

industry chair

Macculloch M. Irving / Partner

John R. Casolaro / Partner

Paul J. Proulx / Partner

Michael H. Bauscher / Partner

Lee A. Ohliger / Counsel

Rocco M. Sainato / Counsel

Robert G. Koen / Partner

Our Real Estate Sector group delivers practical solutions to real estate clients and clients with interests or investments in real property. We have an integrated approach involving close collaboration with lawyers across a range of practice areas apart, including:

- Environmental and Land Use/Zoning
- Corporate
- Litigation
- Tax
- Trusts & Estates
- Tax-Exempt Organizations
- Insolvency & Creditors' Rights/Bankruptcy
- Construction
- Condemnation.

Our culture of cooperation and delivery of coordinated legal services benefits our clients.

For our real estate industry clients, we handle the full range of real estate matters including commercial and residential property sales and acquisitions, commercial leases, long term ground leases, joint ventures, joint venture development projects, brokerage agreements, construction access agreements, construction contracts and architect's agreements, mortgage and mezzanine loans and other financings, preferred equity investments, condemnation proceedings, re-development projects involving governmental agencies, and corporate acquisitions involving real property. Our team represents private clients, government agencies, and not-for-profit organizations in wide range of matters, including leasing, development, ownership, and management of commercial and residential real estate.

Our team fully understands that real estate means much more to our clients than an asset on their balance sheets. Our lawyers stay knowledgeable on legislative and regulatory updates that affect our clients in the real estate industry, including the New York Building Council, and serve on real estate-related committees, including the Committee on Real Property Law of the Association of the Bar of the City of New York; Construction Law Committee of the Association of the Bar of the City of New York; and Condemnation Law Committee of the New York County Lawyers' Association.

While we work to meet the needs of a national and international client base, the members of our groups also focus on working with many New York City agencies, including:

- Board of Standards and Appeals
- City Planning Commission
- Economic Development Corporation
- Department of Housing Preservation and Development
- Landmarks Preservation Commission
- Office of the Mayor
- New York City Council

Some transactions for the tax-exempt organizations we represent involve joint ventures with private developers on the construction of office or condo buildings. With such deals come unique tax complications and other challenges, requiring us to forge new, creative ways to unravel the complexities and move the project forward.

Who We Represent

Owners: Our attorneys represent major landlords in Manhattan – institutions that are among our longest-standing clients – in negotiating and finalizing commercial office and retail leases and long-term ground leases. We have assisted these clients in major office leases to financial institutions such as Morgan Stanley and The Bank of New York, in retail leases to leading chain operators and in long-term ground leases to real estate developers.

Tenants: Our leasing group has provided tenant representation to financial institutions and business corporations in some of the largest leasing transactions in the New York City area in recent years. We fully understand the special needs and interests of such clients, including uninterruptible power supplies and other back-up systems, leases of roof space for communications equipment, data centers and rights to operate. We negotiate “work letters” and other construction-related agreements. We also represent tax-exempt organizations in leases of health care facilities, day care centers and other such facilities. We also advocate for tenants in negotiations with New York State, New York City, and the State of New Jersey for tax abatements and other incentives regarding leasing transactions.

Government Agencies and Municipalities: Our Firm has a long track record of successfully representing quasi-government agencies, governmental land owners and such entities in obtaining easements from private landowners for the installation of a host of construction and infrastructure projects. For example, for the MTA, we represented the agency in obtaining easements for new subway entrances and new accessible subway entrances for people in wheelchairs.

Buyers and Sellers: Our team members assist clients in buying and selling properties throughout the United States, with a focus on office, retail, and mixed-use buildings in Manhattan and elsewhere in the City of New York. We help close deals in the purchases and sales of actively managed office buildings, residential apartment complexes, retail portfolios, net-leased office buildings, joint venture transactions, air rights transfers, and transfers of controlling interests. We represent both taxable and tax-exempt entities, advising them on the tax treatment of sales, acquisitions, joint ventures and financings. We handle tax-free exchanges and defeasance transactions and represent royally chartered entities in connection with real estate transactions.

