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Q&A With Lowenstein Sandler's Ted Hunter

Law360, New York (December 01, 2011, 5:39 PM ET) -- Ted Hunter is the chairman of Lowenstein Sandler PC's real estate practice group and based in both New York and New Jersey. He has extensive experience in all areas of commercial real estate, including acquisitions and dispositions, leasing, construction and permanent financing, syndication, partnerships and joint ventures, securitizations, construction, asset and property management, and public-private partnerships.

Hunter's clients include national and regional real estate developers and investors, major financial institutions — including investment advisers, private equity firms, life insurance companies and commercial and investment banking institutions — and public and privately held corporations.

In 2009, Hunter was the lead attorney for Lend Lease Americas Inc. in connection with an innovative hotel privatization transaction that was named "2009 North American Real Estate Deal of the Year" by Project Finance magazine. In 2010, he was the lead attorney for Syms Corp in connection with a landmark leasing transaction named "Most Creative Retail Deal of the Year" by the Real Estate Board of New York.

Hunter is listed in the 2009-2011 editions of "Chambers USA: America's Leading Lawyers for Business," which praised him as the "driving force behind [the real estate group's] increasing success." Hunter was also recognized in Real Estate New Jersey's 2009 "Meet the Lawyers" issue as one of the state's leading real estate attorneys.

Prior to joining Lowenstein Sandler, Hunter was a partner at Kelley Drye & Warren LLP.

Q: What is the most challenging case or deal you have worked on and what made it challenging?

A: I'm working on it now. We're privatizing hotels on military bases across the country, including Alaska, Hawaii and Puerto Rico.

We closed the first phase of 4,000 hotel rooms on 10 installations in 2009 and the second phase of 4,200 hotel rooms on another 11 installations earlier in 2011. We're working on long-term financing for the second phase now.

Over the next year and a half, we will be working on the third phase, an additional 9,000 rooms on another 21 installations. When the project is complete, we will have privatized over 17,000 hotel rooms on 42 military installations. The total development scope for renovations and new-build hotels will exceed $2 billion.

When you are working on a project of that size, there are numerous challenges.

First, from a real estate perspective, you are talking about a lot of land. The first two phases alone have 72 parcels of land, most with existing hotels or ancillary facilities on them. That's a lot of real property in a single transaction.

However, since these parcels are on active military installations, there are a complex web of easements and municipal services agreements that have to be put in place.

Second, there are a lot of parties involved in a transaction of that scale. You are not just talking about a bilateral deal with a seller and a buyer and a lender, which can be challenging enough in its own right. There are numerous stakeholders with a seat at the table and a unique perspective that need to be integrated. Sometimes, there are challenges in getting everyone on the same page.

Also, since this is a public-private partnership deal, the involvement of the government is a very unique feature with its own particular set of challenges. I think we have done a very good job of communicating project goals and getting everyone to buy in to the overall mission of the project. Sure, each party has its own hot-button issues that have to be understood and meshed with the others, but that's the fun part of the job. It's always interesting to see how the puzzle pieces fit together.

Third, the availability of financing has been a real challenge in this economic climate. When we closed on the financing for the first phase in 2009, the country was in the depths of economic collapse and debt was incredibly hard to come by. However, we were able to cobble together construction financing from three lenders to create a construction facility with enough juice to allow us to finance critical repairs that were needed.

In addition, despite the continuing sluggishness of the economy here in the States and the growing fiscal crisis in Europe, in August we closed on a bridge loan to acquire the second group of hotels.

Now we are working on raising approximately $500M to finance a portion of the anticipated $750M that is on the drawing board for the redevelopment and construction of new hotels on the first two groups.

Q: What aspects of your practice area are in need of reform and why?

A: There is too much money on the sidelines. There are great opportunities in real estate, but investors are still gun shy in deploying capital until they know more about the regulatory environment in which they will be operating in three years, five years, ten years. There needs to be greater certainty and far less volatility in our capital markets to make that happen.

I'm not an economist, I don't even play one on TV, but it doesn't take a Nobel Prize in economics to see that our Congress has failed us.

I'm not talking politics here. It doesn't matter which party you support. There is simply too much uncertainty for businesses to know how they should deploy their capital. Congress needs to be focused on creating an environment in which investors feel safe making investments. We need stability. Growth will come after stability.

Q: What is an important issue relevant to your practice and why?

A: I'm concerned about the next generation of transactional real estate lawyers. When I came up, the economy was hitting on all cylinders. It was a great training ground for a young real estate lawyer.

Now, there are fewer deals and almost all of them go sideways for stretches of time before either collapsing or closing. I like to analogize that my first three to four years in practice were like a medical residency. I learned so much from seeing so much. While some of it felt like I was in the emergency room or the intensive care unit, it was an excellent training ground for me.

The junior associates of today haven't seen what we saw because the volume is down and volatility is high. I'm concerned that their growth will be stunted as a result.

At Lowenstein, we're constantly training our associates and helping to fill in gaps so that they get a well-rounded picture of the practice. I don't see that happening elsewhere with enough regularity.

Several junior associates we have interviewed just didn't have the experience we needed at their level. I'm concerned that there will be a paucity of talented senior associates in my field in a few years as a result of this downturn.

When the real estate market opens up again, there will be some really great opportunities for the junior attorneys who are getting the training they need now. I'm happy to say that we have a talented group of associates in my shop. Their future looks bright.

Q: Outside your firm, name an attorney in your field who has impressed you and explain why.

A: Jim Kirk, managing partner of Kelley Drye & Warren, has always impressed me. Jim was a mentor of mine for many years. He's a terrific real estate lawyer — super bright and very calm. Jim is one of those rare guys who can see what's going to happen 10 moves ahead. If he were a chess player, I'm certain he'd be a grand wizard.

Q: What is a mistake you made early in your career and what did you learn from it?

A: I was trained to be a perfectionist as a transactional lawyer. Spot every issue and negotiate every point until you won the point. That training caused me problems many years ago because it made me lose sight of my client's goals.

In most deals I do now, the client doesn't need to win every point. They want me to help them minimize risk, get the contract signed and the deal closed.

I think there are a lot of lawyers who could learn the lessons I learned years ago. It's about focusing on what's important for your client and helping them accomplish their goals.