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Building a Commercial Practice

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15. *See generally*, 49 AM. JUR. 2d, Landlord and Tenant § 397.

16. *See generally*, 49 AM. JUR. 2d, Landlord and Tenant § 392.

17. *See, e.g.*, Carter v. Stovall, 291 S.W.2d 411 (Tex. Civ. App., Amarillo 1956, writ ref'd n.r.e.).

18. For an interesting discussion, *see*, Emanuel B. Halper, *Can You Find a Fair Lease?*, 14 REAL ESTATE L. J. 99, at 113 (Fall 1985).

19. For a good discussion of this issue, *see*, Howard E. Kane, *Dealing with Assignment, Use and Operating Convenant Lease Clauses*, 2 PRAC. REAL ESTATE LAW. 45 (May 1986).

20. *See generally*, F. Alison Dodds, *A Leasing Primer: From the Ground Up*, J. REAL ESTATE DEV. 11 (Winter 1986).

21. *Id.*

22. Mitchell's Inc. v. Nelius, 454 S.W.2d 809 (Tex. Civ. App., Dallas 1970, writ ref'd n.r.e.).

23. For a general discussion, *see*, 49 AM. JUR. 2d, Landlord and Tenant § 773. For a specific example, *see*, Young Corp. v. McClintic, 26 S.W.2d 460 (Tex. Civ. App., El Paso 1930), *rev'd on other grounds*, 66 S.W.2d 676 (Tex. 1933).

24. An example of a "holiday clause" is "The building holidays shall be as follows: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day."

25. Landlords will almost invariably exclaim either (i) their "lender will not agree to this," or (ii) they "will not be able to find a purchaser for the property with a clause like that in the Lease." This is indeed a difficult issue, and their statements are typically not entirely fallacious. However, this may be the only true "protection" Tenant may have from Landlord or subsequent owners of the property.

26. For further discussion, *see*, 49 AM. JUR. 2d, Landlord and Tenant § 301. *See also*, Stillman v. Youmans, 266 S.W.2d 913 (Tex. Civ. App., Galveston 1954, no writ).

27. It should be noted, however, that the tenant would arguably be relieved of its obligations under its lease since no privity between the new owner and said tenant exists. *See generally*, 49 AM. JUR. 2d, Landlord and Tenant § 132. For an interesting analysis, *see* Wootton v. Bishop, 257 S.W. 930 (Tex. Civ. App., Amarillo 1923, writ ref'd).

28. *See*, Halper, *Can You Find a Fair Lease?*, *supra* note 18, at 116 .

Building a Commercial Practice

Stephen B. Cohen

What is a "commercial" real estate practice? How does one develop a commerical real estate practice? Is there a place for the young lawyer? Commercial real estate law practice includes but is not limited to everything from new construction to complex exchanges, from strip shopping centers with a few stores to modern regional shopping centers, from the small two or three unit office building to the large downtown and suburban office/residential condo developments, and the sale of any type of business property. While it appears there is room for thousands of attorneys to handle the major transactions described above, this is generally not the case. It is well known that the commercial real estate bar in most large metropolitan areas is a rather select group. Is there a place in this group for the young lawyer?

The young lawyer leaves law school with a basic knowledge of real estate law, but most law school graduates do not know how to handle a simple residential real estate deal. Therefore, how does a young lawyer develop expertise and a real estate practice, and, more importantly, a commercial real estate practice? Based on more than twenty years of closing real estate transactions, I make the following observations and suggestions:

•Carefully interview the interviewer before accepting an associate position. Make sure that as a new lawyer, you will have an opportunity to get "hands on" experience in single family and complex real estate transactions.

•Attend basic real estate law seminars, meet other young lawyers in the field, review forms and ask questions relating to what the lecturers consider basic and routine, and then graduate to basic technique courses and more sophisticated real estate seminars.

•Join the local and state bar association real estate law sections, get involved in a specialty area, become more knowledgeable than anyone else on a sub-specialty within a specialty area in the real estate area (e.g., zoning relating to condominium conversions and cooperatives).

•Seek to work in the firm with the most knowledgeable lawyers, volunteer for evening and weekend duties on complex transactions, study documents from earlier deals handled by the firm, draft documents and agreements and ask for constructive criticism—in essence, learn from your *own* mistakes and keep a document file of everything you do and a copy of everything done by others on your specialty team.

•Start ghost writing articles for your superiors and seek a co-authorship, ask for lecture opportunities, participate in bar related events to gain exposure, and get involved in organizing bar related continuing legal education programs.

•Be recognized by your peers as an effective and practical lawyer and remember that the tough guy image that results in litigation will rarely ingratiate you to your client.

•Attend functions where potential clients can be found, meet people who are active in the development and financing of real estate ventures, and find a tactful way to attract new business from the people you want.

•Solicit business from your peers who may have a conflict in representing two clients to a given transaction.

•Get involved in real estate litigation and use the discovery process to educate yourself on how real estate deals are made and broken.

•Recognize and take advantage of opportunities when they present themselves. Remember, if you put off handling a transaction one day, it may not be there the next day.

•Always be prepared and never take anything for granted, including making changes or demands at the last minute to protect your client.

•Seek a high rating from Martindale, get your name in real estate columns, and advertise in lawyer to lawyer publications to attract business from other localities.

•Never be afraid to bring in knowledgeable co-counsel to help you in closing a difficult transaction—reputable members of the bar will not try to steal your clients or they would never get referrals.

While these suggestions and observations are not exhaustive, it presents a formula for solving the young lawyer's problem of actively pursuing a legal practice in commercial real estate. Many of us have gotten our starts by taking a few risks with new developers and weathering the initial drought. Regardless, the risk is usually worth the fears that accompany it. Success comes in dramatic fashion and the young lawyer will experience a new high and self-esteem. ■

The author is a frequent lecturer for the Illinois Institute for Continuing Legal Education. His offices are located in Skokie, Illinois and East Chicago, Indiana.