

Real Estate

## Any real estate opportunity (or problem). Anywhere in the U.S.

We handle deals that move businesses forward, working nationwide with Fortune 100 and Fortune 500 companies as well as smaller publicly traded companies, REITs and institutional investors, and closely held businesses. With a reputation for completing sophisticated real estate transactions and financings, our lawyers know that the best real estate counsel is the kind that allows stakeholders to keep projects on schedule and within budget.

### Overview

**A team of 70+ real estate attorneys delivering comprehensive, multidisciplinary solutions**

With a solid working knowledge of recent developments in the industry and wide-ranging, national experience, our attorneys manage all aspects of transactions, applying their knowledge and experience for the benefit of our clients.

**Maximizing your success, minimizing time and resources**

Whether for ongoing strategic counsel, one-time transactions, or serving as outside general counsel, our team has the depth to handle the purchase, sale, development, construction, and exchange of land anywhere in the U.S.

**Our lawyers work as a multidisciplinary and results-oriented team**, working seamlessly among our offices and practice areas to:

- **Handle projects and transactions of all sizes.**
- **Focus on efficient, comprehensive, commonsense solutions.** We collaborate closely with lawyers on our banking and financial services, business transactions, and other relevant teams to meet the full range of client needs.
- **Solve problems before they torpedo transactions.** Even when faced with potentially time-consuming and costly issues, we seek out alternate, practical paths that prioritize our clients' needs and get deals done.
- **Address the needs of a wide variety of clients**, including individual and corporate real estate owners, investors, developers, builders, operators, managers, and brokers as well as financial institutions and governmental entities.
- **Understand the business goals and project goals** of clients. Regardless of transaction complexity or cost, we work with principal stakeholders to understand the full scope of a project and our clients' goals and to provide value-added legal services that meet or exceed our clients' expectations.

### Experience

- Kansas City, Missouri, Chatham Apartments – Senior housing utilizing 4% LIHTC, state and federal HTC's, HOME, and 353 real property tax abatement.

- Kansas City, Missouri, Roaster's Block – Adaptive reuse of Folger's Manufacturing Plant utilizing federal and state HTC's and a 353 real property tax abatement. Post-Historic Boardwalk and Rev. Proc. 2014-12.
- Lawrence, Kansas, 9 Del Lofts – Historic redevelopment of warehouse space into affordable housing units utilizing LIHTC's, state and federal HTC's, and tax exemption.
- Oklahoma City, Oklahoma, Skirvin Hotel – Oldest hotel in Oklahoma City. It opened in 1911 and was closed in 1988. The hotel was purchased from the city in 2005, and rehabilitation was financed with federal and Oklahoma Historic Tax Credits, federal New Markets Tax Credits, Empowerment Zone Tax Credits, and Tax Increment Financing.
- St. Louis, Missouri, Freedom Place – Transitional housing for homeless veterans redeveloped using 9% LIHTC, federal and state HTC's, and a 353 real property tax abatement.
- San Antonio, Texas, Drury Plaza Hotel River Walk – The building is a 24-story Beaux-Arts-style skyscraper built in the 1930's. Rehabilitation involved Federal Historic Tax Credits and Federal New Markets Tax Credits.
- Springfield, Missouri, Hotel Vandivort – Adaptive reuse of office space into boutique hotel utilizing Chapter 100 bond financing, state and federal HTC's, and sandwich lease structure. Post-Historic Boardwalk and Rev. Proc. 2014-12.
- Troy, New York, Hudson Art House – 4% tax exempt bond financing with state and federal HTC's, IRB sales, and property tax exemption.
- Denver, Colorado – Represented direct owner and LIHTC syndication fund with over \$1 billion in LIHTC assets.
- Kansas City, Missouri, Faxon School Apartments – Adaptive reuse of abandoned school building utilizing 4% tax exempt bond financing, state and federal LIHTC and HTC's, and Chapter 99 real property tax abatement.
- Manhattan, New York, Battery Maritime Building – Renovation of the historic building using federal Historic Tax Credits.
- Cincinnati, Ohio, St. Aloysius Orphanage – Renovation and expansion of the historic building to provide space for a school and social services helping disadvantaged children, using state and federal New Markets Tax Credits and federal Historic Tax Credits.
- El Paso, Texas – Renovation of historic structure to provide space for a regional food bank, using federal New Markets and Historic Tax Credits.
- Washington, D.C. – Renovation of historic structure to provide space for temporary housing and social services for homeless people, using federal New Markets and Historic Tax Credits.
- Gettysburg, Pennsylvania, Seminary Ridge – Renovation of historic structure to provide space for an interactive Civil War museum, using federal New Markets and Historic Tax Credits.
- Roanoke, Virginia – Renovation and expansion of historic structure to provide space for a regional cultural center, using federal New Markets and Historic Tax Credits and Virginia Historic Tax Credits.
- Oklahoma City, Oklahoma – Renovation of historic structure to provide space for a regional history museum, using federal and Oklahoma Historic Tax Credits.

