of the lifestyle center (*i.e.*, retail, residential and/or office); additional CAM costs that are associated with being in a lifestyle center; how the theme of a lifestyle center affects the big box tenants ability to build its prototype façade and its prototype signage; applicability of the big box tenant’s exclusive in a lifestyle center; parking including the attempt to separate retail and non-retail parking uses; store front orientation; site plan controls including site lines and other future development restrictions; and lender concerns including construction take-over rights, offset and termination rights, and the use of insurance proceeds and condemnation awards for restoration. The Panel members intend to be interactive with each other in order to provide the audience with a sense of how a real life negotiation would play-out with respect to each of the issues addressed.

Moderator:

David J. Rabinowitz

Sutherland Asbill & Brennan LLP
New York, NY

Panelists:

Margaret (“Peg”) A. McCue

Metlife Real Estate Investments
Alpharetta, GA

Jeffrey M. Pomeroy

Bayer Properties, L.L.C.
Birmingham, AL

Connie Rios Tankersley
J.C. Penney Corporation, Inc.
Plano, TX

9:00AM – 10:15AM

Seminars

1: The ABCs of Joint Venture Agreements

Manchester A

From the Handshake to the Signing. This seminar will cover many of the important issues to focus on when creating a joint venture arrangement for your client- including selection of the appropriate entity, capitalization, governance, transferability, fee structures, remedies, and dispute resolution. The differences between joint ventures with private parties and institutional investors will be discussed, as will the use of term sheets and collateral agreements.

Facilitators:

Gregory G. Gosfield

Klehr, Harrison, Harvey, Branzburg & Ellers LLP
Philadelphia, PA

Alan M. Hurvitz

Honigman Miller Schwartz and Cohn LLP
Bloomfield Hills, MI

2: Leasing Basics I

Manchester B

This Session will discuss the following shopping center lease concepts: the parties to the Lease (including various iterations of lease guarantees); the Premises; Term/Options to Extend; Rent; Use, and Operational Issues, including covenants to initially open and subsequently operate. This Session is intended as a primer for practitioners who are relatively new to shopping center leasing.

Facilitators:

Peter M. DiGiovanni

Lewis, Rice & Fingersh, L.C.
Kansas City, MO

Gary W. Melsher

Singerman, Mills, Desberg & Kauntz Co. L.P.A.
Beachwood, OH

Charles L. Pitcock

Forest City Enterprises, Inc.
Cleveland, OH

3: Lease Related Tax Issues

Manchester C

This program will discuss common tax issues affecting landlords and tenants that are raised during real estate lease negotiations and examine the tax consequences of terminating leases.

Facilitators:

R. Todd Ervin

Bass, Berry & Sims
Nashville, TN

Russell P. Hintze
Greenberg Traurig, PA
Orlando, FL

9:00AM – 10:15AM

Workshops

1: Maintaining a Successful Client Relationship: A Primer for Outside Counsel *Manchester D*

Why do some outside counsel work out and others do not? Topics to be covered are: Knowing your client's business, Knowing your client's particular style and needs, Your client's own internal pressures to get the deal done, Responsiveness, Decisiveness on issues and more. This workshop will be helpful not only to lawyers in private practice but also to other in-house counsel who are responsible for hiring and working with outside counsel.

Facilitators:

Jerry M. Cyncynatus
Developers Diversified Realty Corporation
Beachwood, OH

2: Title Insurance Policy and Endorsements *Manchester E*

This workshop will provide lawyers with a practical guide for identifying and resolving problematic title issues that may be encountered in shopping center and retail store acquisitions. Basic procedures, basic title insurance concepts, and commonly-requested endorsements will be discussed. For the more advanced practitioner, topics will also include the proposed new ALTA policy forms and new ALTA endorsements. Additionally this workshop will focus on the mechanics, management, underwriting and closing of significant multi-site, multi-jurisdictional transactions and the challenges associated with them.

Facilitators:

Matthew S. Bliwise
Chicago Title Insurance Company
New York, NY

David J. Feldman
First American Title Insurance Company
Philadelphia, PA

3: Mini Anchor Leasing – What Can the 2,000sf National Tenant Reasonably Expect?

Manchester F

Retail leasing, particularly mixed used retail leasing, is more complicated than ever. Many smaller tenants are now in high demand, demanding and obtaining significant concessions from the landlord. In some cases, given very early pre-leasing, it is co-tenancy, in others it is a kick-out. It is always predictable charges but it now may include caps on first year changes. This session will focus on the leverage of the tenant, trying to balance the landlord's "needs" with the tenant's "wants".

Facilitators:

Gregory L. Russell
Crown Center Redevelopment Corporation
Kansas City, MO

Abe Schear
Arnall Golden Gregory LLP
Atlanta, GA

10:30AM – 11:45AM

General Session

Elizabeth EFGH

Recent Developments in the Law

A current overview of important trends and cases in real estate law. The panel will select the most important case law developments, explore new trends and expand on recently developed trends as they are found in real property law.

Moderator:

Richard R. Goldberg
Ballard Spahr Andrews & Ingersoll, LLP
Philadelphia, PA

Panelists:

Jay A. Epstein
DLA Piper USA LLP
Washington, DC

David H. Fishman
Gordon, Feinblatt, Rothman, Hoffberger & Hollander, LLC
Baltimore, MD

Terri K. Simard
Target Corporation
Minneapolis, MN

10:30AM – 11:45AM

Seminars

1: Sow's Ear or Silk Purse: Challenges and Opportunities in Tenant Bankruptcies

Manchester A

What you don't know can make a huge difference when a retail tenant files for bankruptcy. Shopping centers have special challenges when tenants file bankruptcy, and also special rights. This seminar will explain the basics of how a tenant bankruptcy affects a landlord's rights, how the new bankruptcy law has changed the playing field, and practical advice for avoiding the problems and seizing the opportunities that tenant bankruptcies present.

