

Workouts + Foreclosures

Miller Canfield's Real Estate Practice Group includes a team of lawyers and paralegals dedicated to handling commercial real estate workouts and foreclosures throughout the Midwestern United States (primarily in Michigan, Ohio, Illinois, and Indiana) and also in Canada and Poland.

The workout and foreclosures team represents a diverse group of clients, including special servicers, master servicers, investment banks, commercial banks, and investors in distressed real estate debt (including "B-Piece" investors in commercial mortgage-backed securities).

The team has deep and extensive experience working with a broad scope of property types, including office, industrial, retail (including regional malls, strip centers, and big box), multifamily, and manufactured housing projects, as well as healthcare, hospitality, restaurant, residential development, golf course, and self-storage facilities. The unpaid principal balances of loans handled by the team typically ranges from \$1 million to \$100 million.

The team handles all phases of the real estate workout and foreclosure process, whether resolved consensually or through litigation. The team is experienced in handling forbearance agreements, loan modifications, deed-in-lieu transactions, deeds in escrow, workout negotiations, distressed real estate loan sales, mortgage assumption agreements, consensual sales through receivers, mortgage foreclosures (both judicial and nonjudicial), receiverships, suits against guarantors, fraudulent transfer claims, fraud investigations and litigation, lender liability claims and litigation, bankruptcy, and sales of distressed real estate through powers of attorney, receivers, bankruptcy, and as REO property.

The workout and foreclosures team is composed of lawyers who have expertise in this specific discipline and have extensive commercial mortgage loan origination (including thousands of portfolio and construction closings), as well as REMIC, intercreditor, and mezzanine expertise, and proven litigation skills. In addition, the team has available to it the broad range of real estate experience from other attorneys in the Real Estate Practice Group and other practice groups within Miller Canfield, including the Environmental Law, Tax, Commercial Litigation, Banking and Finance, and Bankruptcy Practice Groups.

The vast experience of the workout and foreclosure team and the team's keen understanding of the commercial mortgage and workout and foreclosure process enables the team to provide these services to clients quickly and efficiently, regardless of the circumstances of the individual property.

Representative Matters

- Served as lender's counsel for defaulted commercial real estate loans with an aggregate unpaid principal balance of several billion dollars
 - Rewrote "Michigan Foreclosure Practice" chapter in national Law of Distressed Real Estate volume
 - Strategic management of defense and restructuring of \$3 billion national apartment portfolio
 - Completed a sale of REO apartment complex for more than \$20 million; structured the transaction to avoid more than \$167,000 in transfer taxes
 - Numerous other purchase, sale, financing, leasing, foreclosure, and workout transactions
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