

Real Estate



www.ulmer.com

CONTACT INFO:

Bill J. Gagliano

216.583.7046

bgagliano@ulmer.com



Ulmer & Berne is ranked among the top firms in the categories of Real Estate, Litigation-Real Estate and Environmental Law.

From the acquisition and financing of a corporate headquarters to the construction of a publicly funded sporting facility, the lawyers of the Firm's real estate group have the background and experience to successfully consummate a client's real estate project.

Privately and publicly held corporations, as well as individual investors around the country, turn to our real estate lawyers for assistance in all aspects of real estate law, whether it's leasing, acquisitions, shopping center development, tackling difficult environmental issues, private and public financing, property taxation including tax exemptions and abatements, land assemblage and zoning, tax credit syndications, residential and commercial construction, multi-family development, tax-deferred exchanges or any of the multitude of other real estate needs a client may have.

Receiving the highest ranking of any Ohio-based law firm for the past five years on the *Midwest Real Estate News* list of Top Real Estate Law Firms, Ulmer & Berne boasts a real estate practice consisting of lawyers with a broad scope of talent and expertise. The Firm's real estate lawyers are listed in national publications such as *Chambers USA: America's Leading Lawyers for Business* and *The Best Lawyers in America*, as well as in state and local publications as being among leaders in their field. The most recent edition of *Chambers USA* details Ulmer & Berne's representation of "big-name clients" and also recognizes the group's "strong leasing practice" and its "national affordable housing practice that represents contractors, developers, lenders, equity syndicates and nonprofit organizations."

We serve as national leasing counsel to specialty retailers with more than 1,000 stores around the country, and are regularly engaged by the world's largest restaurant company (with over 33,000 restaurants worldwide) with respect to acquisitions and dispositions of locations around the country. Our clients also include leading apartment owners and developers, shopping center owners, general contractors, property managers, lenders, investors, municipalities and school districts. These local and national clients reflect the diverse and specialized areas engaged in by our real estate lawyers.

- Acquisition & Development
- Foreclosures, Receiverships & Bankruptcies
- Construction
- Environmental
- Fair Housing



ulmer | berne | llp

ATTORNEYS

Real Estate



www.ulmer.com

- Land Use & Zoning
- Leasing
- Property Taxation, Abatements & Exemptions
- Real Estate Finance
- Shopping Centers

Acquisition & Development

The real estate attorneys of Ulmer & Berne have extensive experience in the acquisition, development and sale of real estate including commercial, residential, retail, industrial, office, apartment, restaurant, shopping center, mixed-use, hotel and condominium projects. We are able to call on attorneys in the Firm's other practice groups where needed to provide specialized expertise in areas such as environmental compliance, tax analysis (including like-kind exchange issues), construction contracts and litigation, mortgage financing, equity investments, ERISA compliance and bankruptcy transactions.

We have the experience and resources to handle the most complex transactions and provide the highest quality counsel. But we further recognize the delicate nature of any real estate transaction. Our experience allows us to distinguish the important issues from the insignificant ones and personality clashes from substantive differences. Our commitment to providing timely, personal service at a value allows us to move beyond being a mere technician to becoming an active counselor and partner.

Foreclosures, Receiverships & Bankruptcies

Our real estate attorneys are often called upon to represent lenders or borrowers in connection with properties that are the subject of pending or threatened foreclosure, receivership or bankruptcy proceedings. Members of our Real Estate Group have acted as debtor's or creditor's committee counsel in conjunction with the Firm's corporate restructuring and creditors' rights attorneys in bankruptcy cases with a predominant owned or leased real estate asset base, including retailers, nursing homes, restaurants, investment properties and shopping center owners.

Whether it is negotiating the workout of millions of dollars of troubled loans, dealing with rejected leases or Chapter 11 cases, or pursuing the sale of distressed properties in bankruptcy or receivership proceedings, Ulmer & Berne's real estate lawyers have the background to provide clients with critically needed advice in difficult situations. Members of our Real Estate Group lecture frequently on real estate related issues in bankruptcy cases, including presentations at the



ulmer | berne | llp

ATTORNEYS



2008 and 2009 Cleveland Metropolitan Bar Association Real Estate Institute.