## Areas of Focus

### Commercial, Retail, Industrial, and Office Leasing

**Solidifying the most advantageous terms.** Spencer Fane represents both landlords and tenants in negotiating, documenting, and enforcing all types of leases, subleases, licenses, amendments, assignments, and all other related documents.

**Mitigating risk, maximizing gain.** With deep experience examining and evaluating risk, our lawyers identify and address complex lease issues, develop highly strategic risk analysis, work to get ahead of potential problems, and achieve favorable outcomes for clients.

**Working as a multidisciplinary team focused on producing results** for clients, we:

- **Handle leasing for all types of properties**, including retail and shopping centers, industrial, manufacturing, government, warehouse, office, multifamily, and ground leases.
- **Meet the leasing needs of clients of all sizes**, including Fortune 100 and Fortune 500 companies, closely held businesses, publicly traded companies, and REITs.
- **Address collateral leasing matters** such as drafting and responding to letters of intent, subordination and nondisturbance agreements, estoppel certificates, and other related documents.

## Construction Law

**Completing well-thought-out and organized projects.** Spencer Fane Real Estate attorneys advise owners, contractors, subcontractors, and design professionals on legal matters that arise during all phases of construction, helping them to complete projects that remain on budget and on schedule.

**From inception to completion, we work to identify and mitigate risk in real estate projects.** When unavoidable, contentious issues come up, we strongly advocate for our clients in or out of court. Our experience in litigation and alternative dispute resolution methods like negotiation, arbitration, and mediation allows us to find the best solution to a client's most challenging situations.

**Our team handles the full range of issues involved in construction projects**, advising on:

- **Contract procurement and delivery**, including drafting and negotiating design and construction contracts.
- **Construction financing**, where we offer both legal advice and connections to financial institutions and other entities that can assist in funding a project. Our attorneys are well-versed in traditional financing as well as public-private partnerships and a wide array of tax incentives, including tax credit finance and opportunity zones.
- **All types of construction projects**, including retail, shopping centers, multifamily housing complexes, office buildings, K-12 and higher education projects, health care facilities, factories, warehouses, condominiums, infrastructure, and government projects.
- **Construction-related labor and employment issues.** We represent clients before all levels of state and federal agencies, including the National Labor Relations Board, and defend businesses in matters involving the Fair Labor Standards Act and other collective actions.
- **Litigation claims** involving construction defects, surety bond claims, mechanic's liens, design professionals, bid protests, change orders, insurance coverage, prompt pay claims, delay and disruption claims, and warranty claims.

## Development Incentives and Abatements

**Identifying and procuring public funding sources.** As the development process grows in complexity, real estate owners, developers, and investors need legal counsel experienced not only in real estate transactions but in development incentives. We have extensive experience in assessing an existing site, defining the related financing needs, and identifying ways to make a real estate project economically feasible, be it residential, commercial, industrial, or institutional.

**Assisting clients in the site selection process**, we examine options and provide input on what types of incentives might be available and how they can contribute to making a real estate project cost-effective.

**Layering development incentives in order to maximize financial benefits.** Our attorneys understand that each incentive and abatement opportunity comes with its own eligibility requirements, and we help clients meet those requirements. In addition, we examine the costs and potential drawbacks of each incentive program, including how certain programs can have offsetting costs that negate some of the financial benefit.