Facilitators:

James S. Carr
Kelley Drye & Warren
New York, NY

Nancy J. Newman
Hanson, Bridgett, Marcus, Vlahos & Rudy LLP
San Francisco, CA

Jeffrey N. Pomerantz
Pachulski Stang Ziehl Young Jones & Weintraub LLP
Los Angeles, CA

2: The Butcher, The Baker and The Candlestick Maker – Mixed-Use Projects: Ways We Can All Get Along *Manchester B*

Attorneys involved in mixed use projects and in the creation and negotiation of master declarations, condominium documents, retail and office leases, and loan documents need to be able to identify and address the many issues that can arise in these types of projects. The panelists will discuss the nature of the documentation involved, the interests of each of the possible players in a mixed use project, and practical ways of how you can handle or draft your underlying documents to address these issues. Whether you represent the interests of the master developer, a developer, the landlord, an office or retail tenant, or the lender, you will not want to miss this session!

Facilitators:

Jeanna A. Brannon
Morris, Manning & Martin
Atlanta, GA

Sharon Nelson Craig
Holland & Knight LLP
Washington, DC

3: Don't Gamble on Lease Default Remedies – What Really Works in Court! *Manchester C*

This seminar will address realistic approaches to tenant defaults and landlord defaults, and the remedies available to landlords and tenants. Topics to be covered include the landlord's right to accelerate rent; the landlord's right to receive rent or damages, after a termination of the lease and reentry of the premises by landlord, and the survival of such rights; the duty to mitigate damages in lease default situations; the tenant's rights to use self-help and set-offs against rent; the use of mediation and arbitration for resolving disputes; the effectiveness of jury trial waivers; and the recovery of attorneys' fees by prevailing parties.

Facilitators:

Thomas C. Barbuti
Whiteford, Taylor & Preston L.L.P.
Baltimore, MD

John Wiles
Wiles & Wiles
Marietta, GA

1: Distressed For Success - - Risks, Rewards and Trends in Buying Distressed Real Estate Portfolios***Manchester D***

This workshop will focus on issues and strategies for buying lease portfolios where the seller and/or the asset is in distress. Among the issues to be addressed are opportunities for strategic buyers of real estate, structuring the transaction, pro's and con's of implementing the sale through a bankruptcy versus an out of court sale, due diligence when the seller is "melting down", valuation of distressed assets, dealing with anti-assignment clauses in the leases and timing. We will also discuss how the most recent amendments to the Bankruptcy Code have impacted distressed portfolio sales in the 2 years since the law became effective, and we will examine recent trends such as 'loan to own' and other strategies for acquiring real estate from distressed sellers.

Facilitators:**Neil E. Herman**

Morgan, Lewis & Bockius LLP
New York, NY

Linda A. Striefsky

Thompson Hine LLP
Cleveland, OH

Robert LeHane

Kelley Drye & Warren
New York, NY

2: A Balancing Act: Juggling Competing Interests in Shopping Center Redevelopment***Manchester E***

This workshop will focus on the different perspectives of the actors in the redevelopment process: owner, lender (including public entity), existing occupants and new operators entering the center. The discussion will address matters such as the need of each participant to review existing documentation to determine the existence of any constraints and will focus on drafting new documentation (including amendments and/or restatements) to cover the constantly evolving retail and development market of today and anticipated needs of the future.

Facilitators:**James B. Jordan**

Sutherland, Asbill & Brennan LLP
Atlanta, GA

Renee J. Magnant

J. C. Penney Corporation, Inc.
Plano, TX

3: Mixed-Use Projects – The Odd Couple: Learning to Live Together in a Mixed-Use World***Manchester F***

Retailers are becoming accustomed to existing side by side in mixed-use projects. However, the reality of doing business in a project with retail, residential, office and/or hospitality uses creates a variety of challenging legal and business issues that a retailer or developer must consider when

building, buying, selling, leasing and/or financing such projects. The panelists in this seminar will draw upon their experience representing retail and residential developers, tenants and landlords to highlight the legal and practical concerns and considerations that should be addressed in the context of mixed-use projects.

Facilitators:

Scott A. Fisher

Arnall Golden Gregory LLP
Atlanta, GA

Nancy T. Scull

Luce, Forward, Hamilton & Scripps LLP
San Diego, CA

4: Financing – Negotiating Selected Loan Document Provisions *Manchester G*

How to get what you want out of a loan document: Ideas, thought, and strategies for negotiating selected loan document provisions.

Facilitators:

Stephen Aron Benson

Sacks Tierney, P.A.
Scottsdale, AZ

Joseph S. Finkelstein

Blank Rome LLP
Philadelphia, PA

12:00NOON – 12:30PM Luncheon Served *Elizabeth ABCD*

12:30PM – 1:15PM Luncheon Speaker *Elizabeth ABCD*

Lunch with Catherine Crier

One of the most respected and trusted legal journalists in the U.S., Catherine Crier will provide a morning of unique perspectives on front-page courtroom headlines.

1:30PM – 2:45PM General Session *Elizabeth EFGH*

Sublime to Ridiculous: Insurance Issues in Real Estate Transactions

This general session will provide a basic framework for how insurance functions, and its role in transferring risk in real estate transactions. Using this framework, the panel will analyze how insurance would respond in a typical fact scenario involving property damage and personal injury.

Moderator:

Ann Peldo Cargile

Boult, Cummings, Connors & Berry, PLC
Nashville, TN

Panelists:

Susan Drake-Patelson, CPCU, RPLU, ASLI
Gallagher Real Estate & Hospitality Services
Glendale, CA

Gordon W. Tanner
Stoel Rives LLP
Seattle, WA

1:30PM – 2:45PM

Seminars

1: The “Basics” of REA’s

Manchester A

This session will focus on the basic issues encountered in an REA negotiation and the legal and business implications of these issues. The Panel will discuss the impact of these issues on the legal relationship between the parties, as well as their potential impact on development, the day-to-day operations of the shopping center, leasing, expansion and repositioning, and the ability of the parties to sell or finance their assets. Among the topics discussed will be opening and operating covenants, co-tenancy requirements for opening and operating, use restrictions, parking requirements, Common Area Maintenance requirements, restoration obligations, and signage and Site Plan control.