Construction Law

Ulmer & Berne's construction law practice has been nationally recognized by *Chambers USA* as one of the best in the state of Ohio. We draw upon the expertise of a skilled group of attorneys who are knowledgeable in construction law and take a unique and special interest in the construction industry. We have partners each with over 20 years of experience litigating construction law cases before state and federal courts throughout the country, administrative agencies and appearing in mediation and arbitration proceedings. We are especially proud of the results we have obtained for our clients.

Our construction law practice offers a broad range of services. From determining the type of project delivery system through design, engineering, financing, preconstruction, construction and close-out services, our attorneys work closely with our clients to achieve the best results. Our residential and commercial clients range from locally owned contractors to some of the largest architectural firms in the region as well as one of the top 10 largest U.S. home builders. In addition, we have represented public and private owners on complex construction projects, including sports arenas and parking facilities.

Our attorneys assist clients through all phases of a construction project. We are experienced with providing all of the following services:

- Determining the type of project, organization and financing options
- Drafting contracts for construction, design, engineering, subcontracts and supply purchase orders
- Construction financing – including representation of many national lenders
- Prevailing wage requirements
- Minority business enterprise requirements
- Payment and performance bonding requirements
- Bid challenges
- Joint venture agreements
- Change orders
- Mechanic's liens



Real Estate



www.ulmer.com

- Prevailing wage laws
- OSHA compliance
- Union issues
- Development or defense of claims for additional compensation
- Claims disputes through mediation, arbitration or litigation

Our approach is multidisciplinary; engaging members of the Firm's other practice areas – including real estate, finance, employment and labor, environmental or intellectual property areas, among others – to advise our clients on the issues they face every day.

Our attorneys take an active role in learning about construction. From taking classes on reading drawings or estimating projects, to visiting job sites, we work closely with our clients to understand how buildings are designed and built. By doing so, we build strong lasting relationships with our clients.

We are most proud of the successful results we have been able to obtain for our clients in courtrooms and arbitration rooms throughout the country. In Ohio, Ulmer & Berne attorneys have been involved in everything from multi-party litigation over some of the largest buildings, hospitals and stadiums in the state to addressing claims on single family residences at arbitration. Our attorneys have the experience, knowledge and depth to handle all types of construction litigation.

The attorneys at Ulmer & Berne are dedicated to the promotion of the construction industry. They have taken leadership roles in trade associations and often are called upon to speak or write on issues of importance to the construction industry.

Environmental

Ulmer & Berne provides legal representation in environmental matters to a broad range of clients, including some of America's largest corporations, small and medium-sized companies, Ohio's municipalities, hospitals, commercial real estate owners, developers, farmers and individuals. Members of our environmental law practice have extensive experience in all aspects of environmental law and associated issues, including:

- Counseling businesses subject to state and federal regulatory programs dealing with wetlands, underground storage tanks, hazardous waste



ulmer | berne | llp

ATTORNEYS

Real Estate



www.ulmer.com

management, Title V air issues, FEMA, storm water discharge, and solid and hazardous (RCRA) wastes requirements;

- Counseling real estate owners and developers in due diligence evaluation for real estate transactions;
- Representing entities in Superfund (CERCLA) actions;
- Litigating insurance coverage disputes arising from environmental claims;
- Representing entities subject to state and federal enforcement actions arising under the Ohio and Federal environmental laws, including, but not limited to the Clean Air Act, the Clean Water Act and the Resource Conservation and Recovery Act, and the Clean Ohio Fund;
- Pursuing "private cost recovery actions" under Ohio's Voluntary Action Program and §107 and/or §113 of CERCLA on behalf of entities that undertook remediation of property contaminated by third parties;
- Negotiating with state and federal agencies to avoid institution of formal enforcement actions (and consequent adverse publicity); and
- Defending of criminal charges arising from alleged violations of environmental laws (local and state).

Additionally, the lawyers of Ulmer & Berne's environmental law practice have experience representing clients involved in environmental matters arising under various federal and state statutes and regulations throughout the Midwest, principally in Ohio.

