

**Authors:****Walter Fisher**

704.331.7544

walter.fisher@klgates.com

**Wayne Smith**

+44.20.7360.8201

wayne.smith@klgates.com

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## K&L Gates Establishes Global Distressed Real Estate Task Force

In response to the financial and credit crisis, K&L Gates has organized a Distressed Real Estate Task Force, an interdisciplinary, multi-office team designed to meet the needs of clients who are investing in, holding, or managing troubled real estate. This group will assist lenders, special servicers, and their asset management firms with the restructuring of distressed real estate loans and the positioning of foreclosed assets for successful sale.

The magnitude and scope of the current financial and credit crisis call for a broader approach than merely foreclosing on real estate collateral. As investors and lenders begin to inherit and assume direct responsibility for large commercial real estate portfolios, they will be faced with the need to manage, lease, and market real estate assets.

In many cases, development and construction must be completed before an asset's value can be realized upon a sale. This will require that a foreclosing lender or special servicer understand what the zoning laws and a property's specific entitlements allow it to do and require it to do in order that the property, once completed, can be legally occupied. The completion of construction will often involve settling lien claims, enforcing the warranty work provisions of the general contract and many other issues.

Other foreclosed property, though physically completed, may not be leased or may have management issues that must be addressed. Lenders and special servicers may now be negotiating lease provisions that they have not had to address previously. Even for properties that are leased, many tenants may be facing bankruptcy themselves, which may require a foreclosing lender to make decisions to mitigate the impact of a tenant rejecting its lease in bankruptcy.

Other types of distressed properties, such as residential subdivisions and condominium developments, have additional concerns that must be addressed, particularly as relates to homeowners associations. A foreclosing lender must now decide whether to accept the duties of the declarant under these regimes, and if it does become the declarant, it must be ready to operate the homeowner association.

Many companies dealing with distressed real estate loans and assets, for the first time, will face a number of other legal issues they are not accustomed to addressing, including tax issues, environmental issues, employment concerns, issues related to protecting intangible assets, such as intellectual property and e-commerce operations, litigation ensuing from tenant or contractor agreements, and corporate issues related to special purpose entities.

The Distressed Real Estate Task Force facilitates the deployment of K&L Gates' expansive real estate and bankruptcy/insolvency practices to assist our clients in addressing these issues. Our real estate lawyers will both support our extensive bankruptcy and insolvency practice in helping lenders gain control of these assets and provide the day-to-day real estate development, investment and ownership legal advice that foreclosing lenders and special servicers will need to manage and ultimately dispose of these assets. The task force is positioned to call upon the various relevant disciplines in the firm to handle the multitude of issues that invariably arise as part of the on-going ownership and operation of distressed real estate assets.

Chaired by Charlotte real estate partner David H. Jones, the group includes lawyers from the firm's Berlin, Boston, Charlotte, Dallas, London, Los Angeles, Miami, Newark, New York, Pittsburgh, Seattle, and Washington, D.C., offices, among others, as well as from a range of the firm's practice groups, including finance, environmental, employment, intellectual property, e-commerce, tax, corporate, and litigation. Coupled with the depth and breadth of the firm's real estate and bankruptcy practices, the task force will allow K&L Gates to assist clients with all types of troubled real estate matters across the United States, the United Kingdom and other locations in Europe and Asia.

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