**Advising on all types of development incentives**, our attorneys assemble teams that help clients expeditiously close complex transactions involving:

- **Tax credits**, including historic rehabilitation tax credits, low-income housing tax credits, new markets tax credits, and opportunity zones
- **Special districts**, including protection, water and sanitation, metropolitan, and business improvement districts
- **Transportation development districts** (TDD)
- **Community improvement districts** (CID)
- **Tax increment financing** (TIF)
- **Sales and property tax abatements**
- **Other state / local programs**

Members of our team also serve in a general counsel role to assist with ongoing compliance and regulatory needs, in order to maintain the maximum financial benefit and to assist in any litigation related to an abatement or incentive program.

## **Eminent Domain / Condemnation / Land Use**

**Representing parties on all sides of eminent domain proceedings.** Spencer Fane attorneys represent parties on all sides of the land acquisition process. Our experience representing both property owners and condemning authorities gives our attorneys beneficial insight into the point of view and potential arguments of the opposition.

**Understanding how our clients' needs and concerns align with the considerations of other stakeholders** – including city councils, school boards, or other governmental entities – our lawyers calm a potentially contentious process by working thoughtfully and thoroughly to build cases that achieve desirable outcomes for all stakeholders.

Our eminent domain lawyers:

- **Work with a wide variety of clients**, including individual landowners, developers, public utility providers, counties, municipalities, school districts, urban renewal authorities, special districts, and more.
- **Guide clients through every stage of condemnation cases**, including preliminary negotiations for the acquisition of property, notification processes, institution of condemnation proceedings, the ultimate determination of compensation through litigation or administrative hearings, and any resulting appeals.
- **Understand the universe of future uses for land and how to approach condemnation proceedings for different uses**. Our team has been involved in major condemnation proceedings for the acquisition of land for a variety of uses, including a multicounty lake project, light rail systems, redevelopment projects, and processing, industrial, and other large facilities. We have represented property owners in defense of utility expansions and public facilities construction that had the potential to affect future development of the land involved.
- **Understand that property owners can have an extremely personal connection to their land** that can't be expressed in a description or monetary offer of compensation.

- **Protect the unique interests of each client.** We walk clients through the specifics of each matter with a focus on pursuing the most effective course of action to protect their interests, candidly advising them on the recommended course of action related to a given scenario.

## Real Estate Development

### **Providing comprehensive, multidisciplinary support for clients navigating the complexities of real estate development projects.**

Whether you're acquiring land, securing entitlements, negotiating financing, or managing construction, our team delivers strategic counsel that aligns with your business goals and timelines.

We represent developers, investors, municipalities, REITs, and institutions across a wide range of projects – from commercial, multi-family, and mixed-use developments to affordable housing and industrial parks. Our attorneys bring deep experience and a collaborative approach to every engagement, ensuring that legal solutions are practical, efficient, and tailored to your needs.

Our practice covers all phases of real estate development:

- **Acquisitions:** Our team structures and negotiates acquisitions with precision and foresight.
- **Land Use and Zoning and Entitlements:** We guide clients through entitlement processes, zoning approvals, and permitting to help unlock development potential.
- **Financing:** We represent clients in all phases of lending, loan structuring, and negotiating and drafting transaction documents. Additionally, we represent clients in lending transactions from any level of complexity.
- **Development Incentives:** We help clients identify and secure tax credits, abatements, and opportunity zone benefits to enhance project value.
- **Construction:** We draft and manage construction contracts, resolve lien issues, and handle disputes to keep projects on track.
- **Environmental Compliance and Transactions:** We counsel clients through the full spectrum of environmental issues in real estate and capital projects, from due diligence, remediation, cost-recovery, and permitting, to ongoing compliance with federal, state, and local environmental laws.
- **Special Districts and Governance:** We advise on the formation and operation of homeowner associations, community improvement districts, and other governance structures.
- **Leasing:** We provide comprehensive commercial leasing services, guiding clients through lease negotiation, drafting, and management to protect their interests.

## Real Estate Transactions

**Structuring a wide variety of real estate transactions nationwide.** Our Real Estate Transactions team advises on everything from standard purchases and sales to sophisticated like-kind exchanges under Section 1031 of the tax code and opportunity zone projects.

Our attorneys help individuals and companies across a spectrum of industries to understand and manage risk as they decide whether to proceed with a transaction opportunity related to the purchase, sale, and exchange of real estate.