Fair Housing

The fair housing group represents housing providers, home builders, developers, architects, mortgage brokers, financial institutions, and real estate companies faced with allegations of unlawful discrimination in the design, construction, sale, lease, and financing of residential property. The group has successfully defended clients in multiple cases pending before state and federal courts, the U.S. Department of Housing and Urban Development, and various state administrative agencies, including the Indiana Civil Rights Commission, the Michigan Department of Civil Rights, and the Ohio Civil Rights Commission.

The group also offers preventative training and counseling to clients interested in staying out of the courtroom.



ulmer | berne | llp

ATTORNEYS

Real Estate



www.ulmer.com

Leasing

Ulmer & Berne serves as leasing counsel to a wide variety of retail, office and other commercial landlords and tenants across the country. We provide targeted advice based on practical, real world requirements. At the same time, our goal is to provide our clients with exceptional service: to get it done right, faster and easier than expected, and in a cost effective manner.

Our retail clients include Easton Town Center in Columbus, Ohio; Zona Rosa Shopping Center in Kansas City, Missouri; Bayshore Town Center in Milwaukee, Wisconsin; The Greene in Dayton, Ohio; Jo-Ann Stores, Inc.; Office Depot, Inc.; Yum! Brands, a large franchisee with KFC, Taco Bell, Pizza Hut, A&W and Long John Silver's brands. We also represent several downtown and suburban office landlords and tenants, as well as landlords and tenants of other commercial projects.

Since we represent both landlords and tenants, we understand each side's legitimate concerns. Therefore, we can speak with authority on how the other party to a lease looks at issues and propose solutions which we know will work. And, because we have represented landlords and tenants in lease disputes, we know how to craft solutions during lease negotiations that will provide the appropriate level of protection later. We are committed to providing incredibly quick turnaround times and responses, superior technical work, continuous up-to-date status reports, fixed fee arrangements where desired, and solutions – not problems.

Land Use & Zoning

Ulmer & Berne's real estate attorneys regularly work with our Public Law attorneys to advise and counsel clients with respect to zoning compliance, land use and planning. We represent business owners and individuals in a wide array of zoning compliance questions, including permitted land and building uses and compliance with building and zoning codes. We have significant experience working collaboratively with municipal zoning and building officials and appearing before boards of zoning appeals, boards of building standards, and planning commissions to resolve or challenge issues for clients. When necessary, we have experience representing clients in litigation on the municipal, common pleas and appellate levels against claims of zoning and land use violations.

Examples of projects include: clarifying zoning and use compliance with municipalities; obtaining zoning verification letters, use permits and affirmative title insurance over recorded land use restrictions; obtaining variances to use properties for uses otherwise disallowed under zoning and/or building codes;



ulmer | berne | llp

ATTORNEYS

Real Estate



www.ulmer.com

defending property owners against alleged zoning violations, challenging the constitutionality of retroactive provisions in municipal zoning codes and lobbying against re-zoning initiatives targeting property owners.

Property Taxation, Abatements & Exemptions

The amount of your real estate taxes is an example where the adage of taxes being “one of the two things certain in life” does not necessarily hold true. The opportunity to seek a revision in the assessed value of real property is readily available to property owners seeking a decrease, and school districts seeking an increase, alike. While the process for obtaining a change in the assessed value of real property appears relatively simple and straightforward, there are traps for the unwary.

The property tax practitioners at Ulmer & Berne have decades of experience handling real estate tax proceedings throughout the State of Ohio. Our attorneys are recognized as experts in the field and are frequent speakers at seminars dealing with the tax revision process. We have handled hundreds of cases in the Boards of Revision, Ohio Board of Tax Appeals, county appellate courts and the Ohio Supreme Court, including cases resulting in written opinions by the highest court of the State.

Ulmer & Berne attorneys have been responsible for cases involving properties as diverse as golf courses, nursing homes, low income housing projects, office buildings, single family residences, manufacturing plants, office condominiums, hotels and other virtually all other types of commercial property.

