

Real Estate Finance

The real estate practice of Tully Rinckey PLLC covers all aspects of real estate finance as well as the acquisition, development, leasing, financing, syndication and sale of commercial real estate. We work with our clients on a variety of complex real estate matters including: Purchase, sale, leaseback, exchange and leasing of commercial, office, retail, industrial, and residential properties

Construction contracts

Equipment Leasing

Condominium conversions

Purchase, sale and leasing of multi-family residential properties and single-family homes, condominiums, and cooperative apartments

Restructuring of real estate financing including mortgage loan modifications

Construction financing and permanent financing

Public financing

Project financing

Structured finance

Build-to-suit lease financing

Tully Rinckey PLLC attorneys have extensive experience in developing mortgage loan modification documentation. We have represented lenders – typically insurance companies, banks, and pension funds – and borrowers alike in a wide range of real estate finance transactions. This practice has involved traditional lending transactions as well as other financing tools, such as sale and leaseback transactions, synthetic leases and joint venture transactions. Other areas of real estate services include acting as counsel for mortgage-backed securities transactions and other investment vehicles linked to real estate. Real Estate Finance Representative Transaction:

In the summer of 2007 attorneys presently at Tully Rinckey PLLC represented one of the largest financial institutions in the United States (Party A) in the negotiation and documentation of a loan portfolio repurchase agreement with a global investment bank (Party B) pursuant to which Party A loaned \$1.6 billion to Party B for a one year term (the "Repurchase Transaction"). The Repurchase Transaction was secured by a portfolio of 422 first mortgage loans and mezzanine mortgage loans (the "Loan Portfolio Collateral Pool") on commercial real estate properties located throughout the United States (the "Properties"). The commercial mortgage loans had been originated by Party B during 2007. The commercial mortgage loans were intended to be packaged and securitized by Party B, but by the summer

of 2007 the market for commercial mortgage-backed securities had seized up. The negotiation of the Repurchase Agreement included significant negotiations concerning the representations and warranties to be made by Party B to Party A, as well as significant negotiations concerning the conditions to closing, in each case based upon the due diligence review described below. In connection with Repurchase Transaction, attorneys now at Tully Rinckey PLLC performed a due diligence review of 473 commercial mortgage loans. The due diligence review of the 473 loans included the examination of each borrower's organizational documents for compliance with applicable local law and applicable securitization requirements, a review for compliance with applicable zoning provisions and a review of title documentation, title insurance, easements and restrictions affecting each Property. The due diligence review also included a review of all relevant ground leases and credit tenant net leases for each Property. The due diligence review covered an aggregate of 473 loans, of which 51 loans were rejected and did not enter the Loan Portfolio Collateral Pool as a result of problems and issues brought to light during the due diligence process. The data gleaned from the due diligence review was presented to Party A in legal data sheets which specified the problems and issues to be addressed for each commercial mortgage loan under review. The data in the legal data sheets was also summarized in the form of an Excel spreadsheet for use by Party A. With a team of attorneys working 18-hour days, the entire Repurchase Transaction and associated due diligence review was completed in only nine days. As a result of the Repurchase Transaction, Party B received a significant cash infusion from Party A at a time when Party B was facing severe financial pressure. Commercial Real Estate Representative Transaction:

Attorneys presently at Tully Rinckey PLLC represented an entity controlled by overseas investors (Party X) in the sale by Party X of a Manhattan office tower for approximately \$92 million (the "Sale Transaction"). The Sale Transaction was documented by a complex Purchase and Sale Agreement, with numerous representations and warranties, covenants and indemnification provisions. The cash proceeds of the Sale Transaction were deposited with a qualified intermediary in order to facilitate a Section 1031 tax free exchange in which Party X acquired title to a newly-constructed office building (the "Acquired Property") in a major metropolitan center in the western United States (the "Acquisition Transaction"). In connection with the Acquisition Transaction, attorneys presently at Tully Rinckey prepared a new operating agreement for Party X containing provisions establishing a springing member, independent managers, separateness covenants and other provisions intended to insure that Party X was treated as an independent, bankruptcy-remote entity. In addition, in connection with Acquisition Transaction, attorneys presently at Tully Rinckey drafted and negotiated a complex purchase and sale agreement, the lease with the single credit tenant occupying the Acquired Property, the assignment of lease with the single credit tenant and the special warranty deed, as well as undertaking an extensive review and negotiation of the title policy. In connection with the Acquisition Transaction, such attorneys also reviewed the property survey, the easement documents, the real estate tax documents, the insurance certificates, the Phase I environmental report, zoning information, copies of permits and warranties, building plans, soil reports and mechanical reports relating to the Acquired Property. Such attorneys also drafted and negotiated the Subordination and Non-Disturbance agreement, the estoppel certificate, the utility agreement and the post-closing undertakings in connection with the Acquisition Transaction. In connection with the Section 1031 tax free exchange, attorneys presently at Tully Rinckey PLLC also reviewed the following documents: the assignment of real estate contract to the qualified intermediary, the joint exchange instructions for the replacement property and the authorization to release funds. Interim financing for the Acquisition Transaction was obtained from a major money center banking institution and permanent financing for the Acquisition Transaction was obtained from a consortium of institutional lenders. In connection with interim financing and permanent financing, attorneys presently at Tully Rinckey PLLC attorneys reviewed and negotiated the interim financing

agreement, the note purchase agreement for the permanent financing, the trust indenture for the permanent financing, the form of promissory note, the deed of trust, the assignment of lease, the pledge and security agreement, the non-recourse carve-out guaranty agreement and the environmental indemnity agreement for the permanent financing. As a result of the permanent financing, Party X received tax-free financing proceeds of approximately \$79 million. To learn more about the legal services Tully Rinckey PLLC can provide the government marketplace, contact us 24/7 at 703-525-4700.