Facilitators:

Kate Furlong
Macy’s, Inc.
Cincinnati, OH

Edward R. Krasnove
The Krasnove Law Firm
Torrance, CA

James Moomaw
The MGHerring Group, Inc.
Dallas, TX

2: An Ounce of Prevention: Evaluating and Managing Environmental Risks in Today’s Marketplace

Manchester B

Attorneys in the real estate industry encounter a variety of environmental issues in many differing situations and documents and it is therefore crucial that they be able to both identify and address these issues. During this seminar, the panelists will discuss the new all appropriate inquiry environmental standards applicable to the acquisition of property and other due diligence considerations for owners and tenants. The panelists will also discuss standards for hiring environmental consultants, negotiating environmental services agreements and allocating environmental risks during the acquisition, sale, leasing and operation of property, including the use of various environmental risk management devices and techniques.

Facilitators:

Robert H. Crespi
Wolff & Samson PC
West Orange, NJ

Ann M. Waeger

Farer Fersko
Westfield, NJ

1:30PM – 2:45PM

Workshops

1: Advanced Issues in Representing Developers of Lifestyle Centers *Manchester D*

Since the first lifestyle center was developed by Poag & McEwen in 1987, the genre grew slowly at first, but now has become the dominant concept in shopping center development. As it has grown in popularity, the form has been modified to suit the proclivities of different developers, their tenants and the communities of which they are a part. Still lifestyle centers cling to the features that make them unique. Still developers' and tenants' counsel alike must learn to cope with the special legal issues attendant to those special features. This workshop, aimed at attorneys with some experience developing or leasing lifestyle centers, will explore some of the more complex issues which tend to arise in connection with lifestyle centers.

Facilitators:

Eugene Bernstein, Jr.

Poag & McEwen Lifestyle Centers, LLC
Memphis, TN

Scott P. Kadish

Ulmer & Berne LLP
Cincinnati, OH

2: "Whose Center Is This, Anyway?" Issues in Control of Site Plan Approval and Common Areas Between Landlord and Tenant *Manchester E*

The development and operation of shopping center common areas are vitally important to both landlords and tenants, but while the landlord seeks flexibility to adapt to changing market conditions, the tenant prefers a static condition around which it can develop a store merchandising strategy. These conflicting interests often make for interesting lease negotiations, but consensus is achievable if both parties respect their counterpart's core concerns. Employing practical examples, the goal of this presentation is to demonstrate where alignment of interests is possible and how conflicts may be resolved.

Facilitators:

Kenneth H. Kraft

Parker, Hudson, Rainer & Dobbs LLP
Atlanta, GA

Maria C. Manley-Dutton

Developers Diversified Realty
Beachwood, OH

3: Options, Rights of First Refusal, Rights of First Offer and Other Preemptive Rights

Manchester F

There is an inherent tension between the desire of a tenant to have the ability to control its future in its leased premises and for some tenants to have the ability to gain control of the property, and the desire of a landlord to retain control over the marketability and ownership of the property. This session will examine these competing considerations and will focus on alternatives in drafting clear and effective

options, give-back and early termination clauses, and rights of first refusal and first offer. Bring your questions and problems to this interactive workshop session.

Facilitators:

David Gordon

Wilentz, Goldman & Spitzer, P.A.
Woodbridge, NJ

Tina R. Makoulian

Ballard Spahr Andrews & Ingersoll, LLP
Philadelphia, PA

4: The Sale of Leases and Lease Designation Rights in Bankruptcy: Sleeping Giant or Paper Tiger? *Manchester G*

This workshop will address the sale of a bankrupt retailer's leases, rights to direct the sale of leases and the impact of bankruptcy reform on lease dispositions. Strategies for a developer's purchasing leases from a tenant in bankruptcy or a purchaser of lease designation rights will be discussed. Interaction between panelists and the audience will be encouraged

Facilitators:

Leslie A. Cohen

Liner Yankelevitz Sunshine & Regenstreif LLP
Los Angeles, CA

Kevin M. Newman

Menter, Rudin & Trivelpiece, P.C.
Syracuse, NY

5: Lease Guarantees, Letters of Credit and Other Credit Enhancements *Manchester H*

This panel will examine strategies and methods for insuring that a landlord's rental payments are timely and completely paid. Drafting and credit risk strategies will examine the process from the letter of intent phase, the drafting of the lease and related documents, understanding the tenant's credit risk, and deciding on the wisdom and need for various forms of credit enhancement. Bankruptcy strategies will include how to maximize the allowed claim, dealing with the cap on claims, understanding the effect of rejection and assumption, and enforcement of letters of credit and third party guarantee agreements.

Facilitators:

David R. Kuney

Sidley Austin LLP
Washington, DC

Jo-Ann M. Marzullo

Posternak Blankstein & Lund LLP
Boston, MA

3:00PM – 4:15PM

Seminars

1: Navigating the Minefield of Insurance Certificates and Policy Endorsements *Manchester A*

Are you sure that you are getting the correct additional insured endorsement? Do you need premises or both premises and completed operations coverage? Is a blanket additional insured endorsement adequate? How do you sort out these questions with just a certificate of insurance? Sample contract and policy language for construction/development projects will be also reviewed.

Facilitators:

Robert G. Russell

Procopio, Cory, Hargreaves & Savitch LLP
San Diego, CA

Andi Schmidt

Pritchard & Jerden, Inc.
Atlanta, GA

2: Co-Tenancy – The Issues, The Compromises, The Future *Manchester B*

As department stores consolidate and centers compete for small tenants, co-tenancy has taken on greater importance than ever for developers and tenants. The seminar will look at construction, opening and operating co-tenancy and will focus on key issues related to each – triggers, remedies and replacements. The speakers will address the risks and compromises for both developers and tenants, and will consider the impact of continued consolidation in the retail real estate industry on co-tenancy.

Facilitators:

Leigh Ann Figg

General Growth Properties, Inc.
Chicago, IL

Gail M. Stern

Limited Brands, Inc.
Columbus, OH

3:00PM – 4:15PM

Workshops

1: Exclusives and Radius Clauses: Key Clauses to Preserve Competition or Traps for the Unwary? *Manchester D*

This session will focus on negotiating and documenting exclusives and radius clauses. It will include a discussion of the different types of exclusives and remedies for non-compliance. We will address alternatives to exclusives, including "exclusiveless" shopping centers, springing exclusives and personal landlord leasing covenants. The discussion will also address radius provisions and the issues and alternatives faced when dealing with a radius provision.