Financiers and Developers: We counsel clients on a wide range of real property development activity, including joint ventures, assemblages, obtaining subdivision and other regulatory approvals, ground leases and air rights transfers. In performing this work, many regulatory issues arise. For example, we deal with SEQRA and CEQR compliance and litigation, ULURP applications, franchises (including bridges across city streets), franchise renewals, and street demappings. We have represented lenders and borrowers in loans secured by interests in real property, including defeasance transactions.

Construction, Design and Builders: We assist owners, contractors, design-build entities and construction companies in the preparation of construction contracts, generally representing the owner, and construction access agreements between owners of adjoining properties. We separately represent owners (including a New York suburban county), contractors and subcontractors in connection with lien filings and discharges, Lien Law diversion of trust fund actions, and legal proceedings or arbitrations among owners, contractors and architects for breach of construction contracts and delay damages.

Our lawyers also assist clients that are constructing public infrastructure in obtaining access agreements, including drafting permanent and temporary easements and construction work permits and licenses.

Architects: We handle construction access and license agreement involving all manner of projects ranging from Local Law 11 maintenance work to major new residential, hotel and commercial projects. We have developed some of the strongest model agreements in New York City providing our clients (whether seeking or giving access) with the highest levels of protection and assurance if problems occur during a project. Where litigation regarding license agreements becomes necessary, either to secure access or seeking damages from access, our litigation department handles those matters.

Owners or Agencies in Condemnation Proceedings: With an active condemnation practice, we represent governmental entities in major condemnation matters. This work includes advice and representation in connection with governmental projects and proceedings, community and government relations, relocation of tenants, advice on litigation strategy and active prosecution of litigation.

Recent Client Highlights

- We helped the City of New York in negotiations with Amtrak to secure changes to railroad easements dating back nearly one hundred years in on order to facilitate development above the railroad right-of-way while preserving the right of the railroad to meet modern operational requirements. These negotiations included dealing with three dimensional surveys, modern ventilation and emergency requirements, modern equipment and developing creative ways to work around missing easement documents.
- Roosevelt Island Operating Corporation in a long-term ground lease to the Hudson Companies and the Related Companies on Roosevelt Island. This lease, representing the last of nine buildings to be constructed in the Southtown Community on Roosevelt Island, will be used to construct a 357-unit residential building, with 104 of the units to be used by Memorial Sloan Kettering Cancer Center for workforce housing.
- Restructuring of a multiple party \$150 loan syndication in connection with a Class A million square foot office tower in Chicago. The restructuring included bringing in a second class of lender parties primarily to fund committed tenant improvement work.
- Completed \$35 million C Pace financing documentation for energy savings and related improvements in a Class A office building in Chicago.
- Proud of our ongoing representation of a New York municipality with extensive ocean front areas in lawsuits involving the interpretation and enforcement of easements permitting renourishment of sand dunes while preventing development which would interfere with the functioning of protective dunes. This representation has led to groundbreaking trial court decisions interpreting such easements.
- We were asked by a client to evaluate whether standard deed conveyance language transferring the appurtenances and all rights of the transferor in condemned property led to unwitting transfers of condemnation claims pending when the property was transferred.
- We helped the City of New York in negotiations with Amtrak to secure changes to railroad easements dating back nearly one hundred years in on order to facilitate development above the railroad right-of-way while preserving the right of the railroad to meet modern operational requirements. These negotiations included dealing with three dimensional surveys, modern ventilation and emergency requirements, modern equipment and developing creative ways to work around missing easement documents.
- We represented Roosevelt Island Operating Corporation in a long-term ground lease to the Hudson Companies and the Related Companies on Roosevelt Island. This lease, representing the last of nine buildings to be constructed in the Southtown Community on

Roosevelt Island, will be used to construct a 357-unit residential building, with 104 of the units to be used by Memorial Sloan Kettering Cancer Center for workforce housing.

- We worked on the restructuring of a multiple party \$150 loan syndication in connection with a Class A million square foot office tower in Chicago. The restructuring included bringing in a second class of lender parties primarily to fund committed tenant improvement work.
- We represented a client in completion of \$35 million C Pace financing documentation for energy savings and related improvements in a Class A office building in Chicago.
- We are proud of our ongoing representation of a New York municipality with extensive ocean front property in lawsuits involving the interpretation and enforcement of easements permitting renourishment of sand dunes while preventing development which would interfere with the functioning of protective dunes. This representation has led to groundbreaking trial court decisions interpreting such easements.