

## **GET REAL! SUGGESTIONS FOR UTILIZING COMMERCIAL REAL ESTATE PARALEGALS IN YOUR AREA OF PRACTICE**

Estimates as to the number of non-litigation, or transactional, paralegals vary. As anecdotal evidence, a quick search of the home page for the National Federation of Paralegals Association reveals that of the twelve-member Board of Directors for 2006-2007, only two are non-litigation paralegals (specifically, two board members are commercial real estate paralegals). One often hears that paralegals other than litigation paralegals represent only 30% of the field. But a word of caution - don't be fooled by the numbers! In today's law offices, commercial real estate paralegals can contribute much to the attorney's area of practice. The most obvious benefits are two-fold: 1) the client is billed at the paralegal's hourly rate (always lower than that of the associate or partner); and 2) the supervising attorney need only review the final work product of the paralegal, leaving him or her more time to dedicate to the practice of law.

Whether the transaction at hand is an acquisition, sale or re-finance, the commercial real estate paralegal can, among other things, assist in the entire transaction by performing the following tasks at the stages of closing as noted:

### PRE-CLOSING:

Before the closing occurs, the duties of the paralegal may include the following:

- 1) prepare the closing checklist;
- 2) order and review the title commitment;
- 3) order and review the survey;
- 4) order UCC searches;
- 5) obtain required organizational documents, including good standing certificates, and when necessary, follow-up with the appropriate parties to reinstate the standing of an entity if the standing has been forfeited;
- 6) request a zoning letter from the county/city zoning department confirming the zoning status of the subject property and setting forth the uses permitted by law in that classification as zoned.

As a separate note regarding title commitments and surveys, the paralegal should carefully review the written legal description of the property in order to draw to the attention of the supervising attorney any of the following potential problems: 1) a legal description of the property that contains "gaps" (the legal description as depicted on the survey does not depict the property as described from, and ending at, the point of beginning of the metes and bounds description); 2) typographical errors in the calls and/or missing calls; and 3) inconsistencies between the legal description as it appears in the title commitment or policy versus the survey itself.

Real estate paralegals can also review all exception documents noted in Schedule B-II of the title commitment and "flag" for the attorney those items which require further inquiry. A paralegal's role can be especially helpful when he/she is responsible for

visually depicting the various exception documents on the survey itself (assuming that the surveyor has not done so or that the survey is not an ALTA/ACSM survey). As part of the aforementioned process, often the paralegal and attorney will discover that, especially when the subject property or the contiguous property has been conveyed and or subdivided repeatedly, an exception document such as an easement agreement no longer applies to the property and can be removed as an exception to coverage under the title policy.

The paralegal can perform a vital role as the primary point of contact for tracking and obtaining for the supervising attorney, Subordination, Non-Disturbance and Attornment Agreements and Tenant Estoppel Certificates, especially when the transaction at hand involves the purchase or sale of a commercial building in which there are many tenants.

More generally, in an ideal use of time and resources, the attorney focuses on drafting or reviewing the actual contract of purchase or sale, as well as the attendant loan documents, while the paralegal reviews the organizational documents of the various entities involved in the transaction and drafts the necessary resolutions authorizing the transaction. Though simple matters, determining the correct signature block for the closing documents, correctly and consistently identifying all parties as Member, Managing Member, etc., and ensuring that each entity is in good standing are necessary and must be viewed as a *fait accompli* to be done well in advance of closing.

#### CLOSING:

A commercial real estate paralegal can attend the real estate closing, and in general be the “right arm” of the attorney, organizing the documents for a smooth and orderly closing, ensuring before the parties arrive that all documents required to be signed are ready for signature, that all agreements which require a legal description attached have the correct property description attached, and any other tasks necessary.

#### POST-CLOSING:

Finally as a result of the paralegal’s intimate involvement with the transaction from start to finish, it is most economically feasible and expeditious to utilize the paralegal in the preparation and assembly of the closing binder.

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