Facilitators:

Robert M. McAndrew

Ross Stores, Inc.
Pleasanton, CA

Rory A. Packer
Westfield, LLC
Los Angeles, CA

2: Should I Stay or Should I Go? Analyzing Operating, Go Dark, Kickout and Recapture Provisions in Shopping Center Leases ***Manchester E***

This interactive workshop will focus on lease clauses relating to operating covenants, going dark desires, recapture rights and kickout rights from the perspectives of both landlords and tenants. The speakers will thoroughly analyze each of the foregoing concepts, including the relation to delivery date conditions; gross sales thresholds; co-tenancy requirements; assignment and subletting provisions; exclusive use clauses and radius restrictions. Each of these concepts will be examined to discuss: (i) the issues/concerns of landlords and tenants; (ii) the parameters of express provisions; and (iii) potential compromises. The speakers will encourage audience members to share their views and experiences on these issues.

Facilitators:

Kathleen A. Crocco
SL Green Realty Corp.
New York, NY

Steve Spector
Macerich Company
Santa Monica, CA

3: Signs of Our Times ***Manchester F***

The workshop will cover a wide variety of signage and roof issues. We will examine: the importance of and evolution of the sign, sample sign and roof clauses, satellite dish and antenna issues, and governmental restrictions on signs and possible responses. We will focus on the latest developments.

Facilitators:

Steven J. Roberts
The Stop & Shop Supermarket Company LLC
Quincy, MA

Steven A. Weisfeld
Beattie Padovano LLC
Montvale, NJ

4: A Food Court – It’s Just a Little Restaurant ***Manchester G***

Food courts are familiar shopping center amenities from the customer’s point of view. For the landlord and the tenant, the nature of operations in a food court create some specialized issues. Most of the issues, though, are similar to issues relating to restaurant tenants, generally. We will discuss some of them.

Facilitators:

Mary Binder
General Growth Properties, Inc.
Chicago, IL

Janet H. Winningham
Katten Muchin Rosenman LLP
Chicago, IL

5: Trends in Retail Real Estate Ownership: What Happens When Private Equity is Running the Store? *Manchester H*

This workshop will cover how investment bankers, private equity firms and hedge funds can use retailers underlying real estate to assist in facilitating a re-structure or sale of the business. Typically the management of a retailer focusing its thinking and business plan on improving operations or shareholder without consideration as to impact its real estate in the decision making process.

Discussion will cover sale/leaseback, real estate and leasehold financing as well as creating additional value from the real estate, and will focus on a number of actual transactions where this occurred.

Facilitators:

Ray Edwards
Kimco Realty Corporation
New Hyde Park, NY

Mitchell P. Kahn
Hilco Real Estate, LLC
Northbrook, IL

Michael Schnabel
Centre Partners Management, LLC
New York, NY

6:00PM – 7:30PM

Reception

4th Floor Pool Deck

THURSDAY, JANUARY 10, 2008

7:00AM – 4:15PM **Registration** *Elizabeth Foyer*

7:30AM – 8:45AM **Breakfast Roundtables** *Elizabeth ABCD*

9:00AM – 10:15AM **General Session** *Elizabeth EFGH*

The Art of Negotiation

This program on the Art of Negotiation will focus on the psychological and emotional elements of negotiating, as well as discuss many of the proven “substantive” techniques of effective negotiating. The program will present a variety of “real life” issues for discussion, analysis and resolution among the attendees. Attendees are urged to read the materials in advance of the program so as to be able to provide more effective input in discussing techniques to enhance negotiating skills with the client and vis-à-vis the adversary. Techniques will also be offered to enhance effectiveness in individual salary negotiations, perhaps the most difficult of all negotiations.

Facilitator:

Jeffrey H. Newman

Sills Cummis Epstein & Gross, PC

Newark, NJ

9:00AM – 10:15AM **Seminars**

1: Leasing Basics II *Manchester A*

This Session compliments Leasing Basics I and covers additional lease issues such as Opening and Ongoing co-tenancies, Exclusives and Radius Restrictions, Kiosks, View and Access issues, Changes to the Center, Basics of Transfers/Assignments, Defaults and remedies, and SNDA’s. This Session is intended as a primer for practitioners who are relatively new to shopping center leasing.

Facilitators:

John L. Florio

The Talbots, Inc.

Brook, NY

Greg A. Schultz

Westfield, LLC

Los Angeles, CA

2: Zen and the Art of Survey Analysis – ALTA Surveys and Survey Issues *Manchester B*

This session will provide attendees with a practical guide for identifying and resolving problematic survey issues frequently encountered in commercial property transactions. Topics will include: appurtenant easements, air rights parcels, 3-dimensional sectional or isometric details, legal descriptions, lender requirements, termination of easements by operation of law, electronic transmission of surveys, outsourcing and appropriate title endorsements for various survey issues. This session will also cover the basic procedures involved in reading and reviewing a survey and the correct mental approach needed to master this important, but little understood, practice area.

Facilitators:

Matthew J. Rowe

Psomas

Los Angeles, CA

Michael J. Zerman

Manatt, Phelps & Phillips, LLP

Los Angeles, CA

9:00AM – 10:15AM

Workshops

1: From the Ground Up

Manchester D

A workshop regarding the relative bargaining positions of the landlord and the tenant. Focus will include construction issues and proposed solutions, bondable (hell or high water) requirements and events of default. There will also be a discussion of financibility provisions.

Facilitators:

Martin A. Glazer

Goulston & Storrs

Boston, MA

Joshua Stein

Latham & Watkins

New York, NY

2: Vertical Developments and Condominiums

Manchester E

With "mixed-use" and "increased density" projects being the "in vogue" development project of the day, this interactive workshop will examine and discuss the unique issues faced when planning, organizing and integrating a vertical development project. We will consider the use of the condominium and other ownership structures, and the particular considerations of owners, tenants and operation of these complex development projects.

Facilitators:

Robert R. DiVita

Sills, Cummis, Epstein & Gross, P.C.

Newark, NJ

Andrew P. Massmann

General Growth Properties, Inc.