In addition to the property tax assessment area, our attorneys have extensive experience in obtaining property tax abatements under the Enterprise Zone and Community Reinvestment Area programs, and in both seeking and challenging property tax exemptions for real estate. Property taxes affect almost every client, and our expertise in this area is a perfect complement to the wide range of business and litigation services provided by Ulmer & Berne.

Real Estate Finance

The variety and consequences of the decisions that borrowers and lenders face in structuring and completing real estate financings demand experienced and thoughtful counsel, and Ulmer & Berne’s real estate financing team is uniquely qualified to provide such counsel. Comprised of members of the Firm’s real estate and corporate groups and supported by our commercial, environmental, regulatory and tax lawyers, our real estate financing team brings an intensely



ulmer | berne | llp

ATTORNEYS

Real Estate



www.ulmer.com

practical approach to designing and completing transactions that match the needs of the parties involved in them.

Contemporary real estate financing encompasses far more than the traditional construction and permanent loan model of project funding. The increasing difficulty of the development process, the availability of novel financing products and the value inherent in real estate make for a confusing but potentially rewarding marketplace of ideas. While we're experienced and efficient at traditional real estate financings, we regularly participate – on behalf of commercial and institutional lenders, equity participants and other capital providers, as well as on behalf of capital users – in the development of nontraditional arrangements to finance the acquisition, construction, ownership and operation of all kinds of real property and real property interests. We have helped our lending clients develop and implement transaction structures and techniques which are responsive to their needs and to those of their customers and markets. We take pride in identifying and designing transactions to meet the special needs of particular kinds of participants in the real estate industries (including, for example, public/private partnerships, real estate investment trusts, the developers of long-term multi-phased projects, nonprofit or public developers and corporations eager to monetize the value of their real property holdings).

We listen carefully to our clients, and we work hard to recognize and to anticipate their needs. We also pay attention to emerging developments in real estate development and finance and have been able to contribute to some of those emerging developments. Our lawyers have structured and closed a variety of innovative transactions, including equity and debt-secured mezzanine financings, pooled collateral transactions, sale/leasebacks and securitized financings, participating loans, off balance-sheet financings, taxable and nontaxable bond financings and a variety of agented and syndicated transactions. We also regularly counsel our lender clients in portfolio acquisitions and dispositions and in loan administration and enforcement matters. We understand that our work is not completed once a closing takes place.

Our approach is unusual, and is more important to us and to our clients than any particular engagement or innovation: we staff our deals leanly, emphasizing the personal responsibility and creativity – and efficiency – of our lawyers over sheer numbers; we build relationships that expand with each new deal. Our job is to design and facilitate transactions that work and that represent the best of what we, and our clients, can do. Let us show you the difference and the value of our approach.



ulmer | berne | llp

ATTORNEYS

Real Estate



www.ulmer.com

Shopping Centers

Ulmer & Berne's shopping center practice attorneys serve as general counsel to a wide variety of shopping centers and retail businesses across the country. We provide targeted advice based on the practical, real world requirements of the retail client. At the same time, our goal is to provide our clients with exceptional service: to get it done right, faster and easier than expected, and in a cost effective manner.

Our practice ranges on the landlord side from serving as general counsel to Easton Town Center in Columbus, Ohio – a recognized leader for the new lifestyle format – to representing more traditional regional malls, urban entertainment centers, other lifestyle centers, strip centers, big box, power centers, out lots and single build-to-suit locations. On the tenant side, we serve as leasing or general counsel to a number of national and regional retail businesses. Examples include Jo-Ann Stores, Inc.; Office Depot, Inc.; Yum! Brands, a large franchisee with KFC, Taco Bell, Pizza Hut, A&W and Long John Silver's brands; and a large number of smaller operators.

Since we represent both landlords and tenants, we understand each side's legitimate concerns. Therefore, we can speak with authority on how the other party to a lease looks at issues and propose solutions which we know will work. And, because we have represented landlords and tenants in lease disputes, we know how to craft solutions during lease negotiations that will provide the appropriate level of protection later. We are committed to providing incredibly quick turnaround times and responses, superior technical work, continuous up-to-date status reports, fixed fee arrangements where desired, and solutions – not problems.



ulmer | berne | llp

ATTORNEYS