**Closing deals as smoothly and efficiently as possible.** We advise on a wide range of transactions, including those involving raw land, partially developed property, commercial buildings, office buildings, retail shopping centers, hotels and resorts, medical and research facilities, industrial facilities, manufacturing facilities, warehouses, apartment complexes,

student housing, condominiums, senior housing, independent and assisted living, and single and multifamily developments.

The Spencer Fane Real Estate Transaction team advises on:

- **Purchases, sales, and exchanges.** Our attorneys help clients structure their transactions, hold title in real estate purchases, negotiate terms, and work through due diligence. We identify potential issues related to surveys, plats, subdivisions, titles, or environmental matters and, when it's time to close the transaction, we prepare authorizing resolutions, review updated title work, prepare closing statements, and review all financing materials. We work with real estate developers as well as corporate clients with real estate transaction needs.
- **Finance.** We advise both lenders and borrowers on the risks and obligations they face and, with nationwide knowledge of the latest trends, legislation, and development incentive opportunities, our lawyers help to structure financing transactions to a client's greatest advantage. We work on construction and permanent mortgage loan transactions, sale-leasebacks, refinancings, and other forms of real estate financing.
- **Disputes.** Our lawyers handle cases involving real estate sale contracts, lender disputes, investor disputes, commercial and multifamily residential leases, mechanic's liens, insurance coverage, investor disputes, broker agreements, foreclosure claims, ownership rights, and title claims. Additionally, we help clients with litigation involving environmental and regulatory matters.
- **Workouts.** Representing financial institutions as well as property owners and developers, our attorneys understand the unique array of regulations surrounding distressed real estate and work to develop tailor-made solutions for clients, including loan workouts, bankruptcy and creditor remedies, out-of-court workouts and restructuring, and receivership and foreclosure services. We have developed solutions for a broad range of distressed properties, including office buildings, shopping centers, hotels, industrial properties and apartment complexes, condominiums, single-family residential, and mixed-use developments.

## Tax Credit Finance and Opportunity Zones

**Shortening learning curves around new and existing programs.** With a thorough understanding of the intricacies of state and federal incentive programs, our Tax Credit Finance and Opportunity Zones team works with clients to quickly identify and capitalize on the programs that create the greatest amount of resources for their projects.

We make clients aware of development incentive opportunities they otherwise didn't know were possibilities and, with our mastery of highly technical knowledge, responsiveness, and communicative approach, we provide the legal foundation to facilitate efficient closings and bringing multimillion dollar projects to life.

### Deconstructing complexity, building opportunity and value

Our Tax Credit Finance and Opportunity Zones attorneys work exclusively with stakeholders in the real estate industry who can facilitate the completion of often complicated residential, commercial, and industrial real estate projects. We are passionate about this work, bringing together real estate developers, lenders, and investors on tax credit financing and opportunity zone matters to structure and close deals efficiently.

The Tax Credit Finance and Opportunity Zones team handles:

- **Historic Rehabilitation Tax Credits:** Conversant with both federal and state-specific requirements for Historic Rehabilitation Tax Credits (HTCs), the Spencer Fane HTC team has advised clients across the country on development projects involving historic buildings. Such programs have played a major role in revitalizing buildings throughout the U.S. designated as historic landmarks.

- **Low-Income Housing Tax Credits:** Spencer Fane Tax Credit attorneys work with real estate developers, investors, syndicators, and nonprofit organizations to maximize the benefits available to them through both federal and state tax credit programs to assist in creating affordable housing projects that benefit qualified low-income households.
- **New Markets Tax Credits:** Spencer Fane Tax Credit attorneys work with real estate developers, investors, syndicators, and nonprofit organizations to maximize the benefits available to them through both federal and state tax credit programs to assist in creating affordable housing projects that benefit qualified low-income households.
- **Opportunity Zones:** Spencer Fane Tax Credit Finance attorneys work with clients to capitalize on tax advantages associated with opportunity zone (OZ) investments and helping structure funds and close transactions that involve the use of OZ equity. Our clients include real estate developers, lenders, syndication clients, and investors.
- **Renewable Energy Tax Credits:** Clients interested in wind, solar, and geothermal tax breaks benefit from our firm's deep knowledge across the spectrum of issues that can impact renewable energy projects.