Chicago, IL

3: Leasing and Development of Restaurant Pads – There's More to it Than Parking

Manchester F

Through an interactive audience and panel dialogue, this workshop will cover all aspects of leasing and developing restaurant pad sites, from entering into a letter of intent through construction by Landlord and Tenant. In addition, panelists will participate in mock negotiations. Special emphasis will be placed on a discussion of the differences between leasing and developing pad restaurant sites and in-line restaurant sites as well as differences between pad restaurant sites and other pad retail sites.

Facilitators:

Carole Laude Pechi

Laude Pechi Law LLC

Glen Ellyn, IL

Neil Sprague

Applebee's International, Inc.

Shawnee Mission, KS

4: The Letter of Intent: Friend or Foe?

Manchester G

Danger! Watch Out! The Letter of Intent, Term Sheet or Memorandum of Understanding may be a binding agreement. When might this happen? What language could create a problem? What do the cases say? How to prevent this possible occurrence? A recent litigated case in federal court will be used to illustrate.

Facilitators:

Nancy Schirmer Rendos

Macerich

Excelsior, MN

5: Insurance and Indemnities--No Protection for the Unwary

Manchester H

This session will examine the relationship between insurance and indemnity agreements. It will include background discussions on what insurance does and does not protect against, how insurance addresses indemnity agreements and what non-insurance alternatives may be available to protect against indemnity liabilities. Sample lease provisions will also be analyzed.

Facilitators:

Neil S. Kessler

Troutman Sanders LLP

Richmond, VA

John M. Kurtz

Marsh USA Inc.

Charlotte, NC

10:30AM – 11:45AM

General Session

Elizabeth EFGH

Lying and Leasing: Are There Any Ethical Limitations in Negotiations?

Sure, you don't lie when you negotiate; you only "puff." After all, everyone does it, so it has to be OK, right? Back by popular demand to answer that question come our intrepid panelists — Mike Rubin, Kevin Shepherd, and Vickie Berghel — who will challenge your thinking and give you something to smile about.

Moderator:

Michael H. Rubin

McGlinchey Stafford, PLLC
Baton Rouge, LA

Panelists:

Victoria S. Berghel

CBL & Associates Properties, Inc.
Chattanooga, TN

Kevin L. Shepherd

Venable LLP
Baltimore, MD

10:30AM – 11:45AM

Seminars

1: The Long Unwinding Road – Planning Landlord Control and Exit Strategies During Initial Lease Negotiations *Manchester A*

Coordinating Assignment/Subletting, Trade Name, Use, Kick-Out Clause, Options, Remedies and other provisions to facilitate tenant transfer or termination of an undesirable lease and how a landlord can mitigate the impact.

Facilitators:

Ira Fierstein

Seyfarth Shaw LLP
Chicago, IL

Mark S. Hennigh

Greene Radovsky Maloney Share & Hennigh LLP
San Francisco, CA

10:30AM – 11:45AM

Workshops

1: Making the Most of Your Property Damage Insurance Claims *Manchester D*

This workshop will provide insights into maximizing insurance recoveries once a significant casualty has occurred, as well as ways to structure insurance policies to minimize future claims disputes. We will share lessons learned from Hurricanes Katrina, Rita and other casualty situations to assist you in advising and participating with your clients in this process.

Facilitators:

Marie A. Moore

Sher Garner Cahill Richter Klein & Hilbert, L.L.C.
New Orleans, LA

Linda K. Schear

Gregory Greenfield & Associates, Ltd.
Atlanta, GA

2: Easements Ain't Easy: Utility Easements and Service Agreements in Retail Development and Reconfigurations *Manchester E*

This workshop will look at issues in the placement of utilities in shopping centers and in providing utility services. It will also look at issues related to utilities in connection with remodelings, redevelopment and de-malling, including the abandonment and relocation of easements. Leaders will assume a moderate level of experience in these issues.

Facilitators:

Charles R. ("Chuck") Lewis, IV
Pacific Gas & Electric Corporation
San Francisco, CA

Dana Schiffman
Allen Matkins Leck Gamble Mallory & Natsis, LLP
San Diego, CA

Norma J. Williams
Williams & Associates
Los Angeles, CA

3: Negotiating Purchase and Sale Agreements: I Know What I'm Paying -- But What Am I Getting? *Manchester F*

This session will address the practical issues that arise in negotiating a shopping center purchase and sale agreement, in the context of both a conventional "one on one" negotiation, and in an auction/bid environment. The panelists (who each have more than thirty years experience in commercial real estate transactions) will focus on identifying and reconciling what is important with what is "do-able," from the perspective of both the buyer and the seller. Topics will include contingencies, due diligence, representations and warranties, and realistic time frames for performance.

Facilitators:

Richard S. Friedman
Hughes Hubbard & Reed LLP
Los Angeles, CA

Sheldon M. Goldstein
Meltzer, Lippe, Goldstein & Breitstone, LLP
Mineola, NY

4: Defeasance: How to Pay Off a Securitized Loan *Manchester G*

This session explores the legal and practical issues associated with defeasances of securitized loans. Defeasance has been a part of the commercial mortgage-backed securities ("CMBS") world since the early 1990s as a mechanism to make pricing on CMBS more favorable. Defeasance is now a fixture in the CMBS industry. Defeasance eliminates the prepayment risk associated with fixed-rate loans by providing an alternative mechanism under which the borrower can obtain a release of the lien of the mortgage securing the loan to accommodate a sale or refinance of the real estate collateral by delivering a structured portfolio of government securities as substitute collateral for the loan.

Certificateholders have an interest in receiving a predictable and continuing cash flow, and virtually all CMBS loans include a complete prohibition on repayment prior to the expiration of a specified “lock-out” period. Defeasance provides a way for borrowers to obtain a release of the REMIC trust’s lien on the related collateral after the lock-out period (in connection with a refinancing or sale of the collateral) while also providing a form of call protection for the certificateholders.

