

## Real Estate and Land Use

In an era of siloed, hyperspecialized legal practices, the breadth and integration of Sussman Shank's Real Estate and Land Use Group gives our clients a unique advantage. Because of our size and team orientation, our real estate lawyers are experienced in working in a wide range of real estate matters – including in the areas of development, land use, purchase, sale and exchanges, financing, leasing, boundary and title issues, and litigation. Whatever the situation requires, our team has been there, done that, and can help clients do it, too.

When it comes to real estate, there is no substitute for experience. And when it comes to experience, there's no substitute for Sussman Shank. Our broad range of capabilities means we are known for being real-world, get-it-done lawyers. We aren't about writing memos, endless meetings and complicating deals. We're about rolling up our sleeves, and helping our clients get what needs to be done, done.

Because of our breadth, we're also immensely efficient. In real estate (or any) law, a key objective is issue-spotting – analyzing a situation and identifying potential pitfalls, and opportunities. Our lawyers can do this quickly because there's little they haven't seen before. Call it pattern recognition, experience or breadth of knowledge. Whatever a client is working on, there's a lawyer here with the background – and answers – they need. We help clients get deals over the finish line.

We're also a true team. Big firms can become bureaucratic, can shuffle lawyers around, and sometimes overstaff projects. Small firms lack the legal firepower and bench depths clients need. At Sussman Shank, our Real Estate and Land Use practice works seamless with one another, and with other lawyers on other teams. We communicate quickly, strategize, and are an exceptionally agile, effective – and cost-effective – team.

### **Practice Area Chair**

**Jeffrey S. Tarr, M.S. (Tax)**

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### **OUR ADVANTAGE**

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### **Strategic Tax Expertise**

Tax issues are an increasingly critical aspect of real estate transactions. Our team includes experienced tax lawyers, allowing us to factor tax planning into everything we do. The 1031 exchange is a classic example – tax issues are more and more a part of real estate, and we factor that into the operation of our real estate practice.

### **Cross-Disciplinary Lawyers Make the Difference**

As real estate and land use law becomes increasingly complex and cross-disciplinary, the composition of a practice group also becomes increasingly critical. At Sussman Shank, we put a great deal of time and effort into recruiting and onboarding elite lawyers who have the breadth of firsthand experience our clients need. Careful, thorough development of a practice is a must in an ever-more-complex real estate world that now addresses everything from permitting to complex environmental issues to zoning to financing.

## **AREAS OF EXPERTISE**

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- Acquisitions and sales
- Adverse possession
- Boundary and fence disputes
- Commercial forcible entry and detainer actions
- Commercial landlord/tenant disputes
- Condemnation and just compensation
- Condominium and homeowners association (HOA) matters
- Construction and design defect actions
- Distressed real estate loan workouts
- Due diligence matters
- Easements and licenses
- Land use matters, including lot line adjustments and partitions
- Lease negotiations and documentation
- Planned community developments
- Property tax disputes and appeals
- Quiet title actions
- Section 1031 like-kind tax free exchanges
- Section 363 sales and purchases in insolvency proceedings
- Transaction and holding entity structuring

## **REPRESENTATIVE WORK**

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- We advised a client in a transaction involving the sale of 70 separate facilities to a REIT, which retained ownership of the facilities and leased them back to the operators. We also advised the client on conversion of the business to an ESOP, as well as the final phase, the sale of the business operation itself. This project was a long-term, phased strategic restructuring of a large, complex business including a nine-figure transaction.
- We advised a client in the formation and expansion of a cold-storage facility business, including advising the client in the acquisition of existing cold-storage facilities, the purchase of land for development, the ground lease of land for development, and the development and construction of multiple new cold-storage facilities, including the client's flagship \$600 million operation in Oxnard, California. We also assisted the client in the investment of outside capital in the business and the arrangement of acquisition and construction financing from several lenders.
- We advised a client in the acquisition of land and the development of a 70 lot planned community thereon, including advising the client on obtaining entitlements for development of the land as a planned community, implementing covenants, conditions, restrictions and easements with respect to the land, and formation of a homeowners' association.
- We advised a client on the acquisition of a 100 unit HUD Section 8 housing complex, including obtaining financing for the acquisition. We subsequently assisted the client in refinancing the acquisition loan through a defeasance transaction. We then subsequently assisted the client in selling the 100 unit HUD Section 8 housing complex.
- We advised two separate clients in purchasing from the Port of Portland land located in the Troutdale Reynolds Industrial Park (a former EPA designated brownfield site) for development of large warehousing, processing and shipping facilities.
- We successfully represented a client in a bitterly contested appeal of a land use application to expand the client's retail site. The successful appeal quelled the neighboring land owner's attempt to completely close down our client's business.
- We advised a client who sold a retail strip mall and a single tenant retail building (as the "relinquished" real estate) and purchased a manufactured housing park (as the "replacement" property) in a qualifying Section 1031 "like kind" exchange transaction. By structuring the transaction as a "like kind" exchange transaction, the client was able to defer over \$1,000,000 in income tax obligations that would otherwise have arisen as a result of the sale of transaction.
- We successfully represented a bank client in connection with a condemnation action to widen the street adjacent to one of the client's branch offices, impacting access to a drive-up teller on the client's

property. We were able to prevent the condemnation proceeding from proceeding and ultimately assisted the client in settling the matter with the City of Portland.

- We formed a limited liability company ("LLC") intending to buy an established restaurant, including the real property on which it was located. After forming the LLC, we negotiated and prepared the purchase documents. Because of various governmental restrictions and practical problems with the configuration of the property, we advised the client regarding a number of issues including set back issues, utility easements, and shared parking agreements. Because our client did not intend to operate the restaurant, but instead planned to lease it to an established operator, we assisted the client in negotiating and documenting the terms of the lease to the operator, which included provisions contemplating the future remodeling of the restaurant by the tenant/operator.

## Related People

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