Facilitators:

Thomas J. Biafore

Kilpatrick Stockton LLP

Atlanta, GA

Daniel S. Huffenus

Katten Muchin Rosenman LLP

Charlotte, NC

5: Shopping Center Site Due Diligence: Ignorance May Not Be Bliss

Manchester H

This workshop will explore various areas of due diligence to be performed in connection with the acquisition and development of either an undeveloped site or an existing retail center. Emphasis will be placed on the role of counsel (both outside counsel and in-house attorneys) in coordinating various aspects of due diligence and in identifying various resources for information, including the Internet. Areas to be addressed will include: zoning; lease reviews; operating agreements; analysis of existing debt documents; title and survey issues, including restrictive covenants, easements, etc.; local and regional demographics; environmental issues; physical site conditions.

Facilitators:

Charles A. Brake, Jr.

Hartman, Simmons, Spielman & Wood, LLP

Atlanta, GA

Gregory P. Pressman

Schulte Roth & Zabel LLP

New York, NY

6: Greening the Retail Experience

Manchester I

Now in pilot development, LEED (Leadership in Energy and Environmental Design) for Retail is a result of the evolution and explosive growth of sustainable design and construction in the U.S. For lawyers in the retail industry, the issues relating to LEED reach into many areas of development, design, and construction. Using a case study, we will lead the presentation with a hypothetical retail development case study of undeveloped land and highlight the differences between: (i) conventional design and construction; and (ii) design and construction issues to meet the LEED for Retail criteria. We will also provide a brief history of the U.S. Green Building Council, including its mission and a brief history of LEED and some of the LEED rating systems (LEED for New Construction, Commercial Interiors, etc.).

Facilitators:

Kenneth M. Block

Thelen Reid Brown Raysman & Steiner LLP

New York, NY

Steven G. Shapiro
The Whiting-Turner Contracting Company
Bethesda, MD

12:00NOON – 1:15PM

Luncheon Roundtables

Elizabeth EFGH

1:30PM – 2:45PM

Seminars

1: Alternate Dispute Resolution: In the Lease and In Reality ***Manchester A***

This presentation will explore the uniqueness of mandatory arbitration of commercial disputes, its benefits, disadvantages and how the transactional real estate lawyer can improve the probability of a favorable award in the event of a dispute before the dispute arises.

Moderator:

Arthur Mazirow

Arthur Mazirow
Los Angeles, CA

2: Doing Business with REITs ***Manchester B***

This presentation will discuss issues associated with the transfer of real property to a real estate investment trust, or REIT. It will include a discussion of issues associated with tax deferred contributions to an operating partnership in UPREIT and DOWNREIT structures in exchange for partnership interests, as well as REIT joint venture transactions. Also, it will include a brief discussion of REIT formation and initial public offering transactions.

Facilitators:

Michael Brody

Latham & Watkins
Los Angeles, CA

3: Tenant in Common Programs and Like-Kind Exchanges ***Manchester C***

Learn how to maximize your client's investment power and structure the most beneficial §1031 exchanges. Avoid the most common §1031 pitfalls and uncover the mysteries behind reverse and improvement exchanges. Discover the diverse array of replacement property options available to exchangers through tenant in common programs.

Facilitators:

David J. Hartness

1031 Exchange Strategies, Inc.
San Diego, CA

Pamela A. Michaels

Asset Preservation, Inc.
New York, NY

1: Shopping for Trouble: When Controversy Visits the Mall***Manchester D***

Non-commercial legal issues, including labor union activity, civil rights issues, gangs, terrorist threats and political demonstrations frequently arise at shopping malls because they are highly visible local business hubs as well as natural gathering places for the communities they serve. This seminar will discuss these sorts of non-commercial problems and practical approaches to managing the legal issues they create

Facilitators:**Matthew E. Cash**

Jones Lang LaSalle

Chicago, IL

Michael Hunter Freese

Simon Property Group

Indianapolis, IN

2: Troubleshooting for Foreign Retailers Entering the U.S. Market: What a Foreign Tenant May Not Understand***Manchester E***

Foreign retailers entering the U.S. retail market for the first time are often unfamiliar with American leasing practices and real estate markets. This workshop will examine the fundamental issues a foreign retailer entering is likely to face. The workshop will focus on matters likely to be raised by landlords, and ways in which counsel can advise and prepare their clients.

Facilitators:**David J. Larsson**

Larsson & Scheuritzel

Philadelphia, PA

3: Debunking Myths and Correcting Misconceptions Relating to Insurance***Manchester F***

This session will feature three 15-minute presentations covering property insurance, liability insurance, and construction-related insurance, respectively. Each presentation will be followed by a 10-minute question and answer period allowing attendees to explore the topic from their own perspectives. Find out once and for all if that insurance provision you “borrowed” from another attorney actually works.

Facilitators:**Charles E. Comiskey**

Brady Chapman Holland & Associates, Inc.

Houston, TX

Aaron Johnston, Jr.

Munsch Hardt Kopf & Harr, PC

Dallas, TX

4: Outparcels: Basics and Beyond***Manchester G***

This session will address both basic and advanced issues regarding the development, leasing and sale of outparcels. The perspectives of both developers and outparcel users on some of the more difficult

and controversial issues will be discussed, including exclusives, third party consents, site planning, common area maintenance expenses and controls and restrictions. Practice tips for resolving "deal killer" issues also will be explored.

Facilitators:

Robyn Minter Smyers

Thompson Hine LLP

Cleveland, OH

Michael C. Wilde

Baker and Hostetler, LLP

Orlando, FL

3:00PM – 4:15PM

Seminars

1: E-Discovery: Changes in the Federal Rules -- Why They Matter and How to Prepare

Manchester A

Just as the world of technology is changing all around us, so too is the world of litigation. Under recent amendments to the Federal Rules of Civil Procedure, Electronically Stored Information raises new and potentially very serious risks to litigants and counsel. This presentation will provide a brief overview of your obligations related to e-discovery, how e-discovery will impact the way you do business and what you can do to prepare.

Facilitators:

James J. Harris

Limited Brands, Inc.

Columbus, OH

John L. Landolfi

Vorys, Sater, Seymour and Pease, LLP

Columbus, OH

2: Leasehold and Fixture Financing, Landlord Waivers and Subordinations – How To Get What You Want and Get What They Need

Manchester B

This seminar will review the basic issues associated with leasehold and fixture financing from the lender, tenant and landlord perspectives. We will focus on the role of the tenant's counsel in negotiating the lender's requirements with the landlord's counsel and we will explore the implications to the landlord of its agreements with the lender.

Facilitators:

Gregory R. Beekman

Lewis, Rice & Fingersh, L.C.

St. Louis, MO

Pierce Richardson

Kirkpatrick & Lockhart Preston Gates Ellis LLP

Pittsburgh, PA

1: Choosing the Best Debt for You – Tips for Borrowers When Determining Whether to Borrow Funds from a CMBS Lender or Traditional Portfolio Lender***Manchester D***

The panel will focus on both the positive and negative aspects of securitized debt versus portfolio debt, including, without limitation, interest rate spread, reserves and escrows, SPE requirements, defeasance/yield maintenance, property expansions, property releases, property substitution, cash management, loan modifications, opinions, and general servicing issues.

Facilitators:**Louis T. Antosh, Jr.**

Allen Matkins Leck Gamble Mallory & Natsis LLP
Irvine, CA

Ellen M. Goodwin

Alston + Bird LLP
New York, NY

2: Development Agreements with Local and State Governments: The Good, The Bad and The Ugly***Manchester E***

We will discuss development agreements between developers (surprise) and state and local governments, the benefits they may bring, the detriments they may also provide and practical issues that are likely to evolve from the interaction of the government in a private development. We will analyze these from the developer's, the tenant's and operator's and the government's perspectives.

Facilitators:**Nyal D. Deems**

Varnum, Riddering, Schmidt & Howlett LLP
Grand Rapids, MI

Amy R. Forbes

Gibson, Dunn & Crutcher
Los Angeles, CA

3: Franchising, Licensing and Trademarks: Viewing Real Estate Issues from a Branded Chain's Perspective***Manchester F***

In most franchise and distribution systems, the site selection process and opportunity to control associated with each unit is critical to the success of the unit and the system as a whole. Establishing influence over the site selection process and control over the real estate on which each unit is located, whether by direct or indirect means, can be accomplished by many alternative methods, each of which presents various advantages and disadvantages. This program will examine the implications to lessors and to a retail chain of controlling the real estate and site selection process, the methods available to control, the alternatives to control, and various other franchise and intellectual property concerns that can affect a retail chain's view of real estate, including radius restrictions, parking, use restrictions, restrictions on competitive concepts, and step-in rights upon termination or non-renewal.

Facilitators:

Kenneth Costello

Bryan Cave
Santa Monica, CA

Dean T. Fournaris

Ballard Spahr Andrews & Ingersoll, LLP
Philadelphia, PA

4: Big Box Leasing: The New and Age-Old Battles Between Landlord and Tenant

Manchester G

This workshop will address the latest trends and issues in big box leasing negotiation, such as “exclusiveness” centers and flat CAM, as well as some age-old controversies. Presenters will be prepared to address the significant issues from both the landlord and tenant perspectives. The workshop will assume that attendees have a basic working knowledge of big box shopping center leasing.

Facilitators:

M. Virginia (“Ginger”) Perry

Ballard Spahr Andrews & Ingersoll, LLP
Phoenix, AZ

Jennifer R. Van Ness

Sutherland Asbill & Brennan LLP
Atlanta, GA

5: Negotiating the New AIA – What Really Matters

Manchester H

The AIA A201, revamped in 2007, and the contracts into which it is incorporated, contain dozens of pages of “boilerplate” – meaningless until the life of your project depends on the turn of a phrase or the interplay of seemingly irreconcilably conflicting provisions. Learn, through an interactive presentation led by 2 seasoned practitioners, one transactionally oriented and the other an admitted “courthouse rat” what matters and why. Negotiate hard on those provisions likely to be in play when the project encounters problems, while yielding on those provisions less likely to prove critical.

Facilitators:

David R. Schenk

Barnes & Thornburg
Chicago, IL

Stuart H. Sobel

Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A.
Coral Gables, FL

4:15PM

Conference Adjourns

2007 U.S. LAW CONFERENCE PROGRAM COMMITTEE

Conference Chair:

Thomas P. Bloch, Samuels & Associates, Boston, MA

Conference Co-Chair:

Jane Snoddy Smith, Fulbright & Jaworski L.L.P., Austin, TX

General Session Subcommittee:

Harold D. Piazza, Jr., Subcommittee Chair, TIAA-CREF, New York, NY

Mark S. Hennigh, Greene Radovsky Maloney Share & Hennigh LLP, San Francisco, CA

Margaret R. Johnson, J. C. Penney Corporation, Inc, Plano, TX

Workshop Subcommittee:

Ann Peldo Cargile, Subcommittee Chair, Boulton, Cummings, Conners & Berry, PLC, Nashville, TN

Lester M. Bliwise, Sutherland Asbill & Brennan LLP, New York, NY

Nina Kampler, Hilco Real Estate, LLC, New York, NY

Daniel J. Perlman, Paul, Hastings, Janofsky & Walker LLP, Chicago, IL

David L. Pollack, Ballard Spahr Andrews & Ingersoll, LLP, Philadelphia, PA

Raymond G. Truitt, Ballard Spahr Andrews & Ingersoll, LLP, Baltimore, MD

Seminar Subcommittee:

Linda K. Schear, Subcommittee Chair, Gregory Greenfield & Associates, Ltd., Atlanta, GA

Deborah S. De Luca, Greenberg Traurig, LLP, Fort Lauderdale, FL

Richard S. Friedman, Hughes Hubbard & Reed LLP, Los Angeles, CA

David G. Johansen, Nordstrom, Inc., Seattle, WA

Gail M. Stern, Limited Brands, Inc., Columbus, OH

George J. Walsh, III, Thompson Hine LLP, New York, NY

Roundtable Subcommittee:

Lawrence D. McLaughlin, Subcommittee Chair, Honigman Miller Schwartz and Cohn LLP, Detroit, MI

Robert DiVita, Sills Cummis Epstein & Gross P.C., Newark, NJ

James A. Moomaw, Hughes & Luce, LLP, Dallas, TX

Session Materials Subcommittee:

Neil S. Kessler, Subcommittee Chair, Troutman Sanders LLP, Richmond, VA

Robert M. McAndrew, Ross Stores, Inc., Pleasanton, CA

Monitoring Subcommittee:

Alan J. Salle, Subcommittee Chair, Honigman Miller Schwartz and Cohn LLP, Oakland County, MI

Elizabeth H. Belkin, DLA Piper US LLP, Chicago, IL

Renee J. Magnant, J. C. Penney Corporation, Inc., Plano, TX

Committee:

Joan U. Allgood, Developers Diversified Realty Corporation, Beachwood, OH

***Philip J. Bagley, III**, Troutman Sanders LLP, Richmond, VA

Victoria S. Berghel, CBL & Associates Properties, Inc., Chattanooga, TN

Jo Anne M. Bernhard, Law Office of Jo Anne M. Bernhard, Sacramento, CA

***Richard J. Burstein**, Honigman Miller Schwartz and Cohn LLP, Oakland County, MI

Stephen K. Cassidy, Cassidy Shimko Dawson & Kawakami, San Francisco, CA
Jay A. Epstien, DLA Piper US LLP, Washington, DC
***Morton P. Fisher, Jr.**, Ballard Spahr Andrews & Ingersoll, LLP, Baltimore, MD
Richard E. Galen, First American Title Insurance Co., Washington, DC
***Ronald G. Galip**, Attorney-at-Law, Youngstown, OH
***J. Kevin Garvey**, Chicago, IL
Ronald L. Gern, General Growth Properties, Inc., Chicago, IL
***Richard R. Goldberg**, Ballard Spahr Andrews & Ingersoll, LLP, Philadelphia, PA
***William P. Hise**, Hayward, WI
***Howard E. Kane**, DLA Piper US LLP, Chicago, IL
***Edward R. Krasnove**, The Krasnove Law Firm, Torrance, CA
***Mark J. Levick**, New York, NY
***Jack A. Marino, Jr.**, Chicago Title Insurance Co., New York, NY
***Jeffrey H. Newman**, Sills Cummis Epstein & Gross P.C., Newark, NJ
Oscar R. Rivera, Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A., Plantation, FL
***Edward J. Sack**, Brooklyn, NY
Terri K. Simard, Target Corporation, Minneapolis, MN
***Wade Whilden**, Baker Botts L.L.P., Houston, TX
C. David Zoba, Steiner + Associates, Inc., Columbus, OH

*Emeritus

**ICSC U.S. Shopping Center Law Conference
Chairmen**

Year	Location of Conference	Chairman/Co-Chairman
1970	Tampa, Florida	Dan Levy
1972	Tampa, Florida	Dan Levy
1973	San Diego, California	E. John Caldecott
1974	Kissimmee, Florida	Sylvan M. Cohen and Howard E. Kane
1975	Boca Raton, Florida	Ronald G. Galip
1976	Carlsbad, California	Ronald G. Galip
1977	Miami, Florida	Robert J. Birnbaum
1978	Carlsbad, CA	Michael E. Gleason
1979	Miami, Florida	Howard E. Kane
1980	Phoenix, Arizona	Howard E. Kane and Wade Whilden
1981	Boca Raton, Florida	Wade Whilden and Mark J. Levick
1982	Rancho Mirage, California	Mark J. Levick and Edward R. Krasnove
1983	Haines City, Florida	Edward R. Krasnove and Sylvan M. Cohen
1984	Rancho Mirage, California	Sylvan M. Cohen and Tony Kuklin
1985	Scottsdale Arizona	Anthony B. Kuklin and J. Kevin Garvey
1986	Orlando, Florida	J. Kevin Garvey and Richard R. Goldberg
1987	Palm Desert, California	Richard R. Goldberg and Philip R. DiGennaro
1988	Orlando, Florida	Philip R. DiGennaro and Edward R. Krasnove
1989	Palm Desert, California	Edward R. Krasnove and William P. Hise
1990	Boca Raton, Florida	William P. Hise and Philip D. Pecar
1991	Scottsdale, Arizona	Philip D. Pecar and George J. Walsh III
1992	Orlando, Florida	George J. Walsh III and JoAnne M. Bernhard
1993	Palm Desert, California	JoAnne M. Bernhard and Hershel J. Richman
1994	Orlando, Florida	Hershel J. Richman and Stephen K. Cassidy
1995	Scottsdale, Arizona	Stephen K. Cassidy and Mark I. Litow
1996	Orlando, Florida	Mark I. Litow and Morton P. Fisher, Jr.
1997	Palm Desert, California	Morton P. Fisher, Jr. and Philip J. Bagley III
1998	Nashville, Tennessee	Philip J. Bagley III and Elizabeth H. Belkin
1999	Scottsdale, Arizona	Elizabeth H. Belkin and Richard J. Burstein
2000	Orlando, Florida	Richard J. Burstein and Jeffrey H. Newman
2001	Palm Desert, California	Jeffrey H. Newman and C. David Zoba
2002	Boca Raton, Florida	C. David Zoba and Ronald L. Gern
2003	Palm Desert, California	Ronald L. Gern and Victoria S. Berghel
2004	Hollywood, Florida	Victoria S. Berghel and Terri K. Simard
2005	Phoenix, Arizona	Terri K Simard and Oscar R. Rivera
2006	Orlando, Florida	Oscar R. Rivera and Thomas P. Bloch
2007	San Diego, CA	Thomas P. Bloch and Jane Snoddy Smith

FUTURE U.S. SHOPPING CENTER LAW CONFERENCES

***2008 U.S. Shopping Center Law Conference
October 22-25, 2008
Westin Diplomat
Hollywood, FL***

***2009 U.S. Shopping Center Law Conference
October 21-24, 2009
JW Marriott Desert Ridge Resort & Spa
Phoenix, AZ***

***2010 U.S. Shopping Center Law Conference
October 27 – 30, 2010
Grande Lakes Orlando
Orlando, FL***

***2011 U.S. Shopping Center Law Conference
October 26-29, 2011 confirmed dates
Hotel to be determined***

***2012 U.S. Shopping Center Law Conference
October 24 – 27, 2012
Grande Lakes Orlando
Orlando, FL***

For Hotel information, contact Deprez Travel Bureau at 1-888-427-2885.